

KNYSNA LOCAL MUNICIPALITY

Notice is hereby given of a

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING

which will be held on

Tuesday, 30 January 2018

at

09:00

in the Council Chamber
to consider the following items

MUNICIPAL OFFICES
KNYSNA

ADMINISTRATOR

A G E N D A

Chairman:	M Boyce
Members:	B Benjamin
	S Campbell
	L Gericke
	D Lambrechts
	E Phillips
	Z Thwala

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1. Opening and Welcome
2. Attendance
 - 2.1 Members: Present (As per attendance registers)
 - 2.2 Members: Absent with Leave
 - 2.3 Members: Absent Without Leave
 - 2.4 Councillors Present
 - 2.5 Officials Present
 - 2.6 Members of the Audit Committee Present
 - 2.7 Members of the Public Present
3. Minutes of the Previous meeting:
 - 3.1 Knysna Municipal Planning Tribunal Minutes : 28 November 2017

3. **MINUTES OF THE PREVIOUS MEETINGS**

3.1. **KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING : 28 NOVEMBER 2017**

RESOLVED

That the minutes of the Knysna Municipal Planning Tribunal meeting held on 28 November 2017, be approved.

KNYSNA LOCAL MUNICIPALITY

<h3>MINUTES</h3>

of a meeting of the

KNYSNA MUNICIPAL PLANNING TRIBUNAL COMMITTEE

held in the Council Chamber on

Tuesday, 28 November 2017

at

09:25

In Attendance

M Boyce (Chairperson)
G Benjamin - Absent
S Campbell
L Gericke
D Lambrechts
E Phillips
Z Thwala

1. OPENING AND WELCOME

At 09:25 the Chairperson welcomed members of the Committee.

2. ATTENDANCE

2.1 Members Present

As per attendance registers

2.2 Members Absent with leave

G Benjamin

2.3 Members Absent without leave

None

2.4 Councilors Present

None

2.5 Officials Present

Ms P Booth

2.6. Members of the Audit Committee Present:

None

2.7. Members of the Public Present

As per attendance register

3. MINUTES OF THE PREVIOUS MEETING

3.1 **KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING : 26 SEPTEMBER 2017**

On proposal by Mr D Lambrecht, seconded by Mr E Phillips, it was

RESOLVED

That the minutes of the Knysna Municipal Planning Tribunal meeting held on 26 September 2017, be approved.

3.2 **KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING : 24 OCTOBER 2017**

On proposal by Ms P Booth, seconded by Mr D Lambrechts, it was

RESOLVED

That the minutes of the Knysna Municipal Planning Tribunal meeting held on 24 October 2017, be approved.

4. **ITEMS REFERRED BACK FROM THE PREVIOUS KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING**

KMPT01/11/17 PORTION 52 (A PORTION OF PORTION 45) OF THE FARM WESTFORD NO.191 KNYSNA : PROPOSED REZONING

Ms S Campbell recused herself from the item as she was an objector to the item and Ms Z Thwala also recused herself as she was the Municipal Planner on this item.

UNANIMOUSLY RESOLVED

- [a] That the following correspondence be noted:
- (i) Locality Plan;
 - (ii) Copy of Application;
 - (iii) Basic Assessment Report
 - (iv) Visual Impact Assessment Report
 - (v) Environmental Management Plan
 - (vi) Comments and Responses for Basic Assessment Report
 - (vii) Process of Advertisement
 - (viii) Objections
 - (ix) Applicants Response
- [b] That a report recommending that the application in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance No. 15 of 1985) for the rezoning of Portion 52 (a portion of portion 45 of the farm Westford no. 191, Knysna Division from "Subdivisional Area" to "Authority Zone" in order to allow Eskom electricity substation, **be refused** be submitted to the Knysna Council.
- [c] That the following rationale for the recommendation be noted:
- The application is for a rezoning from sub-divisional area to authority zone. However, upon inspection of the surveyor general diagram no: 1125/2012, it was determined that the current zoning for the subject land portion is still Open Space Zone (III), as it had been exempted from the sub-divisional zoning approval in terms of a Council Resolution taken on 22 June 2012.
 - The application is, therefore deficient, because of the incorrect description of the existing zoning.
 - A point in limine was raised by one of the objectors that there was no valid resolution from the Board of ESCOM authorising the applicant to bring this application on their behalf. During the postponement of this matter by the Tribunal, the opportunity was given to ESCOM to amend the document chain. However, they could not provide the relevant documentation.

File Number : 15/2/5/1
Execution: Municipal Manager
Director: Planning and Development
Manager: Town Planning and Building Control

KMPT02/11/17

ERF 278, BRENTON

UNANIMOUSLY RESOLVED

- a) That the application for the Removal of the Restrictive Title Deed Condition (a)-(e) contained in title deed No. T2619/1983 in order to allow the proposal indicated on plan no: Bos278Sub1 drawn by VPM Planning, dated 14 October 2016, **be refused.**
- b) That the application brought in terms of Section 60 of the Knysna Municipality By-law on Municipal Land Use Planning (2016), for for the subdivision of land that is not exempted in terms of section 24 of the by-law, in order to subdivide ERF 278 Brenton to allow 4 group housing sites as well as a communal open space, in accordance with the "Residential II" zoning as indicated on plan no: Bos278Sub1 drawn by VPM Planning, dated 14 October 2016, **be refused.**
- c) That the application brought in terms of Section 60 of the Knysna Municipality By-law on Municipal Land Use Planning (2016), for an application in terms of Section 15(2)(h) for the removal of condition 4 in respect of the approval letter, dated 26 September 2011, **be refused.**
- d) That the application brought in terms of Section 60 of the Knysna Municipality By-law on Municipal Land Use Planning (2016), for the approval of the Brenton breaker Architectural Design manual, dated October 2016, **be refused.**

File Number : 15/2/5/1
Execution: Municipal Manager
Director: Planning and Development
Manager: Town Planning and Building Control

Ms Z Thwala *remains recused from the meeting.*

KMPT03/11/17

REZONING : FARM 183, PORTION 15 [ON THE AGENDA OF 26 SEPTEMBER 2017]

UNANIMOUSLY RESOLVED

That the matter with regard to the proposed Rezoning of Portion 15 of Farm 183, Eastbrook, Knysna from "Institutional zone 1" to "Residential zone" be referred to the next Knysna Municipal Planning Tribunal meeting to be held on 30 January 2018 due to the following:

That further information be obtained on secure alternative access to this property.

File Number : 15/2/5/1

Execution: Municipal Manager

Director: Planning and Development

Manager: Town Planning and Building Control

KMPT04/11/17

FARM 216/47, KNYSNA

UNANIMOUSLY RESOLVED

That the proposal for additional dwelling units, a farm store, a farm stall and a laborer's cottage indicated as such in DRG No. C001 – C003 drawn by Andre Vercueil Professional Architects, **be refused** in terms of Section 60 of the Knysna Municipal By-Law on Municipal Land Use Planning (2016).

File Number : 15/2/5/1

Execution: Municipal Manager

Director: Planning and Development

Manager: Town Planning and Building Control

5. Closure

The Chairperson thanked everybody present for their contribution and the meeting concluded at 12:37.

Approved

.....
Chairperson: Ms M Boyce

.....
Date

-oOo-

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4.1



LAND USE PLANNING REPORT
PERMANENT DEPARTURE: ERF 8928 KNYSNA.

Reference number	1539	Application submission date	28.03.2017	Date report finalised	12.01.2018
PART A: AUTHOR DETAILS					
First name(s)	Zinhle				
Surname	Thwala				
Job title	Town Planner				
SACPLAN registration number	Pr. Pin 1657				
Directorate/Department	Planning and Development / Town Planning				
Contact details	044-302 6268				
PART B: APPLICANT DETAILS					
First name(s)	Sheldon				
Surname	Van Onselen				
Company name	Plans R Us				
SACPLAN registration number	N/A	Is the applicant authorised to submit this application	Y	N	
Registered owner(s)	PIETER WAYNE & NINETTE HAVENGA				
PART C: PROPERTY DETAILS					
Property description (in accordance with Title Deed)	Erf 8928 KNYSNA				
Physical address	4A Agnar Street	Town/City	Knysna		
Current zoning	Single Residential	Extent (m2 /ha)	339m²	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Knysna Zoning Scheme (1992)				
Current land use	Residential.	Title Deed number & date	T57400/2015		

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Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)				
Any third party conditions applicable?	Y	N	If Yes, specify				
Any unauthorised land use/building work	Y	N	If Yes, explain				
PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)							
Has pre-application consultation been undertaken?	Y	N	If yes, provide a brief summary of the outcomes below.				
Applicant submitted the application without obtaining the advice first from Professionals on pre-application meeting.							
PART E: LIST OF APPLICATIONS (TICK APPLICABLE)							
Rezoning		Permanent departure	x	Temporary departure		Subdivision	
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation		Removal, suspension or amendment of restrictive conditions	
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval	
Determination of zoning		Closure of public place		Consent use		Occasional use	
Disestablish a home owner's association		Rectify failure by home owner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use			
PART F: APPLICATION DESCRIPTION							
Apply in terms of Section 15 (2) (b) and Chapter iv of the Knysna Municipality By- Law on Municipal Land Use Planning, to depart from the provisions of the Knysna Zoning Scheme (1992) to allow for a relaxation of the street building line from 4,5m to 1,8m and relaxation of lateral building line from 3m to 0,5m as indicated on plans drawn by Plans R Us Architectural Draughting Services, drawing number Kny 010; dated 05 March 2017.							
PART G: BACKGROUND							
The property is zoned Single Residential. Erf 8928 Knysna measures 339m ² . The property is located in an area characterised by middle income single residential land uses which constitutes of low density development with average erven between 300m ² and 1200m ² .							
PART H: SUMMARY OF APPLICANTS MOTIVATION – ANNEXURE A (FULL APPLICATION)							
<p>The applicant motivates the application based on the small size of the property. The applicant would like to extend their current deck and enclose it. The applicant says the area is currently not utilised due to its small size and the fact that it faces South – East which means it is directly in the path of the prevailing summer winds making the area uncomfortable most of the times. The maximum coverage is 50% and has a coverage of 93.8m² which is 27.7%. In order for the owner to construct the enclosed deck, the relaxation of street and lateral building lines on the South- West and South- East of the property from 4,5m to 1,8m and 3,0m to 0,5m is required.</p> <p>The applicant says that the proposal will not have any negative impact on any neighbouring property. The structural changes to the property are out of line of site relating to any view.</p>							
PART I: SUMMARY OF PUBLIC PARTICIPATION							

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Methods of advertising				Date published	Closing date for comments		
Press	Y	N	N/A				
Gazette	Y	N	N/A				
Notices	Y	N	N/A	11 April 2017	16 May 2017		
Ward councillor	Y	N	N/A				
Site notice	Y	N	N/A				
Community organisation(s)	Y	N	N/A				
Public meeting	Y	N	N/A				
Third parties	Y	N	N/A				
Other	Y	N	If yes, specify				
Total valid comments				One (1)	Total comments and petitions refused		None
Valid petition(s)	Y	N	If yes, number of signatures				
Community organisation(s) response	Y	N	N/A	Ward councillor response	Y	N	N/A
Total letters of support				None			
Was public participation undertaken in accordance with section 45- 49 of the Knysna Municipality By-law on Municipal Land Use Planning.						Y	N
PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION - ANNEXURE B (OBJECTION RECEIVED)							
<p>Below is the summary of objection received: Remainder 4582 - 4 Agnar Street – Eilana Van Rooyen & Sally Van Der Riet VIEW</p> <ul style="list-style-type: none"> - The neighbour is currently enjoying 180-degree view which is quite breath taking. - It is understandable to want to extend their deck but to enclose the deck and installing a roof, it will impede the beautiful view. - The objector says they are all exposed to the prevailing summer winds but this is not the good reason to impede their view. - The diminished view will decrease the property value which none of them wants during these tough economic times. - Their view is Knysna Lagoon and not of the Knysna CBD. - The owners of the Erf 8928 Knysna live in another country and use their home in Knysna once or twice a year, but for us who frequent their home regularly are desperate not to lose anything magic. 							
PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS							
Name	Date received	Summary of comments			Recommendation		
ROADS & STORMWATER	02-10-2017	No objection.			Positive	Negative	Comment
WATER & SEWER	02-10-2017	No objection			Positive	Negative	Comment
AESTHETICS COMMITTEE	10-04-2017	No objection. The proposed deck will not give a negative impact to the surroundings.			Positive	Negative	Comment
BUILDING CONTROL	10-04-2017	Supported			Positive	Negative	Comment

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PART L: SUMMARY OF APPLICANT'S REPLY TO COMMENTS – ANNEXURE C (RESPONSE TO OBJECTION)			
<ul style="list-style-type: none"> - The extension has been considered, and input was received from suitable architect - Mr Sheldon van Onselen, especial for keeping the character of the house, material to be used and layout of the expansion. - The proposed living area will add valuable space to the house and create a sunny room for the cold winter months. It will create an "outside" feel while indoors. - The barbecue or braai area is proposed opposite corner for some privacy as well as not to unnecessary impede on neighbours view and keeping sound factor within their home. - The proposed expansion will add significant value to their property which in turn will add value to Knysna. 			
PART M: MUNICIPAL ASSESSMENT OF COMMENTS – ANNEXURE D (PREVIOUS APPROVALS)			
<p>The application did not receive any negative comments from internal departments. Therefore, proposed development does not have negative impact on municipal services.</p> <p>However, the immediate neighbor has objected to the proposed enclosed deck because it will create limitations to the current enjoyment of the Lagoon View. This is in essence the proposed enclosed deck impedes on the neighbours rights negatively.</p> <p>The properties Erf 8928, Remainder 4582 and Erf 8927 has strikingly similar architectural structural design. The information search revealed that the property is not zoned Single Residential as per the applicant's motivation. The property is zoned Group Housing, and has never been rezoned to Single Residential. The Subdivision and Rezoning Approval Conditions for Erf 4582 Knysna required that the Home Owners Association or Body Corporate be established.</p> <p>On the 10th January 2000, the Homeowners Association Constitution was approved with the condition as illustrated in point 3.3.2 "<i>In respect of any structural alteration or addition made to a member's subdivision same shall be in keeping with the style of the existing improvements on the member's subdivision and building plans shall be endorsed by the Association prior to submission thereof to the Local Authority, such endorsement not being a guarantee of approval by the Local Authority</i>". The plans submitted have not been endorsed by the members of the Homeowners Association.</p>			
PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)			
Was the application processed correctly (if no, elaborate below): All the due processes were followed.			Y
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below). The application is in line with the SPLUMA Principles i.e Spatial Sustainability - The proposed permanent departure will promote and stimulate growth in terms of property value. Promotes that the development happens in a regulated manner. The process of application enforces the principle of Good Administration where there is transparency in all dealings, public consultation through advertising the application, procedures and times frames adhered to. The proposed application all the due processes were followed. The application was circulated to internal departments, and neighbours.			Y
Application history			
Subdivision and Rezoning of the parent Erf 4582 Knysna.			
(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)			
YES. It is in line with the SPLUMA Principles.			
(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)			

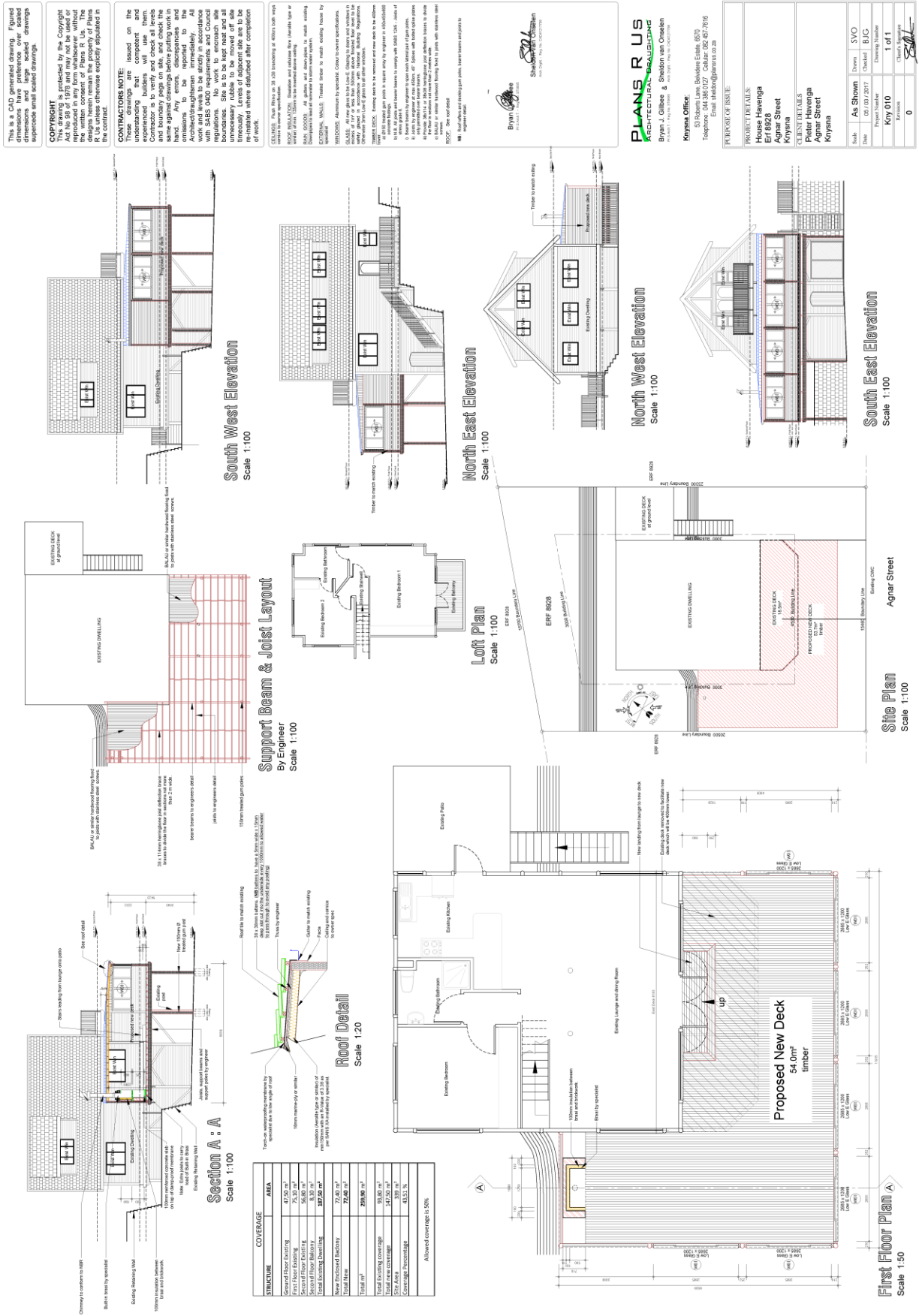
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N/A. The Knysna Municipality is in the process of adopting the single zoning scheme. However, in the meantime the Knysna Zoning Scheme (1992) is effective. This application is not for the change of zoning. The current zoning remains the same as "Group Housing Zone".
(In)consistency with the IDP/Various levels of SDF's/Applicable policies
"The overriding intention is to build the Knysna municipal area as a " complete ", just and inclusive ecosystem, society and economy where all can participate without undermining the resources needed to sustain future generations"; SDF, 2017. The "complete" municipal area also refers to good governance where all the processes are followed. For this application the processes has been followed and no precedent will be encouraged by overlooking the past approved policies or conditions.
(In)consistency with guidelines prepared by the Provincial Minister
N/A
Impact on Municipal engineering services
No impact identified by the Department of Technical services. The current services was planned taking into consideration the number of residential sites / properties in an area.
Outcomes of investigations/applications i.t.o other legislation
N/A
Existing and proposed zoning comparisons and considerations
No proposal on the zoning. It remains the same, "Group Housing Zone" in terms of Knysna Zoning Scheme (1992).
The desirability of the proposal
Refer to the motivation.
PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS (REFER TO ROR GUIDELINE)
The financial or other value of the rights
N/A
The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal
N/A
The social benefit of the restrictive condition remaining in place, and/or being removed/amended
N/A
Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights
N/A
PART P: SUMMARY OF EVALUATION
<ul style="list-style-type: none"> - The property is zoned Group Housing and not Single Residential as per applicant's motivation. - In terms of Knysna Zoning Scheme (1992) the "Group Housing" means a group of separate and/or linked individual dwelling units which is planned, designed and built as a harmonious architectural entity which has a medium density character and with single or double storey units. The units may either be cadastrally subdivided or not; and the "group site" means a portion of land in a group housing zone which can be subdivided in a number of group erven with or without public or private street and/or open space.


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<ul style="list-style-type: none"> - Erf 8928 Knysna is zoned Group Housing, the owner cannot apply to depart from the group housing definition and have the different type of housing design as it is contained in the definition. - The applicant did not consult the Home Owners Association, and plans have no signature or consent as per the Approval Conditions. - The proposed enclosed deck will result to "out of character" situation with the architectural design of the three properties. This will be negatively affect the aesthetic appearance of the housing and the street. - The title deed condition C, "The Owner of this property or his successors in title shall not be entitled to pass transfer of his subdivision to any other person without consent of "Erf 4582 Knysna Home Owners Association" of which the owner must be a member'. This condition further provides the legal right of the membership of the Home Owners Association. 			
PART Q: RECOMMENDATION			
<p>That the application in terms of Section 60 of the Knysna Municipality By- Law on Municipal Land Use Planning (2016) for the application in terms of Section 15 (2) (b), be Refused for a relaxation of the street building line from 4,5m to 1,8m and relaxation of lateral building line from 3m to 0,5m as indicated on plans drawn by Plans R Us Architectural Draughting, drawing number Kny 010; dated 05 March 2017.</p>			
PART R: REASONS FOR RECOMMENDATION			
<p>The reasons for above recommendation for approval are as follows:</p> <ul style="list-style-type: none"> • Does not meet the standard requirements for the Group Housing Zone for the application. The applicant has to obtain the Home Owners Association's consent prior to submission of the application. • Have negative impact on neighbours rights as per received comments. • Should the Group Housing property owners opt to have their properties be individual considered, the rezoning application should be submitted. 			
PART S: ANNEXURES			
<ol style="list-style-type: none"> 1. Annexure A – Full Application 2. Annexure B - Objection 3. Annexure C - Response 4. Annexure D – Previous Approvals 			
PART T: SIGNATURES			
<p>Author name: ZINHLE THWALA</p> <p>Author signature:</p> <p>Date:</p>			
<p>Registered planner name:</p> <p>Registered planner signature:</p> <p>SACPLAN registration number:</p> <p>Date:</p>			
Decision maker: Knysna Municipal Planning Tribunal			
APPROVED	APPROVED CONDITIONALLY	APPROVED IN PART	REFUSED

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POWER OF ATTORNEY (REGISTERED OWNER'S CONSENT FORM)	
I / we, <u>Pieter Havenga</u> (name(s) of registered owner(s))	
registered owner(s) of the following property(ies) : <u>Erf 8928 located at 4A Agnar Street, Knysna</u> (property description(s))	
wish to certify that authority is hereby granted to <u>Sheldon van Onselen</u> (applicant's name)	
in terms of the resolution enclosed herewith (applicable if land owner is a registered company / close corporation, trust or other juristic person), to apply for *	
<ul style="list-style-type: none">• removal / suspension / amendment of restrictions• rezoning• consent / conditional use• departure (temporary / permanent)• subdivision / subdivision exemption• site development plan approval / amendment• amendment of conditions• township establishment• other (please specify)	
in respect of the above-mentioned property(ies) to enable it to be developed / utilised for the following purpose(s) : <u>Extension to current balcony and new built-in braai.</u> (proposed purpose(s) / development)	
(* please delete whichever not applicable).	
The undersigned therefore nominates, constitutes and appoints the above applicant with power of substitution to be the registered owner's legal representative / agent and to act in the name, place and stead of the registered owner in the above regard. Power of attorney is accordingly hereby granted to the applicant to sign all correspondence in respect of the matter referred to above.	
Owner's name	<u>Pieter Havenga</u>
Owner's signature	<u></u> Date <u>3 January 2017</u>

Power of Attorney v o r a f o r m a . d o c 28-09-2006



53 Roberts Lane, Belvidere Estate, Belvidere, Knysna.

Tel: 044 386-0127

Cell: 082 457-7616

Email: sheldon@plansrus.co.za

Knysna Municipality
Town Planning
P O Box 21
Knysna
6570

ERF 8928; APPLICATION FOR RELAXATION OF BUILDING LINES

Erf 8928, in the Municipality of Knysna, is a single residential erf located at 4A Agnar Street, Knysna and is approximately 339m² in extent. The property is currently zoned as "Single Residential" in terms of the Knysna Zoning Scheme Regulations

MOTIVATION

My clients would like to extend their current deck and enclose it. This area is currently not utilized due to its small size and the fact that it faces South-East which means it is directly in the path of the prevailing summer winds making the area uncomfortable most of the time.

LOCALITY

The application area is located at 4A Agnar Street approximately 150m North-East of Short Street and approximately 150m North of Knysna Main Road.

CHARACTER OF THE AREA

The application area is located within an area that is characterised by middle income, single residential uses. The area constitutes an established low density development with erven averaging between 300m² and 1200m².

DETAILS OF PROPERTY

Erf 8928 is zoned for single residential use with a maximum of 50% coverage. Building line is 4.5 meters from street, 3.0 meters from the rear boundary and lateral boundaries. Buildings are of a timber construction with a pitch tiled roof and is a multiple-story residence and has a coverage 93.8m² which is 27.7%

APPLYING FOR A BUILDING LINE RELAXATION

The applicant is applying for a relaxation of the building line on the South-West and South-East side of the property from 3 meters to 0.5 meters and 4.5 meters to 1.8 meters respectively.

IMPACT ON EXISTING RIGHTS

The application will not have any negative impacts on any neighbouring property. The structural changes to the property are out of line of site relating to any view.

Should you need any further information please feel free to call this office.

SERVICING THE GARDEN ROUTE


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OFFICE COPY

VPM SURVEYS

SIDES metres	ANGLES OF DIRECTION	CO-ORDINATES		
		Y	System: Lo23° X	
		Constants	+0, 00	+3 760 000, 00
A B 23, 30	319.46.10	A	-3 954, 72	+7 130, 28
B C 15, 46	49.46.10	B	-3 969, 77	+7 148, 07
C D 20, 52	139.46.10	C	-3 957, 96	+7 158, 05
D A 15, 71	219.36.00	D	-3 944, 71	+7 142, 38
	KN 4	⊕	-4 116, 93	+7 212, 12
	KN 41	⊕	-4 362, 22	+7 144, 86

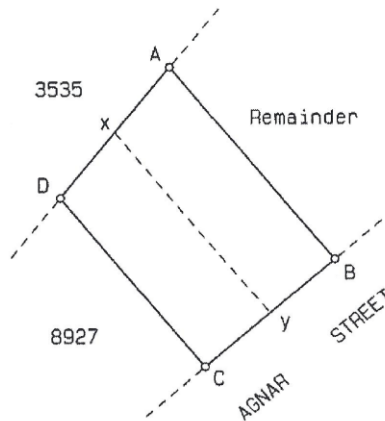
SG No.
9298/1995

 Approved


 for
 SURVEYOR-
 GENERAL
1995-11-23

BEACON DESCRIPTIONS

A, B, C, D .. 12mm iron peg



SCALE 1: 500

The figure A B C D
represents 339 square metres of land being
ERF 8928 (a portion of Erf 4582) KNYSNA
Situate in the Municipality and
Administrative District of Knysna, Province of the Western Cape
Surveyed in October 1995

by me Professional Land Surveyor (R.J. KOHLER - PLS 0840)

APPROVED IN TERMS OF SECT. 25
 OF ORD. 15/1985
 REF. 4582 KNY
 DATE 12-04-2002

This diagram is annexed to No. T33754/2002 d.d. i.f.o.	The original diagram is No. 9704/76 Transfer Grant D/T 16260/1977 G.G.T.	File S4587/21/25 S.R. No. E 2992/95 T.P. Comp. AMNA-1362 (M3326)
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Registrar of deeds

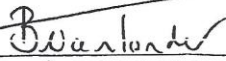
KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
AGENDA
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KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
AGENDA
30 JANUARY 2018

VAN TONDER INC
P.O. BOX 1536
GEORGE
6530
Tel: (044) 873-0707

Prepared by me


CONVEYANCER
BERNARD VAN TONDER

Fees and charges	
Amount	Office fee
Purchase price/value R 1 195 000,00	R 450,00
Mortgage capital Amount R	R
Reason for exemption Cat. section	Exempt 14.0

VERBIND MORTGAGED	
VIR FOR R 1 035 000,00	
B	000028348 / 2015
09 OCT 2015	REGISTRAR

T 000057400 / 2015

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

JANINE FOUCHÉ

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said Appearer being duly authorised thereto by a Power of Attorney, which said Power of Attorney was signed at KNYSNA on 6 July 2015 granted to him by

JILL RIDDOCH EVANS BALCOMB
Identity Number: 510930 0155 08 6
Married out of community of property

DATA / CAPTURE
15 OCT 2015
KETILEN

DATA / VERIFY
16 OCT 2015
VAN WYK JEMMY

GhostConvey 15.4.5.5

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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And the Appearer declared that his said principal had, on 4 MAY 2015, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

PIETER WAYNE HAVENGA

Identity Number: 710702 5123 08 0

and

NINETTE HAVENGA

Identity Number: 750601 0002 08 6

Married in community of property to each other

their Heirs, Executors, Administrators or Assigns, in full and free property

ERF 8928 KNYSNA,

IN THE MUNICIPALITY AND DIVISION OF KNYSNA,

PROVINCE OF THE WESTERN CAPE;

IN EXTENT: 339 (THREE HUNDRED AND THIRTY NINE) Square Metres

FIRST REGISTERED by Certificate of Registered Title No. T33754/2002 with Diagram SG No. SG9298/1995 relating thereto, AND HELD by Deed of Transfer No. T41519/2011.

- A. SUBJECT** to the conditions referred to in Deed of Transfer No. T6948/1918.
- B. SUBJECT FURTHER** to the following conditions contained in Deed of Transfer No. T16260/1977 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Section 9 of Ordinance No. 33 of 1934 when approving of the deduction of Erf 4582 from Erf 3535 Knysna:

GhostConvey 15.4.5.5



- "1. The owner of this Erf shall, without compensation, be obliged to allow electricity, telephone and television cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.
2. The owner of this Erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority."

- C. **SUBJECT FURTHER** to the following condition created in Deed of Transfer No. T97187/2002 imposed in terms of Section 42(1) of the Land Use Planning Ordinance No. 15 of 1985 in favour of "Erf 4582 Knysna Homeowners Association", its Successors in Title or Assigns, which condition shall be binding on the Transferee and his Successors in Title or Assigns, namely:

"The Owner of this property or his successors in title shall not be entitled to pass transfer of his subdivision to any other person without consent of "Erf 4582 Knysna Home Owners Association" of which the owner must be a member".

9

81

GhostConvey 15.4.5.5

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WHEREFORE the said Appearer, renouncing all right and title which the said

JILL RIDDOCH EVANS BALCOMB, Married as aforesaid

heretofore had to the premises, did in consequence also acknowledge her to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

**PIETER WAYNE HAVENGA and NINETTE HAVENGA,
Married as aforesaid**

their Heirs, Executors, Administrators or Assigns, now are and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of **R1 150 000,00 (ONE MILLION ONE HUNDRED AND FIFTY THOUSAND RAND)**.

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 09 OCT 2015 2015.

In my presence

REGISTRAR OF DEEDS

q.q.

GhostConvey 15.4.5.5

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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T1



LAND USE PLANNING PRE-APPLICATION CONSULTATION FORM

KINDLY NOTE:

Pre-application consultation is an advisory session and does not in any way pre-empt the outcome of any future application which may be submitted to the Municipality.

PART A: PARTICULARS

Reference number: _____

Purpose of consultation: _____

Brief proposal: Relaxation of building lines.

Property(ies) description: 4A Agnar Street, Knysna, Erf 8928

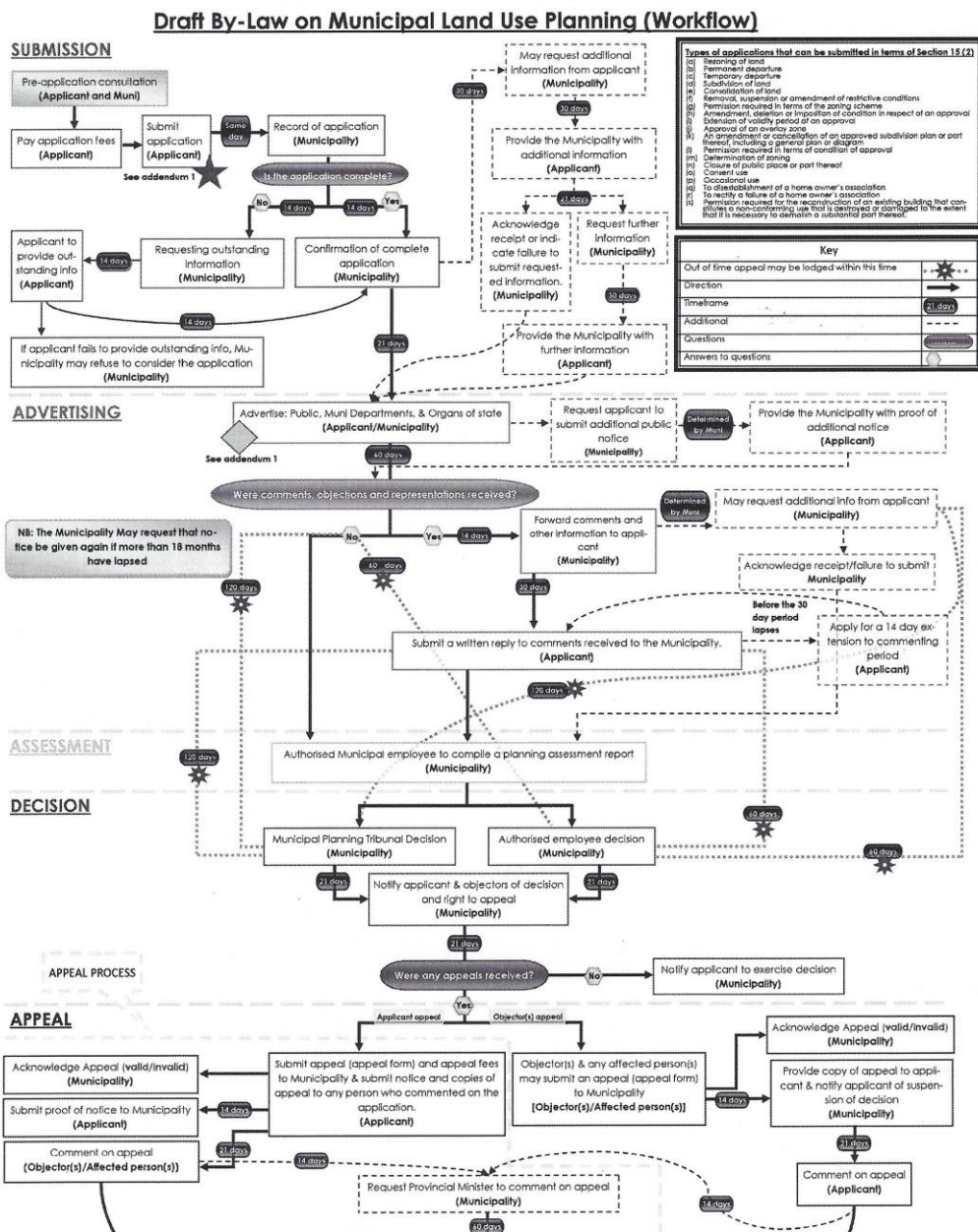
Date: 27 March 2017

Attendees:

	Name & Surname	Organisation	Contact Number	E-mail
Official				
Pre-applicant	Sheldon van Onsden	Plans R Us	044 386 0127 082 45 77616	sheldone@plansrus.co.za

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PART B: APPLICATION PROCESS



KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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PART C: QUESTIONNAIRES

**SECTION A:
DETERMINATION OF APPLICATION TYPES, PRESCRIBED NOTICE AND FEES**

Tick if relevant		What land use planning applications are required in terms of section 15 of the Proposed Standard Draft By-law on Municipal Land Use Planning?	Application fees payable
✓	2(a)	a rezoning of land;	R
✓	2(b)	a permanent departure from the development parameters of the zoning scheme;	R
✓	2(c)	a departure granted on a temporary basis to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land;	R
✓	2(d)	a subdivision of land that is not exempted in terms of section 24, including the registration of a servitude or lease agreement;	R
✓	2(e)	a consolidation of land that is not exempted in terms of section 24;	R
✓	2(f)	a removal, suspension or amendment of restrictive conditions in respect of a land unit;	R
✓	2(g)	a permission required in terms of the zoning scheme;	R
✓	2(h)	an amendment, deletion or imposition of conditions in respect of an existing approval;	R
✓	2(i)	an extension of the validity period of an approval;	R
✓	2(j)	an approval of an overlay zone as contemplated in the zoning scheme;	R
✓	2(k)	an amendment or cancellation of an approved subdivision plan or part thereof, including a general plan or diagram;	R
✓	2(l)	a permission required in terms of a condition of approval;	R
✓	2(m)	a determination of a zoning;	R
✓	2(n)	a closure of a public place or part thereof;	R
✓	2(o)	a consent use contemplated in the zoning scheme;	R
✓	2(p)	an occasional use of land;	R
✓	2(q)	to disestablish a home owner's association;	R
✓	2(r)	to rectify a failure by a home owner's association to meet its obligations in respect of the control over or maintenance of services;	R
✓	2(s)	a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building.	R
Tick if relevant		What prescribed notice will be required?	Advertising fees payable
Y	N	Serving of notices (i.e Delivering by hand; registered post; data messages)	R
Y	N	Publication of notices (i.e Local Newspaper(s); <i>Provincial Gazette</i> ; <i>site notice</i> ; <i>Municipality's website</i>)	R

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Y	N	Additional publication of notices (i.e Site notice, public meeting, local radio station, Municipality's website, letters of consent or objection)	R
Y	N	Notice of decision (i.e Provincial Gazette)	R
Y	N	Integrated procedures	R
TOTAL APPLICATION FEE*:			R

KINDLY NOTE: * Application fees are estimated on the information discussed and are subject to change with submission of the formal application.
Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany an application.
The applicant is liable for the cost of publishing and serving notice of an application.

SECTION B:

PROVISIONS IN TERMS OF THE RELEVANT PLANNING LEGISLATION / POLICIES / GUIDELINES

QUESTIONS REGARDING PLANNING POLICY CONTEXT	YES	NO	TO BE DETERMINED	COMMENT
Is any municipal integrated development plan, spatial development framework(s), structure plans, by-laws or any other municipal policies or guidelines applicable? If yes, is the proposal in line with the aforementioned documentation/plans?		✓		
Any applicable restrictive condition(s) prohibiting the proposal? If yes, is/are the condition(s) in favour of a third party(ies)? [List condition numbers and third party(ies)]				
Any other Municipal by-law that may be relevant to application? (If yes, specify)		✓		
Zoning Scheme By-law considerations:				
What is the current zoning of the property?				
SR1				
What is the proposed zoning of the property?				
N/A				
Does the proposal fall within the provisions/parameters of the zoning scheme?				
No, departure is applicable				
Are additional applications required to deviate from the zoning scheme? (if yes, specify)				
No				

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QUESTIONS REGARDING OTHER PLANNING CONSIDERATIONS	YES	NO	TO BE DETERMINED	COMMENT
Is a development application affecting national interest in terms of section 52(3) of Spatial Planning Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), required?		✓		
Is the proposal in line with the national spatial development framework and national laws, regulations, other guidelines or documents?		✓		
Is the proposal in line with the principles for land development, set out in the SPLUMA and the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014)?		✓		
Is the proposal in line with the provincial spatial development framework(s) and provincial laws, regulations, other policies, guidelines or documents?		✓		
Is any district municipal integrated development plan, spatial development framework, other policies, guidelines or documents relevant?		✓		

SECTION C:

CONSENT / COMMENT REQUIRED FROM OTHER ORGANS OF STATE

QUESTIONS REGARDING CONSENT / COMMENT REQUIRED	YES	NO	TO BE DETERMINED	OBTAIN APPROVAL / COMMENT FROM:
Is a land development application required in terms of section 53(2) of LUPA or section 10 of LUP Regulations?		✓		Western Cape Provincial Department of Environmental Affairs & Development Planning (DEA&DP)
Is provincial comment on land use application(s) required in terms of section 45(1) of LUPA?		✓		DEA&DP
Is/was the property(ies) utilised for agricultural purposes?		✓		Western Cape Government Department of Agriculture

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Will the proposal require approval in terms of Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970)?		✓		National Department of Agriculture, Forestry and Fisheries (DAFF)
Will the proposal trigger a listed activity in terms of National Environmental Management Act, 1998 (Act 107 of 1998) (NEMA)?		✓		DEA&DP
Will the proposal require authorisation in terms of Specific Environmental Management Act(s) (SEMA)? (National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003) (NEM:PAA) / National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004) (NEM:BA) / National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004) (NEM:AQA) / National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008) (NEM:ICM) / National Environmental Management: Waste Act, 2008 (Act 59 of 2008) (NEM:WA) (strikethrough irrelevant)		✓		National Department of Environmental Affairs (DEA) & DEA&DP
Will the proposal require authorisation in terms of the National Water Act, 1998 (Act 36 of 1998)?		✓		National Department of Water & Sanitation (DWS)
Will the proposal trigger a listed activity in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999)?		✓		South African Heritage Resources Agency (SAHRA) & Heritage Western Cape (HWC)
Will the proposal have an impact on any National or Provincial roads?		✓		National Department of Transport / South Africa National Roads Agency Ltd. (SANRAL) & Western Cape Department of Transport and Public Works (DT&PW)

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Will the proposal trigger a listed activity in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993): Major Hazard Installations Regulations		✓		National Department of Labour (DL)
Will the proposal affect any Eskom owned land and/or servitudes?		✓		Eskom
Will the proposal affect any Telkom owned land and/or servitudes?		✓		Telkom SA Ltd.
Will the proposal affect any Transnet/Passenger Rail Agency of South Africa owned land and/or servitudes?		✓		Transnet/PRASA
Is the property subject to a land / restitution claim(s)?		✓		National Department of Rural Development & Land Reform
Will the proposal require comments from South African National Parks (SANParks) and/or CapeNature?		✓		SANParks / CapeNature
Is the property subject to any existing mineral rights?		✓		National Department of Mineral Resources
Does the proposal lead to densification to such an extent that the number of schools, healthcare facilities, libraries, safety services, etc. In the area may be impacted on? (strike through irrelevant)		✓		Western Cape Government Departments of Cultural Affairs & Sport, Education, Social Development, Health and Community Safety
Does the proposal require any other authorisation(s) in terms of other applicable legislation that is not listed in the subject table?		✓		If yes, specify

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SECTION D:
SERVICE REQUIREMENTS

DOES THE PROPOSAL REQUIRE THE FOLLOWING ADDITIONAL INFRASTRUCTURE / SERVICES?	YES	NO	TO BE DETERMINED	OBTAIN COMMENT FROM: (list internal department)
Electricity supply:		✓		
Water supply:		✓		
Sewerage and waste water:		✓		
Stormwater:		✓		
Road network:		✓		
Telecommunication services:		✓		
Other services required? Please specify.		✓		
Development charges:		✓		

**PART D: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION FOR LAND USE
PLANNING APPLICATION**

Information and documentation required in terms of section 38(1) of the Proposed Standard Draft By-law on Municipal Land Use Planning	
Completed and signed application form ✓	Bondholder's consent (if applicable)
Power of attorney / Owner's consent if applicant is not owner ✓	Proof of registered ownership or any other relevant right held in the land concerned
Resolution or other proof that applicant is authorised to act on behalf of a juristic person	S.G. diagram / General plan extract
Written motivation ✓	Site development plan or conceptual layout plan ✓
Locality plan ✓	Proof of agreement or permission for required servitude
Proposed subdivision plan	Full copy of the title deed ✓
Proof of payment of application fees ✓	Minutes of pre-application consultation meeting (if applicable)
Conveyancer's certificate	

Supporting information and documentation:			
<input checked="" type="checkbox"/>	N	N/A	Consolidation plan
<input checked="" type="checkbox"/>	N	N/A	Street name and numbering plan
Y	<input checked="" type="checkbox"/>	N/A	Landscaping / Tree plan
Y	<input checked="" type="checkbox"/>	N/A	Abutting owner's consent
Y	<input checked="" type="checkbox"/>	N/A	Copy of Environmental Impact Assessment (EIA) / Heritage Impact Assessment (HIA) / Traffic Impact Assessment (TIA) / Traffic Impact Statement (TIS) / Major Hazard Impact Assessment (MHIA) / Environmental Authorisation (EA) / Record of Decision (ROD) (strikethrough irrelevant)
Y	N	<input checked="" type="checkbox"/>	Copy of original approval and conditions of approval
Y	N	<input checked="" type="checkbox"/>	Proof of lawful use right
Y	N	<input checked="" type="checkbox"/>	Required number of documentation copies
Y	N	<input checked="" type="checkbox"/>	Land use plan / Zoning plan
Y	N	<input checked="" type="checkbox"/>	1 : 50 / 1:100 Flood line determination (plan / report)
<input checked="" type="checkbox"/>	N	N/A	Home Owners' Association consent
Y	N	<input checked="" type="checkbox"/>	Services Report or indication of all municipal services / registered servitudes
Y	N	<input checked="" type="checkbox"/>	Proof of failure of Home owner's association
Y	N	N/A	Any additional documents or information required as listed in the pre-application consultation form / minutes
Y	N	N/A	Other (specify)

PART E: DISCUSSION

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

PART F: SUMMARY / WAY FORWARD

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

PRE-APPLICANT: Sheldon van Onselen
(FULL NAME)

SIGNED: 

DATE: 27-03-2017

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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Knysna Municipality - Response to proposed departure of Erf 8928 Knysna

From: "Sally van der Riet" <sally@sebenzarisk.co.za>
To: <knysna@knysna.gov.za>
Date: 12/05/2017 9:44 AM
Subject: Response to proposed departure of Erf 8928 Knysna
Cc: <zthwala@knysna.gov.za>
Attachments: 4 Agnar Street Comments in terms of Section 50 for proposed departure of Erf 8928.pdf

Hi there,

I received the notification regarding my neighbours application to relax and building lines and do extensions to his house.

Please find attached my response to his application.

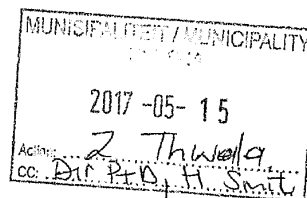
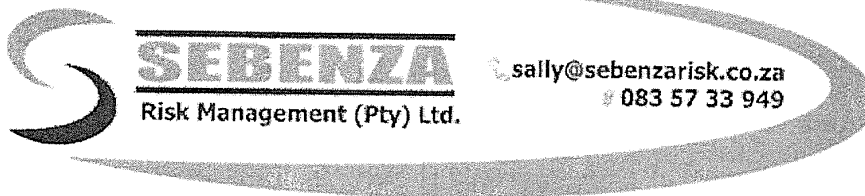
If you need any additional information from me, please just let me know.

Colab No.:

Kind Regards,

File No.: 15/2/5/1

Sally van der Riet



file:///C:/Users/ttsese/AppData/Local/Temp/XPgrpwise/5915840Fkmdom02kmpo021... 15/05/2017

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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Knysna Municipality
P.O. Box 21
Knysna
6570

3 Lucas Street
Newton Park
Port Elizabeth
6045
Cell: 083 57 33 949

8 May 2017

Dear Mr Douglas

RE: Proposed Departure: Erf 8928, Knysna



We were very fortunate to be able to purchase a lovely wooden, A-framed log home at 4 Agnar Street. There are three identical homes which are quiet a land mark in Knysna.

We call our home the "Tree House", because when you walk up the outside stairs and into the open living area, you feel like you are in a beautiful tree house, and look over Knysna and the picturesque lagoon. We have 180 degree view, and it is quiet breath taking. This home is very special to us and all that come and stay at the "Tree House" and enjoy all that Knysna has to offer.

We have received the notification regarding the application to relax the building lines of Erf 8928 and extending their balcony, enclosing it with timber, roof and installation of windows. We can understand and accept them wanting to extend their deck, but by them enclosing the deck and installing a roof, it certainly impedes on our beautiful view.

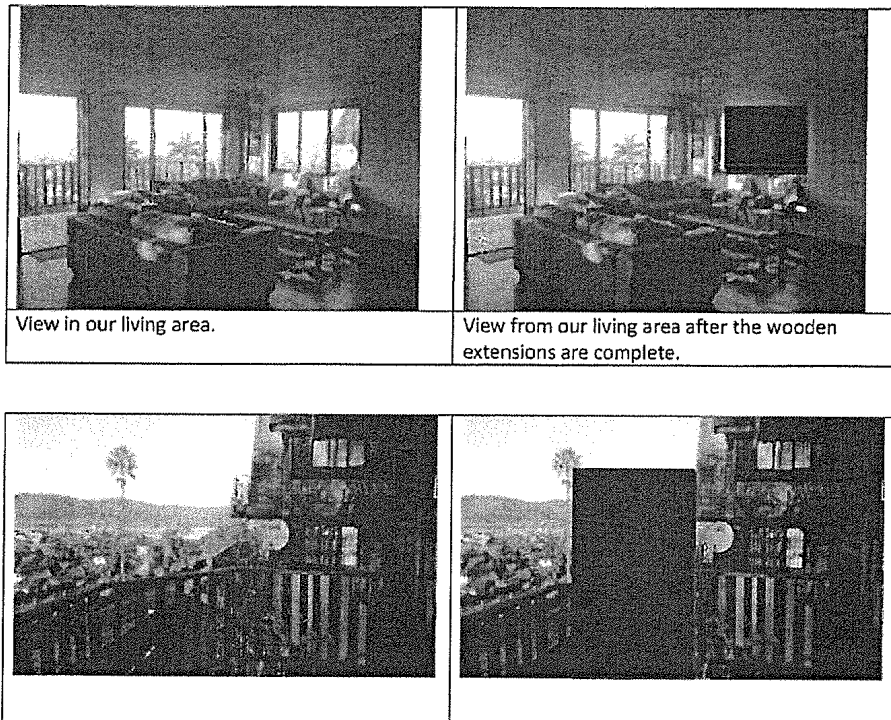
We are all exposed to the prevalling summer winds, but certainly don't feel like this is a good enough reason to impede our view. The diminished view will also decrease our property value, which is something none of us want during these tough economic times.

Photographic evidence:

	
Our current view of the heads and Knysna lagoon.	A third of our view would be taken away with relaxation of building lines and subsequent extension of deck, timber walls, windows and roof.

Our view is of the Knysna Lagoon and not of the Knysna CBD. It is breathtaking to look over the beautiful lagoon and during the busy Christmas season to watch the skiers, paddlers and holiday makers having fun on the lagoon.

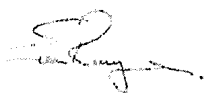
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The additional building extensions will take away a 3rd of our Knysna Lagoon view.

We understand the owners/developers live in another country and use their home in Knysna once or twice a year, but for us who frequent our home regularly are desperate not to lose any of the magic we feel when we walk into our living space or balcony.

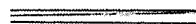
Kind Regards,



Elana van Rooyen

082 808 6123

continental@pemail.co.za



Sally van der Riet

083 57 33 949

sally@sebenzarisk.co.za

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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Knysna Municipality
P.O. Box 21
Knysna
6570

4A Agnar Street
ERF 8928
Knysna
6571

Dear Mr Douglas,

Re: Proposed Departure ERF 8928, Knysna

In reply to the letter received from Ms van Rooyen and Ms van der Riet, kindly consider the following:

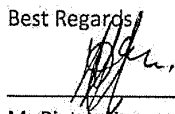
1. When we considered an extension to our house, we thought it wise to receive input and ideas from a suitable architect (Mr Sheldon van Onselen), as well as some long-term residents in Knysna. Especially while wanting to expand on the floor space of the house, but in turn keep the character of the house the same. We have spend a considerable amount of time considering the proper materials to be used, as well as to the layout of the expansion. Taking into account that this house will become our long term home and soon, my wife and my children will have to return to South-Africa permanently, in order for the children to complete their schooling in Knysna.
2. Having the living area as planned, will add valuable space to the house and create a sunny room for the cold winter months. Especially as it will create an "outside" feel, while indoors.
3. As we are South-Africans, we love a good "braai", and have therefore decided, with valuable input from our advisors, to put the barbecue around the opposite corner for some privacy as well as not to unnecessarily impede on our neighbours view and keeping the sound factor within our home.
4. Without changing too much on the house, this expansion will add significant value to the property, which in return adds value to the town of Knysna.

We ask that you kindly consider the above.

Knysna and it's people are very dear to us, and as this is considered "home" to us, we will greatly appreciate a go ahead on the our planned expansion.

We thank you for your consideration,

Best Regards,


Mr Pieter Havenga


Mrs Ninette Havenga

30 JANUARY 2018



KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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E HILL
4582

G A LOGAN/jvs

10th January 2000

Messrs Millers Attorneys
P O Box 6
KNYSNA
6570



Dear Sirs

ERF 4582, KNYSNA : HOMEOWNERS ASSOCIATION CONSTITUTION


Your letter dated 22nd December 1999 in respect of the above, refers.

It is hereby confirmed that the Homeowners Association Constitution submitted under cover of your abovementioned letter is acceptable in respect of fulfilment of condition [iv] of approval dated 12th September 1995.

Your co-operation in this matter is sincerely appreciated.

Yours faithfully




J W SMIT
CHIEF EXECUTIVE/TOWN CLERK
*amp

FILE. RETURN ON
BERG. TERUG OP

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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30 JANUARY 2018

E Hill
4582

L G
Please confirm J O E .
Thanks, Ed .

G A LOGAN/jvs

14 December 1999

Messrs Millers Attorneys
P O Box 6
Knysna
6570

Dear Sirs

ERF 4582, KNYSNA: HOME OWNERS' ASSOCIATION CONSTITUTION

Your letter dated 29 November 1999 refers.

The accompanying Home Owners' Association constitution is acceptable, subject to the additions/insertion at paragraph 3 of the following:

"Any structural alterations or additions are to be in keeping with the style of the existing improvements on the property, and building plans are to have the endorsement of the Home Owners' Association prior to submission to the Local Authority. Such endorsement, however, shall not necessarily guarantee approval by the Local Authority."

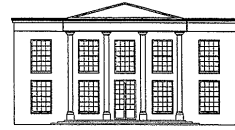
Kindly furnish a copy of the amended constitution for our records.

Yours faithfully



pp J W SMIT
CHIEF EXECUTIVE/TOWN CLERK
/jd

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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Attorneys | **Millers** | Prokureurs

THE TOWN CLERK
KNYSNA MUNICIPALITY
QUEEN STREET
KNYSNA

BY HAND

Our Ref:
GL/JvS/

Your Ref:
4582

Date:
22 December 1999

Dear Sir,

ERF 4582 KNYSNA : HOMEOWNERS ASSOCIATION CONSTITUTION

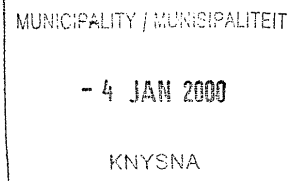
Further to your letter dated 14 December 1999 we attach the amended constitution from which you note the provisions of sub-clause 3.2.

Please let us have your confirmation that the constitution is acceptable.

Yours faithfully

MILLERS INCORPORATED - KNYSNA

per
G LOGAN



George Office Tel (044) 874 1140 • Fax (044) 873 4848
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Johannesburg In association with Danie Erasmus & Partners Inc

Directors: PJF Bredell BA LLB • WM van der Westhuizen B Iuris LLB & Cert Tax •
FJ Botes B Proc LLB & Adv Dip Lab Law • GA Logan B Iuris LLB • P van den Heever B Iuris LLB LLM •
EJ McCaul B Proc • N Haycock BA LLB • S van Wyk BA LLB & Cert Const Lit • A Wasserman B Proc •
MA Mulder B Proc LLB • LS Joubert B Iuris LLB
Assisted By: PJ Barnard B Comm B Proc • A Misch B Proc • F Brink B Comm LLB •
A van der Merwe BA LLB • D du Toit B Com LLB B Compt (Hons) CA (SA) • E Cubitt BA B Proc

Consultant: RP Truter BA LLB • FJ Rose-Innes Office Manager: B Perkes

MILLERS INCORPORATED
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20 Woodmill Lane Centre
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PO Box 6 Knysna 6570 RSA
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E-mail: millers.kn@pixie.co.za
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HOMEOWNERS' ASSOCIATION

This is the Association Agreement which regulates the affairs of the erf 4582 Knysna Homeowners' Association and which consists of all registered owners of erven arising from the subdivision of Erf 4582 Knysna (hereinafter referred to as "the property").

1. **ESTABLISHMENT OF HOMEOWNERS' ASSOCIATION**

The Association is established in accordance with section 29(1) of the Land Use Planning Ordinance of 1985 (Ordinance 15 of 1985), as amended.

2. **OBJECTS**

The objects of the Association are the control over and the maintenance of buildings, services and amenities arising from the sub-division of the property, one or more of which sub-divisions is/are owned by a member of the Association. The additional objects of the Association are to promote, advance and protect the communal interests of owners of such sub-divisions which shall include the management and servicing of the sub-divisions in such a way as to allow for owners of erven to derive maximum benefit thereof.

3. **DUTIES AND OBLIGATIONS OF MEMBERS**

3.1 No member of the Association shall make any structural alterations, additions or demolitions to any part of any improvement erected on his sub-division without the written consent of the relevant local authority nor permit the external appearance of the improvements thereon to deteriorate into a dirty or untidy condition. In particular the members shall be obliged to maintain uniformity in respect of any enclosure of any carport area to ensure uniformity between members in respect of such areas, such enclosure only to be done in accordance with specifications approved by the developer of Erf 4582 Knysna or, failing the developer, by the local authority.

3.2 In respect of any structural alteration or addition made to a member's sub-division same shall be in keeping with the style of the existing improvements on the member's subdivision and building plans shall be endorsed by the Association prior to submission thereof to the Local Authority, such endorsement not being a guarantee of approval by the Local Authority.

4. **MEMBERSHIP**

Membership of the Association shall be limited to the registered owners of sub-divisions of the property. Provided that :

- 4.1 where a sub-division is owned by more than one person all the registered owners of that sub-division shall be collectively be deemed for the purposes of the Association to be one member and the person whose name appears first in the Title Deed of such sub-division shall be considered to be the member;
- 4.2 when a member ceases to be the registered owner of a sub-division he shall ipso facto cease to be a member of the Association;

4.3 a member shall not transfer a sub-division unless it is a condition of the relevant deed of sale that the transferee shall bind himself to become a member of the Association and further state that he is aware that on registration of the sub-division into his name he shall ipso facto become a member of the Association; and

4.4 the registered owner of a sub-division may not resign as a member of the Association.

5. **COMMENCEMENT**

This Association agreement shall come into force on the date on which transfer of the first erf of the property aforesaid is registered in the name of the purchaser thereof and individual membership shall commence on the date on which a sub-division is registered in the name of an individual member.

6. **MANAGEMENT**

The affairs of the Association shall be controlled by a committee consisting of all members of the Association and shall manage and conduct the business and affairs of the Association in order to give effect to the objects and terms of this agreement.

7. **POWERS AND DUTIES OF THE COMMITTEE**

7.1 The committee shall keep a written record of the business of the Association and shall record shall be available for inspection by all members of the Association.

7.2 The committee shall keep books of account and such books shall be available for inspection by all members of the Association.

7.3 The committee shall have the power to do all things necessary to fulfil the objects of the Association but shall not be entitled to bind the credit of the Association or to borrow or lend the funds of the Association.

7.4 The committee shall have the power to make rules not inconsistent with this agreement for the regulation of good relationships between members or in promotion of the objects of the Association. Provided that a record of such rules shall be kept and shall be available and circulated to all members. Inter alia and without derogating from the generality hereof, the committee shall have the power to make rules in respect of security, refuse removal, pets and maintenance of improvements on the members' properties.

8. **MEETINGS OF MEMBERS**

8.1 The Association shall within 3 (three) months of its commencement as defined above hold a general meeting of members at which a chairman shall be elected and at which any other relevant business may be discussed. This meeting shall be known as the Inaugural General Meeting.

8.2 The Association shall thereafter hold a general meeting of members in December of each successive year at which meeting a chairman for the ensuing year shall be elected. This meeting shall be known as the Annual General Meeting.

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- 8.3 At any further time a meeting may be called at the instance of the committee or at the request of at least two members. Such meeting shall be known as a Special General Meeting.
- 8.4 Proceedings at the Annual or Special General Meeting shall be by majority vote with each member as defined above having one equal vote. In the event of an equality of voting, the chairman shall have a casting vote.
- 8.5 Decisions of the committee may be rescinded by majority vote of members present at a Special or Annual General Meeting.
- 8.6 A quorum of an Annual or Special General Meeting shall be three members. Absentee members shall be entitled to a postal vote on any specific matter or resolution clearly stated in the notice of meeting.
- 8.7 The chairman (who shall also act as secretary) shall not less than 21 (twenty-one) days prior to any General Meeting (Special or Annual) notify members of the date, time and place of the meeting. Such notice shall specify the business to be dealt with.

9. **LEVY**

- 9.1 On commencement of membership each member shall pay to the account of the Association an amount of R100,00.
- 9.2 This payment of R100,00 shall be known as the initial levy.
- 9.3 The chairman shall administer the initial levy in terms of this agreement.
- 9.4 At each Annual General Meeting as defined above the levy for the ensuing year shall be decided upon by members. Should it prove necessary additional levies may be fixed by Special General Meeting.
- 9.5 Levies shall be paid yearly, in advance.
- 9.6 Should a member dispose of his sub-division he shall not be entitled to any refund of levy but shall make his own arrangements with the purchaser of his portion regarding a pro rata apportionment.
- 9.7 Any amount due by a member to the Association by way of a levy shall be a debt due by him to the Association and his obligation shall not cease merely as a result of his ceasing to be a member of the Association.

10. **VARIATION**

The provisions of this agreement may, subject to the terms hereof, be varied by majority vote of members at an annual or special general meeting. Provided however that those sections of this Agreement which relate to membership and subsequent sales agreements as set out herein shall not be capable of variation.

11. **BREACH**

- 11.1 Any member who fails to make payment to the Association on the due date of any levy or other amount payable by him or who otherwise breaches or fails in the observance of any of the provisions of this agreement or in the observance of any rule or regulation adopted in pursuance hereof, may be ordered to pay to the Association compensation as may have been determined at a Special or General meeting of members.
- 11.2 The Association shall be entitled to demand, sue and recover any arrear levy instalment or other amount due to the Association from a member by instituting action in any Magistrates Court having jurisdiction in respect of the claim or dispute with the member concerned, to which jurisdiction members are deemed to have consented in terms of Section 45 of the Magistrates' Court Act. These provisions shall not preclude the Association from instituting proceedings in any other court which may have jurisdiction in respect of the claim or person of the member concerned.
- 11.3 If any assessed levy should not be paid on due date such arrear levy shall bear interest at the rate of 15,5% per annum, such interest to be calculated with effect from the date upon which the payment in question fell due for payment until the date of actual payment thereof to the Association.
- 11.4 Any arrear payment in respect of an assessed levy shall together with interest thereon and costs of collection thereof as hereinafter provided immediately become a continuing lien on or charge against the property of the member in question and the Association shall be entitled to withhold its consent to the transfer of the portion to anyone else until such arrear payment has been made.
- 11.5 The obligation to pay any arrear levy shall be and remain personal to the member and shall not pass to his successors in title unless expressly assumed by them.

12. **RESALE RECORDS**

- 12.1 Any member who disposes of his sub-division by any means shall be obliged to advise the Chairman of such disposal and the Chairman shall maintain records of all changes in ownership.
- 12.2 A member shall not be entitled to pass transfer of his sub-division to any other person until such time as the Chairman has issued a certificate indicating that all levies due in respect of the sub-division to be transferred have been paid.
- 12.3 A member shall not be entitled to pass transfer of his sub-division to any other person until such time as such other person has signed an acknowledgement on the same terms and conditions as contained in the acknowledgement to which this Association agreement is annexed and a member shall not be released from his obligations under this Association Agreement until such time as such other person has signed the said acknowledgement.

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L Gericke
4582

GAL/jvs

17 November 1999

Messrs Millers Attorneys
P O Box 6
Knysna
6570

Dear Sir

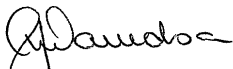
ERF 4582, KNYSNA: SUBDIVISION AND DEVELOPMENT

Your letter regarding the above dated 9 November 1999 refers.

Kindly note that in October 1995 Council considered a request to inter alia review the requirement to establish a Home Owners' Association or Body Corporate in respect of the future development of Erf 4582. At the time it was suggested to Council by officials that "such an Association/Body Corporate can serve no purpose", and accordingly the request for Council to waive that specific condition was supported. However, Council's Land Use Planning and Engineering Services Committee with delegated authority on 30 October 1995 resolved to retain the requirement. At the time the applicant was informed that should he wish to pursue the matter, he may submit an appeal to the Provincial Administration, which was not done.

In view of the above, and even though officials may be sympathetic to your request, you will appreciate that writer not only cannot simply "ignore" the condition, but also would be extremely reluctant to once again refer the same matter back to Council. However, nothing prevents you to submit a formal application in this regard, which we will then "be forced" to further process.

Yours faithfully




J W SMIT
CHIEF EXECUTIVE OFFICER / TOWN CLERK
/jd

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L. GERICKE
4582

27 NOVEMBER 1995

Messrs. VPM Surveys
P O Box 173
KNYSNA
6570

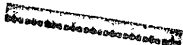
 Dear Sirs

ERF 4582 : REZONING AND SUBDIVISION

It is hereby confirmed that during a meeting held on 31 August 1995, Council approved the rezoning of Erf 4582 to Group Housing, and also granted the subdivision of the property into three (3) portions in terms of the provisions of Section 25 of Ordinance 15 of 1985 as indicated on the attached plan, subject to the conditions as outlined in Annexure A, B and C attached to this letter.

Yours faithfully

 J W SMIT
CHIEF EXECUTIVE/TOWN CLERK
/jr

FILE. RETURN ON
BERG. TERUG OP


ANNEXURE "A"

The following conditions of title must be registered against each of the subdivided portions and the remainder, except where similar conditions have, in the opinion of the Conveyancer, already been registered against the original property or properties:

- a) The owner of this erf shall without compensation, be obliged to allow gas mains, electricity, telephone and television cables and/or wires and main and/or other waterpipes and the sewage and drainage including stormwater of any other erf or erven to be conveyed across this erf, and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon if considered necessary by the local authority in such manner and position as may from time to time be reasonable required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing altering, removing or inspecting any works connected with the above;
- b) The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

ANNEXURE "B"

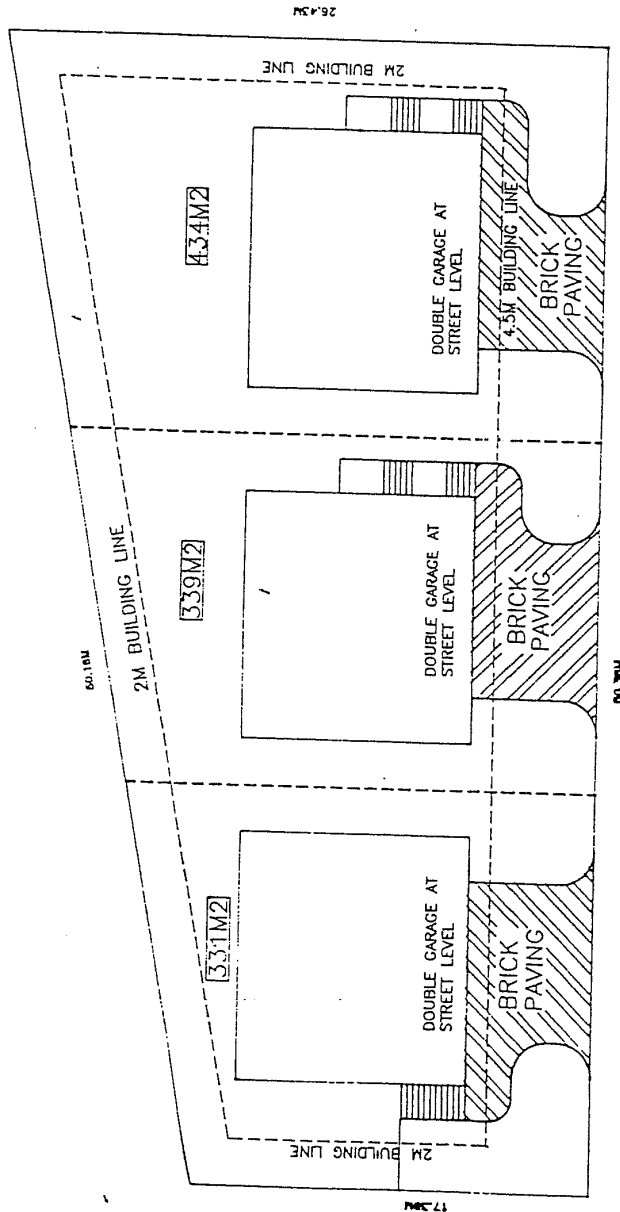
Satisfactory arrangements for the essential removal of telephone or telegraph routes which cross the land being subdivided must be made with the Post Office in terms of Section 83(1) of the Post Office Act.



ANNEXURE C

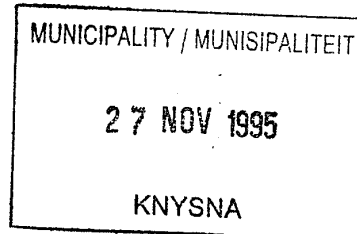
- i] Development in accordance with the plans submitted, or minor alterations thereto (and subject to normal building plan approval);
- ii] The payment of augmentation at the rate applicable at the time in respect of 2 units on water, sewerage and electricity prior to building plan approval or transfer or any erf/unit, whichever occurs first;
- iii] No unimproved site to be transferred;
- iv] A Home Owner's Association or Body Corporate to be established to the satisfaction of Council;
- v] Lateral and rear building lines to be increased to 3m;
- vi] Not to exceed 8m above natural ground level;
- vii] Municipal services to be provided and maintained to the satisfaction of Council at the cost of the developer.

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SCALE 1:300
AREA 1104M²

PROPOSED SUB-DIVISION
ERF NO 4582 AGNAR STREET



APPROVED IN TERMS OF SECT. 25
OF ORDINANCE 15/1985

CHIEF EXECUTIVE/TOWN CLERK

DATE: 27/11/95

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4.2



LAND USE PLANNING REPORT
APPLICATION FOR REZONING: ERF 2098 KNYSNA

Application number	1517	Application submission date	06 March 2017	Date report finalised	16 January 2018
PART A: AUTHOR DETAILS					
First name(s)	Steward				
Surname	Mqhele				
Job title	Town Planner				
SACPLAN registration number	C/8313/2016.				
Directorate/Department	Planning and Development: Town Planning and Building Control Department				
Contact details	044 302 6339				
PART B: APPLICANT DETAILS					
First name(s)	Marika Hendrika				
Surname	Vreken				
Company name	Marika Vreken Town Planners				
SACPLAN registration number	1101	Is the applicant authorised to submit this application	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N	
Registered owner(s)	Herman and Peace Hospitality Services (PTY) LTD				
PART C: PROPERTY DETAILS					
Property description (in accordance with Title Deed)	Erf 2098 KNYSNA				
Physical address	13 Kennel Streetw	Town/City	Knysna		
Current zoning	Single Residential	Extent (m2 /ha)	4746m ²	Are there existing buildings on the property?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
Applicable zoning scheme	Knysna Zoning Scheme Regulations 1992				
Current land use	Residential	Title Deed number & date	T61791/2015		
Any restrictive title conditions applicable	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	If Yes, list condition number(s)	No		

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Any third party conditions applicable?	Y	N	If Yes, specify				
Any unauthorised land use/building work	Y	N	If Yes, explain				
PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)							
Has pre-application consultation been undertaken?	Y	N	12 April 2016				
<p>Erf 2098, Knysna- Rezoning</p> <p><u>Discussion</u></p> <ul style="list-style-type: none"> Property is located in Hunters Home, Knysna There is an existing dwelling unit. Applicant wants to apply to construct two additional flats on his property. There will be three dwellings in total if he proceeds. According to the applicant, the two flats will be used for the housing of his two children. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> Augmentation will be due, depending on the size of the units (in terms of the Zone.) No services report will be necessary Services will need to be provided by the developer. The group housing zone conditions will have to be adhered to. The applicant would have to be very sensitive to the fact that it should look like a single residential area in order to all the development to blend into the surrounding area. 							
PART E: LIST OF APPLICATIONS (TICK APPLICABLE)							
Rezoning	✓	Permanent departure	✓	Temporary departure	✓	Subdivision	✓
Extension of the validity period of an approval	✓	Approval of an overlay zone	✓	Consolidation	✓	Removal, suspension or amendment of restrictive conditions	✓
Permissions in terms of the zoning scheme	✓	Amendment, deletion or imposition of conditions in respect of existing approval	✓	Amendment or cancellation of an approved subdivision plan	✓	Permission in terms of a condition of approval	✓
Determination of zoning	✓	Closure of public place	✓	Consent use	✓	Occasional use	✓
Disestablish a home owner's association	✓	Rectify failure by home owner's association to meet its obligations	✓	Permission for the reconstruction of an existing building that constitutes a non-conforming use	✓		
PART F: APPLICATION DESCRIPTION							
<p>An application for the Rezoning of Erf 2098, Knysna from "Single Residential" zone to "Group Housing" zone in terms Section 15(2)(a) of the Knysna Municipality By law on Municipal Land Use Planning (2016) to allow three residential dwellings on Erf 2098 Knysna.</p>							

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PART G: BACKGROUND

Erf 2098 Knysna, is located at 13 Kennet Street, Hunter's Home, Knysna and is 4746m² in extent. The property is currently zoned "Single Residential" in terms of the Knysna Zoning Scheme Regulations (1992).

The property currently contains one dwelling house and the owners envision constructing a cottage on the south-west corner of the property to accommodate two additional dwelling units. The current zoning does not allow for three dwellings on a property, which is why the applicant is applying for a rezoning to Group Housing in order to allow the proposed additional units.

The application is therefore made to rezone Knysna Erf 2098 to a "Group Housing" zone to allow the construction of two (2) additional residential dwellings.

There is currently one dwelling unit measuring 276m² and garage measuring 64m² on the property. The development proposal entails the development of a cottage measuring 276m² containing two dwelling units in the south-eastern corner of the property. The existing dwelling unit will remain unchanged. There will be a total of three dwelling units in the application area.

PART H: SUMMARY OF APPLICANTS MOTIVATION

The proposed density of the group housing development will be highly consistent with the existing residential density in Hunter's Home. The proposed group housing development will consist of three (3) residential dwellings on a property of more than 4500² in extent. The prescribed single residential density for Hunters Home is one dwelling per 1500m², hence the proposal (even though group housing) is consistent with the prescribed densities for the area. The proposed structures on the property will be single residential in nature meaning that it will conform to the height and coverage restrictions of a single residential zone property.

Furthermore, the cottage containing the two dwelling units will adhere to more restrictive building lines of a single residential zoned property. Meaning, the proposed cottages located at the back will appear as a single storey, additional dwelling unit. It is the considered opinion that the low impact of the proposed development will complement the character of the surrounding area.

No negative environmental impacts will be created as a result of the development. The proposed development site is a transformed area with multiple existing structures and long-standing residential use. The proposed development does not trigger any listed activities in terms of the National Environmental Management Act (1998) as amended. The application area is also not within a recognised Critical Biodiversity Area¹, nor is it within a listed Threatened Ecosystem².

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The proposed rezoning will allow for the construction of structure measuring 276m² in the southwestern corner of the property. The landscaped garden will be retained. The Department of Forestry will be notified accordingly before the removal of any trees will take place on site. Therefore, it is the considered opinion that the proposed group housing development will not have any significant negative impacts on the natural environment. The full application and motivation is hereto attached as **Annexure A**

PART I: SUMMARY OF PUBLIC PARTICIPATION

Methods of advertising				Date published	Closing date for comments
Press	Y	N	N/A	20 April 2017	22 May 2017
Gazette	Y	N	N/A		
Notices	Y	N	N/A	13 March 2017	14 April 2017
Ward councillor	Y	N	N/A		
Site notice	Y	N	N/A		
Community organisation(s)	Y	N	N/A		
Public meeting	Y	N	N/A		
Third parties	Y	N	N/A		
Other	Y	N	If yes, specify		
Total valid comments	One (1)			Total comments and petitions refused	None
Valid petition(s)	Y	N	If yes, number of signatures	N/A	
Community organisation(s) response	Y	N	N/A	Ward councillor response	Y N N/A
Total letters of support	None				
Was public participation undertaken in accordance with section 45- 49 of the Proposed By-law on Municipal Land Use Planning					Y N

PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

All potentially affected parties were consulted, including our internal departments and as well as the potential affected surrounding property owners.

The following comments were received during the public participation process:

- Email from Alex and Richard Court-Ricour, the abutting owner on 6A Fraser Street dated 12/04/2017 (**Annexure B**).
 - Engineering services: the current lack of water and significant under-provision of other utility services should be taken into account when approving higher density zoning schemes. It is not correct to aver that a single residence will be allowed to consume more than a three house group scheme, considering at level three the limit is 20kl month single residence

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- Traffic impact, the two link roads (Wilson/Howard) are under extreme pressure as they join George Rex, in order to facilitate a further expansion into group housing a full traffic impact report should be supplied covering solutions to this issue, prior to additional approvals.
- The proposed designs are not a harmonious integration with the existing structures. The existing structure is Brick and the proposal is timber clad.
- Fig 5 in the application shows a large area of Public space, this is, in fact, a wetland of significant importance to the area. Wild otters live in the adjoining area. Water runoff is not addressed in the application, a full study needs to be conducted to access the environmental impacts of further site densification. To be specific an EIA is required for this project taking in SEMA, ECA, NEICMA NWA etc.
- Under motivation the document talks of no structure plans for Upper Old Place. This area is erroneous to Hunter's home. The structure plans for Hunters need to be developed in conjunction with homeowners and not as an ad-hoc planning approval procedure.
- The deeds restrict owners to residential use and should be submitted with the application for scrutiny.
- The topography of the site is not dealt with in the report correctly, the site slopes significantly and the proposed structures exceed the allowable height, given they are at the highest point of the property.

PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation		
Roads & Stormwater:	06-04-2017	No objection	Positive	Negative	Comment
Water & Sewer:	06-04-2017	x1 Augmentation will be due on 2 units for water and sewer: The internal services will be private and only on bulk water shall be permitted to service the premises.	Positive	Negative	Comment

PART L: SUMMARY OF APPLICANT'S REPLY TO COMMENTS

On the abovementioned comments the applicant responded as follow (See Annexure C):

Email from E.L. du Plessis - Owner of Erf 2898, dated 7 December 2016 (See Annexure B):

- 1. Comment:** Engineering services, the current lack of water and significant under the provision of other utility services should be taken into account when approving higher density zoning schemes. It is not corrected to avert that a single residence will be allowed to consume more than a three-house group scheme, considering at level three the limit is 20kl month single residence.

Response: The proposed coverage on the site is 12.97% and the allowed coverage for single residential properties in Knysna is 50%. This means that even though there will be three dwelling units on-site/ the combined development is still on a smaller scale than what can be allowed on single residential property in Knysna. Given the fact that the property was subdivided in the past water rights was approved for 2 single residential

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properties which¹ if applied for by the owner at the time, could lawfully accommodate 4 dwelling units which are less than what is currently applied for. We are well aware of the current water restrictions and water shortage in Knysna as a result of the current drought conditions. It can be considered as a development constraint but not sufficient merit to turn down this application. If this is the case, then Knysna Municipality should publicly declare a moratorium.

- 2. Comment:** Traffic Impact, the two link roads (Wilson/Howard) are under extreme pressure as they join George Rex, in order to facilitate a further expansion into group housing a full traffic impact report should be supplied covering solutions to this issue, prior to additional approvals.

Response: There is currently one dwelling unit on site with a safe access and egress point onto Kennet Street The development proposal is for 3 group housing units of Erf 2098 which is an addition of two dwelling houses. To put this into perspective, this is one dwelling house more which could be located on a single residential property with special consent for an additional dwelling unit. One additional vehicle will have an insignificant impact on the traffic volume in the area. This comment can, therefore, be fairly dismissed.

- 3. Comment:** The proposed designs are not a harmonious integration with the existing structures. The existing structure is Brick and the proposal is timber clad.

Response: This is a very subjective and unsubstantiated statement. There is no architectural design guidelines or restrictive building regulations for the Hunter's Home neighbourhood. It is the applicant's prerogative to choose the aesthetical appearance of the proposed dwellings.

- 4. Comment:** Fig 5 in the application shows a large area of Public space, this is, in fact, a wetland of significant importance to the area. Wild otters live in the adjoining area. Water runoff is not addressed in the application, a full study needs to be conducted to assess the environmental impacts of further site densification. To be specific an EIA is required for this project taking in SEMA, ECA, NEICMA NWA etc.

Response: This comment is irrelevant to this application because no land use application is submitted on the public opens space. Erf 2098 is a registered Single Residential property and does not need any environmental authorisation from the Department of National and Environmental Affairs (NEMA). This comment can, therefore, be fairly rejected.

- 5. Comment:** Under motivation the document talks of no structure plans for Upper Old Place. This area is erroneous to Hunters Home. The structure plans for Hunters need to be developed in conjunction with homeowners and not as an ad-hoc planning approval procedure.

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Response: There are currently no structure plans for the entire Knysna Municipality, but the need for more detailed structure/ precinct plans to guide development has been identified as a strategic priority in the latest Knysna SDF 2017. Until there is no approved precinct plan for the Hunter's Home neighbourhood, this comment is irrelevant, and not a valid reason for refusal.

- 6. Comment:** The deeds restrict owners to residential use and should be submitted with the application for scrutiny.

Response: According to the Knysna Zoning Scheme Regulations, a Group Housing Zone allows for a group of separate and or linked dwelling units. Dwelling units are used for residential purposes only. Therefore, this erf will be used for residential use irrespective if the rezoning application having no impact on the restrictive title deed condition. This comment can, therefore, be fairly dismissed.

- 7. Comment:** Topography of the site is not dealt with in the report correctly, the site slopes significantly and the proposed structures exceed the allowable height, given they are at the highest point of the property.

Response: The objector misinterpreted the height of the proposed structures. The allowable height for group housing zone is 8m above the NGL (2storeys) and the proposed structure is only a single storey. Irrespective of the locality on the site, the proposed structures are still below the prescribed height of 8m above NGL. The image below illustrates the elevation of the proposed structure in relation to the allowable height of 8m above NGL

No objections were received from internal municipal departments;

No environmental authorisation is required to accommodate the Group Housing Zone in an existing residential township;

No negative traffic impact will be generated as a result two (2) additional dwelling houses in the application area;

The proposed structure will be used for residential purposes only and will have no conflict with the restrictive title deed conditions;

PART M: MUNICIPAL ASSESSMENT OF COMMENTS

The objector had seven main objection points which will be addressed hereunder.

- 1. Comment:** In the objectors first comment they state that when considering this application, the current engineering services should be taken into account, especially given the level three (3) water restrictions that were applicable at the time of his objection which is still the case now at the time of the assessment of this application. Further, the objector states that the applicant was incorrect when stating that the proposed development will consume less the existing rights that are currently applicable. The applicant in their response states that the coverage of the units is less than what is allowed in the Knysna Zoning Scheme Regulations. This is not relevant to the question as the objector referred to the consumption which does not directly link to the amount of water of services that are being consumed. The applicant further stated that the site was subdivided in the past and that water right was approved for two residential units, which could lawfully accommodate 4 dwelling units. The applicant here is speaking with the assumption that a second dwelling

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unit would have been approved for both units. However, if such a comparison should be made then one should also take into account that the maximum development capacity that would be allowed on the property if the property is rezoned. The comment of the objector is very relevant in this instance. However, this department agrees with the applicant, if this application will be refused on the bases of lack of services capacity then similar residential development will also have to be treated similarly. Until Council has given us instruction that this should be the case, this department cannot use this as a sole reason for the refusal of this development.

2. **Comment:** The objector raised the concern that this development will put additional strain on the roads (Wilson/Howard) to which the applicant responded that this proposal would only be one additional dwelling more, which is unlikely to have the additional impact on the road as brought forward by the objector. This department, therefore, supports the view of the applicant in this regard. The Technical Services department also did not have any problem with the additional demand that will be created as a result of this application.
3. **Comment:** The objector states that the proposed designs are not a harmonious integration with the existing structures. The existing structure is Brick and the proposal is timber clad. This department agrees with the applicant that this is a very subjective and unsubstantiated statement and that there are no architectural design guidelines or restrictive building regulations for the Hunter's Home neighbourhood. It is the applicant's prerogative to choose the aesthetical appearance of the proposed dwellings as it is zoned single residential and is not subject to a similar design that needs to be adhered to by all surrounding units.
4. **Comment:** The department agrees with the applicant on this comment. It is irrelevant to this application because no land use application is submitted on the public open space. Erf 2098 is a registered Single Residential property and does not need any environmental authorisation from the Department of National and Environmental Affairs (NEMA). This comment can, therefore, be fairly rejected.
5. **Comment:** The objector states that under the applicant's motivation the document talks of no structure plans for Upper Old Place. The applicant is of the opinion that structure plans for Hunters need to be developed in conjunction with homeowners and not as an ad-hoc planning approval procedure. This department is of the view that even if this is the objector's view, there currently is no structure plan/precinct plan or guide plan document available for the Hunters Home areas. Until there is no approved precinct plan for the Hunter's Home neighbourhood, this comment is irrelevant, and not a valid reason for refusal.
6. **Comment:** The objector further states that the deeds restrict owners to residential use and should be submitted with the application for scrutiny. This comment can be dismissed as the proposal is still for residential purposes. The condition that the objector is referring to is therefore not a restrictive one.
7. **Comment:** according to the objector the topography of the site is not dealt with in the report correctly, the site slopes significantly and the proposed structures exceed the allowable height, given they are at the highest point of the property. To which the applicant responded that the objector misinterpreted the height of the proposed structures. The allowable

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<p>height for group housing zone is 8m above the NGL (2storeys) and the proposed structure is only a single storey. Irrespective of the locality on the site, the proposed structures are still below the prescribed height of 8m above NGL. This department agrees with the view of the applicant.</p> <p>Taking into account all the above mentioned, this department did not find any of the comments strong enough that it should be a reason why this application should be turned down.</p>		
<p>PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)</p>		
<p>Was the application processed correctly (if no, elaborate below):</p>	Y	N
<p>Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)</p>	Y	N
<p><u>Application History</u></p> <p>There is no previous application that has any bearing on the application at hand.</p>		
<p><u>(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)</u></p> <p>SPLUMA creates a new framework to govern planning permissions and approvals, sets parameters for new developments and provides for different lawful land uses in South Africa. SPLUMA is a framework law, which means that the law provides broad principles for a set of provincial laws that will regulate planning.</p> <p>Chapter 2, Section 7 of the Act describes a set of development principles that need to be considered when evaluating any development application. These principles include the following:</p> <p>Spatial Justice: The principle of spatial justice requires that past spatial and other development imbalances must be redressed through improved access to use of land.</p> <ul style="list-style-type: none"> There is currently a huge need for affordable middle-income housing development in Knysna, this group housing development would enable improved access to affordable housing for the middle-income group. <p>Spatial Sustainability: The principle of spatial sustainability encourages the promotion of land development that is within the institutional and administrative means of the Republic.</p> <ul style="list-style-type: none"> This application will not make use of any agricultural land This application will assist in the promotion and stimulation of effective and equitable functioning of land markets by allowing these uses to be a part of a source of housing supply for the middle-income group; It is not considered to be heavy on costs for the provision of infrastructure and social services currently and to the near future as most of these services are already in place; It promotes land development in locations that are sustainable and limit urban sprawl, and will help in obtaining communities that are viable; <p>Spatial Efficiency: The principle of efficiency pertains to land uses whereby land development optimises the use of existing resources and infrastructure; Decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts; and Development application procedures are efficient and streamlined and timeframes are adhered to by all parties</p>		

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<ul style="list-style-type: none"> The positive consideration of this application will result in decision making that minimises the financial, social and economic impact on existing resources as it will capitalise on the existing resources instead of allowing the need to supply more. <p>Spatial Resilience The principle of spatial resilience, whereby flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks;</p> <ul style="list-style-type: none"> The development is consistent with the spatial development policies of the Western cape SDF and Knysna SDF where it promotes densification. <p>Good Administration: These principles mostly relate to intergovernmental spheres working together in an integrated approach to land use and land development. They must all comply with the prescribed requirement. This principle has no direct bearing on this application.</p> <p>The proposal can, therefore, be deemed consistent with Chapter 2, Section 7 of the Act as described above.</p>
<p><u>(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)</u></p> <p>Chapter VI of LUPA (Act 3 of 2014) described the same principles as is found in Chapter 2 of SPLUMA, 2013 (Act 16 of 2013); these principles have been addressed above and the application is deemed to be consistent with these principles.</p>
<p><u>(In)consistency with the IDP/Various levels of SDF's/Applicable policies</u></p> <p>Spatial Development Framework 2017</p> <p>In terms of the Spatial Development Framework of 2017 the development should improve financial and economic viability of the town by promoting the intensification of existing urban areas (e.g. mixed use development in the existing industrial area), through infill, densification and redevelopment, which in turn makes more efficient use of existing infrastructure capacity and services. It can therefore be argued that this application is consistent with the local SDF 2017.</p>
<p><u>(In)consistency with guidelines prepared by the Provincial Minister</u></p> <p>N/A</p>
<p><u>Impact on Municipal engineering services</u></p> <p>The Town Engineers did not identify any foreseen concerns regarding the services supply for the proposed development as long as their capital contribution is paid for all the additional connections identified. Further, the SDF encourages that even if the existing capacity of bulk services does not allow for this, upgrading of bulk infrastructure (water reticulation, electricity, sewerage) must occur, as opposed to providing more bulk infrastructure further and further from existing urban areas.</p>
<p><u>Outcomes of investigations/applications i.t.o other legislation</u></p> <p>N/A</p>
<p><u>Existing and proposed zoning comparisons and considerations</u></p> <p>The property is currently zoned as "Single Residential Zone", which allows for a primary dwelling unit on the property as well as a second dwelling unit, home industries, creches, general medical practitioners, as additional rights which have to be applied for. The Proposed Zoning is "Group Housing" and allows for more residential units on one premise, in addition, the applicant can apply for townhouses on the premises. It should be noted that in terms of the Knysna Zoning Scheme Regulations dwelling houses in this zone shall be subject to the same development restrictions as stipulated in the single residential zone.</p>

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DESIRABILITY OF THE PROPOSED UTILISATION OF LAND
<p>Desirability refers to the place, i.e. is the land suitable for the type of land-use/activity being proposed and how will it fit in an impact on the surrounding environment. The application in line with the vision of the Knysna Spatial Development Framework so far as it relates to densification.</p> <p>This development could be regarded as being in the interest of the public so far as it relates to densification and making use of existing natural resources. It makes use of brownfield development instead of raw, unused land. It also encourages optimal use of existing Engineering services instead of having to supply services in an urban sprawl manner. The application can, therefore, be seen as being desirable.</p>
PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS (REFER TO ROR GUIDELINE)
<p><u>The financial or other value of the rights</u></p> <p>N/A</p>
<p><u>The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal</u></p> <p>N/A</p>
<p><u>The social benefit of the restrictive condition remaining in place, and/or being removed/amended</u></p> <p>N/A</p>
<p><u>Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights</u></p> <p>N/A</p>
PART P: SUMMARY OF EVALUATION
<p>Application for the Rezoning of Erf 2098, Knysna, from "Single Residential" to "Group Housing" in terms of Section 15(2)(a) of the Knysna Municipality By-Law on Municipal Land Use Planning (2016) in order to utilise application for Group Housing purposes.</p> <p>This application was circulated to all the affected parties and no objection was received. Registered letters were sent to all potentially affected neighbours and one formal objection was received. This application was also advertised in the local newspaper as prescribed by the Knysna Municipality By-Law on Municipal Land Use Planning (2016) (See Annexure E for proof of publication)</p> <p>One of the objector's comments made reference to the fact that this development would add to the existing load for engineering services, especially given the level 3 water restrictions. We are aware of this objection and share the same concern as the objector. However, the department is responsible for implementing Councils plans and policies and until such time that Council has agreed that no further development should be allowed until the water issue has been resolved, we will have to assess all applications equally and fairly within the existing circumstances.</p> <p>In terms of the SDF 2008, it highlights the role of urban densification and infill as one that should complement and reinforce the sustainable restructuring of towns in the Municipality. According to the SDF, densification should be encouraged in urban</p>

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areas throughout the municipality, specifically along activity streets and around urban nodes. If the existing capacity of bulk services does not allow for this, upgrading of bulk infrastructure (water reticulation, electricity, sewerage) must occur, as opposed to providing more bulk infrastructure further and further from existing urban areas, which will inevitably prove costlier in the long term.

The relevant consideration that was looked at in evaluating this application were:

- SDF – The proposal is consistent with the Spatial Development Framework in relation to its vision for the Central Business District, with regards to densification and the character that it wants to retain and enhance.
- Chapter 2 of SPLUMA and Chapter VI of LUPA – Has already been discussed above;
- Desirability – The proposed is desirable as it does not have any negative effect on the surrounding property owner's rights
- Environmental Concerns - Not applicable to the proposed rezoning.

PART Q: RECOMMENDATION

- 1) That, **Approval Be Granted** in terms of Section 60 of the Knysna Municipal Land Use Planning By- Law, 2016 for the application in terms of Section 15(2)(a) for the rezoning of Erf 2098, Knysna from "Single Residential Zone" to "Group Housing" in terms of the Knysna Zoning Scheme Regulations (1992) in order to utilise it for storage purposes.
- 2) That, in terms of Section 66 of the Knysna Municipal Land Use Planning Bylaw, 2016, the following general conditions be imposed:
 - a) This approval applies to the application as outlined above and may not be construed as authority to depart from any other legal prescriptions or requirements;
 - b) Normal building plan approval in terms of the National Building Regulations and Building Standard Act 1977(Act 103 of 1977) for the permanent structure shall be obtained prior construction;
 - c) This approval shall lapse in the event of the applicant not complying with any of the conditions imposed by Council.
- 3) That, in terms of Section 66 of the Knysna Municipal Land Use Planning Bylaw, 2016, the following specific conditions be imposed:
 - a) This approval is limited to a maximum of 3 (three) units.
 - b) A Site development plan shall be required in the event that additional right is being applied for;
 - c) The internal services will be private and will be internally managed and maintained.
 - d) Only x1 bulk water supply shall be permitted to service the premises.
 - e) x1 Augmentation will be due to 2 units for water and sewer.

PART R: REASONS FOR RECOMMENDATION

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The reasons for above approval are as follows:

- The proposal is not in conflict with Section 59 of Land Use Planning Act, No. 03 of 2014 (LUPA). The principles of spatial justice, spatial sustainability, efficiency and good administration.
- The proposal does not negatively affect the neighbouring properties rights.
- The application is consistent with the vision of the Municipality so far as it relate to densification and the use of existing resources.

PART S: ANNEXURES

Annexure A - Full application
Annexure B - Email from Alex and Richard Court-Ricour dated 12 April 2017
Annexure C - Applicants response
Annexure D - Internal Comments
Annexure E- Proof of publications

PART T: SIGNATURES

Steward Mqhele

signature

Date: 16 January 2018

Registered planner name:

Registered planner signature:

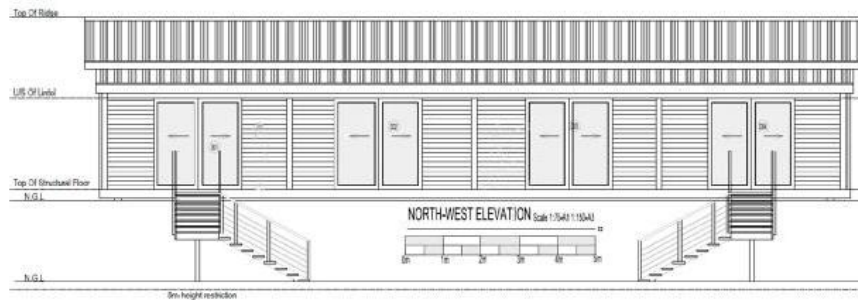
SACPLAN registration number:

Date:

Annexure A- Full Application

KNYSNA ERF 2098

APPLICATION FOR REZONING



CLIENT: HERMAN AND PEACE HOSPITALITY SERVICES (Pty) Ltd
PREPARED BY: MARIKE VREKEN URBAN AND ENVIRONMENTAL PLANNERS



MARCH 2017



PROPOSED REZONING: KNYNSNA ERF 2098

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- PLAN 1.** Locality Plan
PLAN 2. Land Use Plan
PLAN 3. Zoning Plan
PLAN 4. Site Development Plan

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PROPOSED REZONING: KNYNSNA ERF 2098

SECTION A : BACKGROUND

1. BACKGROUND

Erf 2098 Knysna, is located at 13 Kennet Street, Hunter's Home, Knysna and is 4746m² in extent. The property is currently zoned as "Single Residential" in terms of the Knysna Zoning Scheme Regulations (1992).

The property currently contains one dwelling house and the owners envision constructing a cottage on the south west corner of the property to accommodate two additional dwelling units. The current zoning does not allow for three dwellings on a property, therefore the most suitable zoning category to accommodate the proposed use, will be a '**Group Housing Zone**'.

Application is therefore made to rezone Knysna Erf 2098 to a "Group Housing" zone to allow the construction of two (2) additional residential dwellings on the property.

2. THE APPLICATION

Marika Vreken Urban and Environmental Planners has been appointed by **Herman And Peace Hospitality Services (Pty) Ltd** to prepare and submit the required application documentation (refer to **ANNEXURE A**: Power of Attorney & Company Resolution and **ANNEXURE B**: (Application Form) for:

- (i) The Rezoning of Knysna Erf 2098 from "Single Residential" zone to "Group Housing" zone in terms Section 15(2)(a) of the Knysna Municipality Standard Bylaw on Municipal Land Use Planning to allow three residential dwellings on Erf 2098 Knysna.

3. PROPERTY DESCRIPTION SIZE AND OWNERSHIP

A copy of the Title Deed that include all the information outlined below, is contained in **ANNEXURE**

C. Surveyor General Diagrams for the subject property is contained in **ANNEXURE D**.

Erf Number:	2098
Title Deed Number:	T61791/2015
Property Owner:	Herman And Peace Hospitality Services (Pty) Ltd
Property Description:	Erf 2098 Knysna in the Municipality and Division Knysna Province Western Cape
Property Size:	4746m ² (Four thousand seven hundred and forty-six square metres)
Title Deed Restrictions:	There are no title deed restrictions that prevent the proposed development



PROPOSED REZONING: KNYNSNA ERF 2098

Servitudes:	There are no servitudes registered over the property. Refer to Surveyor General Diagrams for the subject property as contained in ANNEXURE D .
Bonds:	No bonds are registered.

SECTION B : PROPOSAL

4. DEVELOPMENT SPECIFICATIONS

4.1. Development Proposal
(Refer to ANNEXURE E Architectural Designs)

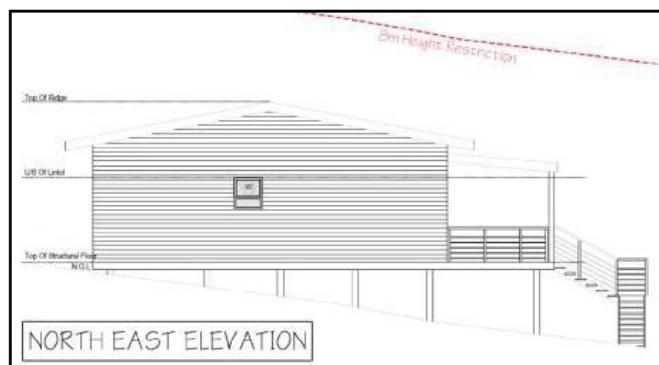


FIGURE 1: ELEVATION OF PROPOSED GROUP HOUSING UNITS

Currently there is one dwelling unit measuring 276m² and garage measuring 64m² on the property. The development proposal entails the development of a cottage measuring 276m² containing two dwelling units in the south-eastern corner of the property. The existing dwelling unit will remain unchanged. There will be a total of three dwelling units on the application area.

The proposed dwelling units will be symmetrical and will measure approximately 128m² each.

Each dwelling unit will consist of the following:

Ground Floor

- 2 Bedrooms
- 2 Bathrooms
- Lounge



PROPOSED REZONING: KNYNSNA ERF 2098

- Kitchen

Both dwelling units will have access to a covered deck measuring 39,5m² (private communal space) which is accessed by stairs.

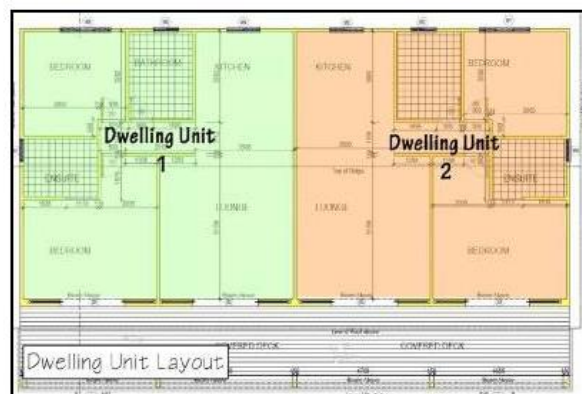


FIGURE 2: DWELLING UNIT LAYOUT

4.2. Access

The existing access from Kennet Street will be used for the proposed group housing development. Since the group housing development is of such a small scale and low density, the current access and egress to and from the property is sufficient.

4.3. Density

With three dwelling units on a property measuring 4746m² the density of the property calculates to 6.32 du/ha.

4.4. Open Space Provision

A minimum of 63m² private outdoor space can be provided for every dwelling unit. The communal open space on the property includes the garden area m² the driveway access and parking area measuring 4141m².

4.5. Parking Provision

According to the Knysna Zoning Scheme Regulations two parking bays has to be provided for every dwelling unit in a group housing development. This means that at least six parking bays have to be provided on site. The Site development plan indicates that 6 parking bays can easily be provided on the application area.



PROPOSED REZONING: KNYNSNA ERF 2098

5. ENGINEERING SERVICES

Erf 2098 is currently connected to the existing services infrastructure in Knysna.

5.1. Civil Services

The proposed coverage on the site is 12.97% and the allowed coverage for single residential properties in Knysna is 50%. This means that even though there will be three dwelling units on site, the combined development is still of a smaller scale than what can be allowed on single residential property in Knysna.

It is the considered opinion that the proposed rezoning will have an insignificant impact on civil service infrastructure.

5.2. Electrical Services

The property is currently serviced with 100A 3-phase electricity. This is ample for the property and no additional electrical supply is required to service the three dwelling units.

5.3. Traffic Impact

Given the fact that the proposed group housing development is consistent with the density of the prescribed density for the Hunter's Home neighbourhood, there will be no traffic impact.

6. STATUTORY SPECIFICATIONS

The following applications have to be submitted in terms of the Knysna Municipality Standard Bylaw on Municipal Land Use Planning.

6.1. Rezoning

(Refer to Plan 4: Site Development Plan)

The owner wishes to have three (3) individual dwelling units on the property. According to the Knysna Zoning Scheme (1992) group housing is defined as:

"...a group of separate and/or linked individual dwelling units which is planned, designed and built as a harmonious architectural entity which has a medium density character and with single or double storey units. The units may either be cadastral subdivided or not..."

The main dwelling unit on the property is not linked to the structure which will accommodate two dwelling units but will adhere to the existing character and architectural identity on the property.

Each dwelling unit will have a demarcated area for private outdoor use and a communal open space to be used by the residents of the group housing development.

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The proposed group housing development is consistent with the definition of group housing development. In order to allow the proposed land use, the application area must be rezoned to "Group Housing" zone in terms of Section 15(2)(a) of the Knysna Municipality Standard By law on Municipal Land Use Planning.

The figure below illustrates the site development plan of the proposed group housing development.



FIGURE 3: SITE DEVELOPMENT PLAN



PROPOSED REZONING: KNYNSNA ERF 2098

SECTION C : CONTEXTUAL INFORMANTS

7. LOCALITY
(Plan 1: Locality Plan)



FIGURE 4: LOCALITY

The application area is located at 13 Kennet Street, in the Hunter's Home neighbourhood, Knysna. Kennet Street is accessed off Wilson Street, which is one of the main access routes for the Rexford and Hunter's Home residential neighbourhoods. The coordinates for the centre of the property is located at 34° 3'53.20"S and 23° 4'49.76"E.

8. CURRENT LAND USE AND ZONING

8.1. Land Use
(Plan 2: Land Use Plan)

The application area is currently used for single residential purposes

8.2. Zoning
(Plan 3: Zoning Plan)

Knysna Erf 2098 is currently zoned "Single Residential" in terms of the Knysna Zoning Scheme Regulations (1992).



PROPOSED REZONING: KNYNSNA ERF 2098



FIGURE 5: EXTRACT FROM THE KNYNSNA ZONINGS MAP 2008

9. SITE CHARACTERISTICS
(Refer to ANNEXURE F: Site Survey)

The site characteristics are shown in Figure 6 below :

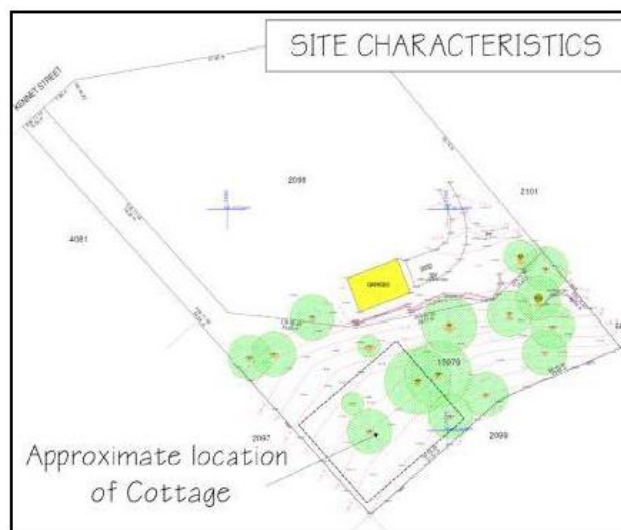


FIGURE 6: SITE SURVEY OF KNYNSNA ERF 2098



PROPOSED REZONING: KNYNSNA ERF 2098

9.1. Topography

Eden Geomatics were appointed to conduct a site survey on the location where the new group housing units will be constructed. According to the site survey the property has a northern sloping topography. The highest point of the property is located along the southern boundary measuring 19.5m above MSL. The flatter sections of the property are located towards the north of the property.

9.2. Vegetation

In terms of vegetation the northern section of the property is relatively disturbed with prominent trees and shrubs located along the boundary lines. There are a few Milkwood trees located to the south of the property. No indigenous vegetation will be removed to construct the proposed dwelling units.

9.3. Built Environment / Improvements

The improvements on the application area consist of a residential dwelling, measuring approximately 272m² and a garage measuring 64m² in extent. There is a single dwelling house on the property that includes four bedrooms and a dining room; living room; study and a pool with deck area.

10. CHARACTER OF THE AREA

The application area is surrounded by a large number of single residential properties and a public open space (Knysna Golf Course). The area is dominated by a mixture of medium to low density residential uses. The application area is located to the southwest of the Hunter's Home residential neighbourhood. The application area can easily be accessed from primary access routes that connect several places of interest within the Knysna urban area.



FIGURE 7: KNYNSNA GOLF COURSE

The Knysna Golf Course, which is situated to the north-west side of the property, acts as a natural boundary to all the properties that connects with Kennet Street. Property sizes in the surrounding area averages approximately 1500m². The single residential character of the area results in a



PROPOSED REZONING: KNYASA ERF 2098

maximum building height of two storeys. This is evident throughout the area as a mixture of single and double storey dwelling units are present within the area.



FIGURE 8: STYLE OF RESIDENTIAL DWELING UNITS WITHIN CLOSE PROXIMITY OF APPLICATION AREA

It must be noted that majority of erven within the Hunter's Home residential neighbourhood have been subdivided. Therefore, subdivisions as a form of densification are not an uncommon land use application within the area. The figure above illustrates the mixture of single residential uses in close proximity of the application area. The fact that there are numerous panhandle properties in the area is a strong indication that the neighbourhood was considerably densified since the establishment of the neighbourhood. The figure below illustrates panhandle accesses in close proximity to the application area.



FIGURE 9: PANHANDLE ERVEN NEAR THE APPLICATION AREA



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The figure below illustrates properties that have been subdivided within the Hunter's Home area within 400m from the application area. From the above it is clear that densification through of land is a well-established precedent within the area. The current average density of the Hunter's Home neighbourhood is approximately 4.2 units / ha. The image below illustrates the study area used to calculate the density



FIGURE 10: EXISTING DENSITY IN HUNTER'S HOME

The density of the proposed group housing development is 6,3 units / ha. The density of the proposed group housing development will be marginally higher than that of the Hunter's Home neighbourhood. The proposed rezoning will therefore contribute to the further, appropriate, densification of the Hunter's Home residential neighbourhood.



FIGURE 11: APPROVED SUBDIVISIONS WITHIN HUNTER'S HOME RESIDENTIAL



PROPOSED REZONING: KNYNSNA ERF 2098

11. EXISTING POLICY FRAMEWORKS

11.1. Western Cape Provincial SDF (2013)

The Western Cape Provincial SDF was approved in 2014 by the Western Cape Parliament and serves as strategic spatial planning tool that “communicates the provinces spatial planning agenda”.

The recent shift in legislative and policy frameworks have clearly outlined the roles and responsibility of provincial and municipal spatial planning and should be integrated towards the overall spatial structuring plan for the province to create and preserve the resources of the province more effectively through sustainable urban environments for future generations. This shift in spatial planning meant that provincial inputs are in general limited to provincial scale planning.

The proposed development compliments the SDF spatial goals that aim to take the Western Cape on a path towards:

- (i) Greater productivity, competitiveness and opportunities within the spatial economy;
- (ii) More inclusive development in the urban areas;
- (iii) Strengthening resilience and sustainable development

However, it is important to note some of the key policies laid down by the draft PSDF have a bearing on the application.

PROPOSED REZONING: KNYNSNA ERF 2098

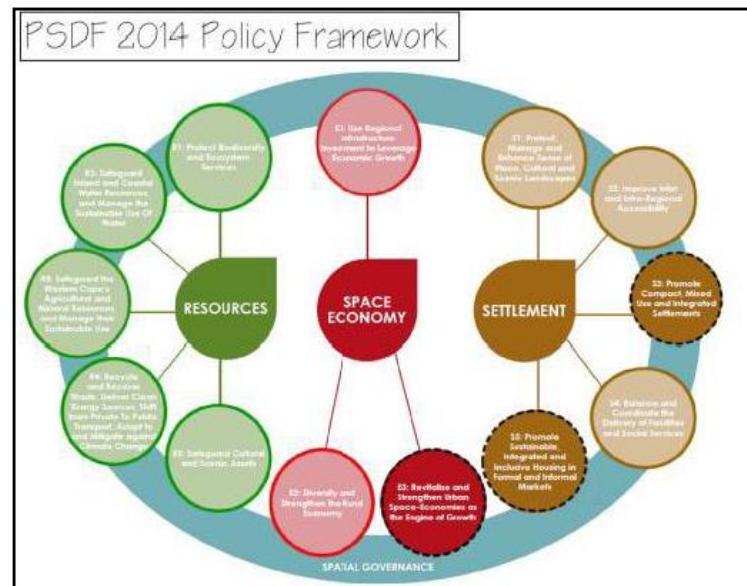


FIGURE 12: POLICIES FROM THE WCPSDF APPLICABLE TO THE PROPOSED DEVELOPMENT

Policy E3: Revitalise and Strengthen Urban Space-Economies as the Engine of Growth

5. Existing economic assets (e.g. CBDs, township centres, modal interchanges, vacant and under-utilised strategically located public land parcels, fishing harbours, public squares and markets, etc.) should be targeted to levers the regeneration and revitalisation of urban economies.

7. Incentives should be put in place to attract economic activities close to dormitory residential areas, facilitate brownfields development.

Policy S3: Ensure Compact, Balanced & Strategically Aligned Activities & Land Uses

This policy reflects the main aim of the policy through targeting economic assets (e.g. Modal Interchanges underutilised strategically located land parcels) should be used as a lever to regenerate and revitalise urban settlements.

Policy S5: Promote Sustainable, Integrated and Inclusive Housing in Formal and Informal Markets

The following policies must guide planning, project prioritisation, budgeting and performance management at a Provincial scale. These relate to housing delivery, planning and design, urban land markets and informality.



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1. ***Provide a wide choice of housing typologies*** and tenure options, based on economic, fiscal, and social affordability. Incremental housing development to be pursued, with phased service provision to accelerate housing provision.
2. Target housing delivery projects within Integration Zones and Social Housing Restructuring Zones.
3. Ensure that all housing delivery projects are founded on principles of sustainability and based on integrated development planning.
4. Promote private-sector participation in the gap market to diversify and expand housing delivery options.

Promoting functional integration and mix land use to increase liability of urban areas. Thus the policy specifies the importance to- increase density of settlements and number of units in new housing projects; continue to deliver public investment to meet the needs in settlement developments; integrate packages of land, infrastructure and services as critical to promote densification and efficiency associated with agglomeration.

Specific proposals in this policy document that will inform any development proposal on the application area include:

- (i) ***Urban Edges shall be defined around the boundaries of urban settlements*** to enable them to achieve an average settlement density of 25du/ha within 10 years in those settlements that do experience growth
- (ii) All land ***within an Urban Edge*** in those settlements where such a line is designated ***to be used for Urban Development purposes***. Settlements are to be restructured so as to break down the apartheid spatial patterns and increase urban functional efficiencies.
- (iii) The ***density target*** should be achieved using a range of urban ***development "tools"*** including:
 - demolition and ***redevelopment***;
 - ***Infill*** of surplus vacant land including brownfield sites;
 - 'greenfield locations within the Urban Edge as long as they have not been identified as biodiversity priority and priority open space, productive agricultural and recreational sites; and,
 - subdivision, second dwellings and sectional title development as appropriate
- (iv) Foreign or unsympathetic styles of site layout and buildings shall be discouraged in urban settlements and rural areas so as to strengthen the local sense of place and minimise visual impact.

Strategies for the Eden area that apply to the development proposal include:

- (i) Need to develop 24/7/12 economy by ***attracting permanent residents*** and move away from tourism boom and bust seasonal cycles.

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It is clear that the proposed development will meet the above quoted policy guidelines of the Provincial SDF, and therefore the proposal could be considered to be consistent with the guidelines of this document.

11.2. Knysna SDF (2008)

The Knysna SDF adopted by Knysna Municipality during 2008. The Knysna SDF indicates that the property is within the urban edge, meaning that it is suitable for urban development.

Of the Knysna Basin Area, within which the application area is located, it explains that the following its role should remain that of the:

- **Main service centre** to settlements within the municipal area
- Focus of **economic activity (tourism, leisure, 'low-key' industry, retail, services, etc.);**
- Hub of primary administrative and public service functions in the Municipality;
- **Centre of central business** and cultural activity in the Municipality;
- Primary area for significant residential development in the municipality.

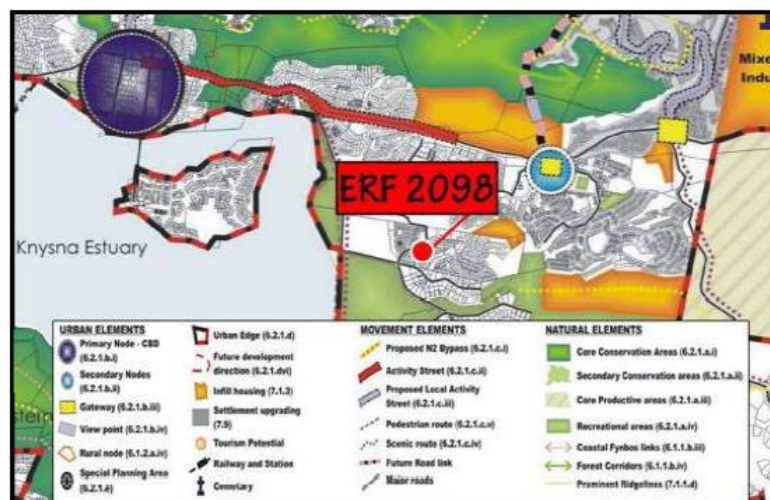


FIGURE 13: EXTRACT FROM THE KNYNSNA SDF

Policies related to urban densification include Densification should be encouraged in urban areas throughout the municipality, specifically along activity streets and around urban nodes.

Form of Densification: Redevelopment of larger site to higher density			
Involves	Suitable Areas	Density Guideline	Design Considerations

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Redevelopment of existing sites to achieve higher densities and normally requires rezoning (and potentially subdivision)	Appropriate in areas fronting onto integrating routes.	Up to 40du/ha gross	Impact on neighbouring properties and streetscape/ architectural character Traffic impact Access, parking and landscaping Capacity of municipal infrastructure.
--	--	---------------------	--

The Knysna SDF not only supports, but encourages densification – this policy will be adhered to by the proposed group housing development. The density of the proposed group housing develop is 6.32 dwelling units per hectare which is significantly lower than the recommended 40 dwelling units / ha. The proposed group housing development will complement the existing character of the area. Sufficient access is available to accommodate the proposed development and given the low impact of the development it will not have significant impact on traffic as well as municipal service infrastructure.

SECTION D : MOTIVATION

The standard by-law on municipal planning as promulgated by G.N 7565 dated 12 February 2016 states in Section 65 the general criteria necessary for considering an application by the municipality.

It must be noted that the application has not undergone the notice phase of the application process and that the information below is the necessary information required by the municipality to process the application. The following criteria must be considered when evaluating the desirability of this rezoning application:

- The integrated development plan, including the municipal spatial development framework;
- The applicable local spatial development frameworks adopted by the Municipality;
- The applicable structure plans (No Structure Plans for Upper Old Place);
- The applicable policies of the Municipality that guide decision-making;
- The provincial spatial development framework;
- The policies, principles and the planning and development norms and criteria set by the national and provincial government;
- The matters referred to in section 42 of the Spatial Planning and Land Use Management Act;



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- Principles referred to in Chapter VI (6) of the Land Use Planning Act; and
- The applicable provisions of the zoning scheme.

12. CONSISTENCY WITH SPATIAL PLANNING POLICIES

The proposal is consistent with the relevant spatial planning policies for the following reasons:

- (i) The group housing development supports urban densification
- (ii) The group housing development will strengthen the local sense of place and minimise visual impact
- (iii) The proposed development will contribute to more permanent residents in the neighbourhood;
- (iv) The group housing development is within the prescribed density guidelines for redevelopment of larger sites.

13. CONSISTENCY WITH THE SURROUNDING AREA

The proposed density of the group housing development will be highly consistent with the existing residential density in Hunter's Home. The proposed group housing development will consist of three (3) residential dwellings on a property of more than 4500² in extent. The prescribed single residential density for Hunters Home is one dwelling per 1500m², hence the proposal (even though group housing) is consistent with the prescribed densities for the area.

The proposed structures on the property will be single residential in nature meaning that it will conform to the height and coverage restrictions of a single residential zone property.

Furthermore, the cottage containing the two dwelling units will adhere to more restrictive building lines of a single residential zoned property. Meaning, the proposed cottages located at the back will appear as a single storey, additional dwelling unit.

It is the considered opinion that the low impact of the proposed development will complement the character of the surrounding area.

14. ACCESSIBILITY OF THE AREA

The application area is located in Kennet Street that connects Wilson Street and Howard Street. The proposed development will have no impact on the accessibility of the property. Access to the property can be easily obtained from the primary movement routes.



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FIGURE 14: ACCESS TO APPLICATION AREA

The figure above illustrates that the property can be easily accessed off either Wilson Street or Howard Street through George Rex Drive.

15. LOCATION OF THE SITE

The application area is located at a very favourable position for densification: The site is easily accessible and is located near prominent social facilities and public recreation areas in the urban fabric of Knysna.

16. BROWNFIELD DEVELOPMENT

The application area is within the existing urban fabric of Knysna, and the redevelopment of the site would constitute densification on an existing developed erf – i.e. brownfield development. Brownfield development is considered preferable over Greenfield development as it re-uses urban developed land in a way that is more appropriate to current needs without the need for the development of virgin land. This can be more economical in terms of provision of services and is a more environmentally sound and efficient use of urban space.

17. NO NEGATIVE ENVIRONMENTAL IMPACT

No negative environmental impacts will be created as a result of the development. The proposed development site is a transformed area with multiple existing structures and long-standing residential use. The proposed development does not trigger any listed activities in terms of the

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National Environmental Management Act (1998) as amended. The application area is also not within a recognised Critical Biodiversity Area¹, nor is it within a listed Threatened Ecosystem².

The proposed rezoning will allow for the construction of structure measuring 276m² in the south-western corner of the property. The landscaped garden will be retained. The Department of Forestry will be notified accordingly before the removal of any trees will take place on site.

Therefore, it is the considered opinion that the proposed group housing development will not have any significant negative impacts on the natural environment.

18. CONSISTENCY WITH SINGLE RESIDENTIAL CHARACTER

The application area is 4746m² in extent and zoned for single residential purposes. The Knysna Zoning Scheme (1992) prescribes the following for a single residential zoned property:

Parameter	Single Residential Zone
Floor factor	None prescribed
Coverage	30% - plot size larger than 1500m ²
Height	None prescribed, although Knysna Municipality has a policy of allowing structures of 8,5m in height.
Building Lines	Street: 4,5m Lateral & Rear: 2m
Height	8m with a maximum of 2 storeys
Parking	None prescribed

With a coverage of 30% and a height of 2 storeys, and a basement, the application area could conceivably have a dwelling house built on the site with a coverage of 1423.8 m² and a total floor area of 2847.6m² which would be highly inconsistent with the established built character of the surrounding area.

When the existing rights are compared with the proposed development parameters, it is evident that the total coverage of the proposed group housing development will be approximately 616m² **(i.e. 12.97%)**.

It is therefore clear that the proposed rezoning as applied for, is in fact, of a smaller scale than what is currently allowed on the property.

¹As mapped by the Garden Route Biodiversity Sector Plan

²As gazetted by the National Government on 9 November 2009 in Gazette Number 32689

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19. KNYNSNA ZONING SCHEME REGULATIONS, 1992

The Knysna Zoning Scheme (1992) prescribes additional parameters for buildings and uses within the Group Housing Zone:

	Parameter	Compliance
Density	at most 30 units per gross hectare or a ratio of 4:1 in relation to the surrounding single residential density, whichever is the lowest	6.32du/per ha - Comply
Height	at most 8m above the natural ground level directly below a given point or portion of the building	The existing dwelling units is two storeys/8m - Comply The cottage will be 1 storey/4m high - Comply
Communal Open Space	at least 80m ² per group house	More than 4000m ² - Comply
Private outdoor space	at least 40% of the gross floor space of the relevant unit	191m ² (calculated 40% of each dwelling unit's size) - Comply
Coverage	At most 50%	Approximately 616m ² of total area 1 = 12.97% - Comply
Building lines	Street: 8m Lateral/Rear: In case where a group housing zone borders another zone, a building line of 3m shall apply on the common boundary between the two zones.	Street: 4.5m- Comply Western lateral: 3m- Comply Rear boundary Line: 3m - Comply Eastern Boundary Line: 3m- Comply
Parking	at least 2 parking bays per group house both may be provided at the group house, or part of the required parking provision at some of the group houses and the remainder in the form of communal parking for the particular group housing scheme Provided further that at least 50% of the parking bays should be covered.	Group Houses 3x2 Bays = 6 Bays - Comply Covered Parking Bays = 3- Comply

The proposed group housing development is therefore consistent with the prescribed development parameters for a Group Housing zone, no departures are required.

20. VISUAL & AESTHETIC IMPACT

The additional dwellings on Erf 2098 are located behind the existing residential building towards the south-western section of the property. Given the fact that the dwelling units are located at



PROPOSED REZONING: KNYNSNA ERF 2098

the back of the property and limited to a single storey, it poses no visual impact as from any public road or neighbouring properties.

21. SOCIO-ECONOMIC IMPACT

The development will have a positive socio-economic impact on Knysna. The development will likely draw new residents to the area who will contribute to the local economy.

There is a huge demand for well located, affordable residential accommodation in Knysna. The proposed rezoning will provide two additional, smaller residential units in a well-established neighbourhood. Legalising the two additional units, will contribute to address the need for affordable residential accommodation in Knysna.

22. NO IMPACT ON EXISTING RIGHTS

The proposed use on Erf 2098 does not impact negatively on the rights of the surrounding property owners and is in keeping with the visual and residential character of the area.

The development will have minimal impact on traffic in the area. The scale of the development is such that there will be only a very slight increase in the number of vehicular trips in the area. The structure accommodating the two additional dwelling units, will be limited to a single storey – in line with the existing character of the area.

23. AVAILABILITY OF SERVICES

Since no additional services capacity is required to allow the three dwellings on Erf 2003, the proposed rezoning will have no impact on the services infrastructure whatsoever.

24. DENSIFICATION

Knysna Municipality supported the subdivision of the application area into two portions during 2010 refer to approved SG Diagram (B565/1997). A clear indication that the municipality supported densification through subdivision of the application area. The approved subdivision was never confirmed within the prescribed 5-year period and therefore it has lapsed.

Should both, previously approved subdivisions applied for consent uses for second dwellings (almost a given in this neighbourhood), it would have resulted in 4 dwelling units on exactly the same developable area.

The density of the proposed group housing development of 6 du/ha is similar to the single residential densities that are allowed for the Hunter's Home Neighbourhood. The proposed densification is therefore in line with the reigning densities of the area.



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25. SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013)

One of the main objectives of SPLUMA is to provide a framework for spatial planning and land use management to address past spatial and regulatory imbalances. This section illustrates how the application is consistent with the 5 main development principles applicable to spatial planning, land use management as set out in Section 42 of SPLUMA:

25.1. Spatial sustainability

- past spatial and other development imbalances must be redressed through ***improved access to and use of land;***
- spatial development frameworks and policies at all spheres of government must address the ***inclusion of persons and areas that were previously excluded;***
- spatial planning mechanisms, including land use schemes, must incorporate provisions that ***enable redress in access to land;***

Planning Implication on Spatial Sustainability
<ul style="list-style-type: none">▪ <i>The property is located in a well-established residential neighbourhood and receives access via Kennet Street. It can therefore be regarded that the property has sufficient access to land.</i>▪ <i>There is a huge need for affordable middle income housing in Knysna. The proposed group housing development will enable improved access to housing for the middle-income residents in Knysna.</i>

25.2. Spatial Justice

- promote land development that is within the fiscal, institutional and administrative means of the Republic
- ensure that special consideration is given to the ***protection of prime and unique agricultural land;***
- uphold consistency of land use measures in accordance with ***environmental management instruments;***
- promote and stimulate the effective and ***equitable functioning of land markets;***
- ***consider all current and future costs to all parties*** for the provision of infrastructure and social services in land developments
- promote land development in locations that are sustainable and limit urban sprawl; and
- result in ***communities*** that are ***viable;***

Planning Implication on Spatial Justice



PROPOSED REZONING: KNYNSA ERF 2098

- *The addition of more affordable middle income housing will contribute to the equitable functioning of land markets.*
- *Given the fact that the proposed group housing development's density complies with the prescribed density for the area, bulk services capacity is available and therefore the proposed group housing scheme will have no fiscal impact on municipal services.*
- *The group housing development will contribute to the intensifying the use of land and it will provide long term accommodation for 3 medium income families.*
- *The proposed development does trigger the need for Environmental Authorisation, therefore the proposal will have an insignificant environmental impact.*
- *Increasing the density on the application will limit urban sprawl.*
- *The application area is a brown meaning municipal services are available to the property.*

25.3. Spatial Efficiency

Spatial Efficiency deals with optimising the use of existing resources and infrastructure. It entails the following;

- land development **optimises the use of existing resources and infrastructure;**
- decision-making procedures are designed to **minimise negative financial, social, economic or environmental impacts;** and
- development application procedures are efficient and streamlined and timeframes are adhered to by all parties.

Planning Implication on Spatial Efficiency	
▪	<i>The proposed development will contribute to urban development and will contribute to the aesthetical quality of the surrounding built environment.</i>
▪	<i>The development will contribute to the character of the surrounding area promoting sustainable development and to minimise the negative impact on the natural environment</i>
▪	<i>Local labour will be used during for the construction of the dwelling units.</i>
▪	<i>The proposed density will allow for more efficient use of municipal services provision.</i>



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25.4. Spatial Resilience

- **flexibility in spatial plans**, policies and land use management systems are accommodated to **ensure sustainable livelihoods in communities** most likely to suffer the impacts of economic and environmental shocks.

Planning Implication on Spatial Resilience
<ul style="list-style-type: none"> ▪ <i>The development complies with the following spatial development frameworks, that encourage sustainable livelihoods.</i> <ul style="list-style-type: none"> ○ <i>Western Cape Provincial Development Framework (2014)</i> ○ <i>Knysna Spatial Development Framework (2008)</i> ▪ <i>The proposed development complies with the parameters for a group housing zone in terms of the Knysna Zoning Scheme Regulations (1992)</i> ▪ <i>The proposed application complies with the requirements of the Knysna Municipality Standard By-law on Municipal Land Use Planning.</i>

25.5. Good Administration

- all spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in this Act.
- all government departments must provide their sector inputs and comply with any other prescribed requirements during the preparation or amendment of spatial development frameworks
- the requirements of any law relating to land development and land use are met timeously;
- the preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, include transparent processes of public participation that afford all parties the opportunity to provide inputs on matters affecting them
- policies, legislation and procedures must be clearly set in order to inform and empower members of the public

Planning Implication on Good Administration
<p><i>This principle has no direct bearing on the application, however, the Knysna municipality is obligated to consider the application fairly and within the timeframes provided in terms of the Knysna Standard By law on Municipal Land Use Planning.</i></p>



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26. CONCLUSION

In light of this motivation, and the information contained within the foregoing report, it is clear that the application for:

- (i) Rezoning of Knysna Erf 2098 from "Single Residential Zone" to "Group Housing Zone" in terms Section 15(2)(a) of the Knysna Municipality Standard By law on Municipal Land Use Planning to allow for group housing.

meets the criteria as set out in The Spatial Planning and Land Use Management Act (SPLUMA) and the Knysna Land Use Planning Bylaw; is desirable and it is therefore recommended that the application be supported by the relevant authorities and approved by Knysna Municipality.

Marika Vreken Urban and Environmental Planners

March 2017

ANNEXURE A.

Power of Attorney & Company Resolution

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SPECIAL POWER OF ATTORNEY

We, Herman and Peace Hospitality Services (PTY) Ltd

the undersigned,

do hereby nominate, constitute and appoint
THE AUTHORISED AGENTS OF MARIKE VREKEN TOWN & REGIONAL PLANNERS CC and duly
authorised employees of Marike Vreken Town Planners CC
with power of Substitution to be *my/our lawful representatives in *my/our application for:

REZONING


on

KNYSNA ERF 2098

In addition to apply for such amendments of any zoning schemes / structure plans as may
be deemed necessary and to make other necessary application and further to represent
*me/us at any inquiry in relation to the abovementioned matters and generally do
whatever may be necessary or desirable to procure the approval of the application, by
virtue of those present and whatever our said representative have to date done herein.

Signed at Assen on this 22 day of February 2017

SIGNED:

 Herman Hillebrand (Director)

SIGNED: _____

SIGNED: _____

In the presence of the undersigned witnesses:

AS WITNESSES:

1.

Julius 

2. _____

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HERMAN AND PEACE HOSPITALITY SERVICES (PTY) LTD

(Name of Company, Partnership, Trust or Close Corporation)

RESOLUTION

Resolution passed at the meeting of the Shareholders/ Partners/ Trustees/ Members held in Assen on the **22** day of **February** 2017.

Resolved that _____ in his capacity as _____, be and is hereby authorized to do whatever may be necessary to give effect to this resolution and to enter into and to sign such documents necessary to proceed with the applications as specified hereunder on behalf of the Company/ Partnership/ Trust/ Close Corporation with such modification as he/ she in his/ her sole discretion shall deem fit, his/ her signature to be conclusive proof that the documents which bear it are authorised in terms hereof.

DESCRIPTION OF PROPERTY:

KNYSNA ERF 2098

NATURE OF APPLICATION:



REZONING

SIGNATURE OF SHAREHOLDERS/ PARTNERS/ TRUSTEES/ MEMBERS:

NAME:

H D Hillebrand
P Ozuw igbo.

SIGNATURE:

ANNEXURE B.

Application Form

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T2



LAND USE PLANNING APPLICATION FORM (Section 15 of the Proposed Standard Draft By-law on Municipal Land Use Planning)					
KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes.					
PART A: APPLICANT DETAILS					
First name(s)	Marike				
Surname	Vreken				
South African Council for Planners (SACPLAN) registration number (if applicable)	1101				
Company name (if applicable)	Marike Vreken Town Planners				
Postal Address	Po Box 2180				
	Knysna	Postal Code	6570		
Email	marike@vreken.co.za				
Tel	044.382 0420	Fax			Cell 082 927 5310
PART B: REGISTERED OWNER(S) DETAILS (if different from applicant)					
Registered owner(s)	HERMAN AND PEACE HOSPITALITY SERVICES (Pty) Ltd				
Physical address					
			Postal code		
E-mail					
Tel		Fax			Cell
PART C: PROPERTY DETAILS (in accordance with title deed)					

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T2

Property description <i>[Number(s) of Erf/Erven/Portion(s) or Farm(s), allotment area.]</i>	Erf 2098 Knysna in the Municipality and Division Knysna Province Western Cape						
Physical Address	13 Kennet Street						
GPS Coordinates	at 34° 3'53.20"S and 23° 4'49.76"E		Town/City	Knysna			
Current Zoning	Single Residential	Extent	4746 m²	Are there existing buildings?	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N	
Applicable Zoning Scheme	Knysna Zoning Scheme Regulations						
Current Land Use	Single Residential						
Title Deed number and date	T	T61791/2015.					
Any restrictive conditions?	<input checked="" type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If Yes, list condition(s)				
Are the restrictive conditions in favour of a third party(ies)?	<input checked="" type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If Yes, list the party(ies)				
Is the property encumbered by a bond?	<input checked="" type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If Yes, list bondholder(s)				
Any existing unauthorized buildings and/or land use on the subject property(ies)?	<input checked="" type="checkbox"/> Y	<input checked="" type="checkbox"/> N	If yes, is this application to legalize the building / land use?	<input checked="" type="checkbox"/> Y	<input checked="" type="checkbox"/> N		
Are there any pending court case(s) / order(s) relating to the subject property(ies)?	<input checked="" type="checkbox"/> Y	<input checked="" type="checkbox"/> N	Are there any land claim(s) registered on the subject property(ies)?	<input checked="" type="checkbox"/> Y	<input checked="" type="checkbox"/> N		
PART D: PRE-APPLICATION CONSULTATION							
Has there been any pre-application consultation?	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N	If Yes, complete the information below and attach the minutes of the pre-application consultation.				
Official's name	Seretse Mthembu	Reference Number	N/A	Date of consultation	22 November 2016		
PART E: LAND USE PLANNING APPLICATIONS IN TERMS OF SECTION 15 OF THE PROPOSED STANDARD DRAFT BY-LAW ON MUNICIPAL LAND USE PLANNING AND APPLICATION FEES PAYABLE							
Tick	Section	Type of application	Cost				
<input checked="" type="checkbox"/>	2(a)	a rezoning of land;	R2000.00				
<input checked="" type="checkbox"/>	2(b)	a permanent departure from the development parameters of the zoning scheme;	R				
<input checked="" type="checkbox"/>	2(c)	a departure granted on a temporary basis to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land;	R				
<input checked="" type="checkbox"/>	2(d)	a subdivision of land that is not exempted in terms of section 24, including the registration of a servitude or lease agreement;	R				
<input checked="" type="checkbox"/>	2(e)	a consolidation of land that is not exempted in terms of section 24;	R				
<input checked="" type="checkbox"/>	2(f)	a removal, suspension or amendment of restrictive conditions in respect of a land unit;	R				

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KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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✓	2(g)	a permission required in terms of the zoning scheme;	R
✓	2(h)	an amendment, deletion or imposition of conditions in respect of an existing approval;	R
✓	2(i)	an extension of the validity period of an approval;	R
✓	2(j)	an approval of an overlay zone as contemplated in the zoning scheme;	R
✓	2(k)	an amendment or cancellation of an approved subdivision plan or part thereof, including a general plan or diagram;	R
✓	2(l)	a permission required in terms of a condition of approval;	R
✓	2(m)	a determination of a zoning;	R
✓	2(n)	a closure of a public place or part thereof;	R
✓	2(o)	a consent use contemplated in the zoning scheme;	R
✓	2(p)	an occasional use of land;	R
✓	2(q)	to disestablish a home owner's association;	R
✓	2(r)	to rectify a failure by a home owner's association to meet its obligations in respect of the control over or maintenance of services;	R
✓	2(s)	a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building.	R
TOTAL A:			R2 000.00

PRESCRIBED NOTICE AND FEES** (for completion and use by official)

Tick	Notification of application in media	Type of application	Cost
✓	SERVING OF NOTICES	Delivering by hand; registered post; data messages	R
✓	PUBLICATION OF NOTICES	Local Newspaper(s); <i>Provincial Gazette</i> ; site notice; Municipality's website	R
✓	ADDITIONAL PUBLICATION OF NOTICES	Site notice, public meeting, local radio station, Municipality's website, letters of consent or objection	R
✓	NOTICE OF DECISION	<i>Provincial Gazette</i>	R
✓	INTEGRATED PROCEDURES	T.B.C	R

TOTAL B:

R

TOTAL APPLICATION FEES*

(TOTAL A + B)

R

* Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany an application.

** The applicant is liable for the cost of publishing and serving notice of an application.

KNYSNA MUNICIPALITY'S BANK ACCOUNT DETAILS

Name: **Knysna Municipality**
Bank: **Nedbank**
Branch no.: **162645**
Account no.: **1626561826**
Payment reference: **Erf Number**

PART F: DETAILS OF PROPOSAL

Brief description of proposed development / intent of application:

See attached Motivation Report

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PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION FOR LAND USE PLANNING APPLICATION [section 15(2)(a) to (s) of the Proposed Standard Draft By-law on Municipal Land Use Planning]

Complete the following checklist and attach all the information and documentation relevant to the proposal. Failure to submit all information and documentation required will result in the application being deemed incomplete. It will not be considered complete until all required information and documentation have been submitted.

Information and documentation required in terms of section 38(1) of said legislation

<u>Y</u>	N	Power of attorney / Owner's consent if applicant is not owner	Y	<u>N</u>	Bondholder's consent (if applicable)
<u>Y</u>	N	Resolution or other proof that applicant is authorised to act on behalf of a juristic person	<u>Y</u>	N	Proof of registered ownership or any other relevant right held in the land concerned
<u>Y</u>	N	Written motivation	<u>Y</u>	N	S.G. diagram / General plan extract
<u>Y</u>	N	Locality plan	<u>Y</u>	N	Site development plan or conceptual layout plan
Y	<u>N</u>	Proposed subdivision plan	Y	<u>N</u>	Proof of agreement or permission for required servitude
<u>Y</u>	N	Proof of payment of application fees	<u>Y</u>	N	Full copy of the title deed
Y	<u>N</u>	Conveyancer's certificate	<u>Y</u>	N	Minutes of pre-application consultation meeting (if applicable)

Supporting information and documentation:

Y	N	<u>N/A</u>	Consolidation plan	<u>Y</u>	N	<u>N/A</u>	Land use plan / Zoning plan
Y	N	<u>N/A</u>	Street name and numbering plan	Y	N	<u>N/A</u>	1 : 50 / 1:100 Flood line determination (plan / report)
Y	N	<u>N/A</u>	Landscaping / Tree plan	Y	N	<u>N/A</u>	Home Owners' Association consent
Y	N	<u>N/A</u>	Abutting owner's consent	Y	N	<u>N/A</u>	Services Report or indication of all municipal services / registered servitudes
Y	N	<u>N/A</u>	Copy of Environmental Impact Assessment (EIA) / Heritage Impact Assessment (HIA) / Traffic Impact Assessment (TIA) / Traffic Impact Statement (TIS) / Major Hazard Impact Assessment (MHIA) / Environmental Authorisation (EA) / Record of Decision (ROD) (strikethrough irrelevant)	Y	N	<u>N/A</u>	Proof of failure of Home owner's association
Y	N	<u>N/A</u>	Copy of original approval and conditions of approval	Y	<u>N</u>	<u>N/A</u>	Any additional documents or information required as listed in
Y	N	<u>N/A</u>	Proof of lawful use right				

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							the pre-application consultation form / minutes
<u>Y</u>	N	N/A	Required number of documentation copies		Y	N	<u>N/A</u> Other (specify)

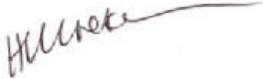
PART H: AUTHORISATION(S) IN TERMS OF OTHER LEGISLATION							
Y	<u>N/A</u>	National Heritage Resources Act, 1999 (Act 25 of 1999)					Specific Environmental Management Act(s) (SEMA)
Y	<u>N/A</u>	National Environmental Management Act, 1998 (Act 107 of 1998)					(e.g. Environmental Conservation Act, 1989 (Act 73 of 1989), National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004),
Y	<u>N/A</u>	Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970)					National Environmental Integrated Coastal Management Act, 2008 (Act 24 of 2008), National Environmental Management: Waste Act, 2008 (Act 59 of 2008),
Y	<u>N/A</u>	Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)		Y		<u>N/A</u>	National Water Act, 1998 (Act 36 of 1998) (strikethrough irrelevant)
Y	<u>N/A</u>	Occupational Health and Safety Act, 1993 (Act 85 of 1993): Major Hazard Installations Regulations					
Y	<u>N/A</u>	Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA)		Y		<u>N/A</u>	Other (specify)
Y	<u>N</u>	If required, has application for EIA / HIA / TIA / TIS / MHIA approval been made? If yes, attach documents / plans / proof of submission etc.					
<u>Y</u>	N	If required, do you want to follow an integrated application procedure in terms of section 44(1) of the Proposed Standard Draft By-law on Municipal Land Use Planning ? If yes, please attach motivation.					

SECTION I: DECLARATION
<p>I hereby wish to confirm the following :</p> <ol style="list-style-type: none"> 1. That the information contained in this application form and accompanying documentation is complete and correct. 2. I'm aware that it is an offense in terms of section 86(1)(e) to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct. 3. I am properly authorized to make this application on behalf of the owner and (where applicable) that a copy of the relevant power of attorney or consent are attached hereto. 4. Where an agent is appointed to submit this application on the owner's behalf, it is accepted that correspondence from and notifications by the Municipality in terms of the by-law will be sent only to the agent and that the owner will regularly consult with the agent in this regard. 5. That this submission includes all necessary land use planning applications required to enable the development proposed herein. 6. I confirm that the relevant title deed(s) have been read and that there are no restrictive title deed restrictions, which impact on this application, or alternatively an application for removal/suspension or amendment forms part of this submission.

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7. I am aware that development charges to the Municipality in respect of the provision and installation of external engineering services are payable by the applicant as a result of the proposed development.	
<hr/>	
Applicant's signature:	 _____
Date:	01-03-2017 _____
Full name:	Hendrika Marike Vreken _____
Professional capacity:	Professional Town Planner _____
SACPLAN registration number:	1101 _____
FOR OFFICE USE ONLY	
Date received: _____	Received by: _____
<div style="border: 1px solid black; width: 250px; height: 100px; margin: 10px auto; text-align: center; line-height: 100px;">Municipal Stamp</div>	
ANNEXURES	
The following Annexures are attached for your information, only if applicable:	
Please do not submit these Annexures with the application form.	<u>Annexure A:</u> Minimum requirements matrix <u>Annexure B:</u> Land use planning application submission and protocol <u>Annexure C:</u> Land use planning application workflow

ANNEXURE C.

Title Deed

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41 FICHAT STREET
KNYSNA
6570

Fee endorsement	
Amount	Office fee
2040 000 00	R. 1169 00
Mortgage capital Amount	R.
Reason for exemption	Exempt i.e.
Cat.	section Act.

Prepared by me

CONVEYANCER
MARIA MAGDALENA BALT

CARL CHRISTIAAN BURGER

DEED OF TRANSFER

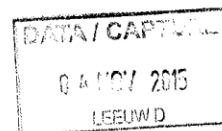
T 000061791 / 2015

BE IT HEREBY MADE KNOWN THAT

RONEL ELS

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at Knysna on 1 September 2015 granted to him by

The Executor in the Estate Late
ALLEN AMANDA VLOK
Number 3119/2015



GhostConvey 15.4.7.2

EErn

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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And the appearer declared that his said principal had, on 22 July 2015, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

HERMAN AND PEACE HOSPITALITY SERVICES PROPRIETARY LIMITED
Registration Number 2015/045510/07

or its Successors in Title or assigns, in full and free property

ERF 2098 KNYNSA IN THE MUNICIPALITY AND DIVISION OF KNYNSA,
PROVINCE OF WESTERN CAPE

IN EXTENT 4746 (FOUR THOUSAND SEVEN HUNDRED AND FORTY SIX)
SQUARE METRES

FIRST TRANSFERRED by Deed of Transfer Number T21462/1946 with
Diagram SG No. 3824/1945 relating thereto and held by Deed of Transfer
Number T20474/1978 ,

1. **SUBJECT** to such conditions as are referred to in Deed of Transfer No. T3003/1907.
- 1 1. **SUBJECT FURTHER** to the special condition contained in Deed of Transfer No. T3003/1907, but not entitled to certain benefits thereunder, which said special condition reads as follows:-

"That the Proprietors of said Lot B and of Lot A this day transferred to the said Thomas George Anderson Horn shall each have the free right to take out at any point of the stream marked on the diagrams of the said properties, half of the water flowing in the stream."
111. **SUBJECT FURTHER** to the following special condition contained in the said Deed of Transfer No. T21462/1946, namely:-

"That words and expression used in these conditions shall have the meaning assigns to them in the regulations published under Provincial Notice No. 401 dated 17 October 1935."
- 1V. **SUBJECT FURTHER** to the following special conditions contained in the said Deed of Transfer No. T21462/1946, namely:-
 - A. As being in favour of the registered owner of any erf in the township and subject to amendment or alteration by the Administrator under provisions of Section 18(3) of Ordinance No. 33 of 1934:-
 - (a) That this erf be used for residential purposes only.
 - (b)



GhostConvey 15.4.7.2

Eem

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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- (c) That no more than half the area of this erf be built upon.
- (d) That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 6,30 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to adjoining erf.
- B.
- C. As being in favour of the Council of the Municipality of Knysna:-
- That the owner of this erf shall be obliged to allow drainage or sewage of any other erf to be conveyed over this erf if deemed necessary by the Council of the Municipality of Knysna and in such manner and in such position as may from time to time be reasonably required by the said Municipal Council.



EE_m

GhostConvey 15.4.7.2

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WHEREFORE the said Appearer, renouncing all right and title which the said
Estate Late ALLEN AMANDA VLOK

heretofore had to the premises, did in consequence also acknowledge the said Estate
to be entirely dispossessed of, and disentitled to the same, and that by virtue of these
presents, the said

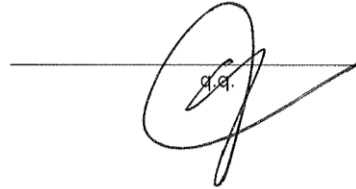
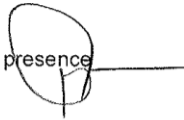
HERMAN AND PEACE HOSPITALITY SERVICES PROPRIETARY LIMITED
2015/045510/07

or its Successors in Title or assigns, now is and henceforth shall be entitled thereto,
conformably to local custom, the State, however reserving its rights, and finally
acknowledging the purchase price to be the sum of R2 040 000,00 (TWO MILLION
FORTY THOUSAND RAND).

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have
subscribed to these presents, and have caused the Seal of Office to be affixed
thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE
TOWN on 30 OCT 2015

In my presence



REGISTRAR OF DEEDS



GhostConvey 15.4.7.2

éém

ANNEXURE D.

SG Diagrams

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OFFICE COPY

APPROVED IN TERMS OF SECT. 25
OF ORD. 5/1985
REF. 2098
DATE 1997-08-15



SIDES	Metres	ANGLES OF DIRECTION	CO-ORDINATES Y System Lo. 23° X	S.G. No. 8565/1997
CONSTANT:			+ 0,00 +3760000,00	Approved <i>M.D. de Bruyn</i> for Surveyor-General 1998-01-20
A B	50,00	318 11 00	A - 7 246,81 + 10 061,52	
B C	23,63	276 02 00	B - 7 280,15 + 10 098,79	
C D	25,11	259 03 30	C - 7 303,65 + 10 101,27	
D E	12,40	225 15 50	D - 7 328,30 + 10 096,50	
E F	22,30	320 19 40	E - 7 337,11 + 10 087,78	
F G	23,69	66 45 30	F - 7 351,35 + 10 104,94	
G H	31,51	48 08 20	G - 7 329,59 + 10 114,29	
H J	94,54	138 11 00	H - 7 306,12 + 10 135,31	
J A	5,00	228 11 10	J - 7 243,08 + 10 064,86	
Indicatory data:				
K H	0,08	138 11 00	K - 7 306,17 + 10 135,37	
KN 69			⊕ - 7 506,40 + 9 900,56	
KN 71			⊕ - 7 279,50 + 10 298,76	
Description of Beacons:				
A B C D E	12 mm iron peg			
G	flat iron peg			
H	no beacon			
F J	12 mm iron peg north of flat iron peg			
K	12 mm iron peg projecting 400 mm			

Scale 1 : 1000

The figure A B C D E F G H J represents 1 743 square metres
ERF 10979, KNYNSNA
Portion of Erf 2098
 situate in Knysna Township Ext. No. 1 in the Municipality and Administrative District of Knysna, Province of the Western Cape

Surveyed in October to November 1997 by me,

M.D. de Bruyn
 Professional Land Surveyor
 M.D. de Bruyn PLS 0134

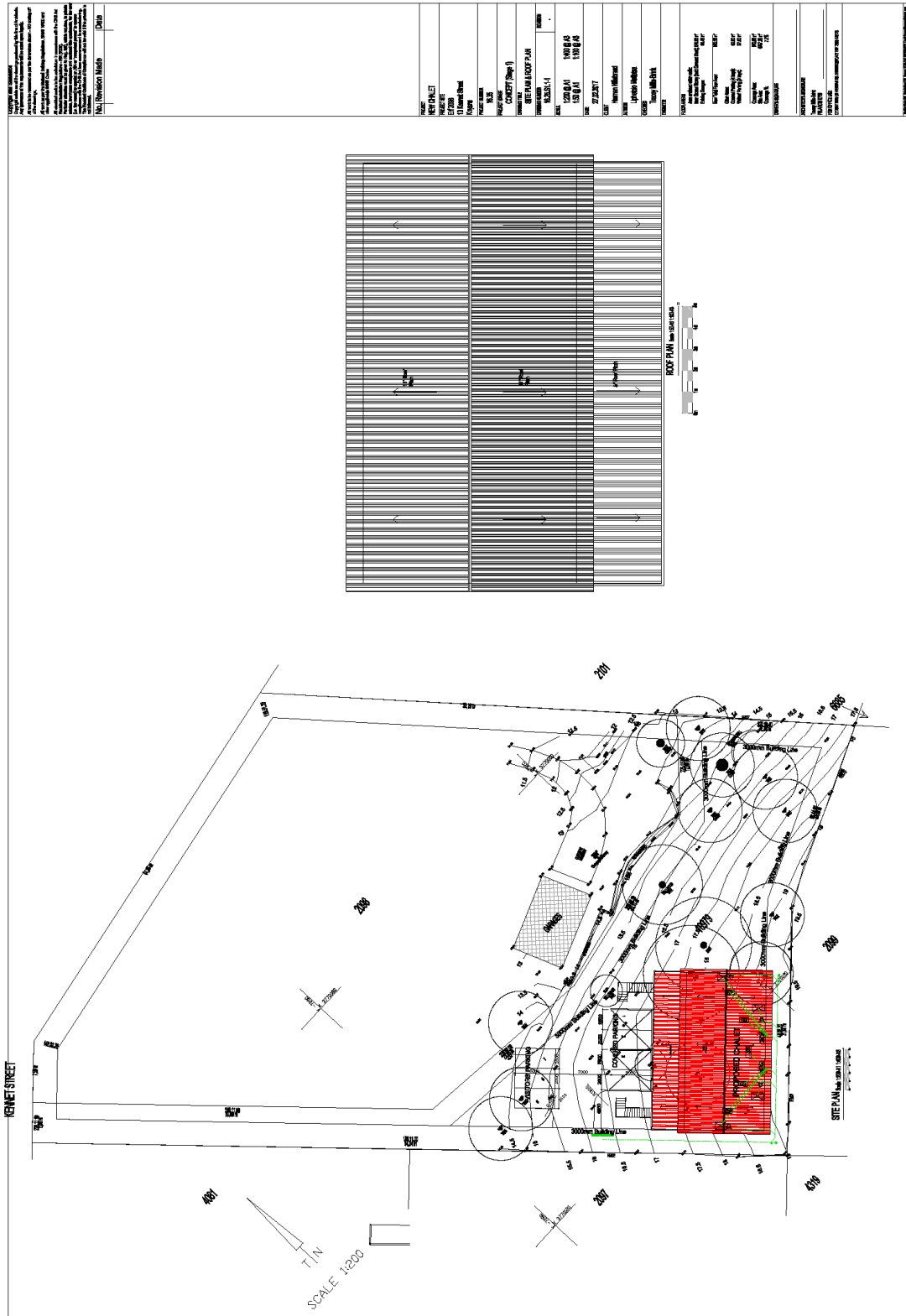
This diagram is annexed to No. dated i.f.o.	The original diagram is S.G. No. 3824/45 annexed to D/T 1946. .21462	File No. S/4587/30/2 S.R. No. E 3431/1997 Gen. Plan TP 549 LD Comp. AM-1AA/24 (717)
Registrar of Deeds		

10979

ANNEXURE E.

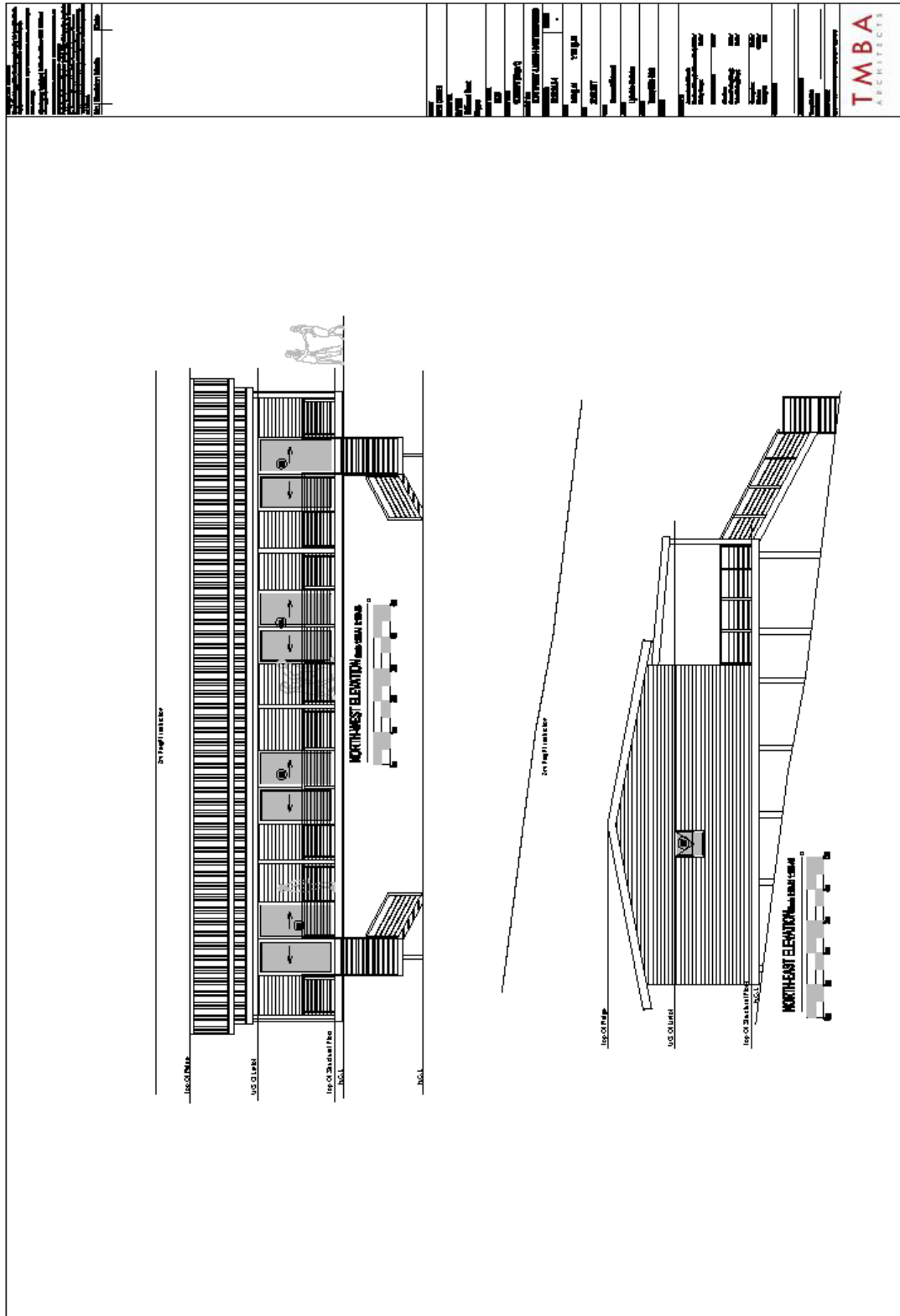
Architectural Designs

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The figure contains two architectural drawings of the South Coast Elevation of the US Coast Guard Station.

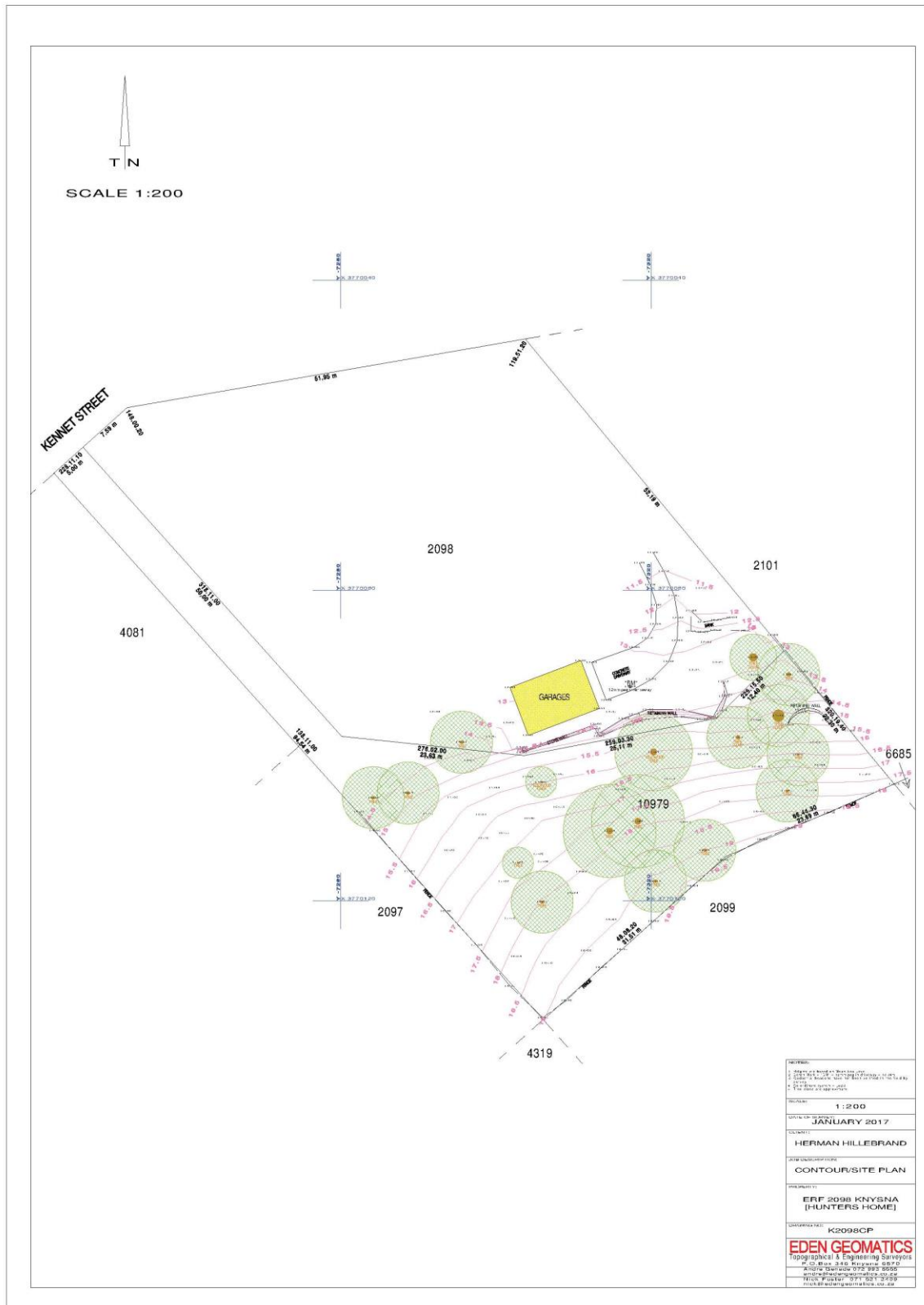
Top Drawing (Side Elevation): This drawing shows the side profile of the building. It features a long, low structure with a series of windows and a small entrance. The drawing is labeled "SOUTH COAST ELEVATION" and includes a scale bar from 0 to 50 feet. The building is shown with a flat roof and a series of windows along the side. The drawing is oriented with the building's length running horizontally.

Bottom Drawing (Perspective View): This drawing shows a perspective view of the building, highlighting its three-dimensional form. It includes a scale bar from 0 to 50 feet. The building is shown with a flat roof and a series of windows along the side. The drawing is oriented with the building's length running horizontally.

ANNEXURE F.

Site Survey

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ANNEXURE G.

Minutes of Pre-application consultation

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**KNYSNA MUNICIPALITY
PRE –APPLICATION MEETING**

Minutes of meeting held on the
22 November 2016

At

09:30

Planning and Development Boardroom

MINUTES

No	Item	Presentation
1.	Opening and Welcoming	Mr S. Mthembu
2.	Attendance Ms Mr S. Mthembu (Chairperson) Mr S. Mqhele Mr R Parry Mrs S Maree Mrs J Fearon Ms N.Vonya Mrs Z Thwala Mr Bastian Mr H Labuschagne (Marike Vreken Town Planners) Mr M Beukes (Marike Vreken Town Planners) Apologies Mr	
3.	Item for consideration	
3.1	<u>Erf 7296, Knysna-seeking guidance for development options</u> <u>Discussion</u> <ul style="list-style-type: none">• Agriculture zoned Erf within an urban edge• 33ha in extent• The applicant mentions that he is aware of the fact that there is a lack of services in the Knysna area and would just like to look at the possibility for the property in question.• The property has very steep slopes and presents a challenge for development.• The applicant presented his slope analysis as well as no-go areas for the area in so doing he highlighted the potential areas for development on	All

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	<p>the property.</p> <ul style="list-style-type: none"> • The applicant says he would like to advise his client on what the available possibilities are for the site. • The applicant proposes a low-density development, without disturbing the biodiversity. • Off the grid services is a possibility. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> • From a services point of view- going off the grid would be the best option. • The low-density development would also be the best option in order to protect critical vegetation. • Water supply is not a guarantee at this time. • The applicant suggests that going off the grid in the initial stage but then at later stage use municipal water once it is available, (Technical Services agrees). • Water quality results would have to be supplied to Technical Services in order to determine whether it is to the satisfaction of Council. • All testing will have to be done in accordance with the relevant engineering standards. • Applicant was instructed to have a look at the Welbedacht structure plan (also Known as the Guide Plan)- Because some of the information has been transferred over to the SDF. • It should be noted, however, that the Guide Plan does not directly apply to this property. • The owner would have to prepare a few options and the best option will have to be determined. • It was suggested that the applicant at least has one option where they avoid the areas that are steeper than 1:4. 	
	<p><u>Erf 4214, Knysna- Departure</u></p> <p><u>Discussion</u></p> <ul style="list-style-type: none"> • Application for building line relaxation and permissible coverage. • The applicant wants to extend the roof that will go over the building line and increase the coverage. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> • The application will have to be served on the aesthetics committee 	<p>All except for applicant for Erf 7296</p>

	<ul style="list-style-type: none"> • There are no architectural design guidelines • Normal Circulation requirements will be held. 	
	<p><u>Erf 2098, Knysna- Rezoning</u></p> <p><u>Discussion</u></p> <ul style="list-style-type: none"> • Property is located in Rex Ford • There is an existing dwelling unit. • Applicant want to apply construct two additional flats on his property. • There will be three dwellings in total if he proceeds. • According to the applicant, the two flats will be used for the housing of his two children. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> • Augmentation will be due, depending on the size of the units (in terms of the Zone.) • No services report will be necessary • Services will need to be provided by the developer. • The group housing zone conditions will have to be adhered to. • The applicant would have to be very sensitive to the fact that it should look like a single residential area. To all the development to blend into the surrounding area. 	
	<p><u>Erf 9262, Knysna-Amendment of condition of approval</u></p> <p><u>Discussion</u></p> <ul style="list-style-type: none"> • Existing container located on the property • The owner wants to move the container to the existing disability parking space and the parking and move the existing parking space to where the container currently is. • The applicant wants to know how to legally do this, as the containers existing situation in illegal. • The container produces noise that led to a complained and eventually to this application. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> • The Legality will have to be determined and if it is discovered that it is illegal than a new site development plan will have to be submitted because there will be a loss in parking on the site. • The container as it now is situated on a public parking. • The application will be for the amendment of conditions of approval and if found that the container is illegal also for a temporary use departure. 	

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	<ul style="list-style-type: none"> • A lease agreement will also have to be included with this application. 	
	<p><u>Erf 10909+10910, Knysna Temporary use departure</u></p> <p><u>Discussion</u></p> <ul style="list-style-type: none"> • A mission school for underprivileged children • The subject site is seen as an adequate alternative for a new location for the mission school. • Grade R to Grade 7- • There is an existing education note in the area, • The applicant wants to legalise an existing school that is operating illegally. • The applicant says that he was not aware of the fact that business zoning and educational zoning is not the same. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> • The applicant is to submit the Temporary use departure • The application cannot be rezoned because the rest of the building is till used for business purposes. • The entrances to the school is a concern to the Traffic Department • Offloading of children will be on the inside and not on the street. • For traffic purposes, it is advisable that the offloading happens at the back and not the main road. • Site Development Plan will have to be submitted to look at the functionality of the school. • The applicant will have to ensure that the list of documentation is included in the application. 	
5.	The chairperson closed the meeting.	11:30

PLAN 1.

Locality Plan

PLAN 2.

Land Use Plan

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PLAN 3.

Zoning Plan



PLAN 4.

Site Development Plan



Annexure B- Email from Richard Court

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Colab No.:

Page 1 of 1

File No.: 5/6/R

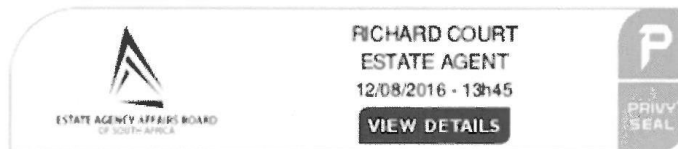
Knysna Municipality - ERF 2098 Objection

From: "Richard Court" <richard@sirknysna.co.za>
To: <knysna@knysna.gov.za>
Date: 12/04/2017 1:49 PM
Subject: ERF 2098 Objection
Cc: <smqhele@knysna.gov.za>
Attachments: Acting Municipal Manager.docx

Dear sirs

Please find attached our objection to the proposed Group housing scheme.

Best Regards
Richard



 Virus-free. www.avast.com



file:///C:/Users/nmuller/AppData/Local/Temp/XPamwico/59EE2071/kndm02kms0 12/04/2017

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Acting Municipal Manager

Via email

Ref Erf 2098

13 Kennet Street

Affected party :

Richard and Alex Court-Ricour (0847488299)

6A Fraser Street (Abutting owner)

Knysna.

Dear Sir

We would like to object to the change to Group Housing and would make the following supporting comments:

- 1) Engineering services, the current lack of water and significant under provision of other utility services should be taken into account when approving higher density zoning schemes . It is not correct to avert that a single residence will be allowed to consume more than a three house group scheme, considering at level three the limit is 20kl month single residence
- 2) Traffic impact, the two link roads (Wilson/howard) are under extreme pressure as they join George Rex, in order to facilitate a further expansion into group housing a full traffic impact report should be supplied covering solutions to this issue , prior to additional approvals.
- 3) The proposed designs are not a harmonious integration with the existing structures . The existing structure is Brick and the proposal is timber clad.
- 4) Fig 5 in the application shows a large area of Public space , this is in fact a wetland of significant importance to the area. Wild otters live in the adjoining area. Water runoff is not addressed in the application , a full study needs to be conducted to access the environmental impacts of further site densification. To be specific an EIA is required for this project taking in SEMA,ECA,NEICMA NWA etc.
- 5) Under motivation the document talks of no structure plans for upper old place. This area is erroneous to Hunters home . The structure plans for Hunters need to be developed in conjunction with homeowners and not as an adhoc planning approval procedure.
- 6) The deeds restrict owners to residential usage and should be submitted with the application for scrutiny.
- 7) Topography of the site is not dealt with in the report correctly, the site slopes significantly and the proposed structures exceed the allowable height , given they are at the highest point of the property.

Regards Alex and Richard Court-Ricour

Annexure C- Applicants response

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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Marike Vreken Town Planners CC
21 Trotter Street | P.O. Box 2180 | KNYSNA | 6570
☎ 044 382 0420 | 📠 044 382 0438
info@vreken.co.za | www.vreken.co.za

Our Ref: Pr16/62b05/ M Buskes
Your Ref: Collab 617277

22 June 2017

BY EMAIL hsmit@knysna.gov.za

By HAND:

The Manager: Planning & Development
Knysna Municipality
P.O. Box 21
Knysna
6570



FOR ATTENTION: MR. HENNIE SMIT

Dear Sir,

PROPOSED REZONING: KNYSNA ERF 2098

Our application for the rezoning of Knysna Erf 2098, dated 3 March 2017 has reference. Herewith our response to the comments and objections received:

1. Letter from Richard Court, dated 12 April 2017

- 1.1. Comment: Engineering services, the current lack of water and significant under the provision of other utility services should be taken into account when approving higher density zoning schemes. It is not corrected to avert that a single residence will be allowed to consume more than a three-house group scheme, considering at level three the limit is 20kl month single residence.

Response: The proposed coverage on the site is 12.97% and the allowed coverage for single residential properties in Knysna is 50%. This means that even though there will be three dwelling units on site, the combined development is still of a smaller scale that what can be allowed on single residential property in Knysna. Given the fact that the property was subdivided in the past water rights was approved for 2 single residential properties which, if applied for by the owner at the time, could lawfully accommodate 4 dwelling units which are less than what is currently applied for.

We are well aware of the current water restrictions and water shortage in Knysna as a result of the current drought conditions. It can be considered as a development constraint but not sufficient merit to turn down this application. If this is the case, then Knysna Municipality should publicly declare a moratorium

Member: HM Vreken Pr. Pln 1101
Reg. CK 2005/032114/23 VAT: 4690222106

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on all development, which to our knowledge, has not happened. It is the owner's responsibility to implement alternative water harvesting solutions to mitigate the demand for water consumption on this site.

- 1.2. Comment: Traffic Impact, the two link roads (Wilson/Howard) are under extreme pressure as they join George Rex, in order to facilitate a further expansion into group housing a full traffic impact report should be supplied covering solutions to this issue, prior to additional approvals.

Response: There is currently one dwelling unit on site with a safe access and egress point onto Kennet Street. The development proposal is for 3 group housing units of Erf 2098 which is an addition of two dwelling houses. To put this into perspective, this is one dwelling house more which could be located on a single residential property with special consent for an additional dwelling unit. One additional vehicle will have an insignificant impact on the traffic volume in the area. This comment can, therefore, be fairly dismissed.

- 1.3. Comment: The proposed designs are not a harmonious integration with the existing structures. The existing structure is Brick and the proposal is timber clad.

Response: This is a very subjective and unsubstantiated statement. There is no architectural design guidelines or restrictive building regulations for the Hunter's Home neighbourhood. It is the applicant's prerogative to choose the aesthetical appearance of the proposed dwellings.

- 1.4. Comment: Fig 5 in the application shows a large area of Public space, this is in fact a wetland of significant importance to the area. Wild otters live in the adjoining area. Water runoff is not addressed in the application, a full study needs to be conducted to assess the environmental impacts of further site densification. To be specific an EIA is required for this project taking in SEMA, ECA, NEICMA NWA etc.

Response: This comment is irrelevant to this application because no land use application is submitted on the public open space. Erf 2098 is a registered Single Residential property and does not need any environmental authorisation from the Department of National and Environmental Affairs (NEMA). This comment can, therefore, be fairly rejected.

- 1.5. Comment: Under motivation the document talks of no structure plans for Upper Old Place. This area is erroneous to Hunters Home. The structure plans for Hunters need to be developed in conjunction with homeowners and not as an ad-hoc planning approval procedure.

Response: There are currently no structure plans for the entire Knysna Municipality, but the need for more detailed structure/ precinct plans to guide development has been identified as a strategic priority in the latest Knysna SDF 2017. Until there is no approved precinct plan for the Hunter's Home neighbourhood, this comment is irrelevant, and not a valid reason for refusal.

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- 1.6. Comment: The deeds restrict owners to residential use and should be submitted with the application for scrutiny.

Response: According to the Knysna Zoning Scheme Regulations, a Group Housing Zone allows for a group of separate and or linked dwelling units. Dwelling units are used for residential purposes only. Therefore, this erf will be used for residential use irrespective if the rezoning application having no impact on the restrictive title deed condition. This comment can, therefore, be fairly dismissed.

- 1.7. Comment: Topography of the site is not dealt with in the report correctly, the site slopes significantly and the proposed structures exceed the allowable height, given they are at the highest point of the property.

Response: The objector misinterpreted the height of the proposed structures. The allowable height for group housing zone is 8m above the NGL (2storeys) and the proposed structure is only a single storey. Irrespective of the locality on the site, the proposed structures are still below the prescribed height of 8m above NGL. The image below illustrates the elevation of the proposed structure in relation to the allowable height of 8m above NGL.

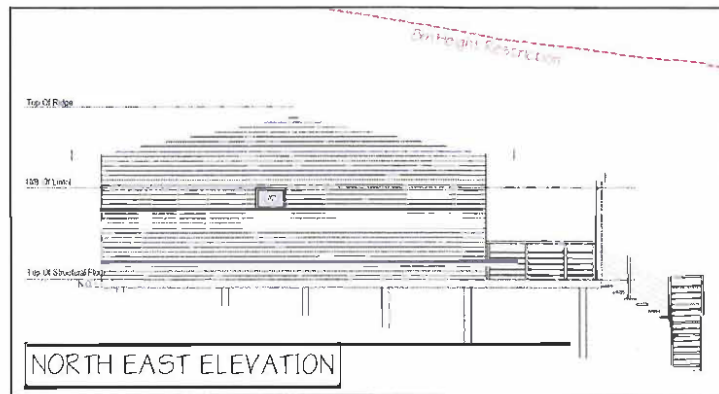


Figure 1: Height of Proposed Structure

2. Conclusion

We conclude that:

- 2.1. No objections were received from internal municipal departments;
- 2.2. No environmental authorisation is required to accommodate the Group Housing Zone in an existing residential township;
- 2.3. No negative traffic impact will be generated as a result two (2) additional dwelling houses on the application area;
- 2.4. The proposed structure will be used for residential purposes only and will have no conflict with the restrictive title deed conditions;

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2.5. No structure plans guide urban development for the Hunter's Home area;

2.6. The proposed development complies with the parameters associated with Group Housing Zone in terms of the Knysna Zoning Scheme Regulations.

It is therefore the considered opinion, that this application meets the criteria as set out in The Spatial Planning and Land Use Management Act (SPLUMA) and the Knysna Land Use Planning Bylaw, that the application is desirable and considered for approval by Knysna Municipality and relevant authorities.

We trust the above is in order. Please do not hesitate to contact the writer if you require any additional information in this regard.

Kind regards,




MARIKE VREKEN
Pr. Pln 1101 M SAPI 10233

Annexure D- Internal Comments





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Feedback History

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Reactivate Task 

Review Feedback on Land Use Application and Formulate Response

Land Use File	616460, Knysna, Erf 102098000, 1517   
Task Ref	1118186
From	 Nosipho Pebi
Due Date	14-04-2017
Date Assigned	06-04-2017 15:34
Comment Reponse In Date	2017-05-25
General Instruction	notices to the ff: ERVEN 2093, 2974, 2094, 7454, 2095, 2096, 4319, 2097, 4081, 2099, 2100, 6685, 2101, 4293, 13047 & 2104 KNYNSNA.
Application Number	1517
Land Use File Name	Knysna, Erf 102098000, 1517
Application Date	2017-03-06
Application Type	Rezoning
Application Suburb	Knysna
Applicant Name	Marika Vreken
LAND UNIT DETAIL	
Erf/Farm Number	102098000
Street Address Number	13
Street Address Town	Knysna
Area (m2)	4746.00
Title Deed Number	<input type="text"/>
Title Deed Date	<input type="text"/>
INTERNAL DISTRIBUTION	
Application Review Date	2017-04-14
Comments from Traffic	
Comments from Financial Services	
Comments from Corporate Services	
Comments from Community Services	
Comments from Environmental Services	
Comments from Housing	
Comments from Technical Services Directorate	ROADS & STORMWATER: *No objection. WATER & SEWER: *1. Augmentation will be due on 2 units for water and sewer. 2. The internal services will be private and only on bulkwater shall be permitted to service the premises.

<http://172.16.1.16/Collab/Tasks/WorkflowHistDet.aspx?ObjID=616460&TaskID=11...> 22/01/2018

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Comments from Technical Services Sewer	
Comments from Technical Services Roads	
Comments from Legal Services	
Comments from Electro Technical	
Comments from Building Control	
Feedback Review Outcome	Comments/Objections Received
Response on Comments Received	SMQ TO WRITE A PLANNING ASSESSMENT REPORT.
End Workflow	No
SPLUMA	SPLUMA
Select Case Officer	
Case Officer Name	Steward
Case Office Surname	Mqhele
Street Naming Committee	F
Pre-Application Meeting Held?	Yes
Is Application Complete?	Yes
Was Additional Information Requested Received?	
Continue with Application?	
Decision Taken by?	
Invoice Number	616466
Applicant Fax Number	-
Approval Method	
Application Status	Active
Delegated Authority/Council/Province Review Outcome	
Review Comments	
Refund Amount	
Applicant E-mail Address	marike@vreen.co.za
Refund Information	
Appeal Feedback Date	
Appeal Response	
Appeal Response Review Outcome	
Appeal Response Review Comments	
APPLICANT INFORMATION	
APPLICATION COSTS	
CONSENT USE APPLICATION	
Name of Registered Owner	Herman and Peace Hospitality Services (Pty) Ltd

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CONFIRMATIONS	
REZONING APPLICATION	
SUB-DIVISION APPLICATION	
REMOVAL OF RESTRICTIONS	
ADVERTISEMENTS	
EXTERNAL DISTRIBUTION	
DEPARTMENTAL COMMENTS	
Full Amount Paid?	Yes
Advertise Application?	No
Applicant Registered Owner?	No
Circulate Application Externally?	Yes
Planner Review Outcome	Continue with Circulation
Type of Notification	
Applicant Postal Code	6570
SG Code	C03900050000209800000
Registered By	SMQHELE
Date Registered	2017-03-08
Distributed By	MTHEMBUS
Date Distributed	2017-03-09
Power of Attorney attached?	Yes
Reviewed By	MTHEMBUS
Date Reviewed	2017-05-25
Notification Outcome	
Owner Postal Address Line 1	
Owner Postal Address Line 2	
Owner Postal Address Line 3	
Owner Postal Code	
Owner Tel Number	
Owner Cell Number	
Owner Fax Number	
Owner E-mail Address	
Application by Company?	Yes
Company Resolution attached?	Yes
Zoning Scheme	Knysna Zoning Scheme
Waste Removal	F
Aesthetics Committee	F

<http://172.16.1.16/Collab/Tasks/WorkflowHistDet.aspx?ObjID=616460&TaskID=11...> 22/01/2018

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Cape Nature	F
Comments from Waste Removal	
Comments from Aesthetics Committee	
Select Owner Detail	
Resolution	
Resolution Date	
Appeal Received Date	
Responsible Official	
Final Application Outcome Date	
Resolution Notification Date	
Appeal Comments Request Date	
Appeal Comment Return Date	
Advert Placed Date Sedge Edge	
Advert Placed Date Action Adds	
Advert Placed Date Provincial Gazette	
Comment Response Out Date	2017-03-10
Item Date	
Approval Method selection Date	
Application Type Number	008
INTERNAL COMMENTS RECEIVED	
Advertised	
Application Fee Total	2000
Applicable legislation and municipal policies	
Planning assessment	
Recommendation	
Approval conditions	
Park task	No
Company/Firm Name	
Existing Use and Improvement	See Attached.
Existing Zoning	Single Residential
Departure applicable?	No
Departure Description	n/a
Consent Use Application Type	Other
Specify if Other Type	Rezoning
Departure Type Description	n/a
Temporary Use Description	n/a

<http://172.16.1.16/Collab/Tasks/WorkflowHistDet.aspx?ObjID=616460&TaskID=11...> 22/01/2018

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Contravention Levy	n/a
Plan Number	PR1662\SDP01
Plan Dated	2016-02-20
Applicant Motivation	See Attached.
There are no restrictive Title Deed conditions which may affect the application	F
There are restrictive Title Deed conditions which affect the application and a separate application in terms of removal of restrictions Act (No. 84 of 1967)	F
I require the proposal to be advertised/notice sent to affected Neighbours in the prescribed manner, for my account	F
I have obtained the written comments of the affected owners and attached originals thereof	F
I have attached a copy of the bondholders consent	F
The property is not bonded	F
Current Zoning	Single Residential
Proposed Zoning	Group Housing
Current Use	See Attached
Proposed Use	See Attached
Title Deed attached?	Yes
Amendments Regional Structure Plan	No
Present Designation	
Proposed Designation	
Applicant Postal Address Line 1	PO Box 2180
Application in Terms of National Environmental Management Act	No
Proposed Site Development Plan attached?	Yes
Sub-division Description	n/a
Size of each new Erf portion	n/a
Proposed Use of Subdivision	n/a
Is the Subdivision of Agricultural land Act (No.70 of 1970) applicable to the Subdivision?	No
Removal Type	Alteration
Removal of Restriction Request Description	n/a
Advertise Sedge Edge	NI
Advertise Action Adds	Yes
Applicant Postal Address Line 2	Knysna

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Advertise Provincial Gazette	Yes
Traffic	F
Financial Services	F
Corporate Services	F
Community Services	F
Environmental Services	F
Housing	F
Technical Services Directorate	T
Technical Services Sewer	F
Technical Services Roads	F
Applicant Postal Address Line 3	-
Legal Services	F
Electro Technical	F
Building Control	F
Vicinity Owners	T
Tax Payers Association	F
Agricultural: National	F
Agricultural: Western Cape	F
Health Western Cape	F
Heritage Western Cape	F
SA National Parks	F
Applicant Tel Number	044 382 0420
SANRAL	F
Transnet	F
Water Affairs and Forestry	F
Eden Municipal Health	F
District Roads Engineer	F
Land Affairs	F
ESCOM	F
Internal Comment Due Date	2017-03-24
External Comment Due Date	2017-04-14
Applicant Cell Number	082 927 5310
Street Address Street	KENNET STREET
Circulate Application Internally?	Yes

Feedback History

Feedback User	Feedback Date	% Compl	Feedback
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<http://172.16.1.16/Collab/Tasks/WorkflowHistDet.aspx?ObjID=616460&TaskID=11...> 22/01/2018

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Seretse Mthembu (MTHEMBUS)	25-05-2017 13:06	100%	No feedback was required.
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Reallocated Tasks

Prev. Allocated To	Date Reallocated	Reallocation Note
-----------------------	---------------------	-------------------

Task Note

Note

Back

Annexure E- Distribution List

collab: 605183



Knysna Municipality

WHERE PEOPLE AND NATURE PROSPER

KNYSNA MUNISIPALITEIT VERORDENING OP MUNISIPALE GRONDGEBRUIK BEPLANNING (2016)

KNYSNA MUNICIPALITY BY-LAW ON MUNICIPAL LAND USE PLANNING (2016)

VOORGESTELDE HERSONERING: ERF 2098, KNYSNA

Aansoeker: Marike Vreken Stadsbeplanners
Kontak Nr: 044-382 0420
Verwysing nommer: Aansoek Nr. 1517
Eiendom beskrywing: Erf 2098, Knysna
Fisiese adres: Kennetstraat 13, Knysna
Aard van aansoek: Hersonering van Erf 2098, Knysna, vanaf "Enkelwoonsone" na "Groepbehuisingone", in terme van Artikel 15(2)(a) van die Knysna Munisipaliteit Verordening op Munisipale Grondgebruikbeplanning (2016), om drie (3) residensiële wonings toe te laat op die perseel.

Kennis geskied hiermee ingevolge Artikel 45 van die Knysna Munisipaliteit Verordening op Munisipale Grondgebruikbeplanning (2016) dat die bogenoemde aansoek ontvang is en ter insae lê, gedurende kantoorure by: Munisipale Stadsbeplanning Kantore, Kerkstraat 3, Knysna, die Knysna Biblioteek asook die munisipale webtuiste by die volgende adres:

<http://www.knysna.gov.za/resident-services/planning/current-land-use-applications/>

Kommentaar of besware, ingevolge Artikel 50 van die bogenoemde Verordening, mag gerig word aan die Waarnemende Munisipale Bestuurder, Posbus 21, Knysna, 6570 of per epos aan knysna@knysna.gov.za op of voor **22 Mei 2017**, met vermelding van bogenoemde Verordening, beswaarmaker se naam, adres of kontak besonderhede, belang in die aansoek en redes vir kommentaar of besware. Die munisipaliteit mag kommentaar of besware weier wat na die sluitingsdatum ingehandig word. Persone wat nie kan skryf nie kan die Stadsbeplanningafdeling by Kerkstraat 3, Knysna, nader tydens kantoorure waar die die betrokke amptenaar u sal help om u kommentaar of besware op skrif te stel.

Telefoniese navrae kan gerig word aan die Stadsbeplanner, Steward Mqhele by 044-302 6339 of per epos smqhele@knysna.gov.za tydens kantoorure.

Leërverwysing: 102098000

J.B. DOUGLAS
WAARNEMENDE MUNISIPALE BESTUURDER

PROPOSED REZONING: ERF 2098, KNYSNA

Applicant: Marike Vreken Town Planners
CC
Contact No: 044-382 0420
Reference number: Application No. 1517
Property Description: Erf 2098, Knysna
Physical Address: 13 Kennet Street, Knysna
Nature of application: Rezoning of Erf 2098, Knysna, from "Single Residential Zone" to "Group Housing Zone", in terms of Section 15(2)(a) of the Knysna Municipality By-law on Municipal Land Use Planning (2016), to allow three(3) residential dwellings on the premises.

Notice is hereby given in terms of Section 45 of the Knysna Municipality By-law on Municipal Land Use Planning (2016) that the abovementioned application has been received and is available for inspection during office hours at the Town Planning Department at 3 Church Street, Knysna, the Knysna Library as well as the municipal website at the following web link:

<http://www.knysna.gov.za/resident-services/planning/current-land-use-applications/>

Comments or objections, in terms of Section 50 of the said By-law, may be addressed to the Acting Municipal Manager, P.O Box 21, Knysna, 6570 or via email knysna@knysna.gov.za on or before **22 May 2017**, quoting your, name, address or contact details, interest in the application and reasons for comments or objections. The municipality may refuse to accept comments or objections received after the closing date. Persons who cannot write may approach the Town Planning Office at 3 Church Street, Knysna, during office hours, where the responsible official will assist you in putting your comments or objections in writing.

Telephonic enquiries can be made to the Town Planner, Steward Mqhele at 044-302 6339 or via email smqhele@knysna.gov.za during office hours.

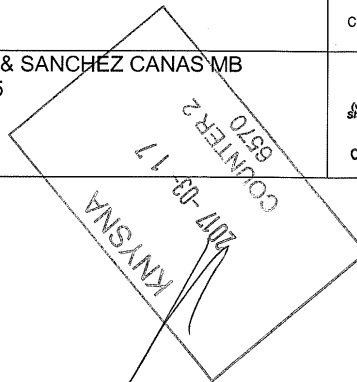
File reference: 102098000

J.B. DOUGLAS
ACTING MUNICIPAL MANAGER

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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MAILING LIST FOR ERF 2098 KNYNSA

2093	LINSELL DMH & JM 3 KENNET STREET HUNTERS HOME KNYSNA 6571	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 334 ZA CUSTOMER COPY 301028R
2974	FISHER RA & CA PO BOX 3533 KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 419 ZA CUSTOMER COPY 301028R
2094	COX DC & MUDZUDZU PB c/o Pam Golding Properties PO BOX 3564 KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 436 ZA CUSTOMER COPY 301028R
7454	VERMEULEN WJ PO BOX 3545 KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 524 ZA CUSTOMER COPY 301028R
2095	SMITH KC PO BOX 1227 KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 541 ZA CUSTOMER COPY 301028R
2096	LAING COX, TA 6 FRASER STREET HUNTERS HOME KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 515 ZA CUSTOMER COPY 301028R
4319	RICOUR AMG PO BOX 887 KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 440 ZA CUSTOMER COPY 301028R
2097	LEITH DAH & SJ POSTNET SUITE 350 PRIVATE BAG X 31 KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 317 ZA CUSTOMER COPY 301028R
4081	COLLINS MG & SANCHEZ CANAS MB P.O BOX 1225 KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 422 ZA CUSTOMER COPY 301028R



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2099	TAYLOR RP & BA 8 FRASER STREET KNYSNA 6571	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 348 ZA CUSTOMER COPY 301028R
2100	INGEL B PO BOX 483 KNYSNA 6571	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 396 ZA CUSTOMER COPY 301028R
6685	BRODIE CJ SUITE 187 PRIVATE BAG X31 KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 405 ZA CUSTOMER COPY 301028R
2101	HOWARTH D & JA 15 KENNET STREET HUNTERS HOME KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 379 ZA CUSTOMER COPY 301028R
4293	ALEKSHIN MY 17 KENNET STREET HUNTERS HOME KNYSNA 6571	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 382 ZA CUSTOMER COPY 301028R
13047	FOGLE SA & HL 12A FRASER STREET HUNTERS HOME KNYSNA 6571	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 351 ZA CUSTOMER COPY 301028R
2104	VENTER JH 18 KENNET STR HUNTERS HOME KNYSNA 6570	REGISTERED LETTER (with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za RC 189 843 365 ZA CUSTOMER COPY 301028R

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4.3



LAND USE PLANNING REPORT
APPLICATION FOR TEMPORARY USE DEPARTURE: ERF 3651, SEDGEFIELD

Reference number	Application No 1466	Application submission date	12 December 2016	Date report finalised	01 December 2017
PART A: AUTHOR DETAILS					
First name(s)	Steward				
Surname	Mqhele				
Job title	Town Planner				
SACPLAN registration number	C/8313/2016.				
Directorate/Department	Planning and Development: Town Planning and building Control Department				
Contact details	044 302 6339				
PART B: APPLICANT DETAILS					
First name(s)	Nicolaas Daniel				
Surname	Buekes				
Company name	BJB PROJECT SERVICES				
SACPLAN registration number	N/A	Is the applicant authorised to submit this application		<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
Registered owner(s)	A Wallace				
PART C: PROPERTY DETAILS					
Property description (in accordance with Title Deed)	Erf 3651 Sedgefield				
Physical address	09 Corel Reef, Sedgefield	Town/City	Sedgefield		
Current zoning	Single residential	Extent (m2)	1019m ²	Are there existing buildings on the property?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
Applicable zoning scheme	Sedgefield Zoning Scheme 1980				
Current land use	Residential	Title Deed number & date	T85831/2000		
Any restrictive title conditions applicable	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	If Yes, list condition number(s)	N/A		

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Any third party conditions applicable?	Y	N	If Yes, specify	N/A			
Any unauthorised land use/building work	Y	N	If Yes, explain				
PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)							
Has pre-application consultation been undertaken?	Y	N	N/A				
PART E: LIST OF APPLICATIONS (TICK APPLICABLE)							
Rezoning	✓	Permanent departure	✓	Temporary departure	✓	Subdivision	✓
Extension of the validity period of an approval	✓	Approval of an overlay zone	✓	Consolidation	✓	Removal, suspension or amendment of restrictive conditions	✓
Permissions in terms of the zoning scheme	✓	Amendment, deletion or imposition of conditions in respect of existing approval	✓	Amendment or cancellation of an approved subdivision plan	✓	Permission in terms of a condition of approval	✓
Determination of zoning	✓	Closure of public place	✓	Consent use	✓	Occasional use	✓
Disestablish a home owner's association	✓	Rectify failure by home owner's association to meet its obligations	✓	Permission for the reconstruction of an existing building that constitutes a non-conforming use	✓		
PART F: APPLICATION DESCRIPTION							
<ul style="list-style-type: none"> Application for the temporary use departure <u>in terms of</u> Section 15(2)(c) of the Knysna Municipality By-Law On Municipal Land Use Planning (2016) to erect a 15m cellular (lamp post) mast and base station on Erf 3651, Sedgefield 							
PART G: BACKGROUND							
<ul style="list-style-type: none"> An application was submitted on 12 December 2016 The Erf is zoned Single Residential in terms of the Sedgefield Zoning Scheme Regulations (1980). The property is 1019² in extent. The property is located at 9 Corel Reef Crescent, Sedgefield 							
PART H: SUMMARY OF APPLICANTS MOTIVATION							
<p>Vodacom has identified the need for a cellular mast in the Sedgefield area; this is due to vast amount of complaints received by the residents of the bad cell reception in the area. An application is therefore made to the Knysna Municipality for the placement of a Lamp post Cellular mast on Erf 3651, Sedgefield.</p> <p>The area surrounding the application is predominantly Residential. The site/mast is according to the applicant placed as such to minimize the impact on the environment as well as the visual character of the area. Since the mast is designed to be as visually unobtrusive as possible, facility sharing is not an option.</p>							

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<p>Erecting the proposed lamp post on an alternative location would mean that Vodacom's Base Transceiver Stations (BTS) will not overlap sufficiently – thus apparently will cause telephone calls to be "dropped" should a person travel out of reach of one BTS.</p>									
PART I: SUMMARY OF PUBLIC PARTICIPATION									
Methods of advertising				Date published		Closing date for comments			
Press	Y	N	N/A	08 February 2017		08 March 2017			
Gazette	Y	N	N/A						
Notices	Y	N	N/A	31 January 2017		31 January 2017			
Ward councillor	Y	N	N/A						
Site notice	Y	N	N/A						
Community organisation(s)	Y	N	N/A						
Public meeting	Y	N	N/A						
Third parties	Y	N	N/A						
Other	Y	N	If yes, specify						
Total valid comments				Nine valid objections			Total comments and petitions refused		None
Valid petition(s)	Y	N	If yes, number of signatures	N/A					
Community organisation(s) response	Y	N	N/A	Ward councillor response		Y	N	N/A	
Total letters of support		One letter of support							
Was public participation undertaken in accordance with Section 45- 49 of the Knysna Municipality By-law on Municipal Land Use Planning									Y N
PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION									
<p>The application was circulated to all affected internal department as well as to all the affected neighbouring property owners (Proof of publication is hereto attached as Annexure B).</p> <p>All potentially affected parties were consulted and the following comments were received:</p> <p>Letter from David Rowe dated 13 February 2017(Annexure C):</p> <ul style="list-style-type: none"> The objector submits that the Mass Tower is unsightly and visible from his deck He further states that the Tower was constructed without the approval of Council and should not have been the case. He concludes by stating that Councils "Cellular Telecommunication Masts policy" have not been followed <p>Letter from Manni and Debbie Ferreira dated 23 February 2017(Annexure E):</p>									

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- The objector states that the mass is unsightly and illegally erected.
- The correct procedures were not followed and the residence of Cola Beach was not consulted before the erection of mass tower.
- They also conclude by stating that they are not happy with the fact that the Municipal policies and laws were not followed when the tower was erected.

Letter from Karen Rotherham 06 March 2017 (**Annexure F**):

- The objector submits that the Cell phone mast tower was erected illegally and without the consent or input from the residence of the Cola Beach Area.
- She states that even if Mast Tower would improve Cell phone reception the permission for its location should have been submitted to the Municipality prior to it being submitted.
- The objector is of the view that the tower should be removed.

Letter from Luterek on behalf the MFCZ Trust of 21 February 2017 (**Annexure G**):

- The Objector states that the application is inconsistent with the following documents and legislation:
 - Sedgefield Town Planning Scheme;
 - SPLUMA; and
 - Applicable environmental legislation.
- The property in question (Erf 3651 Sedgefield) is not appropriately zoned as residential does not allow for the erection of a cellular mast and that a rezoning should rather have been applied for.
- The proposed structure is unsightly and is not compatible with a residential development.

Letter from Marion Lesley Higgs of behalf of the Cola Conservancy dated 06 March 2017 (**Annexure H**):

- The objector submits that the Cell phone mast tower was erected illegally and without the consent or input from the residence of Cola Beach.
- The conservancy feels strongly that illegal activity should not be condoned by the Municipality.
- The conservancy does not object to the installation of the Cell phone mass tower in general but rather that the location that the mast is erected on is inappropriate where it currently is.
- The objector is also of the opinion that this has an adverse visual impact on surrounding residence.
- The objector also submits that the application is poorly presented, in that there are various grammatical and spelling errors.
- The Conservancy submits that that the application be refused and the tower be removed.

Letter from Neville Toerien dated 07 March 2017 (**Annexure I**):

- The Mast is on a privately owned property in a strictly residential area, there are no commercial enterprises in the area apart from a limited number of B&B 's.
- The owner of the property will derive income from the mast and thus will be conducting a commercial enterprise in a residential area. This sets a dangerous precedent
- The erection of the cell phone mast poses a threat to health of residents in the vicinity of the structure/device.

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- There are a number of environmental and health studies that have been done (internationally and locally) which demonstrate the harmful effects of radiation and similar emanating from cell phone installations. This aspect has not been addressed at all in the submission as is required in the Knysna Municipality's Policy on the *"placing, size and appearance of cellular communication masts within the Knysna municipal area"*
- Objector also submits that the application be refused and the tower be demolished or removed.

Letter from Okkie Potgieter 07 March 2017 (**Annexure I**):

- The property is zoned for residential purposes and approving the tower would constitute a commercial activity.
- The tower is not within the prescribed height restriction applicable to a Single Residential property.
- The tower has not been motivated in terms of the potential health and safety aspect which it might have on the residents of the neighbourhood.
- The objector urges that the mast be switched off, if it is found to be in operation.

Letter from Rod Fehrsen 14 February 2017 (**Annexure I**):

- The commenter is of the opinion that this application should be approved despite the fact that it was erected without planning approval as it is critical for cell phone reception in Cola Beach as there is virtually no cellular signal in this area.

Letter from Sonja Nieman dated 02 March 2017

- The cellular mast that was put up in our area does not have any prior approval by the Municipality and is therefore illegal.
- There was no application made available for viewing and approving for owners in this "Conservancy".
- The structure is visible from afar and on my doorstep and one cannot enter or leave the home without looking right into it.
- This tower is also a great health concern and one more reason why we cannot accept it.

Letter from Van der Westhuizen Attorneys on behalf of Cola Beach CC, the registered owner of Erf 3652 Sedgefield, dated 01 march 2017

- The Cellular mast tower was erected illegally.
- The erection of the cellular mast and base station will have a severe negative impact on our client's property value as the 15m cellular is situated on the border of our client's property,
- It obscures our client's previously unspoiled views of the sea, mountains and surrounding areas

PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation		
BUILDING CONTROL	31-05-2017	No objection	Positive	Negative	Comment

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ROADS & STORMWATER:	22-02-2017	No objection	Positive	Negative	Comment
WATER & SEWER:	06-06-2017	No objection	Positive	Negative	Comment
Esthetics review Committee	07-07-2017	The Committee resolved to recommend to the Acting Building Control Officer that: The Committee does not support the proposed cellular mast on a single residential site as it will negatively affect the aesthetics of the area.	Positive	Negative	Comment

PART L: SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The applicant responded as follow.

- Vodacom strives to provide its 33.3 million customers uninterrupted mobile connectivity without endangering their health.
- The health and safety of our customers, employees, contractors and the public is very important to us. To this end, we have put in place policies and procedures to govern the implementation of all radio base stations.
- Vodacom, like all Global network operators, ensures that all its radio base stations comply with internationally accepted standards and norms. We look to the World Health Organization (WHO) and the South African Department of Health for guidance on all health related items
- Most people welcome improved coverage and services, but we recognize that expanding our network can sometimes cause concern, usually about the visual impact of base stations or health issues concerning radio frequency (RF) fields.
- Research into the possible health effects of radio frequency fields has been going on for almost 70 years, and there has been more specific research into mobile phones in the last few decades.
- Despite extensive research, to date there is no evidence to conclude that exposure to low level electromagnetic fields is harmful to human health

PART M: MUNICIPAL ASSESSMENT OF COMMENTS

- Most of the objector commented on the fact that the mast tower has been erected illegally and that approving it would not make it legal.
- Other issues were raised regarding the health and safety with regards to the operation of the mast tower.
- Some objectors have also commented on the issue regarding negative visual impact as a result of the application.
- However, one of the objectors have stated that he/she is in support of this tower as it provides for better reception, and one other has stated that they are not entirely against the application but feel that its location is inappropriate.

PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Was the application processed correctly (if no, elaborate below):	Y	N
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA?	Y	N

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<p><u>Application History</u></p> <p>It was noted that a mast tower was illegally constructed on a beach, at which time a complaint was lodged which led to the Municipality investigating the matter and issuing a noncompliance notice to the owner. This letter was initially sent to the wrong address but then later reached the correct individual. A temporary use departure was then later submitted for consideration.</p>
<p><u>(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)</u></p> <p>SPLUMA creates a new framework to govern planning permissions and approvals, sets parameters for new developments and provides for different lawful land uses in South Africa. SPLUMA is a framework law, which means that the law provides broad principles for a set of provincial laws that will regulate planning. The principles listed in SPLUMA are not easily weighed when evaluating applications like departures for building line relaxations or consent uses or even temporary use departures. Even though it is difficult to state whether it is consistent with the principles, one can at least say that it is not in conflict with these principles.</p>
<p><u>(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)</u></p> <p>The applicant is not in conflict with the principles referred to in Chapter VI of the Land Use Planning Act, 2014.</p>
<p><u>(In)consistency with the IDP/Various levels of SDF's/Applicable policies</u></p> <p>The SDF (2017) is completely silent on the matter of mast towers and communication devices, hence it is difficult to determine whether this is consistent or in conflict with it. It does however, promote the policy of complete neighbourhoods. It can be argued that this application can be seen as a step into the direction of achieving complete towns.</p>
<p><u>(In)consistency with guidelines prepared by the Provincial Minister</u></p> <p>N/A</p>
<p><u>Impact on Municipal engineering services</u></p> <p>This will have no impact on the existing services as the uses exist and no additional demand for services is foreseeable as a result of this application.</p>
<p><u>Outcomes of investigations/applications i.t.o other legislation</u></p> <p>N/A</p>
<p><u>Existing and proposed zoning comparisons and considerations</u></p> <p>The zoning of the property remains the same.</p>
<p><u>The desirability of the proposal</u></p> <p>This application poses some negative disadvantages and a few positive benefits for the surrounding residents.</p> <p>Many of the residents have however objected to this application on the basis that it might pose a health risk to them as no evidence has been presented to them that states that the device is safe and claims that the device is also adversely affecting the aesthetics of the surrounding areas and the neighbours as well as the Aesthetics Committee.</p> <p>The positive benefits that might be presented as a result of this device being approved would be the fact that it would increase the quality and the strength of the network coverage in this area for the users of the subject network company.</p>
<p>PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS (REFER TO ROR GUIDELINE)</p>

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<u>The financial or other value of the rights</u> N/A
<u>The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal</u> N/A
<u>The social benefit of the restrictive condition remaining in place, and/or being removed/amended</u> N/A
<u>Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights</u> N/A
PART P: SUMMARY OF EVALUATION
<p>The property is zoned "Single Residential" in terms of Sedgefield Zoning Scheme Regulations (1980), is 1019m² in extent and is being used for residential purposes. The cellular mast tower has illegally been erected on the property.</p> <p>All the comments of the surrounding property owners and the reply from Vodacom is herewith acknowledge and taken into account.</p> <p>In the court case of Mobile Telephone Network (MTN) v BEEKMANS NO (1139/2015) [2016] ZASCA 188 the Supreme Court of Appeal of South Africa made a ruling that a telecommunication base station cannot be approved as a temporary building. In terms of the National Building Regulations, a temporary building is defined as: 'any building that is so declared by the owner and that is being used or is to be used for a specified purpose for a specified limited period of time, but does not include a builder's shed'. The court argued that whether a building is permanent or temporary is ordinarily determined by its objective nature, characteristics and its purpose. It can therefore be argued that given the fact that a mast tower is usually not a temporary structure, it can therefore not be approved as a temporary use departure application. The case was made that a temporary building can only be regarded as such in terms of the National Building Regulations if the following conditions were met. The first point to note is that a temporary building as thus defined is also a 'building' as defined in Section 1 of the National Building Regulations. The second is that there are two requirements to be met for a building to qualify as a 'temporary building': (i) the building must have been so declared by the owner; and (ii) the building must be one which is being used or will be used 'for a specified purpose for a specified limited period of time'.</p>

The application regarding the telecommunication and the subject application are the same in the following aspects- it had a number of objection, the neighbours also complaint about their health and safety concerns and the adverse aesthetic impact of the cellular telecommunication tower which might reduce the value of surrounding properties. The response in the abovementioned case by the network provider was the same as the response of the current applicant in this application, in that "there are no conclusive evidence of adverse health effects" as a result of these communication base stations.

In December 2008 Council has adopted the policy of Cellular Telecommunication Masts in order to manager and control the placing, size and appearance of cellular communication masts within the Knysna Municipal Area

This policy outlines a few criteria that should be met in order to allow such a mast tower, some of the important aspects that is required and is highlighted in the policy includes the following:

- The cell-phone service provider must provide a certificate indicating that the placing of a cell-phone antenna will not create a threat to health and public safety in order to receive consideration- **Which the applicant did not provide.**
- Cell-phone service provider antennae must be attached to existing structures wherever this is possible without threatening health and safety- **Non compliant**
- Cell-phone masts must be designed in a manner which provides for them to be shared by the other service providers;- **Non compliant**
- Cell-phone mast heights must be as low as possible without threatening health and safety of residents; **No proof was supplied to the effect of the safety of the mast tower.**
- Undisguised cell-phone masts higher than 3m may not be placed on prominent ridge-lines or on coastal cliffs;- **Non compliant**
- The base station of a cell-phone mast, where it will be visible to the public, must also be appropriately disguised e.g. as painted in dark tones of green in a forest/plantation setting, or designed as an agricultural shed in a south cape/karoo style in farming areas. - **Comply**

It's is clear that many of the requirements of the policy was not considered with the submission of this application.

Lastly in terms of the Knysna Municipality By-law on Municipal Land Use Planning 2016, a temporary departure application in terms of section 18(1)(b) may include an improvement of land only if –

(a) the improvement is temporary in nature; and

(b) the land can, without further construction or demolition, revert to its previous lawful use upon the expiry of the use right.

As discussed in the above Court, it has already been determined that a telecommunication base station cannot be regarded as being temporary in nature. Therefore, an approval cannot even be considered as there are no legal provision in the aforementioned legislation that might allow for this application to be approved on a temporary basis.

Relevant consideration that was looked at on evaluating this application were:

- SDF – The application does not seem to be in conflict with the SDF;
- Chapter 2 of SPLUMA and Chapter VI of LUPA – Has already been discussed above;
- Desirability – The applicant did not provide satisfactory evidence that there are no health risks that might occur because of this application. The applicant did not follow the recommendations and the requirements of the Knysna Municipality policy on the placing, size and appearance of cellular communication masts within the Knysna municipal area (2008). The applicant constructed the tower without prior approval from the Knysna Municipality and without any consideration to the neighbouring property owners.
- Environmental concerns - Not applicable.

PART Q: RECOMMENDATION

1. That, the application **BE REFUSED** in terms of Section 60 of the Knysna Municipal Land Use Planning By- Law, 2016 for the application in terms of Section 15 (2)(b), to utilise land on a temporary basis for a purpose not permitted in terms of the primary rights of the Sedgefield Scheme Regulations for a period not exceeding five years on Erf 3651, Sedgefield as indicated on plan the plan drawn by BJB project Services dated 20 June 2016.
2. That the applicant be instructed to apply for a consent use application in terms of Section 15(o) of the Knysna Municipality By-Law on Municipal Land Use Planning (2016) to allow the proposed telecommunication instead as allowed for in terms of the amended scheme regulations published in gazette notice P.N. 245/2009 dated 17 July 2009.

PART R: REASONS FOR RECOMMENDATION

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The following reasons be given for the refusal of this application:

- No certificate has been supplied by the services provider to indicate that the placing of a cell-phone antenna will not create a threat to health and public safety.
- The proposal does not impact negatively to the neighbouring property rights.
- The applicant did not follow the recommendations and requirements of the Knysna Municipality policy on the placing, size and appearance of cellular communication masts within the Knysna municipal area (2008).
- The applicant illegally constructed the tower without prior approval from the Knysna Municipality and without any consideration to the neighbouring property owners.
- As been pre-determined in the Supreme Court of Appeal of South Africa in the Court case of Mobile Telephone Networks v Beekmans NO (1139/2015) - A cellular communications base station and mast cannot be considered as a temporary building.
- The cellular base station and mast will negatively affect the aesthetics of the area.
- The Supplementary Regulations in terms of the Ordinance 1985 makes provision for the installation of telecommunication base stations but not on a residential zoned. For that reason, the applicant instead needed to rezone the property to the appropriate zone, as temporary use departure

PART S: ANNEXURES

ANNEXURE A - Locality Plan

ANNEXURE B - Mailing list

ANNEXURE C - Motivation report

ANNEXURE D - Compliance Notice dated 11 January 2017

ANNEXURE E - Court case of Mobile Telephone Networks v Beekmans NO (1139/2015)

ANNEXURE F - Amended scheme regulations published in gazette notice P.N. 245/2009 dated 17 July 2009

PART T: SIGNATURES

Author name: Steward Mqhele

Author signature

Date: 22 January 2018

Registered planner name:

Registered planner signature:

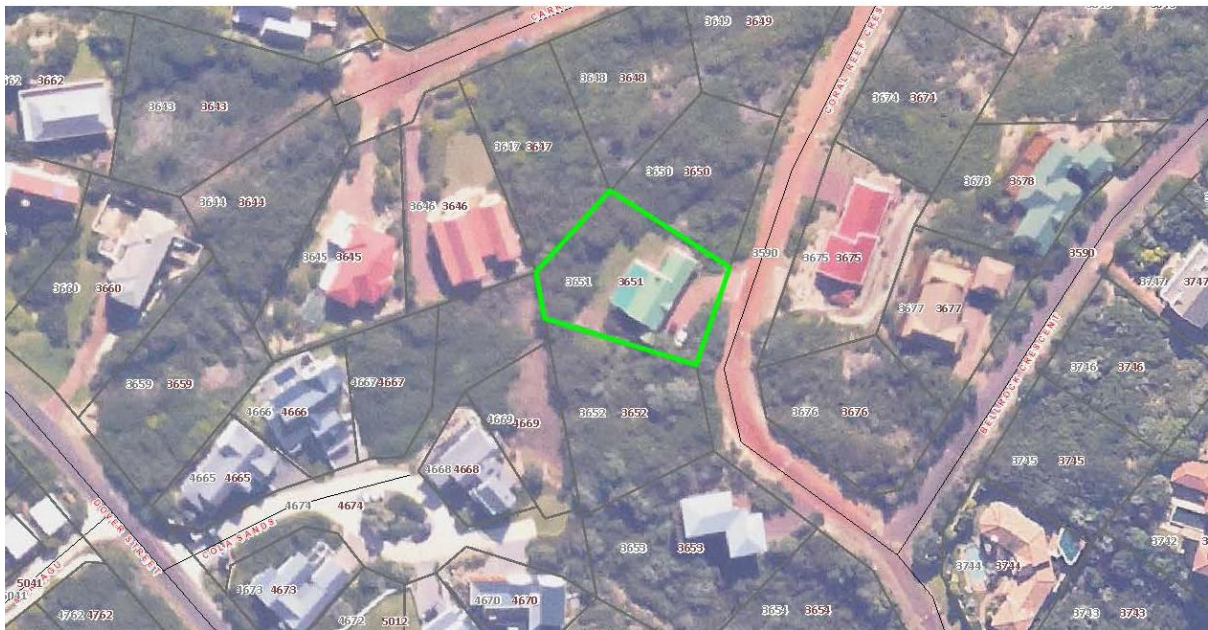
SACPLAN registration number:

Date:

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Decision maker: Knysna Municipal Tribunal

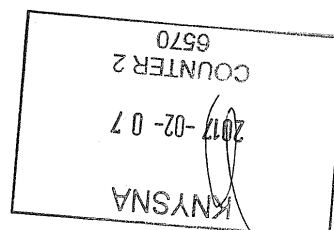
Annexure A- Locality Plan



Annexure B- Advert and mailing list

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4669	NIEMAN SB & JD POSTNET SUITE PRIVATE BAG X1007 MIDRAND 1450	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 640 ZA CUSTOMER COPY CON080013
4668	7 JOSEPH PROP. (PTY) LTD PO BOX 1910 RANDPARK RIDGE JOHANNESBURG 2156	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 636 ZA CUSTOMER COPY CON080013
3653	ME. SW MALAN SHIPSTONELAAN 12 VICTORIA JOHANNESBURG 2192	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 622 ZA CUSTOMER COPY CON080013
4670	ROWE DM PO BOX 298 SEDFIELD 6573	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 361 ZA CUSTOMER COPY CON080013
3676	WHITE SANDS PROP TRUST PO BOX 1223 WELLINGTON 7654	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 715 ZA CUSTOMER COPY CON080013
3675	WERRY RJ PO BOX 495 SEDFIELD 6573	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 684 ZA CUSTOMER COPY CON080013
3677	ANMAR TRUST 15 MANNING STREET COLBYN PRETORIA 0083	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 698 ZA CUSTOMER COPY CON080013
3674	STROUD MS FLAT 2 OLIVE TREE COTTAGE MAIN ROAD TSUMEB NAMIBIA	INTERNATIONAL REGISTERED LETTER RJ 037 182 553 ZA A BOOK COPY
3678	OKKIE POTGIETER FAMILIE TRUST POSBUS 87 SECUNDA 2302	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 675 ZA CUSTOMER COPY CON080013



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MAILING LIST FOR ERF 3651 SEDGEFIELD

4667	HIGHTRADE INVEST 26 (PTY) LTD PO BOX 1547 STRUBENS VALLEY ROODEPOORT 1735	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 667 ZA CUSTOMER COPY CON080013
3645	PNM ANSTEY PO BOX 1734 PINEGOWRIE JOHANNESBURG 2123	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 619 ZA CUSTOMER COPY CON080013
3646	LICHTSTEINER M PO BOX 976 SEDFIELD 6573	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 605 ZA CUSTOMER COPY CON080013
3647	WATNOT PROP TRUST 32 CARNOUSTIE CRESCENT LINKSIDE PORT ELIZABETH 6001	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 790 ZA CUSTOMER COPY CON080013
3648	ME. MGC BUTOW POSBUS 20468 NOORDBURG POTCHEFSTROOM 2522	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 812 ZA CUSTOMER COPY CON080013
3649	MANNA EP PO BOX 1462 GARSFONTEIN PRETORIA 0043	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 830 ZA CUSTOMER COPY CON080013
3650	FMJ ROUSSEAU PO BOX 1346 SEDFIELD 6573	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 741 ZA CUSTOMER COPY CON080013
3651	WALLACE AD PO BOX 158 IRENE PRETORIA 0062	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 772 ZA CUSTOMER COPY CON080013
3652	ERF 3652 COLA BEACH CC MNR. DHM TROSKIE POSBUS 39180 MORELETA PARK 0044	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 724 ZA CUSTOMER COPY CON080013

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**KNYSNA MUNISIPALITEIT VERORDENING OP MUNISIPALE
GRONDGEBRUIKBEPLANNING (2016)**

VOORGESTELDE TYDELIKE AFWYKING: ERF 3651, SEDGEFIELD

Aansoeker: Nicolaas Daniel Beukes
Kontak Nr: 041-364 2179
Verwysing nommer: Aansoek Nr. 1466
Eiendom beskrywing: Erf 3651, Sedgfield
Fisiese adres: Coral Reef 9, Sedgfield
Aard van aansoek: 'n Tydelike afwyking in terme van Artikel 15(2)(c) van die Knysna Munisipaliteit Verordening op Munisipale Grondgebruikbeplanning (2016) om 'n 15m hoë lampaal selulêre mas en basisstasie toe te laat op Erf 3651, Sedgfield.

Kennis geskied hiermee ingevolge Artikel 45 van die Knysna Munisipaliteit Verordening op Munisipale Grondgebruikbeplanning (2016) dat die bogenoemde aansoek ontvang is en ter insae lê, gedurende kantoorure by: Munisipale Stadsbeplanning Kantore, Kerkstraat 3, Knysna, die Sedgfield Biblioteek asook die munisipale webtuiste by die volgende adres:

<http://www.knysna.gov.za/resident-services/planning/current-land-use-applications/>

Enige skriftelike kommentaar of besware mag ingedien word ingevolge Artikel 50 van die bogenoemde Verordening by die Waarnemende Munisipale Bestuurder, Posbus 21, Knysna, 6570 of per epos aan knysna@knysna.gov.za op of voor 8 Maart 2017, met vermelding van bogenoemde Verordening, beswaarmaker se naam, adres of kontak besonderhede, belang in die aansoek en redes vir kommentaar of besware. Die munisipaliteit mag kommentaar of besware weier wat na die sluitingsdatum ingehandig word. Persone wat nie kan skryf nie kan die Stadsbeplanningafdeling by Kerkstraat 3, Knysna, nader tydens kantoorure waar die Klerk u sal verwys na die betrokke amptenaar wat u sal help om u kommentaar of besware op skrif te stel.

Telefoniese navrae kan gerig word aan die Stadsbeplanner, Steward Mqhele by 044-302 6339 of per epos smqhele@knysna.gov.za tydens kantoorure.

Leërvewysing: 203651000

J.B. DOUGLAS
WAARNEMENDE MUNISIPALE BESTUURDER



**KNYSNA MUNICIPALITY BY-LAW ON MUNICIPAL LAND USE
PLANNING (2016)**

**PROPOSED TEMPORARY USE DEPARTURE: ERF 3651,
SEDEFIELD**

Applicant: Nicolaas Daniel Beukes
Contact No: 041-364 2179
Reference number: Application No. 1466
Property Description: Erf 3651, Sedgfield
Physical Address: 9 Coral Reef, Sedgfield
Nature of application: Temporary use departure in terms of Section 15(2)(c) of the Knysna Municipality By-law on Municipal Land Use Planning (2016), to allow a 15m high lamp post cellular mast and base station on Erf 3651, Sedgfield.

Notice is hereby given in terms of Section 45 of the Knysna Municipality By-law on Municipal Land Use Planning (2016) that the abovementioned application has been received and is available for inspection during office hours at: Town Planning Department, 3 Church Street, Knysna, the Sedgfield Library as well as the municipal website at the following web link:

<http://www.knysna.gov.za/resident-services/planning/current-land-use-applications/>

Any written comments or objections may be addressed in terms of Section 50 of the said By-law to the Acting Municipal Manager, P.O. Box 21, Knysna, 6570 or via email knysna@knysna.gov.za on or before 8 March 2017, quoting your, name, address or contact details, interest in the application and reasons for comments or objections. The municipality may refuse to accept comments or objections received after the closing date. Any person who cannot write may approach the Town Planning Office at 3 Church Street, Knysna, during office hours, where the Clerk will refer you to the responsible official who will assist you in putting your comments or objections in writing.

Telephonic enquiries can be made to the Town Planner, Steward Mqhele at 044-302 6339 or via email smqhele@knysna.gov.za during office hours.

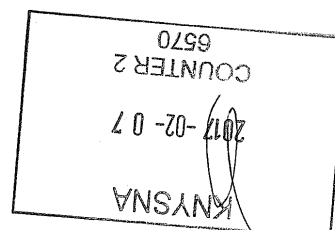
File reference: 203651000

J.B. DOUGLAS
ACTING MUNICIPAL MANAGER

Annexure C- Advert and mailing list

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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4669	NIEMAN SB & JD POSTNET SUITE PRIVATE BAG X1007 MIDRAND 1450	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 640 ZA CUSTOMER COPY CON080013
4668	7 JOSEPH PROP. (PTY) LTD PO BOX 1910 RANDPARK RIDGE JOHANNESBURG 2156	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 636 ZA CUSTOMER COPY CON080013
3653	ME. SW MALAN SHIPSTONELAAN 12 VICTORIA JOHANNESBURG 2192	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 622 ZA CUSTOMER COPY CON080013
4670	ROWE DM PO BOX 298 SEDFIELD 6573	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 361 ZA CUSTOMER COPY CON080013
3676	WHITE SANDS PROP TRUST PO BOX 1223 WELLINGTON 7654	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 715 ZA CUSTOMER COPY CON080013
3675	WERRY RJ PO BOX 495 SEDFIELD 6573	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 684 ZA CUSTOMER COPY CON080013
3677	ANMAR TRUST 15 MANNING STREET COLBYN PRETORIA 0083	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 698 ZA CUSTOMER COPY CON080013
3674	STROUD MS FLAT 2 OLIVE TREE COTTAGE MAIN ROAD TSUMEB NAMIBIA	INTERNATIONAL REGISTERED LETTER RJ 037 182 553 ZA A BOOK COPY
3678	OKKIE POTGIETER FAMILIE TRUST POSBUS 87 SECUNDA 2302	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 675 ZA CUSTOMER COPY CON080013





KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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MAILING LIST FOR ERF 3651 SEDGEFIELD

4667	HIGHTRADE INVEST 26 (PTY) LTD PO BOX 1547 STRUBENS VALLEY ROODEPOORT 1735	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 667 ZA CUSTOMER COPY CON080013
3645	PNM ANSTEY PO BOX 1734 PINEGOWRIE JOHANNESBURG 2123	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 619 ZA CUSTOMER COPY CON080013
3646	LICHTSTEINER M PO BOX 976 SEDFIELD 6573	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 605 ZA CUSTOMER COPY CON080013
3647	WATNOT PROP TRUST 32 CARNOUSTIE CRESCENT LINKSIDE PORT ELIZABETH 6001	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 790 ZA CUSTOMER COPY CON080013
3648	ME. MGC BUTOW POBUS 20468 NOORDBURG POTCHEFSTROOM 2522	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 812 ZA CUSTOMER COPY CON080013
3649	MANNA EP PO BOX 1462 GARSFONTEIN PRETORIA 0043	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 830 ZA CUSTOMER COPY CON080013
3650	FMJ ROUSSEAU PO BOX 1346 SEDFIELD 6573	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 741 ZA CUSTOMER COPY CON080013
3651	WALLACE AD PO BOX 158 IRENE PRETORIA 0062	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 772 ZA CUSTOMER COPY CON080013
3652	ERF 3652 COLA BEACH CC MNR. DHM TROSKIE POBUS 39180 MORELETA PARK 0044	INTERNATIONAL INSURED PARCEL ShareCall 0860 111 502 www.sapo.co.za CV 011 203 724 ZA CUSTOMER COPY CON080013

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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 KNYSNA Munisipaliteit Sedgefield	
KNYSNA MUNISIPALITEIT VERORDENING OP MUNISIPALE GRONDGEBRUIKBEPLANNING (2016)	
VOORGESTELDE TYDELIKE AFWYKING: ERF 3651, SEDGEFIELD	
Aansoeker:	Nicolaas Daniel Beukes
Kontak Nr:	041-364 2179
Verwysing nommer:	Aansoek Nr. 1486
Eiendom beskrywing:	Erf 3651, Sedgefield
Fisiese adres:	Coral Reef 9, Sedgefield
Aard van aansoek:	'n Tydelike afwyking in terme van Artikel 15(2)(c) van die Knyana Munisipaliteit Verordening op Munisipale Grondgebruikbeplanning (2016) om 'n 15m hoë lampaal selulêre mas en basisstasie toe te laat op Erf 3651, Sedgefield.
<p>Kennis geskied hiermee ingevolge Artikel 45 van die Knyana Munisipaliteit Verordening op Munisipale Grondgebruikbeplanning (2016) dat die bogenoemde aansoek ontvang is en ter insae lê, gedurende kantoorure by: Munisipale Stadsbeplanning Kantore, Kerkstraat 3, Knyana, die Sedgefield Biblioteek asook die munisipale webtuiste by die volgende adres:</p> <p>http://www.knyana.gov.za/resident-services/planning/current-land-use-applications/</p> <p>Enige skriftelike kommentaar of besware mag ingedien word ingevolge Artikel 50 van die bogenoemde Verordening by die Waarnemende Munisipale Bestuurder, Posbus 21, Knyana, 6570 of per epos aan knyana@knyana.gov.za op of voor 8 Maart 2017, met vermelding van bogenoemde Verordening, beswaarmaker se naam, adres of kontak besonderhede, belang in die aansoek en redes vir kommentaar of besware. Die munisipaliteit mag kommentaar of besware weier wat na die sluitingsdatum ingehandig word. Persone wat nie kan skryf nie kan die Stadsbeplanningafdeling by Kerkstraat 3, Knyana, nader tydens kantoorure waar die Klerk u sal verwys na die betrokke amptenaar wat u sal help om u kommentaar of besware op skrif te stel.</p> <p>Telefoniese navrae kan gerig word aan die Stadsbeplanner, Steward Mqhele by 044-302 6339 of per epos smqhele@knyana.gov.za tydens kantoorure.</p> <p>Leërverwysing: 203651000</p> <p>J.B. DOUGLAS WAARNEMENDE MUNISIPALE BESTUURDER</p>	
 KNYSNA Munisipaliteit Sedgefield	
KNYSNA MUNICIPALITY BY-LAW ON MUNICIPAL LAND USE PLANNING (2016)	
PROPOSED TEMPORARY USE DEPARTURE: ERF 3651, SEDGEFIELD	
Applicant:	Nicolaas Daniel Beukes
Contact No:	041-364 2179
Reference number:	Application No. 1486
Property Description:	Erf 3651, Sedgefield
Physical Address:	9 Coral Reef, Sedgefield
Nature of application:	Temporary use departure in terms of Section 15(2)(c) of the Knyana Municipality By-law on Municipal Land Use Planning (2016), to allow a 15m high lamp post cellular mast and base station on Erf 3651, Sedgefield.
<p>Notice is hereby given in terms of Section 45 of the Knyana Municipality By-law on Municipal Land Use Planning (2016) that the abovementioned application has been received and is available for inspection during office hours at: Town Planning Department, 3 Church Street, Knyana, the Sedgefield Library as well as the municipal website at the following web link:</p> <p>http://www.knyana.gov.za/resident-services/planning/current-land-use-applications/</p> <p>Any written comments or objections may be addressed in terms of Section 50 of the said By-law to the Acting Municipal Manager, P.O. Box 21, Knyana, 6570 or via email knyana@knyana.gov.za on or before 8 March 2017, quoting your name, address or contact details, interest in the application and reasons for comments or objections. The municipality may refuse to accept comments or objections received after the closing date. Any person who cannot write may approach the Town Planning Office at 3 Church Street, Knyana, during office hours, where the Clerk will refer you to the responsible official who will assist you in putting your comments or objections in writing.</p> <p>Telephonic enquiries can be made to the Town Planner, Steward Mqhele at 044-302 6339 or via email smqhele@knyana.gov.za during office hours.</p> <p>File reference: 203651000</p> <p>J.B. DOUGLAS ACTING MUNICIPAL MANAGER</p>	

Annexure D- First Notice

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
AGENDA
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J H SMIT
3650 SED
Tel: 044-302 6318
Collab. No.

2016-11-18

REGISTERED MAIL

FMJ ROUSSEAU
PO BOX 1346
SEDFIELD
6573

Dear Sir/Madam,

FIRST NOTICE OF NON-COMPLIANCE

ILLEGAL CELLULAR COMMUNICATIONS BASE STATION: ERF 3650, (COLA BEACH) SEDFIELD

According to our records you are the owner of the above-mentioned property.

This Municipality has reasonable grounds to suspect that you are guilty of the following offence in terms of section 86 (1) of the *Knysna Municipality By-law on Municipal Land Use Planning (2016)*.

- (a) Installation of an illegal cellular communications base station;
- (b) Contravening or failing to comply with section 15(1) of the *Knysna Municipality By-law on Municipal Land Use Planning (2016)*; and
- (c) Utilising land in a manner other than prescribed by a zoning scheme without the approval of the Municipality;

You are hereby instructed in terms of section 87 of the said legislation, to cease effect one or more of the following action:


- (a) Remove the illegally erected cellular communications base station, with immediate effect;
- (b) submit an application for the approval, subject to the payment of a contravention levy, of the structure in terms of this By-law within 30 days of the service of the compliance notice and to pay the contravention levy determined in accordance with Council policy within 30 days after approval of the utilisation; or
- (c) to submit an objection to the notice by submitting written representations to the Municipality within 30 days of receipt of the notice in terms of section 87 (5) of the said legislation.

Kindly note that failure to comply with the above request may result in further action, legal or otherwise, being taken against you in terms of section 88(1)(g)(i)-(v) of the said legislation.

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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We trust that we will receive your cooperation in respect of the above. Should you have any further inquiries, kindly contact the Senior Town Planner, Mr S Mthembu at Tel: (044) 302 6341 or Email: smthembu@knysna.gov.za, during office hours.

Yours faithfully


BEVAN R. ELMAN
ACTING MUNICIPAL MANAGER
/db

Annexure E- Court Case



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

In the matter between

Case No: 13543/14

CARL HENRICUS BEEKMANS N.O.

FIRST APPLICANT

STEPHEN MARSHALL N.O.

SECOND APPLICANT

TIMOTHY LISTER MAUGHAN N.O.

THIRD APPLICANT

And

**MOBILE TELEPHONE NETWORKS (PTY) LTD
CITY OF CAPE TOWN**

**FIRST RESPONDENT
SECOND RESPONDENT**

Coram: ROGERS J

Heard: 21 MAY 2015

Delivered: 3 JUNE 2015

JUDGMENT

ROGERS J:

Introduction

[1] This case is about the construction by the first respondent ('MTN') of a base telecommunication station, including a 14,5 metre high mast, on Erf 10762 Constantia, which lies at the south-west end of Dalham Road.¹ The applicants, to whom I shall refer collectively as 'the Trust', are the owners of Erf 10764, which abuts Erf 10762 on the latter's northern boundary. The Trust seeks to set aside building plan approval granted to MTN by the second respondent ('the City') on 17 October 2013. The case raises questions regarding the interpretation and application of the National Building Regulations and Building Standards Act 103 of 1997 ('the Act') and the regulations promulgated thereunder in relation to so-called 'temporary buildings'.

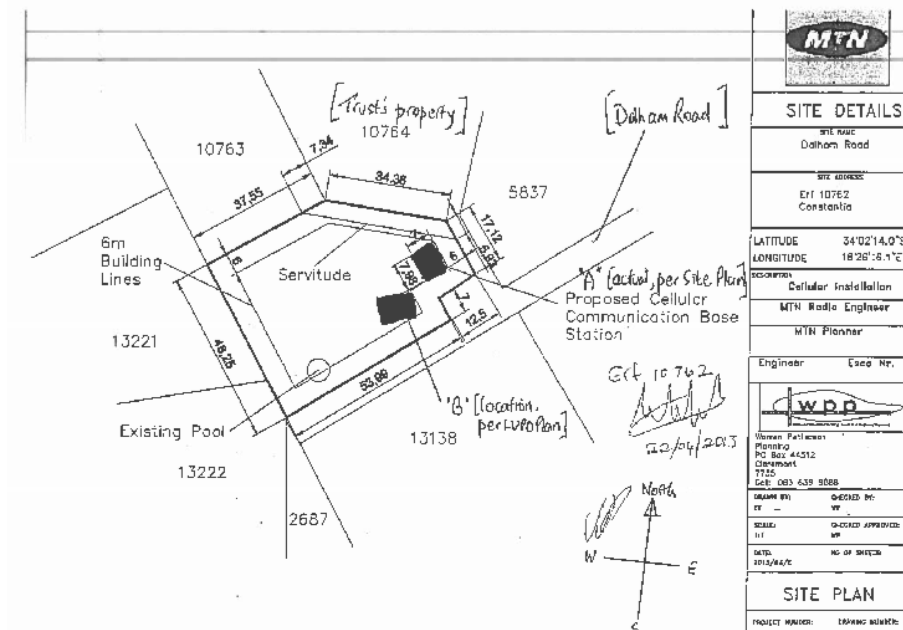
[2] MTN opposes the application. The City abides and has not participated in the proceedings. Mr Mitchell SC leading Mr Kelly appears for the Trust and Mr Mtembu for MTN.

The facts

[3] To assist in what follows, I reproduce below a Site Plan of Erf 10764, on which certain features, to be discussed later, are marked:

¹ Three separately paginated files were placed before me, being the papers in the present application, the papers in an earlier urgent application, and the record furnished by the City in terms of Rule 53. Where it is necessary to identify a document in this judgment, I shall do so by page number preceded by the letters A, U and R as appropriate.

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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[4] The history of the matter is briefly the following. Erf 10762 is zoned Single Residential. Prior to the construction of the base station it was vacant land. In order to construct the base station MTN needed to get approval for a departure in terms of s 15 of the Land Use Planning Ordinance 15 of 1985 ('LUPO'). During May 2008 MTN lodged an application in terms of s 15(1)(b) of LUPO to use the property on a temporary basis, being five years, as a base station. There were four objections, including from the Constantia Property Owners' Association ('the CPOA'). The two main objections, as summarised in the City's planning report dated 4 October 2010, were health and safety concerns and adverse aesthetic impact, both of which might reduce the value of surrounding properties. MTN's position was that there is no conclusive evidence of adverse health effects. The proposed temporary departure would only be issued for five years, thus giving opportunity to decommission the site if research proved that it was detrimental to health. Visual impact would be minimised by disguising the mast as a pine tree blending in with the existing trees.

[5] The planning report recommended that the application be approved on specified conditions. On 20 October 2010 the Council granted the departure on the

recommended conditions. The approval was valid for five years. After five years, or if the site was decommissioned before such time, MTN was to remove all site infrastructure and the property was to be rehabilitated. If the base station was still required to be operational after five years, a new application had to be made for consideration and approval. The mast was to be disguised as a pine tree. Importantly for present purposes, the 'location' of the base station was, in terms of a 'special condition', to be 'generally in accordance with' three specified plans referred to in the approval as Site Development Plans. In truth only one of the three specified plans, titled 'Site Locality Drawing Plan View', indicated the intended location of the base station on the property.² For convenience I shall refer to this as the LUPO Plan. The other two specified plans were Equipment Layout plans.³

[6] The City notified MTN of this decision by way of a letter dated 4 November 2010 addressed to MTN's town planners, Warren Petterson Planning ('WPP'). This letter stated that the validity period of five years would run from the Council's final notification letter. It appears that this would be issued after the finalisation of any administrative appeals. The CPOA duly lodged an appeal. By way of a letter dated 30 January 2013 the City notified the CPOA that the Competent Authority had dismissed the appeal. Why the appeal took so long does not appear from the papers. On 5 March 2013 the City sent a final notification letter to WPP, stating that the appeal process had been concluded and that the previous approval was now regarded as final.

[7] MTN not only required a departure in terms of LUPO (which it now had); it also needed approval in terms of the Act to construct the base station, which was to be a three-room brick-and-mortar structure with a corrugated iron roof and a wall-enclosed slab with gated vehicular access on which the mast was to be erected. Two of the rooms are described on the plans as Operator Rooms, the third as an Equipment Room. The structure is not intended for human habitation.

[8] During April 2013 MTN submitted building plans for approval in terms of s 4 of the Act. At this stage there was no indication that the approval which MTN was

² A43 and R344; marked-up version at A47.

³ R345 and R346.

seeking was anything other than ordinary building plan approval in accordance with s 7(1) of the Act.

[9] In an internal report by a Mr Gossman (Senior Engineering Technician in the City's Health Department: Specialised Services) the writer inter alia recommended 'that a rigorous public participation process' be followed 'as there has been public outcry in the media some time ago in that particular area'.

[10] Objections to building plan approval were lodged by 21 property owners in the area, including the Trust, during May and June 2013. The objectors, including the Trust, submitted objections in identical form in which only the health issue was raised and in terms of which the objectors asked that approval be refused in terms of s 7(1)(b)(ii)(bb) (ie on the basis that the building would 'probably or in fact be dangerous to life or property'). The Trust lodged an additional objection through its town planner, Tommy Brümmer Town Planners ('TBTP'). The thrust of the TBTP objection was aesthetic. The Trust complained that the base station, and in particular the mast, would be unsightly and objectionable and devalue surrounding properties. An expert opinion from a professional valuer was attached. The Trust said that if the mast could be successfully disguised, it should be disguised as a stone pine, which were common in the area, and 'not some arbitrary pine tree that is not common to the region at all'.

[11] In regard to the location of the base station, TBTP said the following:

° The positioning of the proposed mast at the eastern side of Erf 10762 is regarded as highly insensitive due to this position being at the focal point of the western axis of Dalham Road, which ends in a cul-de-sac with turning circle. The mast will be highly visible to any user of Dalham Road travelling in a westerly direction, given that the mast will be in the direct line of sight to any person driving or walking along the road. No attempt has been made to locate the mast closer to the trio of Stone pines located within the southern boundary of Erf 10762⁴ Constantia.

⁴ The letter says 'Erf 19762' but this is an obvious typographical error: there is no Erf 19762 abutting Erf 10762.

- The mast will be visible from a number of other locations as well and will most certainly compete with the trio of Stone Pines which are imminently visible from the surrounding network of roads in the area...'

[12] These concerns found some support in an internal City report dated 12 July 2013 authored by the Regional Manager of Environmental and Heritage Resources Management: Southern Region. The writer said that the importance of mature trees as visual screening was clearly stipulated in the City's Cellular Telecommunications Infrastructure Policy. Since Erf 10762 did not itself contain large trees, the mature stone pines in the vicinity of the site formed the only apt visual mitigation. He proposed that due consideration be given to tree species that would ultimately provide effective screening for a 14,5 metre high mast.

[13] On 3 October 2013 the City notified MTN that the application for building plan approval was refused in terms of s 7. The only document in the record furnished by the City shedding light on this decision is an internal memorandum of the previous day written by Mr William Carter: Section Head BDM in which he said that the application should be returned to the MTN unapproved in its current form. He continued:

'The applicant is to submit a written application in terms of Regulation A23(1).... The period to be applied for as a temporary building (cell mast) is to be for a maximum of five (5) years. This is to bring it in line with the Temporary Land Use Departure that has been granted for this property.

This will then replace the Section 4 application and lpos is to indicate it as a temporary building.'

[14] On 10 October 2013 WPP on behalf of MTN informed the City that MTN withdrew the previous application in terms of s 7 and wished to submit a revised application in terms of regulation A23(1) for a period of five years corresponding with the duration of the approved departure. No new plans were submitted; the City was simply asked to reassess, now in terms of regulation A23, the plans already submitted.

[15] On 17 October 2013 the City, in the person of Mr Carter, addressed a letter to WPP as follows:

'Provisional authorisation is hereby granted in terms of Regulation A23(1)... to proceed with the erection of the Temporary Cellular Communication Base Station as proposed on building plan application number 01461/2013 subject to the following conditions:

1. The period it may remain on the property is five (5) years from the granting of the Temporary Land Use Departure (granted in March 2013). It will then be demolished and all material moved from the property. One or more extensions may be considered on request of the owner as contemplated in Sub-regulation A23(4)⁵ provided that the Land Use Departure is further extended.

2. The Building Development Management Section reserves the right to order you to remove the temporary structure should it be deemed necessary for health or safety reasons or on non-compliance with any of the conditions imposed in granting this authorisation.

3. All conditions set out in the granting of the Temporary Land Use Departure remain and are to be adhered to.

This authorisation does not exempt you from complying with any other applicable law with regard to the erection and/or use of the Temporary Cellular Communication Base Station.'

[16] The building plans referred to in this approval, and bearing the City's date stamp 17 October 2013, formed part of the record furnished by the City in terms of rule 53.⁶ As I have mentioned, these are the plans initially submitted for approval in terms of s 4 read with s 7 of the Act. The LUPO Plan was one of the plans included in the batch of approved building drawings.⁷ Two of the other drawings in the batch were Site Plans, one of which (with additional markings) I have reproduced above.⁸ One of the Trust's complaints in the present application is that these Site Plans show a different location for the base station from the one in the LUPO Plan. The Trust says that MTN has erected the base station at the location reflected in the Site Plans, a location which in the Trust's view is not 'generally in accordance with' the LUPO Plan. This is one of the grounds on which the Trust seeks to have the building

⁵ The letter refers to regulation A25(4) but that is a typographical error.

⁶ R341-347.

⁷ R344.

⁸ R340 and R343.

plan approval set aside. The other has to do with the City's use and apparent understanding of the scope of regulation A23.

[17] Mr Mitchell submitted, in relation to the condonation issue to be considered presently, that TBTP had inspected the building plans in order to prepare its objection on behalf of the Trust but that one could infer that they had not noticed that the Site Plans differed from the LUPO Plan in regard to the location of the base station. The inference arose from the first of the two bullet points I quoted earlier from TBTP's objection to the building plans. The location reflected on the LUPO Plan is the focal point of the western axis of Dalham Road and would be in the direct line of sight of a person driving down Dalham Road towards the property. The location on the Site Plans is somewhat to the right as one drives down Dalham Road.⁹

[18] This inference seems to be correct and I accept that, if TBTP looked at the plans at all in preparing its objection, it must have failed to notice the difference in location. This is not as surprising as it might at first blush seem. It must be remembered that the LUPO Plan itself was included in the building plans. The Site Plans were drawn to a different scale and differently orientated. Accordingly, a person looking at the plans without close analysis might form his opinion on the location of the base station from the LUPO Plan. I am less confident that TBTP did actually look at the building plans. Its objection does not refer to any particular features of the building plans. The plans forming part of the LUPO approval already indicated in some detail the structure to be erected. TBTP's objection, which seems in essence to have been a rerun of the LUPO objections on aesthetics, may have been prepared without examining the building plans and on the assumption that the base station was to be positioned at the location indicated in the LUPO Plan.

[19] In mid-November 2013 Mr Brümmer learnt in an email from Mr Carter that MTN's building plans had been approved. Mr Carter simply told Mr Brümmer that 'the plans were approved last month'. The Trust and Brümmer say that they assumed, wrongly in the event, that the plans had been approved in the usual way

⁹ See also para 49.3 of the founding affidavit record A19.

in terms of s 7. They did not take steps at that stage to impeach the approval of the plans on review (they had no right to an administrative appeal).

[20] In mid-July 2014 MTN began construction. The Trust says that this is when it learnt the base station's actual location differed from the LUPO Plan. On 31 July 2014 the Trust launched an urgent application in two parts. Part A, which was set down for 8 August 2014, was for urgent interim relief; Part B sought a review and setting aside of the approval of the building plans on 17 October 2013. Part B is the matter now before me. By 31 July 2014 the Trust had learnt, through investigations made by TBTP, that the plans had purportedly been approved in terms of regulation A23.

[21] There was correspondence between the parties' attorneys in early August 2014. In the first of these letters, dated 5 August 2014, MTN's attorneys said that MTN conceded that construction of the current location contravened the approved departure. They stated that MTN had ceased construction at the non-approved location and would rehabilitate the site and commence construction at the correct location. Subsequent correspondence reflected a difference of opinion as to whether construction at the 'correct location' was dependent on further building plan approval. In the meanwhile, and on 6 August 2014, MTN filed an answering affidavit in relation to Part A, attaching its attorneys' letter of 5 August 2014 and stating that the matter was no longer urgent. In para 13 MTN's deponent said that MTN had ceased construction work 'on unapproved site'. Part A was removed from the roll on 8 August 2014 on the basis that urgency had fallen away though there was no resolution as to whether further building plan approval was needed.

[22] In an internal MTN email of 29 August 2014 a Mr Ockie Theron emphasised that in terms of the approved LUPO departure the base station only needed to be 'generally in accordance' with the LUPO Plan. The City's approval of the building plans indicated that the City's officials regarded the plans as generally being in accordance with the LUPO Plan. He expressed the opinion that MTN was entitled to build in accordance with the approved building plans but requested clarity from MTN's legal department. In an internal response of 2 September 2014 Ms Shelley Gray asked Mr Theron to get an opinion from an experienced town planner to verify

whether 'we actually have a leg to stand on here or whether we need to redo the Land Use Departure to comply with the approved building plans.' Ms Gray said that as a town planner herself she regarded the building plan approval as being definitive and that the approved LUPO departure was 'only about allowing MTN to deploy a base station on the premises'.¹⁰

[23] On 9 September 2014 WPP furnished the opinion contemplated in Ms Gray's email. The author said that the building plans were assessed by the town planning officials who had imposed the departure conditions. These officials were of the opinion that the building plans were 'generally in accordance with' the LUPO Plan. (This latter statement was, in context, an inference drawn by the author from the fact that the City had approved the building plans and that the City's Town Planning Department participated in the approval process.)¹¹ The approvals which MTN had could thus, in the author's opinion, be considered as valid and final. As long as MTN built in accordance with the approved building plans, the validity of its actions could not be questioned. The author continued by observing that the LUPO departure related to the proposed use of the land whereas the Act prescribed building standards and regulated construction. He concluded:

'Based on the above and a subsequent site inspection to confirm that MTN is in fact constructing the site in accordance with the approvals issued by the City of Cape Town, we would like to confirm that the site is in fact being constructed at the approved position. The construction is by no means contrary to the approvals issued or any other governing legislation.'

[24] Presumably on the basis of this opinion, MTN resumed construction at the location indicated on the approved building plans. The Trust learnt of this on 27 October 2014. On 31 October 2014 the Trust launched a second application in which it sought urgent interim relief pending the determination of Part B of the earlier application. MTN opposed the urgent application. Its deponent said, among other things, that the concession made in its attorneys' letter of 5 August 2014 and in his

¹⁰ This is how I understand the relevant part of her email which reads thus: 'As a town planner myself, my argument seems to favour the building plan being *'Functus Officio'* in terms of the NBR, the location was approved was processed via council, please verify that the applicable town planning department signed off on the building plans and if so then they also agreed to the location making the Land Use Departure only about allowing MTN to deploy a base station on the premises.' [sic]

¹¹ The building plans bear inter alia the stamp of the City's Zoning Administration.

Part A answering affidavit had been based solely on the Trust's founding papers in the original application and the digital photographs attached thereto. From such information and his own observation (as I understand it, observation of the materials forming part of the founding papers), but without the benefit of expert opinion, he had conceded that construction was taking place in the wrong location. After obtaining WPP's expert opinion MTN was now advised that the position where construction had started in July 2014 was the correct position as approved both in terms of LUPO and the Act. He attached the internal MTN emails and opinion, the content of which I have already summarised.

[25] The urgent application, having been postponed to 13 November 2014, was on that date argued before Allie J. On the following day she dismissed the application with costs, finding that the Trust had not made sufficient allegations in regard to urgency. She did not comment on the merits of the case.

[26] The pleadings in Part B of the earlier application followed and the matter came before me for argument on 21 May 2015. I was told from the bar that construction of the base site is now complete. Construction would not have got far by the time the original application was launched on 31 July 2014 or when the urgent application was launched on 31 October 2014.

The statutory regime

[27] The term 'building' is defined in s 1 of the Act as including 'any other structure, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof' and which is erected or used for in connection with various purposes, among which are 'the rendering of any service'. There is no doubting that the base station as reflected in the building plans, including the mast, is a 'building' as defined.

[28] Section 1 states that 'this Act' includes 'the national building regulations made and directives issued in terms of it'.

[29] Section 4(1) provides that no person shall, without the prior approval in writing of the local authority, 'erect any building in respect of which plans and specifications are to be drawn and submitted in terms of this Act'. The application for approval must, in terms of s 4(3)(b), be accompanied 'by such plans, specifications, documents and information as may be required by or under this Act' and 'by such particulars as may be required by the local authority... for the carrying out of the objects and purposes of this Act'.

[30] Section 6(1)(a) states that the local authority's building control officer (for whose appointment s 5 makes provision) must make recommendations to the local authority 'regarding any plans, specifications, documents and information submitted to such local authority in accordance with section 4(3)'.

[31] Section 7 deals with the granting and refusing of applications for building plan approval. In terms of s 7(1)(a) the local authority must grant its approval if satisfied that the application complies with the requirements of the Act 'and any other applicable law'. This is subject, however, to s 7(1)(b) which states that the local authority must refuse approval either if it is not satisfied on the matters set out in s 7(1)(a) or if it is satisfied of the existence of one or more of the negative attributes set out in s 7(b)(ii). These negative attributes are (a) that the building is to be erected in such manner or will be of such nature or appearance that the area will probably or in fact be disfigured thereby or that the building will probably or in fact be unsightly or objectionable or that it will probably or in fact derogate from the value of adjoining or neighbouring properties; or (b) that the building will probably or in fact be dangerous to life or property.

[32] In *Walele v City of Cape Town & Others* 2008 (6) SA 129 (CC) the majority held that the recommendation of the building control officer ('BCO') contemplated in s 6(1)(a) was intended by the statute to be the proper means by which the decision-maker in s 7(1) was to be informed of the factors relevant to the s 7(1) assessment. A mere endorsement and signature by the BCO to the effect that he recommended the plans for approval did not suffice. The BCO had to ensure that adequate information was placed before the decision-maker so that the latter could consider

applications for approval of building plans properly and in a balanced way (paras 64-72).

[33] Section 7(6) provides as follows:

' The provisions of this section shall not be construed so as to prohibit a local authority, before granting or refusing its approval in accordance with subsection (1) in respect of an application, from granting at the written request of the applicant and on such conditions as the local authority may think fit, provisional authorization to an applicant to commence or proceed with the erection of a building to which such application relates.'

[34] The regulations were promulgated in terms of s 17(1) of the Act. One of the matters which in terms of that sub-section may be the subject of regulations is the regulation, restriction or prohibition of the erection of temporary buildings and the occupation or use thereof or access thereto (para (o)). In terms of s 17(2), different national building regulations may be made in respect of different buildings or categories of buildings.

[35] The regulations define 'temporary building' as meaning

'any building that is so declared by the owner and that is being used or is to be used for a specified purpose for a specified limited period of time, but does not include a builder's shed.'

[36] Part A of the regulations is headed 'Administration'. Regulation A2(1) lists the plans, drawings and particulars which must accompany an application for approval to erect 'any building'. The prescribed content of these plans and particulars is set out in regulations A4 to A10. Regulation A2(1) is, however, subject to several provisos, one of which is that in the case of any temporary building only such plans and particulars as contemplated in regulation A23 shall be submitted. (The provisos are erroneously excluded from the current edition of the regulations published by LexisNexis. This may have come about through an erroneous rendering of the amendments to the regulations effected in May 2008. Immediately prior to these amendments the provisos appeared after para (f) of regulation A2(1), there being at that stage no para (g). One of the 2008 amendments was the substitution of para (f)(v), which was the last sub-para of A2(1)(f). The LexisNexis editors may have

thought that the provisos formed part of sub-para (f)(v) and thus deleted it and inserted the new para (f)(v) which contained no provisos of its own. This was incorrect. The provisos applied, and still apply, to the whole of regulation A2(1) and should now be read as appearing after sub-para (g), which was also inserted in 2008.)

[37] Regulation A23, which is headed 'Temporary Buildings', reads thus:

'(1) On receipt of any application to erect a building which the applicant has declared to be a temporary building, the local authority may, subject to the provisions of sub-regulations (2), (3) and (4), grant provisional authorization to the applicant to proceed with the erection of such building in accordance with any conditions or directions specified in such authorization.

(2) before granting such authorization the local authority may require the submission of –

- (a) a statement of the period for which authorization is required;
- (b) a site plan;
- (c) layout drawings in sufficient detail to enable the local authority to determine the general size, form, materials of construction and use of the proposed building; and
- (d) any structural detail required by the local authority to determine the structural safety of the proposed building.

(3) The local authority shall grant the authorization contemplated in sub-regulation (1) for a limited period, to be determined with regard to the period specified by the applicant.

(4) The local authority may at the request of the owner grant approval for one or more extensions of the period contemplated in sub-regulation (3): Provided that where it is intended that the public should have access to such building each such request shall be accompanied by a certificate signed by an approved competent person, indicating that the condition of the structural system is satisfactory.

(5) The owner of such building may, not later than the last day of the period contemplated in sub-regulation (3), submit to the local authority such additional plans and details as required by the local authority in order to consider an application in terms of section 4 of the Act.

(6) Where such local authority has granted approval in respect of an application contemplated in sub-regulation (5), the owner shall submit to the local authority an affidavit

stating that any part of such building erected in terms of the provisional authorization has been erected in accordance with the plans and details contemplated in sub-regulation (5).

(7) If any plans and details contemplated in sub-regulation (5) have not been submitted to such local authority or if such local authority has refused to grant approval in respect thereof, the owner shall forthwith remove or demolish such building.'

[38] Regulation A1(7)(a) states that where in any application the owner has declared the building to be a 'temporary building', the local authority shall, before granting provisional authorization in terms of Regulation A23,

'... assess such building in relation to –

- (i) the intended use and life of the building;
- (ii) the area in which it is to be erected; and
- (iii) the availability of suitable materials from which it may be constructed.'

[39] Regulation A25(10) provides that where any building, 'excluding a temporary building', is being or has been erected without the prior approval contemplated in s 4(1), the local authority must serve a notice on the owner calling upon him to obtain the approval required by the Act by a date specified in the notice.

Condonation

[40] A preliminary matter requiring consideration is the Trust's application for condonation of its failure to comply with the 180-day limit specified in s 7(1) of the Promotion of Administrative Justice Act 3 of 2000 ('PAJA'). The decision which the Trust attacks on review was taken by the City on 17 October 2013. The Trust learnt of the decision on 12 November 2013. A period of 180 days, reckoned from the latter date, expired on 12 May 2014. The review application was issued about one and a half months later, on 31 July 2014.

[41] I am not sure that it is right to count the 180 day-period from 12 November 2013. In terms of s 7(1)(b) of PAJA the period is reckoned from the date on which the applicant became aware of the action and the reasons for it or might reasonably have been expected to have become aware of the action and the reasons for it. It is

not suggested that the Trust could reasonably have become aware of the decision to grant building plan approval earlier than 12 November 2013. However, it would not yet have known of the reasons. Whether, if reasons had been requested, they would have been furnished sooner than one and a half months after 12 November 2013 may be doubted. (Section 5 of PAJA gives an affected party 90 days to request reasons and a further 90 days to the administrator to provide the reasons.) It is true that in the event the Trust did not request reasons from the City before instituting the review application. However, that was probably because by then (the second half of July 2014) construction work had started and the Trust felt it needed to launch proceedings urgently.

[42] In assessing the date by which the Trust could reasonably have become aware of the reasons for the building plan approval, I shall confine myself to the two broad grounds of review advanced, namely the wrong-location point and the temporary-building point (the latter being concerned with the process followed by the City). I am prepared to assume that by 12 November 2013 the Trust could reasonably have become aware that the base station location on the Site Plans differed from the location on the LUPO Plan, though as a fact the discrepancy had probably not been noticed. I am also prepared to assume that the Trust, if it had made prompt investigations after 12 November 2013, could have ascertained that the building plan approval had been given in terms of regulation A23 rather than s 7. If there had been no pressing urgency to institute legal proceedings, the Trust could reasonably have requested the City to give reasons for approving a different location and for invoking regulation A23. On the location point, the City might have said that there was no discrepancy at all or that the City had not noticed the discrepancy or that in its view the discrepancy had not prevented the location from being 'generally in accordance with' the LUPO Plan. On the temporary-building point, the City would presumably have explained why it regarded the base station as a 'temporary building' and how it understood regulation A23 to operate in relation to the Act and regulations as a whole. To find that the review application launched on 31 July 2014 was out of time would require one to find that these reasons, if requested reasonably promptly after 12 November 2013, would have been answered by (say) the end of December 2013. I repeat that I am doubtful as to that; s 5 of PAJA would not have imposed such a stringent timeline.

[43] But if one assumes that the application was out of time, the court may grant condonation in terms of s 9(2) of PAJA where the interests of justice so require. In *PricewaterhouseCoopers Inc & Others v Van Vollenhoven NO Another* [2010] 2 All SA 256 (SCA) it was said that in assessing the interests of justice a court should have regard to the extent and cause of the delay, the effect of the delay on the administration of justice and other litigants, the reasonableness of the explanation for the delay (which must cover the full period thereof), the importance of the issues raised in the review and prospects of success (paras 6-7).

[44] The period of delay in the present case was at most one and a half months. Because the Trust's town planner, in preparing the Trust's objection, had not noticed the location discrepancy, it was only on 14 July 2014, with the commencement of construction, that the Trust realised that something was amiss. Further investigation was done and the review application was promptly launched at the end of July. Mr Mtembu, correctly in my view, thus did not press the argument that the Trust had not sufficiently explained the delay in respect of the location point. He submitted, however, that there was no satisfactory explanation in respect of the temporary-building point. He relied on the judgment of the Supreme Court of Appeal in *Camps Bay Ratepayers and Residents Association & Another v Harrison & Another* 2010 (2) SA 519 (SCA) for the proposition that a PAJA application might be timeous in respect of one ground of review but not in respect of another. In my view this does not accord with the way in which the Supreme Court of Appeal's judgment on this point was explained and clarified by the Constitutional Court in the further appeal reported at 2011 (4) SA 42 (CC) para 25 read with paras 48-63. In the latter case Brand AJ said that the late additional ground of review was time-barred because it was in truth a review directed not at the decision with which the original ground of review was concerned but at an earlier decision. In para 47 Brand AJ said that the Supreme Court of Appeal had not held that a new ground of review could not be introduced into an existing application after 180 days; what it found was that, on a proper analysis of the facts, the applicant's new ground was aimed at a decision that had already been taken in February 2005, and not at a decision which was taken in September 2007.

[45] On a parity of reasoning, if the Trust has satisfactorily explained its delay in respect of the location point and if for this reason the late institution of the review application should be condoned, the Trust is not barred from relying on the temporary-building point merely because an application based solely on that ground would have been out of time. It should also be remembered that is not as if there is no explanation for the delay regarding the temporary-building point. MTN's application, insofar as the Trust was aware, was an application for building plan approval in terms of s 4 read with s 7. This formed the basis of the Trust's objections. At no stage did the City inform the Trust that it was now reassessing the plans in terms of regulation A 23. When Mr Carter told TBTP on 11 November 2013 that the building plans had been approved, he did not say that this was in terms of regulation A23. I am not sure that the Trust can be criticised for not having sent its town planner to examine the approval.

[46] The delay did not cause material prejudice, since the review application was launched promptly after construction began. MTN, after initially conceding that it was constructing the base station in the wrong location and ceasing work at a very early stage, resumed construction with full knowledge that a review application was pending. MTN opposed the Trust's renewed request for urgent relief. Almost all work has thus been undertaken by MTN at its peril. If a successful review eventually has the result that the base station must be demolished (I do not say it will), MTN will have been the author of its own misfortune. The application raises important questions regarding the application of the Act and regulations in relation to so-called temporary buildings. As will appear hereunder, the Trust has favourable prospects of success. In the circumstances, I am satisfied that the interests of justice require any delay on the Trust's part to be condoned.

The temporary-building point

[47] It is convenient to consider the temporary-building point first. I use this tag to cover several related complaints advanced by the Trust concerning the process followed by the City and which can be summarised thus: (i) The City should not have approved construction of the base station as a 'temporary building', given that

MTN is entitled to make repeated applications to extend the temporary departure.¹² (ii) Even if regulation A23 were applicable, the City was required to assess the application in accordance with s 7¹³ and to obtain a recommendation from the BCO in terms of s 6.¹⁴ The City did not have a recommendation from the BCO and did not assess the application in accordance with s 7. (iii) The City failed to have regard to the 21 objections and received no reports from its officials thereon.¹⁵ (iv) Had the City assessed the building plan application properly in accordance with s 7, it would have concluded that the building was likely to disfigure the area, be unsightly and objectionable and probably derogate from the value of surrounding properties.¹⁶

[48] On the facts, it is clear that the City's view when approving the building plans was that s 7 was inapplicable and that it therefore did not need to assess the matters specified in s 7(1). It is also clear that there was no recommendation from the BCO in terms of s 6(1)(a) as explained in *Walele*.

[49] It is regrettable that the City did not file an affidavit explaining its line of reasoning. This it could have done while abiding the result. Indeed, rule 53(1) expressly permitted the City, when furnishing the record, to furnish reasons for its decision. The result of its silence is that the Trust's allegations about how the City approached the matter are answered. This does not mean that the Trust's allegations necessarily have to be accepted as correct. But if the Trust's allegations on these matters are the most probable inferences to be drawn from established facts, the absence of an answer from the City in my view entitles the court to accept them as correct.

[50] Mr Mitchell submitted that the City invoked regulation A23 specifically to avoid having to address the 21 objections and the factors specified in s 7(1). This allegation, which comes close to one of mala fides, was not made in the founding or supplementary founding papers and is thus not open to the Trust. In any event, I do not think the submission is the most probable inference from established facts. It is

¹² Para 9 record A94; paras 9.2 – 9.4 record A174-175; para 21 record A181.

¹³ Para 46.1 record A17; para 10 record A94-95.

¹⁴ Para 10 record A94-95.

¹⁵ Para 12 record A95-96.

¹⁶ Paras 47—50 record A18-20; paras 18-19 record A97-98.

at least as probable that the City, particularly in the person of Mr Carter, thought that it was inappropriate to assess the application in terms of s 7, having regard to the fact that (so Mr Carter opined) the base station was, by virtue of the temporary LUPO departure, a 'temporary building'. He may even have been concerned that approval in terms of s 7(1) would be construed as giving MTN long-term rights in conflict with the LUPO departure. He evidently thought that the way to reconcile building plan approval with the LUPO departure was to grant approval for a temporary building in terms of regulation A23, since the latter regulation unlike s 7(1) permits approval to be given for a limited period.

[51] It is thus necessary to consider whether the City's approach as just summarised was correct. This in turn calls for a proper interpretation of regulation A23 and its inter-relationship with the provisions of the Act.

Is the base station a 'temporary building'?

[52] I start with the definition of 'temporary building' in the regulations. The first point to note is that a temporary building as thus defined is also a 'building' as defined in s 1 of the Act. The second is that there are two requirements to be met for a building to qualify as a 'temporary building': (i) the building must have been so declared by the owner; and (ii) the building must be one which is being used or will be used 'for a specified purpose for a specified limited period of time'.

[53] As to first of these requirements, regulation A23(3) contemplates that the owner will have specified the temporary period as does the definition of 'temporary building' itself ('... for a specified limited period of time'). Although regulation A23(2)(a) suggests that the local authority 'may' (not 'must') require a statement of the period for which authorization is required, it seems to me that a proper declaration by the owner must incorporate a specified period of time. At any rate, it is likely that the local authority in practice will always require a statement of the period.

[54] As to the second requirement, the enquiry is a factual one and is not determined by the owner's say so in his declaration. Regulation A1(7)(a) obliges the

local authority, when considering a regulation A23 application, to assess inter alia 'the intended use and life of the building'. The local authority must thus properly consider whether the building is to be used 'for a specified limited period of time'. Furthermore, although in the performance of its functions the local authority would need to decide whether the building is to be used for a specified limited period of time, its determination of that question is not decisive. The relevant jurisdictional fact for the application of regulation A23 is not the local authority's satisfaction or opinion that the building is to be used for a specified purpose for a specified limited period of time but whether as a fact the building is to be so used.

[55] Although the period for which a building is to be used is a question of fact, the relevant fact is concerned with the owner's intentions (as distinct from his formal declaration). Since the owner's intentions can (apart from his declaration) only be determined inferentially, the objective characteristics of the proposed structure and its intended use and purpose are likely to play an important and even decisive role in determining whether in truth the building is one which the owner intends to use only for a specified period of time.

[56] In the present case, MTN's letter of 10 October 2013 requested permission for the base station as a temporary structure for a period corresponding to that of the LUPO departure. I am not convinced that this letter constituted a valid declaration by the owner as contemplated in the definition of 'temporary building'. To seek approval for a building as a temporary structure for five years is not quite the same thing as declaring that the building is only to be used for a period of five years. One knows that when MTN initially submitted its application for building plan approval it did not do so on the basis that the base station was to be temporary. However, I shall assume that the letter of 10 October 2013 was a sufficient declaration by MTN.

[57] As to the objective question whether the base station was to be used 'for a specified limited period of time', the City appears to have assumed that because the LUPO departure was for five years the base station was one which was to be used for a specified limited period of time. The same thinking underlies MTN's letter of 10 October 2013. I do not think that this is a correct assumption. Although the LUPO

departure was for a period of five years, the conditions of approval expressly contemplated that the base station might need to remain operational for a longer period and reference was made to the fact that in this event there would need to be a new departure application. So there might be repeated 'temporary' departures, resulting in the base station continuing to be used indefinitely into the future. An alternative to further temporary departures (s 15(1)(b)) of LUPO) would be a permanent change in land use (s 15(1)(a) of LUPO) or a rezoning of the property (s 16 of LUPO).

[58] It is true that without some further LUPO approval the base station would have to be demolished after five years but it by no means follows that MTN intended that the base station should only be in use for five years. I am quite sure that MTN intended nothing of the kind. MTN's motivation for the departure emphasised the need for improved network coverage. Other sites had been considered but none met MTN's requirements. This particular site was optimal. In response to objections, MTN said that the site could be decommissioned after five years if further research showed that base stations of this kind had deleterious health effects.

[59] Although there is no information before me about the cost of constructing the base station, it must be considerable. The mast and supporting equipment are no doubt sophisticated and costly. The structure housing the equipment and on which the mast is to be installed has all the hallmarks of permanence, with specifications for foundations, external cavity walls, cement screed floors, rhino board ceilings, corrugated iron roofing and parapet walls at each end.¹⁷ The roofed building, with three rooms, is 7,98m length x 3,56m width x 2,5m height (with the parapets and roof extending above this). The external slab on which the mast stands is 7,98m length x 3,5m width surrounded by a 2,4 m high wall.

[60] MTN in its answering papers did not say that it intended to use the base station for only five years. Its answer to the contention that the structure should not have been approved as a temporary building was that approval as a temporary building is not precluded merely because there is provision 'for an infinite number of

¹⁷ See Elevation and Section Drawings at R341.

resubmissions'.¹⁸ There is no evidence that MTN has ever demolished base stations after a short period of time. As a matter of practical reality, it seems unlikely that the City, having decided in a process finalised in early 2013, that the first five-year departure should be granted, would thereafter refuse rolling five-year extensions (or eventually a rezoning) in the absence of some material change in circumstances. The base station will not become aesthetically less pleasing with the passing of time. If anything, the growth of mature trees will shield it more than at present. New scientific discoveries may lead to a conclusion that base stations should, for health reasons, not be located near residential dwellings but there is no reason to suppose that MTN expects this to happen. If new research to this effect emerges, it would presumably affect a great many base stations in South Africa.

[61] A further relevant consideration is that the five-year period of the LUPO departure expires, at the latest, on 5 March 2018. MTN only obtained building plan approval in October 2013 and started construction in mid-July 2014. If one assumes that in the ordinary course the base station could (but for the first urgent application) have been operative by the end of 2014, MTN would only have had three years and two months before the LUPO departure expired. This makes it even more implausible that MTN could have intended the base station only to be operative for the period of the LUPO departure.

[62] In my view, therefore, the base station did not qualify as a 'temporary building'. To the extent that the determination of this question was one for the City's satisfaction or opinion rather than the court's objective determination, the City approached the matter on a fundamentally flawed basis. The City does not appear to have investigated at all whether MTN had the intention of using the base station for only a limited period of time.

[63] In the circumstances, and even if the other issues on this part of the case were decided against the Trust, the provisional authorization granted on 17 October 2013 cannot be allowed to stand.

¹⁸ Para 43 at record A117.

Regulation A23

[64] In case this matter should go further, it may be desirable if I state my views on the other legal issues on this part of the case, ie on the assumption that the base station was properly regarded by the City as a temporary building.

[65] The regulations must as far as reasonably possible be interpreted in a manner consistent with the Act. Any regulation that could not be reconciled with the Act would be ultra vires but no attack on the validity of the regulations has been made in the present case.

[66] Section 4(1) requires prior approval of the local authority where a building is to be erected 'in respect of which plans and specifications are to be drawn and submitted in terms of this Act'. Section 4(3) states that the application for approval shall be accompanied by such plans, specifications, documents and information as may be required by or under the Act and by such further particulars as the local authority may require. In these provisions of s 4 the word 'Act' bears its defined meaning, ie includes the regulations, because it is the regulations that identify the buildings for which plans and specifications must be drawn and set out what those plans, specifications, documents and information comprise. Section 4(3) envisages two types of documentation and information, namely that which must mandatorily be furnished in terms of the Act as read with the regulations and that for which the local authority may in its discretion call.

[67] Where an application in terms of s 4(3) has been submitted, the BCO must in terms of s 6(1)(a) make a recommendation to the local authority. After considering the BCO's recommendation, the local authority must grant or refuse the application in accordance with s 7(1). The latter section thus applies in those cases where a BCO recommendation in terms of s 6(1)(a) is required. Such a recommendation is required if the building is of the kind contemplated in s 4(3) read with s 4(1).

[68] Section 17(1)(o) permits the Minister to make regulations to regulate, restrict or prohibit the erection of temporary buildings and the occupation or use thereof or access thereto.

[69] These various provisions in the Act thus notionally permit regulations to be promulgated which would exclude temporary buildings from the category of buildings for which plans and specifications must mandatorily be submitted (s 4(1)). If regulations to this effect were passed, a person wishing to erect a temporary building would not have to submit an application in terms of s 4(3), with the result that there would not have to be a BCO recommendation in terms of s 6(1)(c) or resultant decision by the local authority in terms of s 7(1). One would nevertheless expect such regulations to control the erection of temporary buildings by way of a separate regime.

[70] This, in my view, is what Part A of the regulations does. In the previous version of the regulations, published in June 1988, regulation A2(1) achieved this in the opening words of the sub-regulation (my underlining): 'Any person intending to erect any building, excluding a temporary building, shall...'. The new version of the regulations promulgated in October 1990 (this is the current version, subject to further amendments) deleted the underlined words and instead added, at the end of A2(1) as a whole, the provisos previously mentioned. Part A must naturally be interpreted as a whole. Regulation A2 as read with regulations A3 to 10, although dealing in general terms with 'buildings', must be interpreted with due regard to the provisos to regulation A2(1) and to regulations A23 and A24(10). The proviso relating to temporary buildings and regulation A23(2) make it clear that there are no plans and drawings which are mandatorily required for the erection of temporary buildings. It is within the discretion of the local authority to decide what plans, drawings and other information it requires. While it is difficult to imagine that a local authority could ever properly exercise its powers under regulation A23 without calling for some information, a temporary building is nevertheless not one in respect of which plans and specifications as contemplated in s 4(1) read with s 4(3) must in terms of the Act be submitted. This is reinforced by regulation A24(10) which excludes temporary buildings from those in respect of which the local authority can by notice insist that the owner seek approval in terms of s 4(1).

[71] This does not mean that a person can start erecting a temporary building without any approval at all. A building is only a temporary building for purposes of regulation A23 if, inter alia, the owner has declared it to be a temporary building. In

context, the declaration must be made in an application for authorization in terms of regulation A23. If no such application is made, the building, even if in fact intended to be temporary, would be a building to which the prohibition in s 4(1) applies.

[72] I therefore reject the Trust's submission that ss 4, 6(1)(a) and 7(1) apply to the erection of temporary buildings where an application in terms of regulation A23 is made and the building in question is properly to be regarded as a 'temporary building' as defined. However, and for this very reason, one should not construe the expression 'temporary building' in too liberal a fashion, since the regulation A23 procedure exempts the owner from requirements which are generally regarded as necessary and desirable for the control of building activity in the public interest and deprives neighbouring owners of the protections afforded by s 7(1) (and see *Walele* supra paras 52, 56 and 70-72; *Turnbull-Jackson v Hibiscus Coast Municipality & Others* 2014 (6) SA 592 (CC) paras 80-85 and 88-89). This fortifies me in my conclusion that a building is not to be regarded as a 'temporary building' merely because the owner may have to demolish it if he does not get further departures or a rezoning.

[73] If an owner makes an application in terms of regulation A23 in respect of a building which can properly be regarded as a 'temporary building', the local authority may thus grant the 'provisional authorization' contemplated in regulation A23(1) after receiving such information as it may call for in terms of regulation A23(2) and after making the investigations required by regulation A1(7)(a). The provisional authorization must in terms of regulation 23(3) be for a 'limited period of time'. This period must be determined by the local authority 'with regard to the period specified by the applicant'. The local authority could determine a period shorter than that requested by the applicant though it could also grant the authorization for the full period specified by the applicant.

[74] Regulation 23(4) permits one or more extensions of the provisional authorization. In the light of my interpretation of the term 'temporary building', I do not think the provision for extensions is intended to apply where, from the outset, the owner intends to seek indefinite extensions. It would be contrary to the purposes of the legislation and the notion of a 'temporary building' that an owner could ab initio

apply for (say) a five-year 'temporary' authorization with the intention of seeking five-year extensions indefinitely into the future. Regulation 23(4) simply permits an extension to be sought where it turns out, after the provisional authorization has been granted, that the building needs to be used for a further definite limited period. Examples might be where temporary accommodation for construction workers is erected and the construction contract is not completed by the anticipated date or temporary classrooms are erected pending completion of permanent extensions to a school and the extensions are not completed timeously.

[75] Although the authorization for which regulation A23(1) provides, and which may in appropriate circumstances be extended in terms of regulation A23(4), is styled a 'provisional authorization', the word 'provisional' is perhaps inapt because, as Mr Mitchell urged upon me, it usually means, in relation to decisions, an initial decision of a temporary nature pending the making of a final decision (cf *Branca v Cobarro* [1947] KB 854 (CA) at 858 – 'something which is going to operate until something else happens'). In the context of regulation A23, however, the 'provisional authorization' is not in my view provisional upon some further process of approval. Regulation A23(5) states that before the end of the stipulated period the owner 'may' (not 'must') submit an application in terms of s 4 of the Act. If matters turn out as the owner expects and he only needs the building for the period specified in his application, he must simply remove or demolish the building at the end of the specified period (see regulation A23(7)). I do not think that a provisional authorization may be granted for a structure as a 'temporary building' if, from the outset, the owner intends it to be a permanent structure. Regulation A23(5) is intended to cater for the case where, after provisional authorization for construction as a temporary building has been given, the owner decides that he does not wish to use the building only for a temporary period. In such cases, instead of seeking an extension in terms of regulation A23(4), the owner may seek permanent approval in terms of s 4 of the Act which would then require compliance with ss 6(1)(a) and 7(1).

[76] Accordingly, the word 'provisional' in regulation A23 must be understood as meaning 'temporary', without the connotation of being subject to some further approval. This is, after all, the first meaning given in leading dictionaries (*Webster's Third New International Dictionary*: 'provided for a temporary need'; *Shorter Oxford*

English Dictionary: 'Of, belonging to, or of the nature of a temporary provision or arrangement; provided or adopted for present needs or for the time being') This 'provisional' authorization may be contrasted with s 7(6) of the Act, which permits a local authority to grant 'provisional' authorization for construction of a (permanent) building to begin pending the approval in terms of s 7(1) of an application lodged in terms of s 4. That provision has no bearing on the present case.

[77] Regulation A23 may be regarded as unsatisfactory in not setting some limit on the temporary period for which authorization for the erection of a temporary building may be sought. As Mr Mitchell asked rhetorically in argument, if the 'specified limited period of time' in the definition of 'temporary building' could be five years (as the City accepted in this case), could it be 10 years or 20 years? However, as matters stand, there is no set limit. But a local authority is not obliged to grant authorization in terms of regulation A23 merely because the owner only intends to use the building for a specified period. The longer the specified period, the more likely it is that the local authority will decline to deal with the matter in terms of regulation A23. And the longer the specified period, the more likely it is that the local authority will conclude that the owner in truth intends to use the building indefinitely into the future, so that it is not a 'temporary building' at all.

[78] The fact that a local authority is not required to assess a regulation A23 in accordance with s 7(1) does not mean that it can disregard the interests of those who might be adversely affected by a provisional authorization. The exercise of the power is still subject to the law relating to administrative action and to the principle of legality. However, the Trust's main complaint (apart from contending that the base station is not a 'temporary building') is that the City should have assessed the application in accordance with s 7(1) and that had it done so it would have been bound to conclude that the application for approval should fail. If the base station, contrary to my view, were properly regarded as a 'temporary building', the City was not obliged to assess the application in terms of s 7(1). Since the City, on the view I take of the case, will still need to deal with MTN's application in terms of s 7(1), I prefer to express no opinion as to the conclusions it could properly reach under that section after receiving a recommendation from its BCO.

The location point

[79] Because of the Trust's contention that s 7(1) applied, its argument on the location point focused on s 7(1)(a), which provides that an application for building plan approval must be granted if the application complies with the requirements of the Act 'and any other applicable law'. The argument was that the only LUPO departure for which MTN had obtained approval was a departure containing a condition as to the location on which the base station was to be constructed. It followed that building plans for the construction of the base station at a different location were in conflict with another law, namely LUPO. Since the City did not see itself as acting in terms of s 7(1), it would not have considered the matter in these terms. But I think it would be equally true to say that the City could not lawfully grant a provisional authorization in terms of regulation A23 if this would be contrary to another law with which the owner had to comply.

[80] The evidence in the papers regarding the location point can be summarised as follows. In the founding affidavit the Trust's deponent attached a mark-up copy of the LUPO Plan on which he had indicated the location where MTN was actually constructing the base station.¹⁹ He said the actual construction site was immediately adjacent to the driveway of the Trust's property on the north-western side of Dalham Road and within very close proximity to the Trust's property. By contrast, the location indicated on the LUPO Plan was approximately 30 m away, on the south-eastern side of Dalham Road and behind a wall on the edge of Dalham Road.²⁰ He also attached photographs on which the proposed mast was superimposed in the position indicated on the LUPO Plan.²¹ These showed, he said, that the mast was to be located a short distance away from a trio of stone pines.²²

[81] As noted, in correspondence written shortly after the launching of the application and also in its initial answering affidavit,²³ MTN admitted that

¹⁹ Record A47.

²⁰ Paras 14-17 record A9-10.

²¹ Record A51.

²² Paras 19-20 record A11.

²³ Paras 13-17 record A79-80.

construction was taking place in the wrong location. The allegation that the actual site was approximately 30 m to the south-east from the LUPO site was not denied.

[82] After the production of the City's record, the Trust filed a supplementary founding affidavit. The deponent attached the Site Plan²⁴ forming part of the approved building plans, saying that the location of the base station on the Site Plan differed substantially from the location on the LUPO Plan.²⁵ This is the Site Plan which, with some additional markings, I have reproduced earlier in this judgment.

[83] MTN responded to the above allegation in its supplementary answering affidavit. The allegation was denied. The deponent said that the location on the LUPO Plan was the same as on the building plan.²⁶ He attached an email dated 12 August 2014 written by the City's BCO, Christo Pheiffer.²⁷ This email, however, says no more than that a site inspection revealed that the actual site of construction accorded with the approved building plans. That is uncontentious.

[84] In argument Mr Mtembu placed reliance on what MTN's deponent said in the urgent application. Since both sides referred to the urgent application, I accept that I should regard that material as properly before me. However, that application does not traverse the specific allegations made by the Trust as to the difference in the locations. WPP's opinion on which MTN placed reliance in the urgent application does not seem to me to go further than stating that the location reflected in the Site Plan accords with the LUPO Plan in the sense of being 'generally in accordance' therewith and that the City must be presumed to have been of that mind.

[85] I thus do not think that there is a genuine dispute of fact that the actual location differs from the LUPO Plan. The difficulty I feel in coming to a firm conclusion on this part of the case is whether the actual location is 'generally in accordance with' the LUPO location. The word 'generally' in the LUPO approval involves some derogation from exactness and should be understood as 'approximately'. That is a matter of degree and judgment, having regard to the

²⁴ Record A103.

²⁵ Para 13 record A96.

²⁶ Paras 51-53 record A118.

²⁷ Record A165.

purposes which the City sought to achieve in specifying the location as a special condition, the distance of the actual location from the approved location and the extent to which the actual location is less satisfactory than the approved location in achieving the purposes for which the location was specified as a condition.

[86] The objections filed in the LUPO application are not part of the record furnished by the City. However, and having regard to the Planning report of 4 October 2010, summarising MTN's motivation and the objectors' complaints, the visual impact of the mast was clearly an important matter. On the other hand, it was not the aesthetic impact specifically on the Trust's property that was debated. The actual position is now somewhat closer to the Trust's property and the mast is further away from the trio of stone pines. At least from certain angles, this makes it more obtrusive. On the other hand, it no longer lies on the western axis of Dalham Road and is not in the direct line of sight of a person approaching the property from Dalham Road (it will be recalled that this was one of the criticisms made by TBTP on the mistaken assumption that the building plan location was the same as the LUPO Plan). So the difference in location might be aesthetically worse in some respects and aesthetically better in others.

[87] As to the physical extent of the discrepancy, the LUPO Plan does not include dimensions. Its scale is not stated but is quite large (coarse). One can see from the Site Plans that the LUPO Plan does not depict all the boundaries of Erf 10762. The LUPO Plan does not show the property's building lines which, according to the Site Plans, are set back six metres from the boundary. The location of the base station on the LUPO Plan is indicated by a small black block on a small depiction of the property. I assume this must be taken as being just within the building lines though they are not reflected on the LUPO Plan. I have compared the LUPO Plan²⁸ with the Site Plan drawn to the scale 1:100.²⁹ Dalham Road runs towards Erf 10762 in a south-westerly direction. Erf 10762 lies straight ahead at the end of the road but the boundary there does a dog-leg. If one were to transpose the location indicated on the LUPO Plan to the Site Plan (which could not be done with absolute precision), the base station would be located just inside the building line in the corner created

²⁸ The A3 version at R344.

²⁹ R340.

by the portion of the dog-leg further away from Dalham Road (more or less the south-east corner of the building line). The actual location depicted on the Site Plan is located just inside the building line in the corner created by the portion of the dog-leg closer to Dalham Road, just before the boundary starts to run away diagonally from Dalham Road in a westerly direction. Although the Trust's deponent alleges that the LUPO site is about 30 meters to the south-west of the actual site (the latter corresponding with the Site Plan), the Site Plan, which is to scale, indicates by my assessment that the LUPO site is about five metres to the west and eight meters to the south of the actual site. (On the Site Plan reproduced earlier in this judgment, the blacked-in rectangles reflect respectively the base station's actual location on the Site Plan and my transposed location from the LUPO Plan.) The property as a whole is 2670m² in extent.³⁰ The distance from the LUPO location (even by my assessment, which differs from that of the Trust's deponent) is not trivial but might arguably, in combination with other considerations, be regarded as not so great as to render the actual location in conflict with the LUPO condition.

[88] In the circumstances, if it were necessary to decide the location point, I would not feel confident of doing so without more exact information and if necessary an inspection in loco, the possibility of which was briefly mentioned during argument. However, the conclusion I have reached on the procedure followed by the City (ie its erroneous treatment of the building as a 'temporary building') means that the matter will in any event have to be reconsidered by the City. While I have thought it prudent to express my view on the legal issues relating to the interpretation of regulation A23, there would be unnecessary delay and cost if, for purposes of deciding a point which might in the event be academic, the matter were adjourned for further evidence and an inspection followed by further argument. This issue should rather be addressed in the City's consideration of the matter in terms of s 7. I may add, in this regard, that there is nothing in the City's record to show that its officials were aware, when granting the approval of 17 October 2013, that there was a difference in location.

³⁰ A30 para 2.4; R32.

Conclusion

[89] For these reasons the application to set aside the City's decision of 17 October 2013 must succeed, on the basis that the City was not entitled to grant authorization for the construction of the base station as a 'temporary building' in terms of regulation A23. Costs should follow the result.

[90] There is nothing which the court can remit to the City for reconsideration. I venture to suggest, though, that the sensible course for the parties to follow is to regard the City's refusal of the s 4 application and the resultant withdrawal of that application by MTN as based on an erroneous belief regarding the scope of regulation A23 and thus to treat the s 4 application as still pending, clearing the way for the City to adjudicate it in terms of s 7(1) after obtaining a recommendation from the BCO in terms of s 6(1)(a) and such further information it may think necessary on the location issue.

[91] I make the following order:

- (a) Insofar as needs be, the period prescribed by s 7(1) of the Promotion of Administrative Justice Act 3 of 2000 is extended in terms of s 9(2), with the result that any delay which there may have been in the launching of the application is condoned.
- (b) The decision taken by the second respondent on 17 October 2013, granting approval to the first respondent, in terms of regulation A23 of the regulations promulgated in terms of the National Standards and Building Regulations Act 103 of 1997, to construct a cellular base station and mast on Erf 10762 Constantia, Dalham Road, Constantia, is reviewed and set aside.
- (c) The first respondent is to pay the applicants' costs in respect of the application for Part B relief, such costs to include those attendant on the employment of two counsel.

ROGERS J

APPEARANCES

For Applicants	Messrs D Mitchell SC and L Kelly Instructed by Francis Thompson & Aspden Unit 17, 10 Pepper Street Cape Town
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For First Respondent	Mr AM Mtembu Instructed by Mashiane Moodley & Monama Inc Suite 19, Second Floor Katherine & West Building 114 West Street Sandton c/o Shepstone & Wylie Attorneys 18th Floor, 2 Long Street Cape Town
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Annexure F- Amended scheme regulations

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Provinsie Wes-Kaap: Provinsiale Koerant 6643

17 Julie 2009

PROVINCIAL NOTICES

The following Provincial Notices are published for general information.

ADV. B. GERBER,
ACTING DIRECTOR-GENERAL

Provincial Building,
Wale Street
Cape Town.

P.N. 245/2009

17 July 2009

**WESTERN CAPE: DEPARTMENT OF ENVIRONMENTAL
AFFAIRS AND DEVELOPMENT PLANNING:**

**LAND USE PLANNING ORDINANCE, 1985 (ORDINANCE 15
OF 1985) AND PROVINCIAL NOTICE 733/1989**

AMENDMENT OF SCHEME REGULATIONS

The Minister of Local Government, Environmental Affairs and
Development Planning hereby:

1. in terms of section 9(2) of the Land Use Planning Ordinance,
1985 —
 - (a) amends the Scheme Regulations made in terms of Section 8
of the aforementioned Ordinance and published in the
Provincial Gazette 353 of 20 June 1986 and 1048 of 5
December 1988, and
 - (b) amends all Scheme Regulations that form part of the Zoning
Schemes deemed as such in terms of Section 7(1) of the
aforementioned Ordinance, and
2. in terms of Provincial Notice 733/1989, amends all Town Planning
Schemes approved in terms of Section 36(1)(a) of the Black
Communities Development Act, 1984,

by:

- (1) making provision for insertion or replacement, as the case may be,
of definitions of the following terms in the appropriate places in
the Definitions:

"antenna" means any system of wires, poles, rods, reflective
surfaces or similar devices, used to transmit or receive electronic
communication signals or electro-magnetic waves;

"building" without in any way limiting its ordinary meaning,
includes:

- (i) any roofed structure;
- (ii) any external stairs, steps or landings of a building and any
gallery, canopy, balcony, stoep, verandah, porch or similar
feature of a building;
- (iii) any walls or railings enclosing any feature referred to in (ii),
and
- (iv) any other portion of a building;

"equipment room" means a building to accommodate
communication equipment associated with telecommunication
infrastructure — this can be a separate building used exclusively
for the equipment or it can be a container, or a room within a
building;

"freestanding base telecommunication station" means a
freestanding support structure on land or anchored to land and
used to accommodate telecommunication infrastructure for the
transmitting or receiving of electronic communication signals, and
may include an access road to such facility;

PROVINSIALE KENNISGEWINGS

Die volgende Provinsiale Kennisgewings word vir algemene inligting
gepubliseer.

ADV. B. GERBER,
WNDE DIREKTEUR-GENERAAL

Provinsiale-gebou,
Waalstraat
Kaapstad.

P.K. 245/2009

17 Julie 2009

**WES-KAAP: DEPARTEMENT VAN PLAASLIKE REGERING,
OMGEWINGSKE EN ONTWIKKELINGSBEPLANNING**

**ORDONNANSIE OP GRONDGEBRUIKBEPLANNING, 1985
(ORDONNANSIE 15 VAN 1985) EN PROVINSIALE
KENNISGEWING 733/1989**

WYSIGING VAN SKEMAREGULASIES

Die Minister van Plaaslike Regering, Omgewingsake en
Ontwikkelingsbeplanning wysig hiermee:

1. ingevolge Artikel 9(2) van die Ordonnansie op
Grondgebruikbeplanning, 1985 —
 - (a) die Skemaregulasies uitgevaardig ingevolge Artikel 8 van
die genoemde Ordonnansie en gepubliseer in die Provinsiale
Koerant 353 van 20 Junie 1986 en 1048 van 5 Desember
1988, en
 - (b) alle Skemaregulasies wat deel vorm van die Soneringskemas
wat as sulks geag is ingevolge Artikel 7(1) van die
genoemde Ordonnansie, en
2. ingevolge Provinsiale Kennisgewing 733/1989, alle
Dorpbeplanningskemas goedgekeur ingevolge Artikel 36(1)(a)
van die Wet op die Ontwikkeling van Swart Gemeenskappe,
1984,

deur voorsiening te maak vir:

- (1) die invoeging of vervanging, na gelang van die geval, van
definisiës van die volgende terme op die toepaslike plekke in die
Woordbepalings:

"antenna" beteken enige stelsel van drade, pale, stawe,
weerkaatsende oppervlaktes of soortgelyke toestelle, wat gebruik
word vir die versending of ontvangs van elektroniese
kommunikasiesêne of elektromagnetiese golwe;

"dakgeplaasde basis-telekommunikasie-tasie" beteken 'n
ondersteuningsstruktuur wat aan die dak, kant of enige deel van
'n gebou vas is en wat gebruik word vir die akkomodering van
telekommunikasie-infrastruktuur vir die versending of ontvangs
van elektroniese kommunikasiesêne,

"gebou" sluit die volgende in, sonderom enigsins die normale
betekenis te beperk:

- (i) enige struktuur met 'n dak;
- (ii) enige ekstere trappe of landings van 'n gebou en enige
galery, baldakyn, balkon, stoep, oordekstoepe, buiteportaal of
soortgelyke kenmerk van 'n gebou;
- (iii) enige mure of reëlings wat enige kenmerk waarna in (ii)
verwys is, omsluit, en
- (iv) enige ander deel van 'n gebou;

"telekommunikasie-infrastruktuur" beteken:

- (i) enige deel van die infrastruktuur van 'n telekommunikasie-
netwerk vir radio/draadlose kommunikasie insluitend stem,
data- en video-telekommunikasie, wat antennes kan insluit;

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Province of Western Cape: Provincial Gazette 6643

1423

"*rooftop base telecommunication station*" means a support structure attached to the roof, side or any part of a building and used to accommodate telecommunication infrastructure for the transmitting or receiving of electronic communication signals, and

"*telecommunication infrastructure*" means:

- (i) any part of the infrastructure of a telecommunication network for radio/wireless communication including voice, data and video telecommunications, which may include antennae;
- (ii) any support structure, equipment room, radio equipment and optical communications equipment (laser or infra-red) provided by cellular network operators or any other telecommunication providers, and
- (iii) all ancillary structures needed for the operation of telecommunication infrastructure, provided that fibre optic installations and point to point copper (cable) installations are excluded from this definition;

- (2) the inclusion, in the Scheme Regulations as contemplated in Section 1(a) above, of "*rooftop base telecommunication station*" and "*freestanding base telecommunication station*" as a primary right in the Agricultural zone II, Business zone I to V, Industrial zone I to III, Institutional zone II and III, Open Space zone I and II, Transport zone I and III and Authority zone;
- (3) the inclusion, in the Scheme Regulations as contemplated in Section 1(a) above, of "*rooftop base telecommunication station*" and "*freestanding base telecommunication station*" as a consent use in the Agricultural zone I, Residential zone IV and V, Resort zone I and II, Institutional zone I, Open Space zone III and Special zone;
- (4) the inclusion, in all Scheme Regulations as contemplated in Section 1(b) above, of "*rooftop base telecommunication station*" and "*freestanding base telecommunication station*" as a primary right in all corresponding zones to those mentioned in paragraph (2) above, provided that if the respective corresponding zones are not clear, the Municipality concerned must decide on the most appropriate zone within the confines of the intention of paragraph (2) above;
- (5) the inclusion, in all Scheme Regulations as contemplated in Section 1(b) above, of "*rooftop base telecommunication station*" and "*freestanding base telecommunication station*" as a consent use in all corresponding zones to those mentioned in paragraph (3) above, provided that if the respective corresponding zones are not clear, the municipality concerned must decide on the most appropriate zone within the confines of the intention of paragraph (3) above;
- (6) The inclusion, in all Scheme Regulations as contemplated in Section 2 above, of "*rooftop base telecommunication station*" and "*freestanding base telecommunication station*" as a primary right in the Business zone, Industrial zone, Institutional zone II and III and Parking zone;
- (7) The inclusion, in all Scheme Regulations as contemplated in Section 2 above, of "*rooftop base telecommunication station*" and "*freestanding base telecommunication station*" as a consent use in the Residential zone I and II, Institutional zone I, Services zone, Open Space zone I and II and Special zone, and
- (8) The inclusion, in the appropriate place, of the following land use restriction in all the abovementioned zones in respect of the Regulations referred to in Sections 1 and 2 above:

A rooftop base telecommunication station may not extend more than 3m in height above the part of the building that it is attached to without the prior approval of the Municipality.

(ii) enige ondersteuningstruktuur, toerustingkamer, radio-toerusting en optiese kommunikasietoerusting (laser of infra-rooi) wat voorsien word deur die operateurs van sellulêre netwerke of enige ander telekommunikasievoorsieners, en

(iii) alle verbandhoudende strukture wat benodig word vir die bedryf van telekommunikasieinfrastruktuur,

met dien verstande dat vesel-optiese installasies en punt-tot-punt koper- (kabel-) installasies uitgesluit word van hierdie definisie, en

"*toerustingkamer*" beteken 'n gebou vir die akkommodering van kommunikasietoerusting wat verband hou met telekommunikasie-infrastruktuur — dit kan 'n aparte gebou wat uitsluitlik vir die toerusting gebruik word, wees of dit kan 'n houer, of 'n kamer binne 'n gebou wees;

"*vrystaande basis-telekommunikasiestasie*" beteken 'n vrystaande ondersteuningstruktuur op die grond of wat aan die grond geanker is, en wat gebruik word vir die akkommodering van telekommunikasie-infrastruktuur vir die versending of ontvangs van elektroniese kommunikasiesig-nale, en kan 'n toegangspad na sodanige fasiliteit insluit;

- (2) die insluiting, in die Skemaregulasies soos beoog by Artikel 1(a) hierbo, van "*dakgeplaasde basis-telekommunikasiestasie*" en "*vrystaande basis-telekommunikasiestasie*" as 'n primêre reg in die Landbouzone II, Sakezone I tot V, Nywerheidsone I tot III, Institusionele sone II en III, Oopruimtesone I en II, Vervoersone I en III en Overheidsone;
- (3) die insluiting, in die Skemaregulasies soos beoog by Artikel 1(a) hierbo, van "*dakgeplaasde basis-telekommunikasiestasie*" en "*vrystaande basis-telekommunikasiestasie*" as 'n vergunningsgebruik in die Landbouzone I, Residensiële sone IV en V, Oordsone I en II, Institusionele sone I, Oopruimtesone III en Spesiale sone;
- (4) die insluiting, in alle Skemaregulasies soos beoog by Artikel 1(b) hierbo, van "*dakgeplaasde basis-telekommunikasiestasie*" en "*vrystaande basis-telekommunikasiestasie*" as 'n primêre reg in alle sonerings wat ooreenstem met die vermeld in paragraaf (2) hierbo, met dien verstande dat as die onderskeie ooreenstemmende sonerings nie duidelik is nie, die betrokke Munisipaliteit moet besluit op die mees-toepaslike sone binne die beperkings van die bedoeling van paragraaf (2) hierbo;
- (5) die insluiting, in alle Skemaregulasies soos beoog by Artikel 1(b) hierbo, van "*dakgeplaasde basis-telekommunikasiestasie*" en "*vrystaande basis-telekommunikasiestasie*" as 'n vergunningsgebruik in alle sonerings wat ooreenstem met die vermeld in paragraaf (3) hierbo, met dien verstande dat as die onderskeie ooreenstemmende sonerings nie duidelik is nie, die betrokke Munisipaliteit moet besluit op die mees-toepaslike sone binne die beperkings van die bedoeling van paragraaf (3) hierbo;
- (6) die insluiting, in alle Skemaregulasies soos beoog by Artikel 2 hierbo, van "*dakgeplaasde basis-telekommunikasiestasie*" en "*vrystaande basis-telekommunikasiestasie*" as 'n primêre reg in die Sakezone, Nywerheidsone, Institusionele sone II en III en Parkering sone;
- (7) die insluiting, in alle Skemaregulasies soos beoog by Artikel 2 hierbo, van "*dakgeplaasde basis-telekommunikasiestasie*" en "*vrystaande basis-telekommunikasiestasie*" as 'n vergunningsgebruik in die Residensiële sone I en II, Institusionele sone I, Dienstesone, Oopruimtesone I en II en Spesiale sone, en
- (8) Die insluiting, in die toepaslike plek, van die volgende grondgebruikbeperking in al die bogenoemde sones met betrekking tot die regulasies waarna in Artikels 1 en 2 hierbo verwys word:

'n Dakgebaseerde basis-telekommunikasiestasie mag nie meer as 3m in hoogte bokant die deel van die gebou wat daaraan vas is, uitsteek sonder vooraf-goedkeuring van die Munisipaliteit nie.

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4.4



LAND USE PLANNING REPORT
SUBDIVISION, CONSENT USE AND DEPARTURE: PORTION 5 OF FARM "PORTLAND" NO. 187, KNYNSNA.

Reference number	1566	Application submission date	04.05.2017	Date report finalised	17.01.2018
PART A: AUTHOR DETAILS					
First name(s)	Zinhle				
Surname	Thwala				
Job title	Town Planner				
SACPLAN registration number	Pr. Pin 1657				
Directorate/Department	Planning and Development / Town Planning				
Contact details	044-302 6268				
PART B: APPLICANT DETAILS					
First name(s)	Patrick Gordon				
Surname	Tarboton				
Company name	P.G. Tarboton				
SACPLAN registration number	N/A	Is the applicant authorised to submit this application	Y	N	
Registered owner(s)	Africa Xenopus Facility CC.				
PART C: PROPERTY DETAILS					
Property description (in accordance with Title Deed)	Portion 5 of the Farm "PORTLAND" No. 187 KNYNSNA				
Physical address	Ferngully, Rheenendal Road.	Town/City	Rheenendal Road.		
Current zoning	Agriculture	Extent (m2 /ha)	13,2387ha	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Section 8 Scheme Regulations (1988).				
Current land use	Residential, Restaurant, etc.		Title Deed number & date	T79200/1996	

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)				
Any third party conditions applicable?	Y	N	If Yes, specify				
Any unauthorised land use/building work	Y	N	If Yes, explain				
PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)							
Has pre-application consultation been undertaken?	Y	N	If yes, provide a brief summary of the outcomes below.				
Applicant saw no need for the pre-application consultation meeting as it is a minor land use application.							
PART E: LIST OF APPLICATIONS (TICK APPLICABLE)							
Rezoning		Permanent Departure	x	Temporary departure		Subdivision	x
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation		Removal, suspension or amendment of restrictive conditions	
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval	
Determination of zoning		Closure of public place		Consent use	x	Occasional use	
Disestablish a home owner's association		Rectify failure by home owner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use			
PART F: APPLICATION DESCRIPTION							
Apply in terms of Section 15 (2) (b) (c) and (d) and Chapter iv of the Knysna Municipality By- Law on Municipal Land Use Planning, to depart from the provisions of the Knysna Zoning Scheme (1992) to allow for a relaxation of 30m building line in order to accommodate the existing buildings; for consent use to allow for two existing chalets on the property; and for subdividing the farm into two portions (portion A – 3,229ha and a Remainder - 10.010 ha) as indicated on proposed sub-divisional plan drawn by P.G. TARBOTON, drawing number 571A – PL2; dated June 2017.							
PART G: BACKGROUND - Annexure A - Attached previous Sub-divisional Plan and Approval Conditions							
Previously the farm had received the approvals for subdivision into two portions (Portion A 3,00ha and Remainder 10,24ha). The most critical departments (Department of Transport and Public Works: Roads Infrastructure; Department of Water Affairs and Forestry and Department of Agriculture) for commenting purposes had provided their consent for subdivision. However, the owner did not register the subdivision, therefore, it lapsed. The consent was granted on 29 May 2009 for the operating the Country Farm store and Red Barn Restaurant.							
PART H: SUMMARY OF APPLICANTS MOTIVATION – Annexure B – Full application							
<p>Since the application lapsed, the applicant is now re-applying for the similar subdivision. Proposed Portion A, measures approximately 3,229ha which comprises of the original house, Red Barn Restaurant, an orchard of macadamia nut trees, and dam. The proposed Remainder will consist of an orchard of macadamia nut trees, dam, 2 chalets, labourers cottage, shed, house, storeroom, and carport.</p> <p>The proposed access for Proposed Portion A will be on an already existing access for the whole Farm. The proposed access will be bordering the access point for Annex Lot A of Westford No.193. According to the applicant the proposed access point the sight lines are excellent.</p>							

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As with all the properties in an area, water supply is via rainwater tanks. The property obtains its power from Eskom. The waste is collected through the Municipal waste collection programme. Sewage disposal is through the septic tank.											
PART I: SUMMARY OF PUBLIC PARTICIPATION											
Methods of advertising				Date published				Closing date for comments			
Press	Y	N	N/A	31 August 2017				30 September 2017			
Gazette	Y	N	N/A								
Notices	Y	N	N/A	03 August 2017				05 September 2017			
Ward councillor	Y	N	N/A								
Site notice	Y	N	N/A								
Community organisation(s)	Y	N	N/A								
Public meeting	Y	N	N/A								
Third parties	Y	N	N/A								
Other	Y	N	If yes, specify								
Total valid comments				One (1)				Total comments and petitions refused		None	
Valid petition(s)				Y	N	If yes, number of signatures					
Community organisation(s) response				Y	N	N/A	Ward councillor response		Y	N	N/A
Total letters of support				None							
Was public participation undertaken in accordance with section 45- 49 of the Knysna Municipality By-law on Municipal Land Use Planning.										Y	N
PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION - ANNEXURE C (Objection Received)											
<p>Below is the summary of objection received: Howard Butcher for The Peace of Eden Trust (T401/93) – Remainder Annex Lot A Westford Farm 193, Knysna.</p> <ul style="list-style-type: none"> - The information on the letter of motivation and subdivisional plan does not correlate. - Access where it is proposed is unacceptable for reasons provided in an objection letter to the original application for subdivision by the applicant in 2008. - Applicant conducts an un-lawful accommodation business from a number of unplanned and approved structures. - Traffic to and from his property is significant at busy times of the year (December, January, April, June, July and September). - The proposed access would therefore impose such nuisance of his proposed subdivision and unlawful business on his neighbour being Peace of Eden. This would be significant infringement of the Trust's Right to privacy, security and safety; and would impair safe visual access to the busy Rheenendal Road. - Any access located to, and parallel to the existing access to Peace of Eden will interfere with water security to Peace of Eden as the Topography of the adjoining properties ensures that water flows from the applicant's land, via gulley and concrete pipes, to the ponds and dam of Peace of Eden. The property is already stressed with water shortages. - Therefore, consider this resolute objection to the proposals to subdivide and reconfigure access to the Applicant's property as stated. The Peace of Eden will however consider an application to subdivide as long as such application does not include any reconfiguration of access to the subdivided properties adjacent to Peace of Eden. - Relaxation of 30m building boundary and reconfiguration of access without a proper, fair and full due process will result in the Peace of Eden Trust bringing court application against Knysna to suspend such relaxation. 											

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PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS					
Name	Date received	Summary of comments	Recommendation		
ROADS & STORMWATER	06-09-2017	No objection.	Positive	Negative	Comment
WATER & SEWER	06-09-2017	No objection	Positive	Negative	Comment
BUILDING CONTROL	15-08-2017	Supported	Positive	Negative	Comment
Western Cape: Department of Agriculture, Forestry, and Fisheries.	31-08-2017 27-10-2017 07-11-2017	Letters attached as Annexure D.	Positive	Negative	Comment
National Department of Agriculture.	11-01-2008 24-05-2013	Letters attached as Annexure E.	Positive	Negative	Comment
Western Cape: Transport and Public Works – Road Network Management.	12-12-2017 16-01-2018	Letters attached as Annexure F.	Positive	Negative	Comment
PART L: SUMMARY OF APPLICANT'S REPLY TO COMMENTS – ATTACHED AS ANNEXURE G (Response to Objections)					
<ul style="list-style-type: none"> The applicant said the objector is erroneously referring to Plan 571A/PL1 which was altered and replaced by 571A/PL2. The plans were altered after discussing the original plan with the municipal officials. The objector had erroneously referring to common border between Remainder Annex Lot A Westford Farm 193 and Portion 5 of the Farm "PORTLAND" No. 187 KNYNSA, however, they do not since the property was subdivided into two portions. The applicant shares a common border with Portion 1 of the Farm Annex Lot A Westford No.193. With reference to unplanned structures, the applicant intends to rectify with the approval of this subdivision application, hence he has submitted the Departure and Consent Application. The applicant says this application will in no ways affect and impose on the objector's rights of privacy and safety. The is a clearing line of sight for 300 metres to the left and 250 metres to the right as it is straight stretch road. The applicant is also not convinced that the proposed access will impair water flow to the objector property. 					
PART M: MUNICIPAL ASSESSMENT OF COMMENTS					
<ul style="list-style-type: none"> The applicant had to revise the plans after he had the meeting with the Municipal Officials. However, the advertised and circulated site plan was the correct proposed sub-divisional plan. The unlawful business being chalets, the applicant intends to rectify hence the applicant has included the Consent application. The Western Cape: Transport and Public Works – Road Network Management would determine which access is suitable for the access to the property, if the proposed access is not suitable they will provide the reasons and recommend the best suitable access point. The proposed access will in no way prevent the flow of to their property, this is objection is insignificant. The letters from National Department of Agriculture confirms that the property is no longer subjected to provisions of the Subdivision of the Subdivision of Agricultural Land Act, Act 70 of 1970. The Western Cape: Department of Agriculture, Forestry, and Fisheries also confirms that their mandate is not affected by the proposed subdivision. The Western Cape: Transport and Public Works – Road Network Management also had provided the applicant with the conditional approval of repositioning of the proposed access to another location. 					
PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)					
Was the application processed correctly (if no, elaborate below): All the due processes were followed.			Y	N	
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below).			Y	N	

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<p>The application is in line with the SPLUMA Principles i.e Spatial Sustainability - The proposed subdivision, consent and will promote and stimulate growth in terms of property value. Promotes that the development happens in a regulated manner.</p> <p>The process of application enforces the principle of Good Administration where there is transparency in all dealings, public consultation through advertising the application, procedures and times frames adhered to. The proposed application all the due processes were followed. The application was circulated to internal departments, neighbours and advertise to local newspaper – Action Ads.</p>		
<p>Application history</p> <p>Subdivision of the property which the approval lapsed.</p>		
<p>(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)</p> <p>YES. It is in line with the SPLUMA Principles.</p>		
<p>(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)</p> <p>N/A. The Knysna Municipality is in the process of adopting the single zoning scheme. However, in the meantime the Section 8 Scheme Regulations (1988) is effective. This application is not for the change of zoning. The current zoning remains the same.</p>		
<p>(In)consistency with the IDP/Various levels of SDF's/Applicable policies</p> <p>Karatara and Rheenendal</p> <p>While these settlements suffer the legacy of lack of investment and spatial fragmentation. New development here needs to be well considered so that poverty, isolation and inaccessibility are not entrenched. Rather investment should:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Promote the consolidation of the settlements, focusing on infill, redevelopment and balancing land uses to improve economic opportunity rather than encouraging lateral expansion and perpetuating low income, dormitory development. <input type="checkbox"/> Focus on basic service needs and social facilities as well as regeneration of the streets, open spaces and supporting economic activities to serve existing development areas. <input type="checkbox"/> Retain small town character through careful design and control of infill development and making "a complete village". <p>The above does not relate to larger Rheenendal Farms. However, the small subdivision of the farms to small holding does in essence contribute to compactness of the area so that the isolation is discouraged.</p>		
<p>(In)consistency with guidelines prepared by the Provincial Minister</p> <p><u>N/A</u></p>		
<p>Impact on Municipal engineering services</p> <p>No impact identified by the Department of Technical services. The municipality does not render services, only waste collection in an area.</p>		
<p>Outcomes of investigations/applications i.t.o other legislation</p> <p>N/A</p>		
<p>Existing and proposed zoning comparisons and considerations</p> <p>No proposal on the zoning. It remains the same, Agricultural 1 in terms of Section 8 Scheme Regulations (1988).</p>		
<p>The desirability of the proposal</p> <p>Refer to the motivation.</p>		
<p>PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS (REFER TO ROR GUIDELINE)</p>		

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The financial or other value of the rights
N/A
The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal
N/A
The social benefit of the restrictive condition remaining in place, and/or being removed/amended
N/A
Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights
N/A
PART P: SUMMARY OF EVALUATION
<ul style="list-style-type: none"> - Similar subdivision has been approved in the past but lapsed prior to registration of the created erven. - The proposal includes the departure in order to comply with the proposed boundary line. - The proposal includes the consent for legalising the 2 chalets on the property. - In terms of Section 8 Scheme Regulations (1988); Agricultural zone property are allowed to have main dwelling house and second dwelling unit. The Scheme further allows one more second dwelling unit per 10ha each, up to 5 dwelling units. The proposed Remainder measures 10.010 ha complies with the Scheme requirements. - Also the proposed Portion A measures 3,229ha complies with the Scheme requirements. The Restaurant – Red Barn is legal on the property. - As confirmed by the National Department of Agriculture confirms that the property is no longer subjected to provisions of the Subdivision of the Subdivision of Agricultural Land Act, Act 70 of 1970. - The Western Cape: Department of Agriculture, Forestry, and Fisheries also confirms that their mandate is not affected by the proposed subdivision. - The comments and objection received about the access are annulled since the Western Cape: Transport and Public Works – Road Network Management has recommended the access at another point. Therefore, the proposed subdivision does not affect the neighbours negatively. - The proposed subdivision does not have negative impact on quality of life and character of the area. - The proposed subdivision does not have impact on municipal services as there are no services rendered in and area other than the waste collection programme. - The proposed subdivision is desirable as it is compatible with the neighbouring properties and in terms of the size and uses.
PART Q: RECOMMENDATION
<p>That the application in terms of Section 60 of the Knysna Municipality By- Law on Municipal Land Use Planning (2016) for the application in terms of Section 15 (2) (b), be Approved to allow for a relaxation of 30m building line in order to accommodate the existing buildings; for consent use to allow for two existing chalets on the property; and for subdividing the farm into two portions (Portion A – 3,229ha and a Remainder - 10.010 ha) as indicated on proposed sub-divisional plan drawn by P.G. TARBOTON, drawing number 571A – PL2; dated June 2017.</p> <p>The above approval is subject to the following conditions:</p> <ol style="list-style-type: none"> a) This approval applies to the application as outlined above and may not be construed as authority to depart from any other legal prescriptions or requirements; b) Any signage relating to the chalets and red barn shall comply with the By-Law on the Control of Outdoor Advertising, Heritage & Building Aesthetics; c) Building plans for illegal structures shall be submitted in terms of National Building Regulations and Building Standard Act 1977 (Act 103 of 1977) to the municipality for approval; d) The sub-divisional plan to be amended as per Western Cape: Transport and Public Works – Road Network Management; e) All costs pertaining to the implementation of these conditions will be for the account of the property owner;

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- f) The property owner shall take responsibility for ensuring compliance with all conditions of approval;
- g) This approval shall lapse in the event of the applicant not complying with any of the conditions as imposed by Council;
- h) Electronic and hard copies of the approved surveyor general's diagrams shall be submitted to the municipality for records purposed;
- i) The approval is valid for only 5 years for the subdivision from the date of final notification.

PART R: REASONS FOR RECOMMENDATION

The reasons for above recommendation for approval are as follows:

- Does not set the precedent, however it conforms to the precedent which have already been set. For subdividing the Farm to minimum of 3ha.
- Does not affect the neighbouring properties negatively.
- The application does not pose any negative impact.
- The application is consistent with the Knysna Municipal Town Planning Scheme (1992) and Spluma.
- No internal negative comments received.

PART S: ANNEXURES

1. Annexure A - Previous Sub-Divisional Plan and Approval Conditions.
2. Annexure B - Full Application.
3. Annexure C – Objection Received.
4. Annexure D – Letters from the Western Cape: Department of Agriculture, Forestry, and Fisheries.
5. Annexure E – Letters from the National Department of Agriculture.
6. Annexure F – Letters from Western Cape: Transport and Public Works – Road Network Management.
7. Annexure G – Reply to comments

PART T: SIGNATURES

Author name: ZINHLE THWALA

Author signature:

Date:

Registered planner name:

Registered planner signature:

SACPLAN registration number:

Date:

Registered planner name:

Registered planner signature:

SACPLAN registration number:

Date:

Decision maker: **Knysna Municipal Planning Tribunal**

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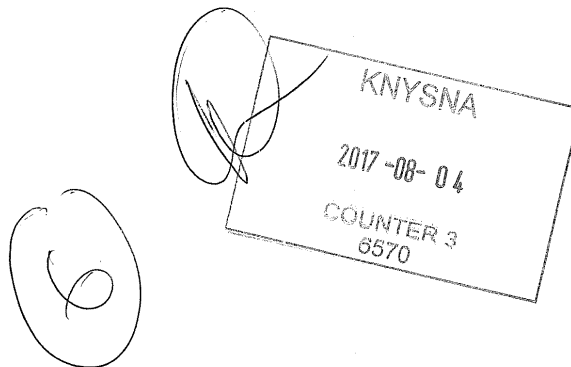
APPROVED	APPROVED CONDITIONALLY	APPROVED IN PART	REFUSED
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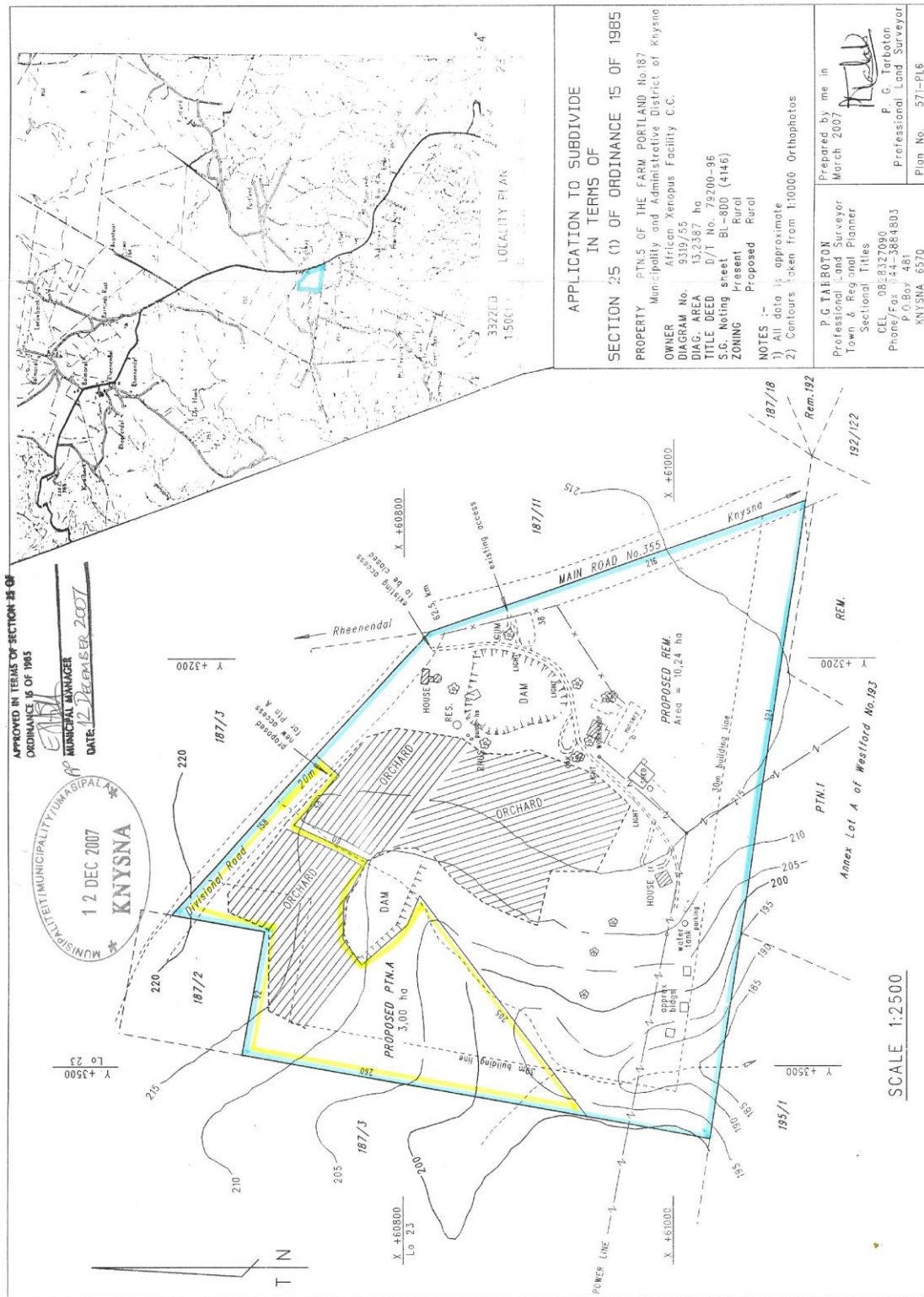
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MAILING LIST FOR PTN 5 OF FARM 187

193/0	PEACE OF EDEN TRUST PO BOX 53 RHEENENDAL KNYSNA 6576	INSURED PARCEL <small>ShareCall 0860 111 502 www.sapo.co.za</small> PA 490 061 854 ZA CUSTOMER COPY 301012
193/1	AJ FOGARTY PO BOX 1255 KNYSNA 6570	REGISTERED LETTER <small>(with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za</small> RC 183 434 305 ZA CUSTOMER COPY 301028R
195/1	EJR PRYKE PO BOX 737 KNYSNA 6570	REGISTERED LETTER <small>(with a domestic insurance option) ShareCall 0860 111 502 www.sapo.co.za</small> RC 183 434 274 ZA CUSTOMER COPY 301028R
187/3	R & NM BARNARD PO BOX 20 RHEENENDAL KNYSNA 6576	INSURED PARCEL <small>ShareCall 0860 111 502 www.sapo.co.za</small> PA 490 061 845 ZA CUSTOMER COPY 301012
187/11	JH BARNARD PO BOX 7 RHEENENDAL KNYSNA 6576	INSURED PARCEL <small>ShareCall 0860 111 502 www.sapo.co.za</small> PA 490 061 823 ZA CUSTOMER COPY 301012
187/34	TOWELL FAMILY TRUST PO BOX 2324 KNYSNA 6570	INSURED PARCEL <small>ShareCall 0860 111 502 www.sapo.co.za</small> PA 490 061 837 ZA CUSTOMER COPY 301012
187/35	NO INFO	



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agriculture,
forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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

From: Directorate Land Use and Soil Management:
Tel: 012-319-7634 Fax: 012-329-5938 e-mail: NhlakaD@daff.gov.za
Enquiries: Helpdesk Ref: 2013_03_0137

Mr P.G. Tarboton
P.O. Box 481
KNYSNA
6570

2013-05-24

Dear Sir/Madam

**SUBDIVISION OF PORTION 5 OF THE FARM PORTLAND NO. 187, DIVISION
KNYSNA, WESTERN CAPE PROVINCE**

Your 571 letter dated 09 April 2013 refers.

This Department is hereby confirming that the letter dated 2008-01-11 (Agric-Land-
Ref No. 2007_08_0041) is still valid.

Yours faithfully

MS M.C. MARUBINI
DELEGATE OF THE MINISTER: LAND USE AND SOIL MANAGEMENT

King/2013/Portland No. 187 Ptn 5

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agriculture

Department:
Agriculture
REPUBLIC OF SOUTH AFRICA

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

From: Directorate Land Use and Soil Management
Tel: 012-319-7678 Fax: 012-329-5938 E-mail: agriland@nda.agric.za
Enquiries: Help desk Ref: 2007_08_0041

P.G. Tarboton Land Surveyor
P O Box 481
KNYSNA
6570

2008-01-11

PROPOSED SUBDIVISION AND GUIDE PLAN AMENDMENT: PORTION 5 OF THE FARM PORTLAND 187, DIVISION OF KNYSNA, WESTERN CAPE PROVINCE

Your letter 571 dated 27 July 2007 refers.

With reference to the above-mentioned matter I wish to inform you that this Department has no objection against the proposed subdivision and guide plan amendment of the Knysna-Wilderness-Plettenberg Bay Regional Structure Plan from of the above mentioned property from Agriculture/ Forestry to Rural Occupation from an agricultural point of view.

Please note that the provisions of the Subdivision of Agricultural Land Act, Act 70 of 1970, shall no longer apply to the above mentioned property once the Municipality has approved the above mentioned rezoning.

Yours faithfully

DELEGATE OF THE MINISTER: LAND USE AND SOIL MANAGEMENT

J Makhuma/2007/ Portland 187 Ptn 5 No obj_let

Ref: KNY 187/5



12 December 2007

REGISTERED MAIL

Mr PG TARBOTON
P. O. Box 481
KNYSNA
6570

Sir,

**PORTION 5 OF FARM PORTLAND NO. 187, DISTRICT OF KNYSNA:
PROPOSED SUBDIVISION**

Your letter dated 29 March 2007 refers.

Approval is hereby granted in terms of Section 25 of Ordinance No. 15 of 1985 for the subdivision of Portion 51 of Farm Portland No. 187, District of Knysna into two portions, Portion A (3ha) and a Remainder (10,24ha) as indicated in drawing no.: 571-PL6 dated March 2007.

This approval is subject to the conditions contained in the attached Annexures A, B and C, imposed in terms of Section 42 of the said Ordinance.

A copy of the approved subdivision plan, duly endorsed as required, is attached for your further attention.

Kindly furnish copies of the approved SG diagrams as soon as they are available.

The above decision was taken by the Chief Town Planner under delegation granted by resolution of the Knysna Local Municipal Council on 22 June 2004. In terms of Section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 33 of 2000, as amended), you have a right of appeal against this decision. Should you wish to exercise this right of appeal, you must lodge such motivated appeal in writing to be received by the Municipal Manager, Knysna Municipality, Municipal Offices, P.O. Box 21, KNYSNA 6570, within **twenty-one (21) days** of date of registration of this letter.

Your attention is further drawn to the provisions of Section 44 of the Land Use Planning Ordinance, 1985 (Ord. No. 15 of 1985), in terms of which you have an

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alternative right of appeal to the Premier of the Western Cape against the decision. Should you wish to exercise this right of appeal, you must lodge such motivated appeal in writing to be received by the relevant authorities within **twenty-one (21) days** of date of registration of this letter.

This appeal should be addressed to:
The Director: Integrated Environmental Management (Region A1)
Chief Directorate: Development Planning
Private Bag X9086
CAPE TOWN
8000

A copy of the appeal must be served on Council simultaneously.

Please note that you may not act in terms of the above decision until it has been confirmed, in writing, that an appeal has not been lodged by an objector against that decision. Should you not have been informed within 30 days of receipt of this letter, you are advised to contact the writer.

In addition, your attention is drawn to the provisions of Section 16 and/or Section 27 of Ordinance No. 15 of 1985, regarding the lapsing of unutilised land use approvals (2 years in terms of Departures and Rezoning, 5 years in respect of subdivision).

Yours faithfully,


E J HILL
CHIEF TOWN PLANNER

cc: Director: Corporate Services
Director: Finance (Rates Dept)
Director: Technical Services
TEE
BCO

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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-P.G.TARBOTON

B.Sc (SURVEY) L (SA) MILS. MITES DIP AIR SURVEY
Professional Land Surveyor
Engineering & Topographical Surveys
Sectional Title Surveys
Township Planning Consultant

E-mail pattar@mweb.co.za
Phone/Fax 044-3884803
Cel 0828327090
P.O.Box 481
KNYSNA 6570

Chief Town Planner
Knysna Municipality
P.O.Box 21
KNYSNA
6570

DATE: 27-04-2017

MY REF: 571A

YOUR REF:

Sir

Re : PROPOSED SUBDIVISIONS A & B OF PTN.5 OF THE FARM PORTLAND No.187
SITUATE IN THE MUNICIPALITY AND ADMIN. DISTRICT OF KNYSNA

In terms of the Municipal Bylaws I am enclosing herewith the following for your approval .

- 1) A copy of the completed application form.
- 2) A copy of the Motivation report.
- 3) A copy of Plan 571A-PL1 which incorporates a 1:50000 locality plan.
- 4) A copy of your previous approval dated 12-12-2007. (now lapsed)
- 5) A copy of the diagram of Ptn. 5 and also of Ptn 35
- 6) A copy of D/T 79200/96, and a letter of consent from the bondholders.
- 7) A copy of a Power of Attorney in my favour from the owner.
- 8) A receipt for the payment of application fees of R950-00.
- 9) A copy of a letter of exemption from Act 70/1970, from the Dept. of Agriculture and dated 11-01-2008, together with a letter dated 24-05-2013, confirming the previous letter.

Although all buildings have not been registered with the Municipality, all buildings on the property have now been shown on the application plan.

An application, in terms of Act 21/1940, has been made to the Roads Dept. in George.

Kindly submit to Council for their approval.

Yours faithfully



P.G.TARBOTON
Professional Land Surveyor

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86

Minde Schapiro & Smith Inc.
Tyger Valley Office Park
Building 2
Cnr. Willie van Schoor & Old Oak Roads
Bellville
7536

Prepared by me

CONVEYANCER
PETRUS GERHARDUS
LOURENS

CONSENT TO SUBDIVISION

I, the undersigned

MARIO DA SILVA

in my capacity as the duly authorised representative of **THE FIRSTRAND BANK LIMITED**, Registration Number 1929/001225/06 previously known as **FIRST NATIONAL BANK OF SOUTHERN AFRICA LIMITED** REGISTRATION NUMBER 05/001225/06, acting under and by virtue of a Resolution of the Board of Directors of the said Bank passed at JOHANNESBURG on the 24th of NOVEMBER 2008, the legal holder of the undermentioned Bond, namely:

NUMBER : B62719/2008
PASSED BY : AFRICAN XENOPUS FACILITY CC
1986/019944/23
IN FAVOUR OF : FIRSTRAND BANK LIMITED - REGISTRATION NUMBER
1929/001225/06
AMOUNT : R400 000,00 (Four Hundred Thousand Rand)
ADDITIONAL SUM : R80 000,00 (Eighty Thousand Rand)

DO HEREBY CONSENT to the subdivision of:

PORTION 5 OF FARM "PORTLAND" NO 187
IN THE MUNICIPALITY AND DIVISION OF KNYSNA
PROVINCE OF THE WESTERN CAPE

In extent: 13,2387 (Thirteen Comma Two Three Eight Seven) Hectares

8 PG
GhostConvey 15.9.9.1 LS



KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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- 2 -

from the operation of the abovementioned mortgage bond.

DATED at JOHANNESBURG on 25 APRIL 2017

AS WITNESSES :

1.  

2. 

GhostConvey 15.9.9.1

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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MEYER DE WAAL
CTN 224

SEELREG
DUTY R.
FOOI
FEE R. 100 00

61
SILBERDAUERS

Prepared by me,
[Signature]
CONVEYANCER
MARTIN P B
Surname and Initials.

VERBIND MORTGAGED
VIR FOR R 306 000 00
B 69996196
15-10-96
REGISTRATEUR/REGISTRAR

BC 00006276/200
GEKANSLEER
CANCELLED
04 JUL 2005

DEED OF TRANSFER T 79200196

Be it hereby made known:

THAT GERHARD JACQUES RYK VAN REENEN
appeared before me, Registrar of Deeds
at CAPE TOWN VIR ENDOSSEMENTE KYK BLADSY
4. VIR ENDORSMENTS SEE PAGE
he, the said Appearer, being duly authorised thereto by a Power of Attorney granted
to him by -
ALICE MARY CALDER
(Identity Number : 510529 0109 00 0)
Married out of community of property
dated the 17th day of SEPTEMBER 1996, and signed at KNYSNA
AND/2.....

AND the said Appearer declared that his said Principal had truly and legally sold on
22nd day of JULY 1996 and that he, in his capacity as Attorney aforesaid,
did by these presents, cede and transfer in full and free property to and on behalf of

AFRICAN XENOPUS FACILITY CC

CK 86/19944/23

its Successors in Title

**PORTION 5 OF THE FARM "PORTLAND" NO 187,
DIVISION OF KNYSNA, WESTERN CAPE PROVINCE;**

**IN EXTENT : 13,2387 (one three comma two three eight seven)
hectares;**

FIRST TRANSFERRED by Deed of Transfer No. T6655/1959 with diagram No.
9319/55 relating thereto and held by Deed of Transfer No. T30918/84.

SUBJECT to the conditions referred to in the said Deed of Transfer No. 6655/1959

3/WHEREFORE

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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WHEREFORE, the Appearer, renouncing all the Right and Title which his said Principal heretofore had to the premises, did, in consequence also acknowledge his said Principal to be entirely dispossessed of, and disentitled to, the same; and that, by virtue of these Presents, the said Transferee


Its Successors in Title, now is and henceforth shall be entitled thereto, conformably to local custom, The State, however, reserving its rights, and finally acknowledging the whole of the Purchase Money, amounting to the sum of
R 385 000,00 (Three Hundred and Eighty Five Thousand Rand)

to have been satisfactorily paid or secured.

IN witness whereof, I, the said Registrar of Deeds, together with the Appearer, q.q., have subscribed to these Presents and have caused the Seal of Office to be affixed thereto.

THUS done and executed, at the Office of the Registrar of Deeds at CAPE TOWN on the 15th day of October in the year
ONE THOUSAND NINE HUNDRED AND NINETY-SIX (1996).

In my presence,


Registrar of Deeds.


q.q.


KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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SPECIAL POWER OF ATTORNEY

I, the undersigned, Robert Legg for African Xenopus Facility CC.
registered owner of the property described below, do hereby nominate,
constitute and appoint PATRICK GORDON TARBOTON, Land Surveyor, with power
of substitution to be my lawful Attorney and Agent in my name, place and
stead to make application to the relevant Authorities and to sign all
application forms, documents and other papers as may be required in such
application.

DESCRIPTION OF PROPERTY:

..... Plt 5 of the farm PORTLAND N°187.....

NATURE OF APPLICATION:

..... Subdivision.....
.....

SIGNED AT..... Knysna.....

THIS 16th DAY OF November 2016

WITNESSES:

1. [Signature]
2. [Signature]

..... [Signature]

OWNER

ON BEHALF OF:
AFRICAN XENOPUS FACILITY CC.

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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P.G.TARBOTON

B.Sc (SURVEY) L (SA) MILS. MITES DIP AIR SURVEY
Professional Land Surveyor
Engineering & Topographical Surveys
Sectional Title Surveys
Township Planning Consultant

E-mail pattar@mweb.co.za
Phone/Fax 044-3884803
Cel 0828327090
P.O.Box 481
KNYSNA 6570

DATE 14-03-2017

MY REF: 571A

YOUR REF:

MOTIVATION REPORT

Proposed subdivisions of Ptn 5 of the farm PORTLAND No.187
Admin. District Knysna

1) General

- 1.1) Proposed Ptn A was approved by the Municipality, surveyed, and the diagram approved by the S.G. as Ptn 35 in 2008. A copy of the diagram is attached. Unfortunately the approval was allowed to lapse and we are now re-applying for the identical Subdivision and also for Ptn.B.
- 1.2) Ptn B comprises the original house, the Red Barn restaurant and an orchard of macadamia nut trees.
- 1.3) The remainder comprises a house, a shed, five cottages, and a macadamia orchard.
- 1.4) There will be no additional buildings or earthworks, so no indigenous vegetation is affected.

2) Access

- 2.1) Access to Ptn A will be via the already approved new access at beacon 58. See plan.
- 2.2) Ptn B access is existing, as shown.
- 2.3) Access to the remainder will be via a 10m wide strip to the S of Ptn B. There is already an access at this point serving Annex Lot A, and it will simply mean a widening of this existing access point. Sight lines are excellent.

3) Services

- 3.1) As with all properties in the area, water supply is via rainwater tanks.
- 3.2) Escom power is already on site
- 3.3) The Municipality already have a rubbish collection programme for the area.
- 3.4) Sewerage disposal is via septic tanks.



P.G.TARBOTON
Professional Land Surveyor

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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LAND USE PLANNING APPLICATION FORM (Section 15 of the Proposed Standard Draft By-law on Municipal Land Use Planning)					
KINDLY NOTE: Please complete this form using BLOCK capitals and ticking the appropriate boxes.					
PART A: APPLICANT DETAILS					
First name(s)	Patrick Gordon				
Surname	TARBOTON				
South African Council for Planners (SACPLAN) registration number (if applicable)					
Company name (if applicable)	P.G. TARBOTON				
Postal Address	P.O. Box 481				
	Knysna				Postal Code 6570
Email	pattar@nwweb.co.za				
Tel	044-388 4803	Fax		Cell	082 832 7090
PART B: REGISTERED OWNER(S) DETAILS (If different from applicant)					
Registered owner(s)	African Xenopus Facility C.C.				
Physical address	"Ferngully"				
	Rheerendal Road				Postal code
E-mail	fernully@telkomsa.net				
Tel	044-388 4757	Fax		Cell	082 744 4993
PART C: PROPERTY DETAILS (in accordance with title deed)					
Property description [Number(s) of Erf/Erven/Portion]	Plt 5 of the farm PORTLAND N°187 District KNYSNA				

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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s] or Farm(s), allotment area.]					
Physical Address		Ferngully - Rheenendal Rd.			
GPS Coordinates		Lat 33.58.38,01 Lo 22.57.56,39	Town/City	Knysna	
Current Zoning	Rural	Extent	13,238.7 4 ha	Are there existing buildings?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
Applicable Zoning Scheme					
Current Land Use		Farming			
Title Deed number and date		T D/T 79200/96			
Any restrictive conditions?	Y <input checked="" type="checkbox"/> N	If Yes, list condition(s)			
Are the restrictive conditions in favour of a third party(ies)?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	If Yes, list the party(ies)			
Is the property encumbered by a bond?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	If Yes, list bondholder(s) <u>See letter from conveyancers (attached)</u>			
Any existing unauthorized buildings and/or land use on the subject property(ies)? See submission letter		Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	If yes, is this application to legalize the building / land use?		Y <input type="checkbox"/> N <input checked="" type="checkbox"/>
Are there any pending court case(s) / order(s) relating to the subject property(ies)?		Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	Are there any land claim(s) registered on the subject property(ies)?		Y <input type="checkbox"/> N <input checked="" type="checkbox"/>
PART D: PRE-APPLICATION CONSULTATION					
Has there been any pre-application consultation?		Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	If Yes, complete the information below and attach the minutes of the pre-application consultation.		
Official's name		Reference Number		Date of consultation	
PART E: LAND USE PLANNING APPLICATIONS IN TERMS OF SECTION 15 OF THE PROPOSED STANDARD DRAFT BY-LAW ON MUNICIPAL LAND USE PLANNING AND APPLICATION FEES PAYABLE					
Tick	Section	Type of application	Cost		
<input type="checkbox"/>	2(a)	a rezoning of land;	R		
<input type="checkbox"/>	2(b)	a permanent departure from the development parameters of the zoning scheme;	R		
<input type="checkbox"/>	2(c)	a departure granted on a temporary basis to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land;	R		
<input checked="" type="checkbox"/>	2(d)	a subdivision of land that is not exempted in terms of section 24, including the registration of a servitude or lease agreement;	R 950-00		
<input type="checkbox"/>	2(e)	a consolidation of land that is not exempted in terms of section 24;	R		
<input type="checkbox"/>	2(f)	a removal, suspension or amendment of restrictive conditions in respect of a land unit;	R		
<input type="checkbox"/>	2(g)	a permission required in terms of the zoning scheme;	R		

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T2

✓	2(h)	an amendment, deletion or imposition of conditions in respect of an existing approval;	R
✓	2(i)	an extension of the validity period of an approval;	R
✓	2(j)	an approval of an overlay zone as contemplated in the zoning scheme;	R
✓	2(k)	an amendment or cancellation of an approved subdivision plan or part thereof, including a general plan or diagram;	R
✓	2(l)	a permission required in terms of a condition of approval;	R
✓	2(m)	a determination of a zoning;	R
✓	2(n)	a closure of a public place or part thereof;	R
✓	2(o)	a consent use contemplated in the zoning scheme;	R
✓	2(p)	an occasional use of land;	R
✓	2(q)	to disestablish a home owner's association;	R
✓	2(r)	to rectify a failure by a home owner's association to meet its obligations in respect of the control over or maintenance of services;	R
✓	2(s)	a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building.	R
TOTAL A:			R 950-00
PRESCRIBED NOTICE AND FEES** (for completion and use by official)			
Tick	Notification of application in media	Type of application	Cost
✓	SERVING OF NOTICES	Delivering by hand; registered post; data messages	R
✓	PUBLICATION OF NOTICES	Local Newspaper(s); Provincial Gazette; site notice; Municipality's website	R
✓	ADDITIONAL PUBLICATION OF NOTICES	Site notice, public meeting, local radio station, Municipality's website, letters of consent or objection	R
✓	NOTICE OF DECISION	Provincial Gazette	R
✓	INTEGRATED PROCEDURES	T.B.C	R
TOTAL B:			R
TOTAL APPLICATION FEES* (TOTAL A + B)			R
<p>* Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany an application.</p> <p>** The applicant is liable for the cost of publishing and serving notice of an application.</p>			
BANKING DETAILS			
<p>Name:</p> <p>Bank:</p> <p>Branch no.:</p> <p>Account no.:</p> <p>Payment reference: (if applicable)</p>			
PART F: DETAILS OF PROPOSAL			
Brief description of proposed development / Intent of application:			

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PART G: ATTACHMENTS AND SUPPORTING INFORMATION AND DOCUMENTATION FOR LAND USE PLANNING APPLICATION [section 15(2)(a) to (s) of the Proposed Standard Draft By-law on Municipal Land Use Planning]									
Complete the following checklist and attach all the information and documentation relevant to the proposal. Failure to submit all information and documentation required will result in the application being deemed incomplete. It will not be considered complete until all required information and documentation have been submitted.									
Information and documentation required in terms of section 38(1) of said legislation									
Y	N	Power of attorney / Owner's consent if applicant is not owner	Y	Y	Y	Bondholder's consent (if applicable)			
Y	N	Resolution or other proof that applicant is authorised to act on behalf of a juristic person	Y	N		Proof of registered ownership or any other relevant right held in the land concerned			
Y	N	Written motivation	Y	N		S.G. diagram / General plan extract			
Y	N	Locality plan	Y	N		Site development plan or conceptual layout plan			
Y	N	Proposed subdivision plan	Y	N		Proof of agreement or permission for required servitude			
Y	N	Proof of payment of application fees	Y	N		Full copy of the title deed			
Y	N	Conveyancer's certificate	Y	N		Minutes of pre-application consultation meeting (if applicable)			
Supporting information and documentation:									
Y	N	N/A	Consolidation plan	Y	N	N/A	Land use plan / Zoning plan		
Y	N	N/A	Street name and numbering plan	Y	N	N/A	1 : 50 / 1:100 Flood line determination (plan / report)		
Y	N	N/A	Landscaping / Tree plan	Y	N	N/A	Home Owners' Association consent		
Y	N	N/A	Abutting owner's consent	Y	N	N/A			
Y	N	N/A	Copy of Environmental Impact Assessment (EIA) / Heritage Impact Assessment (HIA) / Traffic Impact Assessment (TIA) / Traffic Impact Statement (TIS) / Major Hazard Impact Assessment (MHIA) / Environmental Authorisation (EA) / Record of Decision (ROD) (strikethrough irrelevant)	Y	N	N/A	Services Report or indication of all municipal services / registered servitudes		

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<input checked="" type="radio"/> Y	<input type="radio"/> N	<input checked="" type="radio"/> N/A	Copy of original approval and conditions of approval	<input type="radio"/> Y	<input type="radio"/> N	<input checked="" type="radio"/> N/A	Proof of failure of Home owner's association
<input type="radio"/> Y	<input type="radio"/> N	<input checked="" type="radio"/> N/A	Proof of lawful use right	<input type="radio"/> Y	<input type="radio"/> N	<input checked="" type="radio"/> N/A	Any additional documents or information required as listed in the pre-application consultation form / minutes
<input type="radio"/> Y	<input type="radio"/> N	<input checked="" type="radio"/> N/A	Required number of documentation copies	<input type="radio"/> Y	<input type="radio"/> N	<input checked="" type="radio"/> N/A	Other (specify)

PART H: AUTHORISATION(S) IN TERMS OF OTHER LEGISLATION


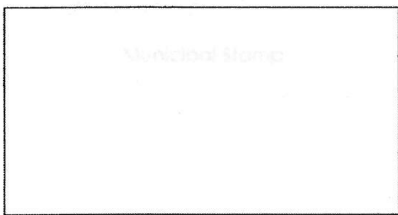
<input type="radio"/> Y	<input type="radio"/> N/A	National Heritage Resources Act, 1999 (Act 25 of 1999)	<input type="radio"/> Y	<input type="radio"/> N/A	Specific Environmental Management Act(s) (SEMA)
<input type="radio"/> Y	<input type="radio"/> N/A	National Environmental Management Act, 1998 (Act 107 of 1998)	<input type="radio"/> Y	<input type="radio"/> N/A	(e.g. Environmental Conservation Act, 1989 (Act 73 of 1989), National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004), National Environmental Integrated Coastal Management Act, 2008 (Act 24 of 2008), National Environmental Management: Waste Act, 2008 (Act 59 of 2008), National Water Act, 1998 (Act 36 of 1998) (strikethrough irrelevant)
<input type="radio"/> Y	<input type="radio"/> N/A	Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970)	<input type="radio"/> Y	<input type="radio"/> N/A	
<input type="radio"/> Y	<input type="radio"/> N/A	Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)	<input type="radio"/> Y	<input type="radio"/> N/A	
<input type="radio"/> Y	<input type="radio"/> N/A	Occupational Health and Safety Act, 1993 (Act 85 of 1993); Major Hazard Installations Regulations	<input type="radio"/> Y	<input type="radio"/> N/A	
<input type="radio"/> Y	<input type="radio"/> N/A	Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA)	<input type="radio"/> Y	<input type="radio"/> N/A	Other (specify)
<input type="radio"/> Y	<input type="radio"/> N	If required, has application for EIA / HIA / TIA / TIS / MHIA approval been made? If yes, attach documents / plans / proof of submission etc.			
<input type="radio"/> Y	<input type="radio"/> N	If required, do you want to follow an integrated application procedure in terms of section 44(1) of the Proposed Standard Draft By-law on Municipal Land Use Planning? If yes, please attach motivation.			

SECTION I: DECLARATION

I hereby wish to confirm the following :

1. That the information contained in this application form and accompanying documentation is complete and correct.
2. I'm aware that it is an offense in terms of section 86(1)(e) to supply particulars, information or answers knowing the particulars, information or answers to be false, incorrect or misleading or not believing them to be correct.
3. I am properly authorized to make this application on behalf of the owner and (where applicable) that a copy of the relevant power of attorney or consent are attached hereto.
4. Where an agent is appointed to submit this application on the owner's behalf, it is accepted that correspondence from and notifications by the Municipality in terms of the by-law will be sent only to the agent and that the owner will regularly consult with the agent in this regard.
5. That this submission includes all necessary land use planning applications required to enable the development proposed herein.

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6.	I confirm that the relevant title deed(s) have been read and that there are no restrictive title deed restrictions, which impact on this application, or alternatively an application for removal/suspension or amendment forms part of this submission.	
7.	I am aware that development charges to the Municipality in respect of the provision and installation of external engineering services are payable by the applicant as a result of the proposed development.	
Applicant's signature:		Date: <u>14-03-2017</u>
Full name:	<u>Patrick Gordon TARBOTON</u>	
Professional capacity:	<u>Professional Land Surveyor</u>	
SACPLAN registration number:		
FOR OFFICE USE ONLY		
Date received:		Received by:
<hr/>		<hr/>
		
ANNEXURES		
The following Annexures are attached for your information, only if applicable:		
Please <u>do not submit</u> these Annexures with the application form.		
<u>Annexure A:</u> Minimum requirements matrix		
<u>Annexure B:</u> Land use planning application submission and protocol		
<u>Annexure C:</u> Land use planning application workflow		

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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-P.G.TARBOTON

B.Sc (SURVEY) L (SA) MILS. MITES DIP AIR SURVEY
Professional Land Surveyor
Engineering & Topographical Surveys
Sectional Title Surveys
Township Planning Consultant

E-mail pattar@mweb.co.za
Phone/Fax 044-3884803
Cel 0828327090
P.O.Box 481
KNYSNA 6570

Chief Town Planner
Knysna Municipality
P.O.Box 21
KNYSNA
6570

DATE: 23-07-2017

MY REF: 571A

YOUR REF:

Sir

Re : PROPOSED SUBDIVISION OF PTN.5 OF THE FARM PORTLAND No.187
SITUATE IN THE MUNICIPALITY AND ADMIN. DISTRICT OF KNYSNA

Further to my letter dated 27-4-2017 and subsequent discussions with your Mr Mthembu and Miss Thwala, I confirm that I have handed to Miss Thwala an amended plan (Plan No. 571A-PL2) which depicts an amended area for the proposed Ptn A, leaving a remaining area of over 10 ha.

The 5 cottages have also been amplified to depict the uses to which they are put.

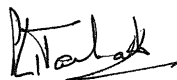
I enclose receipts for

- a) R2000-00 covering consent use for the various cottages
- b) R1500-00 for a Departure, being building line relaxation for the 3 cottages which are encroaching.

A copy of the amended plan has also been sent to the Rds Dept in George for approval in terms of Act 21/1940.

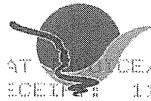
Can you now kindly submit to Council for their approval.

Yours faithfully



P.G.TARBOTON
Professional Land Surveyor

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KNYSNA Municipality Munisipaliteit uMasipala

☎ 044 302 6300
✉ 21 KNYNSA 6570
FAX 044 302 6333

AT RECEIVED
ONLY VALID IF PRINTED BY MACHINE / SLEGS MASJIENGEDRUKTE KWITANSIES GELDIG
RECEIVED WITHOUT PREJUDICE TO RIGHTS / ONTVANG SONDER BENADELING VAN REGTE
ECEIPT# 113015 DATE: 02/05/2017 NO NO:008 TIME: 13:29
KNYSNA MUNICIPALITY VAT REG: 4360193876

* DUPLICATE *

ST:9/242-013-15 Apply: Subdivisio TP6 116.66 950.00 *

CREDIT CARD
FN 5 OF THE FARM PORTLAND NO.
37

TOTAL: 950.00
VAT: 116.66 *
TENDERED: 950.00
CHANGE: 0.00

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING

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KNYSNA Municipality Munisipaliteit uMasipala

 ONLY VALID IF PRINTED BY MACHINE / SLEGS MASJENGEDRUKTE KWITANSIES GELDIG
 RECEIVED WITHOUT PREJUDICE TO RIGHTS / ONTVANG SONDER BENADELING VAN REGTE

 RECEIPT: 085141 DATE: 21/07/2017 MC NO:003 TIME: 10:59
 KNYNSNA MUNICIPALITY VAT REG: 4360193876

 ☎ 044 302 6300
 ✉ 21 KNYNSNA 6570
 FAX 044 302 6333

 CST:9/242-013-15 Application Fees ZY 245.61 2000.00 *
 CST:9/242-13-15 Apply: Sections D TP4 184.21 1500.00 *

CREDIT CARD

ERF: PTN 5 OF PORTLAND N187

 TOTAL: 3500.00
 VAT: 429.82 *
 TENDERED: 3500.00
 CHANGE: 0.00

The following fees are to be paid to the Town Treasurer in respect of ERF/Arm N°187

Knysna Sedgefield Brenton Belvidere Karatara Buffalo Bay Rheenendal

N°187

LAND USE APPLICATIONS (KM LAND USE PLANNING BY-LAW, 2016)

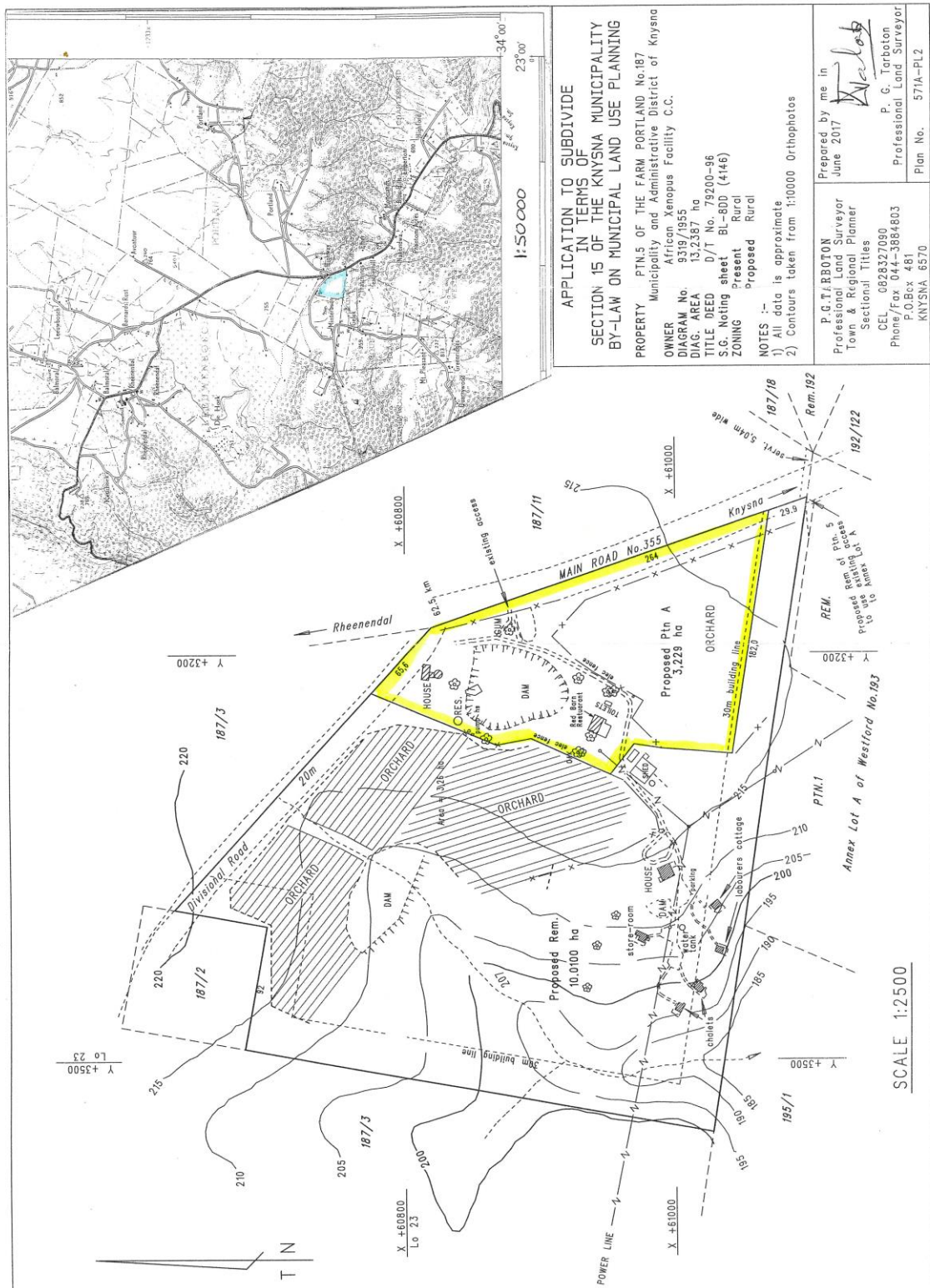
VOTE NR: 358550588202

Application Type	Application Category	Rebate Category	Fee (VAT incl.)	By-Law Section
Consent Use	All	Indigent households and Subsidy Housing areas	R 180.00	Section 15(2)(o)
		Other	R 2000.00	Section 15(2)(o)
2. Permanent Departure	Building line relaxations, Coverage	Indigent households and Subsidy Housing areas	R 0	Section 15(2)(b)
		Other users	R 1500.00	Section 15(2)(b)
3. Temporary Departures	House Shops	Indigent households and subsidy housing areas up to 20sqm	R 240.00	Section 15(2)(c)
	All other users (including taverns)		R 3200.00	Section 15(2)(c)
4. Rezoning	Inside Urban Edge: Straight	Agriculture, Residential and Community uses	R 2,000	Section 15 (2)(a)
		Mixed Use, Business and Industrial uses	R 2,500	Section 15 (2)(a)
		Public Open Space and Public Roads	R 0.00	Section 15 (2)(a)
	Inside Urban Edge: Sub divisional Area	Agriculture, Residential and Community uses	R 2,500	Section 15 (2)(a)
		Mixed Use, Business and Industrial uses	R 3,000	Section 15 (2)(a)
		Public Open Space and Public Roads	R 0.00	Section 15 (2)(a)
	Outside Urban Edge: All	Agriculture, Conservation and Tourism related uses	R 2,600.00	Section 15 (2)(a)
		Township Establishment and Other uses	R 3,800.00	Section 15 (2)(a)
		Public Open Space and Public Roads	R 0.00	Section 15 (2)(a)
5. Subdivisions	Straight 1-3 portions (not part of a rezoning to sub divisional area application)	Indigent households and Subsidy Housing areas	R 240.00	Section 15(2)(d)
		Agriculture, Residential and Community uses	R 950.00	Section 15(2)(d)
		Mixed Use, Business and Industrial uses	R 950.00	Section 15(2)(d)
		Per additional portions	R 210.00	Section 15(2)(d)
	As part of a rezoning to sub divisional area application	Indigent households and Subsidy Housing areas	R 120.00	Section 15(2)(d)
		Agriculture, Residential and Community uses	R 600.00	Section 15(2)(d)
		Mixed Use, Business and Industrial uses	R 900.00	Section 15(2)(d)
		Per additional portions	R 120.00	Section 15(2)(d)
6. Consolidations	All	Consolidations	R 900.00	Section 15(2)(e)
7. Exemption of Subdivisions and Consolidations	All	Exempted applications	R 240.00	Section 24(1)
8. Rectification of a Contravention	All	All	2x applicable fee	Section 86(4)
9. Occasional Use of Land	All	Indigent households and Subsidy Housing areas	R 120.00	Section 15(2)(p)
		Agriculture, Residential and Community uses	R 600.00	Section 15(2)(p)
		Mixed Use, Business and Industrial uses	R 900.00	Section 15(2)(p)

DB 16/06/2016

R1600 to pay.

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Zinhle Thwala - PROPOSED SUBDIVISION, CONSENT USE & DEPARTURE: PORTION 5 OF FARM PORTLAND 187, KNYSNA

650561

From: <howard@peaceofeden.co.za>
To: "Hennie Smit" <hsmit@knysna.gov.za>, "Zinhle Thwala" <zthwala@knysna.gov...
Date: 05/09/2017 7:57 PM
Subject: PROPOSED SUBDIVISION, CONSENT USE & DEPARTURE: PORTION 5 OF FARM PORTLAND 187, KNYSNA
Cc: "Liesl Bailey" <lbailey@knysna.gov.za>, "Seretse Mthembu" <smthembu@knys...

05.09.2017

Knysna Municipality



Copied to Carl Jeppe and Associates

Good day Mr Smit.

PROPOSED SUBDIVISION, CONSENT USE & DEPARTURE: PORTION 5 OF FARM PORTLAND 187, KNYSNA

Thank you for taking my call this afternoon.

I am in receipt of your registered letter reference 644775 dated 03.08.2017 requesting comment. Please take note of the following.



1. Your letter refers to attachments, inter alia, the application. The application contains a motivation by P.G. Tarbotton (Professional Land Surveyor) wherein he refers in item 2 (Access) to a beacon 58, a Ptn B and various other relevant and important aspects that are not illustrated on the diagram provided. Without this information the Peace of Eden Trust cannot make a fully informed assessment and therefore comment is limited to the points made below.
2. The motivation by P.G. Tarbotton mentions access to the remainder via a 10 metre wide strip to the south of Ptn B which serves Annex Lot A belonging to the Peace of Eden Trust. Notwithstanding the lack of information we are entitled to that circumvents due process, the use of the existing access Peace of Eden has is wholly unacceptable for reasons already provided in an objection to the original application for subdivision by the Applicant in 2008, namely:

The Applicant conducts an unlawful accommodation business from a number of unplanned

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KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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30 JANUARY 2018

and unapproved structures located on his property. Traffic to and from his property is significant at busy times of the year including December, January, April, June, July and September. The Applicant acknowledges that this traffic is a nuisance as many vehicles come and go regularly and he therefore wants to impose such nuisance of his proposed subdivision, and his unlawful business, on his neighbour (Peace of Eden) rather than endure it himself. This would be a significant infringement of the Trust's rights to privacy, security and safety, as amongst other things the latter would impair safe visual access to the busy Rheenendal Road.

3. Any access located adjacent to, and parallel to the existing access to Peace of Eden will interfere with water security to Peace of Eden as the topography of the adjoining properties ensures that water flows from the Applicant's land, via a gulley and concrete pipes, to the ponds and a dam on Peace of Eden (Westford 193, Reminder Annex Lot A) which is already severely stressed with water shortages. An interference of the existing access configuration will create further water stress.
4. Therefore consider this a resolute objection to the proposals to subdivide and reconfigure access to the Applicant's property as stated. The Peace of Eden Trust will however consider an application to subdivide as long as such application does not include any reconfiguration of access to the subdivided properties adjacent to Peace of Eden or a relaxation of the building boundary which has already been infringed on by the applicant in a number of instances. The Peace of Eden Trust reserves all its rights.
5. Any relaxation of the 30 metre building boundary and reconfiguration of access without a proper, fair and full due process will result in the Peace of Eden Trust bringing a court application against the Knysna Municipality to suspend such relaxation. That application will include an application for costs.
6. A hand delivered letter for signature, setting out these points and containing proof of transmission of this email, will be delivered to the Knysna Municipality and the Peace of Eden Trust's attorney tomorrow morning, 6th September 2017.

Sincerely

Howard Butcher (for)

The Peace of Eden Trust (T401/93)

Peace of Eden Farm

Westford 193, Remainder Annex Lot A

Rheenendal Road, Highway West

Box 53, Rheenendal 6576

(international) [+27443884671](tel:+27443884671)

(RSA) 0443884671

www.peaceofeden.co.za

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KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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30 JANUARY 2018



agriculture,
forestry & fisheries

Department:
Agriculture, forestry & fisheries
REPUBLIC OF SOUTH AFRICA

FORESTRY WESTERN CAPE

Private Bag X 12, Knysna 6570

Tel: (044) 302 6900 Fax: (044) 382 5461 E-mail: MelanieKo@daff.gov.za

Enquiries: M Koen Ref: WCE0006/10/17-18 Date: 27 October 2017

Knysna Municipality

Attention: Zinhle Thwala

Email: zthwala@knysna.gov.za / planning@knysna.gov.za

Tel: 044 – 302 6268

INPUT ON PROPOSED SUBDIVISION: ERF 900187005, PORTION 5 OF THE FARM PORTLAND NO 187, KNYNSNA

- 1 The Department of Agriculture, Forestry and Fisheries (DAFF) is responsible for the implementation and the enforcement of the National Forest Act (NFA), Act 84 of 1998 as amended and the National Veld and Forest Fire Act, Act 101 of 1998 as amended (NVFFA).
- 2 Section 7 of the National Forest Act (NFA), act no 84 of 1998 as amended provides for the prohibition of the destruction of indigenous trees in any natural forest without a license. 26 National Forest Types have been declared as natural forest in terms of Section 7(3) (a) of the NFA, Government Notice No. 762, 18 July 2008. "Forest" is defined in the NFA to include i.e. "a natural forest... and the ecosystems which it makes up", thereby including all components of the forest, not only the trees. According to Principle 3 3 (a) of the NFA, "natural forests may not be destroyed save in exceptional circumstances where, in the opinion of the Minister, a proposed new land use is preferable in terms of its economics; social or environmental benefits". Section 15 of the NFA as amended prohibits the cutting, disturbing, damaging or destroying of protected tree species without a licence.
- 3 DAFF already provided input on 31 August 2017, but was informed by council that there's a new/ revised subdivision application for above property on 18 October 2017.
- 4 DAFF's input will remain the same as the subdivision of above property will create new vested rights for the proposed individual subdivided portions and thus might negatively impact the indigenous forest/ protected trees. Please note that DAFF does not support the proposed subdivision due to the occurrence of protected trees/ indigenous forest on above property.
- 5 DAFF reserves the right to revise initial comment based on any additional information that may be received

Yours Faithfully


P.D. Thwala
AREA MANAGER FORESTRY: WESTERN CAPE



KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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650560



agriculture,
forestry & fisheries

Department
Agriculture, forestry & fisheries
REPUBLIC OF SOUTH AFRICA

FORESTRY WESTERN CAPE

Private Bag X 12, Knysna 6570

Tel: (044) 302 6900 Fax: (044) 382 5461 E-mail: MelanieKo@daff.gov.za

Enquiries: M Koen Ref: F13/6/8 Date: 31 August 2017

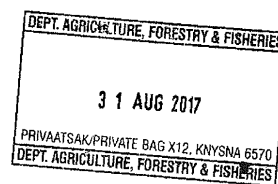
Knysna Municipality
Attention: Zinhle Thwala
Email: planning@knysna.gov.za
Tel/ Fax: 044- 302 6268

INPUT ON PROPOSED SUBDIVISION: ERF 900187005, PORTION 5 OF THE FARM PORTLAND NO 187, KNYNSNA

- 1 The Department of Agriculture, Forestry and Fisheries (DAFF) is responsible for the implementation and the enforcement of the National Forest Act (NFA), Act 84 of 1998 as amended and the National Veld and Forest Fire Act, Act 101 of 1998 as amended (NVFFA).
- 2 **Section 7** of the National Forest Act (NFA), act no 84 of 1998 as amended provides for the prohibition of the destruction of indigenous trees in any natural forest without a license. 26 National Forest Types have been declared as natural forest in terms of Section 7(3) (a) of the NFA, Government Notice No. 762, 18 July 2008. "Forest" is defined in the NFA to include i.e. "a natural forest... and the ecosystems which it makes up", thereby including all components of the forest, not only the trees. According to Principle 3 3 (a) of the NFA, "natural forests may not be destroyed save in exceptional circumstances where, in the opinion of the Minister, a proposed new land use is preferable in terms of its economics; social or environmental benefits". **Section 15** of the National Forest Act (NFA) (Act No. 84 of 1998) as amended prohibits the cutting, disturbing, damaging or destroying of protected tree species without a licence.
- 3 Please note that DAFF does not support the proposed subdivision due to the occurrence of protected trees/ indigenous forest on above property. The subdivision of the property will create new vested rights for the subdivided portions and thus might negatively affect the indigenous forest/ protected trees.
- 4 DAFF reserves the right to revise initial comment based on any additional information that may be received

Yours Faithfully


PP AREA MANAGER FORESTRY: WESTERN CAPE



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agriculture,
forestry & fisheries

Department
Agriculture, forestry & fisheries
REPUBLIC OF SOUTH AFRICA

FORESTRY WESTERN CAPE

Private Bag X 12, Knysna 6570

Tel: (044) 302 6900 Fax: (044) 382 5461 E-mail: MelanieKo@daff.gov.za

Enquiries: M Koen Ref: WCE0006/10/17-18 Date: 6 November 2017

Knysna Municipality

Attention: Zinhle Thwala

Email: zthwala@knysna.gov.za | planning@knysna.gov.za

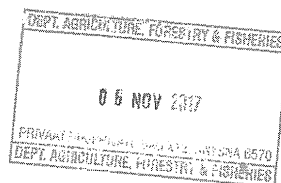
Tel: 044 – 302 6268

INPUT ON PROPOSED SUBDIVISION: ERF 900187005, PORTION 5 OF THE FARM PORTLAND NO 187, KNYSNA

- 1 The Department of Agriculture, Forestry and Fisheries (DAFF) is responsible for the implementation and the enforcement of the National Forest Act (NFA), Act 84 of 1998 as amended and the National Veld and Forest Fire Act, Act 101 of 1998 as amended (NVFFA).
- 2 **Section 7** of the National Forest Act (NFA), act no 84 of 1998 as amended provides for the prohibition of the destruction of indigenous trees in any natural forest without a license. 26 National Forest Types have been declared as natural forest in terms of Section 7(3) (a) of the NFA, Government Notice No. 762, 18 July 2008. "Forest" is defined in the NFA to include i.e. "a natural forest... and the ecosystems which it makes up", thereby including all components of the forest, not only the trees. According to Principle 3 3 (a) of the NFA, "natural forests may not be destroyed save in exceptional circumstances where, in the opinion of the Minister, a proposed new land use is preferable in terms of its economics, social or environmental benefits". **Section 15** of the NFA as amended prohibits the cutting, disturbing, damaging or destroying of protected tree species without a licence.
- 3 DAFF already provided input on 31 August 2017, but was informed by council that there's a new/ revised subdivision application for above property on 18 October 2017. DAFF commented on this revised subdivision application on 27 October 2017.
- 4 Subsequent to the comments of 27 October 2017; DAFF conducted a site visit to verify the boundaries of the property. During the site visit the owner indicated the boundaries of his property; the indigenous forest falls just outside the property boundaries. Thus DAFF's mandate is not affected
- 5 DAFF reserves the right to revise initial comment based on any additional information that may be received

Yours Faithfully

AREA MANAGER FORESTRY: WESTERN CAPE



KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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agriculture,
forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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

From: Directorate Land Use and Soil Management:
Tel: 012-319-7634 Fax: 012-329-5938 e-mail: NhlakaD@daff.gov.za
Enquiries: Helpdesk Ref: 2013_03_0137

Mr P.G. Tarboton
P.O. Box 481
KNYSNA
6570

2013-03-24

Dear Sir/Madam

**SUBDIVISION OF PORTION 5 OF THE FARM PORTLAND NO. 187, DIVISION
KNYSNA, WESTERN CAPE PROVINCE**

Your 571 letter dated 09 April 2013 refers.

This Department is hereby confirming that the letter dated 2008-01-11 (Agric-Land-
Ref No. 2007_08_0041) is still valid.

Yours faithfully

MS M.C. MARUBINI
DELEGATE OF THE MINISTER: LAND USE AND SOIL MANAGEMENT

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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agriculture

Department:
Agriculture
REPUBLIC OF SOUTH AFRICA

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

From: Directorate Land Use and Soil Management
Tel: 012-319-7678 Fax: 012-329-5938 E-mail: agriland@nda.agric.za
Enquiries: Help desk Ref: 2007_08_0041

P.G. Tarboton Land Surveyor
P O Box 481
KNYSNA
6570

2008-01-11

PROPOSED SUBDIVISION AND GUIDE PLAN AMENDMENT: PORTION 5 OF THE FARM PORTLAND 187, DIVISION OF KNYSNA, WESTERN CAPE PROVINCE

Your letter 571 dated 27 July 2007 refers.

With reference to the above-mentioned matter I wish to inform you that this Department has no objection against the proposed subdivision and guide plan amendment of the Knysna-Wilderness-Plettenberg Bay Regional Structure Plan from of the above mentioned property from Agriculture/ Forestry to Rural Occupation from an agricultural point of view.

Please note that the provisions of the Subdivision of Agricultural Land Act, Act 70 of 1970, shall no longer apply to the above mentioned property once the Municipality has approved the above mentioned rezoning.

Yours faithfully

DELEGATE OF THE MINISTER: LAND USE AND SOIL MANAGEMENT

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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ROAD NETWORK MANAGEMENT
Email: Grace.Swanepoel@westerncape.gov.za
tel: +27 21 483 4669
Rm 335, 9 Dorp Street, Cape Town, 8001
PO Box 2603, Cape Town, 8000

Colab No.:

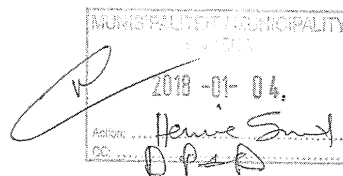
REFERENCE : 16/9/6/1-14/34 (Job 25166)
ENQUIRIES : Ms GD Swanepoel
DATE : 12 December 2017

File No.: 15/2/5/3

The Municipal Manager
Knysna Municipality
PO Box 21
KNYSNA
6570

Attention: Mr Z Thwala

Dear Sir



SUBDIVISION OF ERF 900187005: PORTION 5 OF THE FARM PORTLAND 187, DIVISION KNYNSNA

1. Your e-mail of 2 August 2017 with Application Number 1566 to various recipients refers.
2. This Branch offers no objection to the subdivision of Portion 5 of Farm Portland 187 into the Proposed Remainder (6.536ha), Proposed Portion A (3.000ha) and Proposed Portion B (3.702ha), as indicated on PG Tarboton's Plan 571A-PL1 dated November 2016, provided that:
 - 2.1 Due to either insufficient sight distance, insufficient access spacing or both, all the existing accesses off Divisional Road 1616 and Main Road 355 in favour of Farm 187/5 are permanently closed with materials similar to the existing fences in that vicinity.
 - 2.2 Only one access is created, to the approval of the District Roads Engineer, off Main Road 355 at \pm km62.78 RHS, adjacent to the southern boundary of Farm 187/5, which must serve the proposed Remainder, Portion A and Portion B.

www.westerncape.gov.za

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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- 2.3 The necessary servitude rights of way are registered and brought into place from the approved access mentioned in paragraph 2.2 over the Proposed Remainder and respectively up to both Proposed Portion A and Proposed Portion B.
- 2.4 A copy of the conditional Land Use approval in favour of the restaurant is submitted to this Branch.
- 2.5 The illegal advertisement within the road reserve of Main Road 355 is permanently removed.
3. As Controlling Authority in terms of Act 21 of 1940 this Branch approves the proposed subdivision in terms of the Act.

Yours faithfully



ML WATTERS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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ROAD NETWORK MANAGEMENT
Email: Grace.Swanepoel@westerncape.gov.za
Tel: +27 21 483 4669
Rm 335, 9 Dorp Street, Cape Town, 8001
PO Box 2603, Cape Town, 8000

REFERENCE : 16/9/6/1-14/34 (Job 25166)
ENQUIRIES : Ms GD Swanepoel
DATE : 16 January 2018

The Municipal Manager
Knysna Municipality
PO Box 21
KNYSNA
6570

Attention: Ms Z Thwala

Dear Madam

SUBDIVISION OF ERF 900187005: PORTION 5 OF THE FARM PORTLAND 187, DIVISION KNYSNA

1. The following refer:
 - 1.1 Your e-mail of 2 August 2017 with Application Number 1566 to various recipients.
 - 1.2 This Branch's letter 16/9/6/1-14/34 (Job 25166) dated 12 December 2017 to you.
 - 1.3 Mr P Tarboton's e-mail of 9 January 2018 to Mr E Burger at this Branch.
2. Herewith this Branch withdraws its previous comments as per its letter of 12 December 2017 in full and said comments are replaced with the following:
3. This Branch offers no objection to the subdivision of Portion 5 of Farm Portland 187 into the Proposed Remainder (10.010ha) and Proposed Portion A (3.229ha), as indicated on PG Tarboton's Plan 571A-PL2 dated June 2017, provided that:
 - 3.1 Due to either insufficient sight distance, insufficient access spacing or both, all the existing accesses off Divisional Road 1616 and Main Road 355 in favour of Farm 187/5 are permanently closed with materials similar to the existing fences in that vicinity.

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- 3.2 Only one access is created, to the approval of the District Roads Engineer, off Main Road 355 at ±km62.78 RHS, adjacent to the southern boundary of Farm 187/5, which must serve the proposed Remainder and Portion A.
- 3.3 The necessary servitude right of way is registered and brought into place from the approved access mentioned in paragraph 3.2 over the Proposed Remainder and up to Proposed Portion A.
- 3.4 A copy of the conditional Land Use approval in favour of the restaurant is submitted to this Branch.
- 3.5 The illegal advertisement within the road reserve of Main Road 355 is permanently removed.
- 4. As Controlling Authority in terms of Act 21 of 1940 this Branch approves the proposed subdivision in terms of the Act.

Yours faithfully



ML WATERS
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
AGENDA
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ENDORSEMENTS

1. Knysna Municipality
Attention: Ms Z Thwala (e-mail: planning@knysna.gov.za)
2. PG Tarboton Land Surveyor
Attention: Mr PG Tarboton (e-mail: pattar@mweb.co.za)
3. Eden District Municipality
Attention: Mr H Ottervanger (e-mail)
4. District Roads Engineer
Oudtshoorn
5. Mr ML Watters (e-mail)
6. Mr E Burger (e-mail)
7. Planning Section

AFRICAN XENOPUS FACILITY CC
P.O. BOX 480, KNYSNA 6570
FERN GULLY FARM, RHEENENDAL

TEL/FAX: 044 388 4757
CELL: 082 7444 993

CK 1986/019944/23
VAT: 4020109221

22 SEPTEMBER 2017

KNYSNA MUNICIPALITY
ATTENTION: ZINHLE THWALA

REFERENCE: PROPOSED SUBDIVISION, CONSENT USE & DEPARTURE:
PORTION 5 OF FARM PORTLAND 187, KNYSNA.

I refer to the objection raised by the Peace of Eden Trust as represented by H. Butcher to the above application for subdivision of Portion 5 of Portland 187.

1. H. Butcher is erroneously referring to Plan 571A/PL1 which was submitted by myself in March 2017 to subdivide all two portions of the property. After discussion with the Municipality it was altered to a single subdivision which is depicted on Plan 571A/PL2.
- 2.1. H. Butcher again erroneously refers to us showing a common border (see attached S.G. Diagram T114586/97) where it was quite in order for him to subdivide and have an access strip next to my property, therefore, we DO NOT share a common border.
- 2.2. Unplanned structures: your department is aware of these and have issued instructions to me to rectify this before subdivision will be granted.
- 2.3. With regard to traffic: this is unsubstantiated. H. Butcher makes it sound as if I am wilfully and maliciously visiting the worst excesses of the N2 peak hour traffic onto his doorstep! I am at a loss to understand how this will impose on his rights to privacy and safety and with regard to impairing visual access: there is a clear line of sight for 300 metres to the left and 250 metres to the right as it is a straight stretch of road.
3. How this access will impair water flow to his property totally escapes me as well as people competent to judge this.
4. H. Butcher says he is willing to reconsider his objection if the access is moved, thereby making his objections in Point 2: unlawful structures and Point 5: 30 metre building line null and void.

Yours sincerely,

R.C.W. LEGG (Member: AFRICAN XENOPUS FACILITY CC)

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING
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OFFICE COPY

SIDES Metres		ANGLES OF DIRECTION	CO-ORDINATES System Lo.23 X		S.G. No.
		CONSTANTS		0, 00	2841/1997
AB	315, 67	278 32 30	A	+3 401, 95	+61 050, 13
BC	7, 07	336 39 00	B	+3 089, 79	+61 097, 01
CD	125, 50	98 32 30	C	+3 086, 99	+61 103, 50
DE	186, 92	30 06 20	D	+3 211, 10	+61 084, 86
EF	176, 62	132 31 10	E	+3 304, 85	+61 246, 56
FA	83, 87	203 13 40	F	+3 435, 03	+61 127, 20
Ee		30 06 20			
Ff		23 13 50			
Servitude data					
CG	29, 11	98 32 30	G	+3 115, 77	+61 099, 17
GB	26, 08	265 14 20			
		3322/236	A	+2 332, 82	+64 291, 25
		3322/48	A	+2 407, 97	+42 898, 53

DESCRIPTION OF BEACONS
A,B,C,D,E,F ... 20mm iron peg and cairn
G ... 12mm iron peg and cairn

Servitude note
The figure BCG represents a Servitude area

Scale 1:3 000

The figure A B C D e middle of stream f represents 3,0017 hectares of land being
Portion 1 of the farm ANNEX LOT A OF WESTFORD No.193
Situate in the Administrative District of KNYSNA
Province of the Western Cape

Surveyed by me in April 1997

Professional Land Surveyor
P.G.Tarboton Reg. No. 0605

This diagram is annexed to No. dated i.f.o.	The original diagram is No. B 379/1928 Annexed to Grant No. 1955. .161	File No. Knys 193 S.R. No. E1082/97 Comp. BL-8DD (4146)
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Registrar of Deeds

THIS PORTION IS SUBJECT TO
CONDITIONS REFERRED TO IN
SECT 11 (b) OF ACT 217/1940.

EX-PT FROM PROVISIONS
OF CHAPTER III
OF ORD. 15/1985

APPROVED IN TERMS OF SECT. 4
OF ACT 70/1970
REF ..01/03/96(7).....
DATE ..1997.. / 01 / 30.....

193/1

THIS ADDENDUM IS WRITTEN ON THE MORNING OF SEPTEMBER 26 TH 2017
AND MUST ACCOMPANY THE REPLY TO PEACE OF EDEN'S OBJECTION.

H.BUTCHER MAKES MUCH THAT I WOULD IMPOSE ON HIS PEACE AND
SECURITY.

I WOULD INFORM THE COUNCIL THAT ON SUNDAY A WEDDING WAS HELD AT
PEACE OF EDEN AND EXTREMELY LOUD MUSIC WAS PLAYED TILL AFTER TWO
A.M. NO ONE FOR A LARGE RADIUS COULD SLEEP AND THE SOCIAL APP FOR
THE AREA WAS INUNDATED WITH COMPLAINTS

5. Closure

-oOo-