REPORT FROM THE MANAGER TOWN PLANNING AND BUILDING CONTROL

PURPOSE OF THE REPORT

As a result of an Order from the High Court, the purpose of this report is to remit an application from Marike Vreken Town and Regional Planners on behalf of Trackstar Trading 7 (Pty) Ltd, the property owner, for consideration for the following proposals:

1. Application in terms of Section 17 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for the rezoning of Knysna Erf 5084 from “Agriculture Zone I” to “Subdivisional Area” for the purposes of residential erven, group housing erven, general residential erven, a local business erf, a resort, private open space and private roads.
2. Application in terms of Section 24 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for the subdivision of Knysna Erf 5084 into 19 single residential erven, 75 Group Housing erven; 6 General residential erven; 1 Local Business erf, 1 Resort erf and 4 private open space erven and private roads;
3. Application in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for a departure from the Knysna Zoning Scheme to allow single residential stands that are smaller than 4000 m² in the Eastford area and to allow group housing sites larger than 2 ha;
4. Application in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for a departure from the Knysna Zoning Scheme Regulations to allow a group housing site of larger than 2 ha.
5. The application is recommended for approval.

BACKGROUND

The subject property is located in the Eastford area, approximately 2.5km north of the Knysna Central Business District (CBD) and is surrounded by residential development. The expropriated N2 Bypass route abuts the southern boundary of the application area. The subject property is located directly south of the existing Green Pastures Residential development and north of the Knysna Heights Township. A locality map is attached as Annexure A.

Vehicular access to the property is currently obtained from either Rio Street in Knysna Heights or directly off Grey Street. The application area is currently zoned “Agriculture” in terms of the Knysna Zoning Scheme Regulations and is currently vacant. The property measures 39,1100 ha which also consists of a 36m wide pipeline and powerline servitude. This servitude traverses the site in an east-west direction. The original application, which served before Council on 23 September 2009, was submitted on 11 September 2008. A Council resolution taken at that...
meeting is attached as Annexure B. That application, as was expected, was circulated to all internal and external departments and other organs of state and also underwent an extensive public participation process prior to the decision that was taken on 23 September 2009. Subsequent to the public participation process, the applicant responded to all comments and objections prior to the application serving before Council (in a letter dated 20 February 2009 – Annexure C),

With regard to the application for the amendment of the Guide Plan, Council granted its full support. However with regard to the rezoning, departures and subdivision aspects, Council took these notable resolutions:

a. That the infrastructure of Knysna Municipality cannot at the time support a development of the specific nature and that the applicant be informed that no application for rezoning or subdivision will be entertained until the Director: Technical Services and the Town Electrotechnical Engineer have certified that the infrastructure can support the development,

b. That should the amendment (of the Guide Plan) be approved by province, the rezoning, departures and subdivision must be resubmitted to Council for reconsideration.

As per a notice in the provincial gazette of 20 August 2010, the provincial authority approved the amendment of the Guide Plan in order to accommodate the proposed mixed use development. On the same day the gazette also published a notice confirming the decision of the provincial authority for the removal of a restrictive conditions which prohibited the development of certain aspects of the proposal under consideration. However it is noted the deeds office later noted that the conditions in question did not have to be removed citing that they did not place restrictions on the subject Erf in relation to the uses being proposed.

**Public Participation**

The application first appeared in the Action Ads and the Provincial Gazette on 20 November 2008 and 21 November 2008 whilst notices were simultaneously served to interested and affected parties including all relevant internal and external departments and state bodies. All proof of public participation is attached as Annexure D.

As is clear from the Council resolution, the project could not continue as no guarantee could be granted by the Directorate: Technical Services that there was sufficient service capacity to accommodate the proposed development. As a result the proposal went dormant until during 2015 when the applicant requested the application to be resubmitted to Council.

Due to the substantial amount of time which had elapsed subsequent to the submission of the first application, it was deemed necessary for the application to undergo a second round of public participation. As a result, on 15 October 2015, the application appeared, again, in the Action Ads with the closing date being 16 November. Registered notices were simultaneously sent to all potential interested

Commented [MB2]: What does this mean?
Commented [MB3]: There is no date specified and no record evidenced of this request for resubmission.
and affected parties, internal and external departments and other organs of state. Documents detailing the extent of public participation, comments received and the applicant’s response are all attached as Annexure E.

Response to public participation

The following public comments were received from various interested and affected parties:

2009

1. Uschi Schultz – 13 January 2009: general comment with queries and suggestions,
2. P. E. Morkel – 19 December 2009: objection,
3. The South Cape Trust – 10 December 2008: General comment and no objection,
4. Glynn William Van Straten – undated: objection,
5. Alastair M Davidson – 19 January 2009 – objection,

Copies of the objection submitted in 2009 are attached as Annexure F.

2015

1. Warren Stott – 16 November 2015: objection,
2. G J Ott – 23 November 2016,
3. Vanessa van der Merwe – 16 November 2015: Objection,
4. David Wright c/o Rodfair Investors – 16 November 2015: Objection
5. Gopichand Family Trust – 14 November 2015: objection,
7. Anita Batistic 16 November 2015: objection,
8. Andre Roodt – 16 November 2015: objection,
9. Andre van Rooyen – 15 November 2015: objection,
10. W P & C Stott – 16 November 2015: objection,
14. Schalk Meyer – 16 November 2015: objection,
15. Brian Eksteen – 16 November 2015: objection,
16. Ursula & Du Toit Maree – 16 November 2015: objection,
17. Eugene Julyan / Hein Stander – 16 November 2015: objection,
18. Vincot Trust – 16 November 2015: objection,
20. P O de Kock – 16 November 2015: objection,
22. Eastford Glen Homeowners Association – 16 November 2015: objection,
23. Green Pastures Homeowners’ Association - November 2015: objection,
24. Copies of the objections submitted in 2015 are attached as Annexure G. With the exception of the objection from Mr B J Henderson and the one from Green Pastures HOA, all other objections are the same as Johan and Petro Kruger’s. As a result only one copy has been attached under Annexure G.

The original application, dated September 2008, has been active since then to date, and is attached as Annexure H.

The application were subsequently been refused by Council and followed by judicial review application by the applicant to the High Court in terms of the Promotion of Administrative Justice Act (Act No. 3 of 2000). The Court Order has set the decision of Council aside and ordered that the application be remitted to Council for a decision (see attached copy of the High Court Order attached as Annexure I).

DISCUSSION

The application

According to the applicant, the objective of the application is to develop the property in the following manner:

“To create a living environment with a sense of place, that will cater for a wide range of inhabitants as far as age groups and income levels are concerned, that takes cognisance of the great beauty of the surrounding natural environment and provide more than just living space, to fulfill in the needs and aspirations of the modern urbanite, whilst preserving the natural heritage and providing tourist facilities.”

The applicant further suggests that, in order to put this philosophy in practice, the following range of housing stock must be introduced:

Single Residential development

The proposed development is to consist of the range of housing stock. This includes the following:

a) A total of 19 single residential stands are proposed. These erven will be more upmarket housing opportunities.
b) The average size of the erven are between 700m² – 900m² c.

c) These stands abuts the 1:100 year flood line and maximise open space and privacy;

**Group Housing Units.**

The following is applicable:

a) A total of 75 smaller group housing units are proposed.

b) These erven vary between 300m² to 500m². It is envisaged that these erven would be a “plot and plan” development, with ample private open space provided on every open erf. It is foreseen that these units would be linked group housing units.

**General Residential erven.**

The following is applicable:

a) Six general residential stands are proposed. It is foreseen that a total of 78 units will be provided on the 6 general residential erven.

b) Site Development Plans for the proposed general residential properties are attached as Plan 12 to this report.

c) These six stands abut the expropriated bypass route south of the application area.

d) It is foreseen that these stands will provide housing in the much needed middle income housing market.

e) Simultaneously, these apartments will serve as a buffer between the N2 bypass and the development. These units will be carefully designed to minimise any potential visual impacts.

f) By incorporating higher densities this development caters for a wider range of inhabitants and therefore ensuring not just a development for the privileged few.

g) Despite the introduction of group housing and general residential uses, the overall density is still very low where less than 20% of the application area will be utilized for residential erven and the gross density of all dwellings are less than 4 units per hectare.

**Tourist facilities.**

The following is applicable:

a) The new Knysna SDF emphasises the importance of the tourist economy for the Knysna Municipal area. The portion of indigenous forest is one of the last portions of forest that are so close to the Knysna CBD (a mere 3 km). It is the intention of the developer to provide a resort containing 15 log cabins, tucked away in the forest. These log cabins will be rented out on a short term basis. An example of similar tree top chalets exists in the Diepwalle area. However, due to the results of the environmental impact assessment, these resort units will not be possible in the short term.

b) A “heritage village” to replicate the “Old Knysna” and the timber and former gold mining culture of old Knysna, is proposed in the disturbed open space between the forest patches. The developer envisages creating a historical village containing restaurants and arts & craft shops, with residential units on top. This village will be typical example of the historical Knysna, thereby contributing to the Unique sense of place of the Knysna forests. This proposed local business site is 3591m² in extent.

c) No vehicular traffic is to be allowed in the forest area. A central parking area is proposed to the west of the Salt River. Motor vehicles are to be be parked at this point and visitors are to be transported with golf carts or with a similar, low impact tourist shuttle service. A derelict existing, narrow track, will provide access to the
proposed village. This track will be upgraded to accommodate golf carts. As indicated earlier, this aspect of the proposal has been rendered impossible according to Environmental Authorisation.

d) Currently, the application area is privately owned, with no access to the general public.

**Open Space and Connectivity with surrounding Environment**

The following is applicable:

a) The majority of the residential erven are buffered from surrounding properties by open space. The entire site is connected with open space corridors to allow for storm water and species movement. The ecological corridors on the site are designed to connect with the corridors on neighbouring properties.

b) More than 60% of the site is to be zoned for —Private Open Space‖. The Private Open Space is to be rehabilitated, cleared of aliens and possibly included in a conservancy.

**Proposed Land Uses and Appropriate Zonings**

The following is applicable:

a) The application area has been carefully assessed in order to maximize the development potential of the site whilst retaining the existing land use activities. Emphasis has been placed on the creation of a development that is sensitive towards any ecological sensitive attributes.

**Objections, applicant’s response and departmental comment**

A document in the above regard is attached as Annexure J.

**Planning Assessment**

There are no prohibitive title deed conditions that have a bearing on the application under consideration.

**REZONING, SUBDIVISION AND DEPARTURES**

[The Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) states in Section 36 that the reasons for refusing an application may only be considered on the basis of the —lack of desirability of the proposed land use.]

The following points have been taken into account when evaluating the desirability of this application:

**Consistency with Spatial Policy Directives**

Commented [MB6]: Annexure J is not a document in the above regard.

Commented [MB7]: This statement is an incorrect interpretation of section 36 of LUPO. Please note entire sub-section reads:

"36 (1) Any application under Chapter II or III shall be refused solely on the basis of a lack of desirability of the contemplated utilisation of land concerned including the guideline proposals included in a relevant structure plan in so far as it relates to desirability, or on the basis of its effect on existing rights concerned (except any alleged right to protection against trade competition)"
The proposed development is deemed consistent with current spatial planning guidelines applicable to the area, such as the Knysna SDF and the Provincial Spatial Development Framework. It is also important to point out that the proposed development is included in the urban edge for Knysna Municipality.

It should be noted that the new Provincial Spatial Development Framework promotes mixed used settlements where economic and employment opportunities are situated within walking distance from the residential areas. Therefore, the proposed establishment of economic opportunities (tourism opportunities) within the proposed development could be regarded as being desirable for this area.

It should also be noted that the site is in close proximity to the area of major employment for Knysna, namely the Knysna CBD.

**Consistency of the Development with the Character of the Surrounding Area**

The surrounding area is characterised by predominantly medium to low density single residential and resort type land uses. The proposed development could be regarded as —infill development as this is the application area is located between the existing low income areas of Knysna to the east (Wit Lokasie) and the higher income areas to the west of the application area (Knysna Heights). Higher income residential developments such as Green Pastures; Eastford Vale and Glen and the Simola Country Estate is located north of the application area. It is therefore the considered opinion that the proposed development is consistent with the character of the surrounding area.

**Locality and accessibility of the area**

The application area is located between the lower income and higher income areas of Knysna. Currently the site receives access from Grey Street that is also the main linkage and public transport route between the lower income areas and the Knysna CBD.

A new safer access is proposed off Rio Street. Rio Street connects the Knysna Heights neighbourhood with Grey Street and the Knysna CBD. The proposed new access has been approved by the Knysna Municipality as well as SANRAL. Therefore, it can be concluded that sufficient access can be provided.

**Potential of the property**

A large extent of the application area has been proven to have no agricultural potential and is also predominantly covered with invasive alien vegetation. The environmental integrity of the portion of indigenous forest to the north east of the application area is also potentially under threat. The property has a unique opportunity to provide a range of housing stock that should result in a typical integrated development. It is therefore the considered opinion that the proposed development will optimise the potential of the property whilst maintaining the environmental integrity of the sensitive eco-systems.

**Layout Design in relation to the Physical Characteristics of the Site**

The proposed layout has taken into account sensitive natural areas, riverine areas; steep slopes and the continuity of open space corridors. Wide buffer areas are proposed on both sides of the water course, and no development is proposed below the 1:100 year flood line. The design of the proposed development has therefore strategically used the on-site informants to ensure that the unique character of the site is retained.

**Impacts on existing land use rights**

Commented [MB8]: This reasoning does not factor in the fact that the applicant did not obtain environmental approval for tourism component. How can this rationale then, be relevant to this planning assessment?
The proposed development is surrounded with medium; low and high density residential development and given the perceived consistency of the proposed development with the existing residential development, and given the ample provision of functional open space, it is the considered opinion that the proposed development will not impact on any existing land use rights. The proposal strives to conserve the natural environment and therefore ensure that the proposed development will have no impact on any existing land use rights in the area.

Safety and welfare of the community

There are currently no improvements on the property and it is covered mostly by exotic species. The property is currently not properly fenced the site has various snares which have been found in the indigenous forest areas believed to be set up by locals hunting the few remaining bushbuck and also on the portion to the south of the Salt River where the existing residential dwelling has been stripped of its roof; windows; doors etc.

The proposed development should potentially add value to the surrounding area, providing a high quality, aesthetically controlled development. The proposed development will also secure the common boundaries with surrounding properties. During the Public Participation process conducted as part of the Environmental Impact Assessment, Interested & Affected Parties expressed concerns relating to, amongst other, increased crime, squatters and tourism opportunities.

Increased Crime and squatters

Residents of Knysna Heights have expressed their concern about rising level of crime that is experienced on the neighbourhood. Vagrants can easily hide on large portions of vacant land. The proposed development should serve as a buffer between the lower income areas of Wit Lokasie and the higher income areas of Knysna Heights.

Tourism Opportunities

Knysna is known for its timber history. The proposed heritage village within the development will ensure the conservation of the unique Knysna Heritage whilst simultaneously creating employment opportunities. However, this proposal is not going to be part of this development.

Conservation of the environment

An Environmental Authorisation has been granted and is attached as Annexure K.

Limited visual impact

Although the property is located on a northern facing slope, the property is not located on any ridgeline of sensitive skylines. The expropriated N2 National Road is located on the ridgeline of the Knysna Heights neighbourhood and to the south of the application area. The visual impact of the site should also be regarded within the context of residential development within an existing residential area. Strict architectural design guidelines and appropriate landscaping should mitigate the visual impact, if any.

Impact on the Agricultural Potential / Viability of the property

The Agricultural Potential investigation indicated that, by virtue of its soil potential, size and location has limited agricultural potential. Therefore, the proposed development will not contribute to the loss of high potential agricultural land. The development proposal will also not leapfrog any high potential agricultural land.

Commented [MB10]: Why are the merits of tourism activities discussed if the author knows that there is no environmental authorisation for this land use activity?
Availability of Link Services, Infrastructure and Capacity

Sufficient evidence exists to the effect that there is sufficient service capacity within the existing municipal infrastructure to accommodate the proposed development (see attached services reports as Annexure L). Any further detail is be finalized as part of a service level agreement.

Heritage Impact

The fact that Heritage Western Cape issued a positive Record of Decision (ROD) is a clear indication that the proposed development will have no heritage impact whatsoever. In the interest of thoroughness, the following considerations have been taken into account when undertaking the assessment of this application:

- **Lawfulness, reasonableness and procedural fairness** – the procedure followed during the processing of this application is deemed to comply with this consideration,
- **public participation** – all public participation was undertaken in the legally prescribed manner and all interested and affected parties as fair opportunity to comment on the proposal,
- **status of the decision maker and legislative provisions** – Council is authorized to take a decision on this matter and the decision is provided for in terms of the Land Use Planning Ordinance and the General Structure Plan,
- **Relevant considerations** – no irrelevant considerations are deemed to have influence on the decision maker with regard to this assessment,
- **Consistency with the SDF** – the proposal is consistent with the Knysna Municipality SDF 2008 and with principles enunciated in that document,
- **Site specific circumstances** – circumstances are deemed to be in favour of the proposal. An EIA was also undertaken as part of this development and was granted by the relevant environmental authority,
- **Public interest** – the members of the public concerned were consulted and this assessment has taken into account all individual viewpoints of all interested and affected parties,
- **Risk** – any potential risk has been mitigated through strict compliance with relevant legislation, norms and standards,
- **Impact** – no negative impact is envisaged in the realistic sense; however it must be mentioned that some of the members of the public do not share the same sentiment,
- **Long term benefits** – the transformation of the subject property from being a vacant underutilized land parcel in an area where developable land is a scarcity will obviously lead to all sorts of benefits in the medium to long term. These benefits are too many to mention which is why it is important to mention but one benefit – the provision of affordable housing which is both a primary need and constitutional right of the citizens of Knysna and beyond.
- **Engineering and environmental considerations** – there is sufficient capacity for the proposed development. Further details in this regard can be ironed out at the service level agreement stage. (see attached services reports as Annexure L).
- **Weightings** – the following weightings have been taken into account:
  - Guidelines set out in the spatial development framework in so far as it relates to desirability,
  - Effect on existing rights (except any alleged right to protection against trade competition).
  - The safety and welfare of the members of the community,
  - The preservation of the natural and developed environment, and
  - The effect of the application on existing rights concerned (with the exception of any alleged right to protection against trade competition).

**FINANCIAL IMPLICATIONS**
The High Court Order states that the Respondent (Municipality) shall pay the Applicant (Trackstar Trading 7 (Pty) Ltd) an amount of R 95 000 in respect of legal costs on or before 31 August 2018.

RELEVANT LEGISLATION

- Land Use Planning Ordinance no. 15 of 1985.

Comments from departments and other statutory agencies (Annexure L)

Comments: Western Cape Department of Agriculture

No objection. All newly created units (including the remainder) approved for township development must be zoned to any non-agricultural zoning according to the Local Government's zoning scheme and regulations. All the newly created units approved for township development must be incorporated into the town area and linked up to the municipality's bulk services.

Comments: Technical Services (15 October 2007)

The access from the development to Rio Street must be a 20m road reserve.
The access road from the development and intersection with Rio Street shall be constructed with the dual lanes as proposed by the traffic impact study by the development.
Hospital Hill Road and Main Road intersection shall be improved by the developer in terms of the traffic impact study with road widening and traffic signals.
The developer shall submit detailed construction details of the improvements to the municipality and the Roads Authority for approval. Council may consider 50% of the cost of the improvements to the intersection being offset from other Capital Charges, the balance to be funded by the development.
This department supports the application, however, it is proposed that the bulk water must be supplied from Green Pastures Development. Should Council approve the Water Master Plan no bulk water shortfall is foreseen.
The sewer connection proposal is acceptable (as per letter from the Director dated 24 October 2006). The proposed access to Erf 5084 is approved subject to the new bell mouth being bitumen surfaced to avoid gravel spilling onto Rio Road and storm water being controlled, details of storm water to be submitted for approval.

Commented [MB17]: How is this a financial implication of this decision? This is a financial implication for a decision to pay a settlement. Financial implications should alert Council to cost burdens and/or benefits that result from this specific decision.
The development should not be supported until ESKOM has indicated that they are in the position to allow Knysna Municipality to increase the Notified Demand (electro-technical).

**Should Council be willing to consider the application the following conditions shall apply (Director: DTS as per letter dated 23 September 2008):**

The development shall be subject to a services agreement being entered into with the Municipality which would contain requirements for:

- The payment of augmentation levies and extension charges for water and sewer services,
- The upgrading of the local water and sewer infrastructure including the provision of a reservoir to the approval of the municipality by the developer,
- The compliance with the approval of the Traffic Impact Study for the development.
- The provision of internal services to the satisfaction of the municipality,
- The approval of the subdivision plan and layout by the Municipality,
- The registration of servitudes for all existing and required Municipal Services for and on the Erf,
- No development to be below the 1:100 year floodline,
- Any requirements of SANRAL to be complied with,

**Comments: Technical Services (11 August 2016)**

- See section 19.1.1 Roads, page 28 of 36. This is crucial, as the development is required, i.e. to upgrade the intersection of Main St and Hospital Hill Road. See annexure M, letter from Knysna Municipality, paragraph 3, dated 15 October 2007
- Further to Section 19.1.1 (iv), gradients steeper that 12% should be limited to 70m in length and the main access road as defined under 19.1.1 (iii) shall not exceed a grade of 10% at any point,
- The development consists of 172 living units and would entail significant construction activities. The question arises as to how the site will be accessed during the construction phase of the access road has not been built and the main St and Hospital Hill Road intersection has not been upgraded.
- Notwithstanding the requirement for Hospital Hill, it is more likely that the development's traffic will use Grey Street to town and perhaps a shift from Hospital Hill to Gray may be better suited to our needs.
- The TIA must also be included as an entity of its own in the Vreken report. It may also have to be updated due to age.
Comments: Technical Services (3 November 2016)

- Service level agreement to be finalised before approval to the satisfaction of DTS,
- Applicant did not respond to access.
- The developer agrees that higher contributions and higher capital contributions can be imposed in the Service Level Agreement, regarding traffic and transport.

Comments: Technical Services (3 November 2016)

- Certify that there is capacity

Comments: Electro-Technical Services Engineer (29 June 2018)

- Certify that there is capacity.

Comments: Department of Environmental Affairs and Development Planning

A Copy of the Environmental Authorisation dated 22 June 2016 is attached as Annexure K.

Comments: Eskom

- No objection,
- Should it be necessary to move or support any of Eskom’s services, at least three months’ notice in writing is required and costs will be entirely for the account of the developer / applicant,
- Eskom’s rights on the property shall not be affected.

Comments: Environmental Management

- Subdivision for 1 resort zone is not supported for the Tourism facility in the forest area north of the property. No development is supported in the forest area. The environmental Authorisation issued by DEA on 05 July 2015 is noted –
- You are reminded of your obligation under the Conservation of Agricultural Resources Act (Act no 43 of 1983) to eradicate and control the spread of
numerous declared weeds and invader plants. All category 1 species must be controlled or eradicated in accordance to Regulation 15 of the Act.
- Tourism facilities proposed in the forest area are not approved.

Comments: Heritage Western Cape
- No further study is required and the development may proceed with no conditions.

Comments: Department of Transport and Public Works
- The department offered no objection.

Comments: Cape Nature
- No objection and generic comments from Cape Nature.

Comments: Water Affairs and Forestry
- The department supported the Guide Plan amendment but would not support the rezoning and subdivision before the following aspects were taken into account:
- The submission of a letter from the Municipality acknowledging the support for the proposed development to connect to the municipal services (water and sewage). If the connection to Municipal Services is supported by the Municipality, the Municipality must inform this office that the extra water is still within the municipality’s water allocation and that the extra effluent to be treated is still within the design capacity of the relevant sewage treatment works.

Comments: Chief Town Planner
- No objection to the amendment of the Regional Structure Plan,
- Access and density must be to the satisfaction of Council as per services plans,
- No objection to the removal of restrictions,
- Rezoning to General Residential not supported, this would not be in line with any known policy.
- Detailed subdivision will be considered once more detail is provided i.e. once rezoning has been established.

**Comments: SANPARKS**

- No objection subject to the conditions below:
  - An alien clearing strategy and rehabilitation plan shall be implemented. The clearing of alien vegetation should start at the site development phase, prior to construction of units taking place,
  - Zero loss of indigenous trees,
  - An erosion management and erosion prevention plan is implemented,
  - Rehabilitation of the Salt River running through the property takes place,
  - A storm water management plan is implemented to prevent siltation of the river system,
  - No development shall take place on slopes steeper than 1:4,
  - Environmental Management Plans should be implemented during the construction and operational phase of the development,
  - SANParks requires proof that there is sufficient capacity in the existing municipal system to accommodate water supply and waste water treatment.
  - At least 70% of the site shall be private open space,
  - Business shall be limited to low impact tourism activities,
  - When the placement of the proposed platforms for tents is determined no loss of indigenous trees shall occur. Only the area surrounding the platforms is zoned as resort and the remainder of the forest area remains private open space. A maximum of 12 platforms is built.
  - Units 56, 57, 58 as per plan 10 are not developed and remain private open space.
  - Architectural Guidelines are developed and implemented to reduce the visual impact,
  - The proposed General Residential Node 2 (21 Units) as per Plan 10 is reduced in size and moved 2 meters down the slope or as relevant to ensure no development on slopes steeper than 1:4.
  - SANParks has no objection to the departure from the Knysna Zoning Scheme Regulations under Group Housing to an area of 3,2 ha.

**Comments: Department of Economic Development and Tourism**

- No objection as long as the municipality has followed due process.

**Comments: National Department of Agriculture**
- The proposed application is not acceptable from an agricultural point of view because the proposed development represents leap frog development and the creation of a new node.

**RECOMMENDATION OF THE ACTING MUNICIPAL MANAGER**

[a] That the following correspondence be noted:

i. Application from Marike Vreken Town and Regional Planners dated September 2010 and the supplementary letter dated 5 November 2010;

ii. Comments: Western Cape Department of Agriculture;

iii. Comments: Technical Services (15 October 2007);

iv. Comments: Technical Services (11 August 2016);

v. Comments: Technical Services (3 November 2016);

vi. Comments: Technical Services (29 June 2018);

vii. Comments from Electro-Technical Services (29 June 2018);

viii. Comments: SANRAL;

ix. Comments: Department of Environmental Affairs and Development Planning;

x. A Copy of the Environmental Authorisation dated 22 June 2016;

xi. Comments: Eskom;

xii. Comments: Environmental Management;

xiii. Comments: Heritage Western Cape;

xiv. Comments: Department of Transport and Public Works;

xv. Comments: Cape Nature;

xvi. Comments: Water Affairs and Forestry;

xvii. Comments: Chief Town Planner;

xviii. Comments: SANPARKS;

xix. Comments: Department of Economic Development and Tourism;

xx. Comments: National Department of Agriculture;

xxi. Uschi Schultz – 13 January 2009: general comment with queries and suggestions;


xxiii. The South Cape Trust – 10 December 2008: General comment and no objection;
That, approval be granted in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for the rezoning of Knysna Erf 5084 from Agriculture Zone I to Subdivisional Area for the purposes of
residential erven, group housing erven, general residential erven, a local business erf, private open space and private roads;

[c] That, approval be granted in terms of Section 25 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for the subdivision of Knysna Erf 5084 into 19 single residential erven, 75 Group Housing erven; 6 General residential erven; 1 Local Business erf, and 4 private open space erven and private roads;

[d] That, approval be granted in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for a departure from the Knysna Zoning Scheme to allow single residential stands that are smaller than 4000 m² in the Eastford area and to allow group housing sites larger than 2 ha;

[e] That, approval be granted in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for a departure from the Knysna Zoning Scheme Regulations to allow a group housing site of larger than 2 ha;

[f] The approval is subject to the following conditions imposed in terms of Section 42 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985, that:

Conditions: Knysna Municipality

(i) This approval applies only to the rezoning, subdivision and departures outlined above and shall not be used as authority to depart from any legal prescriptions or requirements;
(ii) A revised layout plan incorporating the conditions of the Environmental Assessment shall be submitted for assessment and possibly approval prior to the finalization of the services level agreement;
(iii) The access from the development to Rio Street must be a 20m road reserve;
(iv) The access road from the development and intersection with Rio Street shall be constructed with the dual lanes as proposed by the traffic impact study by the development;
(v) Hospital Hill Road and Main Road intersection shall be improved by the developer in terms of the traffic impact study with road widening and traffic signals;
(vi) The developer shall submit detailed construction details of the improvements to the municipality and the Roads Authority for approval. Council may consider 50% of the cost of the improvements to the intersection being offset from other Capital Charges, the balance to be funded by the development;
(vii) The bulk water must be supplied from Green Pastures Development.
(viii) The new bell mouth to be constructed on the access point form Rio Street shall be surfaced with bitumen to avoid gravel spilling onto Rio Road and storm water being controlled, details of storm water to be submitted for approval;

(ix) The development shall be subject to a services agreement being entered into with the Municipality which would contain requirements for:

a. The payment of augmentation levies and extension charges for water and sewer services,

b. The upgrading of the local water and sewer infrastructure including the provision of a reservoir to the approval of the municipality by the developer,

c. The compliance with the approval of the Traffic Impact Study for the development,

d. The provision of internal services to the satisfaction of the municipality,

e. The approval of the subdivision plan and layout by the Municipality,

f. The registration of servitudes for all existing and required Municipal Services for and on the Erf,

g. No development to be below the 1:100 year floodline,

h. Any requirements of SANRAL to be complied with.

(x) Gradients steeper that 12% should be limited to 70m in length and the main access road as defined under 19.1.1 (iii) shall not exceed a grade of 10% at any point;

(xi) An updated Traffic Impact Assessment shall be submitted to the municipality before a service level agreement can be finalized,

(xii) The developer shall agree that higher contributions and higher capital contributions can be imposed in the Service Level Agreement, regarding traffic and transport;

(xiii) Subdivision for 1 resort zone shall not be permitted for the Tourism facility in the forest area north of the property;

(xiv) No development is supported in the forest area;

(xv) Any deviations from the Environmental Authorisation issued by the Department of Environmental Affairs on 05 July 2015 shall not be entertained without authorization from the department;

(xvi) The developer shall eradicate and control the spread of numerous declared weeds and invader plants;

(xvii) All category 1 species must be controlled or eradicated in accordance to Regulation 15 of the Conservation of Agricultural Resources Act (Act no 43 of 1983);

(xviii) Tourism facilities proposed in the forest area shall not be permitted;
The Municipality shall submit a letter to the Department of Water Affairs and Forestry to confirm that the proposed development will be connected to the municipal services (water and sewage).

The Municipality shall inform the department that extra water is still within the municipality’s water allocation and that the extra effluent to be treated is still within the design capacity of the relevant sewage treatment works.

**Conditions: SANPARKS**

- An alien clearing strategy and rehabilitation plan shall be implemented;
- The clearing of alien vegetation should start at the site development phase, prior to construction of units taking place and there shall be no loss of indigenous trees;
- An erosion management and erosion prevention plan shall be implemented;
- Rehabilitation of the Salt River running through the property shall take place and a storm water management plan shall also be implemented to prevent siltation of the river system;
- No development shall take place on slopes steeper than 1:4;
- The municipality shall provide proof to SANParks that there is sufficient capacity in the existing municipal system to accommodate water supply and waste water treatment;
- Architectural Guidelines shall be developed, approved and implemented to reduce the visual impact of the proposed development;
- Local labour and contractors from within the Knysna Municipal area shall be utilised wherever possible, and, in this regard, contracts regarding BEE and local labour content, (including those relating to transportation of employees) to the satisfaction of Council, shall be submitted to the Director: Corporate Services for approval prior to commencement of construction, and a monthly report on labour and contractors shall be submitted to the Director: Planning and Development for information of Council. The municipal database on local labour shall be used as far as possible;
- Capital contribution with regard to the provision of electricity shall be determined as part of the service level agreement.

**APPENDIX / ADDENDUM**

The following annexures will be circulated on a compact disc:

Annexure A – Locality Map
Annexure B – 23 September 2009 Council Resolution
Annexure C – Response from applicant dated 20 February 2009
Annexure D – 2008 Proof of Public Participation
Annexure E – 2015 Proof of Public Participation
Annexure F – 2008/9 Comments and Objections
Annexure G – 2015 Comments and Objections
Annexure H – Applicant’s Motivation
Annexure I – High Court Order
Annexure J – Applicant’s further comments
Annexure K – Environmental Authorisation
Annexure L – Comments from Internal and External Departments

File Number: 9/1/2/13
Execution: Manager: Town Planning and Building Control