

KNYSNA LOCAL MUNICIPALITY

Notice is hereby given of a

KNYSNA MUNICIPAL PLANNING TRIBUNAL MEETING

to be held on

Friday, 24 April 2026

at

09:00

Council Chambers

to consider the following items:

MUNICIPAL OFFICES
KNYSNA

ADMINISTRATOR

A G E N D A

Chairperson:

R Smit

Members:

J Grobler

J Samson-Swartz

Z van Rooyen

N Perring

L Mniki

M Nzuzo

M Musekene

L Goya

R Daames

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24 APRIL 2026

AGENDA

1. Opening and Welcome
2. Attendance (as per attendance register)
 - 2.1 Members: Present
 - 2.2 Members: Absent with Leave
 - 2.3 Members: Absent Without Leave
 - 2.4 Councilors Present
 - 2.5 Officials Present
 - 2.6 Members of the Audit Committee Present
 - 2.7 Members of the Public Present
3. Order of Proceedings
 - 3.1 Conflict of Interest
 - 3.2 Points in *Limine*
 - 3.3 Consideration of *Locus Standi*
 - 3.4 Time Allocation for Oral Presentations
4. Noting of Rules of Order
 - 4.1 Confirmation by Members in terms of Rule 6.3.
5. Minutes of Previous Meeting

Approved minutes to be noted.
6. Referred back Items
7. New Items
8. Closure

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KNYSNA LOCAL MUNICIPALITY

MINUTES

of the

MUNICIPAL PLANNING TRIBUNAL

in the Committee Room

Main Building

Clyde Street

Knysna

Tuesday, 31 March 2026

at

09h00

Members Present (6/10):

R Smit (Chairperson)	(RS)
J Grobler	(JG)
N Perring	(NP)
J Samson-Swartz	(JS)
Z van Rooyen	(ZR)
M Musekene	(MM)

1. OPENING AND WELCOME

The Chairperson, Mr. R Smit opened the meeting and welcomed everyone present.

2. ATTENDANCE

2.1. Members Present

As per the attendance register.

2.2. Members Absent with Leave

R Daames	(RD)
L Mniki	(LM)
L Goya	(LG)
M Nzuzo	(MN)

2.3. Members Absent without Leave

None

2.4. Councillors Present

None

2.5. Officials Present

As per the attendance register.

2.6. Members of the Public Present

As per the attendance register.

3. ORDER OF PROCEEDINGS

3.1 CONFLICT OF INTEREST

That it be noted that the members present, signed the declaration forms.

3.2 POINTS IN LIMINE

That it be noted that the objector of Item 6.1 Portion 16 of the Farm 216, Knysna: Consent Use, Departure(s) & Permission in terms of Zoning Scheme requested that the item be withdrawn from the agenda due to insufficient notification time according to the Rules of Order, and referred back to the next meeting.

3.3 CONSIDERATION OF *LOCUS STANDI*

None

3.4 TIME ALLOCATION FOR ORAL PRESENTATION

That it be noted that no requests for oral presentation were received.

4. NOTING OF THE RULES OF ORDER

That it be noted that members present, noted the Rules of Order.

5. APPROVED MINUTES OF PREVIOUS MEETING

That the previous approved minutes be noted.

6. NEW ITEMS

6.1. KMPT01/03/26: PORTION 16 OF THE FARM 216, KNYSNA: CONSENT USE, DEPARTURE(S) & PERMISSION IN TERMS OF ZONING SCHEME (APPLICATION NO. 2993)

- *That it **be noted** that the Tribunal considered the land use planning report dated 19 March 2026 as submitted by the case officer, Ms. Sinovuyo Sitinga on 19 March 2026 and conducted a site inspection on 30 March 2026.*
- *That it further **be noted** that the objector, requested that the matter be withdrawn from the Agenda and postponed to the next meeting due to insufficient notification time.*

6.1.1 The Tribunal unanimously resolved as follows:

That the application submitted for Portion 16 of Farm 216, Knysna **be referred** back to the next meeting.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.2. KMPT02/03/26: **ERF 13423, KNYSNA: REZONING** (APPLICATION NO. 3539)

- That it **be noted** that the Tribunal considered the land use planning report dated 19 March 2026 as submitted by the case officer, Mr. Sihle Phungula on 19 March 2026 and conducted a site inspection on 30 March 2026.

That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:

6.2.1 That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) for the Rezoning from “Open Space Zone II” to “Single Residential Zone I” of the Knysna Zoning Scheme By-law (2020) in respect of a portion of Erf 13423, Knysna.

6.2.2 **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**

- (i) The “disturbance area” and zoning shall be restricted to the existing disturbed area and in terms of any environmental authorization granted, or limited to 4000m², whichever is the lesser.
- (ii) The subject erf shall be subject to the architectural/building design guidelines and constitution of the Pezula homeowners’ association.
- (iii) The conditions as specified in the approval dated 10 April 2003 shall apply, insofar as these are reasonably applicable to the subject erf.
- (iv) The applicant/landowner shall pay augmentation levies, if applicable, in accordance with Council’s approved tariffs, and to the satisfaction of the Director: Infrastructure Services, at the submission of building plans.
- (v) The augmentation shall apply to water services capacity; however, should the sewer network be extended, an augmentation levy in terms of sewer services capacity may apply.
- (vi) The homeowners’ association shall review the existing service level agreement with the Municipality, where deemed necessary, and to the satisfaction of the Director: Infrastructure Services.
- (vii) The applicant/landowner shall apply for the authorization/permission in terms of the Outeniqua Sensitive Coastal Area Extension (OSCAE) prior to the submission of building plans.

6.2.3 The reasons for above decision are as follows:

- (i) The application is for the rezoning of a single erf measuring ± 1.5 hectares in extent to single residential purposes and is located in the Pezula Private Estate. The approved boma site burned down in 2017 and has remained unutilised and vacant ever since. The rezoning would, therefore, promote the efficient use of land within the estate whilst reducing the maintenance burden of the owners' association.
- (ii) The single residential erf would be compatible with the existing low-density residential character, and it is not anticipated that the use would detract from this character.
- (iii) Importantly, the rezoning of the subject erf will not exceed the maximum density (i.e. 255 single residential land units) prescribed for the estate in its establishment conditions due to a number of properties being consolidated within the estate in recent times thereby lowering the total number of residential land units.
- (iv) The objection regarding the environmental impact is acknowledged. However, there is no material evidence to suggest that the single residential erf will have a major impact on the affected natural environment. Furthermore, the development of the site will be restricted to the existing disturbed area and to such area considered in terms of environmental authorisation, i.e., the OSCAE permission. It is therefore anticipated that the impact of the new use rights would be similar to that of the current boma use of the site. The minimum 500-hectare open space requirement set in the establishment conditions of the estate is also maintained.

6.2.4 MATTERS FOR NOTING:

- (i) This approval applies to the application(s) as outlined above and may not be construed as authority to depart from any other legal prescriptions.
- (ii) Building Plans shall be submitted in terms of the requirements of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) to the Municipality for approval prior to any building work being undertaken.
- (iii) An OSCAR permit must be obtained before approval of building plans

- (iv) The Service Level Agreement (SLA) for the estate must be reviewed and updated as necessary to accommodate the proposed development.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.3. KMPT03/03/26: **ERF 450, BELVEDERE: CONSENT USE (WITHDRAWN)**
(APPLICATION NO. 3541)

- *That it **be noted** that the application has been withdrawn from the Agenda due to insufficient notification time.*

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.4. KMPT04/03/26: **ERF 1595, SEDGEFIELD – ADMINISTRATIVE PENALTY**
(APPLICATION NO. 3472)

- *That it **be noted** that the Tribunal considered the land use planning report dated 19 March 2026 as submitted by the case officer, Ms. Linda Mniki, on 19 March 2026.*
- *That it **be noted** that the case officer, who is a member of the Tribunal, recused herself from voting.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:*

- 6.4.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R5 000.00** be determined in accordance with Section 93(2), for the following as shown on the plan numbered “2025/003-M001-Rev00” dated 02 April 2025 on Erf 1595, Sedgefield:

6.4.1.1 the encroachment of the prescribed 2.0m lateral building line of the Knysna Zoning Scheme By-law (2020) under “Single Residential Zone I” by the conversion of an approved carport into a second dwelling extension.

6.4.1.2 the encroachment of the prescribed 4.5m street building line of the Knysna Zoning Scheme By-law (2020) under “Single Residential Zone I” by an existing unauthorized carport.

6.4.2 The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):

- (i) The administrative penalty as specified herein applies to the building line encroachments as shown on the plan numbered “2025/003-M001-Rev00” dated 02 April 2025;
- (ii) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision; and
- (ii) The decision and imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.4.3 The reasons for above decision are as follows:

- (i) It is evident that transgressions of the zoning scheme have occurred by the completion of unauthorized building work on the subject property. The imposition of an administrative penalty is, therefore, considered justified. This includes the fact that the landowner has primary responsibility for ensuring compliance with the zoning scheme.
- (ii) However, in considering the circumstances to the application it was found that sufficient grounds exist for a lesser and nominal penalty as the landowner has not contravened the Planning or Zoning Scheme By-law in any previous instance nor is there any evidence to suggest that the transgressions were willful or intentional on the part of the landowner.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development
Manager Land Use Management

6.5. KMPT05/03/26: **PORTION 52 OF THE FARM 203, KNYSNA – ADMINISTRATIVE PENALTY** (APPLICATION NO. 3410)

- *That it **be noted** that the Tribunal considered the land use planning report dated 19 March 2026 as submitted by the case officer, Ms. Linda Mniki on 19 March 2026.*
- *That it **be noted** that the case officer, who is a member of the Tribunal, recused herself from voting.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:*

6.5.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R25 000.00** be determined in accordance with Section 93(2), for the following on Portion 52 of the Farm 203, Knysna:

6.5.1.1 The encroachment of the prescribed 30m building line under “agriculture” of the Knysna Zoning Scheme By-law (2020) by an existing building (guest house).

6.5.1.2 the unauthorized land uses of “guest house”, “tourist facility” and “function venue” on a property zoned “Agriculture Zone I” in terms of the Knysna Zoning Scheme By-law (2020).

6.5.2 **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**

- (i) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision; and
- (ii) The decision and imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

5.5.3 **The reasons for above decision are as follows:**

- (i) In assessing the building line transgression, it appears that the previous landowner(s) were responsible for the buildings not being built in accordance with the approved plan with aerial imagery provided in evidence. Despite this fact, it is the landowner that accept responsibility for ensuring compliance with the zoning scheme.
- (ii) In terms of the unauthorized land uses, there has been no evidence to suggest that these land uses had a “meaningful impact” on the surrounding road and agricultural activities. However, it is important that due process in obtaining planning approval is followed and the penalty is a mechanism to effect behavior change toward compliance with the Planning By-law. Importantly, the applicant has admitted to the contravention of the zoning scheme by providing affirmative arguments for the contravention. The imposition of an administrative penalty in respect of the unauthorized land uses is thus considered justified.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.6. KMPT06/03/26: **ERF 1519, KNYSNA – ADMINISTRATIVE PENALTY**
(APPLICATION NO. 3602)

- *That it **be noted** that the Tribunal considered the land use planning report dated 16 March 2026 as submitted by the case officer, Ms. Sinovuyo Sitinga on 19 March 2026.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal resolved as follows:*

5.6.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R5 000.00** be determined in accordance with Section 93(2) for the unauthorized land use of a “guest lodge” on a “Single Residential Zone I” property of the Knysna Zoning Scheme By-law (2020), in respect of Erf 1519, Knysna.

5.6.2 The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):

- (i) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- (ii) The decision and imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

5.6.3 The reasons for above decision are as follows:

- (i) The applicant has conceded to the transgression and based on the gravity and duration of the transgression the imposition of an administrative penalty is considered reasonable. The unauthorized land use has been operating for several decades but has not shown to cause an adverse impact on its local surroundings.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.7. KMPT07/03/26: ERF 3116, KNYSNA – ADMINISTRATIVE PENALTY (APPLICATION NO. 3624)

- *That it **be noted** that the Tribunal considered the land use planning report dated 16 March 2026 as submitted by the case officer, Ms. Sinovuyo Sitinga on 19 March 2026.*
- *That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal resolved as follows:*

6.7.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R5 000.00** be determined in accordance with Section 93(2) for the unauthorized land use of a “guest lodge” on a “Single Residential Zone I”

property of the Knysna Zoning Scheme By-law (2020), in respect of Erf 3116, Knysna.

6.7.2 The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):

- (i) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- (ii) The decision and imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.7.3 The reasons for above decision are as follows:

- (i) The applicant has conceded to the transgression and based on the gravity and duration of the transgression the imposition of an administrative penalty is considered reasonable. The unauthorized land use has shown to be minor in terms of its impact despite operating for several years without prior approval. The fact that the guest house operated under the now repealed bed-and-breakfast establishment by-law, does not diminish the property's unlawful use in the context of the zoning scheme.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.8. KMPT08/03/26: PORTION 22 OF FARM 187, GEORGE – ADMINISTRATIVE PENALTY (APPLICATION NO. 3596)

- *That it **be noted** that the Tribunal considered the land use planning report dated 16 March 2026 as submitted by the case officer, Ms. Sinovuyo Sitinga on 19 March 2026.*
- *That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:*

6.8.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R10 000.00** be determined in accordance with Section 93(2) for the unauthorized building work encroaching the 30m building line in terms of the Knysna Zoning Scheme By-law (2020) under "Agriculture Zone I" in respect of Portion 22 of Farm Ronde Valley No. 187, George.

6.8.2 **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**

- (i) The administrative penalty applies to the buildings and structures encroaching the prescribed building line as shown on the plan numbered "*Farm-Protea/020-Kny-RevA0*" dated October 2020.
- (ii) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- (iii) The decision and imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.8.3 **The reasons for above decision are as follows:**

- (i) The applicant has conceded to the transgressions and the payment of the penalty as specified in Council's approved tariff list. Despite the arguments presented by the applicant, the matter is considered a repeat offence with the previous administrative penalty waived. The imposition of the penalty in accordance with Council's approved tariff is, therefore, considered justified.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.9. KMPT09/03/26: **ERF 9077, KNYSNA – ADMINISTRATIVE PENALTY**
(APPLICATION NO. 3542)

- *That it **be noted** that the Tribunal considered the land use planning report dated 16 March 2026 as submitted by the case officer, Ms. Sinovuyo Sitinga on 19 March 2026.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:*

6.9.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R5 000.00** be determined in accordance with Section 93(2) for the unauthorized building work encroaching the building line as prescribed for “group housing” under “General Residential Zone I” of the Knysna Zoning Scheme By-law (2020) in respect of Erf 9077, Knysna.

6.9.2 **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**

- The administrative penalty applies to the buildings contravening the prescribed 5m perimeter building line as shown on plan numbered “Traynor-06/25” dated June 2025 and drawn by A. La Grange
- The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- The decision and imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.9.3 **The reasons for above decision are as follows:**

- The applicant has conceded to the transgression in terms of their responsibility as landowner and has confirmed their willingness to make payment on the penalty as specified in Council’s approved tariff.
- Furthermore, the gravity and extent of the transgression is considered minor and has not shown to cause any adverse impacts on the neighbouring and affected properties. The imposition of an

administrative penalty in accordance with Council's approved tariffs is therefore, considered justified.

File number: 9/1/2/13
Execution: Municipal Manager
Director: Planning and Development
Manager Land Use Management

6.10. KMPT10/03/26: **ERF 7854, KNYSNA – ADMINISTRATIVE PENALTY**
(APPLICATION NO. 3535)

- *That it **be noted** that the Tribunal considered the land use planning report dated 16 March 2026 as submitted by the case officer, Ms. Sinovuyo Sitinga on 19 March 2026.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal resolved as follows:*

6.10.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R5 000.00** be determined in accordance with Section 93(2) for the unauthorized land use of a "guest house" on a property zoned as "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020), in respect of Erf 7854, Knysna.

6.10.2 **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**

- (i) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- (ii) This decision and the imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.10.3 The reasons for above decision are as follows:

- (i) The applicant has recently obtained ownership of the subject property as a going concern and wishes to continue the operation of the unauthorized guest house. The applicant has thus conceded to contravening the zoning scheme in terms of the permissible use of the erf and demonstrated good faith in their attempt to regularize the land use.
- (ii) The imposition of a monetary penalty in accordance with Council's approved tariffs is, therefore, considered justified. The unauthorized land use has not shown to cause adverse impacts on the neighbouring properties or local community as yet

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.11. KMPT11/03/26: ERF 2036, SEDGEFIELD – ADMINISTRATIVE PENALTY
(APPLICATION NO. 3636)

- *That it **be noted** that the Tribunal considered the land use planning report dated 16 March 2026 as submitted by the case officer, Ms. Sihle Phungula on 19 March 2026.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:*

6.11.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R5 000.00** be determined in accordance with Section 93(2) for the unauthorized building work that encroaches on the prescribed Knysna Zoning Scheme building lines, in respect of Erf 2036, Sedgefield.

6.11.2 The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):

- (i) The administrative penalty applies to the building line encroachments as shown in the plan numbered “N002/10/2025-00” dated 11 November 2025.
- (ii) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- (iii) This decision and the imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.11.3 The reasons for above decision are as follows:

- (i) The applicant argued that the contravention of the zoning scheme building lines is minor as it has not been shown to have an adverse impact on the neighbouring properties. An offence of the zoning scheme and Planning By-law has occurred nonetheless, and the imposition of the administrative penalty is considered justified.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

**6.12. KMPT12/03/26: ERF 1124, KNYSNA – ADMINISTRATIVE PENALTY
(APPLICATION NO. 3631)**

- *That it **be noted** that the Tribunal considered the land use planning report dated 23 March 2026 as submitted by the case officer, Ms. Sinovuyo Sitinga on 19 March 2026.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:*

6.12.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R36 000.00** be determined in accordance with Section 93(2) for the unauthorized land use of a “warehouse” on a property zoned “Business Zone II” and unauthorized building work that encroaches the

building lines, as specified in the Knysna Zoning Scheme By-law (2020), in respect of Erf 1124, Knysna.

6.12.2 The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):

- (i) The administrative penalty in respect of the building line encroachments applies to the extent as shown on the plan numbered “*Kny319-P1-RevO*” dated 11 September 2024.
- (ii) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- (ii) This decision and the imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.12.3 The reasons for above decision are as follows:

- (i) The applicant has conceded to the transgressions in terms of their responsibility as landowner and has confirmed their willingness to make payment on the penalty as specified in Council’s approved tariff. In considering the circumstances of the application, imposition of an administrative penalty in accordance with Council’s approved tariffs is, therefore, considered justified.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.13. KMPT13/03/26: ERF 3724, SEDGEFIELD - ADMINISTRATIVE PENALTY (APPLICATION NO. 3504)

- *That it **be noted** that the Tribunal considered the land use planning report dated 20 March 2026 as submitted by the case officer, Ms. Sinovuyo Sitinga on 19 March 2026.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:*

6.13.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R1 250.00** be determined in accordance with Section 93(2) for the unauthorized building work that contravenes the prescribed building lines and maximum permissible height of retaining walls as specified in the Knysna Zoning Scheme By-law (2020), in respect of Erf 3724, Sedgefield.

6.13.2 **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**

- (i) The administrative penalty as specified herein applies to the building line encroachments as shown on the plan numbered “3724-SITE-Rev5” dated 19 September 2023.
- (ii) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- (iii) This decision and the imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.13.3 **The reasons for above decision are as follows:**

- (i) The Zoning Scheme By-law does not allow for retaining walls/structures within the prescribed building lines. On their own admission, the landowner of the subject property has intentionally commenced with building work that contravenes the zoning scheme in this respect.
- (ii) However, in considering the merits and circumstances to the application, it was found that there are reasonable grounds to impose a nominal penalty – as opposed to the maximum. The landowner has not demonstrated malice in their conduct; it is the owner’s first known offence and employed an engineering professional oversight in the retaining wall construction.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.14. KMPT14/03/26: **ERF 18817, KNYSNA – ADMINISTRATIVE PENALTY**
(APPLICATION NO. 3320)

- *That it **be noted** that the Tribunal considered the land use planning report dated 16 March 2026 as submitted by the case officer, Mr. Sihle Phungula on 19 March 2026.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:*

6.14.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R24 000.00** be determined in accordance with Section 93(2) for the following in respect of Erf 18817, Knysna:

6.14.1.1 the unauthorized land use of a “guest lodge” on a property zoned as “Single Residential Zone I” in terms of the Knysna Zoning Scheme By-law (2020);

6.14.1.2 the failure to obtain prior written approval in terms of Section 15(2) of the Planning By-law for the removal and/or amendment of the restrictive condition of title that imposes building lines on the subject property.

6.14.2 **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**

- (i) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- (ii) The administrative penalty for the encroachment of the prescribed building lines applies to the extent as shown on the plan numbered “KNY18817_Gertenbach_SDP_Rev1” dated 06 August 2024.
- (ii) The decision and the imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.14.3 The reasons for above decision are as follows:

- (i) The contravention of the zoning scheme by the use of the single residential property as a guest lodge is considered significant in that it has operated for several years without making contributions to the Municipality's infrastructure service capacity following the approval of the rezoning of the property.
- (ii) Furthermore, the landowner should have been reasonably aware of the conditions to the land use approval granted in 2009 and 2010 prior to the consolidation of the property. The condition of approval in the notice of decision dated 02 June 2010 required the consolidation of Erf 5106 and Erf 5153, Knysna with a further condition in the same letter requiring the submission of building plans for approval that would allow for the confirmation of the new use rights. The landowner was able to secure the registration of the consolidated property in terms of this approval but alleges that they were not aware of their obligation to lodge building plans.
- (iii) It is held that the primary responsibility of ensuring compliance with the Planning and Zoning Scheme By-law is that of the landowner. For this reason, and those as set out herein, the imposition of an administrative penalty in respect of the transgressions on the subject property is considered justified.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

6.15. KMPT15/03/26: ERF 14621 & ERF 14622, KNYSNA – ADMINISTRATIVE PENALTY (APPLICATION NO. 3633)

- *That it **be noted** that the Tribunal considered the land use planning report dated 16 March 2026 as submitted by the case officer, Mr. Sihle Phungula on 19 March 2026.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:*

6.15.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R29 000.00** be determined in accordance with Section 93(2), for the following contraventions on Erf 14621 & 14622 Knysna:

6.15.1.1 The unauthorized land uses of a “gymnasium” and “place of entertainment” (tavern) on a property zoned “Single Residential Zone II” of the Knysna Zoning Scheme, By-law (2020).

6.15.1.2 The encroachment of the prescribed building lines as specified for “dwelling house” in the Knysna Zoning Scheme By-law (2020).

6.15.2 The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):

- (i) The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- (ii) The administrative penalty for the encroachment of the prescribed building lines applies to the extent as shown on the plan numbered “POP-SHOP_021/KNY-A” dated November 2018.
- (iii) The decision and imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.15.3 The reasons for above decision are as follows:

- (i) The transgressions of the zoning scheme in terms of land use and building lines were found to be intentional in that the applicant has conceded to these described transgressions. In considering the nature of the transgressions, the imposition of an administrative penalty in accordance with Council’s approved tariffs is considered reasonable.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

6.16. KMPT16/03/26: **ERF 103, BRENTON – ADMINISTRATIVE PENALTY**
(APPLICATION NO. 3661)

- *That it **be noted** that the Tribunal considered the land use planning report dated 17 March 2026 as submitted by the case officer, Mr. Sihle Phungula on 19 March 2026.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal unanimously resolved as follows:*

6.16.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R10 000.00** be determined in accordance with Section 93(2) for the following contraventions on Erf 103, Brenton:

6.16.1.1 The unauthorized land use of a "second dwelling" that exceeds 60m² in extent on a property zoned "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020).

6.16.1.2 The encroachment of the prescribed building lines as specified for "dwelling house" in the Knysna Zoning Scheme By-law (2020) by retaining walls.

6.16.2 **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**

- The landowner/applicant shall pay the administrative penalty within 30 days reckoned from the date of the notice of decision.
- The administrative penalty for the encroachment of the prescribed building lines applies to the extent as shown on the plan numbered "*House Quickleap-025Kny-Bos*" dated February 2025.
- The decision and imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.16.3 **The reasons for above decision are as follows:**

- It is evident that the transgressions of the zoning scheme by way of an unauthorized use and building line encroachments were intentional. For

this reason, and to encourage behavior change towards compliance with the zoning scheme, the imposition of an administrative penalty in accordance with Council's approved tariffs is considered justified.

File number: 9/1/2/13
Execution: Municipal Manager
Director: Planning and Development
Manager Land Use Management

6.17. KMPT17/03/26: **ERVEN 45,46,47,48,49 & 50 RHEENENDAL– ADMINISTRATIVE PENALTY** (APPLICATION NO.3647)

- *That it **be noted** that the Tribunal considered the land use planning report dated 16 March 2026 as submitted by the case officer, Mr. Sihle Phungula on 19 March 2026.*

*That it further **be noted** that the report was presented by the case officer at the meeting and after deliberations the Tribunal resolved as follows:*

6.17.1 That, in terms of Section 60 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021), an **Administrative Penalty** in the amount of **R6 000.00** be determined in accordance with Section 93(2), for contravening the prescribed 4.5m building line as specified under "Business Zone II" in the Knysna Zoning Scheme By-law (2021) in respect of Erf 45, 46, 47, 48, 49 & 50, Rheenendal.

6.17.2 **The above decision is subject to the following condition(s) imposed in terms of Section 66 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021):**

- (i) The landowner/applicant shall pay the administrative penalty within 30 days, reckoned from the date of the notice of decision.
- (ii) The administrative penalty for the encroachment of the prescribed building lines applies to the extent as shown on the plan numbered "**RHE25-01-LAD01**" dated 01 July 2025.

- (iii) The decision and imposition of an administrative penalty shall not be construed as support for future applications lodged in accordance with Section 15(2) of the Planning By-law on the subject erf.

6.17.3 The reasons for above decision are as follows:

- (i) Although the applicant argues that the encroachment has existed for decades, the structure continues to be utilized in contravention of the Knysna Zoning Scheme By-law (2020). The ongoing use of a non-compliant building indicates that the unlawful conduct has not been stopped and that regulatory obligations have not been fully respected.
- (ii) The owner did not lodge building plans for approval prior to construction. The absence of approved building plans in municipal records demonstrates a disregard for planning and building control by-laws, undermining the regulatory framework designed to ensure orderly and compliant development. Passage of time does not legalise non-compliant structures.
- (iii) Considering the historical nature of the building, its minimal visual impact, and the absence of prior offences, a reduced penalty of R6 000 is appropriate. This amount balances the enforcement of the Planning By-law with recognition of mitigating factors. Granting a full waiver would fail to uphold the integrity of the zoning by-law and could set an undesirable precedent.

File number: 9/1/2/13

Execution: Municipal Manager

Director: Planning and Development

Manager Land Use Management

7. Closure

The Chairperson thanked all attendees and closed proceedings at 12h40.

R SMIT (CHAIRPERSON)

DATE

ITEM TO:

Municipal Planning Tribunal

APPLICATION NO.	2993
REPORT AUTHOR	S Sitinga
JOB TITLE	Town Planner
SACPLAN REG. NO.	A/2695/2018
TELEPHONE NO.	044-302-6276
APPLICATION DATE	18 January 2024

LAND USE PLANNING REPORT**CONSENT USE, DEPARTURE & SITE DEVELOPMENT PLAN: PORTION 16 OF FARM 216, KNYSNA****PART B: APPLICANT DETAILS**

Name & Surname	Lundikazi Khuphiso
Company name	Planning Space (Pty) Ltd
SACPLAN registration number	C/9271/2020
Registered owner(s)	Umthiqua Proprietary Limited

PART C: PROPERTY DETAILS

Property description	Portion 16 of Farm 216, Knysna, in the Municipality and Division of Knysna, Province of the Western Cape
Property Extent (m ²)	32.8093 ha
Physical address	Brenton Road (Divisional Road)
Area/Town	Knysna Farms
Current zoning	Agriculture Zone I
Applicable zoning scheme	Knysna Zoning Scheme By-law, 2020
Current land use	Vacant
Are there existing buildings on the property?	No
Title Deed number & date	T37633/2022
Any restrictive title conditions applicable?	No
Any third party conditions applicable?	No
Any unauthorised land use/building work	No
Bondholder's Consent	N/A

1. APPLICATION DESCRIPTION

The application is for the following:

- 1.1. The consent use in terms of Section 15 (2)(o) of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) to allow for four (4) additional dwelling units on an "Agriculture Zone I" property as contemplated in the Knysna Zoning Scheme By-Law (2020), in respect of Portion 16 of Farm Uitzicht 216, Knysna.
- 1.2. The departure in terms of Section 15 (2)(b) of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) from the development parameters of "agriculture," as contemplated under "Agricultural Zone I" of the Knysna Zoning Scheme By-Law (2020) to allow for a farm workers accommodation with 1km from the high-water mark of the sea or tidal river, in respect of Portion 16 of Farm Uitzicht 216, Knysna.
- 1.3. A permission required in terms of the zoning scheme as contemplated in terms of Section 15 (2)(g) of the Knysna Municipality Bylaw on Spatial Planning and Land Use Management (2021), to allow for the site development plan numbered "PTN16-F216," dated 3 May 2023, in respect of Portion 16 of Farm Uitzicht 216, Knysna.

2. BACKGROUND

- 2.1. Portion 16 of Farm 216, Uitzicht is located in the Uitzicht farming area, directly south of the N2 and west of the Belvedere township and is currently zoned for agricultural purposes. The property currently only has a dilapidated labourers cottage, which is unoccupied. With this proposal, the owners wish to erect four additional dwelling units, of which one falls within the 1km high water mark, as well as obtain approval for a site development plan.
- 2.2. The applicant states that the property has been used as a commercial plantation since the 1950s. In the recent 2017 Knysna fires, the property burnt down and has not been reestablished since then. The current owners purchased the property in 2021 and started an alien-clearing program.

3. PRE-APPLICATION CONSULTATION

There was no pre-application meeting regarding this application.

4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation can be summarised as follows:

- 4.1. The applicant states that the proposal is for the development of a tiny housing living concept and small space crop circle agriculture, which will include the proposed farm workers accommodation and additional dwellings.
- 4.2. The applicant states that topographical constraints can be examined between sensitivity to visual sense of place disturbance and the physical impact on fragile and unstable topographies. The subject property is viewed to have an undulating topography, with a steep rise from the N2 and an elevation of above 130m and descends to a valley, with the southern portion being reasonable for agricultural purposes. Furthermore, the applicant adds that this property has been previously used as a pine plantation and the critical biodiversity areas (CBA) areas have been marked.
- 4.3. Considering the Western Cape Land Use Planning Guidelines: Rural Areas, (2019), the applicant highlights that the guidelines speak to the promotion of agricultural diversification and non-agricultural opportunities and that accommodation such as the proposed additional dwellings are in line with this.
- 4.4. The applicant argues that overall, the proposal will have no negative impact on the character of the surrounding properties as it is in keeping with the rural and agricultural uses and further promotes tourism and lifestyle potential. The applicant also adds that the proposal is in line with the Knysna Municipality Spatial Development Framework, in that the property is situated outside the urban edge and is designated for "agricultural" use.
- 4.5. Further the applicant argues that the in line with Knysna Municipality SDF, the proposal will have no negative impact on the integrity of the Garden Route landscape as the proposed dwelling units will not be visible from the scenic N2 route, or Brenton Road.
- 4.6. With the proposed additional dwellings, the applicant argues that normally, one additional dwelling unit per 10ha for plantations, and in this case, the property measures just over 32ha, therefore for 30-40 ha, 4 additional dwellings are permitted. Additionally, there are also horticulture and crop circles that work on an average ratio of 4 workers per ha. The applicant also highlights that at this stage only the main house and the manager's house will be constructed, and the rest of the farm worker's homes will be constructed in phases as the agricultural implementation occurs.
- 4.7. The applicant also argues that the proposal will have no negative impact on the environment as rehabilitation will also be undertaken, and that the concept itself will create viable agricultural land. The applicant further adds that the farmhouses with the 1km highwater mark will have no impact on

the lagoon as there are already houses between the lagoon and this property and considering that the closest structure to the lagoon on this property will be about 800m away.

- 4.8. The applicant also argues that the proposal promotes the principles of SPLUMA, specifically the principles of "spatial sustainability," "efficiency" and "resilience" where sustainability is promoted by effective farming practices and sustainable agriculture, whilst efficient use of resources is ensured, and spatial resilience is achieved by increased productivity whilst using better farm inputs and production technologies.

5. PUBLIC PARTICIPATION

Method of Advertising				Date Published	Closing Date		
	Yes	No	N/A				
Press	☐	☐	☒				
Gazette	☐	☒	☐				
Notices	☒	☐	☐	29 January 2024	01 March 2024		
Ward Councillor	☐	☒	☐				
Site Notice	☐	☒	☐				
Community Organisations	☐	☒	☐				
Public Meeting	☐	☒	☐				
Third Parties	☐	☒	☐				
Total Valid Comments	1			Total comments and petitions refused	None		
Valid Petitions	Y ☐		N ☒	No of signatures	Not Applicable		
Community organisation(s) response	Y ☐	N ☐	N/A ☒	Ward Councillor response	Y ☐	N ☒	N/A ☐
Was public participation undertaken in accordance with section 45- 49 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021)						Y ☒	N ☐

5.1. Summary of Comments Received during Public Participation

- 5.1.1. An objection was received from the Western Heads-Goukamma Conservancy with their comments relating to the requirement for environmental authorization, the development footprint within a water course, wastewater disposal, water use, the use of the property for agricultural purposes, and

the presence of protected trees and invasive alien plants. Their full written objection is attached to this report as an annexure.

5.1.2. It is stated that the subject property is located within the critically endangered Knysna Sand Fynbos habitat and a critical biodiversity area (CBA). The development entails disturbance of more than 300m² and environmental authorisation will be required.

5.1.3. The proposed development is also located within water courses with the sewage disposal plan inadequate in this respect. The farm's agricultural use will also require water use authorisation.

5.1.4. The application is silent on the presence of protected trees on the farm with the property heavily infested with alien plant species. The conservancy says that the "environmental liability fund" must be applied to the eradication of invasive alien plant species.

5.1.5. The conservancy is in support of the main dwelling and a manager's house provided that development is limited to low impact biodiversity sensitive land uses and maintenance of the property in near natural state with rehabilitation of degraded areas is maintained.

5.1.6. However, the conservancy is not in support of the entire application as presented and requires that an environmental authorisation process with specialist studies be undertaken and a land use application be lodged following this process.

5.2. Summary of Comments from Departments/Organs of State

Name	Date Received	Summary of Comments	Recommendation
Infrastructure Services	16 April 2024	Water Permits / licenses must be obtained from Breede Gourits Catchment Management Agency. The Biolytix sewer system is acceptable.	Comment
Environmental Management	11 June 2024	No objection to the application. A joint site inspection was undertaken with SANParks and the owner was advised on invasive plant management and the owner has been proactive in controlling the invasive plants and restoration of portions of the farm through a burning regime and controlled re-vegetation. The department is aligned with SANParks comments. The planned activities will reduce fire risk and promise to enhance ecological function on the farm.	Comment

Name	Date Received	Summary of Comments	Recommendation
Western Cape Department of Agriculture	12 April 2024	1. The department proposed that proof of cultivation permit must for the proposed plantations be provided for the proposed. 2. Proof of water for irrigation of the avocado and macadamia must be provided. 3. The agricultural activities on site do not justify the number of Bonafide agricultural workers houses. 4. The size of the workers' houses is excessive. The average size ranges between 40-80m. 5. The workers' houses layout is not supported. It is recommended that the houses be clustered. 6. According to the WC Land Use Guidelines for Rural Areas, 2019, the farm is 32,69ha, therefore only 3 additional dwelling units may be permitted.	Comments
South African National Parks (SANParks)	03 April 2024	1. An EIA process is suggested 2. An OSCAE permit is required. 3. Confirmation is required from the BOCMA on the need for the WUL. 4. The Conservation of Agricultural Resources Act may be applicable, due to the potential soil erosion and slope steepness. Confirmation should be sought. 5. Biodiversity Stewardship Agreement options for the property is suggested as a condition of approval. 6. No objection to 4 additional units is permitted. 7. No objection to SDP.	Comment
SANRAL	31 January 2024	1. The structures shall be erected not less than 60m from the national road reserve boundary. 2. SANRAL shall not be involved in any expenditure in connection with and shall not be responsible for the erection of any structures, any financial expenditure or loss in the event of SANRAL ordering the removal or shifting or relocation of anything relating to this approval or any financial responsibility or liability for any claim from the applicant which may occur from the lapsing of the approval.	Comment

5.3. Summary of Applicant's Reply to Comments

The applicant's reply on the municipal departments, organ of states and public comments can be summarised as follows:

- 5.3.1. The applicant responded to the Infrastructure Services directorate by stating that water will be obtained from rain harvesting and not drawn from a water source. The applicant also provided the response from the Breede-Olifants Catchment Management Agency on the environmental authorisation application who states that the development does not affect any watercourses. The agency did impose a number of conditions regarding water use on the subject farm.
- 5.3.2. In response to the comments made by the Western Cape Department of Agriculture, the applicant states that the Knysna Zoning Scheme By-law (2020) allows for a maximum of four (4) additional dwelling units on farms measuring between 30 and 40 hectares with a floor area of up to 175m². These units are also clustered on the eastern end of the farm.
- 5.3.3. On the issue of the number of agricultural worker accommodation units, the applicant responded by stating that the intention is to develop the activities in phases, with the initial stage being only the construction of a single dwelling. The applicant argues that the Knysna Zoning Scheme By-law (2020) does not limit the size of agricultural worker accommodation while the Western Cape Land Use Planning Guidelines: Rural Areas (2019) recommends a maximum floor area of 175m².
- 5.3.4. In their comment dated 03 April 2024, the South African National Parks (SANParks) listed several concerns and issues regarding the proposed development of the subject farm. The first being the need for environmental authorisation. In this respect, environmental authorisation was subsequently granted in a record of decision (RoD) dated 24 March 2025. The applicant responded to all the issues raised by SANParks with the applicant stating that if the avocado and macadamia plantations are found to be unacceptable, an alternative agricultural activity will be undertaken. The applicant confirmed that the landowner is member of several forums and groups including fire protection, environmental protection and property ownership group.
- 5.3.5. In response to the Western Heads-Goukamma Conservancy the applicant revised the site development to indicate the watercourses in relation to the development footprint in terms of plan numbered "PTN16-F216-Rev2" dated, 28 May 2024.
- 5.3.6. The applicant further states that the farm has never been identified as having extremely high conservation value in forward planning documents but has been identified as a transitional area where certain developments may take place.

- 5.3.7. The applicant also confirms that the conditions of title to the farm do not prohibit the use of the farm for agricultural purposes.

6. PROPOSAL ASSESSMENT

6.1. Application History

There is no planning application history which has a bearing on the application at hand.

6.2. Considerations in terms of SPLUMA

- 6.2.1. The applicant has argued the application in terms of the development principles as contained in the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) (SPLUMA), specifically the principles of "spatial sustainability," "efficiency" and "resilience."
- 6.2.2. The applicant highlights that the farming practices to be applied on this proposal will promote sustainable agriculture, where the alien clearing and forest regeneration will allow the natural vegetation to be reestablished and that the proposed structure's location has considered valuable agricultural land and natural vegetation. The applicant further highlights that therefore the proposal also speaks to efficient use of existing resources, whilst ensuring productivity and climate resilience with increased farm inputs and adopted production technologies.
- 6.2.3. The sentiments of the applicant can be agreed with, as the proposal speaks to alternative farming methods that prioritize environmental sustainability, efficiency and resilience and their arguments were found to be satisfactory. Importantly, the agricultural use of the farm can be retained and expanded as a result of the application.

6.3. Consistency with SDF, IDP and applicable Policies

- 6.3.1. The applicant argues that the proposal is consistent with the Knysna Municipality Spatial Development Framework, (2020), as well as the Western Cape Land Use Planning Guidelines: Rural Areas (2019). Regarding the Knysna Municipality SDF, the applicant argues that the proposal is compatible with the broader spatial vision of area, in that it is designated for "agriculture," in line with the SDF and that the policies set out in the SDF for decision making on land use management have relevance to this application. This can be agreed as the policy states that all properties greater than 3 ha outside of the existing smallholding areas are deemed agricultural properties.
- 6.3.2. In terms of the Western Cape Land Use Planning Guidelines: Rural Areas, (2019), this argument is supported by highlighting that the proposal promotes agricultural diversification and non-

agricultural opportunities, whilst the proposed additional dwellings contribute to available accommodation for tourism in rural areas.

6.4. Impact on Municipal Engineering Services

The Infrastructure Services directorate advised that water permits/licenses must be obtained from the Breede-Olifants Catchment Management Agency. The applicant later submitted comments from the agency, and it was confirmed that no licenses would be required at this stage. It is therefore suggested that the development will not put additional strain on or require additional capacity in terms of the municipal infrastructure networks.

6.5. Outcomes of Investigations/Applications i.t.o. other Legislation

An environmental authorisation was issued in terms of the record of decision (RoD) dated 24 March 2025 and in accordance with the site development plan numbered "PTN16-F216-Rev2" dated 24 May 2024. The authorisation identified four (4) listed activities in terms of Listing Notice (LN) 1 and Listing Notice 3 of the EIA regulations (2014). This authorisation does not appear to have a direct bearing on the site's development other than listing the mentioned SDP as the preferred alternative to the development of the farm.

6.6. Zoning Considerations

This proposal does not entail a change in zoning and therefore there are no zoning considerations to be made.

6.7. Desirability of the Proposal

Elements for Consideration		Assessment Response
01	Economic Impact	- The proposal is anticipated to create opportunities for small-scale farmers to participate in controlled environmental practices, which require less water and space than commercial farming. - Additionally, the landscape and location of the property present an opportunity for eco/agri-tourism, with the main agricultural land use, which will allow the property owners additional income, without changing the character of the area.
02	Social Impact	
03	Compatibility with surrounding land uses	The surrounding properties in this area are predominantly rural in use, with limited commercial agricultural use and therefore this proposal is compatible with the surrounding land uses.

Elements for Consideration		Assessment Response
04	Impact on the Biophysical Environment	- Multiple stakeholders have identified the environmental impact as a significant consideration in the application. In response to these concerns, the applicant has obtained environmental authorisation for the development based on a revised site development plan. The authorisation found the mitigating measures sufficient in addressing impacts stemming from the development. - The applicant made a minor revision to the site development plan following the issuing of the RoD. - The water use of the subject farm's agricultural activities was also considered with the water authority offering conditional support for the land uses. - On the whole, and based on the nature of the intended activities, it is argued that it is not evident that the development will have an adverse impact on the natural environment surrounding the subject farm. The additional dwelling units are compliant with the provisions of the Zoning Scheme By-law while the footprint of the agricultural worker accommodation is limited to the extent of bona fide agricultural activities on the farm. It is also notable that a major extent of the farm will be used and maintained for natural and conservation purposes.
05	Traffic impact, parking, access & other transport considerations	- The subject farm obtains servitude access across Portion 15 of Farm 216, Knysna. It is anticipated that this access route will be maintained while the increased use rights will remain commensurate with the agricultural activity on the subject farm. - The South African National Roads Authority (SANRAL) offered conditional support for the application with the imposition of a building restriction on the northern boundary of the farm with the N2-highway. The application was found to not affect this restriction.
06	Impact on quality of life (incl. views, sunlight, privacy, visual impact, etc.)	- At 32 hectares, the subject farm is considerably large with the density limited to only 4 additional dwelling units in terms of the zoning scheme. These units will be clustered thereby limiting the impact of these land uses on the visible local rural landscape. - However, it is advised that the aesthetic design and impact of any of the units be considered by the Municipality's Aesthetic Committee prior to the consideration of building plan approval in terms of the national building regulations.

6.8. Assessment of Comments

6.8.1. The first issue under consideration, and as highlighted by the objector, is the environmental impact of the intended land uses on the subject farm. These impacts were considered in terms of an environmental authorisation issued by the National Department of Environment (DFFE) in March

2025. As stated previously, the authorisation does not foresee any adverse environmental as a cause of the proposed development provided that there is adherence to conditions as stipulated therein. Conditional support was also given by the water authority with the landowner required to obtain prior approval should water supply be obtained from any source other than rainwater harvesting.

- 6.8.2. SANParks requires the imposition of a condition that compels the landowner to investigate a potential agreement on biodiversity stewardship. In their response, the applicant accepts the imposition of such a condition. It is noted that such a condition should not be considered in fulfilment of the land use application but should be considered within the mandate held by SANParks. However, such a condition would grant a conservation outcome in the management and use of the subject farm which would be of considerable environmental benefit to the local area.
- 6.8.3. As mentioned previously, the Zoning Scheme By-law (2020) allows the consideration of additional dwelling units of up to four (4) based on the area (34ha) of the subject farm. There appears to be no objection from stakeholders to this land use except for the Western Heads-Goukamma Conservancy (WHGC). This objection stems from the supposed environmental impact of the intended use and their insistence on the applicant obtaining environmental authorisation. The applicant has now completed an environmental application process and obtained authorisation for the intended uses subject to conditions for implementation. It is thus held that the environmental impact of the development has received extensive consideration and that it is not readily evident that the proposed development will cause adverse impacts on the natural environment.
- 6.8.4. In terms of the Knysna Zoning Scheme By-law (2020), the number of agricultural worker accommodation is determined based on the extent of the bona fide agricultural activities on the farm. As a Municipality, significant weight is given to the provincial agricultural department to advise on the appropriate number of worker units. As stated by the department, there are no intensive agricultural activities that justify additional agricultural worker accommodation. It is thus held that the agricultural worker accommodation should only be obtained as and when the agricultural uses intensify.
- 6.8.5. The provincial agriculture department also had concerns regarding the unit size of the agricultural worker accommodation at 175m². The zoning scheme does not prescribe a maximum permissible unit size; therefore, it is recommended that any unit be of reasonable size for ordinary living but should not exceed 150m² in extent.

6.8.6. There is concern regarding the agricultural use of the property in that it is suggested that the property be kept and maintained as a conservation and environmental asset. Herein, it is argued that the primary use rights to the property is for agricultural purposes and the applicant seeks to expand on this use. However, it is also proposed that a portion of the farm be used for conservation purposes with alien vegetation clearing continuing. The applicant thus offers a balance between the expanded agricultural activities and conservation.

6.8.7. In terms of the remaining issues raised by the objector and stakeholders, it was found that the applicant responded satisfactorily to their concerns. The applicant obtained environmental authorisation while a balance between conservation and intensive land use can be obtained. Therefore, and notwithstanding the objection(s), the application is found to have desirability.

7. RECOMMENDATION

It is recommended:

7.1. That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality Spatial Planning and Land Use Management By-law (2021) for the consent use of four (4) "*additional dwelling units*" as contemplated under "Agriculture Zone I" of the Knysna Zoning Scheme By-Law (2020), in respect of Portion 16 of Farm Uitzicht 216, Knysna.

7.2. That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality Spatial Planning and Land Use Management By-law (2020) for the departure from the development parameters of "agriculture" as contemplated under "Agricultural Zone I" of the Knysna Zoning Scheme By-Law (2020) to allow for a farm workers accommodation within the 1km high-water mark of the sea or tidal river, in respect of Portion 16 of Farm Uitzicht 216, Knysna.

7.3. That, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality Spatial Planning and Land Use Management By-law (2021) for the permission required in terms of the zoning scheme in order to allow the approval of the site development plan, on Portion 16 of Farm Uitzicht 216 Knysna, as indicated on drawing number "PTN16-F216-REV2", dated 28 May 2024.

8. CONDITIONS OF APPROVAL IMPOSED IN TERMS OF THE PLANNING BY-LAW

The above approval(s) is subject to the following conditions imposed in terms of Section 66 of the Knysna Municipality By-law Spatial Planning and Land Use Management (2021):

- 8.1. The applicant/landowner shall apply for permission as contemplated in terms of the Outeniqua Sensitive Coastal Area Extension (OSCAE) Regulations, prior to any building work being undertaken, to the satisfaction of the Manager: Environmental Management.
- 8.2. The number of agricultural worker accommodation shall be limited to one (1) unit; any additional agricultural worker accommodation units shall be based on the extent of the existing bona fide agricultural activities on the farm unit as determined on the advice of the Western Cape: Department of Agriculture, at the submission of building plans.
- 8.3. The agricultural worker accommodation unit shall each be limited to a maximum permissible extent of 150m² including associated outbuildings.
- 8.4. The applicant/landowner shall submit building and aesthetic design proposals of buildings to the Municipality's Aesthetic Committee, prior to the submission of building plans.
- 8.5. The applicant/landowner shall investigate the potential to enter into a stewardship agreement with the South African National Parks (SANParks).

9. MATTERS FOR NOTING

The applicant/landowner is advised of the following:

- 9.1. The applicant/landowner shall obtain permission(s) as contemplated in terms of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983).
- 9.2. The applicant/landowner shall apply the recommendations of the South African National Parks (SANParks) in their correspondence dated 03 April 2024.
- 9.3. The applicant/landowner shall apply the recommendations of the South African National Roads Agency (SANRAL) in their undated correspondence received on 02 February 2024.
- 9.4. The applicant/landowner shall apply the recommendations of the Breede-Olifants Catchment Management Agency in their correspondence dated 22 November 2024.

10. REASONS FOR RECOMMENDATION

The reasons for above recommendation are as follows:

- (i) The application was found to be consistent with the principles as contained in the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013). The proposal seeks to implement alternative farming practices that prioritise environmental sustainability, efficiency and resilience.
- (ii) The key issue raised in the objections lodged against the application is that environmental authorisation was outstanding at the time of publication of the land use application. The applicant has subsequently obtained authorisation in March 2025 which is subject to conditions. It is held that the environmental impact of the proposed development received extensive consideration and that

it is not readily evident that the intended land uses will cause adverse impact on the natural environment.

- (iii) The application and land uses were also found consistent with the spatial planning objectives of the Municipality's spatial planning policy and is considered compatible with the predominant rural character of the surrounding area.
- (iv) Importantly, the intended land uses are considered commensurate and compatible with the existing use rights of agriculture as specified in the farm's zoning. The farm unit will be able to host its primary uses while being able to accommodate additional supportive and compatible uses.
- (v) The condition regarding the potential stewardship agreement entered into with the South African National Parks (SANParks) was considered reasonable as it will allow for dialogue between stakeholders on how the subject farm can contribute toward conservation in the broader area within the mandate of SANParks. A portion of the farm may thus be used for conservation purposes which will offer a balance between expanded agricultural activities and conservation.
- (vi) The number of additional dwelling units is in accordance with the suggested limit specified in the Knysna Zoning Scheme By-law (2020). The density and site place is considered appropriate in terms of the site context.
- (vii) There is currently no intensive agricultural activity on the subject farm. Therefore, only one agricultural worker unit is granted whilst any additional will be subject to the existing bona fide agricultural activity on the subject farm and be considered at the submission of building plans on the advice of the provincial department for agriculture.
- (viii) The zoning scheme does not prescribe a maximum permissible size of an agricultural worker accommodation unit. Therefore, the unit size is limited to 150m² as it would allow for a reasonable unit size that allows for ordinary domestic living.

11. SUPPORTING APPLICATION DOCUMENTS

ANNEXURE A – *Applicant's Motivating Memorandum*

ANNEXURE B – *Locality Plan*

ANNEXURE C – *Copy of Title Deed(s)*

ANNEXURE D – *Power of Attorney & Company Resolution*

ANNEXURE E – *Land Use Maps*

ANNEXURE F – *Site Development Plan*

ANNEXURE F – *CBA & ESA Map*

ANNEXURE G – *Ground Water Survey*

ANNEXURE H – *Bond Cancellation Confirmation*

ANNEXURE I – *Public Comments*

ANNEXURE J- Comments from State organs

ANNEXURE K – Internal Departmental Comments

ANNEXURE L – Applicants Response to Comments

ANNEXURE M – Environmental Authorisation

Consent Use, Departure & Site Development Plan: Portion 16 Of Farm 216, Knysna Application No.: 2993			
Author Name: Sinovuyo Sitinga Date: 24/03/2026		Author Signature: 	
Registered planner name: Shaun Madumbo SACPLAN registration number: A/1510/2012 Date: 24/03/2026		Registered Planner Signature: 	
Decision Maker: Municipal Planning Tribunal			
APPROVED	APPROVED CONDITIONALLY	APPROVED IN PART	REFUSED

PORTION 16 OF FARM NO.216 UITZICHT

Consent Use, Departure & SDP Approval Applications



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11/14/2023

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- Diagram 5: CBA & ESA Map
- Diagram 6: Site Development Plan

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- Annexure A: Power of Attorney and Company Resolution
- Annexure B: Title Deed and Letter confirming bond cancellation
- Annexure C: SG Diagram
- Annexure D: Ground Water Survey

1. INTRODUCTION

Planning Space Garden Route Pty Ltd has been appointed by Umthiqua Pty Ltd, the owner of Portion 16 of Farm Uitzicht 216, to prepare and submit the following application to Knysna Municipality in terms of Section 15 (2) and Chapter IV of the Knysna Spatial Planning and Land Use Management By-Law 2021 (See Power of Attorney and Company Resolution attached as **Annexure A**):

- i. Section 15 (2) (o): Council's Consent to allow 4 additional dwellings on an "Agriculture Zone I" property as contemplated in the Knysna Zoning Scheme By-Law.
- ii. Section 15 (2) (b): Departure from the development parameter that prohibits farm worker's accommodation within 1km from the high-water mark of the sea or tidal river.
- iii. Section 15 (2) (g): Approval of a Site Development Plan.

2. BACKGROUND

Portion 16 of the Uitzicht has been used as a commercial plantation since the early 1950ties. In 2017, the plantation burned down and has not been re-established. Since then, the property has not been maintained and as a result, it has become heavily invested with alien vegetation. New owners bought the property in 2021 and immediately embarked on an alien-clearing program. There are no structures on the farm, except for the dilapidated ruin of the labourer's cottage which is unoccupied.



Figure 1: 1958 aerial indicating established plantations on the property.

3. PROPERTY INFORMATION

3.1 LOCALITY

The site is situated in the Uitzicht farming area, directly south of the N2 and west of the Belvedere township. The property can be accessed from the N2 via the Brenton Divisional Road. From Brenton Road, the property gains access over Portion 15 of Farm Nr 216 via servitude road. At the moment there is also direct access from the N2, but this access point will be closed.



Figure 2: Extract indicating locality of the subject property.

3.2 PROPERTY DETAIL

Title Deed Description	The remainder of Portion 16 of Farm No.216 Uitzicht is situated in the Municipality Division of Knysna, Western Cape.
21 Digit code	C03900000000021600016
Title Deed Number	T37633/2022 (Attached as Annexure B)
SG Diagram Nr	5168/1945 (attached as Annexure C)
Title Deed Restrictions	None
Property Size	32.8093ha
Property Owner	Umthiqua Proprietary Limited
Bonds	No, the bond has been cancelled (see Annexure B1)
Zoning	Agriculture Zone I
Land Use	Vacant

4. PROPOSAL

4.1 UMTHIQUA VISION

Umthiqua – which means land of grace, is a South African agroforestry business that has recently purchased Portion 16 of Farm 216. The company reclaims stressed parcels of land and repurposes them as improved food and forest land holdings to benefit local producers and communities across the Western Cape. Umthiqua utilises regenerative plant growth technologies to create sustainable, environmentally compatible economic enterprises that create much-needed employment, raise timber for international markets and grow nutrition-rich agricultural products that provide sustenance for local communities.

The company creates homesteads where a farmer is invited to partner with Umthiqua to learn new agroforestry skills and adopt regenerative practices to manage the land. The homesteads will feature a tiny house living concept and small space Crop Circle agriculture. Umthiqua wants to advance small-plot farming as a lifestyle that will define the future of agrarian parks in South Africa.

Umthiqua has already launched several similar successful projects in the Garden Route.



Figure 3: Other similar projects by Umthiqua.

4.2 CROP CIRCLES AND CONTROLLED ENVIRONMENT FARMING

The agricultural industry faces a formidable challenge over the coming decades with growing populations, climate change, decline in agricultural land, and limited fresh water supply. According to the conservation organisation World Wide Fund for Nature (WWF), South Africa will have to produce 50% more food by 2050 in order to feed an estimated population of 73 million people. The implementation of sustainable farming practices is therefore crucial to ensure food security.

Umthiqua follows a multi-faceted technology-based approach towards food production. Controlled Environment Agriculture is the growing of crops while controlling certain aspects of the environment to reduce pests or diseases, increase efficiencies, be more sustainable, and increase yield. Production often takes place within a closed system that optimises the use of resources such as water, energy, space, capital, and labour. Hydroponic and aeroponic plants are known examples of a closed production system.

Crop circle farming is another type of controlled environment agriculture that uses technologies that allow farmers to grow food on just about any landscape including sloping hillsides and even elevated rooftops. Crop Circle Farms utilise concentric circles and other geometric designs to grow plants. Crop Circles and spirals maximize sun penetration for optimal flowering and fruit set. Paths between circles and spirals provide room for plants to grow and provide easy access for planting and a quick harvest. It is said that Crop Circles produce twice the plant matter and on average 4 times the yield of open field. Low cost, low water use, and zero import fertilizer use are just some of the reasons that crop circle farms are becoming increasingly popular. It is the intention to have about 250m²- 350m² of crop circles per farmer.



Figure 4: Crop Circle example.

Superfoods such as avocado and macadamia orchards will also be cultivated on the land. It is the intention to have at least 2ha Avocado trees and 2ha Macadamia trees.

The property is zoned for agricultural purposes and the concepts described above are in line with the definition of Agriculture which includes the cultivation of land for raising crops and other plants, including plantations, the keeping and breeding of animals, birds or bees, stud farming, game farming, intensive horticulture, intensive animal farming, a riding school or natural veld, and agricultural buildings or infrastructure that are reasonably connected with the main farming activities, including a dwelling house, barns, agricultural worker accommodation.

4.3 CONSERVATION

The owners have prepared an Alien Clearing and Fire Control Plan to be compliant with S76 of the National Environmental Management: Biodiversity Act, 2004 which requires the owners of properties larger than 5.1 hectares to submit an Invasive Plant Control and Fire Plan for the systematic removal of listed invasive plants within acceptable timeframes. All the areas not suitable for agriculture will be systematically rehabilitated to their natural state. By reducing the number and density of invasive alien plants, the conservation value and concurrent aesthetic value of the property will be enhanced while establishing a sturdier, more diverse ecosystem. The Intention is to eventually rehabilitate about 50% of the property.

4.4 FARM WORKER'S ACCOMMODATION

Precision farming and crop circle farming require a combination of technical expertise and knowledge in various fields, such as agriculture, engineering, computer science, and data analytics. This includes understanding the growth cycle of crops, soil types, irrigation systems, fertilization, and pest management. This knowledge is essential for making informed decisions about crop planning, cultivation, harvesting, marketing, and distribution.

Precision farming relies heavily on data analytics to make informed decisions about crop management. Technical expertise in remote sensing and GIS techniques such as aerial imagery, satellite imagery, and drones can help farmers gather information about crop health, soil moisture, and nutrient levels. Farmers need to know how to collect, process, and analyse data from various sources to make decisions that improve crop yields and quality. Precision farming often involves the use of advanced machinery, sensors, and automation technologies. Farmers need to have a good understanding of engineering principles and know-how to operate and maintain this equipment.

The business concept includes a number of small-scale farmers who will form part of a co-op that will collectively farm and share in the profit. Each farmer will be responsible for a certain area or crop and will live on the farm, close to their crops. Farmers will receive training and marketing support. The intention is to have about 250-350m² crop circles and vertical Greenhouses per farmer living on the premise and about 1ha of Macadamia or Avocado orchards each. One hectare orchard comprises about 300-400 trees that can yield up to 20 tons of avocados a year or 1.6 tons of Macadamias. Industry norms allow for 1 agricultural worker per ha for plantations of which there are about 4 ha planned. In addition to this, there are also horticulture and crop circles that work on an average ratio of 4 workers per ha (Hortidayly.com).

The Site Development Plan indicates a manager's house and 4 farm worker's houses, each measuring about 175m² floor area. Initially, only the main house and the manager's house will be constructed. The manager will be responsible for the establishment of the first phase of the conversion of the land from plantation to agriculture. This will involve the establishment of the Avocado and Macadamia plantations which will take about 7 years to establish

and the first crop circles and hydroponic plants. The rest of the farm worker's homes will be constructed in phases as the agricultural implementation occurs.

Agricultural worker's accommodation is permitted as a primary use. The **Zoning Scheme By-Law** clearly states that a dwelling permanently occupied by a person engaged in bona fide agricultural activities on the land unit is not regarded as an additional dwelling unit.

“agricultural worker accommodation” means accommodation provided for bona fide agricultural workers, including accommodation for labourers and farm managers, as determined by the Municipality based on the extent of the bona fide agricultural activities on the land unit.

The development parameters applicable to “agriculture” apply with the following additional development parameters:

- (a) the number of units must be reasonably connected to the bona fide agricultural activities on the land unit;
and
- (b) no agricultural worker accommodation may be erected within 1 km of the high-water mark of the sea or a tidal river.

The construction of farm worker houses is deemed necessary to accommodate the farmers who will be jointly involved in the agricultural activities on the property. The nature of agricultural activity requires constant monitoring and supervision. It will not be functional to have farmers living in town and having to commute to a facility when there is enough space to live and work in the same place. While the provision has been made for six farmers, the construction of homes will be done in phases to keep up with the growth of the farming enterprise and to be reasonably connected to the scale of the enterprise.

According to statistics produced by Researchgate, the most recent number of agricultural labour used per hectare shows that 8.3% of the farmers used two laborers per hectare of land, and 43.3 % of the farmers used 5 laborers. While 8.3 % of the farmers used 10 laborers per hectare of land. Another 36.7 % of the farmers used more than 10 labour per hectare of land. This property measures about 32 ha but cultivated crops and plantation will make up about 4,5ha. An estimate of 4 farmworker's houses as well as a manager's house and a main house is within the excepted norms.

The Knysna Estuary is regarded as a tidal river and most of the property falls within a 1km radius of the Knysna Estuary, as can be observed from the blue line on the Site Development Plan (Diagram 6 attached hereto). The southwestern corner of the property lies outside this parameter. This restriction of 1000m has its roots in the Integrated Coastal Management Act, which defines a Coastal Protection Zone. This zone is essentially a continuous

strip of land, commencing from the High Water Mark (HWM) and extending 100m inland in developed urban areas or 1000m inland in areas commonly referred to as rural or undeveloped.

It can be inferred that the restriction of not having any farm worker accommodation within a 1km distance from the high-water mark of the sea is intended to safeguard both the environment and people from the potential risks of building too close to the coast or a tidal river. However, this property is not situated on the coast. Rather, it is bounded by a national road to the north, a railway line to the south, and other farm portions, resorts, and a residential development to the east. The property is also high-lying, between 70m and 35m above mean sea level.

Under the previous Section 8 Zoning Scheme, applicable until 2020, there was a comparable limitation that only restricted the placement of additional dwellings within 1 km of the high-water mark of the sea. The new Knysna Zoning Scheme By-Law has added the high-water mark of a tidal river to this restriction, which now also prohibits the placement of farm worker accommodation within 1km of the lagoon. This amendment has essentially stripped the farm of a previously established right to have farm workers and managers residing on the agricultural land. However, this limitation on the placement of farm worker accommodation is a development parameter in the Knysna Zoning Scheme By-Law, and Section 20 (2) of the said By-Law allows for the Municipality to grant a departure from such parameters.

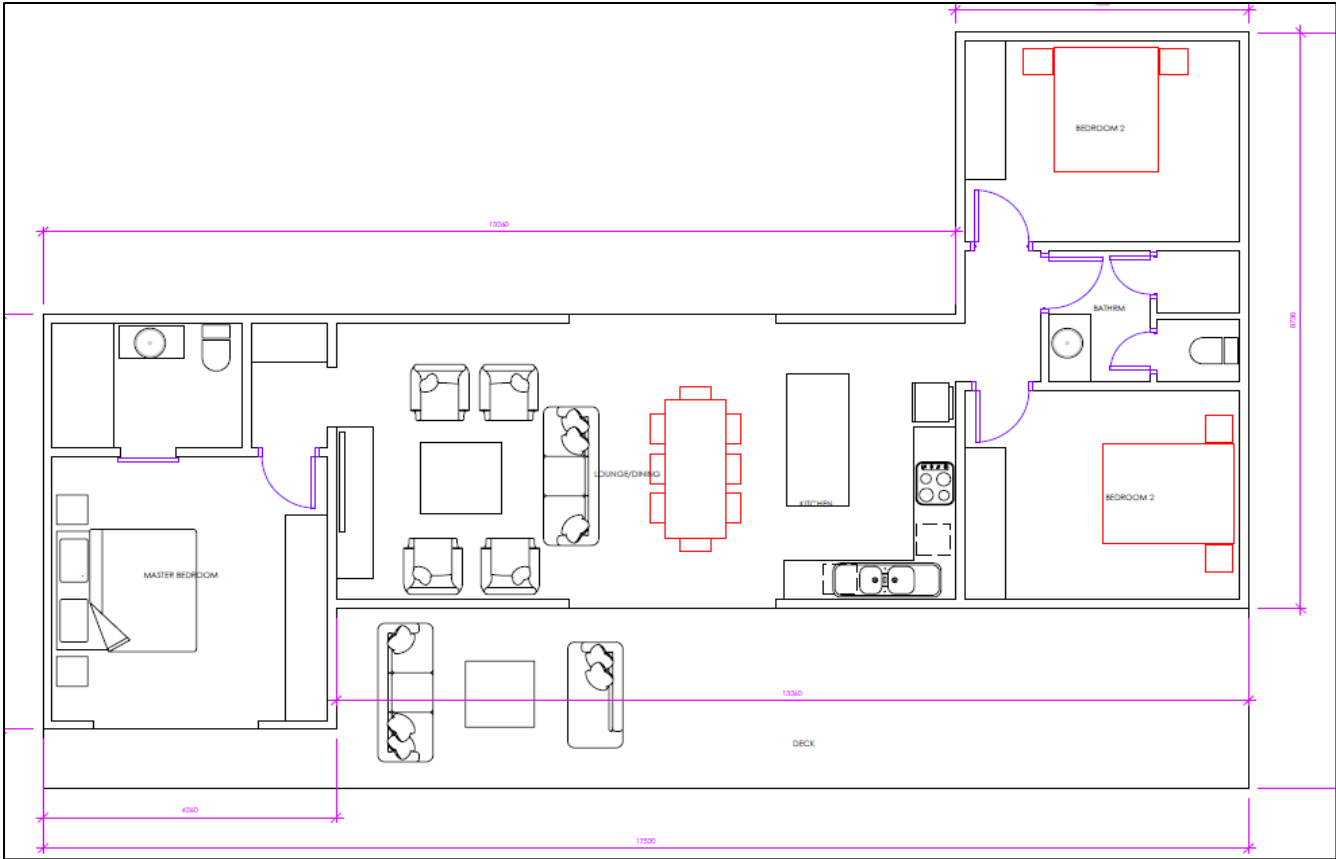
The purpose of this application is to request a departure from the development parameter that restricts the placement of farm workers' accommodation within 1 km of the high-water mark of the sea or a tidal river.

4.5 ADDITIONAL DWELLINGS

Within the Agricultural zone, limited provision is made for non-agricultural uses to provide opportunities to increase and diversify the economic potential of farmland, provided these uses do not present a significant negative impact on the primary agricultural resource. Consent uses in this zone includes additional dwelling units, farm stall, farm store, intensive feed farming, riding school, nursery, service trade, and tourist facilities.

The new owners would like to supplement the farm industry by adding 4 additional dwellings that can be rented out in the long or short term. This will allow them to generate an income while the avocado and macadamia orchards are established. The two-bedroom units will be constructed in a similar architectural style as the main house and the farm worker's homes. Units will be single-storey with two bedrooms with a floor area of about 175m².

Figure 5: Proposed Unit.



An “additional dwelling unit” is described as a dwelling unit that may be erected on an agricultural land unit with the consent of the Municipality, in addition to a primary dwelling house or agricultural worker accommodation provided that –

(a) the number of additional dwellings can be permitted in the following ratio:

Smaller than 10ha	1
Between 10ha and 20ha	2
Between 20ha and 30ha	3
Between 30ha and 40ha	4
More than 40ha	5

The property measures ±32,8ha and 4 additional units can be permitted on the land.

As part of the description of an additional dwelling unit, the By-Law stipulates that an additional unit may not be erected within 1 km of the high-water mark of the sea or a tidal river except where a proclaimed township is situated between the additional dwelling unit and the sea or tidal river. This restriction cannot be departed from as it is not a development parameter but forms part of the description. Section 20 (4) of the said By-Law states that no departure from the land use descriptions or definitions may be granted by the Municipality.

The attached Site Development Plan indicates the position proposed additional units. The proposed additional dwellings are placed in a section of the property that is not within a 1km radius of the lagoon or the sea. These units will comply with the development parameters stipulated below.

The development parameters applicable to “*agriculture*” apply, together with the following additional development parameters for “*additional dwelling units*”. Additional dwelling units may be erected with the consent of the Municipality provided that:

- (a) a dwelling permanently occupied by a person engaged in bona fide agricultural activities on the land unit is not regarded as an additional dwelling unit;
- (b) the total floor space of an additional dwelling including the floor space in all ancillary buildings to the additional dwelling, may not exceed 175 m²;
- (c) an additional dwelling must be constructed in a style that is similar to the architecture of the main dwelling house unless otherwise permitted by the Municipality;
- (d) an additional dwelling that is contained within the same building as a dwelling house must be designed so that the building appears to be a single dwelling house; provided that both units may have a ground floor, or one unit may be on the ground floor and the other unit above;
- (e) the existence of an additional dwelling may not in itself be sufficient reason for the Municipality to grant an application in terms of the Planning By-law to subdivide the land unit containing the dwelling units; and
- (f) the Municipality must certify that services are available for the construction of an additional dwelling.

4.6 SERVICES AND ACCESS

There is no municipal services network available in the area and all the farm units will be self-subsistent in terms of services. Septic tanks or soak-aways are generally used in the area but more environmentally friendly domestic wastewater treatment solution is available in the form of biolytic systems.

Water for domestic use and irrigation water will be obtained from existing springs, boreholes, and dams as well as from rainwater harvesting. A Geophysical Groundwater Survey done by Rockhounds Pty Ltd (attached as Annexure D) also indicates where additional boreholes can be drilled and where well points/spikes can be dug to extract shallow groundwater from the water table just below the surface of the ground.

Eskom electricity is available in the area and can be connected to all the units, although the intention is that the units will be completely off the grid. Each unit will be equipped with solar energy, supplemented by gas for cooking and geysers.

Access to the farm is via a registered servitude road. The main house, additional dwellings as well and the worker's accommodation can be accessed from an existing logging road that will need surface upgrading. No new roads will be required.

Solid waste will be privately disposed of at the Knysna Waste to Energy project as the owner is the leading Project Manager for the project.

5. DESIRABILITY OF THE PROPOSAL

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 and impact the surrounding environment.

5.1 BIOPHYSICAL SITE CONDITIONS

5.1.1 TOPOGRAPHY

Topographical constraints can be examined from two perspectives. Firstly, its sensitivity towards visual and sense of place disturbance, and secondly, the physical impact on fragile and unstable topographical features, such as steep slopes. The site in question has undulating topography, as evidenced by the aerial contour data acquired from Cape Farm Mapper data (refer to Figure 6 below). The site is bisected by an east-west ridge, situated between two significantly larger ridgelines that obscure any distant views of the property. The property rises steeply from the N2, reaching an elevation of approximately 130m above sea level. The only flat land on the property occurs on the plateau situated on the ridge. The property then descends into a valley, while the southern portion of the site rising from this valley offers reasonable slopes for agricultural purposes.

All structures will be constructed on slopes of less than 25% (green and blue areas in Figure 7 below). The proposed additional dwellings are concentrated on the western portion of the farm, while the farmers' homes are dispersed across the plateau. The steep gradient of the incline from the N2 is such that the units situated above the plateau will not be perceptible from the N2.

Figure 6: 5m Aerial contours.

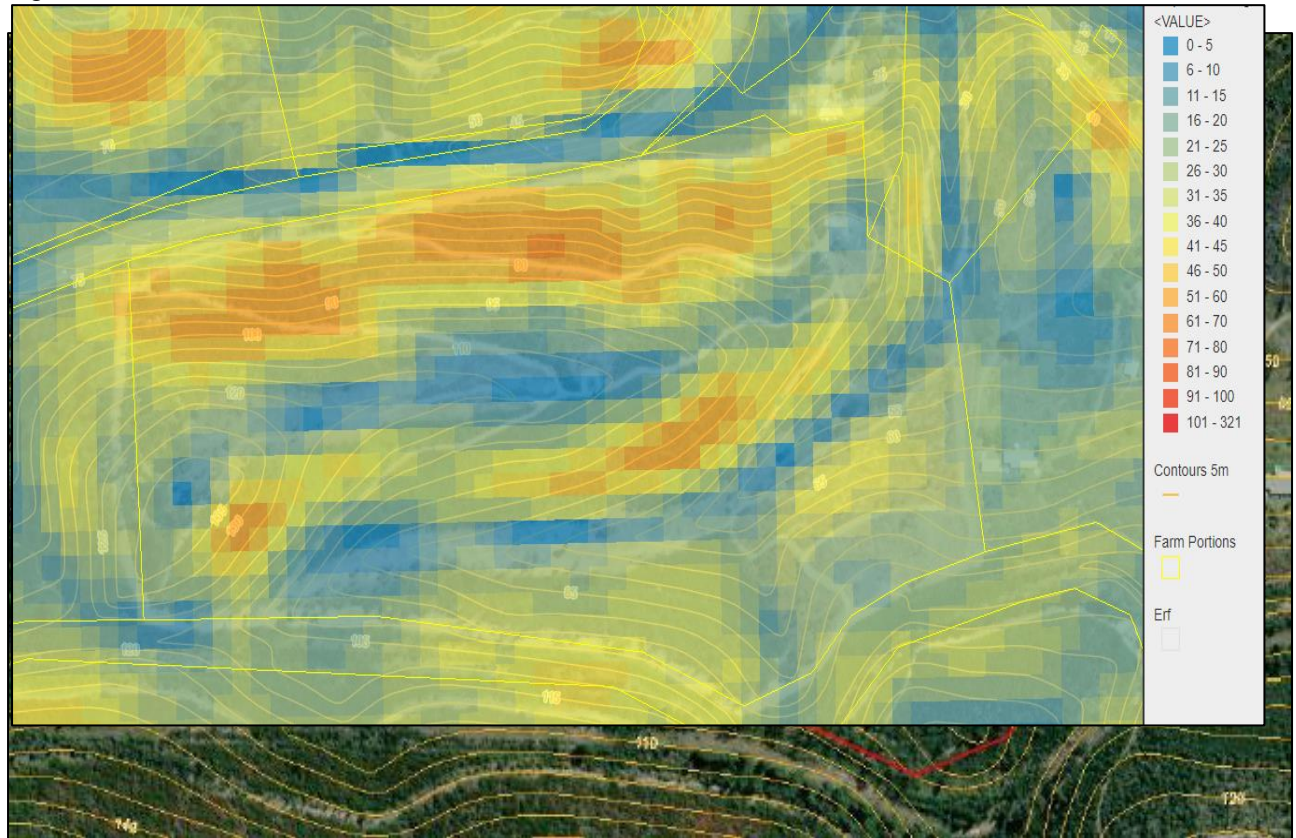


Figure 7: Slope analysis (Cape Farm Mapper data).

5.1.2 VEGETATION AND ENVIRONMENTAL CONSIDERATIONS

The property has been used as a pine plantation since the 1950ties. After the Knysna 2017 fires, most of these plantation trees were harvested, after the land was left barren, resulting in invasive species sprouting and flourishing on the soils. The entire property is currently heavily wooded with alien species in particular, with limited to no indigenous trees found on the property. The property is predominantly invaded with dilapidated Pine, Black Wattle, Rooikrans, and Blue Gum. Since the new owners took ownership of the property, large section of alien vegetation has been cleared to make space for the macadamia and avocado orchards.

Regardless of the above, the Critical Biodiversity Area Map (Attached as Diagram 5 and Figure 8 below) identified portions of the site as a Critical Biodiversity Area (CBA). CBA mostly correlates with the steep slopes which will be rehabilitated according to the Alien Eradication plan. For what it is worth, the agricultural footprint is not in the identified CBA.



Figure 8: Extract from the CBA Map.



Figure 9: Invasive plants.



Figure 10: Blue gum, wattle and rooikrans.

5.2 LAND USE POTENTIAL

5.2.1 AGRICULTURE POTENTIAL

The Southern Cape is known for its extensive plantations, which are predominantly composed of exotic tree species, such as pine and eucalyptus, that are grown for timber and pulp production. These forests have been established over the past century and have become an important economic resource for the region. However, the forestry industry in the Southern Cape faces a number of challenges, including competition from cheaper imports from other regions and countries, the impact of climate change on tree growth and disease susceptibility, and concerns about the environmental impact of large-scale monoculture plantations.

The property is situated in the Uitzicht area, which has a rural atmosphere but with limited commercial agricultural activity, most of the surrounding farms is still covered by pine plantation. Factors such as poor soil quality, lack of irrigation, size of the property, and topography all play a role in limiting the potential of the site for conventional agricultural and food production. The proposal of precision farming is however a game-changer and will create opportunities for small-scale farmers to participate in controlled environment farming practices, which require less water and space than traditional farming.

5.2.2 TOURISM AND LIFESTYLE POTENTIAL

The beautiful scenic landscape and the location of the farm within the Garden Route with its diverse set of tourist attractions creates an opportunity for eco/agri-tourism in combination with the main agricultural land use. This will allow the farming operation to generate additional income from the farm which will allow them to diversify the economic base.

If the landowners can construct a number of self-catering units, they can generate additional income from the land without impacting the rural character of the areas.

5.3 COMPLIANCE WITH SPATIAL VISIONS AND POLICY

5.3.1 KNYSNA SPATIAL DEVELOPMENT FRAMEWORK (2020) KSDF

Desirability is also measured in terms of the proposal's compatibility with the broader spatial visions for the area. According to the Knysna SDF 2020, the property is situated outside the Urban edge and is designated for 'Agriculture'. The use of the property is in line with the vision of the KSDF 2020

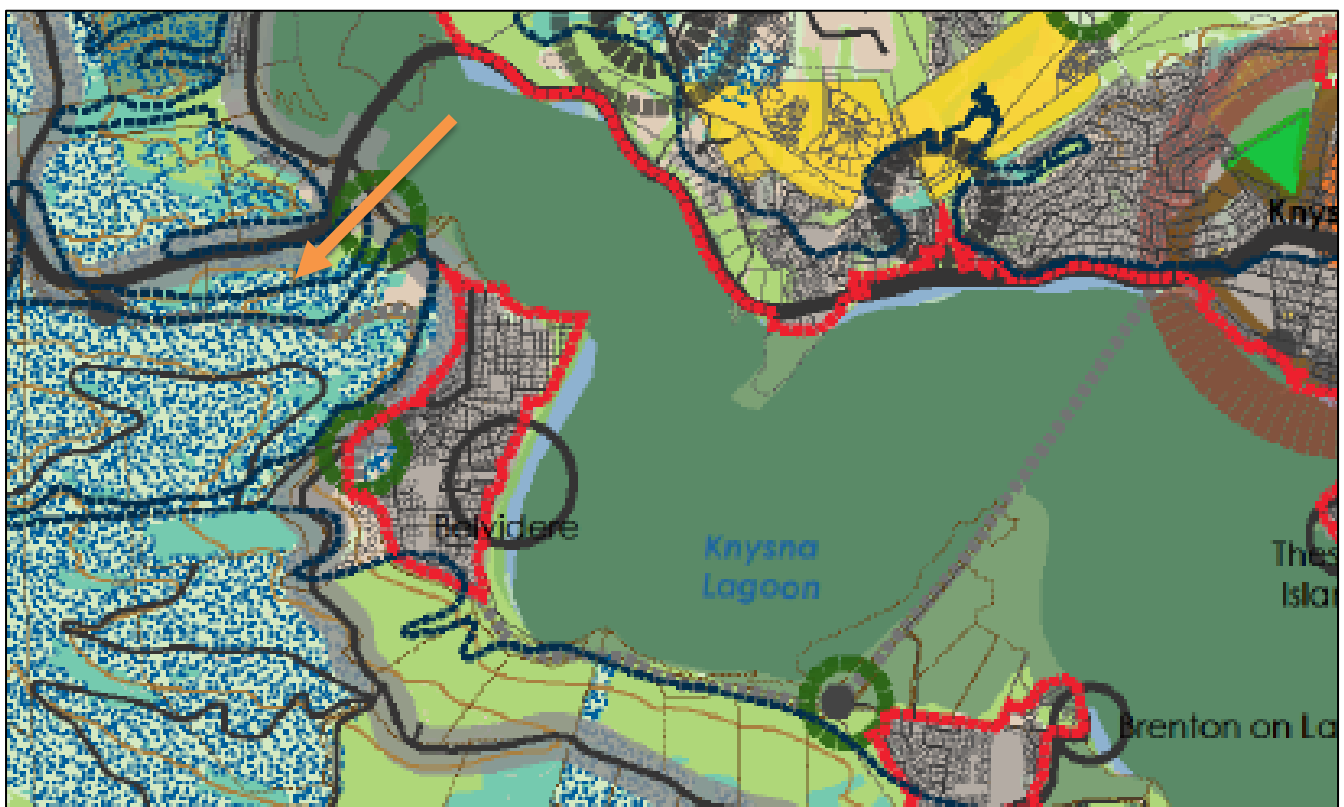


Figure 11: Extract from the KSDF 2020.

The KSDF also sets out policies that should guide decision-making on resource allocation, sector planning, land use management, and land development programs. Each policy is supported by policy guidelines. The following policies have relevance to this application:

Policy A: In coastal zones, river-wetland-estuary catchments, Critical Biodiversity Areas and veld fire risk areas, land use must be effectively managed to secure environmental resources, systems, and ecosystem services, mitigate the risk of natural disasters to life and property and improve climate resilience.

The Site Plan as well as the Alien and Fire Control Plan will result in the effective management of this land. Not only will there be a positive conservation outcome, but also functional and financially viable agricultural land.

Policy C: Manage the Municipal area in a manner that supports sustainable resource use

Of specific relevance is Policy Guideline III - Support rural development that improves food, water, and energy (e.g. solar and wind powered) security, and restores natural capital by removing alien plant infestation and adopting conservation-oriented farming methods.

Policy F6: promote inclusive economic development

The scale and format of this development are inclusive and resilient. The collective efforts of a number of small-scale farmers rather than relying on one corporate investment, offer opportunities for more inclusive economic growth, empowering emerging farmers.

Policy I: Promote rural development that enhances the agricultural economy, its value chain into the broader economy, and rural livelihoods as crucial to growing and balancing the urban-rural municipal space economy.

Policy I (i): further requires the safeguarding of the municipality's existing and potential farming and forestry areas as productive landscapes, primary economic assets, and a food security resource, equal in value to urban land.

This policy initiative seeks to enhance and revitalise the agricultural and forestry sectors by unlocking fresh avenues for livelihood and business opportunities through the effective utilisation of the region's assets and resources. The policy also advocates for sustainable farming techniques and disaster risk mitigation measures, which underpin the vision of this application.

5.3.2 WESTERN CAPE: LAND USE PLANNING GUIDELINES: RURAL AREAS (2019)

This guideline document was prepared by the Department of Environmental Affairs and Development Planning to guide spatial planning of rural areas and the management of pressures for land use change in the context of the Western Cape Provincial Spatial Development Framework.

The objectives of the Rural Areas Guideline are to:

- Promote sustainable development in appropriate rural locations throughout the Western Cape, and ensure the inclusive growth of the rural economy.
- Safeguard priority biodiversity areas and the functionality of the Province's life-supporting ecological infrastructure and ecosystem services (i.e. Environmental goods and services).
- Maintain the integrity, authenticity, and accessibility of the Western Cape's significant farming, ecological, coastal, cultural, and scenic rural landscapes, and natural resources.
- Assist Western Cape municipalities to plan and manage their rural areas more effectively, and to inform the principles of their Zoning Schemes and Spatial Development Frameworks in a pro-active manner.
- Provide clarity to all role players and partners (public and private) on the type of development that is appropriate beyond the current built-up areas, suitable locations where it could take place, and the desirable form and scale of such development.

The portion of the farm that will be converted to crop cultivation is situated in the Buffer 2 area where intensive and extensive agriculture is promoted. The document promotes the facilitation of agricultural diversification and non-agricultural opportunities (e.g. game farming, additional dwelling units, tourist facilities) and "value-adding" to the primary product (e.g. cheese-making).

Accommodation in the rural areas caters to tourist accommodation (including additional dwellings, resorts and nature reserves) as well as agri-worker housing.

AGRI WORKERS ACCOMMODATION:

The Guidelines state that on-the-farm accommodation for Agri workers should be provided in a sustainable manner that does not compromise the functionality and integrity of farming practices.

This document confirms that Agri workers include labourers and farm managers, that are involved in the primary agricultural activities on the farm or any other activity that is reasonably connected with the main farming activities

(e.g. the harvesting, cooling, storing, sorting, packing, and packaging of agricultural produce), including those working in agricultural industries.

The document provided guidelines for the provision of Agri worker's accommodation. The proposal is aligned with this guidelines, which is set out in the table below :

GUIDANCE FOR IMPLEMENTATION:

Agri worker housing is regarded as part of the normal farm operations based on the extent of the bona fide agricultural activities on the land unit and applicable in all rural SPCs.	
Accommodation for any other employee involved in any land use activity on land not zoned Agriculture is not included here and is strongly discouraged.	
Units may not be alienated, whether by individual erven, sectional title, share block, or by any other means.	
The building height of Agri worker dwelling units should be restricted to that of a single storey (6,5m measured from natural ground level to the highest point of a building) with a maximum floor area of 175m ² , including garaging. Only in exceptional cases should structures higher than a single storey be considered.	
Agri worker housing should not be permitted below the 1:100 flood line or within 100m of a river bank.	
It should also not be within 1km from the high water mark of the sea or tidal river. Due consideration must be given to any coastal management/setback line and zone risks.	Although the units are situated within 1km of the high water mark of the lagoon, the placement of the units falls outside the area identified as within the coastal management line (See light blue line on the SDP).
The placement of the dwelling units should not undermine the sustainable utilisation of agricultural resources, biodiversity, or ecological system services.	Units have been placed in such a way as to enhance the productivity on the farm.
Housing for Agri workers should respond to cultural places and settlement patterns and new dwelling units should conform to local vernacular in terms of scale,	There are no other buildings on the farm, except for the remains of an old labourer's cottage.

form, and materials. In assessing Site Development Plans and building plans authorities should request and consider information on the architectural design, for the purposes of heritage and visual impact.	The final design of the units will be subject to review by the Aesthetic Committee.
Buildings should include appropriate buffers, landscaping, and screening to reduce their visual impact on the rural landscape.	
Where possible agri workers' dwelling units should be clustered and located in close proximity to rural movement routes, existing services, and housing stock wherever possible.	The units are not clustered and the reason for this is that the different farmers need to be close to their crops, placement of units is however close to the main movement route.
The number of units must reasonably be connected to the bona fide primary farming and agricultural activities on the land unit. Apply employee ratio norms (average number of employees per hectare per produce) as recommended by the various organised commodity groups (e.g.Hortgro, Redmeat, Vinpro), whilst also recognising the difference between permanent and seasonal agri workers.	Industry norms allow for 1 agricultural worker per ha for plantations of which there are about 4 ha planned. In addition to this, there are also horticulture and crop circles that work on an average ratio of 4 workers per ha (Hortidayly.com). Not all the workers will stay on the farm, only the farm manager who runs the collective.
Whilst accommodation for agri workers in the past did not require planning approval in terms of the Zoning Scheme, it is recommended that this aspect be regulated in the future by means of a Site Development Plan for submission to the municipality for its approval or even as consent use.	

Additional Dwellings:

This guideline permits additional dwellings in the Agriculture and Buffer areas, restricted to 1du/10ha, to a maximum of 5 units; 175m² maximum floor area including garage, building height, and 1 storey (6.5m). Furthermore, it recommends that additional dwelling units should be non-alienable, whether individual erf, sectional title, share block, or by any other means, and that additional dwelling units should not be allowed within 1km from the coast.

This document also stipulates that whilst additional dwelling units should form part of the farmstead precinct, dispersed rental units should be in visually unobtrusive locations, and be self-sufficient in terms of services.

The proposed additional units do not form part of the main farm precinct, but they have been concentrated in the only section of the farm that is more than a kilometer away from the lagoon. Although it is the highest-lying area of the site, the location is not visually obtrusive and the units will be self-sufficient in terms of services.

5.3.3 COASTAL MANAGEMENT LINES FOR EDEN DISTRICT 2018

The Eden Municipality has proposed a Coastal Management Line (CML) and Risk Lines for the district and the Knysna Municipality has accepted this CML in the 2020 Spatial Development Framework. In reality, the Zoning Scheme By-Law should be amended to reflect that the 1000m restriction be replaced by the Coastal Setback line.

The Western Cape Government bears a crucial responsibility to uphold and conserve the inherent worth of the Western Cape's coastal zone. This includes addressing potential coastal hazards such as long-term erosion patterns, sea level escalation, and storm surges, as well as safeguarding the littoral active zone, sensitive coastal vegetation - especially that of provincial conservation significance - and areas of particular coastal value, such as primary dune systems and steep coastal cliffs. Additionally, protected areas and flood risks, as well as the estuarine functional zone surrounding estuaries, must be considered.

To this end, the Coastal Management Line has been delineated in the SDF. While acknowledging that this line is an approximation, it is noteworthy that all the additional dwellings and farm worker homes lie above this demarcation. It may therefore be contended that by permitting a departure from the 1000m restriction, the estuary would not be adversely affected, as all the structures fall outside the demarcated Coastal Management Line.

5.4. ANTICIPATED IMPACTS OF THE AREA & SURROUNDING PROPERTIES

5.4.1 IMPACT ON THE CHARACTER OF THE AREA

As can be seen from the Land Use Map attached as Diagram 4, the area is rural in nature. The character of the area has been dominated by pine plantations for many years with some tourist facilities such as restaurants, resorts, and farm stalls. The land use of the property will remain agricultural and will not have a notable impact on the rural character.

The property is bordered by plantations to the north, south, and west. The only nearby farmstead is situated on Portion 14 of Farm 216 to the east. The planned main house will be approximately 210m away from the homestead

on Portion 14 (which is situated very close to the boundary) while the farm worker's houses will be more than 150m away. The additional dwelling has been placed on the western portion of the property where there will be the least impact on the house on Portion 14.

Other land uses adjacent to the property include a Resort development on the Remainder of Portion 147/216 situated to the northeast of Portion 16, and a restaurant on Portion 14 of 216.

5.4.2 VISUAL IMPACT

One of the policies contained in the Knysna SDF 2020 is to maintain the integrity of the Garden Route landscape. View sheds over scenic landscapes and features must be safeguarded. Although the units will all be built on the higher-lying plateau, they will not be visible from the N2, which has been identified as a scenic route. The steep incline of the slope from the N2 and the even gradient of the plateau will result in the units not being visible from the N2 (See Figure 12 below). A further mitigation measure is that the units will only be single-storey in nature with height limits of no more than 6,5m.

Due to the undulating topography, the land is also not visible from the Brenton Road.

Bearing in mind that the zoning Scheme By-Law permits other farm buildings such as barns and agri-processing plants without a limitation of 1km from the lagoon boundary, and what is more, these farm buildings could be up to a maximum height of up to 15m.



Figure 12: Position of the site between two prominent ridgelines.

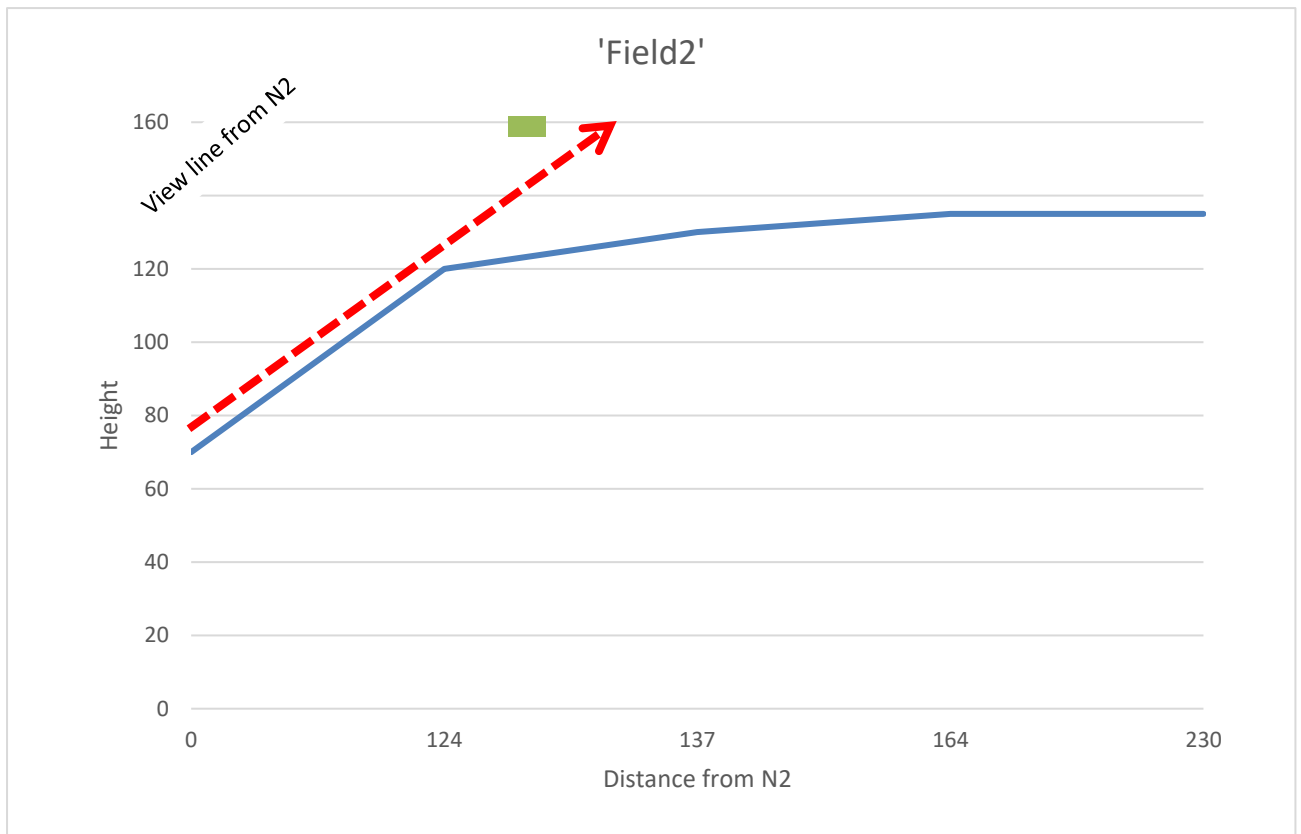


Figure 13: Angle of the slope from the N2.



Figure 14: view from the N2 - eastern direction.



Figure 15: The property is not visible from Brenton Road.

5.4.3 IMPACT ON THE ENVIRONMENT

The proposal will have a positive environmental outcome. Large tracts of land will eventually be rehabilitated. The business concept will create viable agricultural land with limited need for space, water, and fertilisers, with less negative environmental impact than conventional farming.

The position of farmhouses within 1km from the high water mark of the lagoon will not have any direct impact on the lagoon. The units are high-lying and not adjacent to the lagoon. There are several other properties and developments between the lagoon and the property. The main house will be about 700m from the lagoon, while the closest farmhouse will be about 800m from the lagoon. The houses are small, single-storey and will blend in with the surroundings, creating a minimal visual impact from the lagoon.

5.5 COMPATIBILITY WITH SPLUMA DEVELOPMENT PRINCIPLES

In considering the application, the decision-maker needs to be guided by the development principles contained in (Chapter II) of the Spatial Planning and Land Use Management Act 2013 (Act no 16 of 2013) SPLUMA and Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA).

SPLUMA is a framework law, which means that the law provides broad principles for a set of provincial laws that will regulate planning. Typically these matters are best addressed through Spatial Development Frameworks, Zoning Schemes, and other management systems. It does therefore not have much relevance to individual departure and consent use applications that are mostly site-specific.

By being compatible with a credible Spatial Development Framework that embraces the principles of Spatial Justice, Spatial Sustainability, Spatial Efficiency, and Spatial Resilience, the proposal complies with these principles.

SPATIAL JUSTICE:

The principle of spatial justice requires that past spatial and other development imbalances must be redressed through improved access to and use of land. The idea of small-scale communal farming, where each farmer will have access to farmland and modern technology and profit share is in line with the principle of spatial justice.

SPATIAL SUSTAINABILITY:

Effective farming practices will enhance food security and sustainable agriculture. Ongoing alien clearing and forest regeneration will allow the natural vegetation to be re-established in areas not suitable for agriculture. The position of the additional dwellings and the farm worker's accommodation units has taken the rural assets such as the valuable agricultural land and the natural vegetation into account and does therefore comply with the principles of sustainability.

SPATIAL EFFICIENCY:

Efficiency relates to the form of settlements and use of resources - compaction as opposed to sprawl; mixed-use, as opposed to mono-functional land, uses; residential areas close to work opportunities as opposed to dormitory settlement. The proposal supports the efficient use of existing resources with minimum negative financial, social, economic, or environmental impacts.

SPATIAL RESILIENCE:

There is significant potential to enhance agricultural productivity and climate resilience through innovations such as this proposal. Agricultural productivity could increase by up to 2–3 times if better farm inputs and production technologies were adopted, if water and soil resources were used more efficiently and if natural capital and ecosystems were restored. Digital tools for monitoring climate risks can identify the onset of climatic shocks before they happen and facilitate responses for building resilience.

Furthermore, the combination of compatible land uses such as farming, conservation, and tourism will also allow for the diversification of the economy which will contribute to financial resilience.

6. CONCLUSION

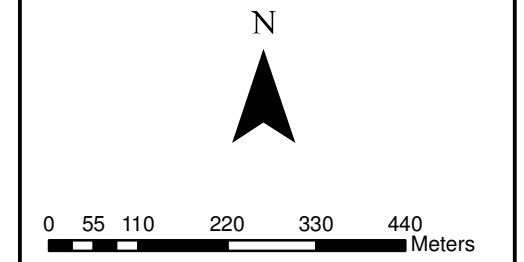
The new property owners have presented an innovative agricultural project aimed at transforming an abandoned farm into a productive agricultural enterprise. The project is centered on introducing superfoods, precision farming, and crop circles, while also promoting collective small-scale farming, which will provide an opportunity for small-scale farmers to live and work on the land and share in the profits without incurring massive capital outlays. The business concept will create viable agricultural land that requires minimal space, water, and fertilizers while having less negative environmental impact than conventional farming methods. The proposed concept is aligned with the “Agriculture 1” zoning of the property.

However, the Knysna Zoning Scheme By-Law prohibits the placement of farm workers' accommodation within 1 km of the high-water mark of the sea or tidal river. As most of the property falls within this restricted area, it impacts the placement of farm workers' accommodation. For effective management and control, it is essential that the farmers live near the farming area under their control. A departure from this development parameter is required to allow a maximum of six Agri-workers' homes on the farm. The relaxation of this restriction will not have any negative visual impact on the coastline or lagoon shore, as the vegetation and topography of the land will result in the units not being visible. The high-lying nature of the land, and the fact that the property is not directly adjacent to a shoreline or within coastal management lines, will also eliminate any risk of flooding or coastal erosion.

Additionally, the proposal includes a request for consent to construct four additional dwellings on the property that can be rented out to tourists or as long-term rentals to create additional income. The proposal complies with all development parameters prescribed for additional dwellings in the Knysna Zoning Scheme By-Law. The units will be situated in an area that falls outside the 1 km radius of the lagoon and can be easily accessed from existing logging roads. The proposal will allow an additional use of the land that will bring in a supplementary income for the owner and broaden the economic base of the farm enterprise.

Ongoing rehabilitation efforts will reduce the number and density of invasive alien plants while enhancing the conservation and aesthetic values of the property, and concurrently establishing a sturdier, more diverse ecosystem. This effort will also reduce the risk of fire that the property currently poses.

The proposal is not in conflict with Spatial Planning Policies on the National, Provincial, and Local levels and will not have any significant detrimental impact on the surrounding properties or character of the area. The proposal will enhance the agricultural potential of the property while creating opportunities for diversified farm income, access to farmland, and unique tourism and recreational resources in this sought-after natural area.



JAMES KING & BADENHORST
142 ST JOHN STREET
OUDTSHOORN
6625

Prepared by me

CONVEYANCER

John Henry Richard Havemann
LPC 92404

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 3 300 000.00	R. 1 900.00
Reason for exemption	Category Exemption	Exemption / I o. Sec/Reg. Act/Proc.

DATA / CAPTURE

11-08-2022

PHUMELELA MNAMATA

VERBIND		MORTGAGED	
VIR FOR R. 2 000 000.00			
3/4 000020424 / 2022		8	
10 AUG 2022		REGISTRAR/REGISTRAR	

T 037633 / 22

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

ANTON LUTHER POSTHUMUS (LPCM No. 80715)

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

LAZY B CHALETS CC
Registration Number 1987/029292/23

which said Power of Attorney was signed at Oudtshoorn on 13 April 2022

DATA / VERIFY

11-08-2022

PENELOPE NGCOWANA

And the appearer declared that his/her said principal had, on 8 October 2021, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

UMTHIQUA PROPRIETARY LIMITED
Registration Number 2018/475470/07

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

REMAINDER OF PORTION 16 (A PORTION OF PORTION 13) OF FARM
UITZIGT NUMBER 216 DIVISION OF KNYSNA, PROVINCE OF THE
WESTERN CAPE

IN EXTENT 32,8093 (THIRTY TWO COMMA EIGHT ZERO NINE THREE)
Hectares

FIRST TRANSFERRED by Deed of Transfer Number T82/1947 with Diagram Number 5160/46 relating thereto and held by Deed of Transfer Number T109097/1997.

- A. SUBJECT** to the conditions as are referred to in the Certificate of Partition Title Number T8083/1928;
- B. SUBJECT** to and with the rights conferred by the special conditions (a), (b) and (c) contained in Certificate of Partition Title Number T8083/1928, providing for certain rights of access, use of roads and right-of-way in favour of the proprietors for the time being of the farm Brenton transferred to the Executors of the Estate of the late John James Duthie by Certificate of Partition Title Number T8082/1928, and in favour of the proprietors for the time being of the property conveyed by Certificate of Partition Title Number T8083/1928;
- C. SUBJECT** to the conditions contained in the Notarial Deed of Servitude dated 14th October, 1936, annexed to Deed of Transfer Number T5951/1934, and referred to in the endorsement thereon dated 15th October 1936, but transferred without any rights to water thereunder, which have been specially reserved to AUGUSTA VERA DUTHIE, Spinster, born 18th July, 1881, and which said endorsement reads as follows:-
- "By Notarial Deed dated 14.10.1936 the owner of Lot C of Westford held under para A of Transfer Number 2824/1935 has ceded all her rights to the spring & the water rights arising therefrom marked "Spring" at beacon C on the diagram of said Lot C, to the owner & her successors in title of the remainder of "Belvidere" held under para 1 of this transfer the said spring being marked "Silver Spring" on the diagram of the said "Belvidere" provision also having been made for the use of a certain quantity of water by the owner of the said Lot C of Westford subject to conditions as will more fully appear on reference to the copy annexed hereto."
- D. ENTITLED** to the benefit of the conditions referred to in the endorsement dated 29th December 1941, on Deed of Transfer Number T5951/1934, reading as follows:-

"By Transfer No. 13080/1941 the owner of the lots thereby conveyed (a) shall use them for residential purposes only (b) shall not dispose of the land thereby conveyed except as a whole (c)..... (d) shall comply with certain sanitation requirements as will more fully appear on reference to said transfer."

E. **SUBJECT** to the following special conditions contained in Deed of Transfer Number T82/1947, imposed by the Transferor thereunder (namely, the said AUGUSTA VERA DUTHIE, Spinster, born 18th July 1881) for the benefit of herself and her successors in title as owners of the remaining extent of Portion 13 of the said farm Uitzigt held under Certificate of Consolidated Title Number T12326/1944, namely:-

- "(1) That the above land shall not in future be subdivided save with the consent of the Transferor.
- (2) That the above property shall be used solely for residential purposes"; (which condition has been amplified in the endorsement, dated 7th January 1955, set out in condition (f) hereafter).
- (3) That the Transferor retains the right and power of enforcing proper sanitation and cleanliness upon the above land
- (4)
- (5) That the owner for the time being of the said property shall be obliged to adequately fence the said land and at all times maintain the said fence in proper order at his own expense".

F. **SUBJECT** to the terms of the endorsement dated 7th January 1955, on Deed of Transfer Number T 82/1947, which endorsement reads as follows:

"REGISTRATION OF SERVITUDE"

By Notarial Deed Number 1/55 dated the 9th November 1953 the condition reading "That the above property shall be used solely for residential purposes" imposed in Deed of Transfer Number 82/1947 (this deed), against Portion 16 (a portion of Portion 13) of the farm Uitzigt (the herein described property) in favour of the Remainder of Portion 13 of the farm Uitzigt held under Certificate of Consolidated Title Number, 12326/1944 and referred to in endorsement dated 6/1/1947 thereon, has been amplified by the addition of the following words at the end thereof:-

"and/or bona fide agricultural purposes."

As will more fully appear from reference to the said Notarial Deed."

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

LAZY B CHALETS CC
Registration Number 1987/029292/23

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

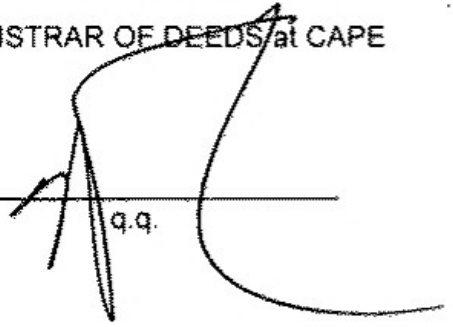
UMTHIQUA PROPRIETARY LIMITED
Registration Number 2018/475470/07

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 R3 300 000,00 (THREE MILLION THREE HUNDRED THOUSAND RAND) .

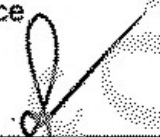
IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS, DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on

10 AUG 2012


q.q.

In my presence



REGISTRAR OF DEEDS

54

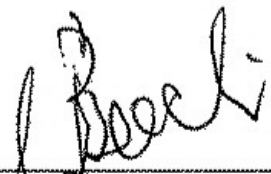
the said property having been sold by me on 8 October 2021, to the said transferee/s for the sum of R3 300 000,00 (Three Million Three Hundred Thousand Rand)

and further cede and transfer the said property in full and free property to the said Transferee; to renounce all right, title and interest which the Transferor heretofore had in and to the said property, and generally, for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, to all intents and purposes, as the Transferor might or could do if personally present and acting therein; hereby ratifying, allowing and confirming all and whatsoever the said Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

Signed at Quotshoan on 13 APR 2022
in the presence of the undersigned witnesses.

AS WITNESSES :

1. 
2. 


On behalf of LAZY B CHALETS CC

SPECIAL POWER OF ATTORNEY

I, the undersigned Jan H V D WESTHUIZEN
duly authorized, do hereby nominate, constitute and appoint Lizemarie Botha/
Lundikazi Khuphiso of the firm **PLANNING SPACE**, with power of substitution to
be my lawful agent, in my name, place and stead to make application, as
described below, to the relevant Authorities and to sign all application forms,
documents and other papers as may be required in such application.

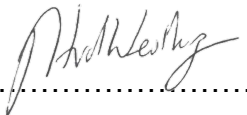
DESCRIPTION OF PROPERTY

Portion 16 of Farm Uitzigt No. 216

NATURE OF APPLICATION

*Departure, Approval of Site Development Plan and
Related applications*

SIGNED AT Knysna THIS 21st DAY OF February 2023


.....

OWNER/ AUTHORISED AGENT

WITNESSES

1. 
.....
2.

UMTHIQUA

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

RESOLUTION

Resolution passed at the meeting of the Shareholders/ ~~Partners/ Trustees/ Members~~

held in Knysna on the 21st day of February 2023.

Resolved that JAN H VD WESTHUIZEN in his/ her capacity as

Owner, be and is hereby authorised 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

Portion 16 of Farm Uitzigt No. 216

NATURE OF APPLICATION

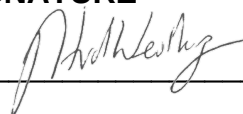
Departure, Approval of Site Development Plan and Related applications

SIGNATURE OF SHAREHOLDERS/ ~~PARTNERS/ TRUSTEES/ MEMBERS:~~

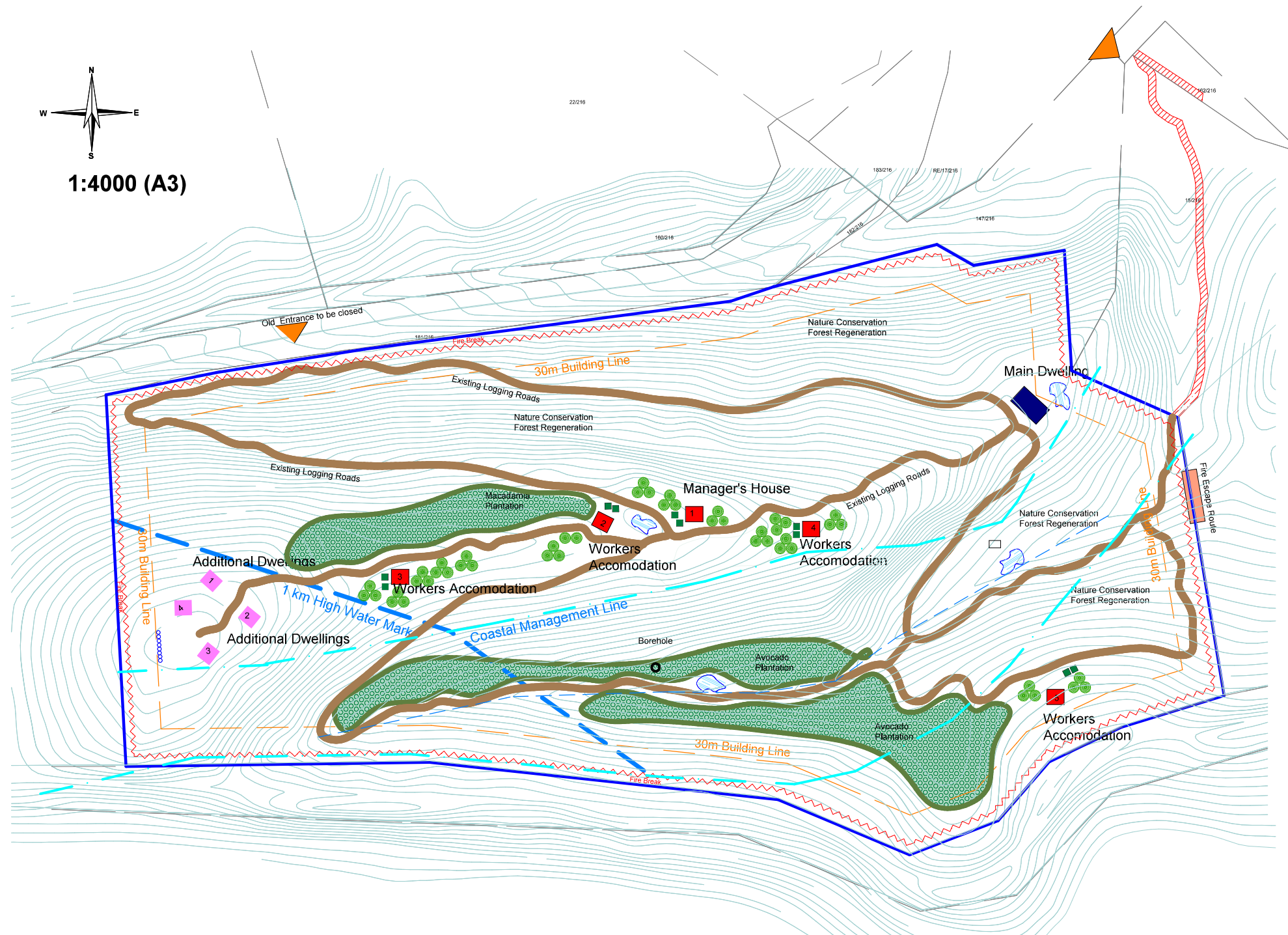
NAME

JAN H VD WESTHUIZEN

SIGNATURE



SITE DEVELOPMENT PLAN - PORTION 16 OF FARM NO. 216



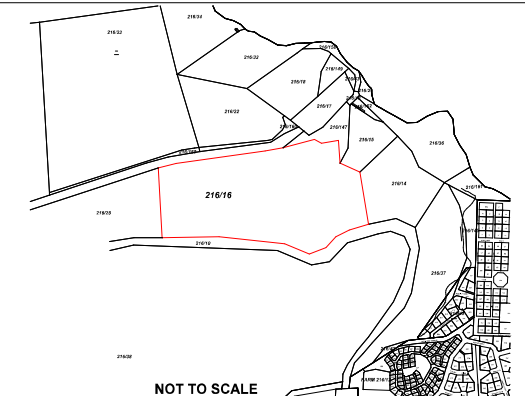
LEGEND:

	MAIN DWELLING		30 m ENTRANCE
	FARM WORKER'S DWELLINGS $\pm 175m^2$		30 m BUILDING LINE
	DAM		1 KM HIGH WATER MARK
	CROP CIRCLES		SERVITUDE ACCESS
	HYDROCROPS		PLANTATIONS
	FIRE ESCAPE ROUTE		ADDITIONAL DWELLINGS ($\pm 175m^2$)

NOTES:

Contours at 2m intervals from aerial photography

LOCALITY PLAN :



PORTION 16 OF FARM UITZIGT NO. 216

DRW NR.: PTN16-F216

KNYSNA MUNICIPAL AREA

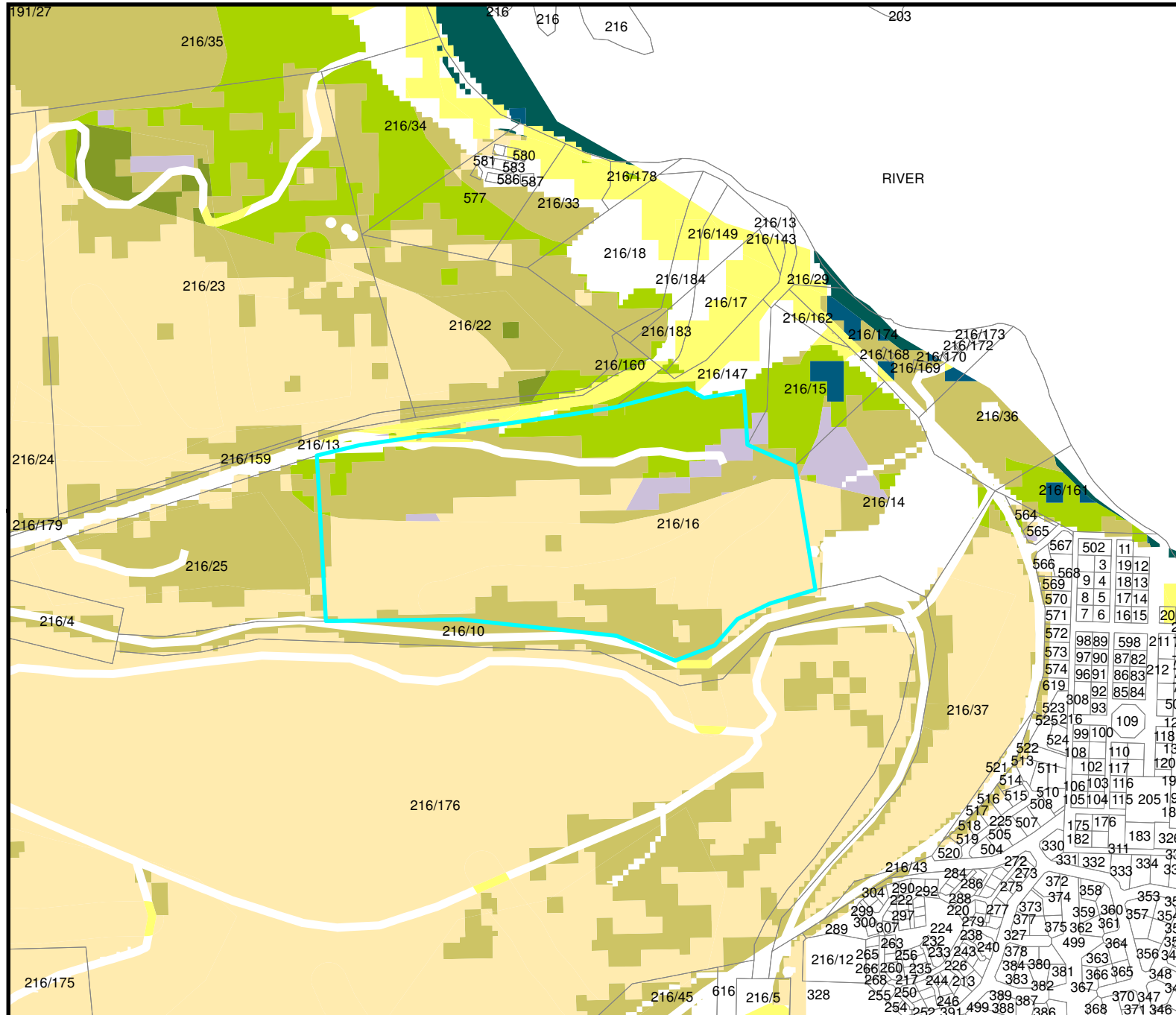
DATE : 3 May 2023

Planning Space
Town and Regional Planners

Quayside Office Park, Corner of Hedge & Gordon Street, Unit 6 Ground Floor
P.O. Box 2028 Kyness, 6670
E-mail: admin@planning-space.co.za Website: www.planning-space.co.za

COPY RIGHT:

This Plan may not be copied or amended without the written consent of Planning Space



Legend

BSP_ESA2_Knysna

SubCat1

- ESA2: Restore from plantation or high density IAP
- ESA2: Restore from other land use

BSP_ESA1_Knysna

SubCat1

- ESA: Terrestrial

BSP_CBA2_Knysna

SubCat1

- CBA2: Aquatic
- CBA2: Terrestrial

BSP_CBA1_Knysna

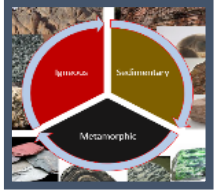
SubCat2

- CBA: Terrestrial
- CBA: Forest
- CBA: Estuary
- CBA: Wetland

N



0 65 130 260 390 520 Meters



Rock Hounds (Pty)Ltd | Geology | Geotechnical

Postal address
PO Box 72
George
6530

15 December 2022
Updated 21 December 2022

Scope: Geophysical groundwater survey

Investigate the nature, position and source of possible groundwater drilling positions on the property, as required for household requirements

Location: Rheenendal-Belvedere area, Garden Route

Client: Jan van der Westhuizen

Compiled: Dr Esmé Spicer

Report: RH141222

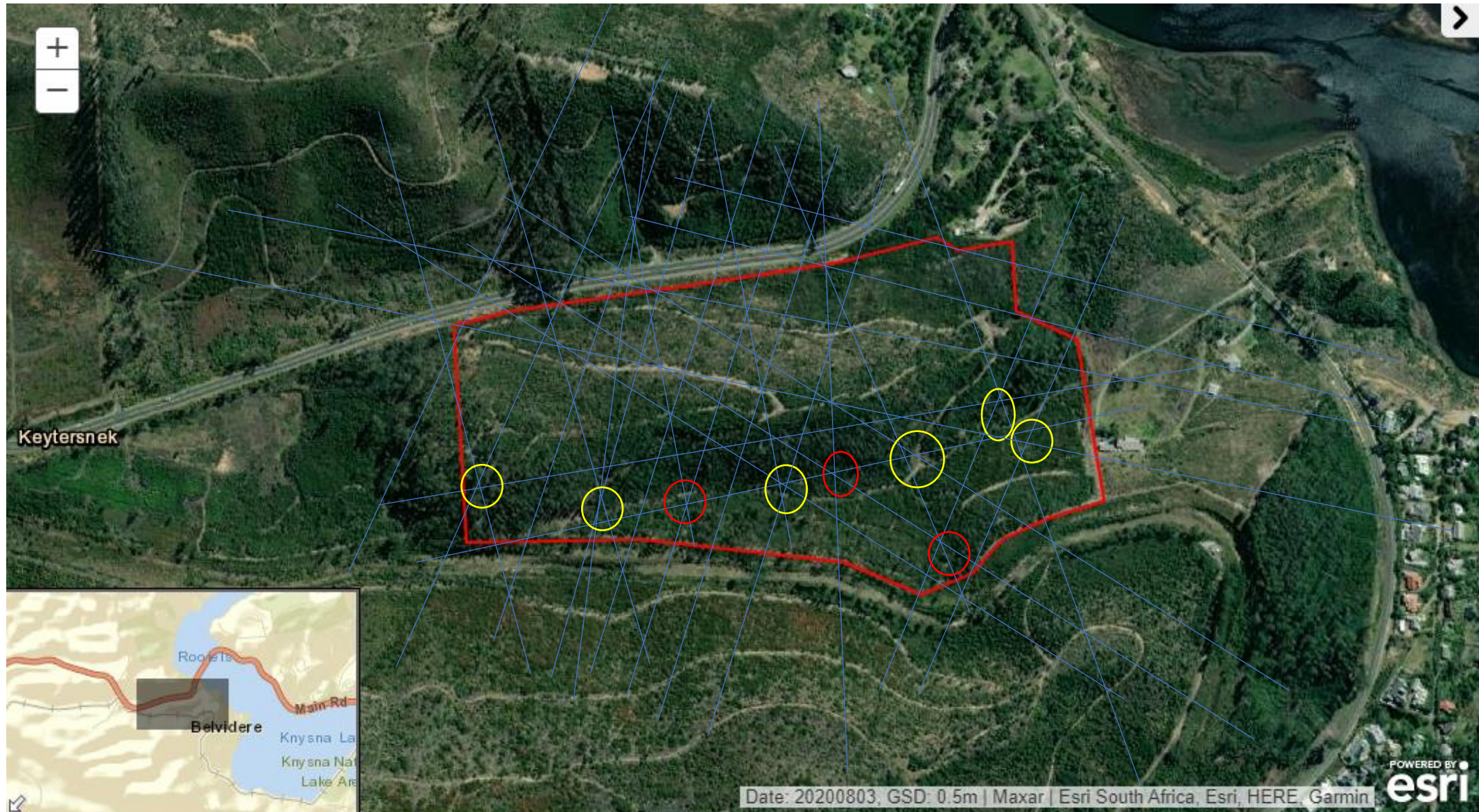


GPS positions of possible borehole positions. Position 2 was not marked due to low probability for a successful borehole (yellow circled area)



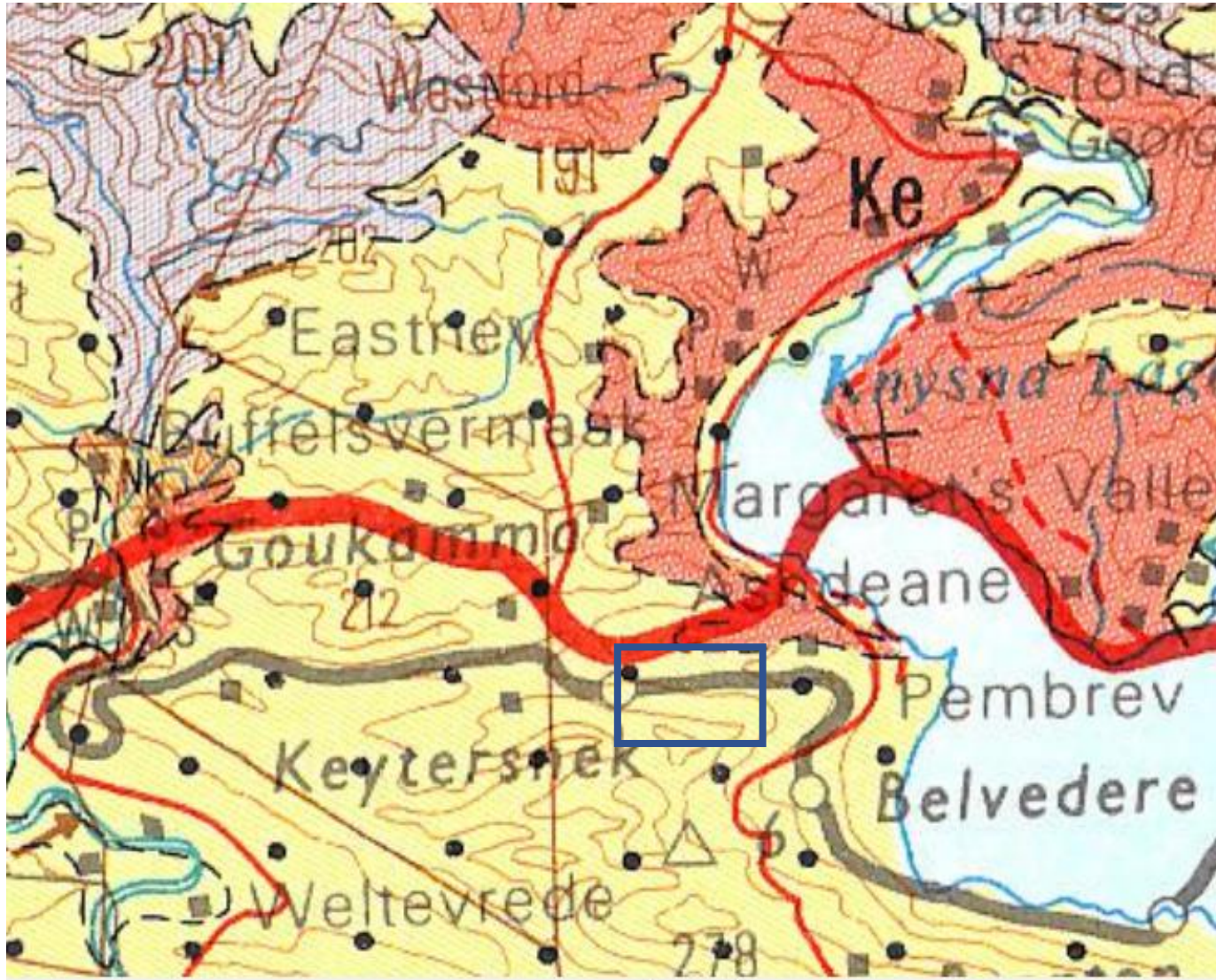


Blue lines indicate regional minor fractures or fault lines around the property. Yellow circles were investigated and red circles indicate future possibilities for groundwater exploration by borehole, spike or well.

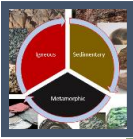




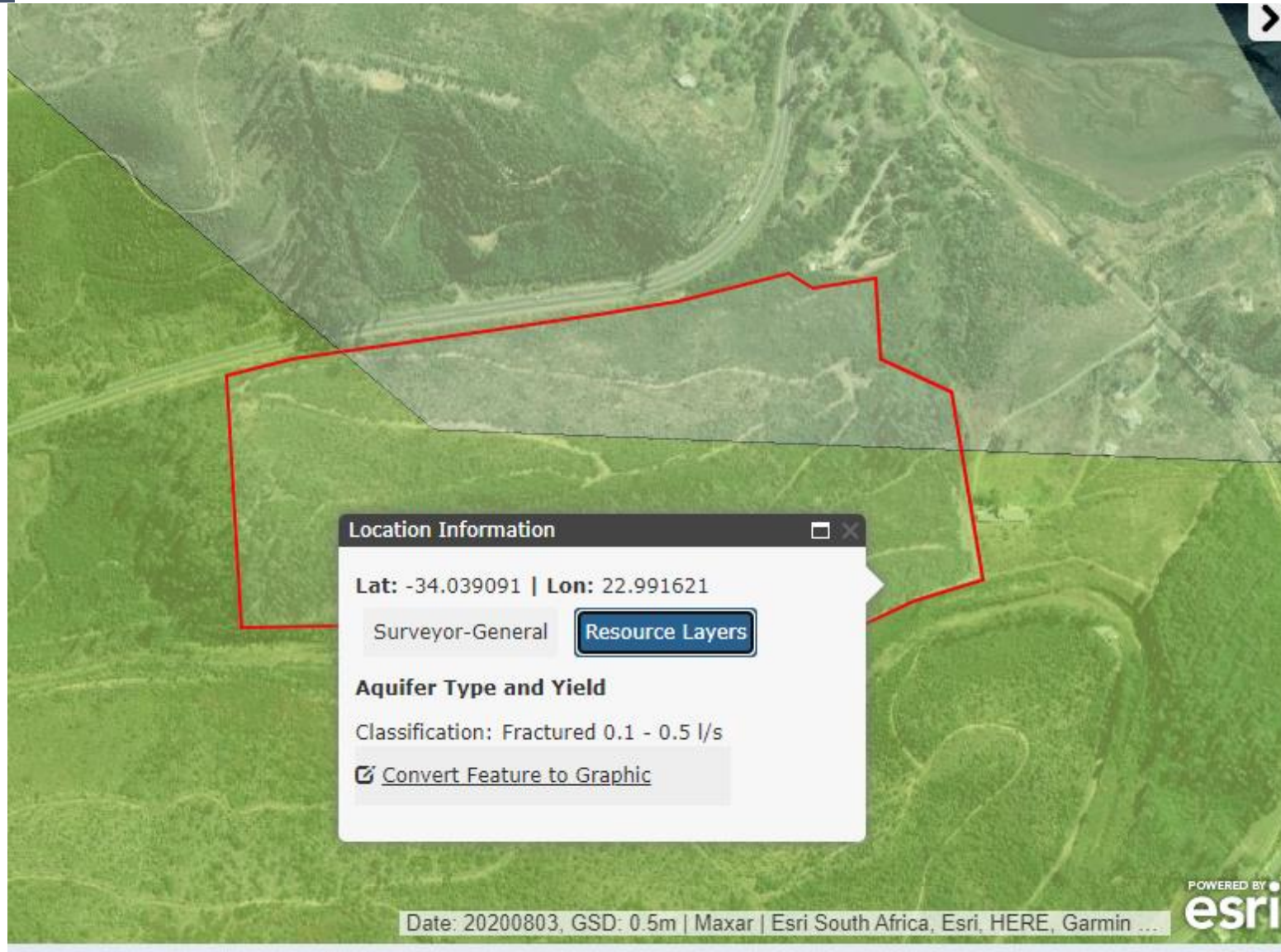
Regional Geological Map 1:250 000 map (Council for Geoscience)



Area: The property (approximately in Blue block) is located within the Cape Supergroup rocks, on sand (light yellow Bredasdorp formation) and Kirkwood formation conglomerates (Ke dark orange) to the north. Peninsula sandstones (Light pink Op) underly the sand and conglomerates at depths of approximately 50-70m. The thick sand and soil (yellow) unconformably overlies the Table mountain sandstones (light pink). Steep topographical features are present due to the underlying sandstone folds, with eroded river valleys.



Detailed aquifer maps–DWA. Property is approximately located at the red block in a fractured aquifer (sandstone) with intergranular aquifer (sand) on top.



Typical yields are 0,1 – 0,5 l/sec 360 – 1 800 l/hr. If a contact or large fracture is intersected, yields may increase to 5 000 – 10 000 l/hr in the underlying peninsula sandstones



Water quality – published by DWA. Property is located in the red block, located within average electrical conductivity with underlying sandstone rocks containing lower, green-blue zone, salinity groundwater.

Description:

This map indicates the groundwater quality of South Africa. Green represents a slightly salty taste, yellow a noticeably salty taste, pink a marked salty taste, rose an extremely salty taste and red an extremely salty and bitter taste in the water.

LEGEND

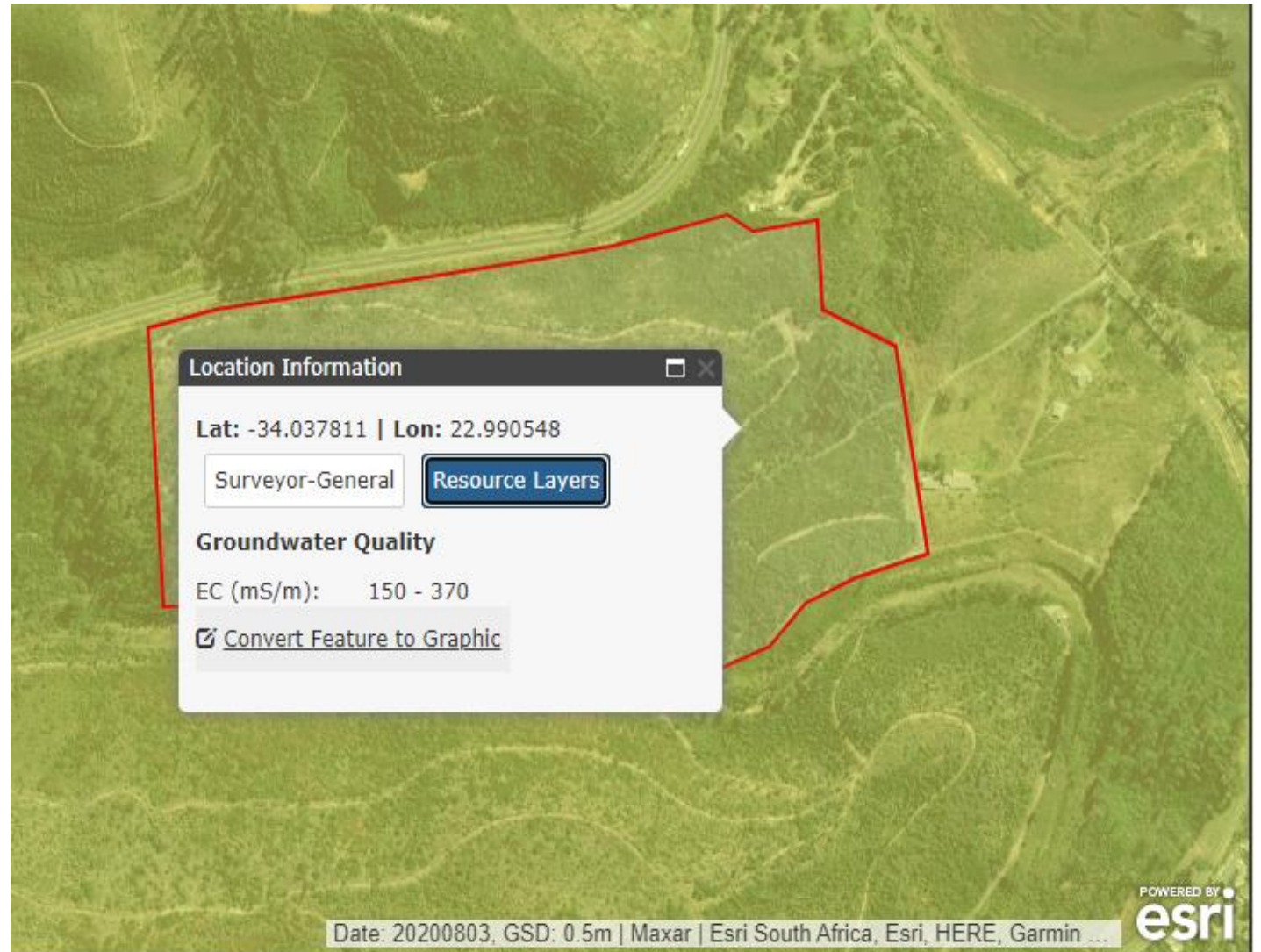
Water Source

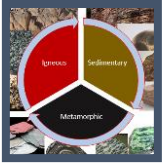
- Groundwater
- Combination (Ground and surface water)
- Surface water

DURBAN Major towns/Cities

Electrical Conductivity (mS_m)

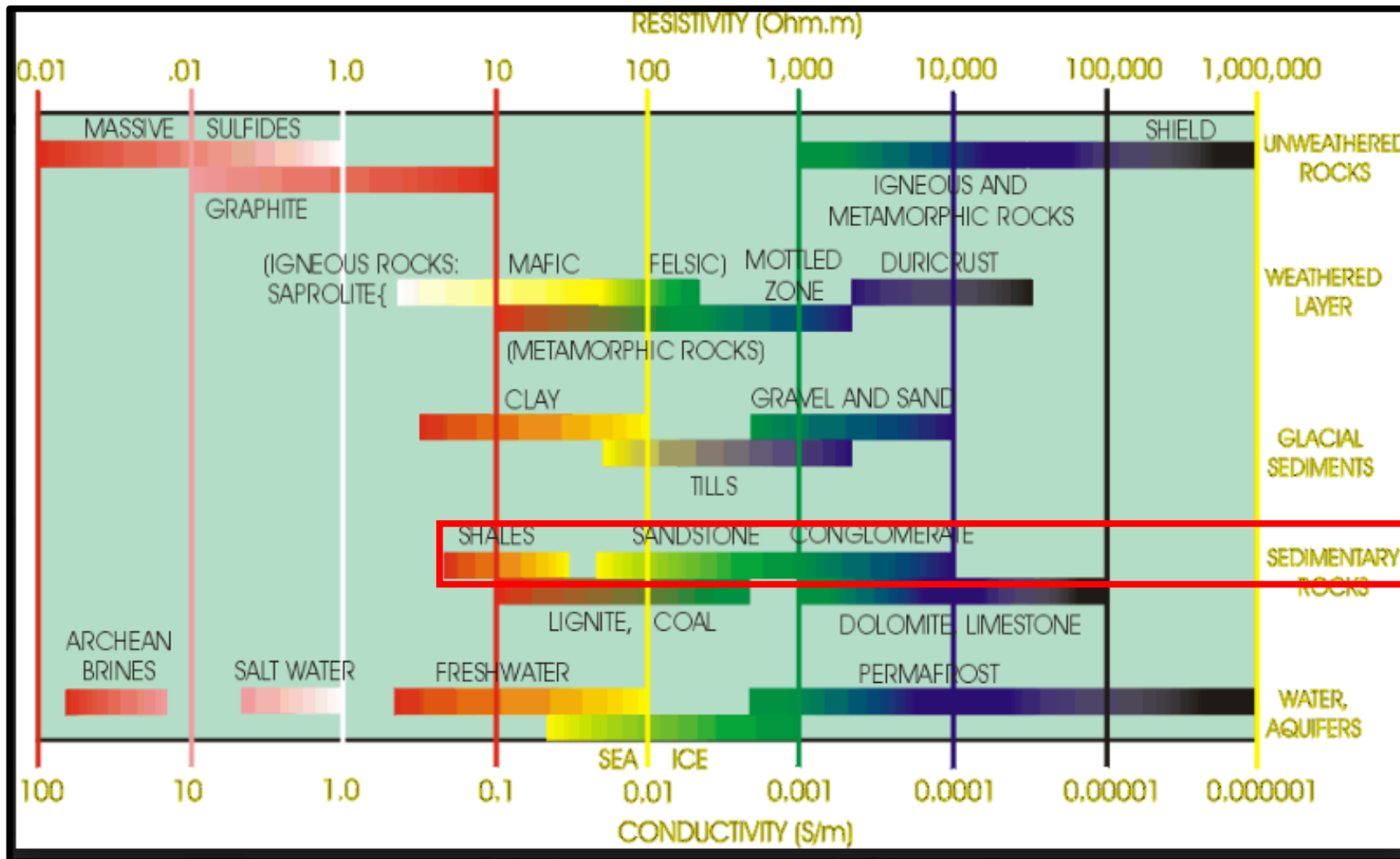
- 0 - 70
- 70 - 150
- 150 - 370
- 370 - 520
- > 520





Instrument used to determine best position: PQWT Telluric receiver, model S300, GEOTRON

Telluric receiver – colour scales per geological rock type, deduced from conductivity, scanned in 5m intervals and to a depth indicated per profile, 150m deep. This method measures natural Telluric currents and converts the frequencies with mathematical algorithms into conductivity data.

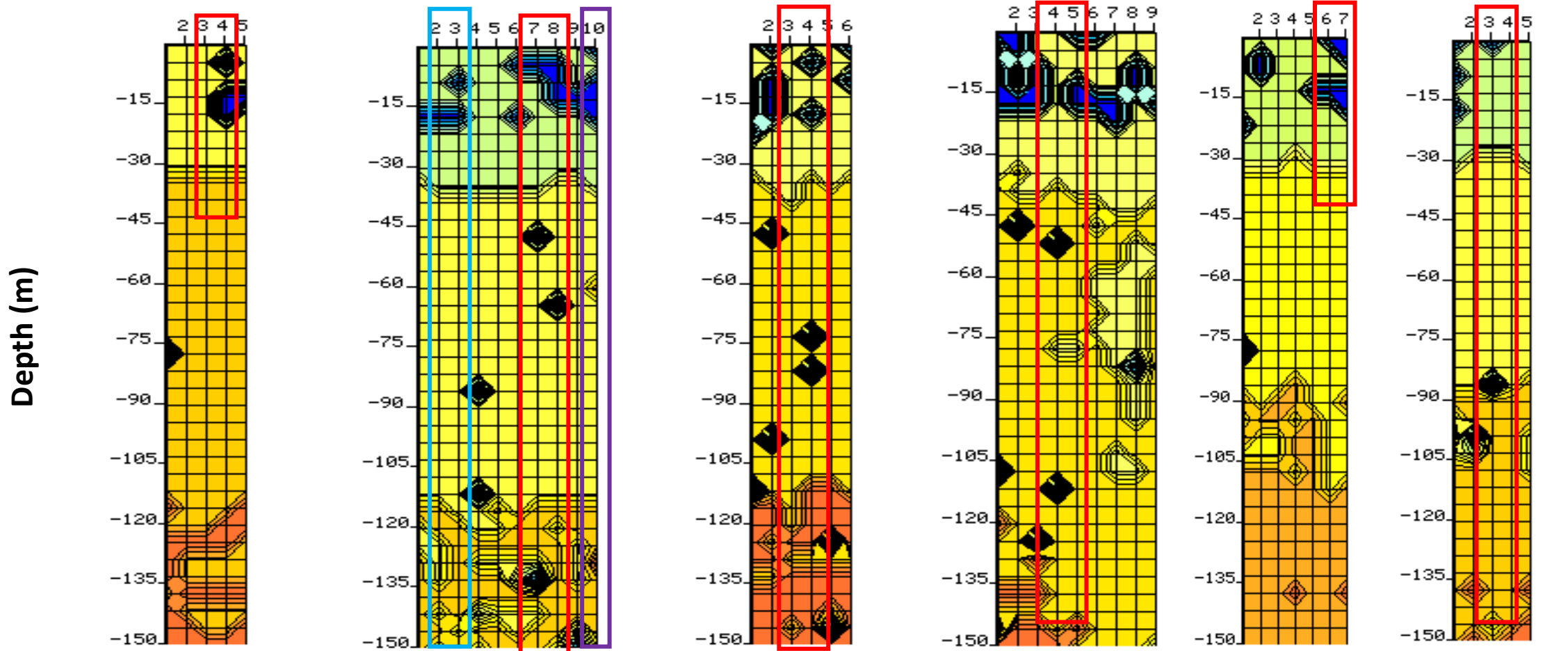


Red blocks: Sedimentary rocks in the region is mostly sandstone (yellow-light green in scans) and shales (blue – light blue). Overburden (loose gravel), quartzites, limestone or conglomerates will appear dark blue and fractured shales in lighter shades of blue in scans. Clays, or highly water-rich/ conductive areas, will appear in shades of orange and red in scans.

Note: Steeply dipping scan lines are an indication of borehole positions and fractures. Stratigraphy knowledge and field observations are required to interpret the scans.



Scan comparison: (Scan depth 150m, at 5m intervals) , Red blocks indicate the positions and the approximate depth to drill at each position. Y-axis = depth; X-axis = line measured.



1: Cross-roads

2: Highest area. Blue block, line 2 = Gary; Purple block, line 10 = last point. Area in between trees = line

9

3: Area above dam, middle of the property

4: South-eastern border corner, above neighbour's house

5: Belvedere gate, cottage. Position not marked in field

6: Between dam and highest area



Recommendations to explore groundwater, in order of preference:

1. Drill at **position 3 (area above dam)** located in deep sand underlain by heavily fractured sandstone. Drill to indicated depths of 40m (min) to 150m (max). Areas with high moisture present at 45m, 75m to 90m, 100m to 120m, and at 130m to 150m. Very Good potential, with approximate extraction rate: 3 000-5 000l/hr . Heavily dipping scan lines indicate well- fractured rock underneath deep sand. Note: Yields can be significantly higher if sandstone is reached at depths of 150m.
2. Drill at **position 4 (above neighbours house)** located in deep sand underlain by fractured sandstone. Drill to indicated depths of 45m (min) to 150m (max). Areas with high moisture present at 45m to 90m, and from 105m to 150m. Good potential, with approximate extraction rate: 2 500 – 4 000l/hr . Steeply dipping scan lines indicate fractured rock underneath deep sand. Note: Yields can be significantly higher if sandstone is reached at depths of 150m.
3. Drill at **position 2 (highest dune)** located in deep sand underlain by fractured sandstone. Drill to indicated depths of 50m (min) to 150m (max). Areas with high moisture present at 45m, 70m, 80m, and from 110m to 150m. Good potential, with approximate extraction rate: 1 500 – 2 500l/hr . Steeply dipping scan lines indicate fractured rock underneath deep sand.
4. Drill at **position 6 (between dam and highest dune)** located in deep sand underlain by moderately fractured sandstone. Drill to indicated depths of 90m (min) to 150m (max). Areas with high moisture present at 80m to 110m. Good to average potential, with approximate extraction rate: 500 – 1 500l/hr . Moderately dipping scan lines indicate fractured rock underneath deep sand.
5. Install a shallow spike perforated borehole or a well at **position 1 and position 5 (not marked in field)** to extract the surface drainage. Depth = 15-20m. Position 5 can be installed above “fountain” area/shallow pond below road.

Note:

1. Extraction rate estimations are conservative and semi-quantitative, based on the published regional geology, aquifer data, refill rates and scan details. Pump tests are to be used to confirm the actual volumes.
2. **Drilling:** if volumes increase with depth, continue drilling even if maximum meters has been exceeded. If extraction rates stay constant towards maximum suggested depth, stop the drilling.
3. Shallow well construction is discussed on page 11 for collecting seepage water in the lower lying areas.



Geological & Satellite maps references

The author acknowledges the use of the following maps and resources:

- Oudtshoorn 1:250 000 map - Council for Geoscience (owner E.Spicer)
- Water quality and Aquifer maps, published by DWA
- Satellite images: Google Earth Pro and Cape Farm Mapper Elsenburg website
- Verbal information, locations and farm maps supplied by the client

***Disclaimer:** This report is solely for the use of the client, prepared by Dr EM Spicer. Data and field observations is the intellectual property of Dr EM Spicer and may neither be distributed in part or whole, copied in any way, nor used for other purposes other than the intended scope of study, as specified in this report. Indicated groundwater locations is based on geological observations and geophysical data collection, but is not 100 % guaranteed to deliver the approximate extraction potentials as stated in the report. Analytical error on scans is approximately $\pm 20\text{m}$ depth and 5m horizontally. Approximations are conservative, based on geological position, rock types and scan details and takes into account rainfall, water quality and yield of existing boreholes. Please take note that it is the owner's responsibility to obtain correct water use licences.*

Dr Esmé Spicer | 0732399983 | esme.spicer@gmail.com

PhD Geology Stellenbosch University

Geological and Geotechnical consultant | Member GSSA/WISA/JCSA/MINSA

Rock Hounds (Pty)Ltd | Registration number 2018/576785/07

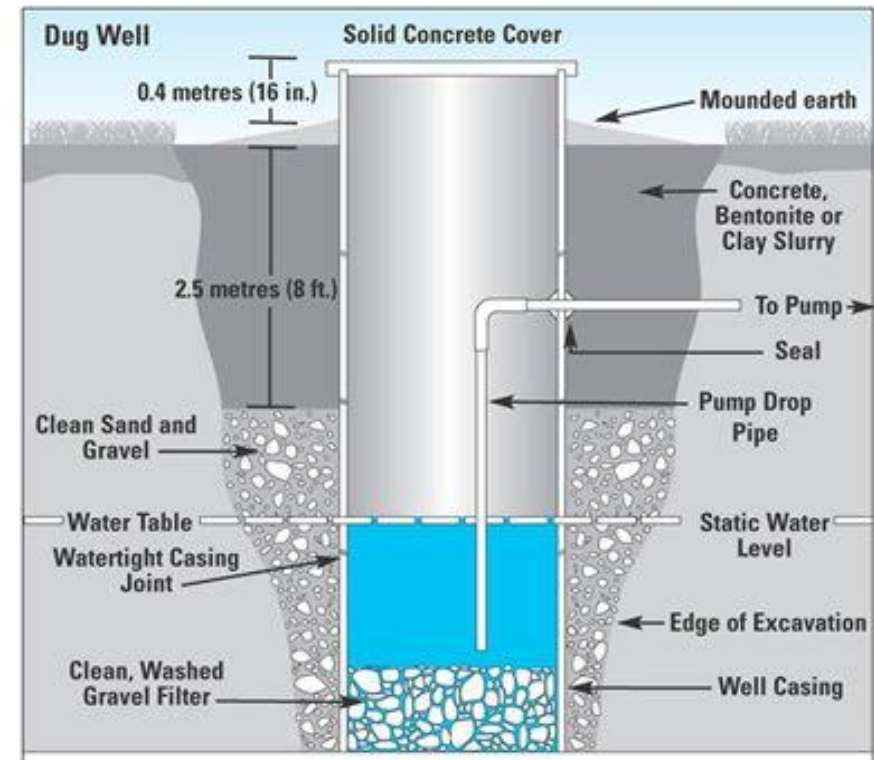
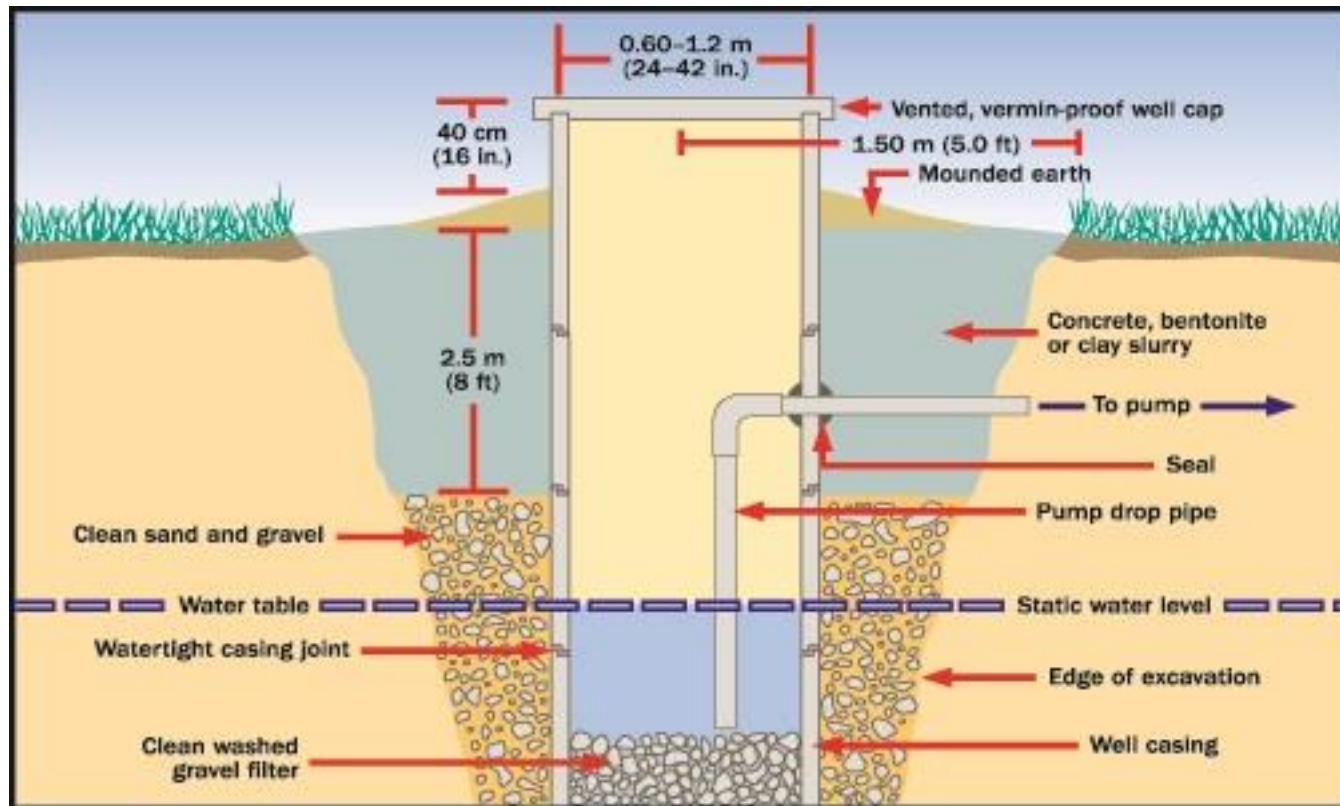


Typical well construction and additional information to tidy up the fountain area to extract more water.

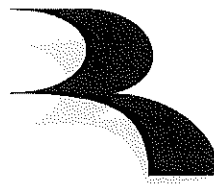
Difference between well-points and boreholes

Well points / spikes are dug to extract shallow ground water from the water table just below the surface of the ground, usually reaching a maximum depth of 10 to 15 meters and distributed by means of a surface mounted centrifugal pump.

Boreholes however, are much deeper, exceeding 20 metres with a large diameter casing allowing for the installation of a submersible pump to allow for water distribution.



Source: *Best Management Practices: Water Wells* (Ontario Ministry of Agriculture, Food and Rural Affairs/Agriculture and Agri-Food Canada)



raubenheimers

attorneys

60 Cathedral Street George 6529
PO Box 21 George 6530
South Africa
Docex 1 George
Tel: +27 (0)44 873 2043
Fax: +27 (0)44 874 4516
www.raubenheimers.co.za

**KNYSNA MUNICIPALITY
DEPARTMENT: Developments**

Your ref:

Our ref: KS/Chrisnah/W67479

Date: 1 November 2023

Dear Sir / Madam,

**OUR BOND CANCELLATION: UMTHIQUA (PTY) LTD / STANDARD BANK LIMITED
PROPERTY: REMAINDER OF PORTION 16 (A PORITON OF PORTION
13) OF THE FARM UITZIGHT No 216**

With reference to the above mentioned matter.

We hereby confirm that we were attending to the cancellation of the bond over the above mentioned property in favour of Standard Bank Limited.

We anticipate that the registration of this matter will be finalized by no later than 30 November 2023.

We trust that you find this in order.

Yours faithfully

DEHAN DU PLESSIS

Ref. : Chrisnah Venter
Tel. : 044 873 2043 Ext. 130
E-Mail : chrisnahv@raubenheimers.co.za
Fax : 0862 039 026

Directors

W M Luttig B Com LLB • A M Coetzee B Jur LLB • J Y Claassen B Proc • JJ Jumaat LLB
K Smit B Jur LLB

Executive consultant

W W van Breda B Proc M Com D Com

Associates

D du Plessis LLB • M H Nunns B Com LLB • T J Louw LLB MBA

Office manager

M du Plessis

Founded 1907

Raubenheimers Inc

Reg No: 1993 / 001742/21





Knysna

Municipality Munisipaliteit uMasipala

inclusive • innovative • inspired

Collab. Ref.: 1716467

File Ref.: Kny 216/16

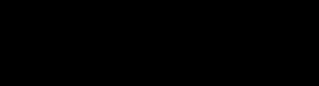
JH Smit

Tel: 044-302 6318

Via Electronic Mail

2024-01-29

Clomark Properties (Pty) Ltd



1685

Email: [REDACTED]

Dear Sir/Madam,

**PROPOSED CONSENT USE, DEPARTURE & SITE DEVELOPMENT PLAN:
PORTION 16 OF FARM UITZICHT NO. 216, KNYSNA**

Notice is hereby given in terms of Section 15 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) that the abovementioned application has been received from:

Applicant's Name:	Umthiqua (Pty) Ltd
Contact Details:	c/o Planning Space (Pty) Ltd
Email:	lundi@planningspace.co.za
Reference number:	Application number 2992
Property Description:	Portion 16 of the farm Uitzicht 216, Knysna
Physical Address:	Uitzicht Farming Area, south of the N2
Nature of application:	

- (i) Application for a **Consent Use** in terms of **Section 15(2)(o)** of the Knysna Spatial Planning and Land Use Management By-law (2021) to allow four(4) additional dwellings on a 'Agriculture Zone I' property;
- (ii) Application for a **Departure** from the development parameter that prohibits farm worker's accommodation within 1km from the high-water mark of the sea or tidal river, in terms of **Section 15(2)(b)** of the Knysna Spatial Planning and Land Use Management By-law (2021); and
- (iii) Approval of a **Site Development Plan** in terms of **Section 15(2)(g)** of the Knysna Spatial Planning and Land Use Management By-law (2021) numbered "**PTN16-F216**" dated 3 May 2023.

A full copy of the application is available for inspection on the municipal website:

<https://www.knysna.gov.za/do-business/planning-development/current-land-use-applications/>

Members of the public are invited to submit written comments, together with the reasons therefore in terms of Section 15 of the Knysna Spatial Planning and Land Use Management By-Law (2021). Comments must be addressed to the Municipal Manager and submitted via email at knysna@knysna.gov.za and mmhlanga@knysna.gov.za on or before **29 February 2024**, quoting your name, address, electronic contact details and telephone number, interest

in the application and reasons for comment. The municipality may refuse to accept comments received after the closing date. Persons who cannot write may contact the Town Planning Office during office hours, where the responsible official will assist you in putting your comments in writing.

Telephonic enquiries may be made during office hours to the Town Planner, Ms. Menelisi Mhlanga at 044-302 6339 or via email mmhlanga@knysna.gov.za.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'JH Smit', written over the printed name.

JH SMIT
MANAGER: LAND USE MANAGEMENT
/lb

MAILING LIST FOR PORTION 16 OF FARM 216, KNYSNA

216/15	CLOMARK PROPERTIES (PTY) LTD	Via electronic mail
216/14	PEMBREY TRUST C/O PETER VADAS	Via electronic mail
216/37	ALBIE DOT BURGER TRUST DR AWM BURGER	Via registered mail
216/176	UITZIGHT 176 (PTY) LTD KATHERINE STREET	Via electronic mail
216/25	JAZZ SPIRIT 130 (PTY) LTD	Via electronic mail
216/23	CHANDRE FAMILY TRUST	Via electronic mail
216/17	HA PHAM THI PHUONG	Via electronic mail



REFERENCE: 4/10/2/K50B/UITZIGT 216/16, KNYSNA

DATE: 22 NOVEMBER 2024

R3GREEN
27 OUTENIQUA LANE
HOEKWIL
6538

Attention: Ms M. MacKay

RE: DRAFT BASIC ASSESSMENT REPORT FOR UMTHIQUA AGROFORESTRY, REGENERATIVE FARMING AND TOURISM FACILITY ON PORTION 16 OF FARM 216 UITZIGT, KNYSNA, WESTERN CAPE

Reference is made to the above mentioned Draft Basic Assessment Report made available to Breede-Olifants Catchment Management Agency (BOCMA) for comments.

The following are BOCMA comments relating to Draft Basic Assessment Report for Umthiqua agroforestry, regenerative farming and tourism facility on Portion 16 of Farm Uitzigt 216, which should be adhered to:

1. The Breede-Olifants Catchment Management Agency has reviewed the Draft Basic Assessment & Aquatic Report and notes that there are no watercourses affected by the alternative Site Development Plans, thus no impacts on aquatic biodiversity are expected to occur and the sensitivity of aquatic biodiversity can therefore be regarded as low.
2. Based on the findings of the Aquatic Report section 21(c) and (i) water uses are not triggered by the proposed development, therefore no water use authorisation required in terms of the National Water Act, (Act No. 36 of 1998) for these water uses.
3. For off-grid sanitation facilities, it is recommended to dispose domestic wastewater into conservancy tank serving no more than 50 households, that must be emptied on regular basis. Sceptic tanks/french drains are not recommended as they are likely to impact on groundwater resources.
4. Please note that no treated or untreated wastewater shall be disposed in ponds or the environment or discharged into a water resource or even used to irrigate without a water use authorisation.
5. All reasonable measures shall have to be taken to prevent the potential pollution of the groundwater resources due to the proposed onsite sanitation facilities i.e. a service provider must be appointed to remove domestic wastewater from conservancy/sceptic tanks.



6. Please note that according to the General Authorisation Government Gazette No. 36820 Notice 665 of 2013; a person who stores wastewater in terms of this authorisation must submit a registration form for registration of the water use before commencement of storage if more than 1000 cubic metres are stored for disposal or if more than 500 cubic metres are stored for re-use.
7. Please note that NO water shall be derived from any water resource and used on Portion 16 of Farm Uitzigt 216 for any purposes such as irrigation of crops, without prior approval by means of a water use authorisation in terms of section 22 of the National Water Act, 1998 (Act No. 36 of 1998).
8. The drilling and abstraction of groundwater from the boreholes, surface water from springs and dams trigger water use(s) in terms of section 21(a) of the National Water Act, 1998 (Act No. 36 of 1998) which refers to taking water from a water resource and must be authorised.
9. Please note that harvesting of rainwater and storage in rainwater in tanks does not trigger a water use, thus it does not require an authorisation.
10. As required by section 22 of the National Water Act, 1998 (Act No. 36 of 1998), a Water Use Authorisation is required prior to commencement with any water use activity contemplated in section 21 of National Water Act. Moreover, commencement with any water use activity without an authorisation as required by section 22 of National Water Act constitutes an offence in terms of section 151(1) (a) of the National Water Act. In terms of section 151(2) of the National Water Act, any person who contravenes is guilty of an offence and liable, on first conviction to a fine or an imprisonment of a period not exceeding five years or both such a fine and imprisonment.
11. In light of the above, you are advised that the onus remains with the property owner to adhere to the National Water Act, prior to commencement with any water use contemplated in section 21 of National Water Act that is associated with the proposed development.
12. Kindly note that this office reserves the right to amend and revise its comments as well as to request any further information.
13. The BOCMA office can be contacted for further information related to the requirement for, or the application for a Water Use Authorisation.
14. Should you wish to apply for a water use authorisation for unregistered water uses triggered by the proposed activities, you may apply electronically by logging onto the Department of Water and Sanitation (DWS) website at <http://www.dws.gov.za/e-WULAAS>.
15. Should you have further enquiries, the office can be contacted or alternatively contact Mr. Si Ndlovu at the above-mentioned contact number or on sndlovu@bocma.co.za



Yours faithfully,

pp *A. Jan L.*

MR. JAN VAN STADEN
CHIEF EXECUTIVE OFFICER (ACTING)

From: Hennie Smit
Sent: Monday, 03 February 2025 12:27
To: Knysna Municipality
Cc: Shaun Madumbo; Liesl Bailey
Subject: FW: Farm No. 216/16 - Knysna
Attachments: SKM_C250i25020311280.pdf

1
File No.: 15/2/5/3

Good day,

Kindly capture the e-mail and attachments as incoming mail.

Kind Regards

Hennie Smit *Manager: Land Use Management*

P O Box 21, Knysna. 6570. Western Cape. South Africa

Tel +27 (0)44 302 6319 (switchboard) or +27 (0)60 998 7124 (Mobile)

e-mail hsmit@knysna.gov.za

From: Brandon Layman <Brandon.Layman@westerncape.gov.za>

Sent: Monday, 03 February 2025 12:01

To: Melissa Mackay <r3green@outlook.com>

Cc: LUAHelpdesk@Dalrrd.gov.za; DEADP-EIAAdmin George <DEADPEIAAdmin.George@westerncape.gov.za>;

Hennie Smit <hsmit@knysna.gov.za>

Subject: Farm No. 216/16 - Knysna

Hi Ms. Mackay

Please find attach comments from the WCDoA: LUM.

With many thanks and kind regards

Brandon Layman

Administrative Assistant to:

Cor Van der Walt : LandUse Manager

Department of Agriculture

Provincial Government of the Western Cape

Private Bag X1

ELSENBURG

7607

GPS koordinate Elsenburg kantoor: 33.845259 S 18.834722 E.

2nd Floor, Main Building, Muldersvlei Road

Telephone: +27 21 808 5093

Fax: +27 865448977

E-mail: Brandon.layman@westerncape.gov.za

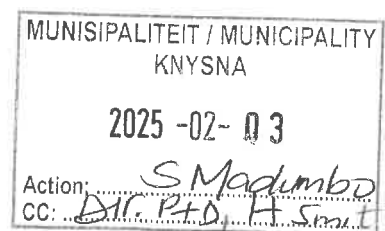
Departmental Website: www.elsenburg.com

Provincial Website: www.capegateway.gov.za



**Western Cape
Government**

FOR YOU



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OUR REFERENCE : 20/9/2/4/6/679
YOUR REFERENCE : 2024.0032.06
DFFE REFERENCE : 14/12/16/3/3/1/3049
ENQUIRIES : Cor van der Walt/Fadwa Mohammed

R3 Green

Email: r3green@outlook.com

Att: Ms. Melissa Mackay

**PROPOSED UMTHIQUA AGROFORESTRY, REGENERATIVE FARMING & TOURISM FACILITY:
DIVISION KNYSNA
PORTION 16 OF THE FARM NO 216**

Your application of 24 October 2024 has reference.

The Western Cape Department of Agriculture: Land Use Management has the following comments:

1. Proof of the cultivation permit for the proposed plantations must be provided.
2. It is proposed that the avocado and macadamia orchard will be under dryland conditions, however, proof of water for irrigation of the crop circles must be provided.
3. The agricultural activities on site do not justify the number of bona-fide agricultural workers houses.
4. The size of the workers houses are excessive as the average workers houses range between 40m²–80m².
5. The Department does not support the layout of the workers houses instead it is recommended that it should be clustered.
6. According to the WC Land Use Guideline for Rural Areas 2019, the farm is 32.69 ha in extent which means that only 3 additional dwellings may be permitted.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.

- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely



Mr. CJ van der Walt
LANDUSE MANAGER: LANDUSE MANAGEMENT

2025-01-24

Copies:

Department of Agriculture, Land Reform and Rural Development
National Department of Agriculture
Private Bag X 120
PRETORIA
0001

Department of Environmental Affairs & Development Planning
Private Bag X 6509
George
6530

Knysna Municipality
PO Box 21
KNYSNA
6571



South African
NATIONAL PARKS

To develop, protect, expand, manage and promote a system of sustainable national parks that represents natural and cultural heritage assets, through innovation, excellence, responsible tourism and just socio-economic benefit for current and future generations.

3 April 2024

Municipal Manager
Knysna Municipality
P.O. Box 21
Knysna, 6570

Per email:
knysna@knysna.gov.za
mmhlanga@knysna.gov.za
smadumbo@knysna.gov.za
planning@knysna.gov.za

File Ref.: Kny 216/16

**RE: UITZICHT 216, PORTION 16, KNYSNA, CONSENT USE,
DEPARTURE, AND SITE DEVELOPMENT PLAN APPLICATIONS,
SANPARKS COMMENTS**

Portion 16, Uitzicht 216 is situated in the Garden Route National Park (GRNP) buffer zone, and within the Knysna Protected Environment (KPE) area (**Fig.1**). Portion 16 adjoins properties designated as priority natural areas, and which fall within the protected area expansion footprint of the GRNP. Several of these Knysna Sand Fynbos corridor properties are currently being incorporated as Contract National Park. Achieving a long-term conservation outcome on this property is therefore, important to SANParks.

The property is situated on a hillslope south of the N2, is steep in sections, and is bisected by a west-east drainage valley in its southern portion, through which a non-perennial river flows, which drains into the Knysna Estuary (**Fig.2**). The Estuarine Functional Zone is approx. 200m from the property's north-eastern boundary (**Fig.3**). The Coastal Management Line (CML) is mapped as extending along the drainage valley (**Fig.4**).

Terrestrial Critical Biodiversity Areas (CBA1), designated in terms of the Western Cape Biodiversity Spatial Plan (WCBSP), are mapped to cover some north-eastern sections of the property (**Fig. 2**). Critical Biodiversity Areas are required to be safeguarded in their natural or near-natural state, with no further loss of natural habitat because they are critical for conserving biodiversity and maintaining ecosystem functioning.

The property is mapped as containing Knysna Sand Fynbos (FFd10), and Garden Route Shale Fynbos (FFh 9) which are listed respectively as Critically Endangered (CE) and Endangered (E) in the National Environmental Management Biodiversity Act (Act No. 10 of 2004), Revised National List of Ecosystems that are Threatened and in Need of Protection GNR No. 2747, 18 November 2022 (**Fig. 5**).

|ai-|ais/richtersveld transfrontier

addo elephant

agulhas

augrabies falls

bontebok

canideboo

golden gate highlands

karoo

kgalagadi transfrontier

knysna

kruger

mapungubwe

marakele

mee.kat

mokala

mountain zebra

namaqua

table mountain

tankwa karoo

tsitsikamma

west coast

wilderness

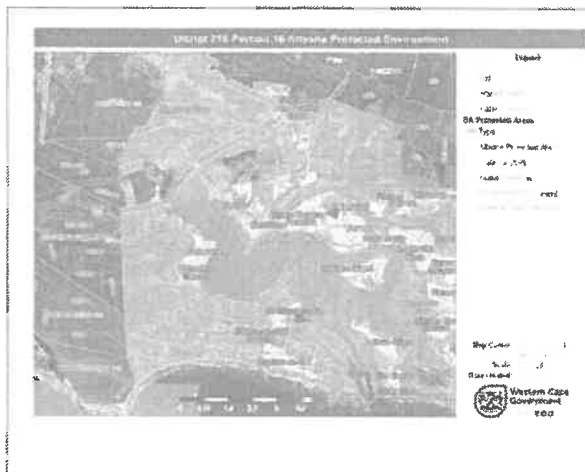


Fig. 1: Knysna Protected Environment, showing the inclusion of Portion 16, Uitzicht 216 (CapeFarmMapper3).

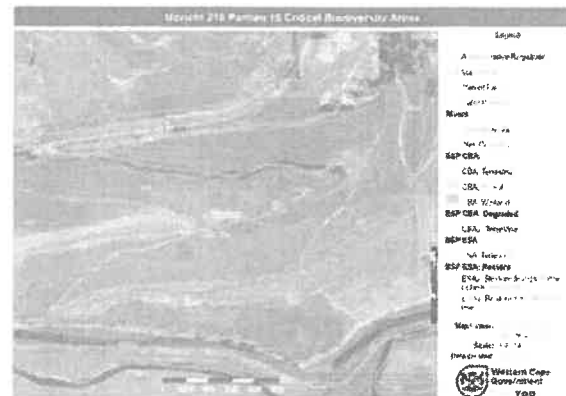


Fig. 2: Portion 16, of Uitzicht 216 showing contours, non-perennial rivers, and the WCBSP Critical Biodiversity Areas (CapeFarmMapper3).



Fig. 3: Proximity of the Estuarine Functional Zone (CapeFarmMapper3).



Fig. 4: The Coastal Management Line extends along the west-east drainage valley (Knysna GIS viewer).

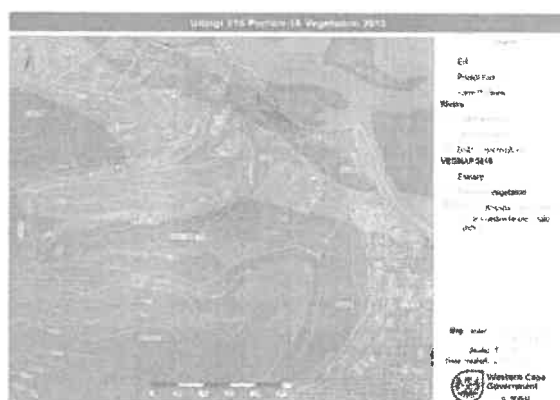


Fig. 5: Mapping of (CE) Knysna Sand Fynbos (FFd10), and (E) Garden Route Shale Fynbos (FFh 9) (CapeFarmMapper3).

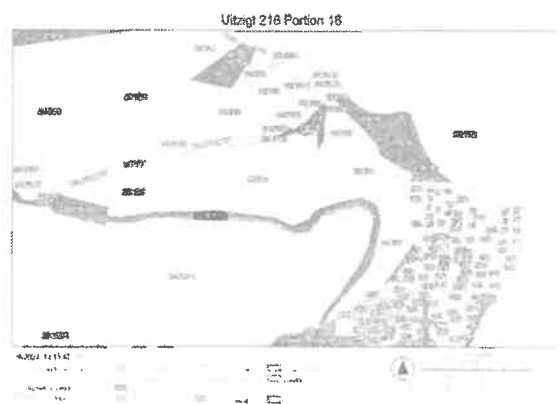


Fig. 6: Portion 16, Uitzicht 216 is zoned Agricultural Zone I (Knysna GIS Viewer).

Since the 1950s the property was used as a commercial timber plantation (as noted in the Motivation report prepared by Planning Space Garden Route Pty Ltd., dated 11/14/2023), but was later abandoned, neglected, and burnt in the 2017 Knysna fires. The property was heavily invaded with alien vegetation. The new landowner, since 2021 has undertaken extensive and ongoing alien invasive clearing.

Infrastructure on the property comprises of several small farm dams along the property's drainage line, a network of farm roads that serviced the plantation, and one farm labourers' cottage. Access to the property is via a servitude through Uitzicht 216, Portion 15 and via a gate off the N2. Portion 16 is 32,81ha in extent, and is owned by Umthiqua Property Limited. The property is zoned Agricultural Zone I (**Fig. 6**).

The application is a Land Use Application (LUA) for the following, as extracted from the Motivation report prepared by Planning Space Garden Route Pty Ltd., dated 11/14/2023:

Planning Space Garden Route Pty Ltd has been appointed by Umthiqua Pty Ltd, the owner of Portion 16 of Farm Uitzicht 216, to prepare and submit the following application to Knysna Municipality in terms of Section 15 (2) and Chapter IV of the Knysna Spatial Planning and Land Use Management By-Law 2021 (See Power of Attorney and Company Resolution attached as Annexure A):

- i. Section 15 (2) (c): Council's Consent to allow 4 additional dwellings on an "Agriculture Zone I" property as contemplated in the Knysna Zoning Scheme By-Law.
- ii. Section 15 (2) (b): Departure from the development parameter that prohibits farm worker's accommodation within 1km from the high-water mark of the sea or tidal river.
- iii. Section 15 (2) (g): Approval of a Site Development Plan.

4. PROPOSAL

4.1 UMTHIQUA VISION

Umthiqua – which means land of grace, is a South African agroforestry business that has recently purchased Portion 16 of Farm 216. The company reclaims stressed parcels of land and repurposes them as improved food and forest land holdings to benefit local producers and communities across the Western Cape. Umthiqua utilises regenerative plant growth technologies to create sustainable, environmentally compatible economic enterprises that create much-needed employment, raise timber for international markets and grow nutrition-rich agricultural products that provide sustenance for local communities.

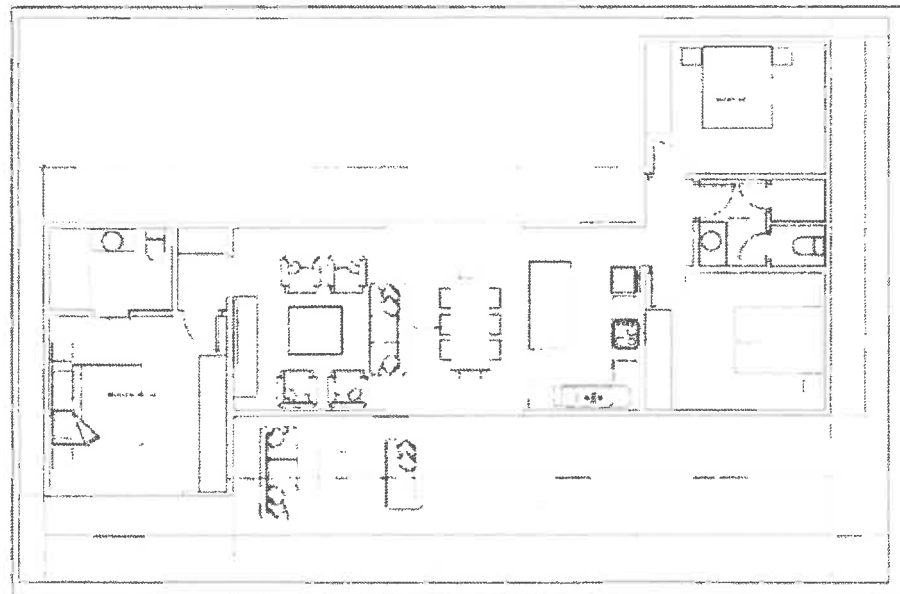
The company creates homesteads where a farmer is invited to partner with Umthiqua to learn new agroforestry skills and adopt regenerative practices to manage the land. The homesteads will feature a tiny house living concept and small space Crop Circle agriculture. Umthiqua wants to advance small-plot farming as a lifestyle that will define the future of agrarian parks in South Africa.

Umthiqua has already launched several similar successful projects in the Garden Route.

The Site Development Plan (SDP) dated 3/05/2023 (Fig. 7) by Planning Space Garden Route Pty Ltd. and as described in the associated Motivation report details the following:

- 1 x Main dwelling (building footprint not stated), situated below the 1km high-water mark – to be built in the first phase construction.
- 1 x Managers House (building footprint not stated), situated below the 1km high-water mark – to be built in the first phase construction.
- 4 x Worker's Accommodation houses [each 175m² i.e., 700m² total building footprint], situated below the 1km high-water mark, based on a tiny house concept and each with small space crop-circle agricultural areas [250m² - 350m² of crop-circles per farmer and vertical greenhouses, i.e., 1400m² total crop-circles footprint next to houses. *[Crop-circle farms utilise concentric circles and other geometric designs to grow plants. The business concept includes several small-scale farmers who will form part of a co-op that will collectively farm and share in the profit. Each farmer will be responsible for a certain area or crop and will live on the farm, close to their crops].*
- 4 x Additional Dwellings [each 175m² i.e., 700m² total building footprint], situated above the 1km high-water mark, two bedrooms – sleeps 4 each, i.e., 4 x 4 = sleeps 16 people. Note: image below shows three-bedrooms, i.e., 6 x 4 = sleeps 24 people.

The new owners would like to supplement the farm industry by adding 4 additional dwellings that can be rented out in the long or short term. This will allow them to generate an income while the avocado and macadamia orchards are established. The two-bedroom units will be constructed in a similar architectural style as the main house and the farm worker's homes. Units will be single-storey with two bedrooms with a floor area of about 175m².



If the landowners can construct a number of self-catering units, they can generate additional income from the land without impacting the rural character of the areas.

- Total dwellings = 10; Note: one dwelling is existing.

- Access:

Access to the farm is via a registered servitude road. The main house, additional dwellings as well and the worker's accommodation can be accessed from an existing logging road that will need surface upgrading. No new roads will be required.

- Services:

There is no municipal services network available in the area and all the farm units will be self-subsistent in terms of services. Septic tanks or soak-aways are generally used in the area but more environmentally friendly domestic wastewater treatment solution is available in the form of biolytic systems.

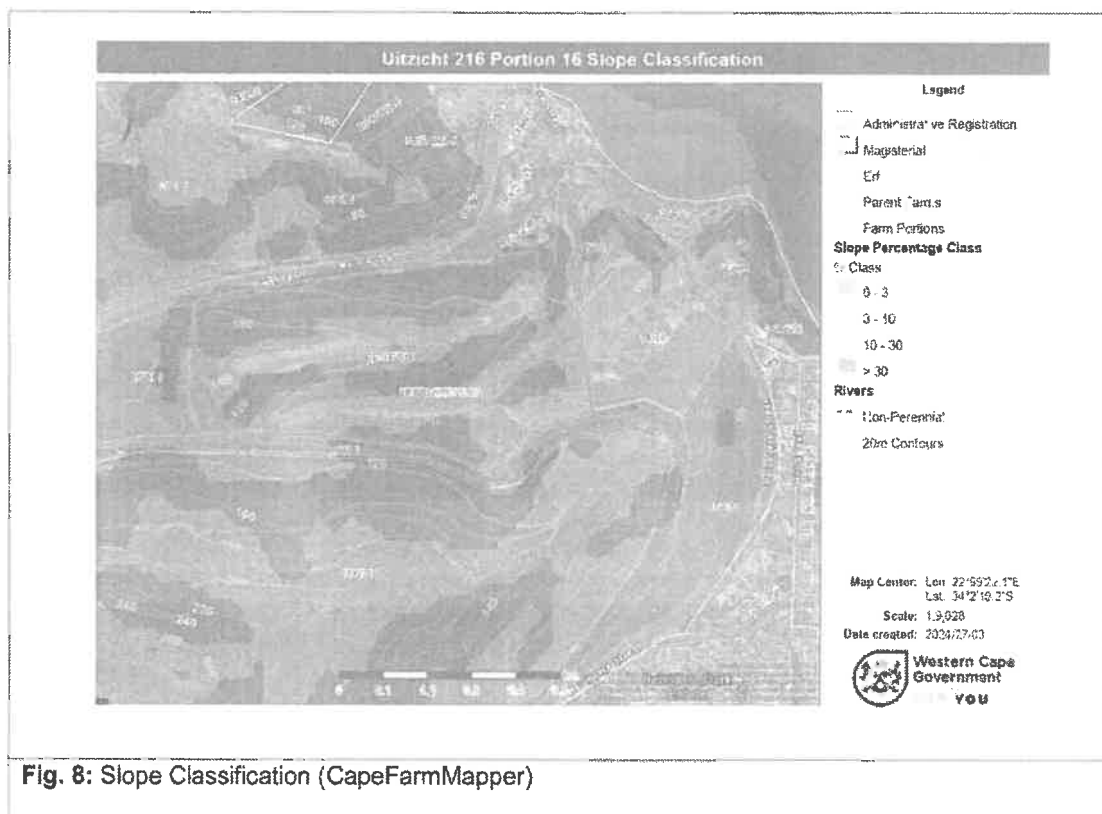
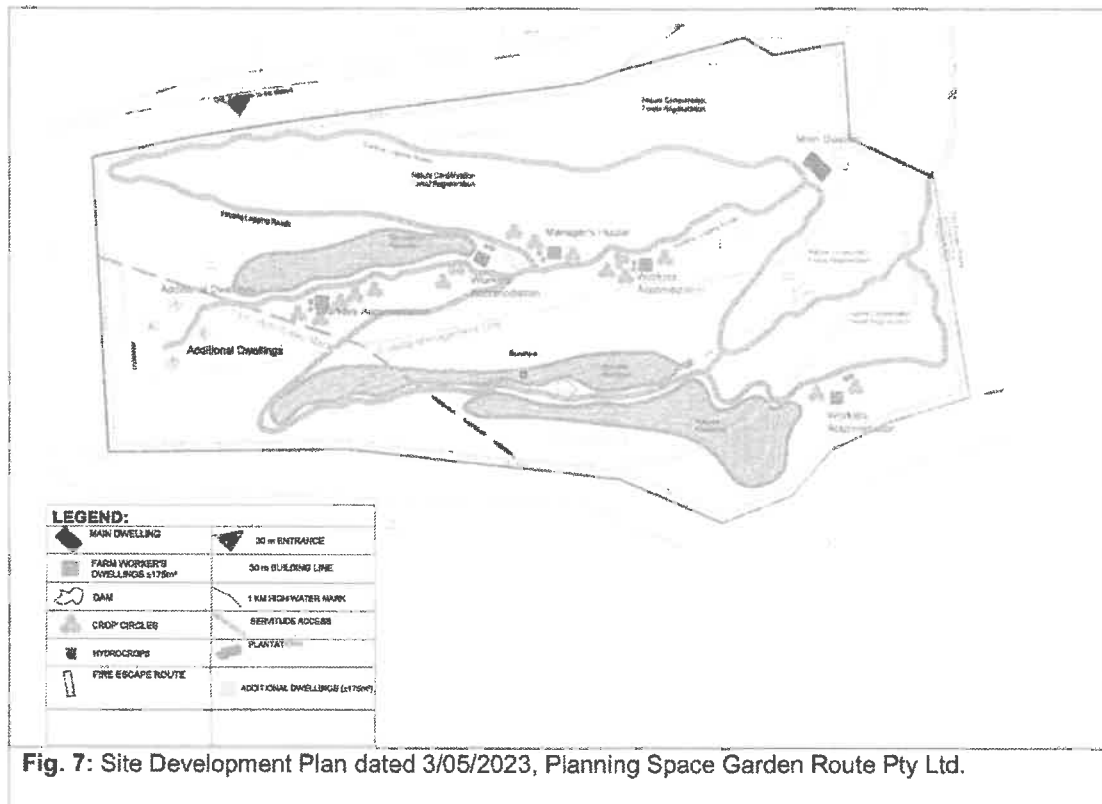
Water for domestic use and irrigation water will be obtained from existing springs, boreholes, and dams as well as from rainwater harvesting. A Geophysical Groundwater Survey done by Rockhounds Pty Ltd (attached as Annexure D) also indicates where additional boreholes can be drilled and where well points/spikes can be dug to extract shallow groundwater from the water table just below the surface of the ground.

Eskom electricity is available in the area and can be connected to all the units, although the intention is that the units will be completely off the grid. Each unit will be equipped with solar energy, supplemented by gas for cooking and geysers.

- Waste:

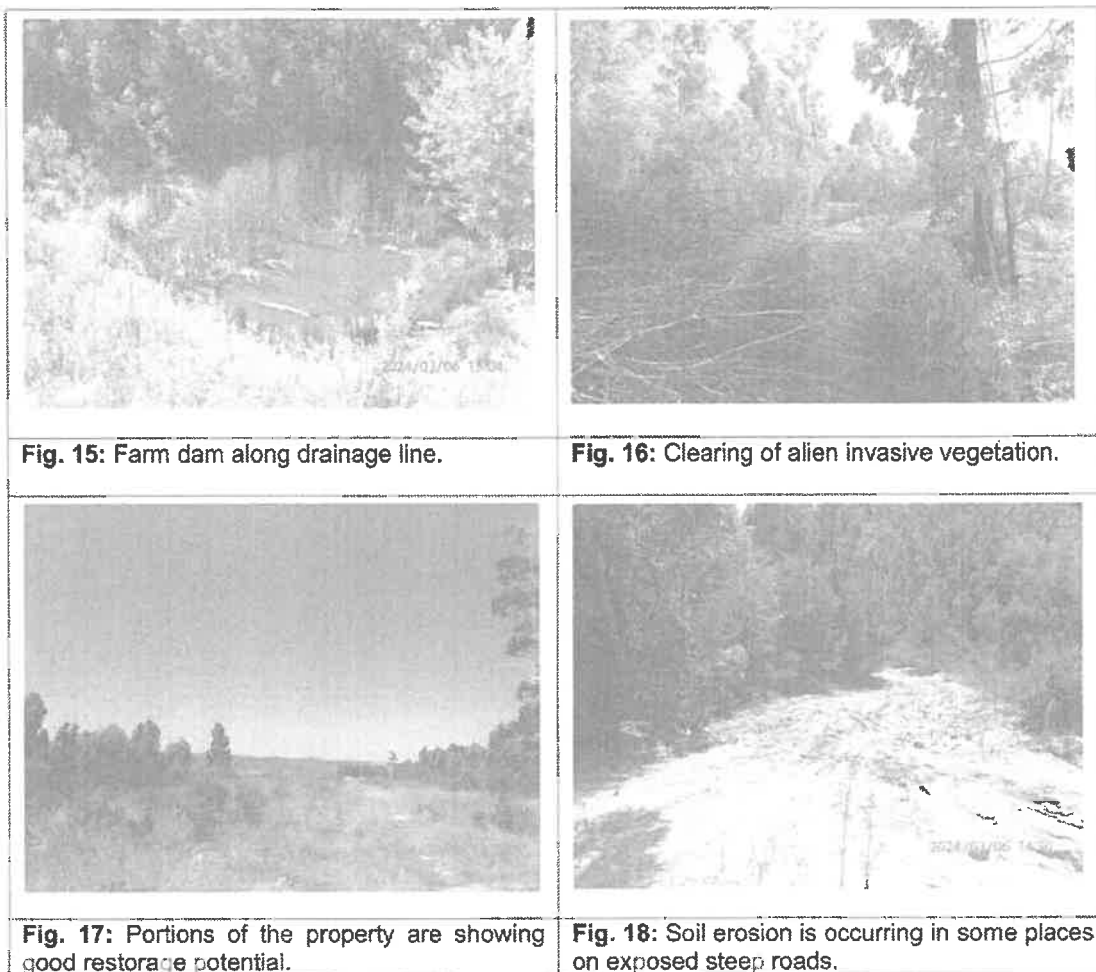
Solid waste will be privately disposed of at the Knysna Waste to Energy project as the owner is the leading Project Manager for the project.

- Avocado Plantations in two areas [2ha] on the north and south-facing slopes of the non-perennial stream – estimated as taking 7 years to establish.
- A Macadamia Plantation [2ha] on the north-facing slope of the main hilltop – estimated as taking 7 years to establish.
- Conservation areas [The owners have prepared an Alien Clearing and Fire Control Plan to be compliant with S76 of the National Environmental Management: Biodiversity Act, 2004. All the areas not suitable for agriculture will be systematically rehabilitated to their natural state. The Intention is to eventually rehabilitate about 50% of the property i.e. $32\,81\text{ha}/2 = 16\,42\text{ha}$.]



SANParks (Dr. Vanessa Weyer and Ms. Elmonique Petersen) conducted a site inspection on 6/03/2024 together with Knysna Municipality (Mrs. Pam Booth), and the landowner (Mr. Jan van der Westhuizen) (Fig. 9-18).

	
Fig. 9: Existing abandoned workers cottage.	Fig. 10: Historical Oak tree next to abandoned workers cottage.
	
Fig. 11: Farm service road bordering Portion 14, Uitzicht 216.	Fig. 12: Access gate to property, via a servitude across Portion 15, Uitzicht 216.
	
Fig. 13: Clearing of alien invasive vegetation on north-facing slope. <u>Avocados have been planted.</u> <u>Water storage tanks are present.</u>	Fig. 14: <u>Water storage tank present next to dam.</u>



Point 1: Environmental Legislation Context

Coastal Protection Zone

The National Environmental Management: Integrated Coastal Management Act (Act No. 24 of 2008) (ICMA), in Section 16 (1) (d) designates a Coastal Protection Zone as follows:

[any land unit situated wholly or partially within one kilometre of the high-water mark which, when this Act came into force-

- (i) was zoned for agricultural or undetermined use; or*
- (ii) was not zoned and was not part of a lawfully established township, urban area, or other human settlement].*

The Coastal Protection Zone is established to manage, regulate, and restrict the use of land that is adjacent to coastal public property, or that plays a significant role in the coastal ecosystem.

Portion 16, Uitzicht 216 falls within the Coastal Protection Zone, as portions of the property are within 1km of the high-water mark and the property is zoned Agricultural Zone I.

The ICMA requires that activities that are potentially harmful to the coastal zone are considered as part of the National Environmental Management Act, Act No. 107 of 1998 (NEMA): Environmental Impact Assessment (EIA) process.

NEMA EIA Regulations

SANParks is of the opinion that the following activities may likely be triggered under the NEMA EIA Regulations, 2014, as amended:

i. *Listing Notice No. 1. Activity 27*

[The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan]; and

ii. *Listing Notice No. 3. Activity 12*

[The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance Purposes undertaken in accordance with a maintenance management plan.

i. Western Cape

i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;

ii. Within critical biodiversity areas identified in bioregional plans;

iii. Within the littoral active zone or 100 metres inland from high-water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;

iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or

v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner].

Note: The property is legally mapped as the Critically Endangered Knysna Sand Fynbos vegetation type, despite that it is invaded with alien vegetation. Further, the NEMA definition for indigenous vegetation is, '*vegetation consisting of indigenous plant species occurring naturally in an area, regardless of the level of alien plant infestation, and land where the topsoil has not been lawfully disturbed during the preceding ten years.*' Clearance constitutes, '*Any human activity that results in the permanent eradication, removal or elimination of vegetation*'.

iii. *Listing Notice No. 3. Activity 6*

[The development of resorts, lodges, hotels, [and] tourism or hospitality facilities that sleeps 15 people or more.

i. Western Cape

i. Inside a protected area identified in terms of NEMPAA;

ii. Outside urban areas;

(aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or

(bb) Within 5km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve; -

excluding the conversion of existing buildings where the development footprint will not be increased.

Note: The Applicant states that the four additional dwellings will be rented out, i.e., 4 x 2-bedrooms, sleeping 4 each = 16 people.

The new owners would like to supplement the farm industry by adding 4 additional dwellings that can be rented out in the long or short term. This will allow them to generate an income while the avocado and macadamia orchards are established. The two-bedroom units will be constructed in a similar architectural style as the main house and the farm worker's homes. Units will be single-storey with two bedrooms with a floor area of about 175m².

Confirmation is required from the applicable Competent Authority on the need for an Environmental Authorisation for the proposed development application.

Outeniqua Sensitive Coastal Area Extension Regulations

An Outeniqua Sensitive Coastal Area Extension (OSCAE) permit is required in terms of the OSCAE Regulations for the following scheduled activities:

- i. Disturbance of vegetation (trampling, cutting or removal of vegetation);
- ii. Earthworks (excavation, moving, removal, deposit, compacting of soil, sand, rock or rubble);
- iii. Dredging (dredging, excavation, removal or moving of soil, sand or rock from a river, tidal lagoon, tidal river, floodplain or wetland); and
- iv. Dune rehabilitation (planting on or covering of dunes or exposed sand surfaces with any vegetative, natural, or synthetic material, or the erection of structures and walls thereon with the purpose of preventing the sand from being eroded, accreted or moved by wind or water).

Items i) and ii) may be applicable to the proposed application. Confirmation is required from the Knysna Municipality Environmental Management Department on the need for an OSCAE permit.

Water Use Licence Application

During the site inspection held on the on 6/03/2024, it was observed that Avocados have already been planted, and that water storage tanks are on the property in proximity to the Avocados. It is unclear whether water abstraction is occurring from the nearby stream/dam for the irrigation of the Avocados, or if water is being transported in (Fig. 13, 14 & 15). It is stated that no services, including water, are available on the property, and that boreholes will be used for irrigation.

Should the farming operation be deemed to be a commercial operation, Section 21 (a): 'Taking water from a resource for irrigation purposes', in terms of the National Water Act, Act No 36 of 1998, may be applicable, and a Water Use Licence Application may be necessary. The construction of any new dams on the property may further trigger Section 21 (b): 'Storing water'.

Confirmation is required from the Breede-Olifants Catchment Management Agency (BOCMA), the lead agent for water resources management within the Breede-Gouritz Water Management Area (BGWMA), on the need for a WULA.

CARA Application

SANParks is of the opinion that the Conservation of Agricultural Resources Act, Act No. 43 of 1983, may be applicable and that a CARA Application is required. This being due to potential soil erosion and slope steepness, particularly where Avocados and Macadamias are proposed on slopes >30% (Fig.8). Confirmation from the relevant authority should be sought.

Point 2: Hydrological & Estuarine Sensitivity

The property is located in a water sensitive area; the National Priority Outeniqua Strategic Water Source Area (SWSA), and within the Coastal Protection Zone. A non-perennial river flows through the drainage valley in the property's southern portion, to drain into the Knysna Estuary. The Estuarine Functional Zone occurs approx. 200m from the property's north-eastern boundary, and the CML is mapped as extending along the drainage valley.

Due to these factors the property is considered highly sensitive in terms of potential hydrological and estuarine negative impacts that may occur due to any activities that may take place on the property. Changes to water quality and quantity entering the Knysna Estuary is a significant concern, particularly associated with sewage disposal/treatment, increased hard surfaces, and as related to farming operations, particularly Avocados and Macadamias.

Point 3: Biodiversity Value

Although the property is degraded and invaded with alien vegetation the property is legally mapped to contain Critically Endangered Knysna Sand Fynbos and Critical Biodiversity Areas in its north-eastern sector. Research has shown that fynbos readily recovers following clearing of alien vegetation, due to strong seedbanks remaining in the soil, and as passive restoration occurs naturally. The river corridor is important for landscape functionality, and connectivity, enabling animal movement.

SANParks recommends that the landowner investigate formal or informal Biodiversity Stewardship Agreement options for the property, to safeguard the biodiversity value of property and to enhance the river corridors' restoration potential and improve landscape functionality and connectivity. Such an agreement must be written in as a condition of approval for the LUA.

Point 4: Land Use Application

The following comments are made in response to the specific LUA items being applied for:

- i. Section 15 (2) (o): Council's Consent to allow 4 additional dwellings on an "Agriculture Zone I" property as contemplated in the Knysna Zoning Scheme By-Law.

In terms of the Knysna Municipality: Zoning Scheme By-law, 29 June 2020, for properties between 30ha to 40ha, 4 additional units are permitted. The property is 32,81ha in extent, therefore this conforms with the By-law. The units proposed are situated above the 1km high-water mark.

SANParks has no objection to item (i).

- ii. Section 15 (2) (b): Departure from the development parameter that prohibits farm worker's accommodation within 1km from the high-water mark of the sea or tidal river.

Four farm worker's accommodation units are proposed within the 1km high-water mark. The Knysna Municipality: Zoning Scheme By-law, 29 June 2020 states:

"agricultural worker accommodation"

Land use description: "agricultural worker accommodation" means accommodation provided for bona fide agricultural workers, including accommodation for labourers and farm managers, as determined by the Municipality based on the extent of the bona fide agricultural activities on the land unit.

Development parameters:

The development parameters applicable to "agriculture" apply with the following additional development parameters:

- (a) the number of units must be reasonably connected to the bona fide agricultural activities on the land unit; and
- (b) no agricultural worker accommodation may be erected within 1 km of the high-water mark of the sea or a tidal river.

SANParks is concerned that the number of farm worker's accommodation units proposed may be excessive, when combined with the total number of dwellings that are being applied for on the property, i.e., 1 x main dwelling, 1 x farm manager's house, 4 x farm worker's accommodation units, and 4 x additional dwellings, i.e., a total of 10 dwellings.

As stated, agricultural workers accommodation units are determined by the Municipality, therefore confirmation on the permissible numbers of units must be sought from the Knysna Municipality.

SANParks has no objection to item (ii), however as these units are proposed within the 1km high-water mark, care must be exercised with sewage and wastewater treatment and disposal. SANParks wishes to comment on the more technical aspects of sewerage and wastewater services when design work is being undertaken. Hard surface must be kept to a minimum.

iii. Section 15 (2) (g): Approval of a Site Development Plan.

SANParks has no objection to the siting of the dwellings in their proposed locations as shown on the SDP.

SANParks is in support of the proposed 250m² - 350m² of crop circles per farmer and vertical greenhouses, associated with the farm workers' accommodation.

SANParks does not support and objects to the planting of Avocados and Macadamias on Portion 16, Uitzicht 216. SANParks is concerned that the proposed planting blocks are situated mostly on steep erodible slopes, >30% (Fig. 8), and that the activity has commenced prior to approval (Fig. 13). Soil erosion is a concern, and that the 'small' planting blocks may in the future transition into larger 'commercial' plantation blocks, necessitating the use of fertilizers and pesticides and water abstraction. Particularly, on resale of the property and with landownership changes. Portion 16, Uitzicht 216 falls within the Coastal Protection Zone and in terms of the ICMA activities that are potentially harmful to the coastal zone must be considered as part of a NEMA EIA process.

Point 5: Summary and Way Forward

In principle, SANParks is supportive of the concept of a diversified mixed agri-forestry-eco-tourism landuse development model, where sustainable agricultural, environmental, and conservation practices and education are promoted.

Portion 16, Uitzicht 216 is mapped as falling within the Critically Endangered Knysna Sand Fynbos vegetation type, and Critical Biodiversity Areas are present on some portions of the property. The property is however in a degraded neglected state, any rehabilitation efforts, and wildlife corridor enhancements will have a positive impact.

However, as Portion 16, Uitzicht 216 has high hydrological and estuarine sensitivities, activities on the property have the potential to negatively impact water resources and the Knysna Estuary.

The following comments are made in response to the specific LUA items being applied for:

- i) Section 15 (2) (o): Council's Consent to allow 4 additional dwellings on an "Agriculture Zone I" property as contemplated in the Knysna Zoning Scheme By-Law
 - *SANParks has no Objection.*
- ii) Section 15 (2) (b): Departure from the development parameter that prohibits farm worker's accommodation within 1km from the high-water mark of the sea or tidal river. - SANParks is concerned that the number of farm worker's accommodation units proposed may be excessive, when combined with the total number of dwellings that are being applied for on the property, i.e., 1 x main dwelling, 1 x farm manager's house, 4 x farm worker's accommodation units, and 4 x additional dwellings, i.e., a total of 10 dwellings.
 - confirmation on the permissible numbers of units must be sought from the Knysna Municipality.
 - SANParks has no objection to item (ii), however as these units are proposed within the 1km high-water mark, care must be exercised with sewage and wastewater treatment and disposal. SANParks wishes to comment on the more technical aspects of sewerage and wastewater services when design work is being undertaken. Hard surface must be kept to a minimum.
- iii) Section 15 (2) (g): Approval of a Site Development Plan.
 - SANParks has no objection to the siting of the dwellings in their proposed locations as shown on the SDP.
 - SANParks is in support of the proposed 250m² - 350m² of crop circles per farmer and vertical greenhouses, associated with the farm workers' accommodation.
 - SANParks **does not support and objects to the planting of Avocados and Macadamias** on Portion 16, Uitzicht 216.

- Portion 16, Uitzicht 216 falls within the Coastal Protection Zone and in terms of the ICMA activities that are potentially harmful to the coastal zone must be considered as part of a NEMA EIA process.

SANParks is of the opinion that the activities proposed for Uitzicht 216, Portion 16 may trigger various environmental legislation including:

- The National Environmental Management Act, Act No. 107 of 1998 (NEMA): Environmental Impact Assessment (EIA) Regulations, 2014, as amended.
- An Outeniqua Sensitive Coastal Area Extension permit.
- A Water Use Licence Application in terms of the National Water Act, Act No 36 of 1998.
- The Conservation of Agricultural Resources Act, Act No. 43 of 1983.

Confirmation from the applicable Component Authorities should be sought.

It is difficult to comment solely on a LUA, as many issues associated with this property and the proposed activities are complex; specialist studies are lacking, impacts have not been assessed, and mitigation measures have not been proposed. An EIA process would facilitate specialist studies, a more thorough analysis of issues, and a transparent public participation process.

As Portion 16, Uitzicht 216 adjoins properties that are being incorporated as Contract National Park, any proposed activities should be undertaken sensitively, with a small low-impact footprint, that is in keeping with the surrounding landscape character and which promotes conservation efforts in the region.

It is recommended that landscape connectivity corridors are restored, and that the landowner investigate potential formal or informal Biodiversity Stewardship Agreement options. This should be a condition of approval for the LUA.

It is recommended that the following conditions are considered, pertaining to the construction of new dwellings, crop-circle areas, and the remainder of the property, exclusive of the Avocado and Macadamia plantations:

- The design of buildings and/or structures is to blend into the natural landscape.
- No visually intrusive buildings and/or structures are to be erected.
- An indigenous plant rescue operation should be conducted prior to site clearance.
- Topsoil should be set-aside for reuse.
- Care should be taken during construction activities to limit soil erosion.
- Permeable paving surfaces should be used where possible to limit excess surface runoff.
- Fencing post-construction should only be erected to surround the dwellings, if required (not along the property boundary), to allow wildlife movement and connectivity in the landscape on the remainder of the property.
- Reduced and low lighting should be incorporated in the design to prevent night light pollution.
- The owner should consider using non-flammable building materials, including external fittings such as aluminium gutters, and should consider an irrigation system to mitigate fire risk.
- Compliance with the National Veld and Forest Fire Act (Act 101 of 1998) is required. The owner should join the local Fire Protection Association, if not already a member.

- The landowner's attention is drawn to the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004) (NEM:BA) Alien and Invasive Species Regulations, 25 September 2020, where a landowner is legally responsible for the removal of alien vegetation on their property. The owner should formalise an Invasive Alien Vegetation Control Plan as required by the NEM:BA.
- A permit from the Department of Forestry, Fisheries & the Environment (DFFE) must be attained should any protected tree species be disturbed on the property, as per the National Forests Act, 84 of 1998, as amended.
- Should any resources of suspected heritage value be uncovered during clearing, Heritage Western Cape (HWC) must be contacted immediately for instructions.
- An Environmental Control Officer (ECO) should be appointed for the construction phase and monthly photographic compliance reports should be submitted.

SANParks reserves the right to revise initial comments if additional information becomes available.

Yours sincerely



Dr Vanessa Weyer
Principal Planner
Garden Route National Park

CC:	Pat Bopape	SANParks
	Elmonique Petersen	SANParks
	Jessica Hayes	SANParks
	Jeff Manual	SANParks
	Natasha Wilson	SANParks
	Pam Booth	Knysna Municipality
	Megan Simons	CapeNature
	Jan Coetzee	WWF
	Johan Labuschagne	WHGC

Liesl Bailey

From: René de Kock (WR) <Dekockr@nra.co.za>
Sent: Friday, February 2, 2024 7:18 AM
To: 'lundi@planningspace.co.za'; planning
Cc: riaandavids@quaconsulting.co.za; 'deon@qaconsulting.co.za'; Shaun Dyers (WR); Sinazo Pekula (WR)
Subject: FW: Emailing: N2_SEC_8_BUILDING_WORKS_ON_PORTION_16_OF_FARM_216, _UITZICHT_NEAR_KNYSNA_signed_871fb464-b342-4682-b044-1acb68b8e687
Attachments: N2_SEC_8_BUILDING_WORKS_ON_PORTION_16_OF_FARM_216, _UITZICHT_NEAR_KNYSNA_signed_871fb464-b342-4682-b044-1acb68b8e687.pdf; Plan for Uitzicht DIAGRAM 6-Site Development Plan.pdf

Good day

Please find attached letter for your attention.

Kind regards

René de Kock
Statutory Controller
Western Region
1 Havenga Street, Oakdale, Bellville, Western Cape, , 7530, South Africa
T: +27 21 957 4607
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Reference: W11/5/3-2/4-114
Date: 31 January 2024
Email: dekokcr@nra.co.za

Fax Number: +27 (0) 21 910 1699
Direct Line: +27 (0) 21 957 4600
Website: www.nra.co.za



Planning & Space
Town and Regional Planners
PO Box 2029
KNYSNA
6570

Email: Lundi@planningspace.co.za

Dear Sir/Madam

NATIONAL ROUTE 2 SECTION 8: CONSENT USE, DEPARTURE AND SITE DEVELOPMENT PLAN: REMAINDER OF PORTION 16 OF FARM NR 216, UITZICHT, KNYSNA

Thank you for your application dated 6 November 2023.

The South African National Roads Agency SOC Limited (SANRAL) herewith approves the above application in terms of Section 48 and Section 44 of The South African National Roads Agency Limited and National Roads Act, 1998 as indicated on Site Development Plan nr PTN16-F216, dated 3 May 2023 and Drawn by Planning & Space, subject to the following conditions:

1. Building restriction area

- 1.1 The structures shall be erected at a distance of not less than 60m measured from the national road reserve boundary.

2. Costs and indemnity

- 2.1 SANRAL shall not be involved in any expenditure in connection with and shall not be responsible or liable for:
- the erection of any structures
 - any financial expenditure or loss in the event of SANRAL ordering the removal or shifting or relocation of anything related to this approval.
 - any financial responsibility or liability for any claim from the applicant which may occur from the lapsing of the approval.

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Email info@sanral.co.za | Visit us at www.sanral.co.za

Directors: Mr T Mhambi (Chairperson), Mr R Demana (CEO), Ms R Buthelezi, Mr R Haswell, Mr C Hlabisa, Mr E Makhubela, Mr T Matosa, Ms N Noxaka | Acting Company Secretary: Ms T Motha
Reg. No. 1998/009584/30. An agency of the Department of Transport.

Any further development on this property will be subject to SANRAL's approval.

Kindly note that this approval does not exempt the applicant from any other provisions of the above-mentioned or any other Act.

Yours Sincerely



.....
Mr R Cable
REGIONAL MANAGER

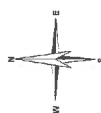
cc Route Manager: Riaan Davids - riaandavids@gunu.co.za

Engineer: Deon Louw deon@gaconsulting.co.za

Knysna Municipality: planning@knysna.gov.za

ID 23615686

SITE DEVELOPMENT PLAN - PORTION 16 OF FARM NO. 216



1:4000 (A3)



LEGEND:

	MAIN DWELLING		30 m BUILDING LINE
	FARM WORKERS DWELLINGS (+175m ²)		1 KM HIGH WATER MARK
	DAM		SERVITUDE ACCESS
	CROP CIRCLES		PLANTATIONS
	HYDROCROPS		ADDITIONAL DWELLINGS (+175m ²)
	FIRE ESCAPE ROUTE		

NOTES:

Contours at 2m intervals from aerial photography

LOCALITY PLAN :



PORTION 16 OF FARM UITZIGT NO. 216

DRW NR.: PTN16-F216

KNYSNA MUNICIPAL AREA

DATE : 3 May 2023

COPY RIGHT:

Planning Space
Town and Regional Planners



KNYSNA
Municipality
Munisipaliteit
uMasipala

LAND USE APPLICATION DEPARTMENT COMMENTS

Erf Number: 900216016
Application Type: Consent Use;Departure;Site Development Plan
Application Number: 2993
Application Date: 2024-01-18

Department	Comment Requested (T=Yes / F=No)	Comment Received
Corporate Services	F	
Legal Services	F	
Financial Services	F	
Community Services	F	
Fire Services	F	
Traffic	F	
Waste Removal	F	
Infrastructure Services	T	--oOo-- Tue Apr 16 2024 08:02:03 GMT+0200 (South Africa Standard Time) Comment by SASSM: Water Permits / licenses must ve obtained from Breede Gourits Catchment Management Agency. The Biolytix sewer system is acceptable.
Infrastructure Services Roads	F	
Infrastructure Services Sewer	F	
Electro Technical	T	--oOo-- Wed Apr 17 2024 16:35:50 GMT+0200 (South Africa Standard Time) System: No comments received from department
Housing	F	
Environmental Services	F	
Building Control	F	
Aesthetics Committee	F	
Street Naming Committee	F	

CONSENT USE, DEPARTURE & SDP APPROVAL APPLICATIONS ON PORTION 16 OF FARM 216 UITZICHT



RESPONSE TO COMMENTS AND OBJECTIONS RECEIVED 19 APRIL 2024

MUNICIPAL DEPARTMENTS

COMMENT FROM INFRASTRUCTURE SERVICES DATED 16 APRIL 2024

COMMENT	RESPONSE
Water permits must be obtained from Breede Gouritz Catchment Management Agency.	The farm will obtain water from rain harvesting only and will not draw water from a source. If this situation changes, the necessary permits will have to be obtained. Please see the addendum explaining how crop circles work.
The Biolytix sewer system is acceptable.	Noted.

COMMENT FROM ELECTRO TECHNICAL DATED 17 APRIL 2024

No comments were received from the department.	Noted, this is an Eskom supply area.
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COMMENT FROM ENVIRONMENTAL DEPARTMENT DATED 11 JUNE 2024

No objection to the land use application.	Noted.
We did a joint site inspection with SANParks after the owner purchased the property and advised on invasive plant management and the owner has been proactive in controlling invasive plants and restoration of portions of the farm through a burning regime and controlled re-vegetation.	Noted.
We are aligned with SANPark's comments.	See the attached response from SANParks.
The property was one of the biggest fire risks in the area, the planned activities will not only reduce fire risk, but they also promise to enhance ecological functioning on the farm.	Noted.

AUTHORITIES

OBJECTION FROM WESTERN CAPE GOV. DEPT. OF AGRICULTURE DATED 02 APRIL 2024

The property is ±32.7 ha and therefore may apply for a maximum of three additional dwelling units of up to 175 m ² each. These additional dwelling units must also be clustered.	The Knysna Zoning Scheme By-Law allows a maximum of 4 additional dwellings for farm portions between 30ha and 40ha in size and will comply with the 175m ² size limitation. As indicated on the SDP submitted, the
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	additional dwellings are clustered in the eastern section of the property.
The number of bonafide agricultural worker's houses must be directly linked to the type of farming activities. However, one in all cases is permitted.	Noted.
Currently, there are no intensive agricultural activities that justify additional agricultural worker's houses.	Noted, it is the intention to develop the farming activities in phases, with the construction of only one dwelling with associated agricultural infrastructure at a time. As the agricultural concept as described in the motivation report grows, more units can be built.
The bona-fide agricultural worker's houses must be motivated at the land of the aforesaid agricultural activities.	Acknowledged. As mentioned above, the primary objective of this application is not to determine the number of agricultural units without any agricultural activity, but rather to lift the restriction relating to the 1 km from the high watermark so that the farm owner can construct agricultural worker's accommodation as needed to support the future agricultural activities. In order to avoid submitting a lengthy departure application for each new worker's residence, this application seeks to obtain a general lifting of the 1km restriction.
The farm appears to be all virgin land and will require consents in terms of NEMA and The Conservation of Agricultural Resources Act No. 43 of 1983 to be cultivated.	The farm is not virgin land as it has been used for extensive forestry practice since the 1940s and invoices obtained from transporters indicate that at a time already, 40-year-old trees, were harvested on the property. The owner is in the process of obtaining the necessary authorisations from the Department of Environmental Affairs.
No further agricultural worker's houses should be permitted until cultivation permits are issued.	Noted. The permits are in the process of being obtained.
The average farm worker's house is between 40 – 80 m ² .	The Knysna Zoning Scheme By-Law does not restrict farm worker's accommodation and the WESTERN CAPE: LAND USE PLANNING GUIDELINES: RURAL AREAS (2019) recommends a maximum floor area of 175m ² for farm worker accommodation and it is proposed that this norm will be applied.
There are no cultivated areas on the property, therefore the Department cannot support the application for agri-worker houses.	The nature of the proposed agricultural activity requires workers in order for it to be created. Presently there is a permanent team that is working on alien clearing. If the

	municipality does not permit the lifting of the 1km restriction, the farmer cannot implement the concept of crop circles and hydroponics on the land. It is pointless to create an agricultural network if no one is allowed to stay on the land and look after the crops. The Agri houses will be constructed at the same time as the crop circles and hydroponic infrastructure is prepared.
COMMENT FROM SANRAL DATED 31 JANUARY 2024	
SANRAL approves the application subject to the following conditions:	
Structures shall be erected at a distance of 60m measured from the national road reserve boundary.	Accepted, there are no structures planned within 60m from the National Road.
SANRAL shall not be involved in any expenditure in connection with and shall not be responsible or liable for:	
The erection of any structures.	Accepted.
Any financial expenditure or loss in the event of SANRAL ordering the removal, shifting, or relocation of anything related to this approval.	Accepted.
Any financial responsibility or liability for any claim from the applicant that may occur from the lapsing of the approval.	Accepted.
Any action taken by the applicant in connection with the approval shall be regarded as an acceptance and compliance with the conditions including the indemnity.	Accepted.
This approval shall lapse: unless the structures are completed within a period of 12 months from the date of approval.	The planned structures are unlikely to all be constructed within 12 months from the date of the approval as the concept includes the phasing of the project over time. SANRAL will be informed of progress made and any extensions of time will be duly communicated with them.
Failure to comply with the conditions will result in the lapsing of the approval.	Noted.
This approval shall bind any successor-in-title to the land on which the structures have been established.	Noted.
This approval does not exempt applicants from the provisions of any other Act.	Noted.
No direct access to or egress from the national road will be permitted.	Accepted.
The existing access from the N2 at km 21.4E must be permanently closed. Access will be obtained via Brenton	Accepted.

Divisional Road which gains access over Portion 15 of Farm No. 216 via a servitude road.	
No free-standing advertising signs will be allowed in terms of the Regulations of Advertising on or visible from the National Road as published in Government Gazette No. 6968 dated 22 December 2000.	Accepted.
OBJECTION FROM SANPARKS DATED 03 APRIL 2024	
Point 1 - Environmental Legislation Context Portion 16, Uitzicht 216 falls within the Coastal Protection Zone, as portions of the property are within 1km of the high-water mark.	Noted.
ICMA requires that activities that are potentially harmful to the coastal zone are considered part of the NEMA: EIA process.	The owner has appointed an Environmental Consultant who will be applying for the necessary authorisations.
SANParks is of the opinion that the following activities may be triggered: Listing Notice No. 1 Activity 27 [the clearance of an area of 1 hectare or more, but less than 20 hectares of Indigenous vegetation.	Noted, see above.
Listing Notice No. 3 Activity 12 [the clearance of an area of 300 m ² or more of Indigenous vegetation except where such clearance of Indigenous vegetation is required for maintenance, undertaken according to a maintenance management plan.	The activity of removing more than 300 m ² or more of indigenous only applies to areas stipulated and it is submitted that the planned activity will not trigger any listed activity. (this will need to be verified by the DEA).
Within any critically endangered or endangered ecosystem.	The southern section of the site has been identified as Critically Endangered, but a Botanical Assessment is currently underway and will confirm this.
Within critical biodiversity areas identified in bioregional plans.	Very small portions of the site have been identified as Critically Endangered and the Site Plan has specifically excluded these areas from any agricultural activity.
Within the littoral active zone or 100 meters inland from the high-water mark.	The site is not within 100m of the high-water mark.
On land where, at the time of coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning.	The entire site has been used as a plantation since the 1940ties and has been zoned for Agricultural purposes and designated in sequential Guide Plans and Structure Plans and

On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner.	Spatial Development Frameworks for agriculture / Forestry purposes.
Listing Notice No. 3 Activity 6 [The development of resorts, lodges, hotels, [and] tourism or hospitality facilities that sleeps 15 people or more.	The application states that the units will be rented out for short- or long-term rental. At least 1 of the units will be occupied by family members and the other 3 will not sleep more than 12 people in total.
Applicant states that the 4 additional dwellings will be rented out, i.e., 4 x 2- bedrooms, sleeping 4 each = 16 people.	
Confirmation is required from the applicable Competent Authority on the need for an Environmental Authorisation for the proposed development application.	An Environmental Consultant has been appointed to complete the checklist that needs to be sent to DEA to request confirmation.
Outeniqua Sensitive Coastal Area Extension Regulations An OSCAE permit is required in terms of the OSCAE Regulations	Noted, an OSCAE permit was issued for clearing according to the Fire and Alien Control Plan. Further permits will be applied for at the Building Plans stage for each of the planned buildings.
Items (i) and (ii) may be applicable to the proposed application. Confirmations from the Knysna Municipality Environmental Management Department are required on the need for an OSCAE permit.	Noted.
Water Use Licence Application During a site inspection, it was observed that Avocados have already been planted and that water storage tanks are on the property in proximity to the Avocados.	There is a small avocado plantation already established. The owner confirmed that the boreholes will only be used for household consumption and no irrigation of Avo's was done. The tanks observed were used as a water source when alien clearing lines were burnt and have since been moved to the highest point on the property for better water pressure for all the planned houses.
It is unclear if water abstraction is occurring from the nearby stream/dam for the irrigation of the Avocados or if water is being transported in.	No water is transported from a stream or a dam. This dam was only found after aliens were removed and does not capture water from a stream and only collects natural runoff from rain/stormwater.
It is stated that the property has no bulk services and that boreholes will be used for irrigation.	A new borehole has been put in place on the same spot where previous drilling was done. Water from the borehole will be for household use. No irrigation from boreholes is needed as calculations indicate that the minimal water use of crop circle farming can be accommodated by rooftop collection.
If the farming operation is deemed commercial, Section 21 (a) of the National Water Act No. 36 of 1998 may be	Noted.

applicable and a Water Licence Application may be necessary.	
The construction of any new dams on the property may further trigger Section 21 (b): 'Storing water'	Noted. No new dams are planned at this stage.
Confirmation from the Breede-Olifants Catchment Management Agency (BOCMA) on the need for a WULA is required.	This will be dealt with during the EIA process.
CARA Application SANParks is of the opinion that the Conservation of Agricultural Resources Act No. 43 of 1983 may be applicable and that a CARA application is required.	Agriculture has already confirmed that an application will be required. This will be dealt with separately from the land use application currently under consideration.
This is due to potential soil erosion and slope steepness, particularly where Avocados and Macadamias are proposed on slopes >30%. Confirmations from relevant authorities are required.	Noted, the EIA process will assess the potential impact that the planned orchards will have, bearing in mind that the steep terrain has been planted with pine and eucalyptus trees for more than 80 years.
Point 2 – Hydrological & Estuarine Sensitivity The property is highly sensitive to potential hydrological and estuarine negative impacts due to its inherent characteristics.	It must be emphasised that the proposed Site Development Plan will have a conservation outcome where at least 86% of the land will be rehabilitated to a natural or near-natural form, a process that has been ongoing since the new owners bought the property. In the past, more than 90% of the site was under commercial plantation. The planned orchards will only consume approximately 9% of the land, as indicated in the Site Development Plan.
There is a significant concern pertaining to the water quality and quantity entering the Knysna Estuary associated with sewage disposal/treatment and increased hard surfaces relating to Avocados and Macadamias farming operations.	"Biological wastewater treatment systems" such as Biolitix will be implemented and have been proven to be environmentally friendly. The system uses natural processes, reducing the need for chemicals and energy-intensive treatments. It helps in recycling natural nutrients back into the soil, promoting a healthier ecosystem. SANPARKs should be more concerned about more eminent threats to the quality of the lagoon that an orchard situated almost a kilometre from the lagoon, such as the municipal waste transfer station right on the lagoon and polluted stormwater from surrounding streets and settlement that dispose straight into the lagoon.
Point 3 – Biodiversity Value Even though the property is degraded and invaded with alien vegetation, it is legally mapped to contain Critically	Only a small portion is mapped as a "Critical Biodiversity Area" and that section forms part of the conservation area footprint. A Botanical Assessment will determine if there are any pockets

Endangered Knysna Sand Fynbos and CBAs in its northeastern sector.	of natural vegetation that can be successfully rehabilitated, and these areas will be identified as part of the conservation area.
Research has proved that, due to strong seed banks in the soil, fynbos readily recover after clearing alien vegetation.	Research has not been done on this specific property. It is the intention to rehabilitate more than 86% of the farm back to a near-natural state.
The river corridor is important for landscape functionality, and connectivity, enabling animal movement.	Noted, the river corridor forms part of the conservation area.
SANParks suggests the landowner explore Biodiversity Stewardship Agreement options to protect biodiversity, enhance river corridor restoration, and improve landscape functionality and connectivity.	The landowner is open to a stewardship agreement, but the question is with whom? The entire farm is surrounded by commercial Pine Plantation. Membership with the South Cape Fire Protection is already in place and the owner is also a member of the Garden Route Environmental Forum as well Southern Cape Landowners Association.
Such an agreement must be written as a condition of approval for the Land Use Application.	The Municipality is not in a position to set out conditions that are based on a third-party signing an agreement.
Point 4 – Land Use Application SANParks has no objection to item (i) of the Land Use Application.	Noted. SANParks supports the additional dwellings.
SANParks has no objection to item (ii) of the Land Use Application.	Noted. SANParks supports the farmworker's accommodation.
However, since these units are proposed within the 1km high-water mark, care must be exercised with sewage and wastewater treatment and disposal.	Accepted.
Hard surfaces must be kept to a minimum.	Accepted.
There is concern over the number of farm worker's accommodation units as they may be excessive when combined with the total number of dwellings that are being applied for on the property.	Noted. Not all the farmworker's accommodations will be implemented at once, but only as needed.
Confirmation of the permissible number of units must be sought from the Knysna Municipality.	The municipality is the final decision maker, and they will consider the application and decide on the final number.
SANParks has no objection to item (iii) of the Land Use Application.	Noted. SANParks support the proposed Site Development Plan.

SANParks is in support of the proposed 250 m ² -350 m ² of crop circles per farmer and vertical greenhouses, associated with the farm workers' accommodation.	Noted.
SANParks objects to the planting of Avocados and Macadamias.	SANParks's concern about the type of agricultural activity is noted. The proposal is currently being assessed by all the relevant specialists and if found to be unacceptable, alternative agricultural activities such as cattle and game farming will be explored.
Concern over proposed planting blocks that are situated mostly on steep erodible slopes and the activity has commenced prior to approval.	The agricultural footprint for the houses and the crop circles will be limited to slopes of 25% or less but the planned orchids will be on steeper slopes, no different to the current plantation.
Point 5 – Summary and Way Forward SANParks is supportive of the concept of a diversified mixed Agri-forestry-eco-tourism land use development model, where sustainable agricultural, environmental, and conservation practices and education are promoted.	Noted.
The site is in a neglected state, any rehabilitation efforts and wildlife corridor enhancements will have a positive impact.	Agreed.
Portion 16/216 falls within the Coastal Protection Zone and in terms of ICMA, activities that are potentially harmful to the coastal zone must be considered as part of a NEMA EIA process.	Noted.
SANParks is of the opinion that the activities proposed for Portion 16 may trigger various environmental legislations: NEMA: EIA Regulations, OSCAE permit, NWA: WULA, CARA.	Noted.
An EIA process would facilitate specialist studies, a more thorough analysis of issues, and a transparent public participation process.	Underway.
Proposed activities should be carried out with sensitivity, minimising impact, and aligning with the surrounding landscape, thereby promoting conservation efforts in the region.	Noted.
It is recommended that landscape connectivity corridors are restored, and the landowner investigate potential formal or informal Biodiversity Stewardship Agreement options, this should be a condition of approval for the LUA.	Accepted.

It is recommended that the following conditions are considered, pertaining to the construction of new dwellings, crop circle areas, and the remainder of the property: The design of buildings and/or structures is to blend into the natural landscape.	Accepted, although we do not believe it is within the mandate of SANParks to describe building design.
No visually intrusive buildings and/or structures are to be erected.	Accepted.
An indigenous plant rescue operation should be conducted prior to site clearance.	Accepted.
Topsoil should be set aside for reuse.	Accepted.
Care should be taken during construction activities to limit soil erosion.	Accepted.
Permeable paving surfaces should be used where possible to limit excess surface run-off.	Accepted.
Fencing post-construction should only be erected to surround the dwellings, if required (not along the property boundary), to allow wildlife movement and connectivity in the landscape on the remainder of the property.	The property is fenced historically and will remain so.
Reduced and low lighting should be incorporated in the design to prevent night light pollution.	Accepted.
The owner should consider using non-flammable building materials, including external fittings such as aluminum gutters, and should consider an irrigation system to mitigate fire risk.	Accepted.
Compliance with the National Veld and Forest Fire Act (Act 101 of 1998) is required.	Noted.
The owner should join the local Fire Protection Association, if not already a member.	The landowner is already a member of the local Fire Protection Association.
The landowner's attention is drawn to the National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004) (NEM: BA) Alien and Invasive Species Regulations, 25 September 2020, where a landowner is legally responsible for the removal of alien vegetation on their property.	Since the property was bought, the landowner has made a concerted effort to systematically clear the land of alien invasion. At least 70% of land is already cleared of aliens at least once. This is however an ongoing and expensive process. Diversifying the economic base of the land is necessary for the sustainability of the project.

The owner should formalise an Invasive Alien Vegetation Control Plan as required by the NEM: BA.	The owner has submitted an Invasive Alien Vegetation Control Plan to the Municipality and has obtained an OSCAE permit for the clearing of alien vegetation in terms of this plan.
A permit from the Department of Forestry, Fisheries & the Environment (DFFE) must be attained should any protected tree species be disturbed on the property, as per the National Forests Act, 84 of 1998, as amended.	The landowner is a member of the local Fire Protection Association.
Should any resources of suspected heritage value be uncovered during clearing, Heritage Western Cape (HWC) must be contacted immediately for instructions.	Noted.
OBJECTION FROM WESTERN HEADS/GOUKAMMA CONSERVANCY DATED 29 FEBRUARY 2024	
The WHGC objects to the application.	
Environmental Assessment The application does not specify the "Disturbance Footprints" of the various development proposals.	Attached please find a revised Site Development Plan indicating the disturbance footprint of the various activities planned on the site.
The combined development proposal footprint will exceed the 300 m ² disturbance.	Noted.
Watercourses, Sewer Disposal and Water use All the footprints are within water courses and a wetland delineation study will be required. Inadequate sewage disposal plan.	The footprints are not in the watercourse and are in fact on the flatter high-lying areas of the property. The objector's statement that the sewer system is inadequate is not substantiated.
The indicated "historical dams" and proposed commercial Avocado and Macadamia farming activities require water use authorisation (WUA).	See previous comment on water use.
Commercial Avocados and Macadamia farming Even though the property is zoned Agriculture Zone I, it is not a normal agriculture property as it falls on a CBA area and has extremely high conservation value	Most of the property does not fall within a CBA. The property has never in any forward planning documents been identified as having an extremely high conservation value. Due to the long history of plantations on the property and surrounding properties, these areas have always been identified as productive agricultural/forestry purposes. In the 2017 SDF, it has even been identified as a transitional area where certain developments may take place.

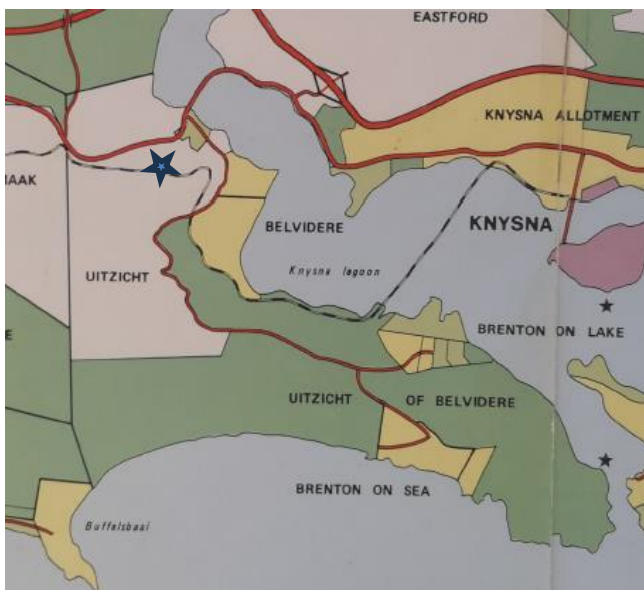


Figure 1: Knysna Wilderness Plett Guideline indicates the area as Agriculture/ Forestry.

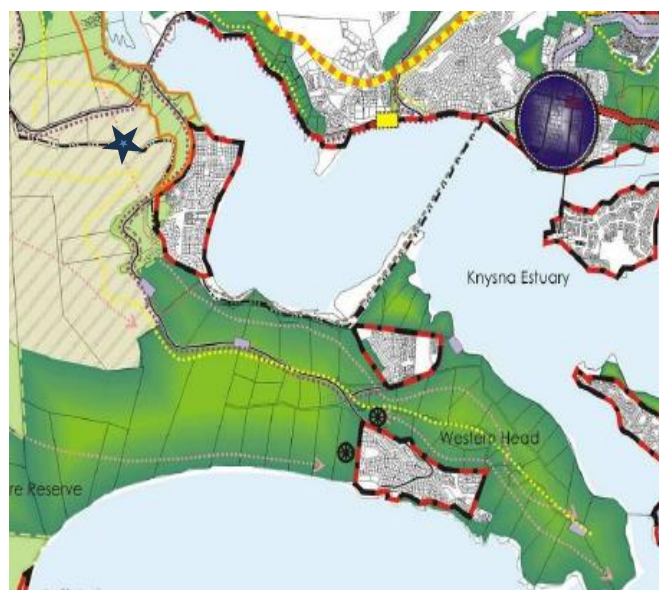


Figure 1: 2008 SDF indicates the property as a Core Productive area.



Figure 3: The 2017 SDF indicated the area as a "Transitional Area".



Figure 4: Current Knysna SDF earmarks the area for forestry purposes.

Protected trees

The application is silent regarding the licenses required in terms of Section 15 (91) of the National Forests Act No. 84 of 1998, as amended.

It is not the intention to remove any indigenous or protected trees. These trees are only found in the areas earmarked for forest regeneration and conservation.

Invasive aliens

The property is infested with invasive alien plants.

Noted.

The property could not have been sold or transferred with the invasive alien plants present unless there is an agreement

The new owners bought this property unaware of any such legal requirement and there was never any agreement relating to funding for rehabilitation.

that makes available “budget/funding” for the rapid eradication of the invasive alien plants.	
Titel Deed The title deed of the property is omitted.	The title deed was submitted as part of the application, but the full documentation may not have been sent to all the affected parties.
The title deeds of the Uitzicht portions need to be considered in the application as they contain aspects that govern land-use aspects.	There are no conditions in the title deed that prohibit agricultural activity on the farm.
Summary The property contains fauna and flora of high conservation concern, any loss of these species and habitats is unacceptable.	A biodiversity study will confirm this.
This property forms part of important wildlife corridors in the Western Heads and the Knysna Estuary to the sea.	Any wildlife corridors identified through the EIA phase will be protected and will form part of the conservation footprint.
Valuable input and/or support for the application from conservation bodies such as SANParks and Cape Nature were omitted.	The application was circulated to them and comment from SANRAL has been received.
The WHGC supports: a main dwelling and a manager's house (second dwelling)	Noted.
The proposed positions of the dwellings and disturbance footprint need to be supported by an EIA.	An EIA is underway.
The second dwelling area will only be supported if it is located outside the coastal protection zone.	The second dwelling they refer to is assumable the manager's house which is presently within the 1km line.
Only low impact biodiversity sensitive land uses.	We believe that the planned agricultural activity is low-impact and biodiversity-sensitive. In addition, the intention is to use only a very small portion of the farm for these activities while the rest of the farm is actively being rehabilitated.
The WHGC objects to: ➤ Consent to allow 4 additional dwellings. ➤ Granting consent to waive the development parameter that prohibits farm workers' accommodation within 1 km from the high-water mark of the sea or tidal river. ➤ Approval of a Site Development Plan	Noted.
The WHGC requires the applicant to: execute the required Environmental Authorisations and studies that will inform and	The process is underway.

guide the land-use possibilities and point out the ecological sensitivities of the property.	
Submit a complete land use application supported by an EIA that covers all the aspects indicated on the Site Development Plan.	The land use application will be amended to include the findings of the EIA.
Manage the property as per WCBSP management objectives for a CBA.	Small areas on the property have been earmarked as a CBA, although covered in Pine and Eucalyptus.  Figure 2: The northeastern area is the only area earmarked as CBA. There are also some areas that have been indicated as “Degraded CBA” areas that will be rehabilitated, and the planned agricultural footprint mostly excludes those areas. The farm as a whole will be managed to protect these areas. It should however be kept in mind that the property is zoned for Agriculture 1 purposes and has been cultivated for forestry purposes since the 1940ties. The property has never been regarded as conservation-worthy and has not been part of the conservation footprint of the area. The landowner has a primary right to farm the land and has a legitimate expectation to exercise the right. The zoning also aligns with the spatial planning proposals contained in the SDF.
As a matter of urgency, eradicate the Invasive Alien Plants as per allocation in the sales agreement as the property could not have been sold with IAP present.	The owner has been actively eradicating aliens from the land without any funding from any previous owner or government organisation or any conditions in the sales agreement.



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Private Bag X 447· PRETORIA 0001· Environment House 473 Steve Biko Road, Arcadia· PRETORIA

DFFE Reference: 14/12/16/3/3/1/3049
Enquiries: Ms Zamalanga Langa
Telephone: (012) 399 9389 **E-mail:** zlanga@dff.gov.za

Mr Jan Van der Westhuizen
Umthiqua (Pty) Ltd
9 Geelhout Street
Brenton on Sea
KNYSNA
6571

Telephone Number: 083 468 6750
Email Address: jan@experttech.com

PER EMAIL / MAIL

Dear Mr Van der Westhuizen

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, ACT NO. 107 OF 1998, AS AMENDED: FOR THE DEVELOPMENT OF UMTHIQUA AGROFORESTRY, REGENERATIVE FARMING & TOURISM FACILITY ON PORTION 16 OF FARM 216 UITZIGT IN THE KNYNSA MUNICIPAL AREA OF THE GARDEN ROUTE DISTRICT MUNICIPALITY IN THE WESTERN CAPE PROVINCE.

With reference to the above application, please be advised that the Department has decided to grant authorisation. The Environmental Authorisation (EA) and reasons for the decision are attached herewith.

In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014, as amended (the EIA Regulations), you are instructed to notify all registered interested and affected parties, in writing and within fourteen (14) days of the date of the decision as well as the provisions regarding the submission of appeals that are contained in the Regulations.

In terms of the Promotion of Administrative Justice Act, Act No. 3 of 2000, you are entitled to the right to fair, lawful and reasonable administrative action; and to written reasons for administrative action that affects you negatively. Further your attention is drawn to the provisions of the Protection of Personal Information Act, Act No. 4 of 2013 which stipulate that the Department should conduct itself in a responsible manner when collecting, processing, storing, and sharing an individual or another entity's personal information by holding the Department accountable should the Department abuse or compromise your personal information in any way.

Your attention is drawn to Chapter 2 of National Environmental Management Act, Act No. 107 of 1998 National Appeal Regulations published under Government Notice R993 in Government Gazette No. 38303 dated 08 December 2014 (National Appeal Regulations, 2014), which prescribes the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2014) with the letter of notification to interested and affected parties in this matter.



Batho pele- putting people first



The processing of personal information by the Department of Forestry, Fisheries and the Environment is done lawfully and not excessive to the purpose of processing in compliance with the POPI Act, any codes of conduct issued by the Information Regulator in terms of the POPI Act and / or relevant legislation providing appropriate security safeguards for the processing of personal information of others.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Department, whichever is applicable.

Appeals must be submitted in writing in the prescribed form to:

The Director: Appeals and Legal Review of this Department at the below mentioned addresses.

By email: appeals@dffe.gov.za

By hand: Environment House
473 Steve Biko
Arcadia
Pretoria
0083

or

By post: Private Bag X447
Pretoria
0001

Please note that in terms of Section 43(7) of the National Environmental Management Act, Act No. 107 of 1998, as amended, the lodging of an appeal will suspend the environmental authorisation or any provision or condition attached thereto. In the instance where an appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at https://www.environment.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appeals@dffe.gov.za

Yours faithfully



Dr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment

Date: 24/03/2025

cc:	Ms Melissa Mackay	r3green	Email:	r3green@outlook.com
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Batho pele- putting people first

DFFE Reference: 14/12/16/3/3/1/3049

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, ACT NO. 107 OF 1998, AS AMENDED: FOR THE DEVELOPMENT OF UMTHIQUA AGROFORESTRY, REGENERATIVE FARMING & TOURISM FACILITY ON PORTION 16 OF FARM 216 UITZIGT IN THE KNYSNA MUNICIPAL AREA OF THE GARDEN ROUTE DISTRICT MUNICIPALITY IN THE WESTERN CAPE PROVINCE.



forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Environmental Authorisation

In terms of Regulation 25 of the Environmental Impact Assessment Regulations, 2014, as amended

The development of Umthiqua Agroforestry, Regenerative Farming & Tourism Facility on Portion 16 of Farm 216 Uitzigt in the Knysna Municipal area in the Western Cape Province.

Garden Route District Municipality

Authorisation register number:	14/12/16/3/3/1/3049
Last amended:	First issue
Holder of authorisation:	Umthiqua (Pty) Ltd
Location of activity:	Portion 16 Farm 126 Uitzigt; Within Ward 5, Knysna Local Municipality; Garden Route District Municipality; Western Cape Province

This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.

Decision

The Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this Environmental Authorisation, that the applicant should be authorised to undertake the activities specified below.

Non-compliance with a condition of this Environmental Authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, Act No. 107 of 1998, as amended and the EIA Regulations, 2014, as amended.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

Activities authorised

By virtue of the powers conferred on it by the National Environmental Management Act, Act No. 107 of 1998, as amended and the Environmental Impact Assessment Regulations, 2014, as amended, the Department hereby authorises –

UMTHIQUA (PTY) LTD

(hereafter referred to as the **holder of the authorisation**)

with the following contact details –

Mr Jan Van der Westhuizen
Umthiqua (Pty) Ltd
09 Geelhout Street
Brenton on Sea
Knysna
6571

Cell phone: 083 468 675
Email Address: jan@experttech.com

to undertake the following activities (hereafter referred to as “the activity”) indicated in Listing Notice (LN) 1 and Listing Notice 3 of the EIA Regulations, 2014 as amended:

Activity number	Activity description
<u>LN 1, Item 27:</u> <i>“The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation.....”</i>	The proposed development will exceed the clearance of 1ha of vegetation but will be less than 20ha (total development footprint is ±5ha). Since the commercial plantation activities ceased more than 10 years ago, and despite the severe infestation of alien invasive vegetation, in terms of NEMA, the area is deemed to be “indigenous vegetation”.
<u>LN 1, Item 28:</u> <i>“Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</i> <i>(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare; excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.”</i>	The applicant is proposing mixed tourism, game farming and agricultural use on the property. The property is located outside the urban edge of Knysna. The development size in total will be ±5ha with the reminder of the property restored to locally indigenous vegetation. The property was previously a blue gum and pine plantation. It has not been actively used as such for over 10 years.
<u>LN 3, Item 06:</u> <i>The development of resorts, lodges, hotels, tourism or hospitality facilities that sleeps 15 people or more.</i> <i>i. Western Cape</i> <i>i. Outside urban areas;</i>	The applicant is proposing four (4) tourism use cottages which could sleep an estimated 16 pax or more. The property is located outside the urban edge of Knysna, on the western side of the Knysna Estuary and the

(bb) Within 5km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve;	Knysna Section of the Garden Route National Park. The location of the units is not in a mapped CBA.
<u>LN 3, Item 12:</u> <i>"The clearance of an area of 300 square metres or more of indigenous vegetation"</i> i. Western Cape i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;	The total development footprint is ±5ha in total. According to the SANBI maps, the property is considered to contain Garden Route Shale Fynbos (EN) and Knysna Sand Fynbos (CR). The extent of the alien invasives and previous plantation history of the property has transformed the vegetation on site significantly. The applicant intends restoring the remainder of the property to reflect the locally indigenous vegetation. The location of the development footprint is not in a mapped CBA. The property is located within the Knysna Protected Environment (previously Knysna Lakes Area).

as described in the Basic Assessment Report (BAR) dated November 2024

Farm Name:

- Portion 16 of Farm 216 Uitzigt

SG 21 Codes:

C	0	3	9	0	0	0	0	0	0	0	0	0	0	2	1	6	0	0	0	1	6
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Coordinates:

Property/ies boundary		
	Latitude	Longitude
NW	34° 02' 12.61"	22° 58' 58.65"
SW	34° 02' 22.43"	22° 58' 59.29"
SE	34° 02' 20.58"	22° 59' 34.09"
NE	34° 02' 08.79"	22° 59' 29.02"
Proposed land uses for Alternative 3		

Tourism Unit 1	34° 02' 17.50"	22° 59' 01.97"
Tourism Unit 2	34° 02' 18.48"	22° 59' 03.20"
Tourism Unit 3	34° 02' 19.42"	22° 59' 01.90"
Tourism Unit 4	34° 02' 18.20"	22° 59' 01.08"
Main Dwelling	34° 02' 14.70"	22° 59' 29.10"
Managers Unit 1	34° 02' 15.74"	22° 59' 17.27"
Hydrocrops	34° 02' 15.87"	22° 59' 16.76"
Cropcircle 1	34° 02' 15.03"	22° 59' 15.69"
Cropcircle 2	34° 02' 15.43"	22° 59' 16.50"
Cropcircle 3	34° 02' 15.84"	22° 59' 18.06"
Worker Unit 2	34° 02' 16.07"	22° 59' 14.98"
Hydrocrops	34° 02' 15.56"	22° 59' 14.69"
Cropcircle 1	34° 02' 16.76"	22° 59' 12.79"
Cropcircle 2	34° 02' 16.41"	22° 59' 13.39"
Worker Unit 3	34° 02' 17.40"	22° 59' 07.96"
Hydrocrops	34° 02' 17.53"	22° 59' 07.49"
Cropcircle 1	34° 02' 17.79"	22° 59' 06.99"
Cropcircle 2	34° 02' 17.96"	22° 59' 07.91"
Cropcircle 3	34° 02' 16.01"	22° 59' 20.00"
Cropcircle 4	34° 02' 15.93"	22° 59' 21.78"
Worker Unit 5	34° 02' 20.57"	22° 59' 28.73"
Hydrocrops	34° 02' 18.88"	22° 59' 29.18"
Cropcircle 1	34° 02' 20.13"	22° 59' 28.07"
Cropcircle 2	34° 02' 20.22"	22° 59' 29.46"
Helipad	34° 02' 15.95"	22° 59' 14.35"
Macadamia field		
W	34° 02' 16.75"	22° 58' 04.38"
E	34° 02' 15.56"	22° 58' 14.09"
N	34° 02' 14.99"	22° 58' 10.54"
S	34° 02' 16.53"	22° 58' 09.01"
Avocado field		
W	34° 02' 20.85"	22° 58' 13.71"
E	34° 02' 21.00"	22° 58' 27.32"

S	34° 02' 21.97"	22° 58' 25.41"
N	34° 02' 19.96"	22° 58' 22.97"

- for the development of Umthiqua Agroforestry, Regenerative Farming & Tourism Facility on Portion 16 of Farm 216 Uitzigt, within Ward 5 of the Knysna Municipality, Garden Route District Municipality in the Western Cape Province hereafter referred to as "the property".

The project component

- ±3ha of dryland (no irrigation), regenerative orchard / agroforestry (macadamias & avocados).
- ±0.25ha of raised crop circle agriculture.
- 6 dwellings (1 x main (±450m²), 1 x manager (±175m², 4 x farm workers (±700m²).
- Grassed helipad.
- 4 x tourism cottages (±700m²).
- The remainder of the property will be restored to indigenous vegetation and will allow for a small game component.
- No additional roads will be constructed.
- Each unit will be equipped with solar energy, supplemented by gas for cooking and geysers.
- Septic tanks or soak-aways are generally used in the area but more environmentally friendly domestic wastewater treatment solution is available in the form of biolytic systems.

Conditions of this Environmental Authorisation

Scope of authorisation

1. The layout alternative 3 for the development of Umthiqua Agroforestry, Regenerative Farming & Tourism Facility on Portion 16 of Farm 216 Uitzigt, located within Ward 5 of the Knysna Municipality of the Garden Route District Municipality in the Western Cape Province approved as per the geographic coordinates cited in the table of co-ordinates above.
2. Authorisation of the activity is subject to the conditions contained in this Environmental Authorisation, which form part of the Environmental Authorisation and are binding on the holder of the authorisation.
3. The holder of the authorisation is responsible for ensuring compliance with the conditions contained in this Environmental Authorisation. This includes any person acting on the holder's behalf, including but not limited to, an agent, servant, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the authorisation.
4. The activities authorised may only be carried out at the property as described above.
5. Any changes to, or deviations from, the project description set out in this Environmental Authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further Environmental Authorisation in terms of the regulations.
6. The holder of an Environmental Authorisation must apply for an amendment of the Environmental Authorisation with the Competent Authority for any alienation, transfer or change of ownership rights in the property on which the activity is to take place.
7. This activity must commence within a period of ten (10) years from the date of issue of this Environmental Authorisation. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for Environmental Authorisation must be made in order for the activity to be undertaken.
8. Construction must be completed within five (05) years of the commencement of the activity on site

Notification of authorisation and right to appeal

9. The holder of the authorisation must notify every registered interested and affected party, in writing and within 14 (fourteen) calendar days of the date of this Environmental Authorisation, of the decision to authorise the activity.

10. The notification referred to must –
 - 10.1. specify the date on which the authorisation was issued;
 - 10.2. inform the interested and affected party of the appeal procedure provided for in the National Appeal Regulations, 2014;
 - 10.3. advise the interested and affected party that a copy of the authorisation will be furnished on request; and
 - 10.4. give the reasons of the Competent Authority for the decision.

Commencement of the activity

11. The authorised activity shall not commence until the period for the submission of appeals has lapsed as per the National Appeal Regulations, 2014, and no appeal has been lodged against the decision. In terms of Section 43(7), an appeal under Section 43 of the National Environmental Management Act, Act No. 107 of 1998, as amended will suspend the Environmental Authorisation or any provision or condition attached thereto. In the instance where an appeal is lodged you may not commence with the activity until such time that the appeal has been finalised.

Management of the activity

12. The site layout plan as attached as Appendix 02 of the BAR titled "*Site Sensitivity Alternative 3: Portion 16 of Farm 216 Uitzigt Knysna*" (referenced 2024.0032) dated 26 November 2024 and the Site Development Plan attached under Appendix 04 titled "*Site Development Plan- Portion 16 of Farm 216 Uitzigt-Alternative 3 (DRW NR: PTN16-F216-REV2)*" for the development of Umthiqua Agroforestry, Regenerative Farming & Tourism Facility on Portion 16 of Farm 216 Uitzigt in the Knysna Municipal area of the Garden Route District Municipality in the Western Cape Province is approved.
13. The Environmental Management Programme (EMPr) "*for the development of Umthiqua Agroforestry, Regenerative Farming & Tourism Facility on Portion 16 of Farm 216 Uitzigt in the Knysna Municipal area of the Garden Route District Municipality in the Western Cape Province*" attached as Appendix 8 as part of the BAR dated November 2024 is approved and must be implemented and adhered to.
14. The EMPr must be implemented and strictly enforced during all phases of the project. It shall be seen as a dynamic document and shall be included in all contract documentation for all phases of the development when approved.
15. Changes to the approved EMPr must be submitted in accordance with the EIA Regulations applicable at the time.

16. The Department reserves the right to amend the approved EMPr should any impacts that were not anticipated or covered in the BAR be discovered.

Frequency and process of updating the EMPr

17. The EMPr must be updated where the findings of the environmental audit reports, contemplated in Condition 24 below, indicate insufficient mitigation of environmental impacts associated with the undertaking of the activity, or insufficient levels of compliance with the environmental authorisation or EMPr.
18. The updated EMPr must contain recommendations to rectify the shortcomings identified in the environmental audit report.
19. The updated EMPr must be submitted to the Department for approval together with the environmental audit report, as per Regulation 34 of the EIA Regulations, 2014 as amended. The updated EMPr must have been subjected to a public participation process, which process has been agreed to by the Department, prior to submission of the updated EMPr to the Department for approval.
20. In assessing whether to grant approval of an EMPr which has been updated as a result of an audit, the Department will consider the processes prescribed in Regulation 35 of the EIA Regulations, 2014 as amended. Prior to approving an amended EMPr, the Department may request such amendments to the EMPr as it deems appropriate to ensure that the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
21. The holder of the authorisation must apply for an amendment of an EMPr, if such amendment is required before an audit is required. The amendment process is prescribed in Regulation 37 of the EIA Regulations, 2014, as amended. The holder of the authorisation must request comments on the proposed amendments to the impact management outcomes of the EMPr or amendments to the closure objectives of the closure plan from potentially interested and affected parties, including the competent authority, by using any of the methods provided for in the Act for a period of at least 30 days.

Monitoring

22. The holder of the authorisation must appoint an experienced Environmental Control Officer (ECO) for the construction phase of the development that will have the responsibility to ensure that the mitigation/rehabilitation measures and recommendations referred to in this environmental authorisation are implemented and to ensure compliance with the provisions of the approved EMPr.
- 22.1. The ECO must be appointed before commencement of any authorised activities.

- 22.2. Once appointed, the name and contact details of the ECO must be submitted to the *Director: Compliance Monitoring* of the Department.
- 22.3. The ECO must keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.
- 22.4. The ECO must remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.

Recording and reporting to the Department

- 23. All documentation e.g. audit/monitoring/compliance reports and notifications, required to be submitted to the Department in terms of this environmental authorisation, must be submitted to the *Director: Compliance Monitoring* of the Department.
- 24. The holder of the environmental authorisation must, for the period during which the environmental authorisation and EMPr remain valid, ensure that project compliance with the conditions of the environmental authorisation and the EMPr are audited, and that the audit reports are submitted to the *Director: Compliance Monitoring* of the Department.
- 25. The frequency of auditing and of submission of the environmental audit reports must be as per the frequency indicated in the EMPr, taking into account the processes for such auditing as prescribed in Regulation 34 of the EIA Regulations, 2014 as amended.
- 26. The holder of the authorisation must, in addition, submit environmental audit reports to the Department within 30 days of completion of the construction phase (i.e. within 30 days of site handover) and a final environmental audit report within 30 days of completion of rehabilitation activities.
- 27. The environmental audit reports must be compiled in accordance with Appendix 7 of the EIA Regulations, 2014 as amended and must indicate the date of the audit, the name of the auditor and the outcome of the audit in terms of compliance with the environmental authorisation conditions as well as the requirements of the approved EMPr.
- 28. Records relating to monitoring and auditing must be kept on site and made available for inspection to any relevant and competent authority in respect of this development.

Notification to authorities

- 29. A written notification of commencement must be given to the Department no later than fourteen (14) days prior to the commencement of the activity. Commencement for the purposes of this condition includes site

preparation. The notice must include a date on which it is anticipated that the activity will commence, as well as a reference number.

Operation of the activity

30. A written notification of operation must be given to the Department no later than fourteen (14) days prior to the commencement of the activity operational phase.

Site closure and decommissioning

31. Should the activity ever cease or become redundant, the holder of the authorisation must undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and Competent Authority at that time.

Specific conditions

32. No activities will be allowed to encroach into a water resource without a water use authorisation being in place from the Department of Water and Sanitation.
33. Only 3ha of Macadamias/ Avocados must be planted and planting areas must not be enlarged and steep slopes must be avoided, and limited use of fertilizers and pesticides, and the regenerative agricultural concept is promoted.
34. No exotic plants may be used for rehabilitation purposes. Only indigenous plants of the area may be utilised.
35. A permit must be obtained from the relevant Department for the removal or destruction of indigenous, protected, or endangered plant or animal species (if any) and a copy of such permit/s must be submitted to the Department for record keeping.
36. Prior to construction of new phase or area, after the footprint of the development has been clearly demarcated, a Fauna Specialist should do a walk-through to look for signs of fauna with limited mobility and escape potential (i.e. tortoise, chameleon, etc.) with particular attention given to the Golden Mole SCC.
37. Should signs of fauna with limited mobility or an SCC be found within the demarcated area, a search and rescue operation must be undertaken to relocate fauna to a suitable location on the property. No construction must commence until the Fauna Specialist is satisfied that all fauna with limited mobility and/or SCC have been successfully removed from the demarcated footprint area.

38. For a small game component, the necessary applications and approvals must be obtained from CapeNature. Furthermore the small games to be introduced must be as per the comments received from SANParks.
39. Should any archaeological sites, artefacts, paleontological fossils or graves be exposed during construction work, work in the immediate vicinity of the find must be stopped, SAHRA must be informed, and the services of an accredited heritage professional obtained for an assessment of the heritage resources must be made.
40. Construction must include design measures that allow surface and subsurface movement of water along drainage lines so as not to impede natural surface and subsurface flows. Drainage measures must promote the dissipation of storm water run-off.
41. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste must be disposed of at a landfill licensed in terms of Section 20 (b) of the National Environment Management Waste Act, 2008 (Act No.59 of 2008).

General

42. A copy of this Environmental Authorisation, the audit and compliance monitoring reports, and the approved EMPr, must be made available for inspection and copying-
 - 42.1. at the site of the authorised activity;
 - 42.2. to anyone on request; and
 - 42.3. where the holder of the Environmental Authorisation has a website, on such publicly accessible website.
43. National government, provincial government, local authorities or committees appointed in terms of the conditions of this authorisation or any other public authority shall not be held responsible for any damages or losses suffered by the holder of the authorisation or his/her successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the holder of the authorisation with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Date of Environmental Authorisation: 24/03/2025


Dr Sabelo Malaza

Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment

Annexure 1: Reasons for Decision

1. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The listed activities as applied for in the application form received on 02 September 2024.
- b) The information contained in the BAR dated November 2024.
- c) The comments received from interested and affected parties as included in the BAR dated November 2024.
- d) The recommendations made by the Environmental Assessment Practitioner (EAP) in the BAR dated November 2024.
- e) Mitigation measures as proposed in the BAR and the EMPr.
- f) The information contained in the specialist studies contained within the appendices of the BAR dated November 2024 and as appears below:

Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below.

- a) The findings of all the specialist studies conducted and their recommended mitigation measures.
- b) The Umthiqua philosophy is to ensure environmentally sustainable agriculture that supports local ecosystems whilst providing a livelihood and food security for local communities. The entity is part of the Growing to Give initiative which promotes adopting drip irrigation, using drought-resistant crop varieties, and improving soil health to retain moisture.
- c) The BAR dated November 2024 identified all legislation and guidelines that have been considered in the preparation of the BAR.
- d) The location of the proposed project
- e) The methodology used in assessing the potential impacts identified in the BAR dated November 2024 and the specialist studies have been adequately indicated.
- f) A sufficient public participation process was undertaken, and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2014 as amended for public involvement.

2. Findings

After consideration of the information and factors listed above, the Department made the following findings -

- a) The identification and assessment of impacts are detailed in the BAR dated November 2024 and sufficient assessment of the key identified issues and impacts have been completed.
- b) The procedure followed for impact assessment is adequate for the decision-making process.
- c) The information contained in the BAR dated November 2024 is deemed to be accurate and credible.
- d) The proposed mitigation of impacts identified and assessed adequately curtails the identified impacts.
- e) EMPr measures for the pre-construction, construction and rehabilitation phases of the development were proposed and included in the BAR and will be implemented to manage the identified environmental impacts during the construction phase.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the authorised activities will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts resulting from the authorised activities can be mitigated to acceptable levels. The environmental authorisation is accordingly granted.

ITEM TO:

Municipal Planning Tribunal



APPLICATION NO.	3541
REPORT AUTHOR	Linda Mniki
JOB TITLE	Town Planner
SACPLAN REG. NO.	
TELEPHONE NO.	044-302-6383
APPLICATION DATE:	19 August 2025

LAND USE PLANNING REPORT
CONSENT USE: ERF 450 BELVEDERE

PART B: APPLICANT DETAILS

Name & Surname	Lloyd Druce
Company name	VBGD Town Planners
SACPLAN registration number	A/543/1987
Registered owner(s)	Robert Stanley Vadas

PART C: PROPERTY DETAILS

Property description	Erf 450 Belvedere, in the Municipality of Knysna, Province of the Western Cape
Property Extent (m ²)	1,510
Physical address	C/o Page Close & Lower Duthie Avenue
Area/Town	Belvedere
Current zoning	Single Residential Zone I
Applicable zoning scheme	Knysna Zoning Scheme By-law (2020)
Current land use	Dwelling house
Are there existing buildings on the property?	Yes
Title Deed number & date	T60657/2016 dated 21 June 2016
Any restrictive title conditions applicable?	None
Any third party conditions applicable?	None
Any unauthorised land use/building work	None
Pre-Application Consultation	Yes

1. APPLICATION DESCRIPTION

The application is for consent use in terms of Section 15(2)(o) of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021) for a "second dwelling" measuring greater than 60m² as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020), in respect of Erf 450, Belvedere.

2. BACKGROUND

- 2.1. Erf 450, Belvedere is located at the corner of Page Close and Lower Duthie Avenue and is zoned "Singl Residential Zone I" in terms of the Knysna Zoning Scheme By-law (2020). The subject site has an existing approved dwelling house.
- 2.2. The landowner wishes to construct a second dwelling on the subject property in terms of the existing footprint as shown on the approved building plan. The floor area of the second dwelling exceeds 60m² and, therefore, a consent use application may be considered as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020).

3. PRE-APPLICATION CONSULTATION MEETING

A pre-application consultation meeting was not held in terms of this application.

4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation can be summarised as follows:

- 4.1. The applicant's memorandum concludes that the application is straightforward and has merit from a town planning perspective. In their memorandum, the applicant highlight's a dispute with the Belvedere Homeowners' Association ("BHOA") in relation to the permissible extent of coverage according to the design guidelines of the association.
- 4.2. The proposal for a second dwelling would not add additional floor space, with no visual changes, meets all zoning scheme criteria for a second dwelling, and is the form of land use commonly approved across the Knysna area.
- 4.3. The applicant does not expect the BHOA to change its stance, but submit that regardless of that stance, the Municipality is both empowered and obliged to evaluate and decide the application on its merit in terms of Section 65 of the Planning By-law – and that on those merits, a favourable consideration may be rendered.
- 4.4. The complete motivating memorandum of the applicant with arguments in favour of the application is attached to this assessment report as an annexure.

5. PUBLIC PARTICIPATION

Method of Advertising				Date Published	Closing Date		
	Yes	No	N/A				
Press	☐	☐	☒				
Gazette	☐	☐	☒				
Notices	☒	☐	☐	11 September 2025	11 October 2025		
Ward Councillor	☒	☐	☐	11 September 2025	19 October 2025		
Site Notice	☐	☒	☐				
Community Organisations	☐	☒	☐				
Public Meeting	☐	☐	☒				
Third Parties	☐	☒	☐				
Total Valid Comments	Two (2)			Total comments and petitions refused	0		
Valid Petitions	Y ☐		N ☒	No of signatures	Not Applicable		
Community organisation(s) response	Y ☐	N ☐	N/A ☒	Ward Councillor response	Y ☐	N ☐	N/A ☒
Public participation was undertaken in accordance with sections 45-49 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021)						Y ☒	N ☐

5.1. Summary of Comments Received during Public Participation

Public comment and objections were received from the following persons represented by an agent:

Erf No.	Objector	Agent	Date Received
Erf 452 and Erf 453, Belvedere	Mr. Servaas van Breda Lombard	Mr. Jacques Marais (Fasken incorporated under Bill Dewar)	14 October 2025
None	Belvedere Homeowners' Association		

The objection(s) can be summarised as follows:

5.1.1. The objections highlight the legal standing of BHOA and the "Belvedere Estate Building Design Manual" (2024). The BHOA is governed by a constitution and is contractually binding on all members, including the applicant. It is stated that when the applicant/landowner took transfer of Erf 450, he contractually undertook – as all purchasers within the estate do – to comply with the conditions of title, the BHOA constitution, its regulations, and the decisions of the Architectural Committee.

5.1.2. The decisions made by BHOA's architectural committee on plans are binding and do not serve as 'merely advisory guidance' as suggested by the applicant. The objector, therefore,

emphasises their point that the said powers are maintained in case law and are reflected in contractual law.

- 5.1.3. With these powers, the owners' association undertook to render a decision to reject the proposal of a second dwelling as it did not meet the criterion in section 5.1.1.2 of the BDM which sets out the conditions under which a second dwelling (granny flat or guest cottage) may be approved on a single residential erf. Among those conditions is the requirement that the combined coverage of the main house and outbuildings must not exceed 300m². The proposed second dwelling of 73.6m² causes the total coverage of Erf 450 to exceed this 300m². The Architecture Committee has already considered and rejected the applicant's request for approval on precisely this basis.
- 5.1.4. The objector rejects the applicant's attempt to reframe or reinterpret the coverage calculation to make the numbers appear compliant, but this reframing is not supported by the BDM's definitions, nor by the Architecture Committee's authoritative interpretation of the design manual – an interpretation that members are contractually bound to accept.
- 5.1.5. In light of the aforementioned, the objection vehemently expresses the reasons why the Municipality is not permitted to render a decision which is in conflict with the design manual. According to Section 29(8) of the Planning By-law, the design guidelines contemplated in subsection (3)(d) may introduce more restrictive conditions than the rules provided for in the zoning scheme, which in this instance applies.
- 5.1.6. Furthermore, Section 85(2) of the Planning By-law states that the Municipality must comply with and enforce compliance with the provisions of the Planning and Zoning Scheme By-laws. This is to say that it cannot lawfully approve plans that contradicts a framework that the Municipality itself, is required to recognise. The objection highlights Section 29(3) of the Planning By-law which requires the constitution of an owners' association, once approved by the Municipality, must include provision for control over design guidelines.
- 5.1.7. In reiterating the sentiments above, the objector makes example of the precedent set in the case of *Vanilla Street Homeowners' Association v Ismail and Another* (2014) at the Western Cape High Court where the court held that an owners' association constitution imposing more restrictive land use rights than the zoning scheme, prevailed over the zoning scheme.
- 5.1.8. The objection concludes that on the aforementioned basis that any approval granted by the Municipality that conflicts with the estate's design guidelines would be *ultra vires*, meaning acting beyond its legal powers, and would thus be susceptible to legal challenge.
- 5.1.9. The objector also notes that the applicant failed to follow the dispute resolution procedures as set out in the estate's design manual and constitution, by going directly to the Municipality. Should the Architectural Committee have granted condonation for the maximum permissible

floor area, it would be difficult for the owners' association to maintain consistency in future decision-making – the implications thereof are that overtime, the “development concept of the estate would be eroded” and it would constitute a failure of the Committee's fiduciary duties to all members of the estate.

5.2. Summary of Comments from Departments/Organs of State

Name	Date Received	Summary of Comments	Recommendation
Infrastructure Services	30 September 2025	No objection.	Positive
Building Control	06 October 2025	Recommend for approval.	Positive

5.3. Summary of Applicant's Reply to comments

The applicant responded to the objections as follows:

- 5.3.1. The applicant notes that the objector relies on the title deed condition that requires BHOA approval before any building additions or alterations may proceed. The applicant argues that the condition is to ensure approved design and sound construction, i.e. materials, colours, and the physical design of a dwelling. As such, the said function has been fulfilled as the existing buildings have already received approval from the owners' association. The proposed second dwelling involves no additions whatsoever to the building fabric as the space in question is not visible from outside the property and no new buildings or structures are proposed.
- 5.3.2. Further to this point, the applicant quoted the mandate of the owners' association's Architectural Committee which is to exercise control to ensure the original development concept is maintained and, where possible, reclaimed, and to regulate the visual and aesthetic character of the estate.
- 5.3.3. On the matter of coverage, the applicant makes two arguments; firstly, it is argued that the 300m² threshold of the design manual is met and thus the BHOA's coverage calculation is in dispute. Secondly, the applicant characterises the 300m² area as an arbitrary stipulation which lacks consideration of the implications of the second dwelling unit and not only whether a numerical threshold is exceeded. This would represent a failure of reasoned decision-making. The applicant further notes that that even if the Architectural Committee's coverage calculation was accepted, the existing building coverage is fully compliant with the Knysna Zoning Scheme By-law, meaning that the proposal is lawful under the municipal planning framework regardless of the internal homeowners' association dispute.

- 5.3.4. In protest of the statements by the objector which caution the Municipality from considering or making a decision that is in conflict with the stance of BHOA, the applicant argues that in spite of the provisions of Section 29(8) of the Planning By-law, it does not remove the Municipality from the process.
- 5.3.5. The Municipality is required to evaluate each land use application in terms of the criteria set out in Section 65 of the Planning By-law. The Municipality's obligation cannot be displaced by a private association's internal guidelines. The applicant thus draws on the Municipality's authority by citing the Constitution of South Africa, the Municipal Systems Act, 2000 (Act No. 32 of 2000), and SPLUMA, 2013 (Act No. 16 of 2013), all of which entrench land use decision-making as an exclusive municipal competency. It is stated that a municipality cannot allow a private contractual arrangement between owners' association members to override its statutory duty to consider applications.
- 5.3.6. Failure of the Municipality to carry out its functions would be reviewable under the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000). This sentiment is further reiterated in the advising correspondence from the Western Cape's Department of Environmental Affairs and Development Planning which confirm that the adverse comments from the owners' association does not conclude the matter and that the Municipality should apply its own mind to all informants and interests in an application.
-
- 5.3.7. In respect of the case law cited by the objector, the applicant believes that the objectors conflated the matter by focusing on the contractual enforceability of the owners' association rules between residents whereas they did not highlight that the judgement does not remove or diminish the Municipality's statutory decision-making powers in terms of land use applications.

6. PROPOSAL ASSESSMENT

6.1. Application History

The Municipal Planning Tribunal determined an administrative penalty for the height of the dwelling house which exceeded the maximum permissible height as specified in the zoning scheme in 2023. It is unknown whether the penalty was paid; however, a plan approval was issued by the Municipality in October 2023 which implies that compliance with the zoning scheme was achieved.

6.2. Considerations in terms of SPLUMA

The Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) list several development principles against which a land use application needs to be considered. These are broad principles and cannot always be weighed in terms of all applications. In agreement with the applicant, however, it can be argued that the consent use to allow for a "second dwelling" would allow for optimal use of land and thus contribute to the concept of "spatial sustainability."

6.3. Consistency with SDF, IDP and applicable Policies

The Knysna Municipal Spatial Development Framework (2020) ("SDF") supports the consolidation of our existing urban settlements as opposed to the lateral expansion of our urban areas. Densification (including second dwellings) is considered a means of achieving this objective of the SDF as it allows the use of existing infrastructure capacity. In broad and strategic terms, the second dwelling unit proposal on the subject erf is considered consistent with municipal spatial planning policy.

6.4. Impact on Municipal Engineering Services

The subject erf is sufficiently serviced with municipal services. Furthermore, the Infrastructure Services directorate lodged no objections against the second dwelling proposal.

6.5. Outcomes of Investigations/Applications i.t.o. other Legislation

Not applicable.

6.6. Zoning Considerations

The subject property is zoned "Single Residential Zone I" in terms of the Knysna Zoning Scheme By-law (2020) and no change in the primary use rights to the erf is proposed.

6.7. Desirability of Proposal

The desirability of the application was considered in terms of the following factors:

Assessment Criteria	Y	N	N/A
Has the motivation of the applicant been considered in the assessment of the application?	☒	☐	☐
Will the proposal have a negative impact on the character of the surrounding area in terms of form, density, and aesthetics?	☐	☒	☐
Does the proposal affect the residential amenity of the adjacent landowners negatively in terms of sunlight, privacy, views, and general enjoyment?	☐	☒	☐
Will the intended building proposal affect the adjacent land uses negatively?	☐	☒	☐
Will the proposal and/or building work have a negative effect on the architectural character of the streetscape?	☐	☒	☐
Will the proposal and/or building work have an impact on the municipal bulk services network?	☐	☒	☐
Does the proposal cause a negative impact on vehicular and pedestrian movement on the public street(s), including vehicle sight distances?	☐	☒	☐
Are there adequate on-site parking (including loading bays, where applicable) in accordance with the provisions of the Zoning Scheme By-law?	☒	☐	☐
Does the property have adequate and suitable vehicle access and egress in accordance with the provisions of the Zoning Scheme By-law?	☒	☐	☐
Will the proposal affect the natural and/or open space system negatively, including resulting in the removal of indigenous/protected trees on the site and/or road reserve?	☐	☒	☐

Assessment Criteria	Y	N	N/A
Does the proposal have any negative impact on heritage resources?	☐	☐	☒

6.7.1. The Knysna Zoning Scheme By-law (2020) allows a second dwelling unit of less than 60m² in area as of right while a second dwelling unit in greater area (and up to 150m²) is a secondary use with the consent of the Municipality. Therefore, the current proposal of 73m² in area is considered negligible.

6.7.2. The proposed second dwelling is not a separate structure as it is contained in the same building, and the aesthetic appearance would be in keeping with the development concept set out in the design manual of the estate. Furthermore, there is sufficient parking on the premises, and the consent use is unlikely to generate nuisance as it is in keeping with the residential zoning of the property. In light of the aforementioned, the proposal is in keeping with the character of the area and deemed to meet the criteria of desirability.

6.8. Considerations to the Removal of Restrictive Title Conditions

Not applicable.

6.9. Assessment of Comments

6.9.1. The objection and comments received from the homeowners' association and Mr. Lombard do not seem to contest the principle of a second dwelling as is reflected in the criteria set out in the design manual. The application seemingly falls short of complying with the maximum permissible extent of 300m² for all buildings when a second dwelling unit is to be considered by the owners' association architectural committee.

6.9.2. The dispute between the applicant and the objectors revolves around the coverage calculation which is around 320m² exceeding the design manual's 300m². Although this may seem inconsequential, this assessment considers that the existence of building may not in itself be sufficient reason to grant approval for the second dwelling.

6.9.3. In agreement with the applicant, the judgement in the *Vanilla Street Homeowners' Association v Ismail and Another* (2014) did not absolve the Municipality from carrying out its function in terms of municipal land use planning. With that said, it is the considered opinion that the principle of a "second dwelling unit" in respect of Erf 450, Belvedere, can be considered favourably. It is, however, suggested that the second dwelling be limited to the existing building and not necessarily in its current form which appears to be central to the dispute with the owners' association. Importantly, the recommendation supporting the second dwelling does not diminish the right of the owners' association to consider any building work in accordance with their approved design manual.

- 6.9.4. Lastly, it is noted that four (4) comments from neighbouring property owners were received that expressed no concern regarding the proposed second dwelling on Erf 450, Belvedere.

7. RECOMMENDATION

It is recommended that, **Approval be Granted**, in terms of Section 60 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021), for the consent use of a "second dwelling" measuring greater than 60m² as contemplated under "Single Residential Zone I" of the Knysna Zoning Scheme By-law (2020), in respect of Erf 450, Belvedere.

8. CONDITIONS OF APPROVAL IN TERMS OF THE PLANNING BY-LAW

The above approval(s) are subject to the following conditions imposed in terms of Section 66 of the Knysna Municipality By-law on Spatial Planning and Land Use Management (2021):

- 8.1. The decision applies to the application as outlined herein and may not be construed as authority to depart from any other legal prescriptions or requirements.
- 8.2. The second dwelling unit shall be limited to the existing building(s).
- 8.3. The development parameters of "dwelling house" and "second dwelling" of the Knysna Zoning Scheme By-law (2020) shall apply, unless otherwise permitted in terms of the provisions of the Planning By-law.

9. REASONS FOR RECOMMENDATION

The reasons for the above recommendation are as follows:

- 9.1. The subject property lies within the delineated urban edge in an established settlement and is thus considered suitable for soft densification as supported in terms of the Municipality's spatial planning policy. In terms of the land use context and character of the area of Belvedere, the permitting of second dwellings is considered as a suitable form of densification.
- 9.2. Furthermore, it is not anticipated that the proposed second dwelling would detract from the land use character of the area as the residential use and primary right will be maintained. Importantly, it is argued that the established character and aesthetic control as set out in the homeowners' association architectural design manual can be maintained, particularly when considering that the proposal relates to existing approved buildings.
- 9.3. A second dwelling unit measuring up to 60m², is permissible as a primary right under the "Single Residential Zone I" zoning of property. The difference of 13m² is therefore considered negligible especially in light of the fact that second dwelling will not be a separate structure. As such, the second dwelling is unlikely to have a negative impact on the quality of life of all residents of the estate.
- 9.4. In considering the objections lodged, it was found that it relates to the maximum permissible area for buildings on a single residential property in the estate as imposed by the design manual and not

to the principle of a second dwelling, with the latter being the mandate of the Municipality in terms of the zoning scheme. Therefore, the application for consent to allow a second dwelling was considered in terms of the Municipality's Spatial Planning and Land Use Management By-law (2021) and the provisions of the Knysna Zoning Scheme By-law (2020), in terms of authority duly bestowed by the Constitution of the Republic of South Africa.

- 9.5. Importantly, this support for the second dwelling does not diminish the authority of the Belvedere homeowners' association to enforce its constitution and architectural design manual. In fact, the conditions set out herein allows for a framework wherein the applicant and homeowners association can agree on compliance in the context of the estate's constitution and architectural design manual in relation to their plan proposal.

10. SUPPORTING APPLICATION DOCUMENTS

ANNEXURE A – Proposed site and building plan(s)

ANNEXURE B – Motivating Memorandum

ANNEXURE C – Power of Attorney

ANNEXURE D – Copy of the Title Deed

ANNEXURE E – Bondholder's Consent

ANNEXURE F – Previously approved building plans

ANNEXURE G – Copy of notice and mailing list

ANNEXURE H – Comments and Objections

ANNEXURE I – Applicant's response to comments/objections

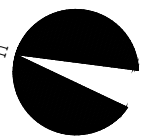
ANNEXURE J – Additional Information

ANNEXURE K – Affidavit from the landowner

ANNEXURE L – Correspondence from the Provincial department

ANNEXURE M – Zoning Map and SG Diagram

CONSENT USE: ERF 450, BELVEDERE APPLICATION NO.: 3541			
Author Name: LV Mniki Date: 16-04-2026		Author Signature: 	
Registered planner name: Shaun Madumbo SACPLAN registration number: A/1510/2012 Date: 16/04/2026		Registered Planner Signature: 	
Decision Maker: Municipal Planning Tribunal			
APPROVED	APPROVED CONDITIONALLY	APPROVED IN PART	REFUSED



Scale 1:50

First Floor Plan

NOTE: All heights and levels to be confirmed with architect on site prior to commencement of work.

- BRICKWORK
- TIMBER
- CONCRETE
- TIMBER FLOORING
- TILE
- PAVING



REVISION 1: 2023 05 30

- As-built floor levels indicated
- Covered verandah column omitted
- Covered verandah internal dimension amended
- Kitchenette omitted and changed to family room
- Verandah aperture north width amended
- Internal drywall changed to brick
- Family room internal dimension amended to be centered on W11

REVISION 2: 2025 04 03

- Proposed second dwelling + kitchenette indicated
- As-built dimensions added to second dwelling

vadas

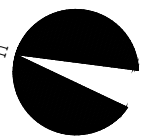
SUBMISSION

ADDITIONS + ALTERATIONS

03 Apr 2025 revision: 2

erf 450
belvidere
estate

dwg:
P3

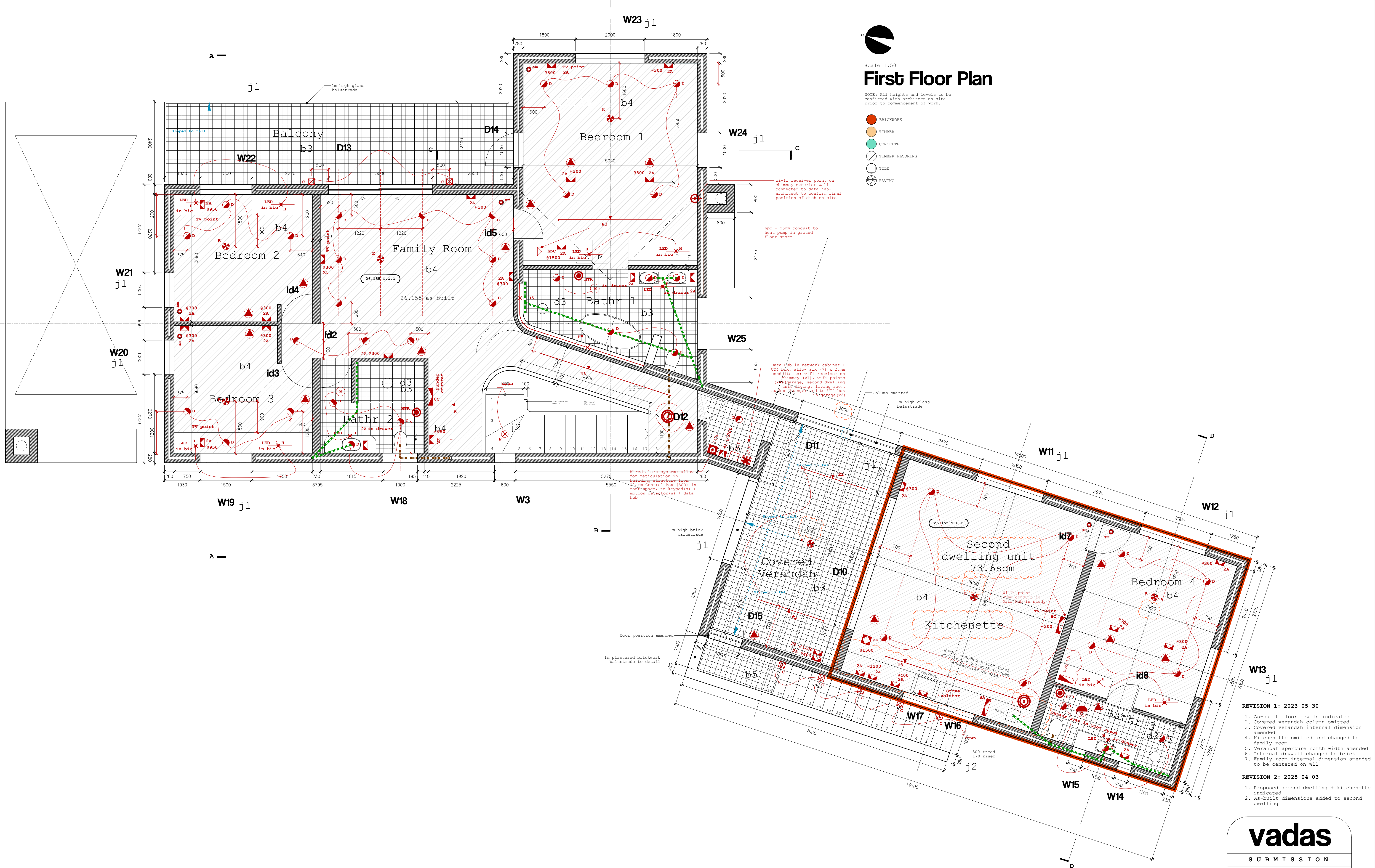


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vadas

SUBMISSION

ADDITIONS + ALTERATIONS

03 Apr 2025 revision: 2

erf 450 belvidere estate

dwg: P3

**MEMORANDUM IN SUPPORT OF AN APPLICATION
FOR CONSENT USE FOR A SECOND DWELLING: ERF 450
BELVEDERE**



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KNYSNA

6571

Telephone: 0791586699

Email : lloydruce@mweb.co.za

July

2025



SUMMARY OF APPLICATION:

1. The application is to apply for consent use for a second dwelling in existing structures by the addition of a kitchenette as described herein.

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ANNEXURES

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ANNEXURE C	Bond Holders Consent
ANNEXURE D	Draft Building Plans
ANNEXURE E	Affidavit
ANNEXURE F	Extract Communication with Province

PLANS:

Previously Approved Plans

1. BACKGROUND INFORMATION

1.1 Pre- Application Consultation

No pre-Application consultation was held with the Planning Department however two consultations were held with the Belvedere Homeowners Association.

1.2 Application details:

Location: The site is located in the Belvedere residential precinct on the corner of Page Close and Lower Duthie Avenue as shown below:



The Application: The application is for a **consent use** in terms of the Knysna Zoning Scheme 2020, for a second dwelling larger than 60m², and as described and motivated in this application.

In terms of the Knysna Spatial Planning and Land Use Management By-Laws 2021 the intended use requires the following application:

- A **Consent Use** in terms of Section 15(2)(o) to permit a second dwelling of 73,6m² as permitted in the Knysna Zoning Scheme.

1.3 **Property Details and Ownership:**

The site is owned by ROBERT STANLEY VADAS by virtue of the attached Deeds of Transfer T 60657/2016 and is 1510m² in extent.

1.4 **Legal Matters:**

1.4.1 Conditions of Title: There are no restrictive Conditions of Title limiting the proposed use.

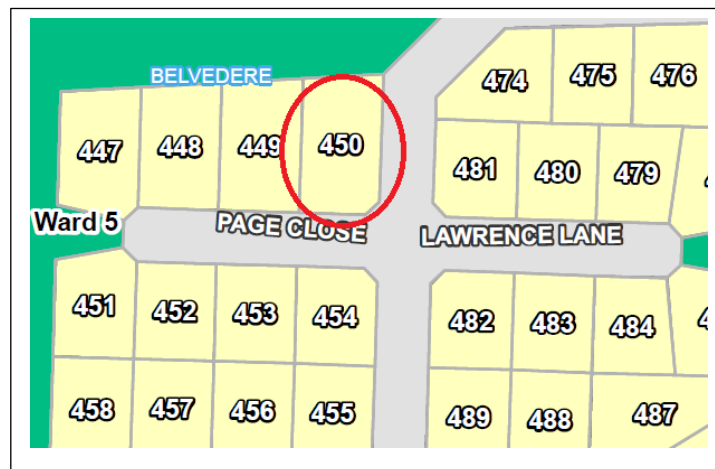
1.4.2 Bond holders' consent:

Bondholders consent has been obtained and is attached as Annexure C.

1.4.3 Legal Jurisdiction and zoning:

The property falls within the Knysna area and is zoned "**SINGLE RESIDENTIAL I**" in terms of the Knysna Municipality Zoning Scheme By-Law 2020. See Zoning Plan below:

Zoning: Single Residential Zone 1



In terms of this zoning and the definition of a dwelling house, the land use of a second dwelling is a permitted primary use, with the following proviso's in (b) below.

"dwelling house"

Land use description: "dwelling house" means a building containing only one dwelling unit, together with such outbuildings as are ordinarily used with a dwelling house, including:

- (a) a storeroom and garaging;
- (b) a second dwelling or additional dwelling, with a floor area which does not exceed 60 m²; provided that application for consent use must be submitted if the second dwelling or additional dwelling is larger than 60m²;

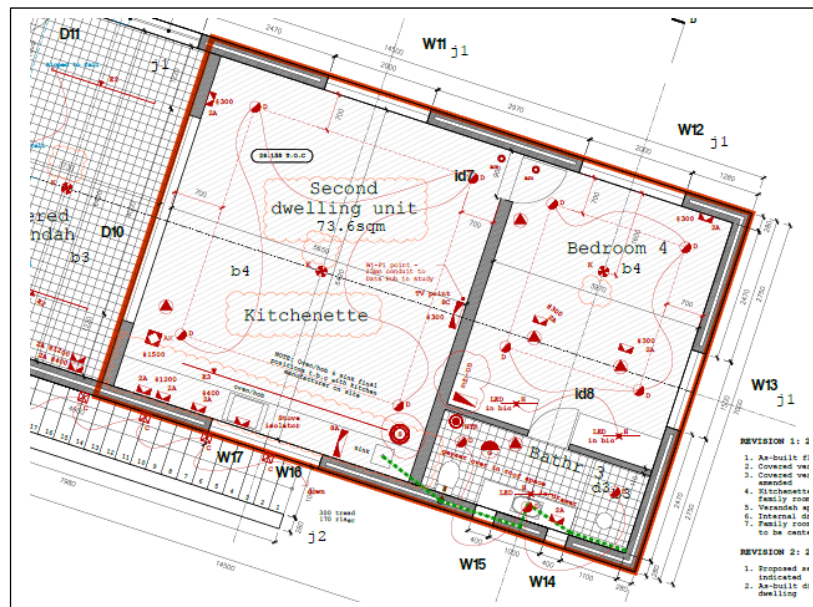
2. APPLICATION AND DEVELOPMENT PROPOSALS

2.1 Requirements of the Application

2.1.1 Consent Use Second dwelling:

The above definition of a dwelling unit allows for a second dwelling exceeding 60m² provided a consent use is submitted. The proposed second dwelling which is in existing structures above the garage is 73,6m² as proposed in the diagram below.

Second dwelling unit in current guest suite:



The above configuration, which is currently a guest suite comprising of a lounge, bedroom and bathroom, to be utilised for the second dwelling.

The above requires an **application in terms of Section 15 (2) (o)** of the Knysna Spatial Planning and Land Use Management By-Law 2021.

3. SITE CONTEXT

3.1 Location and surrounding uses:

In terms of site considerations, it can be noted that the site is located on the corner of two residential streets within the Belvedere residential estate as shown overleaf. The site contains an existing house on a corner property, with a park erf on its northern boundary. The property therefore only has one direct neighbour while the other houses are separated by the existing roads.

Site Context:



It is important to note that the structures are all existing, and the proposed conversion of the guest suite will not add anything to the structure, apart from a 2,5m² surface within the guest suite to accommodate some appliances for the kitchenette. No visible changes will be made to the house.

The proposed second dwelling will be in the existing guest suite above the existing garage as shown below:

Location of Second dwelling:



The descriptions of the second dwelling will be fully discussed in a later paragraph, however from the above, the contextual position of the proposed second dwelling is shown to be as part of the existing house, in the guest suite above the garage.

4. PROCEDURAL ASPECTS IN BELVEDERE

4.1 Belvedere Homeowners Association

The Belvedere Estate is a high quality and well run estate and which is administered by a Home Owners Association (BHOA), for all residents in this precinct.

There are provisions entrenched in the Title Deeds of all properties which refer to the "transferor" this being the Belvedere Estate (PTY) LTD, and which determine as follows:

Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alternations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house any outside buildings and fences or walls. The Transferor, however, does not in any way whatsoever accept or assume any legal responsibility arising directly or indirectly from any approval granted by it.

The above extract clearly has as its intention to ensure that the buildings are properly constructed and compatible with the environment in which they are positioned.

4.2. Belvedere Building Design Manual 2024

As part of the BHOA, a subcommittee is in existence, known as the Architecture Committee, to monitor and assess the construction processes for buildings, again with a view to ensure compatibility, and to maintain the high standards of the estate in general. An extract from Design Manual states the following:

THE AUTHORITY OF THE ARCHITECTURE COMMITTEE

In order to preserve the Belvedere Estate architectural concept, the authority of Belvedere Home Owners Association), as endowed upon it by the original Development Company, has established an Architecture Committee, being a sub-committee of the BHOA, to carry out the mandate of the Development Company (2001) as empowered in terms of the various Title Deed conditions.

The BHOA Executive Committee has in turn authorised the Architecture Committee: -

"... to exercise every possible control to ensure that the original Development Concept of the entire Estate is maintained and, where this has not been the case that it be re-claimed, where feasible / rationally achievable.

The above measures are commonplace in estates such as Belvedere and serve to ensure that the desired environment and quality of the estate are maintained by not allowing indiscriminate and inappropriate development.

4.3.Procedural Requirements:

When new plans are intended, whether they be for new houses or additions to structures, the BHOA has established procedures whereby the proposed plans be submitted to the Architectural Committee for consideration.

Where necessary, provision is made for presentation and discussion of the proposed plans.

5. DECISION MAKING AND THE PLANNING BY-LAWS

5.1 General Land Use Management authority:

Regarding the details above detailing the existence of a Homeowners Association and a Design Manual administered by a subcommittee of the association, it is important to note that the decision-making processes are vested firmly in the relevant Planning By-Laws which in the case of Knysna, is the **Knysna Spatial Planning and Land Use Management By-Law 2021**.

The decision-making processes are clearly articulated in the above by-law, detailing each and every step in the procedure, including how an application must be submitted, which documentation must accompany an application, the administrative procedures, as well as the terms by which applications are considered, evaluated, and approved or refused.

These stipulations **and prescriptions are found in Chapters III, IV, V and VII** of the By-Law, and fully set out how all land use management processes are to be adhered to, both by the applicant in a land use application, and the municipality as far as processing and deciding on any application is concerned.

While one of the considerations by the municipality will be any submissions by a homeowner's association, the prerogative in deciding on a matter rest solely with the municipality, not the applicable homeowner's association.

5.2 Supporting Legislation:

The abovementioned municipal authority is supported in a wide range of supporting legislation which confirms the legitimate authority is vested in and designated as a local authority function.

There is sufficient supporting evidence which ensures that municipal functions include processing and considerations of matters relating to land use planning and planning applications.

Firstly, the Constitution of South Africa has determined that competencies lie at local or municipal level and it confirms that deciding on planning related matters is a local authority function.

Secondly, Section 5(1)(c) of the **Spatial Planning and Land Use Management Act (Act 13 of 2013)** or “**SPLUMA**” in describing the functions of Municipal planning the following:

(c) the control and regulation of the use of land within the municipal area where the nature, scale and intensity of the land use do not affect the provincial planning mandate of provincial government or the national interest.

This is repeated in **Chapter 5 of “SPLUMA”**, which determines who must undertake Land Use Management. Section 23(1) of the Act determines that the municipality is the executive authority and Section 33(1) in determining the responsibility for Municipal Land Use Planning, it is confirmed further that the municipality is the authority of first instance. It is stated:

33. (1) Except as provided in this Act, all land development applications must be submitted to a municipality as the authority of first instance.

Thirdly, the **Municipal Systems Act (Act 32 of 2000)** is also clear who has authority in decision making, and this act makes provision for and encourages community participation. However, Section 16 (2) of the Act states that public participation “**must not be interpreted as permitting interference with municipal council’s right to govern and to exercise its legislative authority**”. The Act also requires all participation by the public to be consistent and compliant with the By-Laws.

It is to be noted that none of the above legislation makes provision anywhere for decision making authority to be delegated to external bodies such as a committee or a Homeowners Association.

5.3 Legislation vs Homeowners Associations:

Committees such as the one established for Belvedere, as well as any subcommittee to evaluate plans, are useful in monitoring the design manuals and ensuring that there are compatible building practices, however, they have no authority to replace the municipalities decision making powers. If that were permitted, it would lead to dual channels of decision making and undermine the authority of the municipality, which has a constitutional and mandated right to decide on local planning matters as detailed above.

The reasons for raising these issues in this chapter will become evident in the later motivation of our application and the position taken by the Belvedere Architecture Committee.

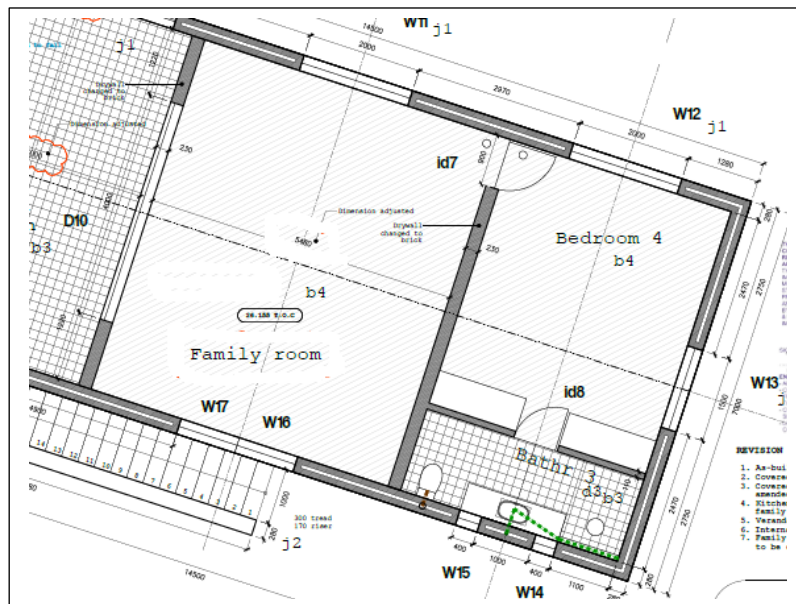
6. THE MERITS OF THE APPLICATION

6.1 The Existing Buildings:

The existing house on the property is of a very high quality and comprises a two-storey home which has the following floor areas:

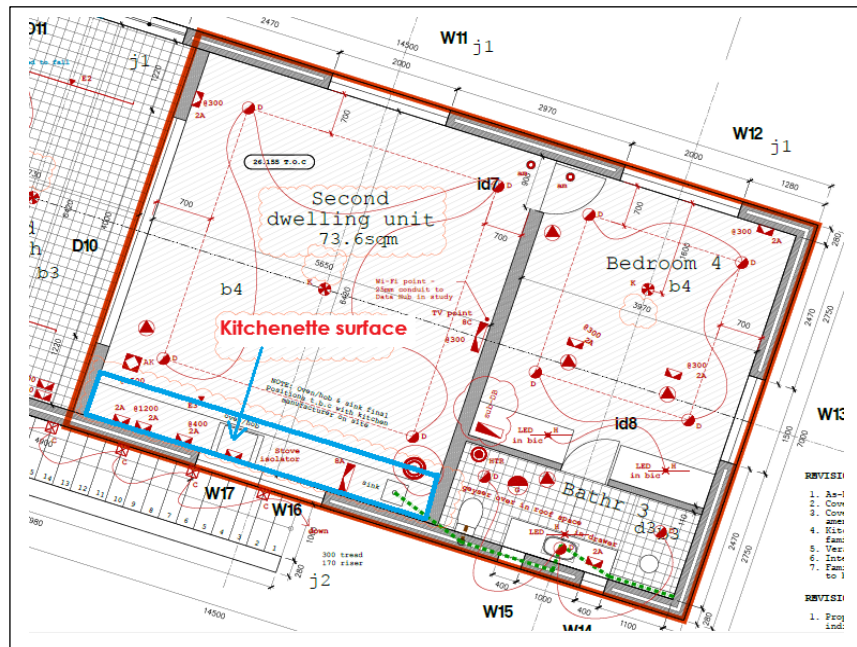
- Site Area 1510m²
- House and outbuildings 549m²
- The development parameters in terms of the zoning scheme for the house as a whole, are all within the required stipulations.

The part of the house to be used as a second dwelling is above the garage as shown in the earlier diagrams. This space is currently a guest suite comprising of a 4th bedroom, lounge and bathroom. The existing approved configuration is as shown below:



The intended second dwelling will not change any structural part of the building or add any new structures and will simply be a narrow surface along the one wall to accommodate some appliances and a basin. In doing so, the space constitutes a "kitchenette" albeit no more than 3,0m² in extent, The addition of the surface is shown on the diagram overleaf:

Surface area becomes a “kitchenette”: (Blue area)



A photograph of how the “kitchenette” functions is shown below:



IMPORTANT NOTE: The surface and appliances shown above were installed due to the convenience of doing so when the cupboards were installed. However, the space is **NOT USED** as a second dwelling, and an affidavit is attached to confirm this. It will only be used for family purposes until such time as the consent use is granted.

6.2 Second Dwelling considerations:

The standard provisions of the Knysna Zoning Scheme 2020 allows a second dwelling of 60m² or less as a primary use, however in excess of this area a consent use is required.

In this instance, the area to become a second dwelling is 73,6m², however it does not constitute any new floor space to be constructed in order to accommodate the "kitchenette" as described above.

In terms of a definition of a second dwelling in the Knysna Zoning scheme, the following extract is applicable:

Development parameters:

The development parameters applicable to "dwelling house" apply, together with the following additional parameters:

- (a) the total floor space of a second dwelling may not exceed 150 m² including the floor space of all ancillary buildings;
- (b) a second dwelling must be constructed in a style that is similar to the architecture of the main dwelling house;
- (c) a second dwelling that is a separate structure to a dwelling house may not exceed a height of 6,5 metres;
- (d) a second dwelling that is contained within the same building as a dwelling house must be designed so that the building appears to be a single dwelling house;
- (e) both units may have a ground floor, or one unit may be on the ground floor and the other unit above;

It can be confirmed that all of the above parameters are complied with, as the second dwelling is less than 150m², makes no design adjustments which affect any appearances and is within the existing buildings, and therefore within all of the parameters for a dwelling house. Regarding parking which requires 1 bay, there are already three bays available on site.

6.3 Concluding Remarks:

The proposed second dwelling is entirely consistent with many other similar second dwellings throughout the Knysna area, including Belvedere and is therefore a use which is entirely accepted as part of the normal fabric of a residential neighbourhood.

7. POLICY FRAMEWORKS

7.1 Spatial Development Frameworks, SPLUMA and IDP's

The activity anticipated for the site for a second dwelling is typical for a residential precinct and similar to many others throughout the Knysna area. The nature of the application is to accommodate a small second dwelling unit as is envisaged as a suitable use for all Single Residential 1 zone properties. Therefore, being a primary permitted use, a second dwelling per se has no implications as far as policy pronouncements are concerned.

In the case of SPLUMA, there are overall guiding principles contained in Chapter 2 of the Act, such as spatial sustainability and spatial efficiency, however the use is in terms of an existing zoning and therefore not in conflict with these principles. Similarly, there are no conflicts with

policy pronouncements such as the Spatial Development Frameworks for the area, which do not pronounce on matters of such fine detail.

8. ENGAGEMENT WITH BELVEDERE HOMEOWNERS ASSOCIATION

8.1 Submission of proposals to BHOA:

As per the designated approach for plan requests a submission was made to the BHOA indicating the intended inclusion of the second dwelling as discussed in this memorandum. The submission was sent to the Architects Committee, who were not prepared to approve the submission due to their determination that the maximum coverage of a house with a second dwelling is 300m², and the calculations by the architects indicated that the existing house is 311m². We indicated that we were not changing the coverage and that the "kitchenette" was simply a counter with appliances within the same space as the guest suite, and that no changes or additions were to be made at all. The response we received was as follows:

"The request **cannot be approved** and for the following reasons:

"The total coverage of the existing dwelling (including outbuildings) is 311.4m², which exceeds the 300m² maximum allowed under the Belvedere Design Manual when applying for a second dwelling.

Your options are:

- 1. Reduce the total building coverage to 300m², (eg by removing 11m²) , and reapply or***
- 2. Withdraw the second dwelling proposal and retain the current structure as part of the main house (which includes removing the second kitchen)"***

8.2 Response to first submission:

We understand that the Belvedere Homeowners Association have Building Guidelines in terms of their Design Manual, however the response above is completely unreasonable.

First, it would be impossible to reduce the coverage of an existing structure by 11m² simply to condone a kitchenette of 3m² which does not add any space. The existing house is over 500m² and cannot simply be altered to lose 11m². In any event, what purpose would that serve, simply to permit a 3m² kitchenette surface?

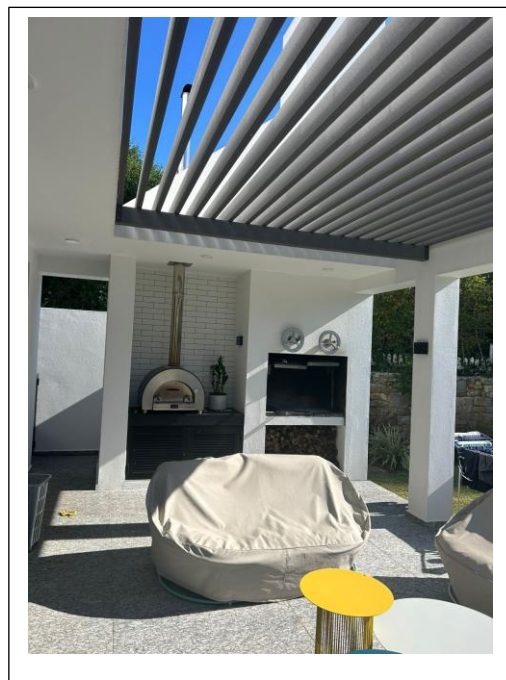
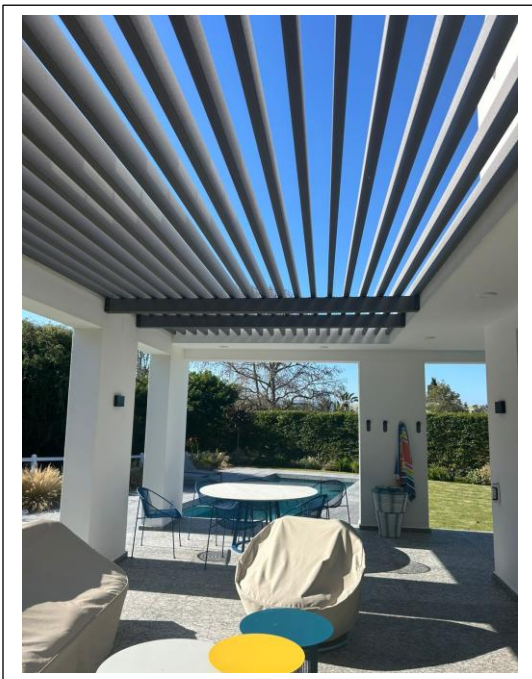
Having received the above, we requested a discussion with the Belvedere Architects Committee (BAC), which took place on the 12 June. This meeting was requested because in our opinion, the determination of the coverage was not correct, in that the

patio area as shown below was open, and the supporting columns and existing braai should not be regarded as coverage in terms of the definition contained in the **Building Guidelines of the BAC**. It is worth noting that the definition relevant to Belvedere, refers specifically to coverage as the area “under roof”. See Definition below:

5.3.1 DEFINITIONS

“**Coverage**” means the total percentage area of a site that may be covered by buildings that are covered by a roof or projection, as measured over the exterior walls thereof; provided that the area covered by the first metre (as measured from the outside of the exterior wall concerned) of an eave or other projection shall not be included in the calculation of the permissible coverage. (LUPO - Section 8 Scheme Regulations 1988)

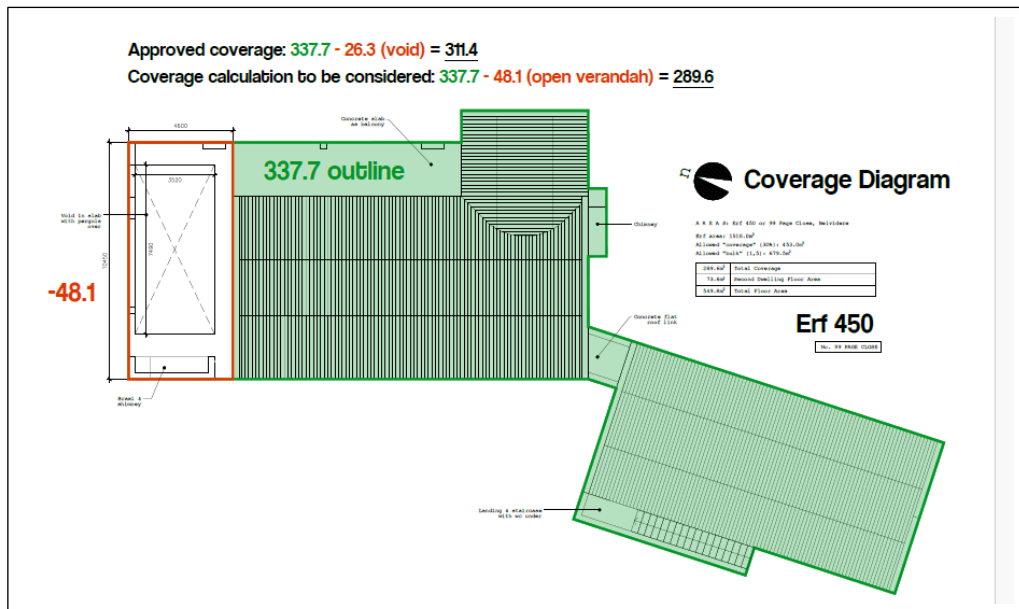
Patio and Braai area:



The architects for the house produced the coverage diagram overleaf, and on the exclusion of the patio area, the coverage is shown to be significantly less than the 300m² requirement. This shows an area covered by roof as 289,6m².

Nevertheless, the BAC were not prepared to support the second dwelling as their “hands were tied” by the Belvedere Building Manual.

Coverage Determination:



The minutes of the above meeting with the BAC are the following:

Erf 450 House Vadas- Second dwelling

VBGD Town Planners

- The authorised agent and applicant attended the meeting to discuss the second dwelling and coverage restrictions. The authorised agent submitted a motivation report for consideration.
- The house in its current form was previously approved by BAC as a single residential property without a second dwelling and with a coverage of 311m².
- The coverage exceeds 300m² and in terms of the BDM, the second dwelling can therefore, not be considered.
- The coverage was recalculated by the professionals serving on BAC and confirmed as exceeding the allowable 300m².
- The method of measuring was confirmed with other professional architects and the method is deemed correct.
- Solutions offered by BAC were not accepted by the applicant.
- The applicant indicated that they will follow due process for a second dwelling. All affected parties to be given the opportunity to comment. BAC will not support the application as it is contrary to the BDM and outside the mandate of the committee to approve it.
- Alternative options to be investigated by the applicant to resolve either the coverage or to change the second dwelling into normal internal area.

8.3 Compliance with the criteria for a second dwelling (Building Manual)

The Table overleaf is an extract from the Belvedere Building Manual in addressing the criteria for second dwellings within the Belvedere Estate.

The column on the right indicates the level of compliance of our proposals:

DESIGN GUIDELINE REQUIREMENTS SECOND DWELLINGS	COMPLIANCE
Coverage of the main house and outbuildings does not exceed 300m ²	COMPLIES ON OUR CALCULATION
The bulk of the proposed second dwelling does not exceed 100m ²	COMPLIES
The second dwelling must be the same design style as the main house	NO CHANGES TO BUILDINGS
One small kitchen is permitted	COMPLIES
Special application to the Architecture Committee to be made	CONCLUDED (No consensus)
No third dwelling is permissible	NOT APPLICABLE
Special application can be submitted for accommodation for live-in caregivers	NOT APPLICABLE BUT IS RELEVANT FOR CLIENT'S PARENT
Knysna Municipal approval. Consent Use application	APPLICATION NOW SUBMITTED

Apart from the lack of consensus regarding coverage, the proposal as we have submitted herein, is in compliance with the overall criteria for a second dwelling.

9. ASSESSMENT AND THE WAY FORWARD

9.1 Overall merits of the second dwelling:

In the context of assessing the merits for a second dwelling on the site, there can be no doubt that the application would be accepted and approved anywhere else within the Knysna area, and indeed the Western Cape.

The zoning scheme parameters are clear with regard to the criteria for second dwellings, and this proposal meets all of them. Therefore, were this site to be located at a position outside the Belvedere Estate, there would be no concerning issues to consider.

9.2 Homeowners Association and their authority on land use matters:

As we have already addressed in Chapter 5, the authority for decisions on land use matters lies exclusively with the municipality, as enabled by the prevailing legislation from National level, to the local legislation contained in the Spatial Planning By-Laws.

We understand that the Belvedere Homeowners Association have Building Guidelines in terms of their Design Manual, however the response they have adopted in this evaluation is completely unreasonable and irrational. Firstly, as previously stated, it would be impossible to reduce the coverage of an existing structure by 11m² simply to condone a kitchenette, and it immediately raises the question as to what purpose that would serve, simply to permit a 3m² kitchenette surface? This is especially concerning, as the addition of the surface area for a "kitchenette" in fact reduces the size of the guest suite, and has no impact at all on the house, or its impact on the adjoining area.

The responses expressed by the Architectural Committee are absurd, and in our opinion cannot simply be accepted without some sensible assessment of what is proposed for the second dwelling. We are concerned that the Committee seems to believe they have the last say, when it is the municipality who is, and should be, the adjudicator of land use decisions such as this. Design manuals are guidelines, not prescriptions as per the Zoning Scheme, and it cannot be accepted that a committee of a Homeowners Association can usurp the function of the Planning Department of a municipality.

There cannot be a predicament where an application which any reasonable assessment from a town planning point of view would conclude is meritorious, being disqualified by a technicality as trivial as in this instance.

It is a basic assessment criterion that in considering any application, those assigned to make the assessment, apply their minds in a professional manner. Where there are detail considerations which contradict the parameters of the Design Manual, they must be assessed in terms of how they impact on the manual, to evaluate if they can be accommodated, or not. Where the proposal is reasonable and will have no detrimental impact on the overall sentiments of the Design Manual, then exceptions must be accommodated. If it is viewed that the design guidelines are "cast in stone", and thus tying the hands of the committee it is a principle which does not belong in consideration of planning matters, where there are always exceptions to the rule.

In the context of the Knysna (and other) zoning schemes this is the reason why zoning schemes make provision for "departures" as a standard procedure, where proposals are made outside the general parameters. The same needs to apply where design Guidelines exist as there always needs to be a degree of flexibility, as part of the assessment process. Where proposals are extreme and will have a negative impact on the area and undermine the Design Manual, then such proposals should not be allowed. However, where the opposite is true, flexibility is an essential element of any design guideline, which is there to assist in arriving at a sensible decision.

9.3 Guideline Design Manuals vs Overlay Zones

Design Manuals are created in order to ensure consistency of buildings, with the view to creating a uniform visual and functional environment for the estate or area where applicable. The manual directs architects as far as style, colours, roof and other building materials, and impact on streetscape and overall appearances in the applicable area. However, they remain guidelines.

Where alternative zoning parameters are required, which vary from the general provisions of the Zoning Scheme, then it can only be achieved by the creation of a formal overlay zone. An overlay zone replaces the general zoning parameters of the Zoning Scheme, with specific parameters to match the desired outcome for the overall area where the overlay zone prevails.

It is important to note that there is no overlay zone applicable to Belvedere Estate, and also important to note that even in the case of overlay zones, flexibility is always a component where variations need to be considered.

9.4 Directives from higher authority

With a view to obtaining clarity as to the validity of Homeowners Association decisions vs the authority of the municipality the matter was addressed with the **Directorate Development Management Department of Environmental Affairs of the Western Cape Provincial Government**.

The full communication is attached as an annexure E, however the most relevant extracts are the following:

Extract from correspondence with the Provincial Department:

Your enquiry below re. HOA approvals refer.

1. In terms of the Constitution and various Constitutional Court Judgements, land use planning decision making is an exclusive municipal competence.
2. A municipality cannot be dictated to by an HOA whether to approve or refuse a legitimate land use application.
3. A municipal decision to approve or refuse a land use application based on a decision by an HOA will certainly be subject to a judicial review in terms of PAJA.
4. With the above in mind we have in the past advised another municipality in the Western Cape where there were similar challenges with an applicant, an HOA and HOA constitution:

If the comment of the HOA is negative or non-supportive then that is what the municipality must consider in the determination of the application. A municipality may refuse a land use application that is not supported by an HOA but a municipality it is not compelled to either not accept or refuse a land use application if an HOA is not in support of it. A municipality needs to consider all inputs and comments and make an informed decision on the land use application. By not accepting an application without the consent of an HOA, neither the applicant nor HOA will even have the opportunity to appeal the initial decision.

9.5 The Way forward:

As is evident in this memorandum, the motivation has gone way beyond the normal evaluation and motivation for a simple second dwelling. This has been necessary, knowing the position adopted by the Belvedere Homeowners Association regarding our application. We do not believe the BHOA will change their approach, and therefore we have addressed the merits of the consent use for a second dwelling, but also in the context of the Belvedere Homeowners attitude towards the matter.

It is interesting to note that the BHOA Building Manual mandate includes the following statement:

"... to exercise every possible control to ensure that the original Development Concept of the entire Estate is maintained and, where this has not been the case that it be re-claimed, where feasible / rationally achievable.

This could and should be interpreted as having rational and feasible considerations when evaluating proposals and providing the necessary flexibility we have addressed.

If the BHOA do change their position it would be welcomed, however, if not then the normal course of an application **in terms of Section 15(2)(o)** of the Knysna Spatial Planning and Land Use Management By-Law, will prevail.

10. SUMMARY AND CONCLUSIONS

- 10.1** In summary it is to be noted that the application is essentially for the addition of a surface area to an existing guest suite which will contain kitchen appliances and therefore constitutes a second dwelling. The application is to permit a second dwelling as permitted in the Knysna Zoning Scheme 2020, which is 73,6m² in extent
- 10.2** The conversion to a second dwelling as described, will add no new floor space to the existing building and will not change anything at all from a visual perspective.
- 10.3** From a normal perspective of evaluation, the proposal is entirely consistent with considerations for allowing a second dwelling larger than 60m² at any location within the Knysna area.
- 10.4** The inclusion of addressing the issues raised by the Belvedere Homeowners Association, is done as a consequence of having attempted to obtain support from the BHOA Architecture committee, but which to date has not succeeded.
- 10.5** In conclusion, whatever the position taken by the BHOA may be, the merits from a town planning perspective are sound and there should be no reason not to support the application.
- 10.6** The application is in line with the provisions of Section 65 of the Knysna Spatial Planning By-Law and consistent with the criteria for consideration of applications.

SPECIAL POWER OF ATTORNEY

I, THE UNDERSIGNED

ROBERTY STANLEY VADAS

DO HEREBY NOMINATE, CONSTITUTE AND APPOINT
Lloyd Druce and/or Jeanette Erasmus of the firm

VBGD TOWN PLANNERS

with power of Substitution, to be my/our lawful Attorney(s) and
Agent(s) in my/our name, place and stead,

**THE SUBMISSION OF AN APPLICATION FOR CONSENT USE
FOR A SECOND DWELLING ON ERF 450 BELVEDERE
DISTRICT KNYSNA**

and generally for effecting the purposes aforesaid, to do or cause to
be done whatsoever shall be requisite, as fully and effectively, for all
intents and purposes, as I/we might or could do if personally
present and acting herein, hereby ratifying, allowing and confirming
and promising and agreeing to ratify, allow and confirm all and
whatsoever my/our said Attorney(s) and Agent(s) shall lawfully do,
or cause to be done, by virtue of these present.

Signed at Belvidere this 10th day of
February 2024.

In the presence of the undersigned witnesses:

AS WITNESSES:

Kauso

R S VADAS



JAMES KING & BADENHORST
144 ST JOHN STREET
OUDTSHOORN
6625

Prepared by me

To be endorsed by	
Amount	
Purchase price/Value	R 3 000 000,00 / 2 000,00
Mortgage Capital Amount	R
Reason for exemption	Exempt from Ct. section

CONVEYANCER
JOHN WEST HENDRIKS

VERBIND	MORTGAGED
VIR FOR R 2 400 000,00	
B 800026211 / 2016	
04 OCT 2016	
REGISTRAR OF DEEDS	

T 000060657 / 2016

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

John Henry Richard Havemann

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 OUDTSHOORN on 21 JUNE 2016 granted to him by

FORESITE PROPERTIES CC
Registration Number 2008/082265/23

And the appearer declared that his said principal had, on 17 May 2016, 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:

ROBERT STANLEY VADAS

Identity Number [REDACTED]

Married out of community of property

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

ERF 450 BELVEDERE, IN THE MUNICIPALITY AND DIVISION OF KNYSNA,
PROVINCE OF THE WESTERN CAPE

IN EXTENT 1510 (ONE THOUSAND FIVE HUNDRED AND TEN) Square
metres

FIRST TRANSFERRED by Deed of Transfer Number T10793/1989 with
General Plan Number 12063 relating thereto and held by Deed of Transfer
Number T70881/2011

- A. SUBJECT to such conditions as are referred to in Certificate of Registered Title Number T71936/1988.
- B. NOT ENTITLED to the benefit of the respective special conditions relating to a reservation of rights to water contained in Deeds of Transfers Numbers 80/1947, 81/1947, 82/1947, 12535/1947, 13088/1950, 13089/1950, 9919/1958 and 16512/1959, whereby Portions 14, 15, 16, 17, 18, 19, 24, 23, 28 and 36 (all portions of Portion 13) of the farm Uitzigt, respectively were conveyed, which conditions are to the effect that such proceres were sold and transferred without any of the water rights referred to in condition (3) of component part Number (1) contained in the said Certificate of Consolidated Title Number T12326/1944, by reason of the endorsement dated 8th February 1965 on the said Certificate of Consolidated Title Number T12326/1944, referred to in condition (C) hereunder.
- C. NOT ENTITLED to the conditions contained in the Notarial Deed of Servitude dated 14th October 1936 annexed to Deed of Transfer Number T5951/1934 and referred to in the endorsement thereon, dated 15th October 1936, relating to certain water rights to a spring called the "Silver Spring" and the water rights arising therefrom, and is further not entitled to the benefits of the aforesaid conditions by reason of the endorsement dated 8th February 1965 on the said Certificate of Consolidated Title Number T12326/1944, which reads as follows:-

"REMAINDER

By Deeds of Transfer Number 13089/1950 and 13090/1950, the following properties conveyed thereby namely Portion 20 measuring 7,2700 morgen (para 2 Transfer 13089/1950) and Portion 21 measuring 7,8016 morgen (transfer 13090/1950) have been made entitled in equal shares, to the benefits and obligations under Condition 1(3) herein, as will more fully appear from the aforesaid Deeds of Transfer."

D. AND SUBJECT FURTHER to the following special conditions imposed in Deed of Transfer Number T101574/2000 by and in favour of Belvidere Estate (Proprietary) Limited (Company Number 87/04474/07) (hereinafter referred to as the Transferor) as binding upon the said Transferee and his Successors-in-Title :-

- (a) Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alternations to approved buildings shall be effected until the Transferor has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls. The Transferor, however, does not in any way whatsoever accept or assume any legal responsibility arising directly or indirectly from any approval granted by it.
- (b)
- (c)
- (d) The Transferor reserves the right to waive compliance with any one or more of the conditions imposed in (a), (b) and (c). Such waiver shall only be valid in writing and signed by the Transferor.

E. SUBJECT FURTHER to the following conditions imposed by the said Belvidere Estate (Proprietary) Limited and which condition is binding on the Transferee and his Successors-in-Title as created in Deed of Transfer Number T101574/2000, namely :-

The erf shall not be transferred without the written consent of Belvidere Homeowners Association of which the Transferee and his Successors-in-Title shall be a member.



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

FORESITE PROPERTIES CC
Registration Number 2008/082265/23

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

ROBERT STANLEY VADAS, Married as aforesaid

his Heirs, Executors, Administrators 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 R3 000 000,00 (THREE MILLION 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 4 October 2016

In my presence

REGISTRAR OF DEEDS

q.q.

GhostConvey 15.8.11.14



MESSRS STANDARD BANK
DOCEX 100
JOHANNESBURG OPERATIONS SHARED SERVICES

Our Ref
P MARTIN/eIWV1156

Your Ref.
HOME LOANS SECURITIES

Date:
11 April 2017

Dear Sirs

PRINCIPAL BOND HOLDER NAME: R S VADAS
ACCOUNT NO. 530103605
PROPERTY DETAILS: ERF 450 BELVEDERE

We enclose herewith the following documents for your safekeeping:

1. Mortgage Bond No. B26211/2016;
2. Deed of Transfer No. T60657/2016; and
3. Deeds Office search

We trust that all your requirements have been met and thank you for instructing us herein.

Kindly acknowledge receipt hereof on the duplicate of this letter. We should be grateful if you could kindly ensure that we receive notification of receipt from you, within seven (7) days of receiving the original Title Deed and Mortgage Bond.

Should we not, we will enquire once more, and should we then still not receive confirmation, we shall assume that you have received the original, and not accept any responsibility for any claims, for lost Title Deeds.

Yours faithfully

LOGAN - MARTIN INC.

per: **P MARTIN**

Logan - Martin Inc • Reg No 95/01331/07
20 Woodmill Lane Centre, 6571
Main Street Knysna 6571
P.O. Box 6 Knysna 6570
Docex 4 Knysna

Tel: +27 (0)44 382 1115
Fax: +27 (0)44 382 5582
E-Mail: peter@loganmartin.co.za

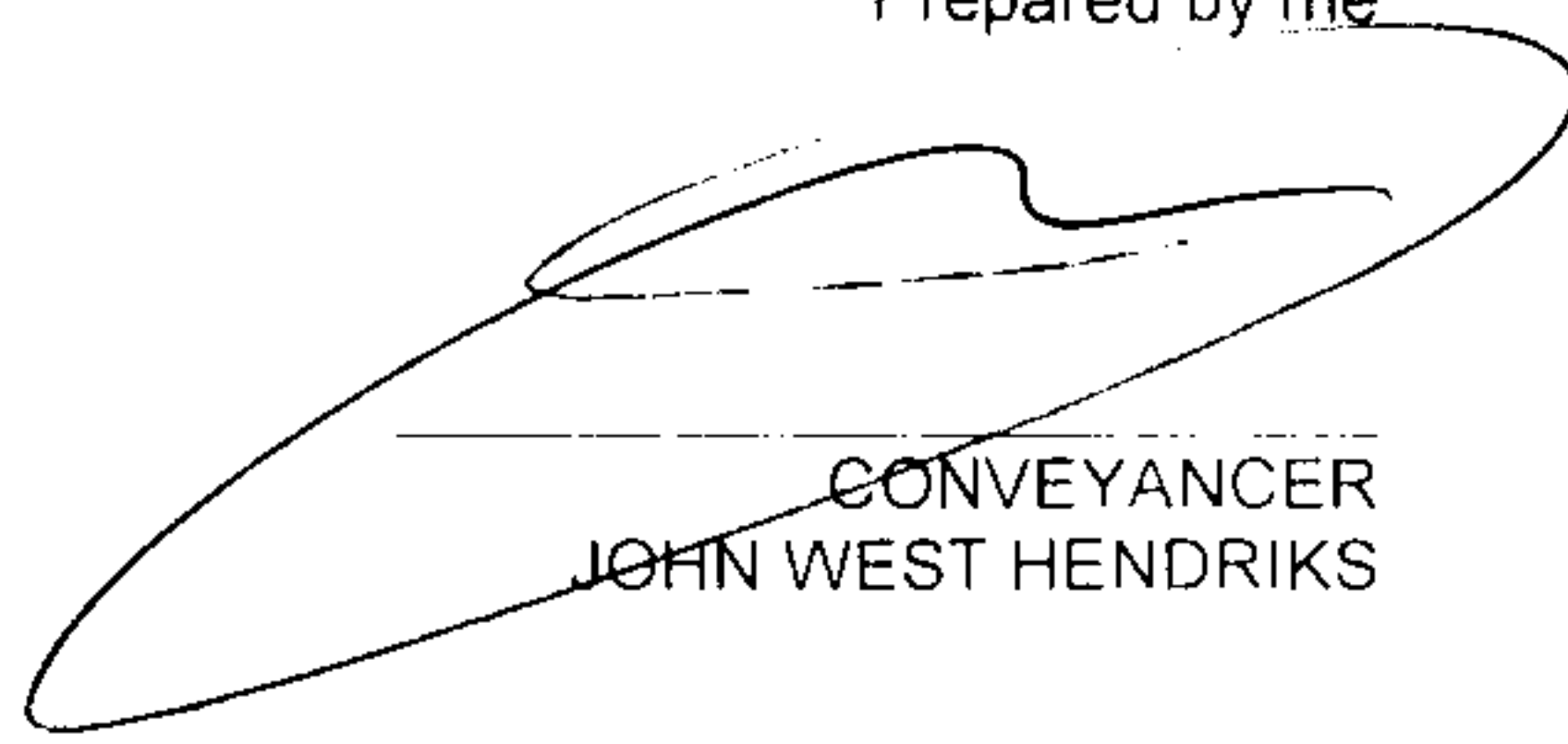
Directors:

Peter Martin BA LLB (Appraiser) ♦ Gerald Logan B Juris LLB ♦ Delon Barnard B Comm LLB
♦ Jacques de Villiers B Proc (Dip. Auctioneering) ♦ Office Manager: Annette Smit

JAMES KING & BADENHORST
144 ST JOHN STREET
OUDTSHOORN
6625

Prepared by me

To be endorsed by:	
Purchase price/Value	R 3 000 000,00 / 2 000,00
Mortgage Capital Amount	R
Reason for exemption	Exempt from Ct. section


CONVEYANCER
JOHN WEST HENDRIKS

VERBIND	MORTGAGED
VIR FOR R 2 400 000,00	
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T 000060657 / 2016

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John Henry Richard Havemann

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FORESITE PROPERTIES CC
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ROBERT STANLEY VADAS

Identity Number [REDACTED]

Married out of community of property

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

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IN EXTENT 1510 (ONE THOUSAND FIVE HUNDRED AND TEN) Square
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- (b)
- (c)
- (d) The Transferor reserves the right to waive compliance with any one or more of the conditions imposed in (a), (b) and (c). Such waiver shall only be valid in writing and signed by the Transferor.

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FORESITE PROPERTIES CC
Registration Number 2008/082265/23

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

ROBERT STANLEY VADAS, Married as aforesaid

his Heirs, Executors, Administrators 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 R3 000 000,00 (THREE MILLION 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 4 October 2016

In my presence

REGISTRAR OF DEEDS

q.q.

GhostConvey 15.8.11.14

MR RS VADAS
99 PAGE CL
BELVEDERE ESTATES
6571

Additions and Alterations Consent

19 June 2025

Dear Sir / Madam

Subject: Request for the approval of building a second dwelling.

Account number: 530103605
In the name of: Mr RS Vadas
Property description: Erf 450 Belvedere

We are pleased to advise that Standard Bank has no objection to your request, subject to our rights being protected and on the following conditions:

- Local authority approval.
- All municipal by laws must be adhered to.
- No buildings to be demolished without the Bank's consent.
- The Bank is not committing to finance new development.
- The building must comply with SBSA minimum specifications, should there be any further development.
- The correct Insurance must be applied.
- Residential component not to be compromised.
- Client must advise bank when building works are done so that we can revalue/reinsure.
- Please note that the bank holds the right to withdraw or amend the given consent.

Should you have any queries, please do not hesitate to contact us at CSAdminHLJHB@standardbank.co.za

Yours sincerely



Malebo Sebotso
Customer Service Consultant

Standard Bank Centre 1st Floor 5 Simmonds Street Johannesburg 2001 PO Box 61690 Marshalltown 2107 South Africa
Tel. Switchboard: +27 (0)11 636 9112 www.standardbank.co.za

The Standard Bank of South Africa Limited (Reg. No. 1962/000738/06). Authorised financial services and registered credit provider (NCRCP15).

Directors: NMC Nyembezi (Chairman) SK Tshabalala* (Chief Executive Officer) LL Bam PLH Cook A Daehrike* OA David Borha* GJ Fraser-Moleketi GMB Kennealy BJ Kruger LI LP JH Marais NNA Matyunda ML Odur-Otieno* RN Ogega* Fenglin Tian*

Company Secretary: K Froneman - 2025/04/08

*Executive Director: 1 Nigerian 2 Chinese 3 Kenyan

Knysna Municipality

KNYSNA MUNISIPALITEIT PLAN No 2023/30434

GOEDGEKEUR/APPROVED

Volgens die NBR. WET No 103 van 1977 soos gewysig

According to NBR. ACT No 103 of 1977 as amended

SIGNED: 

DATE: 2023-10-25

499

Erf 450

No. 99 PAGE CLOSE

WATER SUPPLY & DRAINAGE

NOTE:
Position and levels of all rodding eyes (RE), inspection eyes (IE), gulleys, drains, outside taps, discharge, ventilation & overflow pipes to be confirmed with Architect on site before any work is put to hand.

Water supply and drainage to comply with SANS 10252-1 (2012), SANS 2001-DP1, DP2, DP4, DP5 & DP6, NBR PART F and SABS 0400.

All water services installation components to be JASWIC approved.
Plumber to test and confirm mains water pressure with Architect before any work is put to hand.
Plumber to confirm all pipe diameters and reticulation with Architect before any work is put to hand.
Water supply to be ring fed.

All waste and soil pipes to be concealed.

All drainage pipes passing under/through buildings or any building structures are to comply with NBR Parts PP21.3; PP21.4(a); PP21.4(b) with RE's installed at ingress and egress points of drains under such buildings or structures.
Rodding Eye (RE) at all Soil Pipe branches and change of directions.
RE's to be positioned to allow maximum 2500mm rodding distance.
RE at the highest point of any drain.
Inspection eye (IE) at all Pipe Junctions.
IP's within 1200mm of upper extremities of branch drains.
ALL DRAIN & DISCHARGE PIPES installed within buildings shall be accessed by means of a screwed or bottled airtight cover (NBR Part.PP21.1(d)) Provide ALPRO tiled (or respective finish) .
Removable access panels/covers to all baths (except free-standing) and vertical pipe stacks or ducts - covers to be approved by Architect prior to installation.
ALL VENTILATION PIPE installation must comply to NBR Part PP20.4. regarding positioning.
All soil/stack/vent and waste pipes to be PVC.
All drainage pipes to be accessible.
Water reticulation pipes to be brought in on level 400mm above FFL in close proximity of fittings as shown.
Calculate water pressure to be the maximum available constantly. Water reticulation design to be presented to Architect for approval.
Electric water heaters to be in accordance with SANS 151.
Solar water heaters in positions shown and must comply with SABS 10254, 10106, 1307, 204 & 10400.
75mm deep waterseal 'P'-trap or resealing type 'P'-trap to all waste fittings. Waste pipes to be accessible along their entire lengths.
Anti-siphon/Anti-vac bottle traps and vent valves to all pipes exceeding 1200mm drops at traps and invert levels.
Electric water heaters in accordance with SANS 151.



SETTING OUT POINT - Original NGL



PROPOSED NEW ALTERATIONS

A R E A S: Erf 450 or 99 Page Close, Belvidere

Erf area: 1510.0m²

Allowed "coverage" (30%): 453.0m²

Allowed "bulk" (1.5): 679.5m²

311.4m ²	Total Coverage
549.8m ²	Total Floor Area

MATERIALS + COLOURS

Roof & rainwater goods	Corrugated Colorbond	Black
Exterior wall surface	Smooth plaster	Off-White
Door + window frames	Aluminium	Black



Site Plan

1:100

architect signature:

owner signature:



THIS PLAN HAS BEEN REVIEWED BY THE ARCHITECTURE COMMITTEE & BELVIDERE HOA & IS DEEMED TO SATISFY THE REQUIREMENTS OF THE BUILDING DESIGN MANUAL AS AMENDED. SUBJECT TO ANY ENDORSEMENTS BELOW. THE DESIGN & COMPLETION OF THE BUILDING IMPROVEMENTS MUST ALSO COMPLY WITH NATIONAL & MUNICIPAL REGULATIONS. STRUCTURAL SYSTEMS ARE TO BE DESIGNED/CERTIFIED BY A PROFESSIONAL ENGINEER. APPROVED COMPETENT PERSON. ANY REVISIONS OR AMENDMENTS ARE SUBJECT TO REVIEW BY THE ARCHITECTURE COMMITTEE FOR COMPLIANCE. & NEW PLANS ARE TO BE STAMPED & SIGNED PRIOR TO IMPLEMENTATION ON SITE. BMDA Tel: 044 387 1950

SIGNED BY AUTHORIZED REPRESENTATIVE - BELVIDERE HOA

2023.06.07

ENDORSEMENTS
- APPROVED PLANS ARE VALID FOR 12 MONTHS ONLY.
- CONSTRUCTION WORK TO COMMENCE WITHIN ... MONTHS FROM DATE OF ISSUE.
- TO BE COMPLETED WITHIN ... MONTHS OF SIGNED ISSUE.
- CONTRACTOR REGISTRATION & CODE OF CONDUCT TO BE SIGNED BY HOME-OWNER & CONTRACTORS.
- LAMINATED COPY OF SIGNED PLANS TO BE AVAILABLE AT CONSTRUCTION SITE AT ALL TIMES.

REVISION 1: 2023 05 30

1. Proposed new roof form and angle indicated

2. Verandah aperture dimensions amended

3. Coverage & floor area amended

vadas

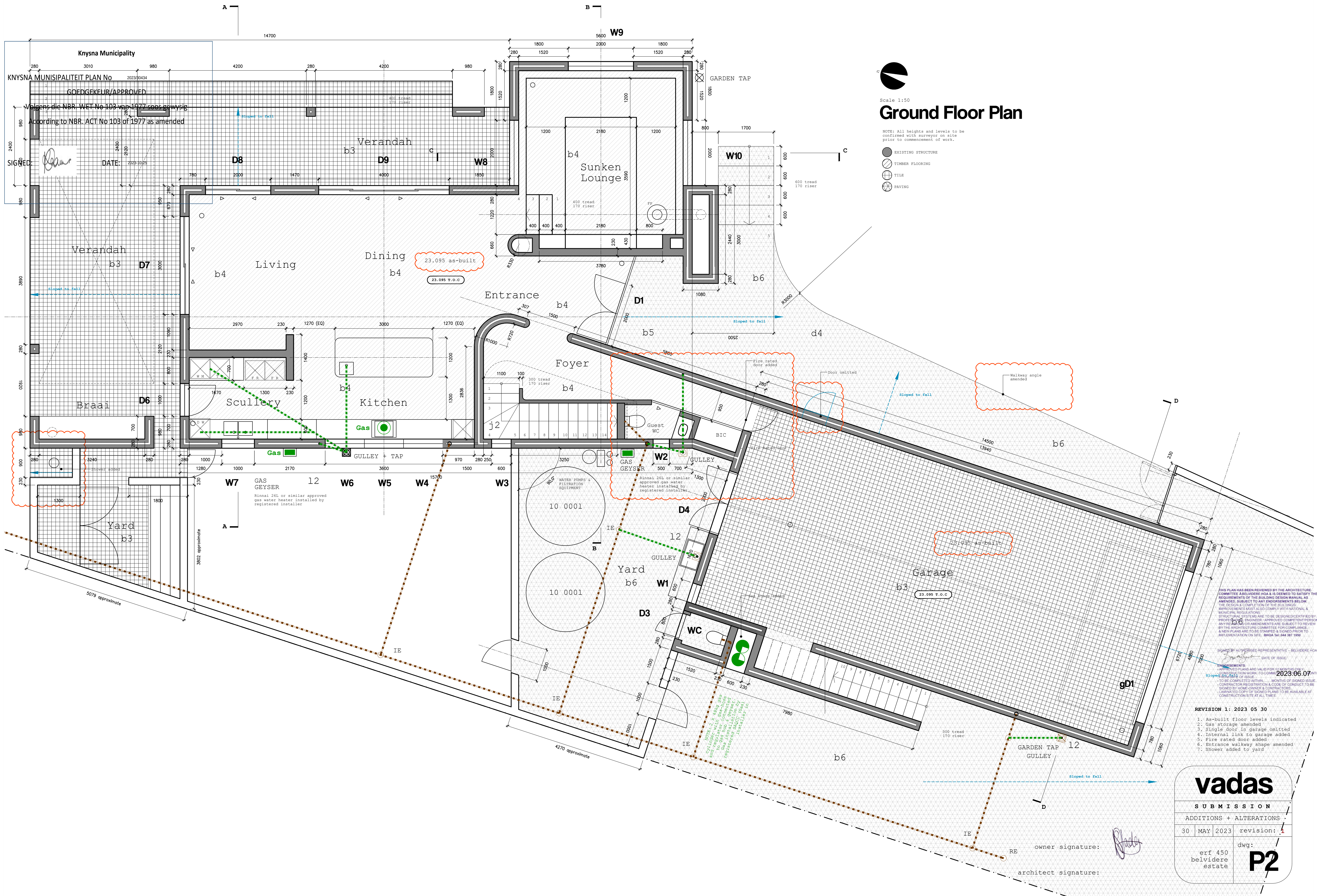
SUBMISSION

ADDITIONS + ALTERATIONS

30	MAY 2023	revision: 1
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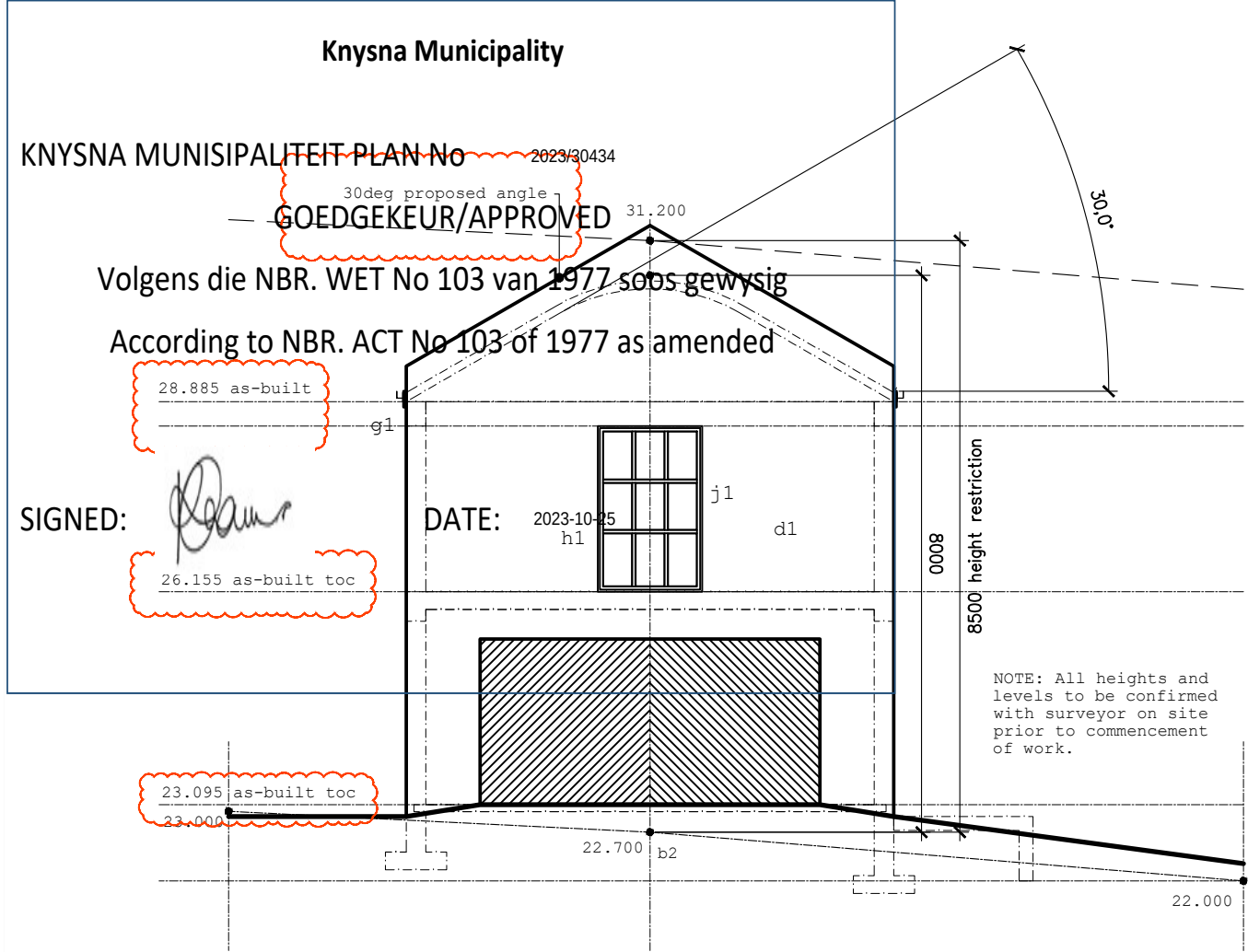
dwg:
erf 450
belvidere
estate

P1



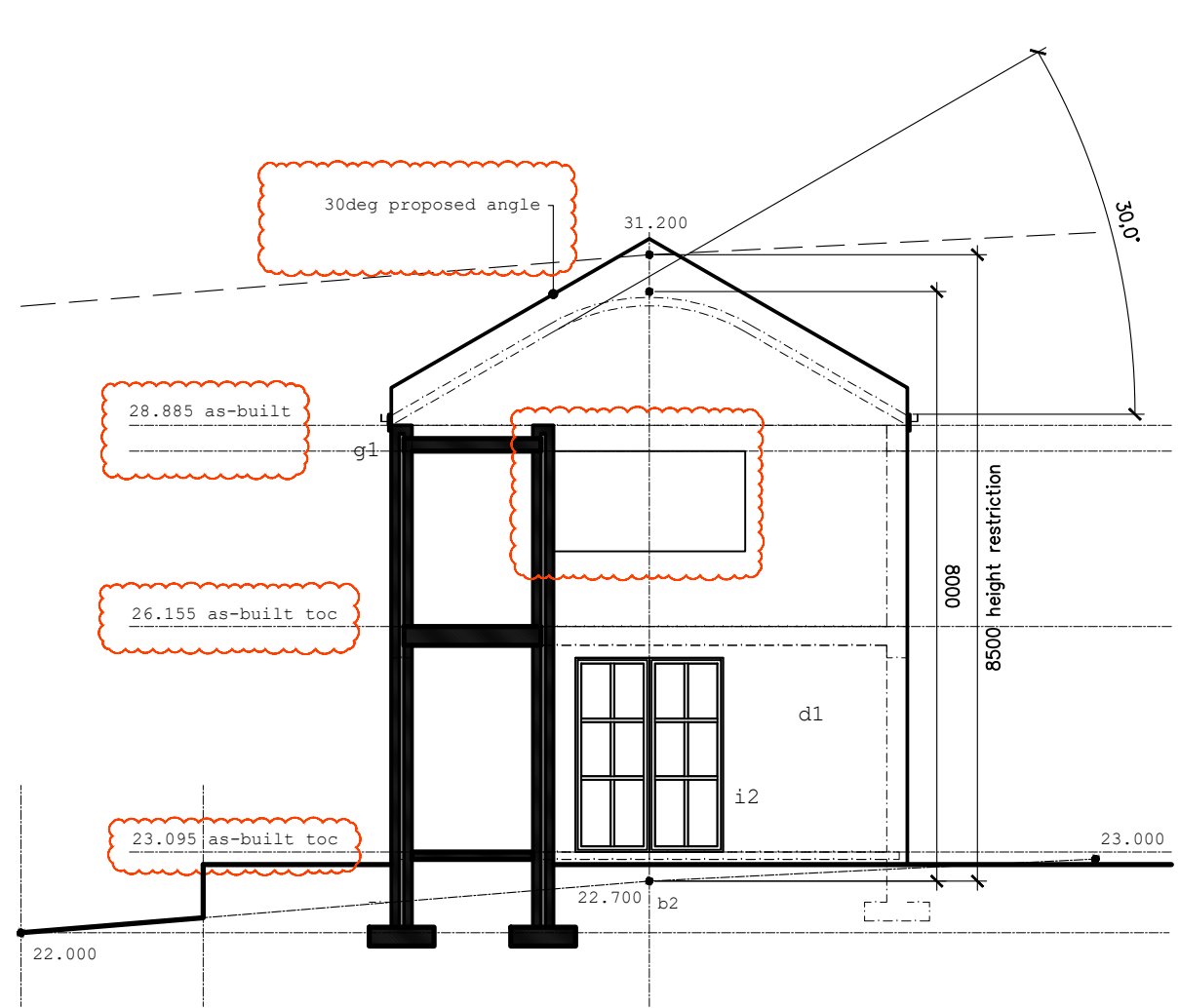
The design on this drawing remains the property of Pinard Architecture Incorporated. Copyright reserved. All actual ground levels to be checked against figured ground levels. Check drawing for trade discrepancies, including internal and underground services. Contractor to ensure that all 'SABS' & 'NBR' codes are satisfied - Architect & Owner to be notified of any discrepancies before work is put to hand. Fire extinguishers, fire doors & signage, all to 'SABS' and 'NBR' codes. No hazards or residual risks associated with maintenance & construction and introduced by design, not already apparent in the drawings, have been identified.

pinard architecture incorporated | po box 2738 knysna 6570 south africa | email: mail@pinard.tv | sacap no.7620 | cifa no.8049 | saia no.4929



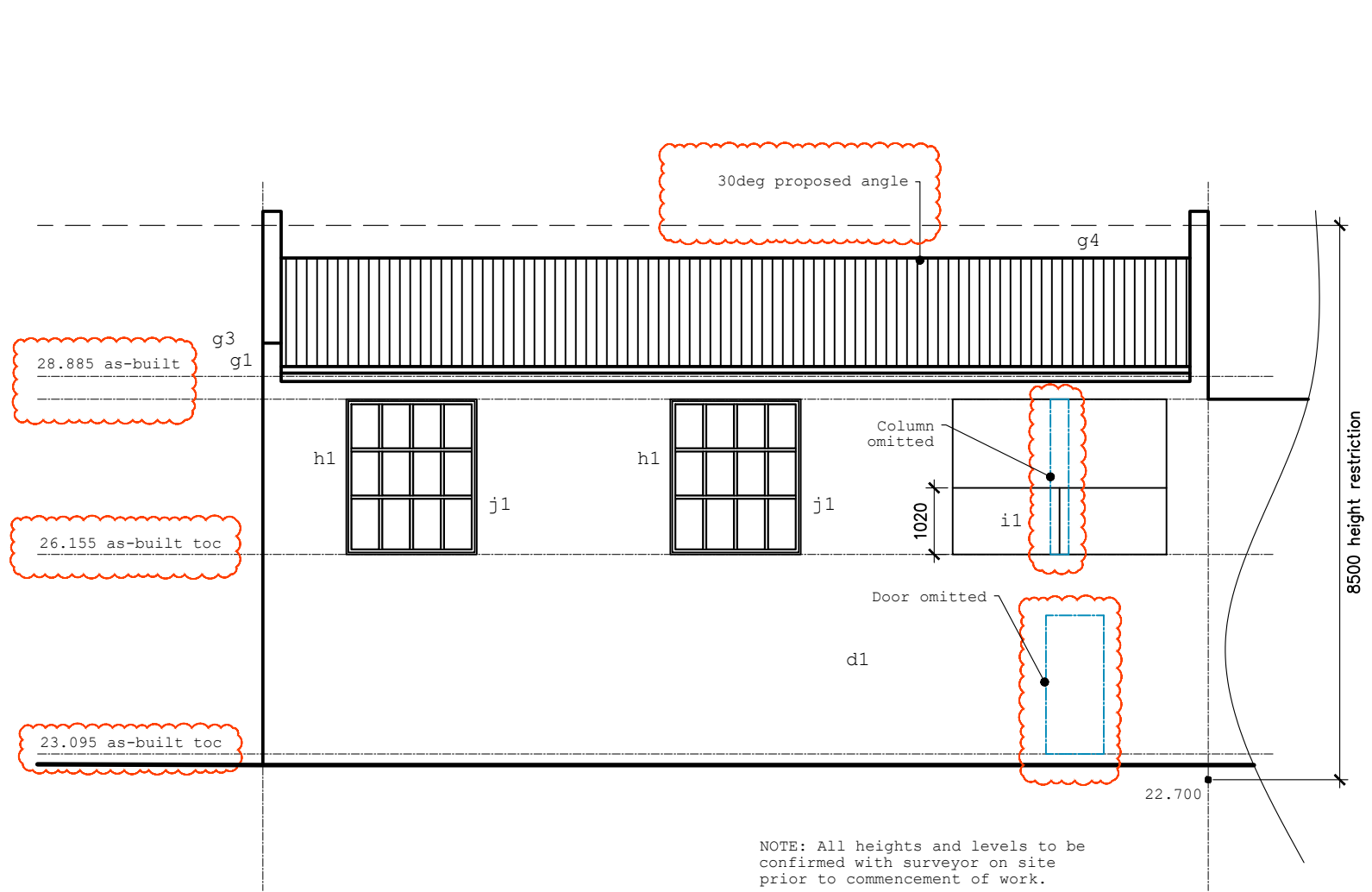
South Elevation - Garage

Scale 1:100



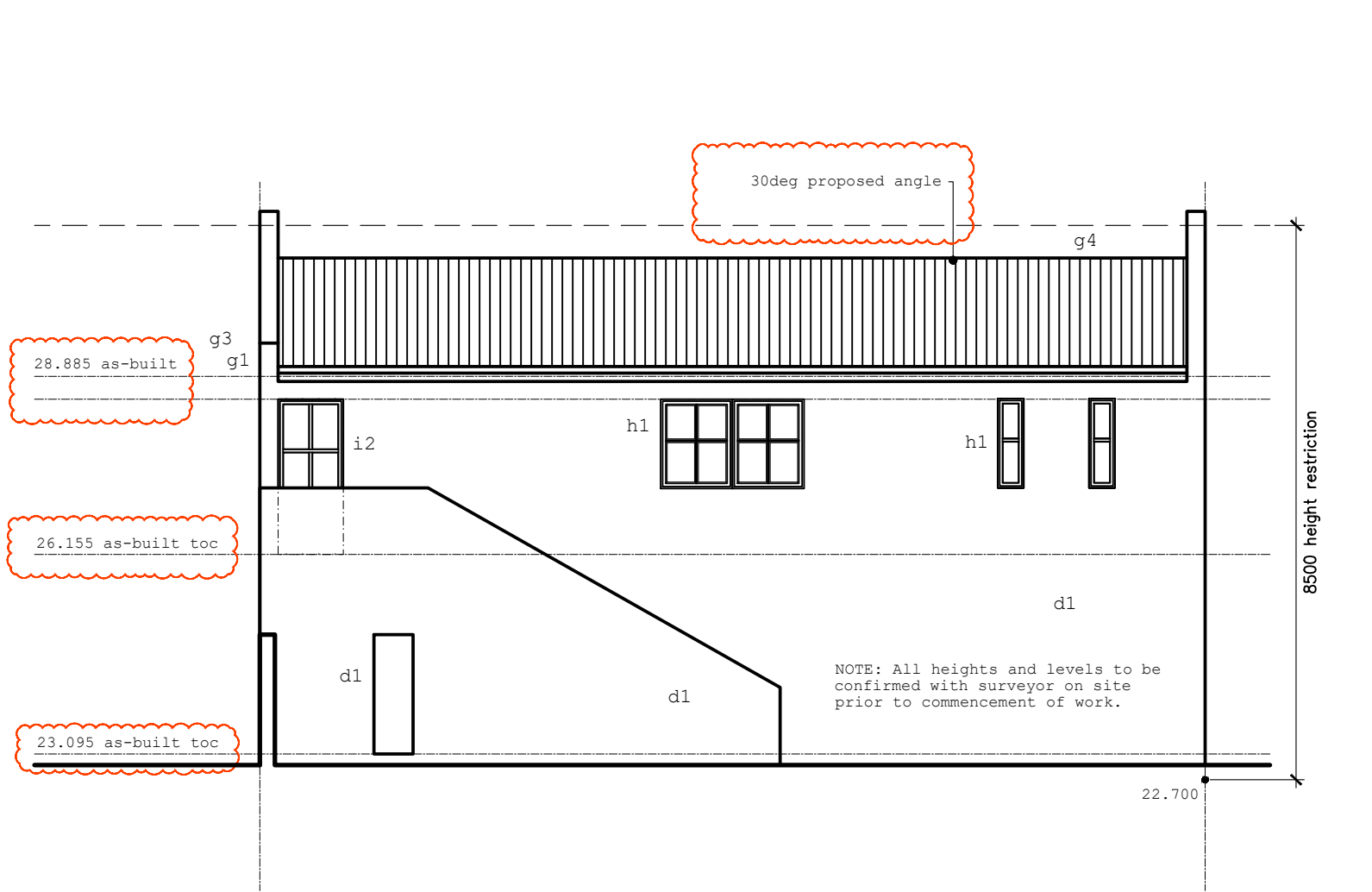
North Elevation - Garage

Scale 1:100



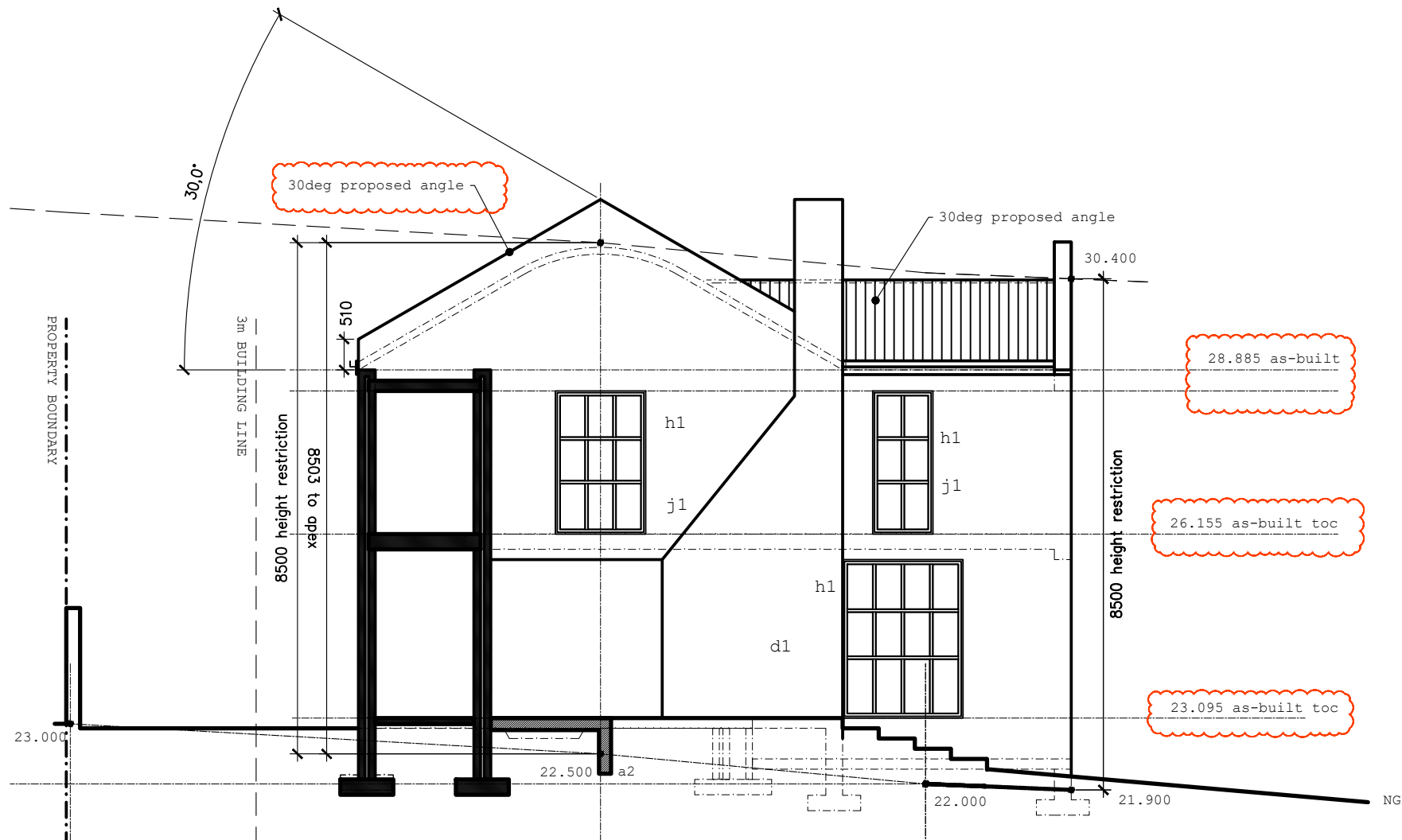
East Elevation - Garage

Scale 1:100



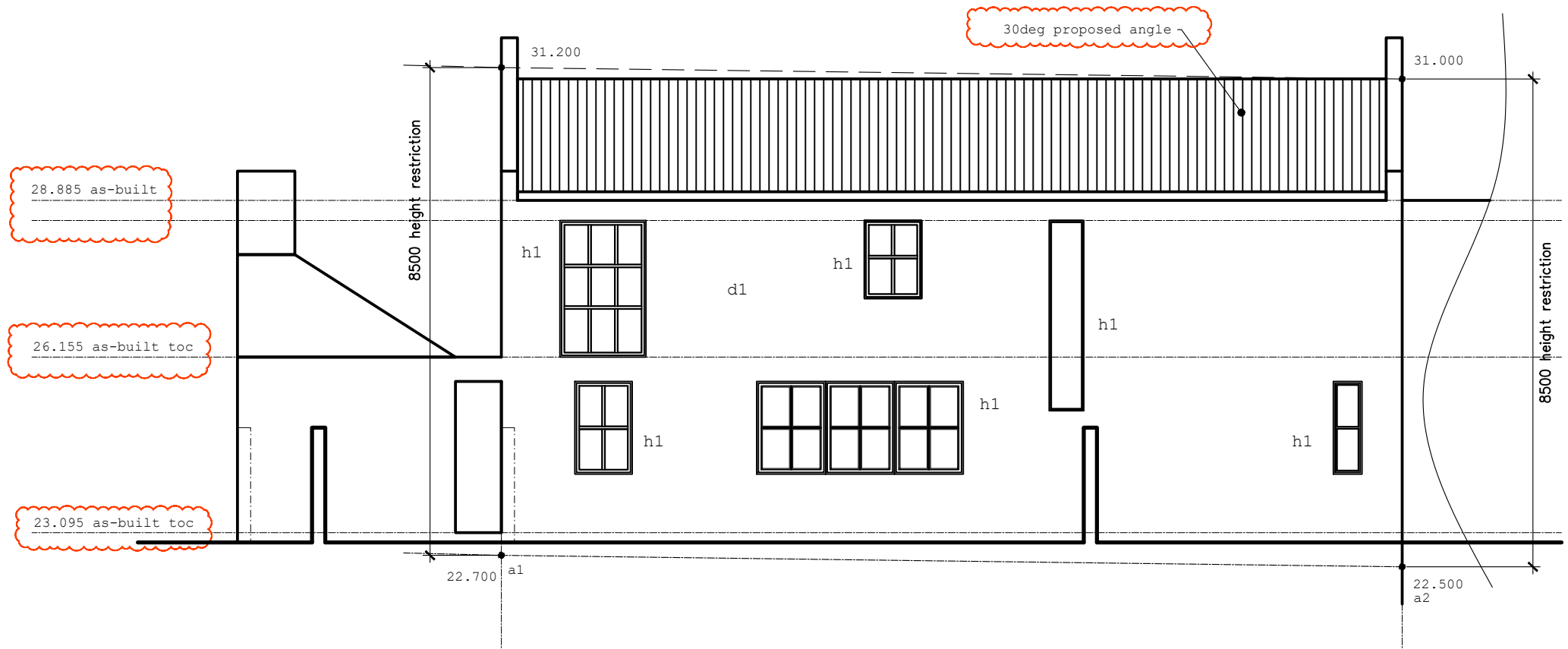
West Elevation - Garage

Scale 1:100



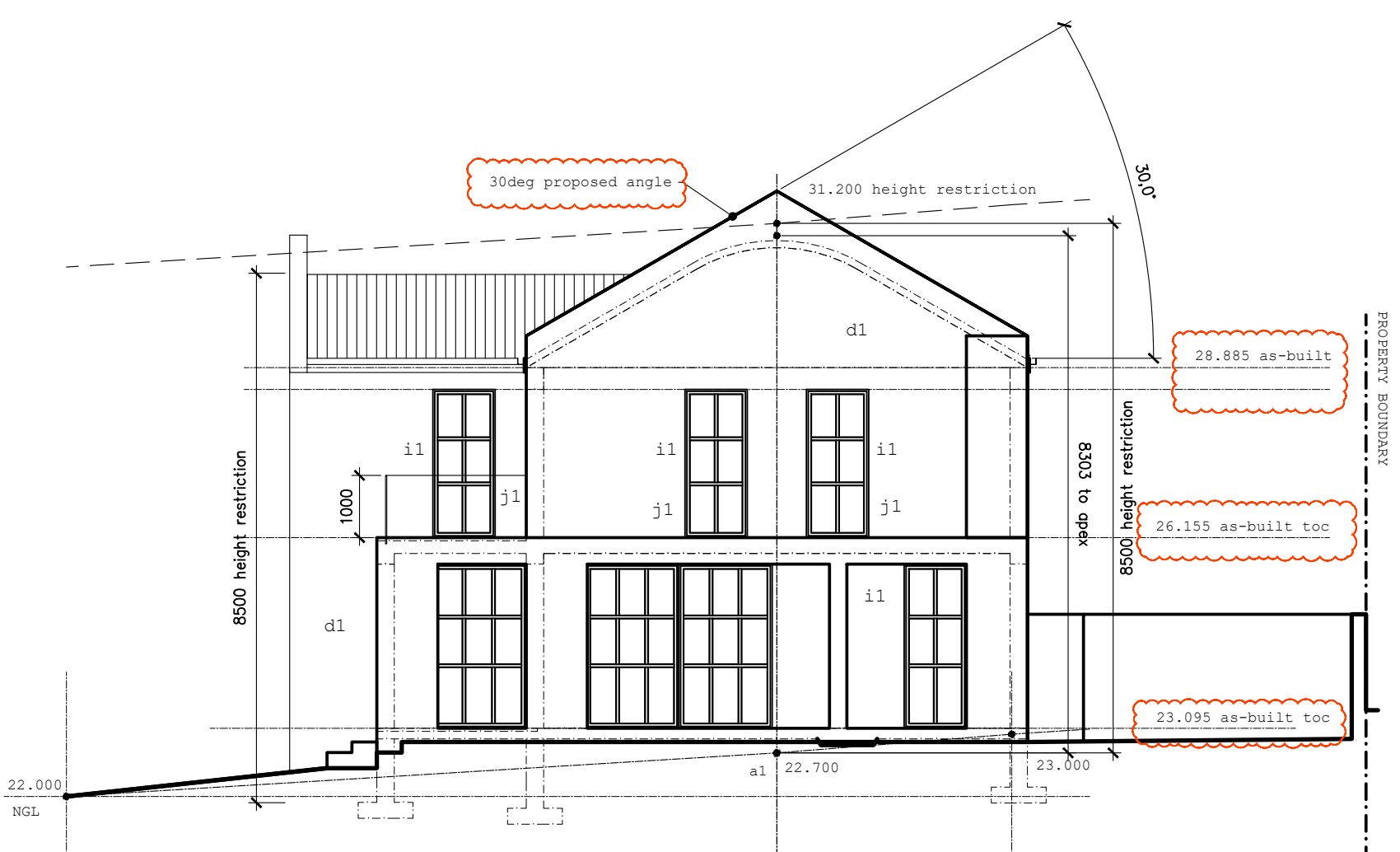
South Elevation

Scale 1:100



West Elevation

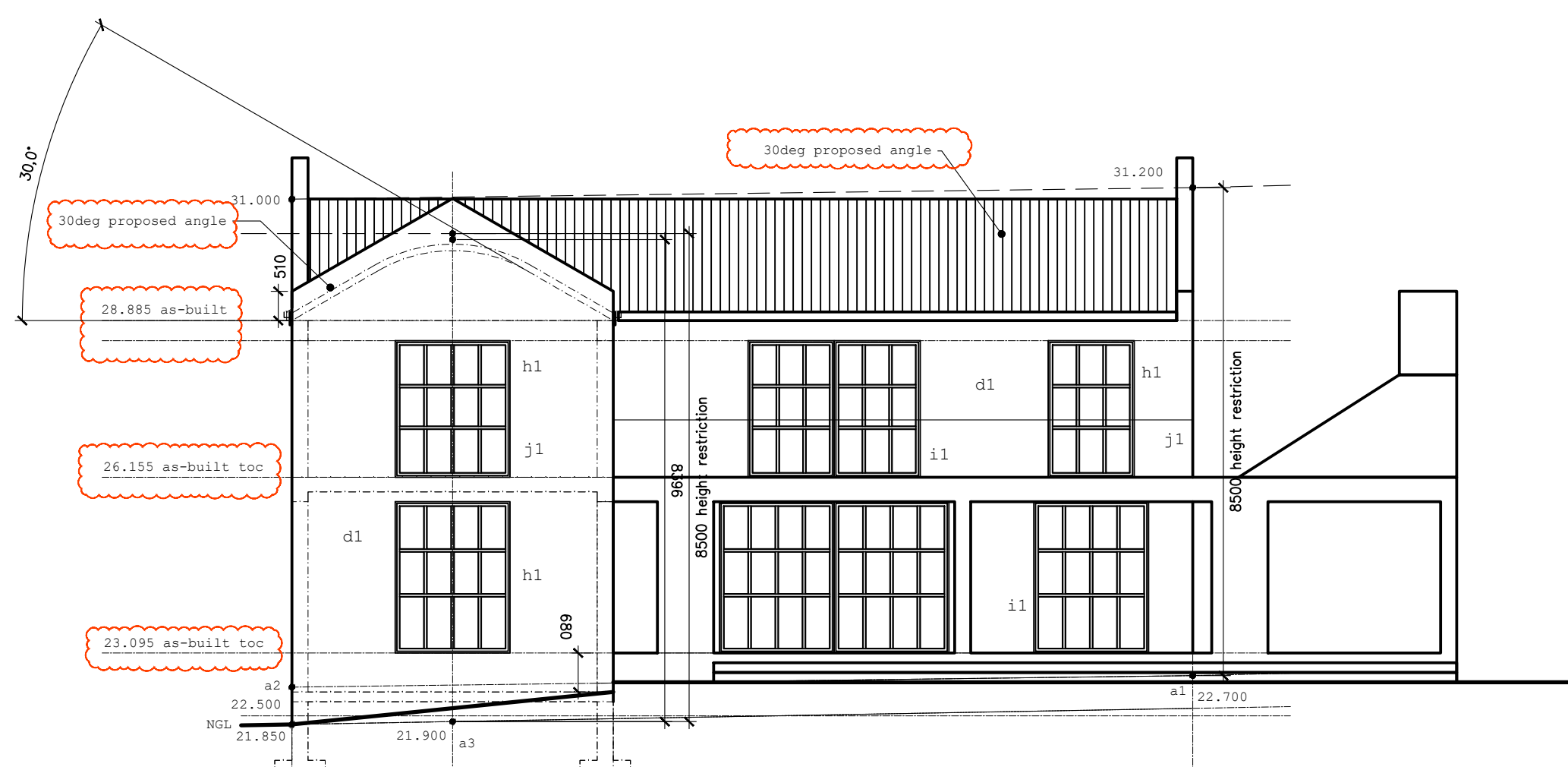
Scale 1:100



North Elevation

Scale 1:100

East Elevation



East Elevation

Scale 1:100

THIS PLAN HAS BEEN REVIEWED BY THE ARCHITECTURE COMMITTEE ABELVIDERE HOA & IS DEEMED TO SATISFY THE REQUIREMENTS OF THE BUILDING DESIGN MANUAL AS AMENDED, SUBJECT TO ANY ENDORSEMENTS BELOW. THE DESIGN & COMPLETION OF THE BUILDINGS IMPROVEMENTS MUST ALSO COMPLY WITH NATIONAL & MUNICIPAL REGULATIONS. STRUCTURAL SYSTEMS ARE TO BE DESIGNED/CERTIFIED BY A PROFESSIONAL ENGINEER / APPROVED COMPETENT PERSON. ANY REVISIONS OR AMENDMENTS ARE SUBJECT TO REVIEW BY THE ARCHITECTURE COMMITTEE FOR COMPLIANCE. A NEW PLAN IS TO BE STAMPED & SIGNED PRIOR TO IMPLEMENTATION ON SITE. BMDA TEL 044 387 1666

SIGNED BY AUTHORIZED REPRESENTATIVE - BELVIDERE HOA
[Signature]
DATE OF: 2023.06.07

ENDORSEMENTS
- APPROVED PLANS ARE VALID FOR 12 MONTHS ONLY
- CONSTRUCTION WORK TO COMMENCE WITHIN _____ MONTHS FROM DATE OF ISSUE
- TO BE COMPLETED WITHIN _____ MONTHS OF SIGNED ISSUE
- CONTRACTOR REGISTRATION & CODE OF CONDUCT TO BE SIGNED BY HOME-OWNER & CONTRACTORS
- LAMINATED COPY OF SIGNED PLANS TO BE AVAILABLE AT CONSTRUCTION SITE AT ALL TIME

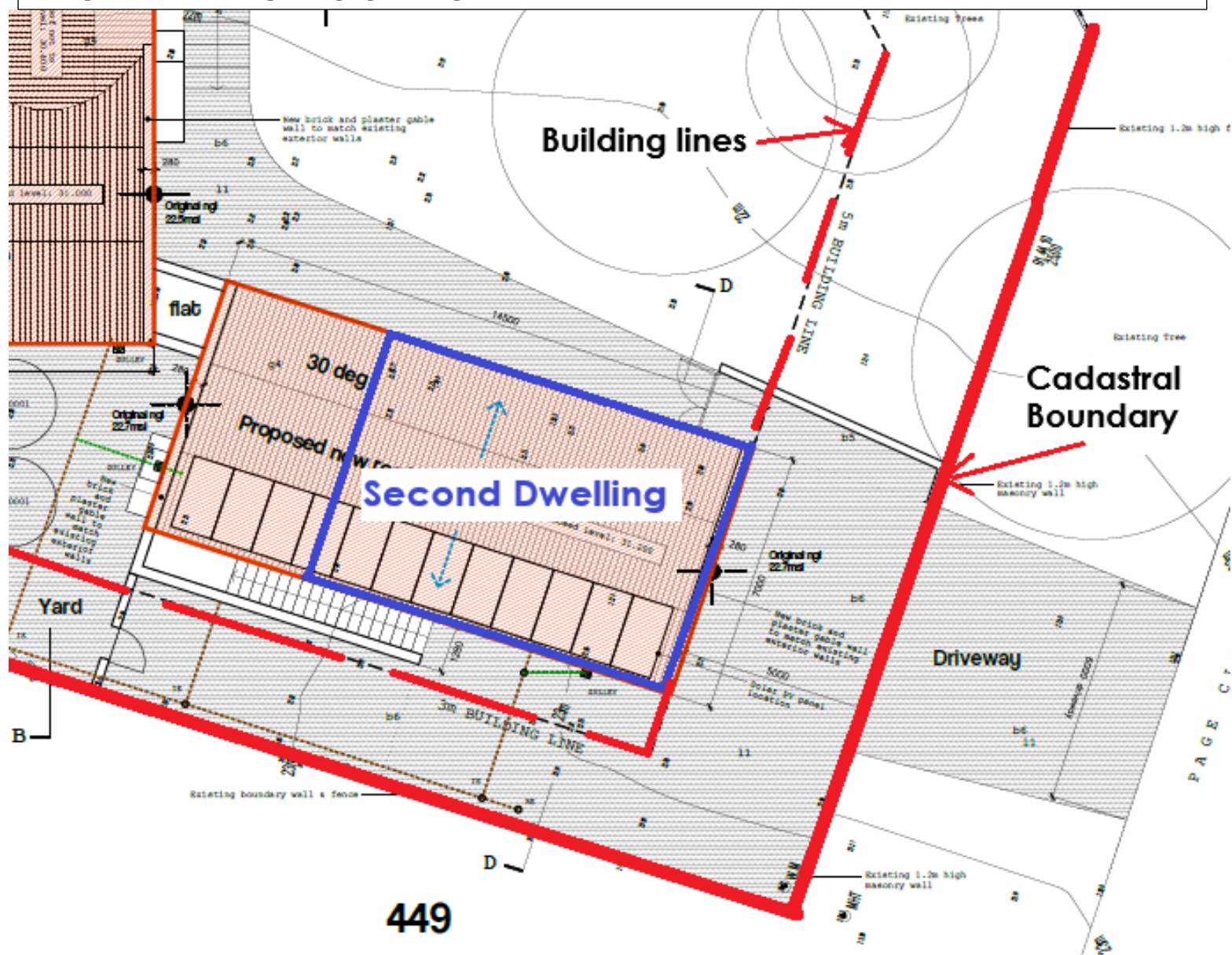
REVISION 1: 2023 05 30
1. As-built levels indicated
2. Proposed new roof structure indicated
3. As built windows indicated

vadas			
SUBMISSION			
ADDITIONS + ALTERATIONS			
30	MAY 2023	revision:	1
erf 450 belvidere estate		dwg:	P5

owner signature: [Signature]

architect signature:

**EXTRACT FROM APPROVED BUILDING PLAN: SECOND DWELLING POSITION
ABOVE THE EXISTING GARAGE**





Collab. Ref. **2163406**
File Ref.:
JH Smit
Tel: 044-302 6318

Knysna
Municipality Munisipaliteit uMasipala
inclusive • innovative • inspired

Via Electronic Mail

2025-09-15

Penelope Howie
52 Lower Duthie Drive
Belvedere Estate
KNYSNA
6570
Email: [REDACTED]

Dear Sir/Madam,

PROPOSED CONSENT USE: ERF 450, BELVEDERE, KNYSNA

Notice is hereby given in terms of Section 35 of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) that the abovementioned application has been received from:

Applicant's Name:	Robert Stanley Vadas
Contact Person:	c/o VBGD Town Planners
Email:	lloydruce@mweb.co.za
Reference number:	Application number 3541
Property Description:	Erf 450, Belvedere, Knysna
Physical Address:	Cnr Page Close & Lower Duthie Avenue
Nature of application:	

- i) Application for a **Consent Use** in terms of **Section 15(2)(o)** of the Knysna Municipality By-Law on Spatial Planning and Land Use Management (2021) to allow a second dwelling greater than 60m² of 73m².

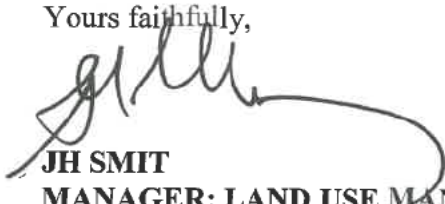
A full copy of the application is available for inspection on the municipal website:

<https://www.knysna.gov.za/do-business/planning-development/current-land-use-applications/>

Members of the public are invited to submit written comments, together with the reasons therefore in terms of Section 50 of the Knysna Spatial Planning and Land Use Management By-Law (2021). Comments must be addressed to the Municipal Manager and submitted via email at knysna@knysna.gov.za and lmniki@knysna.gov.za on or before **15 October 2025**, quoting your name, address, electronic contact details and telephone number, interest in the application and reasons for comment. The municipality may refuse to accept comments received after the closing date. Persons who cannot write may contact the Town Planning Office during office hours, where the responsible official will assist you in putting your comments in writing.

Telephonic enquiries may be made during office hours to Ms. Linda Mniki at 044-302 6383 or via email lmniki@knysna.gov.za.

Yours faithfully,


JH SMIT
MANAGER: LAND USE MANAGEMENT

/lb

MAILING LIST FOR ERF 450 BELVEDERE

449	GREENWOOD PG & JJM	Via electronic mail
453	LAMBORD SERVAAS VAN BREDA	Via electronic mail
499	BELVEDERE ESTATE LOCAL COUNCIL	NO EMAIL ADDRESS
454	ATKINSON HE	Via electronic mail
481	TOPPER CLIFFORD N & GAIL M	Via electronic mail
482	HOWIE PENELOPE	Via electronic mail
474	AMBER SUNRISE PROP (PTY)LTD	Via electronic mail

14 October 2025

Jacques Marais
Phone: +27 11 586 6026
Fax: +27 11 586 6026
jmarais@fasken.com

The Municipal Manager
Knysna Local Municipality
Knysna
6570

FOR ATTENTION: Linda Mniki

Per Email: lmniki@knysna.gov.za /
knysna@knysna.gov.za
Our ref: Jacques Marais

Your ref: Collab Reference 2663406

Erf 450 Belvedere: Application for Consent Use in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021

Dear Sir/Madam

1. Introduction

- 1.1 We act for the Belvedere Homeowners Association (**BHOA**).
- 1.2 We refer to the –
 - 1.2.1 application for a consent use in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021 (**By-Law**) submitted by Robert Stanley Vadas c/o VBGD Town Planners (**Applicant**), to permit a second dwelling greater than 60m² of 73,6m² on Erf 450 Belvedere (**Erf 450**), located at the Corner of Page Close & Lower Duthie Avenue (the **Application**). The Application reference number is **3541**; and
 - 1.2.2 memorandum, dated July 2025, in support of an application for consent use for a second dwelling on Erf 450, prepared by VBGD Town Planners (**Memorandum**); and
- 1.3 Erf 450 falls under the jurisdiction, management and administration of the BHOA.
- 1.4 On behalf of the BHOA, we hereby submit formal objections to the Application in accordance with Section 50 of the By-Law. We have been instructed to specifically address the Applicant's assertions regarding the role and authority of the BHOA and the binding nature of the Belvedere Estate Building Design Manual, 2024 (**BDM**).

- 1.5 While this letter does not address every contention made in the Application or Memorandum, the BHOA reserves the right to respond to any additional points at the appropriate time and forum, should the need arise.

2. **Binding Nature of the BHOA Constitution and BDM**

- 2.1 The BHOA is governed by the constitution of the BHOA (**Constitution**), which, together with any regulations adopted in terms of its Constitution, is binding on all the Members of the BHOA, including the Applicant.
- 2.2 All functions of the BHOA vests in the Executive Committee, which has the powers conferred on it under clause 12 of the Constitution.
- 2.3 The powers conferred on the Executive Committee include the power to –
- 2.3.1 appoint an Architecture Committee to *inter alia* -
- 2.3.1.1 ensure that all plans are considered in terms of the BDM;
- 2.3.1.2 take all decisions as may be necessary and within the Architecture Committee's powers to ensure the maintenance of the original Development Concept as interpreted by the Architecture Committee; and
- 2.3.1.3 propose regulations governing the maintenance of the Development Concept.
- 2.4 Having regard to the first paragraph under Section 3 of the BDM, the BDM has been formulated to –
- 2.4.1 preserve the Belvidere Estate architectural concept [sic] (which presumably implies the Development Concept); and
- 2.4.2 give effect to the mandate of the Development Company (which has been succeeded by the BHOA) imposed as a condition on the title deeds of the properties in the Estate, which states that:
- Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor (now the BHOA) has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls...*
- 2.5 The BDM, therefore, represents the regulations that must be observed and complied with by each Member of the BHOA, and enforced by the Architecture Committee, to ensure that the Development Concept is maintained and preserved.
- 2.6 Having regard to the above, we submit that the BDM constitutes regulations adopted in terms of the Constitution and is binding on every Member, including the Applicant. In numerous court judgements, it is confirmed that this binding effect arises from the principles of contract law, on the basis that the Applicant, when he bought and took transfer of his property (Erf 450), agreed, and undertook in favour of the BHOA, to be bound by the Constitution, its rules and regulations.
- 2.7 Against this background, every Member –
- 2.7.1 undertakes in favour of the BHOA that he shall comply with the provisions of the Constitution and any regulations adopted in terms of the Constitution;

- 2.7.2 shall observe all regulations made by the BHOA; and
- 2.7.3 shall comply with the decisions of the Architecture Committee on interpreting the BDM.
- 2.8 Contrary to the Applicant's suggestion that the BHOA and the BDM are merely advisory, we are instructed to submit that:
 - 2.8.1 the BHOA is governed by its Constitution that is **binding on all Members**, including the Applicant;
 - 2.8.2 the BDM constitutes **regulations adopted in terms of the Constitution**, and its provisions are enforceable by the Architecture Committee appointed by the BHOA;
 - 2.8.3 the title deeds of properties within Belvidere Estate explicitly require **written approval from the BHOA** for any building operations, additions, or alterations; and
 - 2.8.4 the Applicant, by accepting transfer of Erf 450, **contractually undertook** to comply with the Constitution, BDM, and decisions of the Architecture Committee.

3. Legal Framework Supporting BHOA Authority

- 3.1 It is common cause that the BHOA's Architecture Committee has rejected the Applicant's request for approval of a second dwelling on Erf 450 for non-compliance with Section 5.1.1.2 of the BDM.
- 3.2 Section 5.1.1.2 of the BDM provides as follows:
 - 5.1.1.2 SECOND DWELLING UNITS (*Granny Flat/Guest Cottage*)
A second dwelling shall only be approved on a single residential erf if all the following conditions are met:
 - **The coverage of the main house and outbuildings does not exceed 300 square metres.**
 - *The bulk of the proposed second dwelling does not exceed 100 square metres.*
 - *The second dwelling must be of the same design style as the main house specifically in materials, colour, doors and windows.*
 - *One small kitchen is permitted.*
 - *Special application to the Architecture Committee must be made and approval will only be granted at their discretion.*
 - *No third dwelling unit is permissible.*
 - *Special application can be submitted for accommodation units for live-in caregivers.*
 - *Knysna Municipal approval – Town Planning Department application – Consent Use for 2nd Dwelling.*
- 3.3 The Applicant contends that the Application should be approved by the Knysna Municipality regardless of the BHOA's (and by extension, the Architecture Committee's) position.
- 3.4 Based on the reasons and legal principles set out in the paragraphs below, we are instructed that the Knysna Municipality does not have jurisdiction or the

legal competence to override the BDM or condone permanent departures from the development parameters contained in the BDM.

- 3.5 The By-Law affirms the authority of homeowners' associations to impose more restrictive development rules than the rules provided for in the zoning scheme. In this regard, -
- 3.5.1 Section 29(8) of the By-Law permits a homeowners' association's design guidelines to introduce more restrictive development rules than those contained in the zoning scheme; and
- 3.5.2 Section 85(2) of the By-Law prohibits the Knysna Municipality from acting in conflict with its own By-Law, including those recognizing the authority of the BHOA as a homeowners' association and the rights of such homeowners' association to impose more restrictive development rules in its constitution than those contained in the zoning scheme.
- 3.6 Accordingly, on the basis of Section 85(2) of the By-Law read with Section 29(8) of the By-Law, the Knysna Municipality may not grant a departure from the development parameters which (i) is in conflict with the BDM and (ii) fails to uphold the 300m² floor area restriction contained in section 5.1.1.2 of the BDM, as any such approval will be in conflict with the Knysna Municipality's mandate not to act in conflict with the By-Law.
- 3.7 Moreover –
- 3.7.1 Section 29(3)(d) of the By-Law provides that the constitution of an owners' association must be approved by the municipality and must make provision for control over the design guidelines of the buildings and erven arising from the subdivision;
- 3.7.2 Section 29(8) of the By-Law provides that the design guidelines contemplated in paragraph 3.7.1 above **may introduce more restrictive development rules than the rules provided for in the zoning scheme** (own emphasis);
- 3.7.3 The principle set out in section 29(8) of the By-Law is a confirmation and codification of the legal principle laid out by the full bench of the High Court of South Africa, Western Cape Division, Cape Town in *Vanilla Street Home Owners Association v Ismail and another* (A345/2013) [2014] ZAWCGC 25 (5 March 2014)(**Vanilla Street-case**) - In summary, in the Vanilla Street-case, the full bench disagreed with the court a quo's conclusion that the Land Use Planning Ordinance 15 of 1985 (**LUPO**) (the ordinance that applied to the Vanilla Street Home Owners Association at that time and which is the ordinance under which the BHOA was established) did not grant the appellant, or other associations like it, the right to limit or restrict the use rights determined by a zoning scheme by way of a provision in its constitution or conduct rules.
- 3.7.4 **The Court in the Vanilla Street-case found in favour of the homeowners association, having the effect that the constitution providing more restrictive land use rights, prevailed over the relevant zoning scheme.**

4. Non-Compliance with the BDM

The proposed second dwelling of 73,6m² exceeds the 300m² coverage limit stipulated in Section 5.1.1.2 of the BDM. The Architecture Committee has already declined approval based on this non-compliance. The Applicant's attempt to reframe the coverage calculation is not supported by the BDM's definitions or the Architecture Committee's interpretation of the BDM.

5. Municipal Jurisdiction and Ultra Vires Risk

The Knysna Municipality does not have jurisdiction to override the BDM or condone permanent departures from its parameters. Any approval granted in conflict with the BDM would be ultra vires and subject to legal challenge.

6. Conclusion

6.1 For the reasons set out above, it is evident that:

6.1.1 the BHOA has the power to introduce more restrictive development rules than the rules provided for in the zoning scheme (which the BDM in its current form seeks to achieve), and has indeed done so;

6.1.2 the Applicant must comply with the decisions of the Architecture Committee on interpreting the BDM, in respect of which the Architecture Committee has declined approval based on non-compliance with Section 5.1.1.2 of the BDM;

6.1.3 the Knysna Municipality lacks the jurisdiction and legal competence to grant the departure and that any positive determination in respect of the Application will be *ultra vires*;

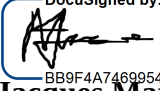
6.1.4 if the Applicant does not agree with the Architecture Committee's decision, then a dispute should have been declared, and the dispute must be dealt with in accordance with the dispute resolution procedures outlined in the BDM and Constitution;

6.1.5 regardless of the manner of breach of the BHOA Constitution or BDM, the BHOA (through the Executive and Architecture Committee) is well within its rights to preserve the architectural concept of the Estate and were it to attempt to condone the breach of Section 5.1.1.2 of the BDM in this case, then not only will the committee act contrary to their powers and duties under the Constitution, but it would be difficult for the committee to object at a later stage to any other transgression of the BDM, which will result in the failure to preserve and maintain the Development Concept of the Estate. This will amount to a failure of its fiduciary duties to the Members in the Estate; and

6.1.6 the Applicant remains bound by the BHOA Constitution and BDM. The Architecture Committee's decision is valid and enforceable. The Knysna Municipality must respect the binding nature of these instruments and refrain from approving any application that contravenes them.

6.2 The BHOA reserves all rights to make further submissions and to participate in any proceedings related to this Application. All notices and further proceedings related to the Application must be sent to writer hereof at the addresses reflected in this letter.

Yours sincerely

DocuSigned by:

BB9F4A746995458
Jacques Marais
Fasken

14 October 2025

Jacques Marais
Phone: +27 11 586 6026
Fax: +27 11 586 6026
jmarais@fasken.com

The Municipal Manager
Knysna Local Municipality
Knysna
6570

FOR ATTENTION: Linda Mniki

Per Email: lmniki@knysna.gov.za /
knysna@knysna.gov.za
Our ref: Jacques Marais

Your ref: Collab. Reference 2663406

Erf 450 Belvedere: Application for Consent Use in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021

Dear Sir/Madam

1. Introduction

- 1.1 We act for Mr Servaas van Breda Lombard, the registered owner of Erven 452 and 453 Belvedere (**Client**).
- 1.2 We refer to the –
 - 1.2.1 application for a consent use in terms of Section 15(2)(o) of the Knysna Municipality Spatial Planning & Land Use Management By-Law, 2021 (**By-Law**) submitted by Robert Stanley Vadas c/o VBGD Town Planners (**Applicant**), to permit a second dwelling greater than 60m² of 73,6m² on Erf 450 Belvedere (**Erf 450**), located at the Corner of Page Close & Lower Duthie Avenue (the **Application**). The Application reference number is **3541**;
 - 1.2.2 memorandum, dated July 2025, in support of an application for consent use for a second dwelling on Erf 450, prepared by VBGD Town Planners (**Memorandum**); and
 - 1.2.3 written notice, dated 15 September 2025, issued by the Knysna Municipality in terms of Section 35 of the By-Law (under Collab. Ref. 2663406) –
 - 1.2.3.1 notifying our Client of the Application; and
 - 1.2.3.2 inviting our Client to submit written comments to the Application in terms of Section 50 of the By-Law, on or before 15 October 2025.

- 1.3 On behalf of our Client, we hereby submit formal objections to the Application in accordance with Section 50 of the By-Law. We have been instructed to specifically address the Applicant's assertions regarding the role and authority of the Belvidere Homeowners Association (**BHOA**) and the binding nature of the Belvidere Estate Building Design Manual, 2024 (**BDM**).
 - 1.4 While this letter does not address every contention made in the Application or Memorandum, our Client reserves the right to respond to any additional points at the appropriate time and forum, should the need arise.
2. **Binding Nature of the BHOA Constitution and BDM**
- 2.1 The BHOA is governed by the constitution of the BHOA (**Constitution**), which, together with any regulations adopted in terms of its Constitution, is binding on all the Members of the BHOA, including the Applicant.
 - 2.2 All functions of the BHOA vests in the Executive Committee, which has the powers conferred on it under clause 12 of the Constitution.
 - 2.3 The powers conferred on the Executive Committee include the power to –
 - 2.3.1 appoint an Architecture Committee to *inter alia* -
 - 2.3.1.1 ensure that all plans are considered in terms of the BDM;
 - 2.3.1.2 take all decisions as may be necessary and within the Architecture Committee's powers to ensure the maintenance of the original Development Concept as interpreted by the Architecture Committee; and
 - 2.3.1.3 propose regulations governing the maintenance of the Development Concept.
 - 2.4 Having regard to the first paragraph under Section 3 of the BDM, the BDM has been formulated to –
 - 2.4.1 preserve the Belvidere Estate architectural concept [sic] (which presumably implies the Development Concept); and
 - 2.4.2 give effect to the mandate of the Development Company (which has been succeeded by the BHOA) imposed as a condition on the title deeds of the properties in the Estate, which states that:

Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor (now the BHOA) has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls...
 - 2.5 The BDM, therefore, represents the regulations that must be observed and complied with by each Member of the BHOA, and enforced by the Architecture Committee, to ensure that the Development Concept is maintained and preserved.
 - 2.6 Having regard to the above, we submit that the BDM constitutes regulations adopted in terms of the Constitution and is binding on every Member, including the Applicant. In numerous court judgements, it is confirmed that this binding effect arises from the principles of contract law, on the basis that the Applicant, when he bought and took transfer of his property (Erf 450), agreed, and

undertook in favour of the BHOA, to be bound by the Constitution, its rules and regulations.

- 2.7 Against this background, every Member –
- 2.7.1 undertakes in favour of the BHOA that he shall comply with the provisions of the Constitution and any regulations adopted in terms of the Constitution;
- 2.7.2 shall observe all regulations made by the BHOA; and
- 2.7.3 shall comply with the decisions of the Architecture Committee on interpreting the BDM.
- 2.8 Contrary to the Applicant's suggestion that the BHOA and the BDM are merely advisory, we are instructed to submit that:
- 2.8.1 the BHOA is governed by its Constitution that is **binding on all Members**, including the Applicant;
- 2.8.2 the BDM constitutes **regulations adopted in terms of the Constitution**, and its provisions are enforceable by the Architecture Committee appointed by the BHOA;
- 2.8.3 the title deeds of properties within Belvidere Estate explicitly require **written approval from the BHOA** for any building operations, additions, or alterations; and
- 2.8.4 the Applicant, by accepting transfer of Erf 450, **contractually undertook** to comply with the Constitution, BDM, and decisions of the Architecture Committee.

3. Legal Framework Supporting BHOA Authority

- 3.1 It is common cause that the BHOA's Architecture Committee has rejected the Applicant's request for approval of a second dwelling on Erf 450 for non-compliance with Section 5.1.1.2 of the BDM.
- 3.2 Section 5.1.1.2 of the BDM provides as follows:

5.1.1.2 SECOND DWELLING UNITS (Granny Flat/Guest Cottage)

A second dwelling shall only be approved on a single residential erf if all the following conditions are met:

- **The coverage of the main house and outbuildings does not exceed 300 square metres.**
- *The bulk of the proposed second dwelling does not exceed 100 square metres.*
- *The second dwelling must be of the same design style as the main house specifically in materials, colour, doors and windows.*
- *One small kitchen is permitted.*
- *Special application to the Architecture Committee must be made and approval will only be granted at their discretion.*
- *No third dwelling unit is permissible.*
- *Special application can be submitted for accommodation units for live-in caregivers.*
- *Knysna Municipal approval – Town Planning Department application – Consent Use for 2nd Dwelling.*

- 3.3 The Applicant contends that the Application should be approved by the Knysna Municipality regardless of the BHOA's (and by extension, the Architecture Committee's) position.
- 3.4 Based on the reasons and legal principles set out in the paragraphs below, our Client has instructed us that the Knysna Municipality does not have jurisdiction or the legal competence to override the BDM or condone permanent departures from the development parameters contained in the BDM.
- 3.5 The By-Law affirms the authority of homeowners' associations to impose more restrictive development rules than the rules provided for in the zoning scheme. In this regard, -
 - 3.5.1 Section 29(8) of the By-Law permits a homeowners' association's design guidelines to introduce more restrictive development rules than those contained in the zoning scheme; and
 - 3.5.2 Section 85(2) of the By-Law prohibits the Knysna Municipality from acting in conflict with its own By-Law, including those recognizing the authority of the BHOA as a homeowners' association and the rights of such homeowners' association to impose more restrictive development rules in its constitution than those contained in the zoning scheme.
- 3.6 Accordingly, on the basis of Section 85(2) of the By-Law read with Section 29(8) of the By-Law, the Knysna Municipality may not grant a departure from the development parameters which (i) is in conflict with the BDM and (ii) fails to uphold the 300m² floor area restriction contained in section 5.1.1.2 of the BDM, as any such approval will be in conflict with the Knysna Municipality's mandate not to act in conflict with the By-Law.
- 3.7 Moreover –
 - 3.7.1 Section 29(3)(d) of the By-Law provides that the constitution of an owners' association must be approved by the municipality and must make provision for control over the design guidelines of the buildings and erven arising from the subdivision;
 - 3.7.2 Section 29(8) of the By-Law provides that the design guidelines contemplated in paragraph 3.7.1 above **may introduce more restrictive development rules than the rules provided for in the zoning scheme** (own emphasis);
 - 3.7.3 The principle set out in section 29(8) of the By-Law is a confirmation and codification of the legal principle laid out by the full bench of the High Court of South Africa, Western Cape Division, Cape Town in *Vanilla Street Home Owners Association v Ismail and another* (A345/2013) [2014] ZAWCGC 25 (5 March 2014) (**Vanilla Street-case**) - In summary, in the Vanilla Street-case, the full bench disagreed with the court a quo's conclusion that the Land Use Planning Ordinance 15 of 1985 (**LUPO**) (the ordinance that applied to the Vanilla Street Home Owners Association at that time and which is the ordinance under which the BHOA was established) did not grant the appellant, or other associations like it, the right to limit or restrict the use rights determined by a zoning scheme by way of a provision in its constitution or conduct rules.

3.7.4 **The Court in the Vanilla Street-case found in favour of the homeowners association, having the effect that the constitution providing more restrictive land use rights, prevailed over the relevant zoning scheme.**

4. **Non-Compliance with the BDM**

The proposed second dwelling of 73,6m² exceeds the 300m² coverage limit stipulated in Section 5.1.1.2 of the BDM. The Architecture Committee has already declined approval based on this non-compliance. The Applicant's attempt to reframe the coverage calculation is not supported by the BDM's definitions or the Architecture Committee's interpretation of the BDM.

5. **Municipal Jurisdiction and Ultra Vires Risk**

The Knysna Municipality does not have jurisdiction to override the BDM or condone permanent departures from its parameters. Any approval granted in conflict with the BDM would be ultra vires and subject to legal challenge.

6. **Conclusion**

6.1 For the reasons set out above, it is evident that:

6.1.1 the BHOA has the power to introduce more restrictive development rules than the rules provided for in the zoning scheme (which the BDM in its current form seeks to achieve), and has indeed done so;

6.1.2 the Applicant must comply with the decisions of the Architecture Committee on interpreting the BDM, in respect of which the Architecture Committee has declined approval based on non-compliance with Section 5.1.1.2 of the BDM;

6.1.3 the Knysna Municipality lacks the jurisdiction and legal competence to grant the departure and that any positive determination in respect of the Application will be *ultra vires*;

6.1.4 if the Applicant does not agree with the Architecture Committee's decision, then a dispute should have been declared, and the dispute must be dealt with in accordance with the dispute resolution procedures outlined in the BDM and Constitution;

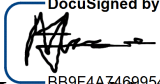
6.1.5 regardless of the manner of breach of the BHOA Constitution or BDM, the BHOA (through the Executive and Architecture Committee) is well within its rights to preserve the architectural concept of the Estate and were it to attempt to condone the breach of Section 5.1.1.2 of the BDM in this case, then not only will the committee act contrary to their powers and duties under the Constitution, but it would be difficult for the committee to object at a later stage to any other transgression of the BDM, which will result in the failure to preserve and maintain the Development Concept of the Estate. This will amount to a failure of its fiduciary duties to the Members in the Estate; and

6.1.6 the Applicant remains bound by the BHOA Constitution and BDM. The Architecture Committee's decision is valid and enforceable. The Knysna Municipality must respect the binding nature of these instruments and refrain from approving any application that contravenes them.

6.2 Our Client reserves all rights to make further submissions and to participate in any proceedings related to this Application. All notices and further proceedings

related to the Application must be sent to writer hereof at the addresses reflected in this letter.

Yours sincerely


DocuSigned by:
BB9F4A746995458
Jacques Marais
Fasken



KNYSNA
Municipality
Munisipaliteit
uMasipala

LAND USE APPLICATION DEPARTMENT COMMENTS

Erf Number: 400450000
Application Type: Consent Use
Application Number: 3541
Application Date: 2025-08-19

Department	Comment Requested (T=Yes / F=No)	Comment Received
Corporate Services	F	
Legal Services	F	
Financial Services	F	
Community Services	F	
Fire Services	F	
Traffic	F	
Waste Removal	F	
Infrastructure Services	T	--oOo-- Tue Sep 30 2025 11:08:41 GMT+0200 (South Africa Standard Time) Comment by JOYAN: No objection
Infrastructure Services Roads	F	
Infrastructure Services Sewer	F	
Electro Technical	F	
Housing	F	
Environmental Services	F	
Building Control	T	--oOo-- Mon Oct 06 2025 08:45:11 GMT+0200 (South Africa Standard Time) Comment by WILLIAMSZ: Recommend for approval.
Aesthetics Committee	F	
Street Naming Committee	F	

VBGD Town Planners

Town Planners and Development Consultants

JOHANNESBURG: Tel : 27 011 706 2761 or KNYSNA 079 158 6699

Email : druce@mweb.co.za website: <https://vbgdtownplanners.co.za/>

POSTAL ADDRESS: P.O.Box 3506 Knysna 6570

PHYSICAL ADDRESS: 154 Watsonia Avenue Brenton WC

Celebrating 35 Years service to our clients (1985 to 2020)



Date: 27 November 2025

Reference:

The Municipal Manager
Planning and Development Department
Knysna Municipality
P. O Box 21
KNYSNA
6570

Attention: Hennie Smit: Manager: Land Use Management
Linda Mninki : Town Planner Case officer

Reference Number: 3541

Dear Sir,

APPLICATION ERF 450 BELVEDERE: RESPONSE TO COMMENTS:

I refer to the above application, and to your email dated 3 November 2025 to which we have the following comments:

1. We note that there were **no internal comments or objections** which require our response, these being from:

Department	Comment
Building Control	Recommended for approval;
Infrastructure services Water and Sanitation	No Objection
Infrastructure Public Works	No Objection
Director Infrastructure	Supported

2. The following comments were received **from external parties**.

Name	Comments/Objections
PG Greenwood Owner Erf 449	Being the only direct adjoining owner, I confirm I have no objections to the application. The recently completed new property already incorporates the area in question without any exterior alterations newly completed
S E Stegmann Owner Erf 474	No Objection to the second dwelling above the garage
P Howie Owner Erf 482	No Objection to the second dwelling above the garage
H Atkinson Owner Erf 454	No Objection to the second dwelling above the garage

Breda Lombard Owner Erf 452	Objection by Fasken Attorneys
Belvidere Home Owners Association (BHOA)	Objection by Fasken Attorneys

3. With the exception of the owner of Erf 452, which is a property diagonally across from the site, the neighbouring properties have no objection to the application.
4. Regarding the identical objections lodged by Fasken Attorneys on behalf of the BHOA and Mr Breda Lombard the following:
 - 4.1. The references in the letter are directed at the stipulations of the Title Deeds which read as follows:

Every building to be erected on the said erf shall be of approved design and of sound construction. No building operations shall be commenced on the said erf and no additions or alterations to approved buildings shall be effected until the Transferor (now the BHOA) has in writing approved the design and construction plans including material and colour specifications for the erection of a dwelling house, any outside buildings and fences or walls...

The above stipulation is clearly aimed at ensuring approved design and sound construction, including inter alia approved design, construction materials and colour specifications of a dwelling house. In this instance, the existing house has already been subjected to this scrutiny and has fully approved building plans confirmed by the BHOA.

- 4.2. It is to be noted that there are **no additions at all** to the buildings, and the space where the second dwelling is proposed is not visible and cannot be distinguished from any external evaluation.

Internally, the only component being used is **an existing surface** to install small appliances as shown below. It would be entirely inappropriate to disqualify the proposed use on the basis of the above insertion in the Title Deed, which is aimed at new buildings or additions.



- 4.3. The Building Design Manual (BDM) has as its primary function to establish a consistent theme for the Belvidere Estate, and which is described in the design concept as follows:

"The Belvidere area has a strong English country village flavour with its famous tiny Norman-style church, oaks and historic houses. The DEVELOPMENT CONCEPT is to preserve this feel by grouping the stands in cul-de-sacs with stretches of open fields and copses of trees between them. ...Roads have been kept to the perimeter of the Estate and designed to reduce vehicle speed."

"The architectural style and quality of all buildings is controlled. The basic design concept is for new buildings to harmonise with the 19th century Eastern Cape architecture of the existing historic Belvidere buildings. The aim is not to exactly reproduce a Georgian or Victorian village, but rather to create a variety of aesthetically pleasing homes well suited to modern living, that reflect our traditional Eastern Cape Colonial Georgian and simple Victorian architecture."

- 4.4. The Belvidere Architect Committee (BAC), was established with the view to ensure compliance with the above concept, which is highlighted in the opening paragraphs as follows:

The BHOA Executive Committee has in turn authorised the Architecture Committee: -

"... to exercise every possible control to ensure that the original Development Concept of the entire Estate is maintained and, where this has not been the case that it be re-claimed, where feasible / rationally achievable.

While there are finer details in the Design Guidelines, the overriding essence of the powers of the BAC are as follows:

- 1.3. to ensure that all plans are considered in terms of the Building Design Manual which specifies standards and colours for inter alia dwellings, carports, walls, fences, any alterations and/or additions including swimming pools;
- 1.4. to take all such decisions as may be necessary and within the Architecture Committee's powers to ensure the maintenance of the original Development Concept as interpreted by the Architecture Committee;

- 4.5. Considering the above, it is stretching the point beyond reasonable and rational evaluation, to disqualify the proposal for the second dwelling, on any of the aspects the BAC are tasked with evaluating. It is again reiterated that the house has approved building plans, which conform with all prescriptions relating to the Design Concept. There are no additions, either external or internal which can have any discernible impact on the desired design concept. Consequently, the consideration of the structure in the context of the Design Guidelines, has already been done, with the approval of the house building plans. Any other position taken in relation to the design manual from a visual perspective, would be absurd, as the added kitchenette is not visible and is only 3m² in extent.
- 4.6. We furthermore find no reference in the Title Deeds for Erf 450, which contractually binds the owner, other than when transfer of a property is required, to comply with the BDM. This is

particularly relevant when there are no additions or structural alterations required to accommodate the proposal.

- 4.7. Regarding the legal framework for supporting the BHOA authority, it is submitted that the BAC has erred and have not applied their minds, as any decision-making body is required to do. The only grounds for not approving the second dwelling are the BAC's requirement regarding the coverage of the house having to be 300m² or less. While this coverage is stated in the guidelines for second dwellings, it is incumbent on the BAC to consider the plans in the context of the existing approved house, and whether by rejecting the proposal, it prevents any negative impacts on the overall design concept. It has been shown as per the table below that, with the exception of the coverage provision, the second dwelling is fully compliant. We do not in any event agree with the manner in which the coverage is applied by the BAC and furthermore, 300m² is an arbitrary stipulation.

DESIGN GUIDELINE REQUIREMENTS SECOND DWELLINGS	COMPLIANCE
Coverage of the main house and outbuildings does not exceed 300m ²	COMPLIES ON OUR CALCULATION
The bulk of the proposed second dwelling does not exceed 100m ²	COMPLIES
The second dwelling must be the same design style as the main house	NO CHANGES TO BUILDINGS
One small kitchen is permitted	COMPLIES
Special application to the Architecture Committee to be made	CONCLUDED (No consensus)
No third dwelling is permissible	NOT APPLICABLE
Special application can be submitted for accommodation for live-in caregivers	NOT APPLICABLE BUT IS RELEVANT FOR CLIENT'S PARENT
Knysna Municipal approval. Consent Use application	APPLICATION in Progress

- 4.8 As stated above, we do not agree with the BAC calculation of the coverage if done by their definition, however, it is equally important to note that the coverage of the existing buildings is fully within the parameters of the Knysna Zoning Scheme By-Law.

Again, as with the interpretation of the design concept for Belvidere, the BAC have failed to apply their minds in a rational and reasonable manner.

- 4.9 Regarding interpretation of the Knysna Spatial Planning and Land Use Management By-Law (2021), the following is important to note:

- 4.9.1 Section 29(8) of the above By-Law acknowledges that a homeowner's association through its design guidelines, may suggest more restrictive development parameters than those in the zoning scheme, however in the final analysis, the municipality must evaluate any land

- use matter in terms of Section 65 of the Bylaw, which stipulates criteria for the consideration of applications.
- 4.9.2 The recognition of Design Guidelines of a Homeowners Association cannot subvert the requirements of the municipality in taking decisions on land use matters. There is a raft of applicable legislation, including the RSA Constitution, the Municipal Systems Act and others, which direct the municipality to make decisions on the basis of, inter alia, compliance with prevailing national, provincial and municipal legislation, the Knysna Spatial Planning and Land Use Management By-Law, the Knysna Zoning Scheme, current municipal policy, impacts on other persons, need, desirability and then, after due consideration of all of these, arrive at a considered decision.
- 4.9.3 The municipality cannot be removed from the decision-making process by virtue of the existence of a Homeowners Association. Neither can a municipality delegate its responsibility to an external body, as decisions on land use matters is entrenched as an exclusive municipal competency, in terms of the SA Constitution, and other legislation such as the Municipal Systems Act and SPLUMA.
- 4.9.4 It is to be noted that the stipulations in a homeowner's design guideline amounts to a contractual arrangement with the members of the association, but the municipality cannot allow its statutory responsibility to consider land use matters in a comprehensive manner, to be overridden by a private arrangement with members in an association. If so, it could lead to a biased decision, favouring only the HOA without consideration for the other important criteria which a municipality is obliged to consider. This is exactly the situation we are presented with in our application, if the objector is the sole adjudicator of the matter.
- 4.9.5 In posing the same question to the Western Cape Provincial Administration, the advice given was that the comments from a Homeowners Association (HOA) is a significant input to any land use application, however, where the comment from a HOA is negative or non-supportive, the municipality must apply its mind and consider all inputs before making an informed decision. It was noted that the refusal of an application by the municipality, solely on the basis of a HOA's decision would be reviewable in terms of PAJA.
- 4.9.6 Regarding the case law quoted, we are advised that the case of ***Vanilla Street Home Owners Association v Ismail and another***, dealt with contractual enforceability between the residents in an estate and did not remove the municipalities statutory decision-making powers.
- 4.9.7 We disagree with the assertion that the municipality does not have jurisdiction to override the BDM, making such decision *ultra vires*. The municipality is the mandated authority to decide on land use applications in terms of controlling legislation, which grants the municipality the right to make an informed decision, even in the instance of conflict with a HOA Design manual or HOA. Therefore, provided the municipality makes a decision, and in this case a consent use application, in accordance with the provisions of its By-Laws, it cannot be deemed to be *ultra vires*.

- 5 The letter from Fasken Attorneys raises a range of issues , however, these do not negate the requirements for the municipality to apply its mind in a rational and reasoned manner in arriving at an informed decision.
- 6 The objectors have a right to be heard at a Tribunal, or ultimately on appeal, but they cannot usurp the responsibility of the municipality, who are entrusted with making rational and reasoned decisions.

Yours Sincerely,



L D Druce (PrPlnA/543/1987)

VBGD Town Planners

VBGD Town Planners

Town Planners and Development Consultants

JOHANNESBURG: Tel : 27 011 706 2761 or KNYSNA 079 158 6699

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PHYSICAL ADDRESS: 154 Watsonia Avenue Brenton WC

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Date: 29 July 2025

Reference:

The Municipal Manager
Planning and Development Department
Knysna Municipality
P. O Box 21
KNYSNA
6570
Attention: Manager: Land Use Management

Dear Sir,

APPLICATION ERF 450 BELVEDERE: RESPONSE TO COMMENTS:

I refer to our application submitted and to your email dated 29 July 2025 which had the following comments:

- (i) It is advised that the proposed plan of the second dwelling be placed in the context of the cadastral boundaries to the erf.
- (ii) Kindly include a copy of the Surveyor-General diagram for the subject property.

Kindly note the following:

1. There are no additional buildings or alterations to the existing buildings apart from an internal fitting to the guest suite above the garage. Therefore the best plan to show the second dwelling in relation to cadastral boundaries is the existing site plan.
2. There is no individual SG diagram for the property and therefore the General Plan is used
Please find the following in response to your comments:
3. An extract from the approved Site Plan showing the second dwelling and cadastral boundaries.
4. Copies of the General Plan and an extract for ease of reference.

We trust the above is in order and look forward to acknowledgement and registration of the application.

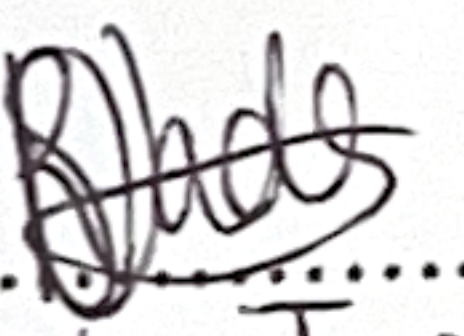
L D Druce (PrPlnA/543/1987)

VBGD Town Planners

AFFIDAVIT: ERF 450 BELVEDERE KNYSNA

I, **ROBERTY STANLEY VADAS** hereby confirm that I intend applying for a second dwelling on the abovementioned property.

The second dwelling will be within an existing part of the house and will be approximately 71m². This part of the house already contains cabinetry for a kitchenette, however, we hereby confirm that the space will not be utilised as a second dwelling until the consent use has been granted by the Knysna Municipality.

Signed:..........
Dated:.....06 June 2025.....

R S VADAS


IVAN STEWART KIDSON
COMMISSIONER OF OATHS
8/1/8/2 EAST LONDON 2000-07-11
Quarry View, Lukin Road, East London
4/6/2025

Signed: Commissioner of Oaths:
.....

Dated

From: Theo Rebel <Theo.Rebel@westerncape.gov.za>

Sent: Wednesday, 18 June 2025 12:35

To: Hennie Smit <hsmit@knysna.gov.za>

Cc: Riaan Thomson <Riaan.Thomson@westerncape.gov.za>

Subject: BELVEDERE HOME OWNERS ASSOCIATION MATTER

ANNEXURE F: EMAIL WESTERN CAPE GOVERNMENT

Good day Hennie,

Your enquiry below re. HOA approvals refers.

1. In terms of the Constitution and various Constitutional Court Judgements, land use planning decision making is an exclusive municipal competence.
2. A municipality cannot be dictated to by an HOA whether to approve or refuse a legitimate land use application.
3. A municipal decision to approve or refuse a land use application based on a decision by an HOA will certainly be subject to a judicial review in terms of PAJA.
4. With the above in mind we have in the past advised another municipality in the Western Cape where there were similar challenges with an applicant, an HOA and HOA constitution:
 - A municipality is well within its rights to, at a pre-application meeting or later in the application process, require that the input from an HOA needs to be submitted. They may require it to be submitted with the submission of the application but may also agree to receive it during the public consultation process of the application.
 - It would be irregular to insist that a written support of the HOA needs to be submitted with the application. This would equate to the municipality who is legally the competent decision maker to, via this procedure, abdicate its decision-making mandate to an HOA.
 - It is comprehensible that an HOA may not support a land use application in certain instances, but then it should be in writing and submitted either with the application or as part of the public consultation. A municipality is well within its rights to insist on submission of the comments of a HOA to make an informed decision on a land use application.

- If the comment of the HOA is negative or non-supportive then that is what the municipality must consider in the determination of the application. A municipality may refuse a land use application that is not supported by an HOA but a municipality it is not compelled to either not accept or refuse a land use application if an HOA is not in support of it. A municipality needs to consider all inputs and comments and make an informed decision on the land use application. By not accepting an application without the consent of an HOA, neither the applicant nor HOA will even have the opportunity to appeal the initial decision.
 - Most municipal land use planning by-laws provide that if an applicant fails to provide the additional information or documents within the contemplated period, the municipality must consider the application without the information or documents and notify the applicant accordingly. In such an instance the absence of the information may be to the disadvantage of the applicant. The municipality is not bound by the decision of the HOA, and it also has the power to decide an application without the consent or comment from the HOA.
5. Although the municipality may have approved an HOA's constitution it is not legally bound to its contents. HOA rules etc. are to be enforced by an HOA as it represents an agreement between a home owner and an HOA. It is possible that a municipality may approve of an application contrary to an HOA comment or rule and it is then for the HOA to enforce its rules and agreements on and with the home owner – it is not for the municipality to enforce such rules.
 6. The applicant should have a pre-application with the municipality and submit the necessary land use application and due process and consultation (as discussed above) should follow.

We trust that the above will be of assistance.

Kind regards,

Theo Rebel Pr. Pln (A1056/1998)

Chief Town & Regional Planner

Directorate Development Management Region 2

Department of Environmental Affairs and Development Planning

Western Cape Government

2nd Floor Utilitas Building, 1 Dorp Street, Cape Town 8000

Tel: +27 (0)21 483 8375

Cell: +27 (0)83 468 7216

Fax: +27 (0)21 483 3633

Email: theo.rebel@westerncape.gov.za

Website: www.westerncape.gov.za/eadp



**Western Cape
Government**

FOR YOU

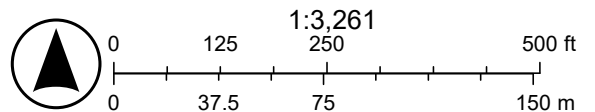
Should you not be able to contact the numbers above, please call +27 (0)21 483 4091 between 07:30-16:00.

Zoning erf 450 belvedere



15/04/2025, 11:15:18

- | | |
|--------------------------------------|------------------------------|
| Registered Properties (Deeds Office) | Below High Water Level |
| Zoning | Suburbs |
| General Residential Zone I | Streets |
| General Residential Zone V | Wards (2020) |
| Open Space Zone I | World Imagery |
| Open Space Zone II | Low Resolution 15m Imagery |
| Single Residential Zone I | High Resolution 60cm Imagery |
| Transport Zone II | Citations |
| Transport Zone III | 60cm Resolution Metadata |



George Municipality, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community

[illegible]

	Erf Number:		Size(m ²)	
376	1085	447	1372	
377	1129	448	1372	
378	1043	449	1447	
379	1065	450	1510	
380	1222	451	1155	
381	1272	452	1080	

450 a	+	191,00	+	8 686,00	
450 x	+	192,58	+	8 737,98	