

MEMORANDUM

**IN SUPPORT OF AN APPLICATION FOR CONSENT IN TERMS
OF SECTION 16(2)(O) AS WELL AS APPLICATION FOR
PERMISSION FOR THE APPROVAL OF A SITE DEVELOPMENT
PLAN IN TERMS OF SECTION 16(2)(G) OF THE OVERTSRAND
MUNICIPAL LAND USE PLANNING BY-LAW, 2014**

IN RESPECT OF:

**A PART OF ERF 4831 AND A PART OF ERF
5327, HERMANUS**

MAY 2019

Pretoria Office:
306 Melk Street, Nieuw Muckleneuk,
Pretoria
✉ 2162, Brooklyn Square, 0075
Tel: (012) 346 3735
Fax: (012) 346 4217



1. EXECUTIVE SUMMARY

- 1.1 The developer of **a part of Erf 4831 and a part of Erf 5327, Hermanus** (hereinafter referred to as the “subject properties”) appointed Origin Town Planning Group (Pty) Ltd to apply for consent in terms of the provisions of Section 16(2)(o) as well as application for the approval of the Site Development Plan In terms of Section 16(2)(g) of the Overstrand Municipal Land Use Planning By-Law, 2014.
- 1.2 The intention of the developer in this matter is to incorporate the development of a hotel into the existing basket of land use rights which are vested in the land of the subject properties.
- 1.3 The following should be noted regarding the intention of the developer to incorporate a hotel into the permissible land uses for the site known as the De Mond Caravan Park.
- The subject properties are owned by the Hermanus Municipality (now known as Overstrand Municipality) and has been used for the purposes of a holiday resort for the past number of years. The municipality issued a tender to the public for developers to re-develop the existing resort and our client, Pohl Business Trust t/a Pohl Property Group, was subsequently granted the tender.
 - The aim of the re-development is to add value to the existing resort in order to improve quality of life and to establish an enabling environment for job creation in partnership with the private sector. The re-development further aims to improve the town’s comparative advantage from a tourism perspective.
 - The re-development of the resort will include the following uses:
 - Dwelling units
 - Conference facilities
 - Holiday accommodation
 - Place of assembly
 - Place of refreshment
 - Place of entertainment
 - Recreational facilities
 - Restaurant
 - Tourist facilities
 - Hotel
 - All of the above uses, with the exception of the hotel, have been previously accommodated on the subject properties by way of the resort that was operated by the municipality for a number of years.
 - The permission for all the uses (except the hotel) accordingly already vest in the land, which implies that the only land use that would be executed in addition to the uses that already vest in the land is the hotel component. Hotels are listed as a land use that could be permitted by the municipality (as a so-called consent use) subject to conditions of the required application process.
 - Cognisance should be taken to the fact that the development of the subject properties will not be viable without the incorporation of the hotel component. The hotel will play a pivotal role in realisation of the intended development and will ensure long term feasibility thereof.
 - The shop and office component indicated on the SDP is aimed at providing goods and services to visitors of the resort and tourism market. The offices would be used

for administrative purposes for the management of the resort and the visitors of the resort would need access to restaurants and shops for convenience purposes.

- 1.4 Application is therefore made for consent of the municipality for the inclusion of the hotel into the existing land use rights of the subject property as well as the approval of the Site Development Plan which illustrates the development as a whole, including all the uses as mentioned above.
- 1.5 This memorandum provides the relevant property particulars and motivates the merits of the application.

2. PROPERTY PARTICULARS

2.1 Locality

- 2.1.1 The subject properties are located within the existing urban environment of Hermanus and have direct access from the R43 Provincial Road and 17th Avenue. The subject properties fall under the jurisdiction of the Overstrand Local Municipality.
- 2.1.2 The northern boundary of the subject properties is defined by the R43 Road, the eastern boundary of Erf 4831 is defined by the Klein River Lagoon. The southern boundary of the subject properties is also defined by the Klein River Lagoon and the western boundary of Erf 5327 is defined by 17th Avenue and several residential erven.
- 2.1.3 **Annexure A** contains a copy of the Locality Plan.

2.2 Property description, ownership and size

- 2.2.1 The details related to ownership, description and size of the subject properties are provided in the table below:

| PROPERTY DESCRIPTION | OWNERSHIP | DEED OF TRANSFER NUMBER | SIZE |
|---------------------------------|-----------------------|-------------------------|-----------|
| A part of Erf 4831, Hermanus | Hermanus Municipality | G110/1942 | ± 9.94 HA |
| A part of Erf 5327, Hermanus | Hermanus Municipality | G267/1971 | ± 0.76 HA |
| Total | | | ±10.7 HA |

- 2.2.2 The Deeds of Transfer (G110/942 & G267/1971) and the relevant Mandates are attached as **Annexures B** and **C**, respectively.

2.3 Zoning

- 2.3.1 The subject properties are zoned “Resort Zone: Holiday Resorts (R2)”, subject to certain conditions in terms of the Overstrand Municipal Zoning Scheme 2013. **Annexure D** hereto contains a copy of the Zoning Certificates confirming the current zoning and development controls applicable to the subject properties.

2.3.2 With reference to the zoning certificates, it is evident that consent uses were approved for all of the uses that will be executed on the subject properties, with the exception of the hotel component, for which consent is hereby applied for.

2.3.3 **Annexure E** hereto contains a copy of the Zoning Map of the area under consideration, illustrating the zoning regime of the area surrounding the subject properties.

2.4 Land Use

2.4.1 The status quo on the subject properties can be described as follows:

2.4.1.1 A part of the site that is commonly referred to as De Mond (Parts of Erf 4831 and Erf 5327, Hermanus):

Approximately 9,74 hectares of vacant land with concrete platforms, a few derelict basic structures including a café/shop, utility hall, access control and an ablution block remaining of the previous caravan park. This part of the property is accordingly not being used for any particular purpose at the moment.

2.4.1.2 A part of the site that is commonly referred to as Klein River Lagoon Park (a Part of Erf 4831, Hermanus):

This area measures approximately 6279m² in extent and is currently occupied by 20 holiday units which consist of basic structures. There are also three boat houses and two concrete slipways.

2.4.1.3 A part of the site that is commonly referred to as Prawn Flats (a Part of Erf 4831, Hermanus):

This portion of land is directly abutting the eastern boundary of the Klein River Lagoon Park. It includes a boat launching site with two boat ramps/slipways.

2.4.1.4 A part of the site that is commonly referred to as Selkirk Cottage (situated on the Prawn Flats):

A cottage that is approximately 150m² in size. It is a fenced, stand-alone historical building which is listed on the Heritage Register.

2.4.2 Other land uses in the vicinity (surrounding properties) include the local offices of Cape Nature, the Sea & Sand camp site and public beaches.

2.4.3 A Land Use Map illustrating the land use regime of the surrounding area is attached hereto as **Annexure G**.

3. CONDITIONS OF TITLE, BONDS AND SERVITUDES

3.1 Conditions of Title

3.1.1 The Title Deeds (G110/942 & G267/1971) of the subject properties do not include conditions that would prevent/restrict the proposed resort development of the sites.

3.1.2 The Title Deeds (G110/942 & G267/1971) are attached as **Annexure B**.

3.2 **Bonds**

- 3.2.1 The subject properties are not subject to any mortgage bonds and a bondholder's consent is therefore not applicable.

3.3 **Servitudes**

- 3.3.1 With reference to **Annexure B**, it is confirmed that the subject properties are not subject to any servitudes that could be affected by the development proposal.

4. **PUBLIC INTEREST AND RIGHTS OF THOSE AFFECTED**

- 4.1 It is confirmed that the application for consent as well as the permission application for the approval of the SDP will be advertised by the Overstrand Municipality in terms of the relevant provisions of the Overstrand By-Law on Municipal Land Use Planning, 2014.
- 4.2 During the advertisement period, the public will be afforded the opportunity to raise any concerns they may have regarding the applications.
- 4.3 We are however of the opinion that the public would be in favour of the applications as it would lead to the redevelop of the existing caravan park, which will be of high standard and could be an attraction in the area.
- 4.4 The nature of the development proposal is consistent with the existing character of the area surrounding the subject properties and it could accordingly be accepted that the proposed development will not have any adverse impacts on the surrounding area or the owners/tenants of the surrounding properties.
- 4.5 It should be noted that the existing public launch area on the site would be accessible to the public for use thereof. Access would, however, be controlled by the resort operators.
- 4.6 The interests of the public are therefore appropriately considered during the application procedure.

5. **FACTS AND CIRCUMSTANCES RELEVANT TO THE APPLICATION**

5.1 **Application Particulars**

- 5.1.1 This memorandum is submitted in support of an application for consent in terms of the provisions of Section 16(20)(o) as well as application for permission for approval of a Site Development Plan in terms of Section 16(2)(g) of the Overstrand Municipal By-Law on Land Use Planning, 2014.
- 5.1.2 The aim of the application for consent is to obtain the appropriate land use rights to accommodate a hotel, with a maximum of 120 rooms, on the subject properties as part of a larger holiday resort development as is illustrated on the Site Development Plan, attached hereto as **Annexure F**.

5.2 **Development Proposal**

- 5.2.1 The intention of this application is to obtain Council's Consent to develop/accommodate a hotel, with a maximum of 120 rooms, as part of a larger development on the subject property as well as to obtain approval of the Proposed Site Development Plan for the larger development.
- 5.2.2 **Annexure F** hereto contains a copy of the Site Development Plan, which illustrates at least the following:
- Parking Layout of entire development
 - GLA, number of storeys and coverage;
 - Applicable building lines;
 - Elevation details;
 - Access to and from the development; and
 - The various land use components of the larger development.
- 5.2.3 The developer has identified the need for a hotel component as an integral part of the intended development. The project architects have accordingly incorporated the hotel into the development concept to ensure long term sustainability within the larger development.
- 5.2.4 The hotel would act as main attraction for visitors to the resort and would be compatible with the other facilities that are to be provided. It will further create a vibrant atmosphere by way of the activities and facilities it would offer to compliment the related uses of the resort.
- 5.2.5 Careful cognisance was taken when designing the Site Development Plan in the most functional way, while still adhering to the development controls of the scheme. Numerous factors were taken into account such as engineering services, the existing physical environment as well as the natural environmental factors of the site and surrounding areas, which are discussed in more details in Sections 5.6, 5.7 and 5.8.
- 5.2.6 The development is consistent with the current development trends and will not result in any adverse negative impacts on the surrounding area.

5.3 **Development Policies in Support of the Proposed Development**

The hierarchy of, and synergy between, the Policy Frameworks of the different spheres of government, as well as the way in which these policies support the intended development is explained in the following sections.

5.3.1 **OVERSTRAND MUNICIPALITY INTEGRATED DEVELOPMENT PLAN, FOR THE FIVE-YEAR PERIOD 2017/18-2021/22, MAY 2017**

5.3.1.1 The Overstrand Municipality Identified five (5) Strategic Objectives, which include:

- The provision of democratic, accountable and ethical governance;
- The provision and maintenance of municipal services;
- The encouragement of structured community participation in the matters of the municipality;
- The creation and maintenance of a safe and healthy environment;
- The promotion of tourism, economic and social development.

5.3.1.2 As can be seen from the above, the strategic objectives of the IDP, 2017, are evidently complied with.

5.3.1.3 The first two objectives can be said to rest in the hands of the municipality and are therefore not applicable to the objectives of the proposed development. However, there is transparency in the application process which allows the municipality to fulfil their commitment to the public.

5.3.1.4 Community participation is definitely encouraged in the application process as the community will have the opportunity to comment and/or raise their concerns on the development as a whole, during the relevant objection period.

5.3.1.5 The redevelopment of the existing resort in order to upgrade and “renew” the development as a whole will ensure that the safety and health of the area as a whole will improve and the maintenance of the area will be a priority to the developer as to increase the popularity of the development.

5.3.1.6 Lastly, it is clearly evident that the intended development promotes tourism in the area. Furthermore, it will provide a number of jobs during the construction phase as well as the operation phase which will contribute towards social development of the area as well as the economic development as the contribution to the Rates and Taxes base will increase.

5.3.1.7 As can be seen from the above, the development proposal evidently complies with the objectives of the Overstrand Municipality IDP, 2017.

5.3.2 OVERSTRAND MUNICIPALITY SPATIAL GROWTH MANAGEMENT STRATEGY, 2010

5.3.2.1 The Growth Management Strategy, 2010, demarcates the site predominantly within Planning Unit 6, with a small portion of the site within Planning Unit 4.

5.3.2.2 Both Planning Units 4 and 6 are earmarked for purposes of Residential Densification, with varying densities ranging up to 35 dwelling units per hectare.

5.3.2.3 Given the nature of the development, being that of a large holiday resort, with specific reference to the hotel, with 120 rooms, it is evident that densification of the property is proposed.

5.3.2.4 Furthermore the proposed holiday resort serves as a source of entertainment for the surrounding community as it will provide various recreational activities.

5.3.2.5 It is evident that the development proposal complies with the principles of the Growth Management Strategy, 2010.

5.3.3 INTEGRATED SPATIAL DEVELOPMENT AND ENVIRONMENTAL FRAMEWORK, 2013

5.3.3.1 The IDF, 2013, takes not only a strategic approach but also a spatial approach to addressing the issues and opportunities within the boundaries of the Overstrand Municipality. The Spatial Development Framework has accordingly also been incorporated into the IDF in order to provide a more integrated and complete approach that takes all the existing and potential factors into consideration.

5.3.3.2 The IDF, 2013, of the Overstrand Municipality identifies the following two development principles:

- Land Use Integration; and
- Efficient and integrated Planning

5.3.3.3 It can be said that the development proposes the integration of the natural environment of the subject properties into the land uses of the bigger development, by not only protecting

the natural environment but promoting it as the biggest attraction of the development. The land uses proposed will also not have any adverse impacts on the surrounding area and the principle of land use integration is accordingly achieved.

5.3.3.4 The principle of efficient planning is also supported as the proposed development of the hotel introduces a brown field development, and it proposes the hotel be developed within an existing holiday resort which supports compaction and densification within the urban edge, as opposed to urban sprawl.

5.3.3.5 The development proposal is therefore consistent with the development principles of the IDF, 2013.

5.3.4 OVERSTRAND ZONING SCHEME, 2013

5.3.4.1 In terms of the applicable zoning, the land use rights for the proposed hotel component of the development may be obtained with the consent of the municipality as it is a secondary use and an application for rezoning is therefore not applicable.

5.3.4.2 Given the fact that a hotel is a secondary use in terms of the current zoning, it can be accepted that the said land use will not have any adverse impacts on the already existing uses.

5.3.4.3 It is confirmed again that all the other uses that form part of the larger development are already listed as primary uses in the current zoning.

5.3.4.4 Section 2(2) of the applicable zoning scheme, outlines the application procedure for a consent use application and the said procedure was followed when compiling this application.

5.3.4.5 It can therefore be said that this application is inline with the applicable zoning scheme.

5.3.5 COMPLIANCE WITH DEVELOPMENT PRINCIPLES OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013) (SPLUMA)

5.3.5.1 The introduction of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA) requires applicants to demonstrate compliance with the principles of said act. The following table illustrates how the proposed development complies with the relevant provisions.

| DEVELOPMENT PRINCIPLES ENSHRINED IN SECTION 7, CHAPTER 2 OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013), APPLICABLE TO SPATIAL PLANNING, LAND DEVELOPMENT AND LAND USE MANAGEMENT | |
|--|---|
| 7. | The following principles apply to spatial planning, land development and land use management: |
| (a) | The principle of spatial justice, whereby – |
| (i) | past spatial and other development imbalances must be redressed through improved access to and use of land; |
| | The development proposal entails introduction of a variety of various accommodation options ranging from exclusive tented structures to more formal accommodation options such as the proposed hotel. The intended development will accordingly contribute to redressing past imbalances by providing access to use of land and possible employment opportunities created by extension of the activities. |
| (ii) | spatial development frameworks and policies at all spheres of government must address the inclusion of persons and areas that |

| | |
|--------------|--|
| | were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterised by widespread poverty and deprivation; |
| | The resort will provide a number of job opportunities to many people of the community therefore addressing poverty in the area. The hotel component, in particular, will offer numerous permanent employment opportunities in the hospitality industry. |
| (iii) | spatial planning mechanisms, including land use schemes, must incorporate provisions that enable redress in access to land by disadvantaged communities and persons; |
| | This principle calls for authorities to ensure that spatial justice is achieved through spatial planning mechanisms to re-dress access to land by disadvantaged communities. Although this responsibility is not placed on the applicant it should be noted that the proposed development will promote this principle by creating employment opportunities during the construction phase, as well as the operating phase of the development. It should further be noted that the resort would be accessible to any members of the public who wish to book accommodation in the resort. The hotel would, again, be instrumental in providing a wide range of accommodation options. |
| (iv) | land use management systems must include all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas; |
| | The responsibility of compliance with this principle is placed on local authorities as it entails incorporation of all areas into land use management systems. Compliance with this principle is accordingly not relevant under these circumstances. |
| (v) | land development procedures must include provisions that accommodate access to secure tenure and the incremental upgrading of informal areas; and |
| | The subject properties are not situated within an informal area which implies that the part of this principle that relates to incremental upgrading of informal areas is not applicable under the circumstances. |
| (vi) | a Municipal Planning Tribunal considering and application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application; |
| | This principle applies to certain considerations of the delegated town planning committee when applications are considered, with specific reference to the possible impact on the value of the land that forms the subject of an application (or that of surrounding properties). In this instance it is confirmed that the value of the surrounding properties could only be affected positively by the development of the resort in the intended fashion. |
| (b) | the principle of spatial sustainability, whereby spatial planning and land use management systems must – |
| (i) | promote land development that is within the fiscal, institutional and administrative means of the Republic; |
| | The proposed development is within the fiscal and administrative means of our client, which implies that the implementation of the development could be regarded as being sustainable from a developer's perspective. From an institutional perspective, it can be argued that institutional and administrative sustainability is achieved as the municipality has recognized the need for such a development in the area. |

| | |
|--------------|---|
| (ii) | ensure that special consideration is given to the protection of prime and unique agricultural land; |
| | The subject properties are proclaimed erven within a proclaimed township and can therefore not be regarded as prime agricultural land. This principle is therefore not applicable in the context of this application. |
| (iii) | uphold consistency of land use measures in accordance with environmental management instruments; |
| | The development proposals take due cognisance of environmental considerations and environmental legislation. We are accordingly of the opinion that compliance with this principle has been achieved. An environmental consultant is in the process of procuring confirmation from the environmental authorities that the intended development would not require environmental authorization in the context of the National Environmental Management Act. |
| (iv) | promote and stimulate the effective and equitable functioning of land markets; |
| | The development of the subject properties in the intended fashion would stimulate the local economy and would result in positive impacts on the land market in the area when considering that a property that has been lying derelict for a number of years would be developed in the form a high quality recreation resort. This development could make a positive contribution to the tourism market of Hermanus and could stimulate development of other tourism facilities in the area. |
| (v) | consider all current and future costs to all parties for the provision of infrastructure and social services in land developments; |
| | The developer is well aware of all the possible costs that will be incurred in order to re-develop and maintain the resort in the most optimal way. A long term lease agreement has been concluded between the parties to ensure that the responsibility related to cost of provision of infrastructure is secured. |
| (vi) | promote land development in locations that are sustainable and limit urban sprawl; and |
| | The development is said to be in a sustainable location given the aesthetic value that is given to the resort through the sea views, mountain views and the lagoon. The accessibility of the resort is also maximized by the location of the resort in relation to municipal routes such as the 10 th Avenue and R43. The redevelopment of the resort and development of the hotel on the subject properties would make a positive contribution to the dynamics of the surrounding area and will promote tourism initiatives in the larger town. |
| (vii) | result in communities that are viable; |
| | This principle also relates to restriction of urban sprawl to create sustainable and viable communities in the long run. The content of the preceding section is accordingly also applicable to this principle and compliance with this principle is evident for the same reason. |
| (c) | the principle of efficiency, whereby – |
| (i) | land development optimises the use of existing resources and infrastructure; |
| | The subject properties are situated within an established residential neighbourhood with sufficient engineering services infrastructure and re-development of the site will accordingly optimise the use of existing resources (developable land) and infrastructure. The principle of efficiency is accordingly achieved in the context of existing resources and infrastructure. |
| (ii) | decision-making procedures are designed to minimise negative |

| | |
|---|---|
| | <p>financial, social, economic or environmental impacts; and</p> <p>This principle applies to efficiency during the decision-making procedures when land development applications are considered. In this regard, it is important to note that policy formulation forms an integral part of the decision-making procedure as policies are drafted and approved to guide and inform land development (developers), as well as to guide and inform decision makers (officials) when a land development application is considered. Spatial planning documents and policies accordingly consider financial, social, economic and environmental impacts during formulation stage and when development guidelines are adopted. It is confirmed that the proposed development will not result in adverse negative impacts on the surrounding environment. In addition, it should be noted that the proposed development will make a positive financial contribution to the rates and tax base of the Municipality, once completed. From a social perspective, we are of opinion that the proposed development will make a positive contribution to the social sustainability of the neighbourhood as additional employment opportunities will result from the proposed development. From an economic perspective, it is again confirmed that the application will make a positive contribution to the rates and tax base of the local authority and it will create a number of employment opportunities both during the construction phase as well as the operational phase. The development, and particularly the hotel component, will further make a positive contribution to the tourism market offered by Hermanus. From an environmental perspective, it should be noted that the proposed development is not regarded as being a listed activity (activity that requires environmental authorisation in terms of the provisions of the National Environmental Management Act). The approval of the application will be subject to the submission of a Site Development Plan and Building Plan to ensure that the proposed development will not result in adverse negative impacts on the immediate surrounding properties/environment. In addition it should be noted that the relevant internal departments of the Municipality that deals with matters relating to the environment (Environmental Planning Division, Water and Sanitation Division, Transport Engineering Division, Electricity Department, Roads and Stormwater Department, Health Department and Building Plan Section) will consider the application from the perspective of each department to ensure that the development does not result in undesired negative impacts of the receiving environment.</p> |
| <p>(iii) development applications procedures are efficient and streamlined and timeframes are adhered to by all parties;</p> | <p>Legislation is clear on the timeframes applicable to all parties as part of the application procedure. In this regard, specific reference is made to the provisions of the Overstrand By-Law on Municipal Land Use Planning, July 2014.</p> |
| <p>(d) the principle of spatial resilience, whereby flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks; and</p> | <p>The principle of spatial resilience is achieved by way of flexibility in the spatial plans, policies and land use management systems of the Municipality applicable to the area. In this regard, specific reference is made to the consent that is being applied for which allows for the usage of the properties for purposes of an alternative land use in the case of change in economic climate.</p> |
| <p>(e) the principle of good administration, whereby –</p> | |

| | |
|--------------|--|
| (i) | all spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in this Act; |
| | This principle is achieved as the Municipality has confirmed their support and issued a tender in order to re-develop the site as is proposed in this application. It is evident that the property has been utilized for purposes of a resort in recent times and that the land use rights for such development vest in the land. Hotels are uses that are regarded to be compatible with resort developments, as is confirmed by incorporation of such as a land use for which consent could be obtained in context of the existing zoning. |
| (ii) | all government departments must provide their sector inputs and comply with any other prescribed requirements during the preparation or amendment of spatial development frameworks; |
| | Compliance with this principle has been achieved as the different departments of the Municipality were all involved during the formulation stage of the Spatial Development Framework for the municipal area. All departments accordingly had the opportunity to provide the input to ensure that the development guidelines of the Spatial Development Framework would result in sustainable development from a holistic perspective. |
| (iii) | the requirements of any law relating to land development and land use are met timeously; |
| | This principle places responsibility of good administration with regard to timeous compliance with legislative requirements on the local authority. Proper management of the application process will therefore result in compliance with this principle. |
| (iv) | the preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, include transparent processes of public participation that afford all parties the opportunity to provide inputs on matters affecting them; and |
| | From a land development perspective, it should be noted that the application under consideration will be advertised, should the municipality deem it necessary, to afford possible interested and affected parties the opportunity to provide comments and input in the application process. Due cognisance will be taken of the inputs/comments received in order to mitigate possible negative impacts of the intended development. |
| (v) | policies, legislation and procedures must be clearly set in order to inform and empower members of the public. |
| | Compliance with this principle has been achieved as the relevant Overstrand By-Law on Municipal Land Use Planning, July 2014 as well as the Spatial Planning and Land Use Management Act, 2013 is clear on the procedures whereby members of the public can participate in land development and application procedures. |

5.4 Need

- 5.4.1 The need for the application for consent is to incorporate a hotel into the existing basket of land use rights on the property. There is furthermore a need for the approval of the Site Development Plan which illustrates the larger development as a whole and represents how all the different components come together.
- 5.4.2 The need for the re-development of the entire site is recognized by the municipality by way of sending out a tender to the public and the business sector, which tender was granted to our client.
- 5.4.3 Furthermore, the subject properties are already zoned for the purposes of a resort with all its' components, except for a hotel (which the consent application aims to obtain).
- 5.4.4 Our client is confident that the re-development of the resort will be a viable investment, however there is a need for an additional hotel component in order to ensure the sustainable viability of the site and to fulfil a significant role in the greater scheme of the resort.
- 5.4.5 The viability of the resort and the willingness of the developer to re-develop the resort is therefore directly dependant on the development of the hotel component.
- 5.4.6 The hotel component will attract people to many of the other uses in the resort which makes it an integral part of the larger development and the success thereof.
- 5.4.7 The proposed hotel would complement the other uses to be provided in the resort and would ensure diversity in accommodation options. Many tourists prefer to stay in hotel type accommodation, where full board catering is offered, rather than to stay in self-catering units.
- 5.4.8 Variety of accommodation options is required to ensure that occupancy targets are achieved, to ensure the viability of the intended development.
- 5.4.9 The hotel would further offer supporting facilities, such as a restaurant, to further promote a vibrant atmosphere and viability of the development.

5.5 Desirability

- 5.5.1 The subject properties enjoy a desirable location as the resort is accessible from major existing roads in the Overstrand Municipal area and Hermanus (such as the R43 and 17th Street).
- 5.5.2 The site has excellent exposure which makes it most attractive as a holiday tourist destination.
- 5.5.3 The aesthetic values such as the mountain and sea views, lagoon frontage and established trees, further promotes the desirability of the intended development.
- 5.5.4 The hotel is also desirable as it will attract a larger user spectrum to support the other uses of the resort.
- 5.5.5 The re-development of the resort (and addition of the hotel) will improve the comparative advantage of Hermanus from a tourism perspective.
- 5.5.6 It is noted, again, that the viability of the development is directly dependant on the development of the hotel component and in that, the desirability of the proposed development of the hotel is therefore evident.

- 5.5.7 The development will be of high quality and will add aesthetic value to the general area.
- 5.5.8 The Overstrand Municipal Zoning Scheme, 2013, provides for certain primary uses, as well as uses for which consent could be granted by the municipality (so-called secondary uses). The mere fact that a hotel is listed as a land use for which consent could be granted under a “Resort Zone: Holiday Resort (R2)” confirms the compatibility (and therefore the desirability) of the resort in the context of the uses in such zoning category.

5.6 Engineering Services, Social Infrastructure and Open Space Provision

- 5.6.1 The subject properties are proclaimed erven within a proclaimed township, with the existing zoning for a holiday resort in place. It can therefore be accepted that there are sufficient engineering services available.
- 5.6.2 Our client is aware that this application will be circulated to the relevant engineering departments of the municipality, who will deliver their comments on the application and that certain bulk contributions will be payable in order to accommodate the additional hotel on the subject properties.
- 5.6.4 As requested by the Municipality, the developer appointed Deca Consulting Engineers to compile an Engineering Services Report in order to confirm the availability of services for the proposed development. Said Report is attached hereto as **Annexure H**.
- 5.6.5 With regards to the bulk water supply, the report indicates that the existing Voëlklip low level reservoir does have sufficient capacity to serve the development but certain upgrades to the pipelines should be done, including the upgrading of the 75mm diameter pipe along 17th Avenue to a 160mm pipe.
- 5.6.6 Independent investigations undertaken by GLS Consulting Engineers has indicated that the existing sewer network will require certain upgrades. The Scout Camp Pump Station has sufficient capacity to accommodate the development but requires refurbishment and upgrading. The GLS report is annexed to the Services Report as Annexure E.
- 5.6.7 Stormwater runoff is proposed to be discharged via an underground interlocking concrete pipe reticulation system, which will follow the gradient of the roads. The system will discharge into the Klein River Lagoon nearby.
- 5.6.8 Electricity was discussed in great detail with the Electricity department of the Overstrand Municipality. The maximum electricity demand, assuming the development is functioning at full occupancy, is estimated at 850kVA, for which there is not currently capacity. Installation and upgrading to the existing electricity network will accordingly need to be done in close liaison with the municipality.
- 5.6.9 With regards to traffic, the municipality further requested that a Traffic Impact Study be compiled to address the access and parking of the site. The developer accordingly appointed DECA Consulting Engineers and said Report is attached hereto as **Annexure I**.
- 5.6.10 As can be seen from the Transport Impact Assessment, the study shows that the property will have the potential to generate 183 trips (127 in, 56 out) in the morning peak hours and 299 trips (118 in, 181 out) during afternoon peak hours.
- 5.6.11 Access points to the development will be retained as they are currently via the R43 and 17th Avenue as further discussed in the Traffic Impact Study.
- 5.6.12 The trips are distributed between the two entrances (R43 and 17th Avenue) which comply with the requirements of the Western Cape Provincial Road Access Guidelines, 2016. It is indicated that despite the size of the development, the trips will be distributed between two

intersections with sufficient capacity and the development would accordingly have a moderate impact on the surrounding road network.

- 5.6.13 Both access gates comply with the minimum requirements for stacking space at access gates to developments of 12 metres. Access gate 1 (situated at the western side of the site) has a stacking distance of 27 metres inbound and access gate 2 (situated at the north eastern side of the site) has a stacking distance of 15 metres inbound.
- 5.6.14 The study further found that given the peak parking demands of the development, the required parking is 520 bays, the provision on the SDP of 636 parking bays is therefore adequate.
- 5.6.15 It is lastly expected that a large number of trips generated by the development would be public transport trips, due to the tourist-orientated nature of the development.
- 5.6.16 The Traffic Engineers recommended in their study that a right turning lane be implemented at the R43 / Prawn Flats entrance for safety purposes, subsequent to the relevant SIDRA analysis.
- 5.6.17 As can be seen from the relevant Engineering Reports, the development will have sufficient services to accommodate the proposed uses.

5.7 Environmental Considerations

- 5.7.1 The developer has appointed Delron Environmental Assessment Practitioners to prepare the necessary Notice of Intent as required by the Western Cape Department of Environmental Affairs and Development Planning (DEA&DP) and to subsequently submit an application for environmental authorization as per the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2014. A letter from Delron confirming this is attached as ***Annexure J***.
- 5.7.2 The need for environmental authorization on the site was triggered by the presence of the Western Cape Milkwood Forest, an endangered vegetation type. The developer has taken careful cognizance of this sensitivity area and we are accordingly of the opinion that the proposed development would have no adverse impacts on the natural environment.
- 5.7.3 However, the impact of the development will need to be confirmed by the relevant environmental departments. It is confirmed that comments from DEA&DP are expected on the Notice of Intent around the end of July 2019.
- 5.7.4 Furthermore, the Manor House on the site will possibly trigger the submission of a Heritage Impact Assessment in terms of Section 38 of the National Heritage Resource Act. In this regard we confirm that a Heritage Consultant has been appointed but receiving a positive response from the relevant departments is a very lengthy process. Kindly refer to the letter compiled by Mr Tim Hart from ACO Associates CC outlining the HIA process hereto as ***Annexure K***.
- 5.7.5 It is therefore confirmed that we will submit the outcomes of the Notice of Intent and the Heritage Impact Assessment in due course.

5.8 Harmonious Development and Design Considerations

- 5.8.1 The developers have taken careful cognizance to the design and layout not only of the hotel, but of the larger resort development in order to ensure that it respects and highlights the natural features of the site and to ensure that the development does not have any adverse impacts on the surrounding area.

- 5.8.2 Hermanus forms one of the largest tourist attractions in the Western Cape and as a result of the pristine natural quality of the site, a concept was formulated that caters for all development needs within a framework that both respects and highlights the natural features of the site.
- 5.8.3 The natural contours of the site guided the conceptualisation of road alignments and infrastructure that ultimately informed unit placements. The units are also placed to capitalise on sea views to the south, as well as mountain views to the north.
- 5.8.4 It is confirmed that no development is proposed within any Milkwood Forest demarcated areas, or within undevelopable areas, as demonstrated in the tender documents.
- 5.8.5 The site forms natural bays with peripheral vegetation, framing specific views to the lagoon and ocean. This natural feature of the site was used as a design informant, to place specific resort functions with different privacy requirements within specific natural bays. The first large bay caters for the villa/cabanas precinct, which will also cater for more private resort functions. The hotel and Crown Grant restaurant is placed within the second natural bay, forming part of the more public accessible areas. The third bay houses the Klein River Lagoon park, which forms a community on its own. In essence the natural bays create natural privacy barriers between the uses proposed on the site.
- 5.8.6 The entire site is connected with a public boardwalk, located just above the 5 meter contour, this will also form the boundary of all permanent structures, where no permanent structure will be built below the 5m contour. The boardwalk connects various resort functions and will be publicly accessible from the restaurant/hotel terraces. This will cater for running, walking and cycling, and further provide a controlled scenic route through and past the Milkwood Forests.
- 5.8.7 The landscape design is also conceptualised to compliment the natural vegetation and fynbos on site. The architectural language combines the local Hermanus Cape vernacular with contemporary modern design, providing a unique offering that lives up to both national and international leisure quality.
- 5.8.8 It is evident that the development would be one of very high quality and would undoubtedly add aesthetic value to the area.
- 5.8.9 Furthermore, it is confirmed that the hotel component could be regarded as being compatible with the land uses listed under “Resort Zone: Holiday Resort (R2)” and would therefore not result in undesired negative impacts on the surrounding area.

6. COMPLIANCE WITH SECTION 42 OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013)

| DECIDING AN APPLICATION | |
|--------------------------------|--|
| 42. (1) | In considering and deciding an application a Municipal Planning Tribunal must -: |
| (a) | be guided by the development principles set out in Chapter 2 |
| | The applicant has demonstrated compliance with the development principles enshrined in Chapter 5 (Section 4) of the Spatial Planning and Land Use Management Act, 2013, of this memorandum. It is accordingly evident that |

| | |
|--------------|--|
| | the proposed development promotes and support the majority of the principles listed in Chapter 2. |
| (b) | make a decision which is consistent with norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the municipal spatial development framework; and |
| | Compliance with norms and standards, as well as development guidelines of National and Provincial Government Policies, has been demonstrated under Section 5.4 of this memorandum in the context of the application under consideration. |
| (c) | take into account - |
| (i) | the public interest; |
| | The applicant has demonstrated under Sections 4 of this memorandum that the public interest has been considered, both in terms of planning policy formulation, as well as the context of the application process under consideration. |
| (ii) | the constitutional transformation imperatives and the related duties of the state; |
| | Constitutional transformation imperatives and related duties of the state have been discussed under Section 5.4 of this memorandum. With reference to the mentioned Sections we confirm that compliance have been achieved on this level. |
| (iii) | the facts and circumstances relevant to the application; |
| | Facts and circumstances relevant to the application have been considered and discussed under Section 5 of this memorandum. |
| (iv) | the respective rights and obligations of all those affected; |
| | The applicant has demonstrated under Sections 4 and 5.4 of this memorandum that the rights and obligations of all those that could be affected by the proposed development have been considered. In this regard, it should be noted that intensive public consultation also took place during policy formulation. |
| (v) | the state and impact of engineering services, social infrastructure and open space requirements; and |
| | Matters related to the state of, and impact on engineering services, social infrastructure and open space requirements have been address under Section 5.7 of this memorandum. |
| (vi) | any factors that may be prescribed, including timeframes for making decisions. |
| | This Section places responsibility on the Municipal Planning Tribunal to take into account any factors that may be prescribed (by say internal departments of the Municipality or external Departments) as well as to take into account timeframes for making decisions. |
| (2) | When considering an application affecting the environment, a Municipal Planning Tribunal must ensure compliance with environmental legislation. |
| | It should be noted that the proposed development is not regarded as a listed activity (activity that requires environmental authorisation in terms of the provisions of the National Environmental Management Act). The Environmental Planning Division of the Overstrand Municipality will however consider and respond to the application from a Municipal perspective. Environmental considerations have been discussed in Sections 5.4 and 5.8 of this memorandum. |
| (3) | An application may be approved in whole or in part, or rejected |

7. CONCLUSION

- 7.1 Application is hereby made for consent in terms of Section 16(2)(o) as well as permission for the approval of a Site Development Plan in terms of Section 16(3) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2014, in order to include a hotel into the existing basket of land use rights of the properties.
- 7.2 The redevelopment of the resort will include the following land-uses:
- Dwelling units
 - Conference facilities
 - Holiday housing
 - Place of assembly
 - Place of refreshment
 - Place of entertainment
 - Recreational facilities
 - Restaurant
 - Tourist facilities
 - Hotel
- 7.3 The application is consistent with current development trends and will not result in any adverse impacts on the surrounding area. The proposed development will contribute positively to the local economy and amenity of the area.
- 7.3 The applicant has also demonstrated that the proposed development finds support in development policies applicable to the area.
- 7.4 The applicant is of the opinion that the application deserves the favourable consideration of the relevant authorities.

ANNEXURES

| | |
|-------------|--|
| ANNEXURE A: | LOCALITY PLAN |
| ANNEXURE B: | DEED OF TRANSFER |
| ANNEXURE C: | RELEVANT MANDATES |
| ANNEXURE D: | ZONING CERTIFICATE |
| ANNEXURE E: | ZONING MAP |
| ANNEXURE F: | LAND USE MAP |
| ANNEXURE G: | SITE DEVELOPMENT PLAN REVISION E |
| ANNEXURE H: | ENGINEERING SERVICES REPORT (15 MAY 2019) |
| ANNEXURE I: | TRAFFIC IMPACT ASSESSMENT DATED 15 MAY 2019 |
| ANNEXURE J: | LETTER FROM DELRON CONFIRMING APPOINTMENT |
| ANNEXURE K: | LETTER FROM ACO ASSOCIATES CONFIRMING HERITAGE STUDY PROCESS |