



**PRE-APPLICATION DRAFT BASIC  
ASSESSMENT REPORT**  
**for**  
**‘THE HILL DEVELOPMENT’**  
**on**  
**Remainder of Portion 82 of Farm 205 Ruygtevlei &  
Remainder of Erf 1638**

In terms of the  
National Environmental Management Act (Act No. 107 of 1998, as amended) & 2014  
Environmental Impact Regulations



Prepared for Applicant: **Liberty Lane Trading 111 (Pty) Ltd.**

By: **Cape EAPrac**

Report Reference: **KNY339/03**

Department Reference: **To be allocated on submission of Application**

Case Officer: **Vincent Chauke**

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**PURPOSE OF THIS REPORT:**

Public Review & Comment

**APPLICANT:**

Liberty Lane Trading 111 (Pty) Ltd.

**CAPE EAPRAC REFERENCE NO:**

KNY339/03

**DEPARTMENT REFERENCE:**

To be allocated on submission of Application

**SUBMISSION DATE**

02 February 2016

## **PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT**

in terms of the  
National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended &  
Environmental Impact Regulations 2014

# 'The Hill Development'

## Remainder of Portion 82 of Farm 205 Ruygtevei & Remainder of Erf 1638

Submitted for:

### Stakeholder Review & Comment

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## REPORT DETAILS

<b>Title:</b>	<b>PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT (DBAR) for proposed 'The Hill Development', Sedgefield</b>
<b>Purpose of this report:</b>	<p>This Pre-Application Draft Basic Assessment Report (DBAR) forms part of a series of reports and information sources prepared during the Environmental Impact Assessment (EIA) for the proposed 'The Hill Development', Sedgefield, Western Cape Province. In accordance with the 2014 EIA Regulations, the purpose of this DBAR is to:</p> <ul style="list-style-type: none"> <li>• Provide a detailed description of the proposed project, including a description of reasonable/feasible alternatives and their comparative assessment;</li> <li>• Describe the local environmental and developmental context within which the project is proposed;</li> <li>• Provide an overview of the environmental process, in particular the outcome of the public participation process and specialist findings;</li> <li>• Present a summary of the findings and recommendations of the impact assessment and associated studies</li> <li>• Include an environmental management plan (EMP).</li> </ul> <p>This Pre-Application Draft Basic Assessment Report (DBAR) is made available to all potential Interested &amp; Affected Parties (I&amp;APs) and Stakeholders for a 30 calendar day review &amp; comment period, extending from <b>Friday, 12 February 2016 – 14 March 2016</b>.</p> <p>On the close of this initial comment period, the formal Application for Environmental Authorisation will be submitted to the national Department of Environmental Affairs (DEA). When the DEA Reference No. is allocated, the final Basic Assessment Report will be made available to registered I&amp;APs &amp; Stakeholders for final comment.</p>
<b>Prepared for:</b>	Liberty Lane Trading 111 (Pty) Ltd.
<b>Published by:</b>	<i>Cape Environmental Assessment Practitioners (Pty) Ltd. (Cape EAPrac)</i>
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<b>DEA Case officer &amp; Ref. No:</b>	Vincent Chauke <i>To be allocated on submission of Application</i>
<b>Report Date:</b>	2 February 2016
<b>To be cited as:</b>	<i>Cape EAPrac</i> , 2015. Pre-Application Draft Basic Assess Report for the proposed 'The Hill Development', Sedgefield. Report Reference: KNY339/03, George.

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# EXECUTIVE REPORT

## 1 INTRODUCTION

**Cape EAPrac** has been appointed by **Liberty Lane Trading 111 (Pty) Ltd.**, hereafter referred to as the Proponent, as independent environmental assessment practitioner (EAP), to facilitate the Basic Assessment (BA) process required in terms of the National Environmental Management Act (NEMA, Act 107 of 1998, as amended) and 2014 Environmental Impact Assessment (EIA) Regulations, for the proposed '**The Hill Development**' bordering the towns of Sedgefield to the north (Western Cape Province, Garden Route). The property is owned by Garden Route Chalets (Proprietary) Limited.

The Proponent proposes to develop a residential estate, consisting of single residential erven, group-housing units, a commercial site, water reservoirs, private open space and service infrastructure on Erf 1638 and Portion 82 of Farm 205 Ruygte Valley. These properties are zoned 'Agriculture' and requires rezoning to accommodate such development rights.

The purpose of this **Pre-Application Draft Basic Assessment Report (DBAR)** is to describe the environment to be affected, the proposed project, the process to be followed, to present recommendations to avoid or minimise impacts, and provide a description of how the development concept has been adjusted to consider the above. The report serves to inform stakeholders and registered Interested & Affected Parties (I&APs) for development/process details to help inform their comment on the application.

Upon completion of the commenting period on this **Pre-Application Draft BAR** all comments received will be taken under consideration by the project team and Proponent. If necessary the preferred alternative may need to be amended to accommodate issues/concerns, alternatively the necessary mitigation measures will be communicated to registered I&APs in responding statements. Thereafter the *formal* **Application Form** will be submitted to the delegated Authority (National Department of Environmental Affairs, DEA), followed by the **Final Basic Assessment Report** that will be circulated to registered I&APs for final comments.

## 2 BACKGROUND TO PROPOSAL / PREVIOUS PROCESSES

This development proposal has a history extending back to 1991 when the owners approached the then Sedgefield Municipality regarding development of the site. According to records provided by VPM Planning the Sedgefield Council took a decision on 5 December **1991** in support of amending the local Guide Plan/Structure Plan from 'Agriculture/Forestry' to 'Township Development' to enable development of site. Council's decision was however never endorsed by the Provincial Department of Environmental Affairs responsible for Guide Plan amendments and the proposal was temporarily abandoned.

Negotiations were initiated again in **1999** when the municipal reservoir was built on the site (Portion 151 Farm 205 Ruygte Valley). The owners made land available to the municipality for this purpose with the undertaking that they would again give consideration to development of the site. Council's initial support in 1991 and the subsequent negotiations in 1999 continued to sustain the owners' expectations that the site can be considered for development.

In August **2006** the owner appointed an independent EAP (Pieter Badenhorst) to facilitate the required environmental Scoping & Environmental Impact Report (S&EIR) process, in terms of the then 2006 NEMA EIA Regulations. The public participation process for this environmental process was initiated with the availability of a Background Information Document (BID), dated



December 2006. During 2007 the scoping process was completed and the identified specialist assessments were conducted – the Draft Scoping Report (DSR), dated June 2007, was made available for public review and comment. Due to the fact that the development was still considered to be inconsistent with the Guide Plan and water availability/surety of supply for the development could not be secured by the Knysna Municipality, the delegated Authority could not consider the application and the environmental application was withdrawn.

Sedgefield borders the coastline to the south and Swartvlei to the west and north-west. Groenvlei is situated to the west and 'The Hill' property to the north, north east. The town is therefore limited both in terms of space and growth point direction. In **2007** the Knysna Municipality, as part of their ongoing forward spatial planning initiatives, identified the hill site as one of the few areas in/around Sedgefield that could potentially accommodate future extensions of Sedgefield. Notwithstanding this planning interval, concern about surety of water supply continued to influence the feasibility of urban expansion for Sedgefield as a whole.

In 2010 however the Knysna Municipality commissioned the Sedgefield Desalination Plant which added 1.5Megaliters of water allocation to the lawful municipal water reserves. At the September **2010** Council meeting it accepted the service proposal for 'The Hill' development and agreed to supply a portion of the daily demand for the development. Although this commitment from the Municipality to supply water does not imply a tacit approval for the development *per se*, it improved the project feasibility.

A subsequent planning process was initiated during 2010 by VPM Planning for amending the Guide Plan (Structure Plan) from 'Agriculture/Forestry' to 'Township area', alongside a LUPO application for rezoning, consolidation and subdivision to allow for **265 single residential opportunities, 10 group housing units, two (2) business premises and one (1) private open space (remainder of the property)** [Plan Nr The Hill Layout 4, dated March 2010]. The environmental process that was run in parallel at the time was again halted and put on-hold in anticipation of the outcome of the Guide Plan amendment application. However, the planning application was never concluded since during this period Guide Plans/Structure Plans were revoked and replaced by local Spatial Development Frameworks (SDF).

In a pre-application authority meeting held on **3 March 2015** with the Provincial Department of Environmental Affairs & Development Planning (DEADP), DEA, the Knysna Municipality and SANPARKS, it was agreed that the EIA process and the Town Planning Application process should attempt to run concurrent with each other.

In a letter dated **28 May 2015** the Knysna Municipality verified that 'The Hill' development proposal *"...is in broad strategic terms in line with the 2008 Knysna SDF..."* (see Appendix J for letter). This statement by the Municipality is viewed as a compatibility ruling in favour of the site being considered for development.

The Proponent is of the opinion that both planning and water availability, the two key issues that hindered the proposal over the past 15 years, have since been addressed through official municipal channels and subsequently instructed VPM Planning and *Cape EAPrac* to resume the necessary planning and environmental applications processes. The process now continues with a preferred layout (Plan Nr 11) that has been adjusted over time in an attempt to address issues/concerns raised through the various applications.

The proposal allows for **130 single residential opportunities, one (1) group housing erf (+/- 110 erven), one (1) business site and the remainder private open space**. Please refer to

Appendix A3 for a copy of this layout. All specialist studies have been done based on the potential demand and likelihood of impacts associated therewith.

### 3 LEGISLATIVE AND POLICY FRAMEWORK

The legislation that is relevant to this study is briefly outlined below. These environmental requirements are not intended to be definitive or exhaustive, but serve to highlight key environmental legislation and responsibilities only.

#### 3.1 THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

The Constitution of the Republic of South Africa (Act 108 of 1996) states that everyone has a right to a non-threatening environment and that reasonable measure are applied to protect the environment. This includes preventing pollution and promoting conservation and environmentally sustainable development, while promoting justifiable social and economic development.

The Proponent has the right to apply for development rights on 'The Hill' on condition that the proposal is compatible with relevant planning policies/plans for the area, that services can be supplied and that reasonable measures are taken by the Proponent to avoid impacting on the receiving environment in a substantial or negative manner.

Stakeholders and Interested & Affected Parties (I&APs) have the right to comment on the development proposal as part of the Proponent's application process(es). The decision-making powers are delegated to the National Department of Environmental Affairs (DEA), the South African National Parks (SanParks) and the Knysna Municipality. Input from all relevant state developments and/or organs of state must be sourced as part of the decision-making processes.

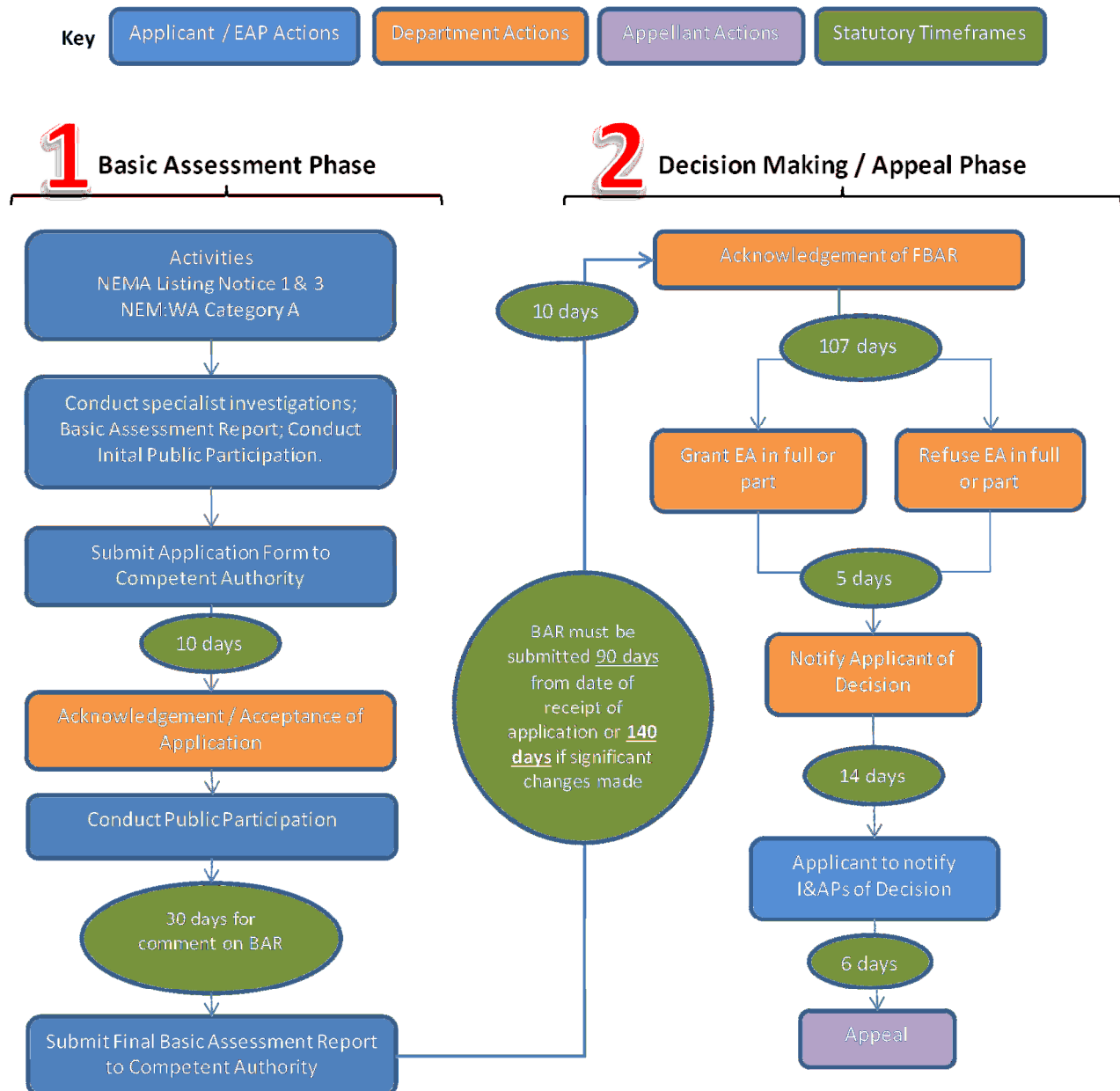
#### 3.2 NATIONAL ENVIRONMENTAL MANAGEMENT ACT (NEMA) (NO 107 OF 1998)

The current assessment is being undertaken in terms of the **National Environmental Management Act** (NEMA, Act 107 of 1998)<sup>1</sup>, as amended. This Act makes provision for the identification and assessment of activities that are potentially detrimental to the environment and which require authorisation from the competent authority (in this case, the national Department of Environmental Affairs, DEA) based on the findings of an Environmental Impact Assessment (EIA), in terms of the 2014 EIA NEMA Regulations.

The proposed scheme entails a number of listed activities, which require a basic environmental impact assessment, which must be conducted by an independent environmental assessment practitioner (EAP). Figure 1 depicts a summary of the Basic Assessment process in terms of the 2014 Environmental Impact Assessment (EIA) Regulations.

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<sup>1</sup> On 4 December 2014 the Minister of Environmental Affairs promulgated new regulations in terms of Chapter 5 of the National Environmental Management Act (NEMA, Act 107 of 1998), viz, the Environmental Impact Assessment (EIA) Regulations 2014. These regulations came into effect on 08 December 2014 and replace the EIA regulations promulgated in 2006 & 2010.



**Figure 1:** Summary of Basic Assessment Process in terms of 2014 EIA Regulations

This Pre-Application Draft Basic Assessment Report (DBAR) is provided as part of the public and stakeholder engagement process that **precedes** the formal environmental application. On the close of the 30-day initial public review and comment period on this Draft BAR, the Application Form will be submitted to the National Department of Environmental Affairs (DEA) to initiate the formal environmental process and associated timeframes in terms of the 2014 Regulations.

I&APs are alerted to the fact that this approach whereby studies and pre-application consultation is done *before* submission of the formal Application is not mandatory in terms of the 2014 Regulations. Due to very strict timeframes for environmental applications in the 2014 Regulations (see Figure 1 for time limits) it is difficult to manage specialists and conduct appropriate public participation during the course of the *formal* application process only. Thus information/data gathering and consultation are done at a pre-application level. The delegated Authority, DEA will consider and acknowledge all inputs/data gathered during the pre-application phase on condition that I&APs remain involved throughout the *formal* application phase as well.

The following 'Listed Activities', in terms of the 2014 NEMA Regulations, are applicable to 'The Hill Development' and require the assessment of associated impacts as part this environmental process:

**Table 1: NEMA 2014 listed activities for 'The Hill Development'.**

<b>GN R983 – Listing Notice 1 (2014)</b>	
<i>GN R.983 Activity 11: The development of (vi) bulk stormwater, (xii) infrastructure or structures with a physical footprint of 100sq/m or more where such development occurs (a) within a watercourse, (c) or if no development setback exists, within 32 metres from a watercourse measured from the edge of a watercourse.</i>	Although most services are planned to be within existing roads or road reserves it remains possible that final detailed design may require infrastructure such as road upgrades, civil, electrical or stormwater infrastructure to be developed in proximity to on-site seepage areas.
<i>GN R983 Activity 19: The infilling or depositing of any material more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from (a) a watercourse.</i>	Although most services are planned to be within existing roads or road reserves it remains possible that final detailed design may require infrastructure such as road upgrades, civil, electrical or stormwater infrastructure to be developed in proximity to on-site seepage areas.
<i>GN R.983 Activity 24: The <b>development of</b> - (i) a road for which environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 on Government Notice 545 of 2010; or (ii) a <b>road with a reserve wider than 13.5 metres</b>, or where no reserve exists where the road is wider than 8 metres; but excluding - (a) roads which are identified and included in activity 27 in Listing Notice 2 of 2014; or (b) roads where the entire road falls within an urban area.</i>	Upgrade of Egret / Cloud Nine Road, with likely width of the upgraded access road 6.5m, with road reserve 16m, as well as the likely width of the internal road 5.5m and 4.5m network, with reserves 14m and 12m.
<i>GN R.983 Activity 27: The <b>clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation</b>, except where such clearance of vegetation is required for - (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i>	Clearance of vegetation for the purposes of a development footprint of ±19ha. Remainder of the site (+/- 71ha to be conserved as open space).
<i>GN R.983 Activity 28: <b>Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture or afforestation on or after 01 April 1998 and where such development: (i) will occur inside an urban area, where that total land to be developed is bigger than 5 hectares, or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectares; excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</b></i>	Land previously used for afforestation, outside of the urban area and developed amounting to a development footprint of +/- 19ha. Remainder of the site (+/- 71ha to be conserved as open space).
<i>GN R.983 Activity 30: <b>Any process or activity identified in terms of section 53(1) of the National Environmental Management: Biodiversity Act, 2004 (Act No.10 of 2004).</b></i>	Property falls within a mapped Threatened Ecosystem listed in terms of NEM:BA (Knysna Sand Fynbos – Critically Endangered).
<i>GN R.983 Activity 56: The <b>widening of a road by more than 6 metres, or the lengthening of a road by more than 1 kilometre</b> - (i) where the existing reserve is wider than 13.5 metres, or (ii) where no reserve exists, where the existing road is wider than 8 metres; excluding where widening or lengthening occur inside urban areas.</i>	Upgrade of Egret / Cloud Nine Road, with likely width of the upgraded access road 6.5m, with road reserve 16m, as well as the likely width of the internal road 5.5m and 4.5m network, with reserves 14m and 12m.
<b>GN R985 – Listing Notice 3 (2014)</b>	

<p><b><i>GN R.985 Activity 2: The development of reservoirs for bulk water supply with a capacity of more than 250 cubic metres (f) in the Western Cape; (i) in a protected area identified in terms of NEM:PAA, excluding conservancies; (ii) in areas containing indigenous vegetation; or (iii) in urban areas: (aa) areas zoned for use as public open space; or (bb) areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned of a conservation purpose.</i></b></p>	<p>Development of water storage reservoir/s with a capacity of <math>\pm 700\text{kl} / 700\text{m}^3</math>.</p>
<p><b><i>GN R.985 Activity 4: The development of a road wider than 4m with a reserve less than 13.5m; (f) in the Western Cape; (i) Areas outside urban areas: (aa) areas containing indigenous vegetation; (bb) areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or (ii) In urban areas: (cc) areas zoned for conservation use; or (dd) areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</i></b></p>	<p>Upgrade of Egret / Cloud Nine Road, with likely width of the upgraded access road 6.5m, with road reserve 16m, as well as the likely width of the internal road 5.5m and 4.5m network, with reserves 14m and 12m.</p>
<p><b><i>GN R.985 Activity 12: The clearance of an area of 300m<sup>2</sup> 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; (a) In the Western Cape; (i) within any critically endangered or endangered ecosystem listed in terms of Section 52 of the NEM:BA 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 critically biodiversity areas identified in bioregional plans; (iii) within the littoral active zone or 100m 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; or (iv) on land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned as open space, conservation or had an equivalent zoning.</i></b></p>	<p>Clearance of vegetation within a mapped Threatened Ecosystem listed in terms of NEM:BA (Knysna Sand Fynbos – Critically Endangered).</p>
<p><b><i>GN R.985 Activity 18: The widening of a road by more than 4m, or the lengthening of a road by more than 1km; (f) In the Western Cape; (i) all areas outside urban areas: (aa) areas containing indigenous vegetation; (bb) areas on the estuary side of the development setback line or in an estuarine functional zone where no such development setback line has been determined; (ii) In urban areas: (aa) areas zoned for conservation use ; or (bb) areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</i></b></p>	<p>Upgrade of Egret / Cloud Nine Road longer than 1km, with likely width of the upgraded access road 6.5m, with road reserve 16m.</p>

Consideration was also given to Activity 25 of Regulation 983 ...“the development and related operations of facilities or infrastructure for the treatment of effluent, wastewater or sewage with a daily throughout capacity of more than 2 000 cubic metres but less than 15 000 cubic metres”, however it was found not to be triggered since the anticipated daily throughout of the on-site membrane bio-reactor sewage treatment system average only 218 cubic metres per day which is below the specified threshold volume of 2 000 cubic metres.

Before any of the above mentioned listed activities can be undertaken, authorisation must be obtained from the relevant authority, in this case the National Department of Environmental Affairs (DEA). Should the Department approve the proposed activity, the Environmental Authorisation does not exclude the need for obtaining relevant approvals from other Authorities

who have a legal mandate (for e.g. SANParks & Heritage Western Cape, Knysna Municipality, Department of Agriculture, Department of Water Affairs, Department of Forestry etc.).

Principles contained in Section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended (NEMA), which, amongst other things, indicates that environmental management should:

- In order of priority aim to: avoid, minimise or remedy disturbance of ecosystems and loss of biodiversity;
- Avoid degradation of the environment and avoid jeopardising ecosystem integrity;
- Pursue the best practicable environmental option by means of integrated environmental management;
- Protect the environment as the people's common heritage;
- Control and minimise environmental damage; and
- Pay specific attention to management and planning procedures pertaining to sensitive, vulnerable, highly dynamic or stressed ecosystems.

It is incumbent upon the Proponent to show how the proposed activities would comply with these principles and thereby contribute towards the achievement of sustainable development as defined by the NEMA.

### **3.3 NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT (NEM:BA) (ACT 10 OF 2004)**

This Act controls the management and conservation of South African biodiversity within the framework of NEMA. Amongst others, it deals with the protection of species and ecosystems that warrant national protection, as well as the sustainable use of indigenous biological resources. Sections 52 & 53 of this Act specifically make provision for the protection of critically endangered, endangered, vulnerable and protected ecosystems that have undergone, or have a risk of undergoing significant degradation of ecological structure, function or composition as a result of human intervention through threatening processes.

According to the Vegetation Map of South Africa (2006) and BGIS 2014, almost the entire extent of the properties in question (and proposed formalisation layout) fall within the **Knysna Sand Fynbos vegetation type** which has a National Spatial Biodiversity Assessment (NSBA) and NEM:BA Ecosystem Status of **Endangered and Critically Endangered**, respectively. Knysna Sand Fynbos is also listed as a '**Threatened Ecosystem**' in terms of Section 52 of NEM:BA. See Vegetation Map in Appendix A2.

Noted during site inspections by the independent ecologist was that most of the extent of the properties have been transformed by alien plant infestation, leaving little remnant indigenous vegetation at this site. What vegetation remains is predominantly alien invader plants with an estimated 2ha of remnant Knysna Sand Fynbos affected by the proposed development.

Notwithstanding the designated vegetation allocation for the site the entire extent of the properties in question falls **outside the Critical Biodiversity Area (CBA)**. It also falls outside of any **Ecological Support Area (ESA)** areas. The site does however border on an ESA which is aligned east-west directly to the north of The Hill property. This ESA buffers the CBA surrounding the Ruygtelei and Swartvlei to the north (see Appendix A2 for CBA/ESA map).

#### **3.3.1 The National Spatial Biodiversity Assessment (NSBA)(2011)**

The NSBA 2011 assesses the state of South Africa's biodiversity, across terrestrial, freshwater, estuarine and marine environments, emphasising spatial (mapped) information for both ecosystems and species. The NSBA is central to fulfilling the South African National Biodiversity

Institute's (SANBI) mandate in terms of the National Environmental Management: Biodiversity Act (Act 10 of 2004) to monitor and report regularly on the state of biodiversity, and includes two headline indicators that are assessed across all environments: **ecosystem threat status** and **ecosystem protection level**. Information from the NSBA can thus be used to streamline environmental decision-making, strengthen land-use planning, strengthen strategic planning about optimal development futures for South Africa, and identify priorities for management and restoration of ecosystems with related opportunities for ecosystem-based job creation.

In terms of this development proposal, the ecosystem status and condition of the vegetation types on and in proximity to the site, as well as the nearest priority ecosystems: the adjacent Swartvlei and Ruygtevlei have been considered. In addition, the location of the development site in relation to the nearest Critical Biodiversity Area, Ecosystem Support Areas, National Protected Areas (and Expansion Strategy) and National Freshwater Ecosystem Priority Areas (NFEPA) have been reflected on by the independent ecologist.

### 3.3.2 Garden Route Biodiversity Sector Plan (GRBSP)

A Biodiversity Sector Plan (BSP) provides a way forward in reconciling the conflict between development and the maintenance of natural systems. It provides biodiversity information needed for land-use planning and decision-making and other multi-sectoral planning processes (between Cape Nature, SANParks, DEA&DP, DEA and Department of Water Affairs, district and local municipalities etc.).

Central to the Garden Route BSP is the **Critical Biodiversity Area/Ecological Support (CBA/ESA) Map**, which together with its associated guidelines and GIS maps, have been consulted in the assessment of this development proposal. As mentioned above, 'The Hill' properties do not fall within a CBA or ESA.

## 3.4 REGULATIONS FOR THE PROPER ADMINISTRATION OF THE KNYSNA PROTECTED ENVIRONMENT (R1175 OF NEM: PAA)

South African National Parks (SANParks) is the competent authority for the authorisation and implementation of activities in terms of Regulation 1175 for the Proper Administration of the Knysna Protected Environment, in terms of the National Environmental Management: Protected Areas Act (NEM:PAA). The following applies within the Knysna area:

**'Biodiversity Control Areas'**: the 'water area' and 'state land':

- **'State Land'**: Any protected environment which vests in national, provincial or local government, placed under management or control of SANParks. The SANParks Protected Environment, in this case is the Knysna National Lakes Area: all proclaimed land and water areas, as well as all further land and water areas formally proclaimed by the Minister to form part of the Knysna Protected Environment.
- **'Water Area'**:
  - water & bed of the Knysna Lagoon,
  - the Knysna, Salt, Bongani and Bigai rivers,
  - any wetland associated with the above,
  - the sea and seashore, including up to the highwater mark or the highest water level in the abovementioned systems (as a result of tides or ordinary storms, occurring during the most stormy period of the year *i.e. the 1:100 year floodline*).

**'Development Control Areas'**:

- the biodiversity control area, and

- land situated within 50m inland of the (i) 'water area' and (ii) the highwater mark or 1:100 year floodline.

'The Hill Development' is located adjacent to the protected lakes area managed by SANParks (a Biodiversity Control Area) and thus any potential on-site seepage (and associated 1:100 year floodlines) may be considered associated with this Development Control Area, in terms of the abovementioned Regulations.

Based on the contents of this BAR, SANParks will confirm whether 'The Hill Development' falls within a Development Control Area. Notably 'The Hill' site is located in the buffer zone of the Garden Route National Park hence achieving a conservation outcome on this property is important to SANParks. Thus recommendations associated with demarcation of no-go areas, protection of remaining indigenous vegetation, alien plant removal (short- and long-term), erosion control etc., as specified in this Report and the EMPr must be implemented, to ensure activities on the site are properly managed and indirect impacts on the Garden Route National Park are prevented.

### **3.4.1 National Protected Area Expansion Strategy (NPAES) for S.A. 2008 (2010)**

Considering that South Africa's protected area network currently falls far short of sustaining biodiversity and ecological processes, the NPEAS aims to achieve cost-effective protected area expansion for ecological sustainability and increased resilience to Climate Change. Protected areas, recognised by the National Environmental Management: Protected Areas Act (NEM:PAA)(Act 57 of 2003), are considered formal protected areas in the NPAES. The NPAES sets targets for expansion of these protected areas, provides maps of the most important protected area expansion, and makes recommendations on mechanisms for protected area expansion.

'The Hill Development' site is located in proximity to one such formally protected area, namely the **Lakes Area of the Garden Route National Park** (Ruygtevelei and Swartvelei). However, **no protected area expansion is proposed in proximity of 'The Hill' site.**

The NPAES identifies 42 focus areas for land-based protected area expansion in South Africa. These are large intact and unfragmented areas suitable for the creation or expansion of large protected areas. The NPAES does not deal with the site-scale planning on exactly which sites should be included in the protected area network, nor with detailed implementation planning for expanding protected areas. This responsibility lies with protected area agencies, such as provincial conservation authorities (e.g. Cape Nature), South African National Parks (SANParks) and World Heritage Site Authorities (Heritage Western Cape - HWC).

The Knysna, Rondevlei and Wilderness sections of the Garden Route National Park, Cape Nature and HWC are registered as key stakeholders for this environmental process and have been requested to provide comment on this housing development in relation to the Sedgefield and Lakes area.

## **3.5 ENVIRONMENTAL MANAGEMENT FRAMEWORK (EMF)**

The Garden Route Environmental Management Framework (EMF, 2010) by DEA was developed as a decision support tool, in particular to address development pressure in the Garden Route and in order to help achieve the so-called desired state of the environment. In particular this EMF particular EMF has been developed as a direct response to a specific set of drivers and pressures. The National Lakes Area, commonly known and referred to as the Garden Route, is characterised as such due to its' outstanding scenic quality and beauty which is often interspersed by urban development. It is this feature which makes the area unique; the



juxtaposition between urban development on the doorstep of conservation areas of national, and international importance. This position makes the area complex from a management perspective.

Importantly the EMF is conducted as a response to the conflict between development, perceived and entrenched land owner / public rights, and conservation requirements, as well as the need for economic growth.

‘The Hill’ property is situated on a stabilised dune consisting of a number of medium-large, privately owned properties, some developed (low key) and others vacant, giving the effect of an untransformed landscape/viewshed. To some extent stakeholders associate the property with the surrounding rural character and as such allocate a particular sense-of-place to the property as a whole. Given its prominence in the landscape it is important to limit development on steep slopes and prohibit interference with the ridgeline/skyline. Likewise development should be in line with forward spatial planning land use designations its density and group clustered to protect the topographical landscape.

Both a visual and heritage assessment have been undertaken to consider the proposed development.

### **3.6 NATIONAL FORESTS ACT (NFA) (NO. 84 OF 1998):**

The National Forests Act provides for the protection of forests as well as specific tree species, quoting directly from the Act: *“no person may cut, disturb, damage or destroy any protected tree or possess, collect, remove, transport, export, purchase, sell, donate or in any other manner acquire or dispose of any protected tree or any forest product derived from a protected tree, except under a licence or exemption granted by the Minister to an applicant and subject to such period and conditions as may be stipulated”*.

Although individual indigenous trees are present, **no protected tree species were observed** on the properties in question. An area of **disturbed Afrotemperate Forest is restricted to the drainage valley to the south of the site**, which may contain protected trees. Particular care will have to be taken with (a) widening of the access road and (b) installation of the underground electrical cable that must connect to the existing Sedgefield Substation. Afro-temperate Forest is one of the 26 National Forest Types declared as natural forest in terms of Section 7(3)(a) of the National Forest Act (Government Notice No. 762, 18 July 2008). Section 7 of the NFA provides for the **prohibition of the destruction of indigenous trees** in any natural forest and Section 15 for the prohibition of the destruction of Protected trees, without a license.

Recommendations in terms of site demarcation and no-go areas have been included in the attached Environmental Management Programme (EMPr), to avoid potential further disturbance of this forest area.

### **3.7 CONSERVATION OF AGRICULTURAL RESOURCES ACT (CARA) (ACT 43 OF 1983):**

CARA provides for the regulation of control over the utilisation of the natural agricultural resources in order to promote the conservation of soil, water and vegetation and provides for combating weeds and invader plant species. The Conservation of Agricultural Resources Act defines different categories of alien plants:

- Category 1 - prohibited and must be controlled;
- Category 2 – must be grown within a demarcated area under permit; and

- Category 3 - ornamental plants that may no longer be planted, but existing plants may remain provided that all reasonable steps are taken to prevent the spreading thereof, except within the floodlines of water courses and wetlands.

There is an **abundance of alien plant species within and surrounding 'The Hill' site**, which will require control and/or removal. Considering the topography and slope of the development property, as well as the nature of the substrate (stabilised dune) the vulnerability of the site to erosion, particularly within seepage areas, is noted. **Recommendations in terms of short- and long-term alien plant removal / control**, and **erosion control (and rehabilitation)** have been included in the attached Environmental Management Programme (EMP) (Appendix G).

### **3.8 NATIONAL VELD & FOREST FIRE ACT (NVFFA) (ACT 101 OF 1998)**

The purpose of the National Veld and Forest Fire Act is to **prevent and combat veld, forest and mountain fires** throughout the Republic of South Africa and to provide institutions, methods and practices for achieving this purpose. Institutions include the formation bodies such as Fire Protection Associations (FPA's) and Working on Fire. The Act provides the guidelines and constitution for the implementation of these institutions, as well as their functions and requirements.

Every owner on whose land a veldfire may start or burn or from whose land it may spread must prepare and maintain a firebreak on his or her side of the boundary between his or her land and any adjoining land. The procedure in this regard and the role of adjoining owners and the local fire protection association are dealt with within this Act.

'The Hill Development' site is located directly adjacent to an area of Knysna Sand Fynbos to the north of the property, and is covered and otherwise surrounded by dense alien vegetation to the east, west and south. Considering the abundance of alien vegetation, the occurrence of fire in the area is considered very high and a significant risk to the site and the surrounding area. Therefore, recommendations in terms of **management of alien plant biomass within and surrounding the site, fire breaks and fire control** have been included in the attached Environmental Management Programme (EMP) (Appendix G).

A further recommendation is that as the Knysna Municipality is part of the Southern Cape Fire Protection Association (FPA), it is of utmost importance that a **Fire Management Plan** be put in place for 'The Hill' property, with assistance from the FPA and the Fire Brigade for the area.

### **3.9 NATURE & ENVIRONMENTAL CONSERVATION ORDINANCE (ORDINANCE 19 OF 1974)**

This legislation was developed to protect both animal and plant species within the various provinces of the country, which warrant protection. These may be species which are under threat or which are already considered to be endangered. The provincial environmental authorities are responsible for implementing the provisions of this legislation, which includes the issuing of permits etc. In the Western Cape, Cape Nature fulfils this mandate.

**Very little natural vegetation or habitat remains** on 'The Hill' property and **no endangered plant species were observed**. Recommendations regarding the protection and rehabilitation of the remaining indigenous plants have been included in this Report and the EMP (Appendix G).

### **3.10 OUTENIQUA SENSITIVE COASTAL AREA EXTENSION (OSCAE) (REG. 1526 OF Nov.1998)**

'The Hill Development' properties fall within the Outeniqua Sensitive Coastal Area Extension (OSCAE) within the Knysna region, which makes provision for the regulation of vegetation clearing, earthworks and dredging activities. The Knysna Local Municipality is the competent authority responsible for granting OSCAE permits. The relevant **OSCAE Permit Application** will be compiled and submitted to the Knysna Municipality for review and decision-making along with the formal BAR.

### **3.11 NATIONAL HERITAGE RESOURCES ACT (NHRA) (NO 25 OF 1999)**

The protection and management of South Africa's heritage resources are controlled by the National Heritage Resources Act (Act No. 25 of 1999). Heritage Western Cape (HWC) is the enforcing authority in the Western Cape, and is registered as a Stakeholder for this environmental process.

In terms of Section 38 of the National Heritage Resources Act, HWC will comment on the proposal, as the following activities are relevant:

- *the construction of a road, wall, power line, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;*
- *any development or other activity which will change the character of a site exceeding 5000m<sup>2</sup> in extent;*

Furthermore, in terms of Section 34(1), no person may alter or demolish any structure or part of a structure, which is older than 60 years without a permit issued by the HWC, or the responsible resources authority. **No buildings older than 60 years and heritage significance were identified on the development property.**

Nor may anyone destroy, damage, alter, exhume or remove from its original position, or otherwise disturb, any grave or burial ground older than 60 years, which is situated outside a formal cemetery administered by a local authority, without a permit issued by the SAHRA, or a provincial heritage authority, in terms of Section 36 (3). **No grave sites were found on the development property.**

In terms of Section 35 (4), no person may destroy, damage, excavate, alter or remove from its original position, or collect, any archaeological material or object, without a permit issued by the SAHRA, or the responsible resources authority (Heritage Western Cape). **Recommendations in this regard are detailed in the Environmental Management Programme (EMP) compiled to guide the construction activities.**

### **3.12 NATIONAL WATER ACT (NWA) (NO 36 OF 1998)**

Section 21c & i of the National Water Act (NWA) requires that authorisation be applied for from the Department of Water & Sanitation (DWS) for any activity in, or in proximity to any watercourse. Three minor seepage lines traverse the properties north-east to south-west, draining upper slope to the south towards the Perde Spruit and Swartvlei. Although the portions of the proposed erven layout have been designed to avoid these seepage areas, the installation of services (internal roads, water & sewage reticulation, stormwater infrastructure), may well cross through these areas. Recommendations related to **management of stormwater and avoidance of erosion** has been made in this document and the attached EMP. The 1:100 year floodline of these small seepage areas have been determined and the proposed layout plan designed to ensure that the proposed housing platforms **fall well outside of these floodline** areas (refer to Annexure D5 for layout in relation to 1:100 year floodline).

The stormwater run-off will be directed into gabion dissipaters above the roads and through piped concrete culverts under the roads. The run-off will further be dissipated into 'reno-mattresses' at the outlet of the stormwater pipes, whereafter it will flow via the existing natural stream towards the south of the development. Confirmation is awaited from the Department of Water & Sanitation (DWS) regarding the applicability of General Authorisation to allow for and to guide these crossings (activities within the watercourse).

It is anticipated that the installation of such service infrastructure will result in minimal impacts to this seepage lines, should the recommendations pertaining to erosion and silt control (dissipaters etc.) be implemented.

### **3.13 THE WESTERN CAPE PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORK: STATUTORY REPORT (PSDF) (2009)**

The purpose of the PSDF is to:

- be the spatial expression of the Provincial Growth and Development Strategy (PGDS);
- guide (metropolitan, district and local) municipal integrated development plans (IDPs) and spatial development frameworks (SDFs) and provincial and municipal framework plans (i.e. sub-SDF spatial plans);
- help prioritise and align investment and infrastructure plans of other provincial departments, as well as national departments' and parastatals' plans and programmes in the Province;
- provide clear signals to the private sector about desired development directions;
- increase predictability in the development environment, for example by establishing no-go, conditional and 'go' areas for development; and,
- redress the spatial legacy of apartheid.

The Western Cape PSDF takes as its starting point the **goal of sustainable development**. Development is only acceptable and in the public interest if it is ecologically justifiable, socially equitable and economically viable, i.e. environmentally sustainable. The PSDF was formulated at a time when a number of natural and built environment and socio-economic trends in the Province were reaching critical proportions.

The Knysna Municipality as local authority must align its forward spatial planning with the PSDF to urban edges and development densities.

### **3.14 KNYSNA SPATIAL DEVELOPMENT FRAMEWORK (SDF)(2008)**

The Knysna Spatial Development Framework (November 2008) was adopted by Council and is the most recent document with legal standing as far as forward planning strategy in Knysna is concerned. There is currently a team of consultants employed to prepare a new Integrated Spatial Development Framework, but at the time of writing this report the document was not yet available although it is understood to be circulated for public comment in 2016.

The Knysna SDF identifies Sedgfield as a secondary node, or a second order settlement in the context of the Municipality, making it the most significant 'small town (*KSDF;Pg 18*)' in the municipal area.

According to VPM Planning the 2008 Knysna Spatial Development Framework (SDF) mostly earmark the site for "future development".

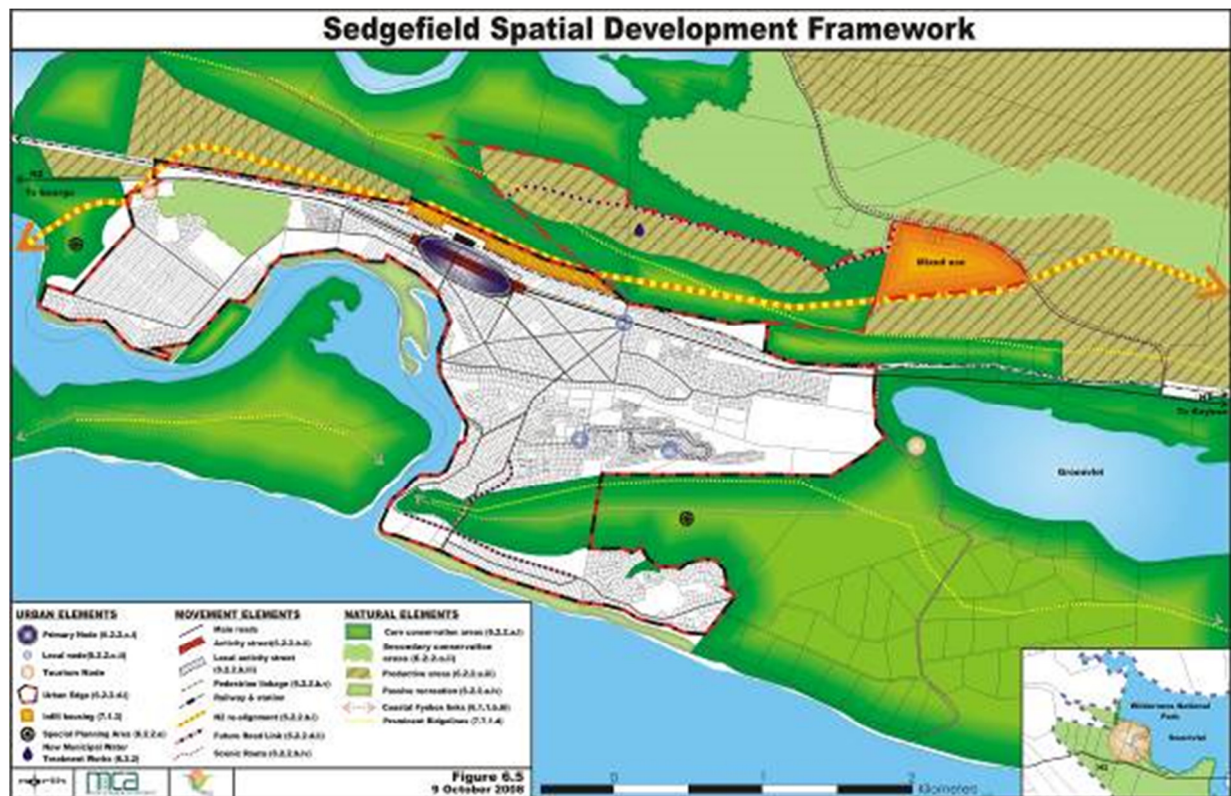


Figure 2: The Hill development indicated on the 2008 Knysna SDF (Source: VPM Planning 2015).

As indicated Figure 2 above, the **Remainder of Ptn. 82** of the Farm has been earmarked as a **“Core Production Area”** included in an area that has been identified as **“Future Development Direction”**. Approximately 95% of the proposed development is situated on the Remainder of Ptn. 82.

Because of the land being zoned ‘Agriculture’ the National Department of Agriculture must give their consent for township development. In a letter dated 5 February 2013, the Department of Agriculture confirmed that they have no objection to the creation of a township on the property since it is not viable agricultural land. The letter is attached as Annexure J.

From the map it appears that **Erf 1638** has been excluded from the “Future Development Areas”. Erf 1638 has been identified as **“Core Natural Area”**. The Core Conservation Areas have been described in the SDF document as *“areas that have a unique natural character and contributes to the uniqueness and character of Sedgfield... and have important ecological functions”* (KSDF 2008, pg 38). According to the Map containing the Spatial Information, this area does not contain any unique features that need protection. The specialist ecological study conducted as part of this application also confirms that the area is mostly transformed. Furthermore, it is not identified as a “Critical Biodiversity Area” nor an “Environment Support Area” in the CBA maps.

It is therefore assumed that this category was assigned due to the steep slopes prevalent on Erf 1638. The slope assessment of the property excludes the larger part of Erf 1638 which will not be developed.

The appointed Planners (VPM Planning) submit that the proposed The Hill development is in line with the vision of the 2008 SDF since it is situated in an area identified for development. This view is further supported by a letter from the Knysna Municipality, 25 May 2015 in which it

confirms that the planned residential development is "...in broad strategic terms in line with the 2008 Knysna Spatial Development Framework (See Annexure J for a copy)

### 3.15 LAND USE PLANNING ORDINANCE (LUPO) (ORDINANCE 15 OF 1985):

The properties in question are zoned "**Agriculture**" and will have to be rezoned to "**Subdivisional Area**" to allow the establishment of a formal township. The approval of the detailed subdivision plan will follow the approval of the rezoning, which will include a public participation process, as determined by the Knysna Local Municipality (see Town Planning Report 2015, VPM Planners, attached as Annexure D6).

### 3.16 SUSTAINABILITY IMPERATIVE

The norm implicit to our environmental law is the notion of sustainable development ("SD"). SD and sustainable use and exploitation of natural resources are at the core of the protection of the environment. SD is generally accepted to mean development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs. The evolving elements of the concept of SD *inter alia* include the **right to develop**; the **pursuit of equity** in the use and **allocation of natural resources** (the principle of intra-generational equity) and the **need to preserve natural resources** for the benefit of present and **future generations. Economic development, social development and the protection of the environment** are considered the pillars of SD (the triple bottom line).

*"Man-land relationships require a holistic perspective, an ability to appreciate the many aspects that make up the real problems. Sustainable planning has to confront the physical, social, environmental and economic challenges and conflicting aspirations of local communities. The imperative of sustainable planning translates into notions of striking a balance between the many competing interests in the ecological, economic and social fields in a planned manner. The 'triple bottom line' objectives of sustainable planning and development should be understood in terms of economic efficiency (employment and economic growth), social equity (human needs) and ecological integrity (ecological capital)."*

As was pointed out by the Constitutional Court, SD does not require the cessation of socio-economic development but seeks to regulate the manner in which it takes place. The idea that developmental and environmental protection must be reconciled is central to the concept of SD - it implies the accommodation, reconciliation and (in some instances) integration between economic development, social development and environmental protection. It is regarded as providing a "conceptual bridge" between the right to social and economic development, and the need to protect the environment.

Our Constitutional Court has pointed out that the requirement that environmental authorities must place people and their needs at the forefront of their concern so that environmental management can serve their developmental, cultural and social interests, can be achieved if a development is sustainable. *"The very idea of sustainability implies continuity. It reflects the concern for social and developmental equity between generations, a concern that must logically be extended to equity within each generation. This concern is reflected in the principles of inter-generational and intra-generational equity which are embodied in both section 24 of the Constitution and the principles of environmental management contained in NEMA."* [Emphasis added.]

In terms of NEMA sustainable development requires the integration of the relevant factors, the purpose of which is *to ensure that development serves present and future generations.*<sup>2</sup>

The notion of integrated sustainable spatial planning is a key function of local authorities. The Knysna Municipality must consider the development proposal in the context of its applicable spatial development framework to ensure that the proposal is aligned with the municipality's vision for Sedgfield. Outside of the formal planning process the Municipality has confirmed service availability for a portion of the civil services and appointed specialists have investigated the proposal. If found to be compatible and sustainable at the time of decision-making, the proposal is likely to be considered favourable. If however information pertaining to the development highlights conflicts its policies and guidelines, or if found not to be sustainable for reasons not yet identified, then it is likely that the development will have to be reconsidered.

## 4 ACTIVITY

The proposed development in its current form (Plan version 11) consist of the following:

- 130 x Single residential units;
- Townhouse / Retirement Village: 30 large, 40 medium and 40 small (totalling 110 opportunities);
- One commercial site (3020m<sup>2</sup>) with potential for business/restaurant/commercial opportunities;
- Two water storage Reservoirs 400m<sup>2</sup>/700kl each (one for treated water & one for potable water);
- On-site sewage treatment plant with capacity to treat 218kl/day, approximately 1200m<sup>2</sup> in size applying Membrane Bio-reactor / MBR technology;
- Dual water supply systems: one for potable water (only for in-door taps and zinks) and one where on-site treated sewage is used to supply baths, showers, garden taps and toilet systems;
- Internal road network, accommodating existing servitudes;
- Upgrade of the gravel Provincial Road No.OP06914 / 'Cloud Nine' Public Road to a brick paved road, from the Egret Road / Railway Line intersection to just past the main access point to the development;
- Upgrade of the Egret Road / N2 highway intersection and Railway crossing in line with relevant Roads Authority requirements (see Traffic Impact Assessment);
- Installation of an underground electric cable along the 'Cloud Nine' public road down the hill to connect to the existing Sedgfield Substation in town;
- 5000 litre rainwater storage tanks; and
- Perimeter fencing.

The development footprint calculates to 18.16.ha (+/-19ha) which is approximately 20% of the property). The proposed gross development density calculates to 2.6 units per ha whilst the netto density (development within the development footprint) comes out at 12.63 units per hectare. Appendix A3 contain a copy of the layout map depicting the development footprint (Plan Nr The Hill Layout 11 dated July 2013).

## 5 ALTERNATIVES

<sup>2</sup> See definition of "sustainable development" in section 1 of NEMA.

The Western Cape Guideline Document on Alternatives (2013) states that ‘alternatives’, in relation to the **proposed activity**, means *different means of meeting the general purposes and requirements of the activity*, which may include alternatives to –

- the property on which, or location where, it is proposed to undertake the activity (*to this end “The Hill” development has been informed through input needing to amend the layout to accommodate larger corridors and group cluster the development more*);
- the type of activity to be undertaken (*the Proponent has introduced the option of group housing units to form part of a retirement precinct, however the overall proposal remain residential*);
- the design or layout of the activity (*the layout has been informed by input during the process to date, additional changes may be requires once the application processes is more progressed*);
- the technology to be used in the activity (*the Proponent must make use of an on-site sewage treatment works in order to clean and re-use a portion of the water to augment potable supply*);
- the operational aspects of the activity; and
- the option of not implementing the activity.

Previous layouts considered included Layout 4 which was the subject of the previous application and Layout 9 which is a low density option with 50 large plots. Layout 9 was not accepted by the Proponent as this layout is not deemed financially viable due to the high service cost (for an onsite package plant with treatment capabilities to re-use the water, access upgrades, water supply and electricity) which would demand unrealistic property prices.

Layout 4 is the Proponents’ preferred option as this layout is the most financial viable option with 275 residential opportunities and 2 commercial sites. This layout was however not acceptable to SANPARKS and CAPE NAURE who requested a layout that will achieve a better conservation outcome with more open areas along the northern boundary as well as wider ecological corridors.

The Status Quo (no-development scenario) sees the property continue to be vacant for the most part with developments only within its primary rights (i.e. primary dwelling plus additional dwellings to a maximum of five per cadastral unit).

## 6 SITE DESCRIPTION AND ATTRIBUTES

### 6.1 BROAD CONTEXT

Sedgefield is a small coastal town in the Southern Cape built around the Swartvlei Lagoon and Mouth. The Groenvlei Lake bounds the town to the east, while the Swartvlei Lagoon Lake bounds the town to the west and north-west. This amazing setting in the heart of the Lakes District of the Garden Route makes it very popular as a retirement and tourist destination.

The urban area of Sedgefield is divided by the N2 highway and the railway line north of the N2. The majority of the urban development is situated to the south of the N2 highway around the Swartvlei Lagoon and along the coastal belt. The area to the north of the N2 highway can be described as a mixed use area consisting of Residential uses, Industrial uses and Service trades.

The development site is situated on a prominent hill / ridgeline north of the existing urban environment of Sedgefield and the Swartvlei / Ruygte Valley, which has been described a rural residential character, where several properties engage in rural-agricultural activities. The land uses to the north of Sedgefield are mainly that of low density rural occupation with property sizes that varies between 5 to 80ha.

The existing municipal reservoir is situated on a parcel of land (Portion 151 of Farm 205) located within and adjacent to the eastern boundary of the site. A new water treatment plant is proposed as part of the municipal service provision master plan on Portion 101 of Farm 205 directly adjacent to and east of this reservoir.



The “Claude 9 / Cloud Nine” Public Road, identified as a scenic route, traverses the combined property from its south-eastern corner to its western boundary, and provides access via the ridgeline to the Swartvlei, to the north-west.

‘The Hill’ Development is proposed on two combined properties north of Sedgefield and N2 highway, namely: Portion 82 of Farm 205 Ruygte Valley (82/205 Ruygte Valley) and Erf 1628 Sedgefield. Both properties are owned by **Garden Route Chalets (Proprietary) Limited** and are held by Title Deed 5015/2004.

## **6.2 PROPERTY DETAILS, RESTRICTIONS & SERVITUDES**

### **6.2.1 Portion 82 of the Farm Ruygte Valley 205**

21 Digit Code of Cadastral: C03900000000020500082

According to the S.G. Diagram 814/1954 the property size is 58.31895ha, minus a deduction of 749m<sup>2</sup> (Portion 137) that occurred in 1993 = Title Deed size: 58.2440ha. The property is subject to a Road Expropriation of 2.3443ha (unregistered Portion 162 of Farm 205) that still forms part of the property, but will be excluded from the development area. The municipal water Reservoir situated on unregistered Portion 151 of Farm 205 (6 602m<sup>2</sup>), which is located within and against the property eastern boundary (excluded from the development area). *Total area = 55.23955ha.*

### **6.2.2 Erf 1628 Sedgefield**

21 Digit Code of Cadastral: C039001000000163800000

According to the S.G. Diagram 8145/1954 and Title Deed the property size is 34.9955ha. The property is subject to a Road Expropriation of 2961m<sup>2</sup> (unregistered Erf 4934) that still forms part of the property, but will be excluded from the development area. *Total area = 34.6994ha.*

*Combined development area of 89.93895ha (approximately 90ha).*

#### Restrictions / Servitudes across combined property

The Title Deed does not contain any conditions that restrict the development of the property as envisaged, however a number of Servitudes need to be taken into account:

- Right-of-Way / Servitude Road of 6m wide over Portion 82/205 (SG Diagram 8144/54) and extending on to Erf 1638 (SG Diagram 8145/54) in favour of the General Public. This forms the main ‘Cloud Nine’ access road onto the hill;
- Right-of-Way / Servitude Road of 9.45m wide over Erf 1638 from the main ‘Cloud Nine’ access road extending north across Portion 82/205 (SG Diagram 8144/54) in favour of owners of the Portion 92 of Farm 205 and successors in Title;
- Right-of-Way / Servitude Road of 6m wide over Erf 1638 (SG Diagram 6468/85), from the main ‘Cloud Nine’ access road and extending onto Portion 82/205 (SG Diagram 6470/85) in favour of Erf 1639, Portion 30 and Portion 92 of Farm 205.

The abovementioned servitudes / right-of-way will be accommodated within the development proposal, as will access to the municipal reservoir on Portion 151/205.

## **6.3 PROPERTY ZONING & LAND USE**

**Erf 1638 Sedgefield** falls within the old Sedgefield Municipal areas and is **zoned “Agriculture”** in terms of the Sedgefield Zoning Scheme. **Portion 82 of Farm 205 is zoned as “Agriculture 1”** in terms of the Section 8 Zoning Scheme. However, according to the Knysna-Wilderness-Plettenberg Bay Regional Structure Plan, the property is reserved for **“Agriculture/ Forestry” purposes.**

The properties have been subject to forestry activity in the past, but have not been cultivated or maintained for many years. Other than the access roads / servitudes and the municipal reservoir, the combined property is currently undeveloped.

Parallel to this environmental process a Planning Application process will be undertaken. Refer to Section 6 below for details of this planning process.

## 7 PLANNING CONTEXT

According to the Knysna Municipality's planning department this development is being considered in terms of the 2008 Knysna SDF which has been adopted by Council and therefore constitutes the only legal, local spatial planning document/policy. The Municipality has confirmed that the proposed development is broadly in line with the 2008 SDF.

In follow-up communication and meetings with the Municipality regarding the current process which they are following to develop a new integrated SDF, *Cape EAPrac* was given the assurance that the Municipality maintains its opinion that the 2008 SDF must be used to assess "The Hill" development.

Other relevant planning policies (EMF, PSDF etc) clearly highlights that developments in the Sedgefield area must **avoid steep slopes**, must **avoid designs that may cause erosion/slope failure**, must **avoid ridgelines/skyline intrusion** and must **not impact negatively on the sense-of-place and character** (i.e. protect common heritage and topographical landscapes).

Plan Nr 11 was informed through a slope analysis and all areas steeper **than 25% are excluded** from the footprint thereby **reducing the risk of erosion and slope failures**. The development has been **group clustered to reduce visual intrusion** and to allow **corridors which reduce the risk of 'breaking the skyline'**. The fact that the local Municipality is willing to consider development on the site speaks to a level of recognition that impacts associated with township development (i.e. visual impact, impact on character and sense-of-place) are likely to occur within a (rural) urban context.

## 8 PROCESS TO DATE

The following Table 1 provides an overview of the pre-application events and steps that have been taken to date:

Table 2: Chronology of events during pre-application phase.

CHRONOLOGY OF EVENTS			
DATE	PURPOSE	ENTITY	ACTIONS
3 March 2015	Authority Meeting	Cape EAPrac & VPM	Authority consultation with decision-making authorities, Provincial DEADP, National DEA, Knysna Municipality and SanParks to discuss the process of combining the planning and environmental applications to streamline the process.
8 July 2015	Authority Meeting	Cape EAPrac	Meeting with DEA officials as part of the mandatory requirements for facilitating an environmental process into the 2014 Regulations.

7 October 2015	Site Notice	Cape EAPrac	Site notices erected at access road bottom (at rail tracks on Cloud Nine Road), and at entrance to the site. Calling for I&APs to register for the application process.
7 October 2015	Notices at Sedgfield Library and Municipal Office	Cape EAPrac	Notices calling for I&APs to register for the application process.
7 October 2015	Written notices	Cape EAPrac	Written notice to neighbouring land owners, key stakeholders, authorities informing of the application and requesting registration of I&APs.
7 October 2015	Advert in The Edge	Cape EAPrac	Advert calling for I&APs to register for the application process.
8 October 2015	Advert in Knysna Herald	Cape EAPrac	Advert calling for I&APs to register for the application process.
12 October 2015	Ratepayers Meeting	Cape EAPrac & VPM Planning	Meeting with the Sedgfield Ratepayers Association to present the proposal and explain the process thus enabling them to communicate with their members with up to date information.
26 October 2015	Water Forum Meeting	Cape EAPrac	Meeting with the Water Forum to discuss concerns about municipal water supply to the proposed development.
11 December 2015	Status update report	Cape EAPrac	Written report to all registered I&APs on the status of the application process with summary of key issues and concerns and explanation of way-forward.
20 January 2016	Municipal Meeting	Cape EAPrac & VPM Planning	Meeting with Municipality to discuss planning process and water availability as being two of the key issues raised by registered I&APs during the pre-application phase thus far.

The remainder of the process includes the following steps:

- Availability of the Pre-Application DBAR for a commenting period of 30-calender days;
- Open House on 29 February 2016 to allow members of the public and/or registered I&APs the opportunity to engage directly with project team members to ask questions or obtain more clarity about specific matters of concern or that are unclear;
- After closing date for comment all submissions will be considered by the project team to reflect on necessary amendments/mitigation measures and/or potential risks to the application;
- Once issues are addressed, a formal environmental Application Form will be submitted to the DEA in order to obtain a reference number;
- Once the Application Form is accepted the Final BAR will be compiled and distributed for public review and comment, whereafter
- The Final BAR will be submitted to the DEA for decision-making.

## 9 ISSUES/CONCERNS RAISED TO DATE

Table 3 provides an overview of the key issues identified by project team members, members of the public, registered I&APs and/or specialists:

<b>Visual Character</b> /	<ul style="list-style-type: none"> <li>• Development may have a negative impact on the 'sense of place' / ambience of town;</li> <li>• Numerous buildings on the dune may result in an unwanted aesthetic impact;</li> <li>• Development perceived to be not suited / appropriate to rural / wilderness environment of site;</li> <li>• The hill is considered a landmark / natural beauty spot in Sedgefield;</li> <li>• There is a need to maintain sky-line / views of Sedgefield residents.</li> </ul>
<b>Need &amp; Desirability</b>	<ul style="list-style-type: none"> <li>• Perceived no need for further residential properties until the current supply of proclaimed vacant stands have been developed;</li> <li>• Potential negative irreversible impact on the interests and investment in nearby property;</li> <li>• Potential impact of a business development on a predominately residential area of Sedgefield - no indication to what kind of business/commercial site it would be;</li> <li>• Town has several unfinished developments;</li> <li>• Overpopulation of a popular Citta Slow, the only such town on the continent of Africa.</li> </ul>
<b>Lack of Services / Infrastructure / Capacity</b>	<ul style="list-style-type: none"> <li>• Infrastructure of Sedgefield is currently struggling to support present population;</li> <li>• Municipal services: water, sewerage, electricity, waste disposal etc. already stretched / under pressure – may not be additional capacity to support development;</li> <li>• Availability of public facilities - library, school (the school is full/at capacity);</li> <li>• Upkeep of roads - the Council cannot maintain existing street network;</li> <li>• Potential impact on water supplies and of the wastewater treatment / reuse or disposal.</li> </ul>
<b>Potential impact on groundwater resources</b>	<ul style="list-style-type: none"> <li>• The proposed on-site sewage package plant is situated roughly 170m upstream from the existing Municipal boreholes (for which an application has been made to convert their use from emergency use to permanent use), this distance is considered to be sufficient by the Project Engineers to reduce the potential risk of sewage spills affecting this particular water supply source;</li> <li>• The appointed engineer has consulted with a groundwater specialist on the matter and should further investigations be required to further reduce the risk then additional studies may be required;</li> <li>• Mitigation measures include monitoring of the borehole(s) for a period no less than a year during operational phase to ensure that any potential pollution that may be as a result of the on-site package plant will be picked up through early detection;</li> <li>• Water from the boreholes still require treatment at the Sedgefield Water Treatment Works before it enters the reticulation network of supply to households.</li> </ul>
<b>Slope Stormwater run-off &amp; Erosion</b> /	<ul style="list-style-type: none"> <li>• Stormwater run-off along access roads worrying;</li> <li>• Dune is potentially unstable / fragile and the gradients may be too steep for buildings;</li> <li>• Removal of vegetation &amp; disturbance of dune substrate during construction may cause landslides &amp; erosion.</li> </ul>
<b>Sewage Package Plant</b>	<ul style="list-style-type: none"> <li>• Concern regarding output of the recycled water from the Bio-reactor during the early stages of the development when there are very few houses developed;</li> <li>• Potential for foul odours from sewage package plant.</li> </ul>
<b>Recreation / Tourism</b> /	<ul style="list-style-type: none"> <li>• Could potentially spoil a popular local walking / hiking / biking area;</li> <li>• Potential impact on access &amp; safety on public road to Cloud Nine;</li> <li>• Potentially impact on a world class paragliding school jump base on dune, which brings in much needed revenue to the village and area;</li> <li>• Potential impact on Slow City status which attracts large numbers of tourists to the area.</li> </ul>
<b>Flora &amp; Fauna</b>	<ul style="list-style-type: none"> <li>• Potential environmental impacts associated with the removal of vegetation;</li> <li>• Potential impact of fauna / local wildlife.</li> </ul>
<b>Positive addition to Sedgefield</b>	<ul style="list-style-type: none"> <li>• Upmarket development may have a beneficial effect on local businesses &amp; could potentially increase the property value of the surrounding land parcels;</li> <li>• The old age home could create work for care givers and nursing staff;</li> <li>• There is a perceived shortage of &amp; need for further old age opportunities in Sedgefield;</li> <li>• May create more work opportunities / employment / business opportunities for local people;</li> <li>• The new extension may attract more residents &amp; visitors to town, generating support / business for all local stores &amp; businesses;</li> <li>• Development may improve the viability of the existing municipal services on offer;</li> </ul>

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| <ul style="list-style-type: none"> <li>• Could respond to need for traffic signalling at Egret Street / N2 Highway intersection;</li> <li>• Could potentially respond to need for additional commercial land in Sedgefield.</li> </ul> |
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In order to investigate and respond to the key issues raised, the following independent specialists were appointed to compile assessment reports for consideration (it must be noted that all specialist studies that formed part of previous application process for “The Hill” were considered as well):

- Ecological specialist (fauna and flora assessment of the site)
- Heritage specialist
- Visual specialist

In addition, the following project team members also supplied project related information in response to the issues raised:

- Civil engineer (water, sewage, stormwater and solid waste)
- Electrical engineer (electrical supply)
- Traffic engineer (roads, traffic and intersections)
- Planner (relevant planning input and applications).

Copies of the various studies are included in Appendix D of this pre-application DBAR. Comments on these studies are invited as part of the ongoing environmental investigation.

## 10 CONCLUSION

The current density and footprint for “The Hill” Plan Nr 11 has been informed by inputs from key authorities, including SanParks, CapeNature, Knysna Municipality and DEA, in particular with regards to certain exclusion areas, group clustering, ecological corridors and service capacity. Specialist input has also been considered in order to obtain credible mitigation measures and/or recommendations to reduce potential impacts and where possible elevate potential positive impacts. It is not to say that the current preferred layout (Plan Nr 11) will be the final plan as the outcome of both the formal environmental and planning processes will determine the final layout.

Various issues/concerns have been identified through previous processes as well as the current pre-application process. In many instances it is believed that the latest amendments to the development proposal have the potential to address some of the concerns raised.

The pre-application phase of this development application process has highlighted a number of key issues and concerns, many of which relate to planning (whether the development proposal is compatible with relevant spatial planning guidelines/policies for the area or not) and service provision (particularly water supply). Issues associated with visual impact, landscape character and sense-of-place remain subjective and in many instances the willingness/unwillingness to accept such impacts (changes to the receiving environment) are underlined and influenced by local planning policy. The view of many registered I&APs that the site falls outside of the ‘urban edge’ and therefore should not be considered for development (i.e. the hill should be kept as a green backdrop to Sedgefield) forms an argument against the development, however the fact that the local Municipality is willing to consider development on the site (i.e. that the site will not remain undeveloped) must be taken into consideration when considering and commenting on this application. Likewise the associated impacts of urban development on the property must be considered in context as only the Status Quo (no-development option) will negate these impacts.

With regards to the other key concern which is service delivery and surety of supply, it has been noted that the Municipality has committed to supplying a portion of potable water to this

development on condition that it remains responsible for the remaining demand (through treatment and re-use of sewage water) until the Municipality can provide total supply. Persistent questioning of this surety of supply, by a number of stakeholders, resulted in ongoing discussions with the Municipality as part of the pre-application process. The Municipality maintains that it can supply the portion allocated to 'The Hill' development from its lawful water allocations which include supply from the Karatara River, the desalination plant and existing municipal boreholes.

Specialist investigations have indicated that the proposed development, in its current form, can be considered for development subject to planning compliance at the time of decision-making.

Members of the public and registered I&APs are invited to view the latest layout Plan Nr. 11 in order to determine whether their issues/concerns have been addressed or not. I&APs are invited to submit written comment within the 30-calender day commenting period detailing to what extent their issues/concerns have been addressed and if not, what remains to be done to develop a reasonable and feasible alternative for the site.

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