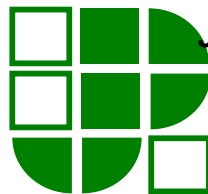


TOWNPLANNING MEMORANDUM

MOTIVATION OF MERIT OF LAND DEVELOPMENT PROPOSAL TO RECONFIGURE THE LAND UNIT BOUNDARIES OF ERVEN R/2224, R/8343 & R/2958, HOUT BAY THROUGH SUBDIVISION & CONSOLIDATION AND REZONING TO SUBDIVISIONAL AREA OVERLAY ZONING, PERMANENT DEPARTURES & SUBDIVISION OF THE RESULTANT CONSOLIDATED ERF ASSEMBLY TO FACILITATE AN APPROPRIATELY ZONED DEVELOPMENT SITE FOR ESTABLISHMENT AND OPERATING OF A RETIREMENT VILLAGE.



J PAUL VAN WYK

*URBAN
ECONOMISTS
& PLANNERS CC*

TOWNPLANNING MEMORANDUM
**MOTIVATION OF MERIT OF LAND
DEVELOPMENT PROPOSAL TO
RECONFIGURE THE LAND UNIT
BOUNDARIES OF ERVEN R/2224, R/8343
& R/2958, HOUT BAY THROUGH
SUBDIVISION & CONSOLIDATION AND
REZONING TO SUBDIVISIONAL AREA
OVERLAY ZONING, PERMANENT
DEPARTURES & SUBDIVISION OF THE
RESULTANT CONSOLIDATED ERF
ASSEMBLY TO FACILITATE AN
APPROPRIATELY ZONED DEVELOPMENT
SITE FOR ESTABLISHMENT AND
OPERATING OF A RETIREMENT VILLAGE.**

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MAY 2022

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MEMORANDUM

MOTIVATION OF MERIT OF LAND DEVELOPMENT PROPOSAL TO RECONFIGURE THE LAND UNIT BOUNDARIES OF ERVEN R/2224, R/8343 & R/2958, HOUT BAY THROUGH SUBDIVISION & CONSOLIDATION AND REZONING TO SUBDIVISIONAL AREA OVERLAY ZONING, PERMANENT DEPARTURES & SUBDIVISION OF THE RESULTANT CONSOLIDATED ERF ASSEMBLY TO FACILITATE AN APPROPRIATELY ZONED DEVELOPMENT SITE FOR ESTABLISHMENT AND OPERATING OF A RETIREMENT VILLAGE.

1. INTRODUCTION

1.1 APPLICATION

1.1.1 Constituent components

Application is hereby made to the City of Cape Town Metropolitan Municipality ("CCMM") in terms of Section 42 of the City of Cape Town Municipal Planning Bylaw, 2015 (Revised 2019) (as amended) ("Bylaw") for the following combined land development application, *viz*:

- (1) Subdivision of the Remainders of Erven 2224 and 2958, Hout Bay (Section 42(d) of Bylaw);
- (2) Consolidation of the subdivided portions of the Remainders of Erven 2224 and 2958 (i.e. proposed Portion 1 of each) with each other and with the unregistered Remainder of Erf 8343, Hout Bay (Section 42 (f) of Bylaw);
- (3) Rezoning of the consolidated erf comprising Portion 1 of the Remainder of Erf 2224 ("Erf 1/R/2224"), Portion 1 of the Remainder of Erf 2958 ("Erf 1/R/2958") and the unregistered Remainder of Erf 8343 ("Erf R/8343"), Hout Bay to subdivisional area overlay zoning, comprising Community Zoning 2: Regional ("CO2") and Open Space Zoning 3: Special Open Space ("OS3") (Section 42(a) of Bylaw);
- (4) Permanent departure from the development rule for building-lines along non-street boundaries for the CO2-zoning (Section 42(b) of Bylaw);
- (5) Subdivision of the consolidated and rezoned erf comprising the relevant portions of Erven R/2224 and R/2958 as well as unregistered Erf R/8343, Hout Bay (Section 42(d) of Bylaw);
- (6) Implementation of the subdivision approval in Para (5) *supra* in phases (Section 42(e) of Bylaw).

1.1.2 Sequence of approvals

It is suggested that the above-mentioned application components be approved subject to the following implementation sequence to ensure the legitimacy of each, viz:

- (1) First: Reconfiguration of the cadastral boundaries between Erven R/2224, R/2958 & R/8343, Hout Bay through subdivision and consolidation to create the development site (i.e. consolidated erf).
- (2) Second: Rezoning of consolidated erf to subdivisional area overlay zoning, including a certain permanent departure.
- (3) Third: Subdivision of consolidated / rezoned erf and approval of subdivision implementation in phases.

1.2 PURPOSE

1.2.1 Land assembly & use-rights

The application in essence has the purpose of creation of a suitably proportioned development site, and procuring of appropriate use-rights on same for the establishment and operating of a nature-based retirement village.

1.2.2 Memorandum

The Townplanning Memorandum has as purpose the:-

- collating of all essential information relevant to the land development application in a single report with annexures;
- presenting and explaining the relevant plans to inform the different components of the application; and
- motivation of the merit of the land development proposal and its constituent components in accordance with official requirements.

1.3 APPLICANT

1.3.1 Developer

The registered owners of Erven R/2224, R/2958 and R/8343, Hout Bay (refer Para 2.5 *infra*) have availed particular portions of these erven for development to the private company registered at the Companies and Intellectual Property Commission ("CIPC") as Oakhurst Lifestyle Estate (Pty) Ltd (Reg No 2005/023237/07), herein represented by mr Ian Stansfield Raubenheimer. Since ownership of the parts of the subject properties to be developed can only be transferred to the development company once subdivided and consolidated, the currently registered owners have gratuitously authorized the present land development application to proceed by signing of the necessary special powers of attorney.

1.3.2 Authorized agent

The firm J Paul van Wyk Urban Economists & Planners cc herein represented by registered town & regional planners Paul van Wyk and / or Ulrike (Ola Schumacher-) Malan and / or Silvia Ankiewicz has been authorized as allowed for in terms of Section 40(2) of the Bylaw, to undertake the land development application on behalf of the registered owners.

[ANNEXURE 'A': FORMAL AUTHORIZATIONS]

1.3.3 Specialist consultants

The following multi-disciplinary professional team has been appointed to inform the land development application from the relevant speciality fields of the firms and individuals concerned:

- Project managers
G & T Projects Project Management Solutions
(Mr Grant van Staden)
- Architects
Frankenfeld & King Architects
(messrs Peter Frankfeld & Roshan Nagin)
- Civil engineers
Ekcon Engineers & Project Managers
(messrs Adriaan Venter & Wasief Casper)
- Electrical engineers
MAC Engineers
(mr Shane Stimpson)
- Transportation engineers
ITS Innovative Transport Solutions
(mr Pieter Arrange)
- Conveyance attorneys
Butler Blanckenberg Nielsen Safodien Incorporated
(mr Peter Blanckenberg & ms Julie Ann Wilson)
- Land-surveyors
 - David Hellig Abrahamse Professional Land Surveyors
(mr Richard Abrahamse)
 - Joubert & Brink Surveys
(mr Jimmy Brink)
- Landscape architect
Rose Buchanan Landscape & Design
(ms Rose Buchanan)

The independent environmental consultants contracted to the project is the firm Sillito Environmental Consulting herein represented by mr Anthony Mader & ms Chantelle Muller. Various specialist consultants also served to contribute to the environmental assessment and authorization process undertaken for the development site at the Department of Environmental Affairs and Development Planning of the Western Cape Province ("DEA & DP").

1.4 JURISDICTION

Decision-making authority on the application vests with the relevant Authorized Official ("AO") or the Municipal Planning Tribunal ("MPT") of the City of Cape Town Metropolitan Municipality ("CCMM") for unopposed and opposed land development applications respectively. Being located in Hout Bay, the application will be received, processed and considered by the Southern District Administration of the CCMM.

2. PROPERTY PARTICULARS

2.1 DESCRIPTION

The three properties concerned are described as follows:

- Erf R/2224, Hout Bay
"CERTAIN piece of land being the remainder of ERF 2224 Portion of ERF 2054 Hout Bay, situate in the Local Area of Hout Bay, Division of the Cape;" (Deed of transfer T 27941/1982, p2).
- Erf R/2958, Hout Bay
"Remainder ERF 2958 (Portion of Erf 2224) HOUT BAY, situate in the Hout Bay Local Area, Division of the Cape;" (Deed of transfer T 45059/1982, p3).
- Unregistered Erf R/8343
The entire Erf 8343 is described in Certificate of Consolidated Title T 283/2002 as follows:

*"ERF 8343 HOUT BAY,
in the City of Cape Town, Cape Division, Western Cape Province;"* (p2)

However, based on certain land development approvals of the CCMM the Surveyor General has subsequently approved the following Small Scale Diagrams and General Plan affecting Erf 8343, Hout Bay:

- SG Diagram 1023/2018: Subdivision of Erf 4719, Hout Bay to create Erf 10047 (a portion of Erf 4719), Hout Bay extending to 304m²;
- SG Diagram 1024/2018: Subdivision of Erf 8343 to create Erf 10048, Hout Bay extending to 3,3230 hectares to exclude Erf R/8343, Hout Bay;
- SG Diagram 1025/2018: Consolidation of as yet unregistered Erven 10047 and 10048, Hout Bay extending to 3,3534 hectares to form Erf 10049, Hout Bay.
- General Plan No 1026/2018: Subdivision of Erf 10049 in 22 individual erven, including 19 residential erven to be developed to accommodate dwelling-houses.

The above reconfiguring of erf-boundaries has effectively served to exclude the Remainder of Erf 8343, Hout Bay due to its locality on the opposite (east) side of the Bokkemanskloof River. Erf R/8343 will henceforth form part of the land assembly described above to form the development site.

These properties will respectively be referred to as "Erf R/2224", "Erf R/2958" and "Erf R/8343" individually in the balance of the memorandum, and together as "subject properties" or "Properties".

[ANNEXURE 'B': APPROVED S G DIAGRAMS & GENERAL PLAN *apropos* ERF 8343, HOUT BAY]

The reader is reminded that only a certain part of Erf R/2224 and Erf R/2958 will be subdivided and consolidated with each other, and with Erf R/8343, Hout Bay.

2.2 EXTENT

2.2.1 Subject properties

Table 1 summarizes the area of the Properties

TABLE 1: EXTENT OF PROPERTIES

DESCRIPTION	EXTENT	
	Ha	%
1. Erf R/2224	77,9524	96,5
2. Erf R/2958	2,6290	3,3
3. Erf R/8343	0,1990	0,2
TOTAL AREA	80,6804	100,0

[ANNEXURE 'C': DEEDS OF TRANSFER / CERTIFICATE OF CONSOLIDATED TITLE FOR SUBJECT PROPERTIES]

2.2.2 Development site

As mentioned, only certain parts of Erven R/2224 and R/2958, Hout Bay will form part of the development site. Table 2 serves to summarize the area of each of the subject properties to together form the development site.

TABLE 2: EXTENT OF DEVELOPMENT SITE

DESCRIPTION	EXTENT	
	Ha	%
1. Part of Erf R/2224	6,7835	88,5
2. Part of Erf R/2958	0,6833	8,9
3. Erf R/8343	0,1990	2,6
TOTAL DEVELOPMENT SITE	7,6658	100,0

It follows from tables 1 and 2 that the development site would eventually, following the successful subdivision and consolidation process, extend to approximately 7,6658 hectares, i.e. 9,5 percent of the total area of 80,6804 hectares of the subject properties.

2.3 LOCALITY

The street address of each of the subject properties as reflected on the Zoning Scheme Extract for each are as follows (refer Annexure 'F'):

- Erf R/2224: 238, Hout Bay Main Road, Hout Bay
- Erf R/2958: 1, Dorman Way, Hout Bay
- Erf R/8343: 17, Oakhurst Avenue, Hout Bay

The subject properties are located in the Upper Valley area of Hout Bay south of Hout Bay Main Road (M63-route) extending southwards between the Vlakkenberg (east) and Skoorsteenkop (west) peaks of the Constantiaberg Mountain Range, between Imizamo Yethu (southwest) and Constantia Nek (northeast).

On a more localized scale the locality of the subject properties is defined more concisely by the following adjoining properties, *viz*:-

- North / northwest: Hout Bay Main Road, and opposite – Erven 4454, 5081 & 5082, Hout Bay.
- West / northwest: Erven 7998, R/7981, R/8723, 8705, 8706, 8709, 8715, 8711, 8712, 8713, 8714, 8796, 8695, R/1320, 8050, 8051, 8052, R/8053, 8073, 8072, 5332, 8294, R/8295, 8627 & 10097, Hout Bay.
- East / northeast: Hout Bay Main Road, and opposite – Erf 3008. Erven 2842, 4755, 4756, 5364, 5372, 5373, 5380, 5381, 5388, 5389, 5395, R/5396, 5401, 7801, 7806, 5402, 5406, R/7959, 9575, 8632, 9598, 5862, 7822 & 3067, Hout Bay
- South / southeast & southwest: Erf R/2054 Hout Bay & Erf CA905, Cape Farms (Table Mountain National Park)

[FIGURE 13: LOCALITY MAP]

2.4 SHAPE AND DIMENSIONS

The shape of the individual properties as well as that of the outside figure of all three combined is irregular, with the following approximate dimensions:

- Erf R/2224, Hout Bay
 - Length / depth : ± 2 299 metres
 - Width at High Level Road : ± 394 metres
 - Width at Hout Bay Main Road : ± 44 metres
- Erf R/2958, Hout Bay
 - Length / depth : ± 212 metres
 - Width at homestead : ± 105 metres
 - Width at south boundary : ± 176 metres
- Erf R/8343, Hout Bay
 - Length : ± 224 metres
 - Width at Erf R/2958 boundary : ± 80 metres
 - Width at south boundary : ± 154 metres

The current irregular shape and dimensions of the subject properties are part of the reason for the proposed reconfiguring of the shared boundaries of these Properties to facilitate a better shape and concomitant dimensions more conducive to accommodating the envisaged development project.

[ANNEXURE 'D': RELEVANT S G DIAGRAMS FOR SUBJECT PROPERTIES]

2.5 OWNERSHIP

2.5.1 Current owners

Ownership of the subject properties as registered at the Deeds Office presently vests in the following private individuals:

- Erf R/2224, Hout Bay:
Ms Maureen Hazel Derman
(ID 480625 0076 08 6)
and
Ms Brenda Isabel Scher
(ID 430920 0096 00 7)
- Erven R/2958 & R/8343, Hout Bay:
Mr Alan Saul Dorman
(ID 520428 5055 08 6)

2.5.2 Future owners / developer

The particular parts of Erven R/2224 and R/2958 as well as Erf R/8343 herewith being subdivided and consolidated will eventually be transferred to the property developer styled Oakhurst Lifestyle Estate (Pty) Ltd (Reg No 2005/023237/07) herein represented by director Ian Stansfield Raubenheimer.

2.6 EXISTING SERVITUDES

2.6.1 Erf R/2224, Hout Bay

This property is subject to the following servitudes, *viz-*

- (1) A servitude of 20 metres wide registered against Erf R/2224 in favour of the former Western Cape Regional Services Council *vide* S G No 2555/1989. This servitude accommodates a bulk water pipeline conveying water between the Constantia Nek and Hout Bay reservoirs.
- (2) An as yet unregistered notarial management agreement servitude over part of Erf R/2224 in favour of South African National Parks (SANParks) *vide* S G No 1722/2008.
- (3) A right-of-way servitude over Erf R/2224 in favour of abutting Erf 2842, Hout Bay *vide* S G No 5489/1998. The servitude covers a narrow sliver of land of varying width between Hout Bay Main Road (north) and Gumtree Lane (south) adjacent to the western boundary of Erf 2842.
- (4) A servitude of 3 metres wide over Erf R/2224 in favour of Erf 2958, Hout Bay for the right to convey water from the Bokkemenskloof River along a concrete furrow as indicated by the figure t-r and p-n on S G Diagram No 8366/1970 (Refer title deed T 27941/82 Condition D(d)(a), p10). This servitude will lapse by merger upon

consolidation of the relevant parts of the subject properties to from the development site.

- (5) A 3 metre wide sewer servitude along its east- / northeastern boundary in favour of the Municipality hosting a 160mm diameter bulk sewer line serving to collect sewer run-off from the east-lying Blue Valley residential development conveying it northwards towards and up to Hout Bay Main Road.

2.6.2 Erf R/2958, Hout Bay

Erf R/2958 is not subject to any servitudes which may serve to inhibit the proposed development. For more information on certain servitudes this property is entitled to, refer to deed of transfer T 45059/1982 in Annexure 'C' hereto.

2.6.3 Erf R/8343, Hout Bay

Erf R/8343 is not affected by any servitudes.

2.7 MORTGAGE BONDS

While Erven R/2224 and R/8343, Hout Bay are not encumbered by mortgage bonds, a mortgage bond has been registered against Erf R/2958, Hout Bay as per Bond Deed B 28929/2016. The bondholder is messrs S B Guarantee Company (RF) (Pty) Ltd, an affiliate of Standard Bank South Africa. Since the present application does not include the cancellation and / or amendment of any conditions of title of Erf R/2958, written bondholder's consent for the proposed land development area is not required.

2.8 RESTRICTIVE CONDITIONS

Conveyance attorney Julie Ann Wilson of the firm Butler Blanckenberg Nielsen Safodien Incorporated confirms in a Conveyance Certificate for each of the subject properties that there are no servitudes or other conditions of title registered against Erven R/2224, R/2958 & R/8343, Hout Bay which preclude these properties from being subdivided, consolidated, rezoned and further subdivided and developed for the intended purposes.

[ANNEXURE 'E': CONVEYANCE CERTIFICATES]

3. ZONING AND LAND-USE

In this section the existing and future zoning and land-use of each of the constituent properties are discussed.

3.1 PRESENT ZONING

3.1.1 Erf R/2224, Hout Bay

This property has a split zoning, being the following:

- Single Residential Zoning 1: Conventional Housing (SR1) between the northern boundary of the property southwards up to the 152-metre contour-line; and
- Agricultural Zoning (AG) from the 152-metre contour southwards.
- Transport Zoning 2: Public Road and Public Parking (TR2)

3.1.2 Erf R/2958, Hout Bay

Erf R/2958 is zoned Single Residential Zoning 1: Conventional Housing (SR1), as well as Transport Zoning 2: Public Road and Public Parking (TR2).

3.1.3 Erf R/8343, Hout Bay

The unregistered Erf R/8343 is zoned Single Residential Zoning 1: Conventional Housing (SR1).

[ANNEXURE 'F': ZONING SCHEME EXTRACTS]

3.2 EXISTING LAND-USE

3.2.1 Structures

The following extract from the Heritage Statement report for a previous development proposal by Aikman Associates ("Aikman") serves to describe existing structures on Erf R/2224, as follows:

"There are four buildings on the eastern side of the property; a dwelling about 70m from the Main Road, a small semi-derelict labourers cottage against the boundary at the end of Conifer Road and stables and the old dairy at a higher level. A gravel road that winds up from the Main Road provides access to them all. There are no records/plans of these buildings but the 1945 aerial photograph indicates that they were already in existence at that stage.

The dwelling is U-shaped with a central veranda, (now enclosed) and an external hearth and chimney. This was a common form in the first half of the 20th Century. It has steel framed windows and a 30° 'Big 6' asbestos cement roof, probably a replacement of an earlier corrugated iron one. It is currently unoccupied but is in good

condition. It is undistinguished architecturally and is not considered conservation worthy.

The labourer' (sic) cottage is a simple rectangular 4m x 12m structure with a 30° double pitch corrugated iron roof and small steel framed windows. It is in poor condition and has been unoccupied for some years.

The stables and old dairy are sited on a broad level platform. The stables are of concrete block construction with a mono-pitch roof. They are in poor condition and are used as storerooms.

The old dairy is currently used as a pottery factory. The original building envelope has been retained but new wood fenestration has been introduced to provide light for the pottery works and lean-to extensions have been made. It has also been re-roofed. Apart from the outer walls little of the original fabric remains. None of the buildings can be considered conservation worthy. Nevertheless allowance has been made for their retention.

There are a number of derelict stone weirs, ponds and cemented water channels feeding water from the river to the dairy area and the dams. These were part of the farm's now defunct irrigation system built at the time that the dairy was constructed in the late 1930's. They have not been in use for many years and are in poor condition.

A concrete bridge has been built to cross the river. This is of recent construction and is not of any heritage significance."

3.2.2 Vegetation

Aikman proceeds to describe the historic agricultural pursuits on the original farm in a fair amount of detail, followed by a discussion of the present-day vegetation. The upper reaches of the site hosts various sugar gum and long-leaf wattle trees, which have been subjected to an extensive alien eradication programme around 2004.

He singles out the Oak trees mostly found on the northern parts of the site as being "*somewhat of a landmark*" (p7) along Main Road. He furthermore identifies certain stands of palmiet along the River corridor as well as... "*a magnificent grove of Klipkershout trees*" (p7) (i.e. Rock Candlewood trees) higher up on the Property.

3.2.3 Significance assessment

The following observations / conclusions were gleaned from the Aikman report:

(1) Archaeological significance:

- *"A separate Phase 1 archaeological survey has been undertaken by the Agency for Cultural Resource Management. This revealed no surface evidence of archaeological material."* (p2)

(2) Historic significance

- Aikman expresses his satisfaction that existing Oak trees will for the most part be accommodated on single residential stands, where most will be retained, and if required to be removed, would *ceteris paribus* again be replaced by new ones.
- He reiterates that none of the four existing buildings holds noticeable historic value but expresses his satisfaction that these have all been accommodated on individual stands in the layout proposal. This will create the opportunity for future owners of the affected erven to either retain, renovate and improve these structures, or to have it (partially or wholly) demolished.

(3) Aesthetic significance

To maintain and enhance the prevailing 'sense of place' Aikman recommends that Oak trees be retained as far as practicable and that... *"provision... be made for their protection and succession"* (p11). He is satisfied that the Bokkemanskloof River and riverine corridor would be accommodated on a private open space stand that would, after rehabilitation, serve to reinforce the prevailing character of the area further from an aesthetic perspective.

(4) Scientific significance

"The Bokkemanskloof stream and corridor, although largely degraded by urbanization, agriculture and forestry along almost each reach of the system, is undoubtedly ecologically important and is therefore of heritage significance. There is still some relic palmiet, riverine bush and trees. Since the removal of the invasive acacias the corridor is showing signs that it is recovering. In order for it to reach at least some of its potential, a landscape rehabilitation plan will be needed" (p10)

He furthermore recommends that the Rock Candlewood tree grove be protected, for which a 5 metre protective buffer had been allowed for on the subdivision layout plan.

[ANNEXURE 'G': HERITAGE STATEMENT BY AIKMAN ASSOCIATES]

3.2.4 Revised development concept and existing land-use

Although the Heritage Statement by Aikman quoted from above was undertaken in 2005, it serves the purpose of explaining the existing land-use of Erf R/2224 well, with the following exceptions that need to be pointed out, *viz*:-

- The existing dwelling-house approximately 70m from Hout Bay Main Road between Gumtree Lane and Pine Street has unfortunately deteriorated since, to the point where it will have to be demolished. The former labourers' cottage near Conifer Road and the former stables building have also since deteriorated substantially, to the point where these will no longer be retained. The development concept has also changed and individual single residential erven no longer form part of the development proposal.
- The Old Dairy building is still being used as a pottery factory, together with the quite deteriorated former stables building in close proximity. These activities will be terminated upon approval of the present application and commencement with the development of the proposed retirement village. Refer to Departure approval dated
-
- The original core of the Old Dairy building will be retained for future conversion and marginal expansion to form the proposed clubhouse for the new retirement village.
- Of importance to note is that none of the existing buildings and neither the existing concrete bridge structure across the Bokkemanskloof River are of any heritage significance. These may therefore be altered, upgraded, demolished and repurposed / replaced by the applicant without statutory heritage restrictions.

3.3 FUTURE LAND-USE

The developer envisages the establishment and operating of a nature-based lifestyle retirement village on the development site, to comprise of the following constituent land-use activities:

- Residential accommodation
- Clubhouse, sports & recreation facilities
- Private open space

The accommodation facilities for future residents will include the following residential typologies, *viz*:

- Dwelling-houses
- Apartments
- Suites / rooms (care centre)

For detailed information on the future use of the development site refer to Section 4 *infra*.

3.4 FUTURE ZONING

The use-rights and development rules required and herewith applied for, form the focus of this subsection of the memorandum.

3.4.1 Zoning scheme

The City of Cape Town Development Management Scheme ("DMS") constituted in terms of Section 25(1)(a) of the City of Cape Town Municipal Planning Bylaw, 2015 (Revised 2019) (as amended) applying in terms of Section 25(1)(b) of the Bylaw to all land within the geographical confines of the City of Cape Town, is applicable to the present land development application and development proposal.

3.4.2 Subdivisional area

The constituent property portions forming the development site are hereby being rezoned to subdivisional area overlay zoning, comprising the following two zoning designations:

- (1) Community Zoning 2: Regional (CO2); and
- (2) Open Space Zoning 3: Special Open Space (OS3)

It should be noted that the area of the development site affected by the alignment of Hout Bay Main Road and also set aside for the future High Level Road and excluded from any physical development, is not being rezoned here to any of the above-mentioned zonings, and will retain its present zoning.

3.4.3 Primary use-rights

The DMS confirms the following use-rights to accrue to the development site under the two zoning categories selected:

- (1) Community Zoning 2: Regional (CO2)
 - Institution
 - Hospital
 - Place of instruction
 - Place of worship
 - Place of assembly
 - Rooftop base telecommunication station
 - Minor freestanding base telecommunication station
 - Minor rooftop base telecommunication station
 - Filming
 - Open space

Of importance here are the definitions in the DMS for "institution" and "open space". These read as follows:

- Institution

"... means a property used as a welfare facility such as a home for the aged, retired, indigent or handicapped; or a social facility such as a counselling centre, orphanages or reformatory, and includes ancillary administrative, health care and support services for these facilities; but does not include a hospital, clinic or prison;"(p85)

- Open space

"... means land, not designated as public open space or not deemed to be an ancillary use, which is used primarily as a site for outdoor sports, play, rest or recreation, or as a park or nature area; and includes ancillary buildings, infrastructure and uses, but excludes shops, restaurants and gymnasiums;"(p86)

(2) Open Space Zoning 3: Special Open Space (OS3)

- Open space
- Private road
- Environmental conservation use
- Minor freestanding base telecommunication station
- Minor rooftop base telecommunication station

The definitions of "open space" as quoted above and "private open space" in the DMS have a similar meaning. The definition is not repeated here again. Of further importance under an OS3-zoning is the definition of "environmental conservation use" which is not included under the primary uses and definitions of a CO2-zoning. This definition reads as follows:

- *"environmental conservation use" means the use or maintenance of land in a substantially natural state with the object of preserving the biophysical and heritage characteristics of that land, as well as flora and fauna living on the land, and includes associated infrastructure required for such use;"*(p80).

3.4.4 Secondary uses

(1) Community zoning 2: Regional (CO2)

- Boarding house
- Conference facility
- Cemetery
- Crematorium
- Funeral parlour
- Freestanding base telecommunication station
- Wind turbine infrastructure
- Urban agriculture
- Veterinary practice

The application does not include any of the secondary uses listed above.

(2) Open Space Zoning: Special Open Space (OS3)

- Environmental facilities
- Tourist facilities

- Place of instruction
- Place of assembly
- Place of entertainment
- Plant nursery
- Utility service
- Cemetery
- Rooftop base telecommunication station
- Freestanding base telecommunication station
- Wind turbine infrastructure
- Cultural and social ceremonies
- Urban agriculture
- Informal trading
- Harvesting of natural resources

The present application does not include a consent-use for any of these secondary uses listed under an OS3-zoning.

4. DEVELOPMENT PROPOSAL

4.1 CONCEPT

The different facets of the development concept being pursued are discussed in this subsection of the memorandum.

4.1.1 Specialized housing establishment

The applicant envisages the establishment and operating of a residential accommodation facility for individuals and families in the age group of 50 years and older, with housing opportunities ranging from dwelling-houses and apartments for independent functioning residents, to care units for assisted living and residents in need of full-time frail care. The retirement facility is intended to offer an up-scale lifestyle for senior citizens in a safe and secure environment where they will be able to reside, exercise, play and mingle in a socially and environmentally conducive environment.

A total of 29 dwelling-houses ranging from two to three bedrooms each, together with 76 apartments of two bedrooms each will form the more conventional housing component, with a further 34 suites / rooms in a centralized care centre for future residents dependant on personal assistance and care. It is foreseen that the 29 dwelling-houses and 76 apartments would accommodate on average two persons each, while provision has been made in the suites / rooms of the care centre for 39 inhabitants. This adds up to a total estimated population for the retirement village of 249 people.

4.1.2 Nature-based lifestyle

The natural appeal of the site was one of the major factors leading to the locality of the proposed retirement centre in Hout Bay. The exceptional aesthetic physiographic attributes of the site including the majestic mountain backdrop forming part of the Table Mountain Nature Reserve together served to inform the nature-based development concept of this extraordinary lifestyle estate, where people will live in symbiosis with nature to the benefit of both.

4.1.3 Colloquial name

The proposed new lifestyle estate for the retired on the subject properties will be known as Oakhurst Lifestyle Estate.

4.1.4 Accommodation typologies

Since the proposed new lifestyle estate will cater for individuals and families in the age group of 50 to 90+ years it was deemed important to provide a variety of accommodation typologies appealing to different segments of the overall age-group targeted. These include the following:

- Dwelling-houses: Two and three bedroom, aimed in main at residents still forming part of the active workforce, residents retired and still active and living life unimpeded and to the full.

- Apartments: Two-bedroom, aimed at residents fully retired but travelling extensively requiring a lock-up-and-go home base in a secure environment, couples preferring a smaller residence with less maintenance, singles requiring less living space, etc.
- Suites / rooms: One bedroom with or without private bathroom and / or livingroom, aimed at couples and individuals requiring part- or full-time assisted living and / or frail care.

4.1.5 Recreation

Provision has been made for both active and passive recreation in the proposed retirement village – some indoor in a clubhouse setting and others outdoors. Based on the project architect's proposal various examples are mentioned here. It should be noted however that the developer might deviate from these at time of implementation, guided by specific demand for recreational facilities exerted by prospective inhabitants. It may for instance be that a tennis court is preferred over a bowling green which would see the existing proposal of a bowling green fall by the wayside. The proposed activities below are thus mere examples subject to change and should in the approval of the application be formulated with caution to ensure sufficient flexibility which would serve the needs of future inhabitants best. Serving as examples, the architect's proposal entails the following:

(1) Clubhouse

The existing Old Dairy building will be renovated, converted and marginally extended to form a clubhouse facility accommodating various recreation and related activities. Examples of typical facilities include the following:

- billiards
- card games
- gymnasium
- yoga studio
- sauna
- bar / lounge
- function dining areas
- outside dining terrace
- dressing rooms & ablutions

The clubhouse will also accommodate offices for the management function, as well as for sales where occupation agreements will be concluded, (refer Para 4.3.3 *infra* and Annexure 'J' hereto).

(2) Sports

A bowling green and associated terraced seating has been provided immediately west of the clubhouse building, functioning as an outside

extension of the latter. As mentioned, this is only an example of such sports facility to be provided.

(3) Swimming

An outside swimming pool has been provided immediately north of the clubhouse building, with associated pool deck, in close proximity to the outside dining terrace.

(4) Walking

- All roads internal to the project will be provided on one side with a 1,5 metre wide paved pedestrian walkway, suitable for *inter alia* use by the wheelchair bound,
- The formal walkways along internal roads will be supplemented by informal scenic trails essentially along the Bokkemanskloof River riverine corridor, as shown on the landscape development plan prepared for the project.

(5) Other passive recreation

The various ponds / dams to serve a stormwater attenuation and retention function will be appropriately landscaped with indigenous vegetation endemic to the area to contribute to the aesthetic enhancement of the project. This will serve to create various opportunities for passive recreation through the psychologically calming effects that the natural environment offers. Examples include meditation, reading, birdwatching and more.

4.1.6 Private security estate

With the target market of the project being exclusively individuals and families in the more advanced stage of the human life cycle it follows that future residents in the lifestyle estate would constitute a more vulnerable component of the population that requires maximum protection of their life and property. The safety and security of these residents have therefore been hedged by adoption of Crime Prevention Through Environmental Design ("CPTED") principles in the planning of the development project which will as such be implemented and operated as a private security estate, commensurate with the Gated Development Policy of the City of Cape Town.

4.1.7 Oakbridge estate

Although forming no part of the statutory planning approval process here being undertaken the residential development on Erf 10049, Hout Bay will eventually form an integral part of the functioning and operation of the present development concept and proposal. Erf 10049, Hout Bay abutting the development site to its west extends to 3,3534 hectares which have been subdivided in 19 large residential stands. The dwelling-houses developed on these under its current Single Residential Zoning 1:

Conventional Housing ("SR1") will have its own identity styled Oakbridge Estate.

With the main access to the development site (comprising certain parts of Erven R/2224 and R/2958 as well as Erf R/8343, Hout Bay) in future taken off Hout Bay Main Road *via* Dorman Way and Oakhurst Avenue – the latter to be extended southeastwards across Erf 10049 (private road Erf 10119) – it follows that the Oakbridge Estate will be inextricably linked to the Oakhurst Lifestyle Estate and should therefore operate together and function as an integrated whole.

4.2 SITE CHARACTERISTICS

4.2.1 Topography

The development site to the east of the Bokkemanskloof River portrays a moderate gradient northwestwards, and to the west of the River northeastwards, both sides in the general direction of the River. The gradient is somewhat steeper towards the southern parts of the site and more shallow northwards towards Hout Bay Main Road. From the highest point of 102 metres above mean sea level (amsl) at the southeastern corner of the developable part of the site (i.e. excluding the future High Level Road road-reserve) to the northwestern-most corner of same at Hout Bay Main Road (50m amsl) the vertical reduction of height of 52 metres over a horizontal distance of 430 metres translates to a gradient of 1:8,3 or 12,1 percent. The gradient of the developable part of the site to the west of the Bokkemanskloof River is defined by a fall of eight metres vertically (i.e. from 88m amsl to 80m amsl) over a horizontal distance of 90 metres, which translates to a gradient of 1:11,3 or 8,9 percent.

The gradient of the site is therefore not steeper than 1:4 anywhere and is indeed most suitable for purposes of gravitation-led engineering services (notably sewer and stormwater) without exceeding acceptable tolerances which may require extraordinary engineering service solutions.

4.2.2 Natural features

- An approximately 290 metre section of the Bokkemanskloof River and its associated riverine corridor traverses the development site and unregistered Erf 10120 (a portion of Portion 10049, being the development site for Oakbridge Estate) in a north / northwestern direction, meandering in and out of the boundaries of the two development sites with its floodplains and environmental buffer. Its southern-most ±120 metres serve to bisect the development site in a smaller western and much bigger eastern component, while its northern ±170 metres has a varying-width influence on the central-western parts of the eastern component of the development site.
- The southern part of the riverine corridor immediately north of the future High Level Road alignment also sponsors a small wetland area

forming part of the floodplains and extending eastwards from same for a short distance.

- The floodplains defined by the 1:50 and 1:100 year floodlines have been scientifically calculated and plotted and the wetland area determined and demarcated by an appropriate professional expert, while a 30 metre environmental buffer as measured from the top of the River bank and edge of the wetland area horizontally outwards has been recommended by the aquatic scientist concerned.
- A further determinant of the exceptional sense of place of the development site is the backdrop southwards formed by the majestic Vlakkenberg and Skoorsteenkop peaks of the Constantiaberg Mountain Range towering over the development site and the wider Upper Valley area of Hout Bay.
- The site furthermore sponsors two off-stream man-made dams historically sourcing water from the Bokkemanskloof River for *inter alia* agricultural pursuits. These dams will both be retained, restored and repurposed to serve a stormwater attenuation and retention function in the future development project. The dams will be enhanced as special feature landscape elements to contribute to the peaceful ambience and psychological tranquility exuded by the other natural features of the development site.

4.2.3 Northern aspect

Being situated on the lower reaches of the foothills of the Skoorsteenkop (southwestwards) and Vlakkenberg (southeastwards) mountain peaks sees to the site displaying a generally north / northeastwards and north / northwestwards gradient to the west and east of the Bokkemanskloof River respectively. This therefore serves to provide a northern aspect to the site with the potential for optimal positioning of future accommodation units to ensure maximum solar access to living- and other habitable rooms during the colder winter months.

4.2.4 Views

With increasing elevation southwards from Hout Bay Main Road up to the future High Level Road and especially steeper elevational increases over the southern parts of the development site, the latter offers exceptional and for the most part unimpeded views towards the Disa River Valley below and the majestic mountain backdrop further north.

4.2.5 Contextual attributes

- Future residential units will enjoy the benefit of views on to the "Oak tree woodlands" to the west / northwest, including the proposed new Remainder of Erf R/2958, Hout Bay. Oak trees are a historic landmark of the original Oakhurst Farm and make a valuable contribution to the

prevailing sense of place locally, as well as along the scenic Hout Bay Main Road route between Constantia Nek and the Hout Bay village.

- The huge granite / sandstone above-ground boulders found to the south of the development site in conjunction with the topographical variances and local vegetation serve to contribute to a rustic, aesthetically pleasing and most interesting localized landscape, distinguishing itself from other parts of the landscape in the immediate vicinity.
- Proximity of the development site to the south-lying protected Table Mountain National Park contributes further to the “closeness to nature” feel experienced here.
- The low-density residential estates westwards developed in essence in accordance with a uniform Cape Vernacular theme go a long way towards celebrating the historic Cape Dutch heritage of Cape Town. The sought-after residential amenity created by these will no doubt contributely substantially to the desired ambience and intrinsic value of the proposed new retirement village on the development site.
- Being an in-fill development holds the advantage of knowledge about adjacent property developments and the degree to which these may influence the development project, and *vice versa*.

4.2.6 High Level Road

The alignment of the future High Level Road forms part of the development site, comprising an approximately 30 to 35m wide strip along its southern boundary. This strip will not be developed and will in the interim serve a buffer function between the actual development on site and the southern property boundary.

The ±30 to 35m wide strip of the development site is not being rezoned here and will retain its current zoning. The City has previously abandoned an environmental authorization endeavour for the road due to a public outcry against its implementation. Since the High Level Road forms part of the Road Master Plan for the area it will however not be possible to develop at this stage without resistance from the City, rendering its rezoning to Community Zoning 2: Regional (CO2), like the developable balance of the site, superfluous.

The part of the development site set aside for the future High Level Road will furthermore not be ceded to the CCMM as part of the present application. It will indeed in future have to be purchased by the City, in the event that the road be implemented in future. Hence the approach by the applicant to exclude the future High Level Road alignment from the rezoning, which will see to proposed Erven 1, 2 and 3 in the end sponsoring a split-zoning. (Refer Section 6 and figure 4 *infra*).

4.3 HOUSING / ACCOMMODATION PARTICULARS

4.3.1 Residential typologies

As alluded to briefly in Para 3.3 *supra* the proposed retirement village will provide accommodation in three residential typologies aimed at maximizing choice to the end-user. These include the following:

- (1) Dwelling-houses; defined in the Development Management Rules ("DMR"), Item 1 as follows:

"dwelling house' means a building containing only one dwelling-unit, together with such out buildings as are ordinarily used with a dwelling house, including domestic staff quarters;" (p8)

- (2) Apartments; is not defined in the DMS *per se*. The closest description is found in the definition of "flats", which reads as follows:

"flats' means a building containing three or more dwelling-units, together with such outbuildings as are ordinarily associated therewith but excludes a dwelling house, second dwelling and third dwelling;" (p82).

Due to the negative perception often found in the market place of the term "flats" it was decided to rather in the balance of the memorandum refer to these units as "apartments". Since these apartments will be occupied by individuals and couples in the more settled and advanced stages of the human life cycle it would be wrong to equate it to flats, often occupied by a much younger and most often transient population, with little regard to neighbours due to lack of a vested, long terms interest in their place of residence.

Since both dwelling houses and apartments are indeed dwelling units configured uniquely different, cognizance should be taken of the definition of a dwelling unit in the DMS too, *viz*:

"dwelling unit' means a self-contained interleading group of rooms, with not more than one kitchen, used for the living accommodation and housing of one family or a maximum of 5 transient guests, together with, such outbuildings as are ordinarily used therewith, but does not include domestic staff quarters, or tourist accommodation or accommodation used as part of a hotel;" (p80)

- (3) Suites / rooms; comprising any one of the following combinations, *viz*:

- Bedroom *en-suite* (including shower) and living-room;
- Bed- / living-room *en-suite* (excluding shower / bath).

4.3.2 Number and extent of accommodation alternatives

Tables 3 to 5 contain the number of each housing alternative, its accommodation components and the building area of each including the area of the external walls of buildings.

TABLE 3: DWELLING-HOUSE ALTERNATIVES & AREA

TYPE / COLOUR	No.	AREA (m ²)				TOTAL	TOTAL PER TYPE
		LIVING	GARAGE	COVERED PATIO	TOTAL		
1: Blue	18	161,4	42,3	26,3	230,0	4 140,0	
2: Pink	6	143,7	42,3	24,5	210,5	1 263,0	
3: Purple	4	128,6	42,3	24,8	195,7	782,8	
4: Magenta	1	121,7	25,6	22,4	169,7	169,7	
TOTAL	29	-	-	-	-	6 355,5	

It follows from the table that four different dwelling-house alternatives are being planned, of varying numbers, size and layout configuration. A total of 18 of 230m² each (biggest), six of ±211m² each, four of ±196m² each and one of ±170m² (smallest) are being planned for development. Should these areas exclude garages and covered patios the nett accommodation areas will respectively be approximately 161m², 144m², 129m² and 122m² each. The total gross floor area for all dwelling-houses together amounts to 6 355,5m² (including garages and covered patios).

For more information on the dwelling-house type and layout configuration, refer to Annexure 'H'.

[ANNEXURE 'H': LAYOUT CONFIGURATION OF DWELLING-HOUSES & APARTMENTS]

TABLE 4: APARTMENT ALTERNATIVES & AREA

TYPE / COLOUR	No.	AREA (m ²)				TOTAL	TOTAL PER TYPE
		LIVING	CARPORT	GARAGE	PATIO / BALCONY		
X: Purple	12	116,3	21,6	24,7	10,6	173,2	2 078,4
X1a: Purple	17	116,5	21,6	25,0	10,6	173,7	2 952,9
X1b: Purple	2	116,5	0	39,4	10,6	166,5	333,0
X1c: Purple	1	116,5	0	24,7	10,6	151,8	151,8
Y: Yellow	12	86,7	0	24,5	8,4	119,6	1 435,2
Z: Orange	12	115,0	0	23,5	10,6	149,1	1 789,2
Z1a: Orange	17	115,8	16,7	24,7	10,6	167,8	2 852,6
Z1b: Orange	3	115,8	0	39,4	10,6	165,8	497,4
TOTAL	76	-	-	-	-	-	12 090,5

As evident from table 4 there are three categories of apartment types varying between ±173m² (biggest) and ±120m² (smallest) gross each, inclusive of carports, garages, patios and balconies. The total gross floor area for all apartments together approximates 12 091m². Of the total

number of 76 apartments 32 are variants of type X, 12 of type Y and 32 of type Z.

These apartments will be configured on two levels, namely a lower and an upper level. The type X units will all be positioned on the lower level and the type Y and Z units on the upper level. The project architects distinguish between types X and X1 units on lower levels and types Y, Z and Z1 units on upper levels. This in essence translates to two-level buildings with types Y and Z units positioned partially or completely over type X units in a two-storey vertical configuration.

The accommodation schedule of the different unit types includes the following:

- Type X and X1
 - Entrance hall
 - Main bedroom *en-suite*
 - Bedroom
 - Bathroom
 - Lounge / dining room
 - Kitchen
 - Scullery
 - Garage and carport
 - Covered patio (porch)
 - Yard

- Type Y
 - Main bedroom
 - Bed / study room
 - Bathroom
 - Toilet
 - Lounge
 - Dining room
 - Kitchen
 - Built-in cupboard nook
 - Balcony
 - Garage

- Type Z and Z1
 - Entrance hall
 - Main bedroom *en-suite*
 - Bedroom
 - Bathroom
 - Lounge / dining room
 - Kitchen
 - Scullery
 - Balcony
 - Garage

- Carport (17 Type Z1 units only)
- Yard (Most Type Z1 units only)

For more information on each type of apartment and its layout configuration, refer to Annexure 'H'.

TABLE 5: SUITES / ROOMS ALTERNATIVES & AREA (CARE UNITS)

TYPE	NUMBER	AREA (m ²)	
		SUITE / ROOM	TOTAL
A1	5	49,6	248,0
A2	11	41,8	459,8
B1	8	31,8	254,4
B2	7	27,4	191,8
B3	2	23,4	46,8
B4	1	32,4	32,4
TOTAL	34	-	1 233,2

It follows from table 5 that a total of 34 suites / rooms will be accommodated in the care facility building where predominantly individuals and couples requiring assisted living will reside. The building will be configured in two storeys with the bigger units (type A1 & A2) accommodated on the first floor (second storey) and the smaller suites / rooms (type B1 to B4) on the ground floor (first storey).

The care facility building will furthermore *ceteris paribus* also accommodate the following uses / activities:

- Reception / waiting area
- Lobby & lift
- Consulting / examining room
- Matron's office
- Administrative office
- Assisted shower and bath bathrooms
- Dining hall
- Kitchen
- Staff room & ablutions
- Store-rooms (various)
- Laundry
- Basement parking

[ANNEXURE 'I': CARE FACILITY BUILDING LAYOUT]

4.3.3 Clubhouse

As mentioned previously, the existing Old Dairy building in a central position on the development site will be converted and repurposed as a clubhouse facility for the retirement centre (refer Para 4.1.5 *supra*). According to the present provisional architect's proposal, the majority of the building will comprise (a) dining hall(s) / lounge & bar area with

associated kitchen and staff room / ablution, with smaller areas / rooms for e.g. the following activities:

- Billiards room
- Card games room
- Gymnasium, with sauna facility and dressing rooms / ablutions / showers
- Yoga studio & courtyard
- Offices (admin & sales)

While these activities have been provided on the ground floor (first storey), a very small second storey will be added to the building on its east-side, to accommodate the following administrative functions:

- Office
- Boardroom
- Waiting area

The mentioned indoor recreation facilities will be supplemented by outside facilities, which may include a –

- dining terrace
- bowling green
- swimming pool;

with the design purposefully allowing views of the bowling green and swimming pool deck from the outside dining terrace.

It should be reiterated here that these are mere examples of particular facilities at this stage which may change, guided and informed by actual demand and preferences of future inhabitants of the proposed retirement village.

[ANNEXURE 'J': CLUBHOUSE FACILITY PLANS]

4.3.4 Synthesis

The housing / accommodation typologies selected for development aim to appeal to the widest possible number of individuals / couples of retirement age, ranging from prospective residents still active and on the go as any younger person, to those travelling extensively and preferring a smaller "lock-up-and-go" home base, to those in need of part- or full-time personal care to continue life's journey. The varying-size dwelling-houses, stacked-simplexes / apartments and assisted living suites / rooms in the care centre have been designed for maximum choice to prospective residents tailored to their respective stage in the human life cycle, their health condition and physical abilities and their inclination towards a safe, secure and wholesome, nature-based lifestyle in close proximity to associated amenities. The 29 dwelling-houses, 76 apartments and 34

suites / rooms in the care facility will provide housing / accommodation units for 139 families (which could comprise individuals) not presently available in the retirement market segment in Hout Bay.

4.4 COMPLIANCE WITH DEVELOPMENT RULES & NEED FOR DEPARTURES

4.4.1 Community Zoning 2: Regional (CO2) requirements

The development Management Scheme prescribes the following development management rules for a CO2-zoning, viz:

- (1) Floor factor, as defined in Item 1 as follows:

"floor factor' means the factor (expressed as a proportion of 1) which is prescribed for the calculation of maximum floor space of a building or buildings permissible on a land unit. If the floor factor is known, the maximum permissible floor space can be calculated by multiplying the floor factor by the area of the land unit;" (p82)

Floor space as referred to in the definition of floor factor above, is defined in the DMS as follows:

"floor space' in relation to any building means the area of a floor which is covered by a slab, roof or projection; provided that:

- (a) any basement or part of a basement not intended as habitable space shall be excluded;*
- (aA) any area which is reserved solely for parking or loading of vehicles shall be excluded;*
- (b) external entrance steps and landings, any canopy, any stoep and any area required for external fire escapes shall be excluded;*
- (bA) portions of passages, access ways and fire escapes up to 1,5m in width in a building on a land unit with a zoning other than Single Residential Zoning 1 and 2, Community Zoning 1 and 2, Agricultural Zoning and Rural Zoning, provided that they connect directly from the fire escape, vertical circulation to the entrance doors or both, shall be excluded;*
- (c) a projection including a projection of eaves, and a projection which acts as a sunscreen or an architectural feature, which projection does not exceed 1 m beyond the exterior wall or similar support, shall be excluded;*
- (d) any uncovered internal courtyard, lightwell or other uncovered shaft which has an area in excess of 10m² shall be excluded;*
- (e) any covered paved area outside and immediately adjoining a building at or below the ground floor level, where such paved area is part of a forecourt, yard, external courtyard, pedestrian walkway, parking area or vehicular access, and which is permanently open to the elements on at least the front or long side, shall be excluded;*

- (f) *any covered balcony, verandah or terrace which, apart from protective railings, is permanently open to the elements on at least the front or long side, and which does not exceed 2,5m in width, shall be excluded;*
- (g) *subject to paragraph (h) below, any stairs, stairwells and atriums that are covered by a roof shall be included;*
- (h) *in the case of multi-level buildings, any stairwells, liftwells, lightwells or other wells, and any atrium, shall only be counted once;*

and provided further that floor space shall be measured from the outer face of the exterior walls or similar supports of such building, and where the building consists of more than one level, the total floor space shall be the sum of the floor space of all the levels, including that of basements;”(p82).

The DMR for a CO2 zoning determines that the floor factor of a land unit shall not exceed 2,0 (p122).

- (2) Coverage, as defined in Item 1 of the DMS as follows:

"coverage' means the total area of a land unit that may be covered by buildings, expressed as a percentage of the area of such land unit, and shall include all roofed areas; provided that the following portions of buildings shall be disregarded in the calculation of coverage:

- (a) *uncovered stoeps, entrance steps and landings;*
- (b) *open balconies and retractable awnings;*
- (c) *cornices, chimney breasts, pergolas, flower boxes, water pipes, drain pipes and minor decorative features not projecting more than 500mm from the wall of the building;*
- (d) *eaves not projecting more than 1m from the wall of the building;*
- (e) *a basement, provided that the finished level of the top of the basement roof slab does not project above the existing ground level; (pp 79, 80).*

The DMR for a CO2 zoning prescribes a maximum of 60 percent coverage for all buildings on a land unit.

- (3) Height, as defined in the DMS, Item 1 as follows:

"height' of a building or boundary wall means a vertical dimension from a specified level to another specified level, as set out in the development rules of a zoning, measured in metres; provided that the following shall not be counted for the purpose of height control

—

- (a) chimneys (maximum horizontal dimension of 1,5m),
- (b) flues (maximum horizontal dimension of 1m),
- (c) lift shafts (maximum horizontal dimension of 3m and maximum vertical dimension of 2m per lift shaft),
- (d) masts, and
- (e) antennas;"(p84).

The DMR on height for a CO2 zoning determines the following:

"(i) The maximum height of a building, measured from existing ground level to the top of the roof, shall be 18m, provided that there is no height limit for a bell tower, steeple, minaret or similar architectural feature designed to accentuate the significance of the building.

(ii) Earth banks and retaining structures are subject to Item 126" (p122)

Of relevance to the above determination are the definition of "existing ground level" and elucidation on Item 126, viz:

- Existing ground level

"existing ground level" means the level of the land surface on a land unit as depicted on the City of Cape Town Ground Level Map. If this map has not been approved or is not applicable to a specific land unit(s), as determined by the City, then the following will apply to determine the level of the land surface on a land unit:

- (a) *in its unmodified state, before any building had been erected or alterations in levels had been made thereon; or*
- (b) *established from a plan indicating the contours of the land lodged with and accepted by an official agency such as the municipality or a government department, which depicts the existing level of the ground at or before the commencement date; or*
- (c) *in a state which has been graded, with the City's approval, for the purpose of development; or*
- (d) *as determined by the City, if in its opinion it is not possible to ascertain the existing level of the ground due to irregularities or disturbances of the land; and*

the City may require the owner or applicant to commission a registered surveyor to measure levels of the ground or interpolate levels, which shall be tied to the National Control Network, or where this is not possible, to provide at least two durable reference marks suitably located, in order to provide

the City with sufficient information so that it can determine the most appropriate existing ground level for the purpose of administrating this development management scheme;”(p81)

- Earth banks and retaining structures (Item 126)

”Without the approval of the City:

- (a) no earth bank, retaining structure, column, suspended floor, other device or series of such devices shall be constructed that enables a ground floor of a building to be raised more than 1,5m above existing ground level, provided that where such raising takes place, the height thereof shall still be measured from existing ground level;*
- (b) no earth bank or retaining structure used for holding back earth or loose rock, whether associated with a building or not, shall be constructed to a height of more than 2m above existing ground level; and*
- (c) no series of earth banks or retaining structures shall be constructed to a cumulative height of more than 2,5m above existing ground level, unless an approximately level area of at least 2m wide is incorporated between successive embankments or retaining structures for every 2m of cumulative height.”(p150)*

(4) Street boundary building-line

The street building-line for a CO2-zoned property is five metres (5m); subject to encroachments as per Item 121.
--

Item 121 provides for encroachment of building-lines, and reads as follows:

”(1) The following additional development rules apply with regard to encroachment of building lines:

- (a) Notwithstanding the building line requirements set out in Division II, the following structures or portions thereof may be erected within the prescribed building lines, provided they do not extend beyond the boundaries of a land unit:*
 - (i) boundary walls, fences and gates;*
 - (ii) open and uncovered stoeps;*
 - (iii) entrance steps, landings and entrance porches leading to the ground floor or basement of a building;*

- (iv) *a covered entrance or gatehouse that has a roofed area not exceeding 5m² and a roof height not exceeding 3m from floor to highest point;*
- (v) *eaves and awnings projecting no more than 1 m from the wall of a building;*
- (vi) *cornices, chimney breasts, flower boxes, water pipes, drain pipes and minor decorative features not projecting more than 500mm from the wall of a building;*
- (vii) *screen-walls not exceeding 2,1m in height above the existing ground level abutting such wall;*
- (viii) *swimming pools not closer than 1 m from any erf boundary;*
- (ix) *any part of a basement that is below existing ground level;*
- (x) *a refuse room required by the City in terms of item 145;*
- (xi) *a retaining structure within a street boundary building line, subject to item 126, or any retaining structure located under the existing ground level;*
- (xii) *pergolas not exceeding 40m² in area;*
- (xiii) *water tanks and their supporting structures not exceeding 3,2m in height from existing ground level;*
- (xiv) *child's playhouse or similar play structure not exceeding 5m² in area and 2,5m in height from existing ground level, only from a common boundary; or*
- (xv) *unless provided elsewhere in this development management scheme, storage sheds not exceeding 5m² in area and 2,5m in height from existing ground level.*

(2) *A building line of 5m shall apply to any boundary adjacent to a designated metropolitan road, unless otherwise agreed by the City and to which sub-item (1)(a)(i) is also applicable.*"(pp 147, 148).

(5) Common boundary building-lines

Common boundary building-lines for a CO2-zoned property are five metres (5m); subject to encroachments as allowed for in Item 121.

(item 121 has been quoted *verbatim* above under street boundary building-line).

(6) Parking and access

Parking and access to a CO2-zoned property shall be as follows, as provided for in Chapter 15 of the DMS.

From Chapter 15, the following:

- Parking ratios for 'Standard Areas' in the table titled Minimum Off-street Parking Requirements apply, to be provided on the property concerned.
- The parking requirement for a retirement home is 0,25 bays per resident.
- For site access standard Municipal and Provincial access spacing guidelines apply, with no other official requirements in Item 140 applicable.

(7) Loading facilities

The provision of on-site loading bays is regulated by Item 144.

There are no loading bay requirements for a CO2-zoning listed in the table in Item 144 titled Minimum Off-street Loading Bay Requirements, and the nature of the retirement village does not warrant the provision of such bays.

(8) Screening

The City may require screening in accordance with Item 125, the latter which reads as follows:

"The City may require screening in accordance with the following provisions:

- (a) *Any part of a land unit which is used for the storage or loading of goods shall be enclosed with a suitable wall and/or landscape screening;*
- (b) *Any external utility service or equipment which is required for a building shall be appropriately screened from view from a public street, and such screening shall be integrated with the building in terms of materials, colour, shape and size."* (pp 149, 150)

The requirement for screening for a CO2-zoning is quite generic, as evident from the extract above. Areas used for storage or loading of goods shall be enclosed by wall / landscaping. Screening

of external utility service / equipment from public streets is also a requirement.

(9) Noise mitigation

The City may impose a condition on approval of a CO2-zoning that noise mitigation measures should be implemented if excessive noise is likely to be created.

4.4.2 **Development rules for proposed development**

When measured against the development rules for a CO2-zoned property as summarized in Para 4.4.1 *supra* the proposed retirement village development complies with these as set out below, to be read with Section 6 and figure 4 *infra*:

(1) Floor factor

The floor factor of the development on the subject properties (i.e. parts of Erven R/8343, R/2958 and R/2224, Hout Bay) will be less than the permissible 2,0 for a CO2-zoning, calculated as follows:

- Nett usable erf-size to be zoned CO2
 - Proposed Erf 1: 0,3995 ha
 - Proposed Erf 3: 4,5613 ha
- Floor space
 - Proposed Erf 1: 782m²
 - Proposed Erf 3: 19 680,2m²

The floor factor for proposed Erf 1 is therefore: $782 \text{ m}^2 \div 3\,995 \text{ m}^2 = 0,20$; and for proposed Erf 3: $19\,680,2 \text{ m}^2 \div 45\,613 \text{ m}^2 = 0,43$.

The floor factor for both erven is therefore less than the permissible 2,0.

(2) Coverage

The coverage for proposed Erven 1 and 3 in the development project will be as follows:

- Erf 1
$$\frac{\text{Total roofed area of buildings less deductions}}{\text{Total area of Erf 1}}$$
$$= 885,7 \div 3\,995 \times 100$$
$$= 22,2 \text{ percent}$$
- Erf 3
$$\frac{\text{Total roofed area of building less deductions}}{\text{Total area of Erf 3}}$$

$$\begin{aligned} &= 19\,795,6 \div 45\,613 \times 100 \\ &= 43,4 \text{ percent} \end{aligned}$$

It is therefore evident that the coverage of proposed Erven 1 and 3 will be less than the permissible 60 percent coverage for a CO2-zoning.

(3) Height

The project architects estimate the height of the buildings in the development project to be the following:

- Dwelling-houses
6,138 metres (3,609m to wallplate)
- Apartments
9,209 metres (3,060m to next storey floor level and 3,395m to wallplate)
- Care units (suites / rooms)
Assumed 9,209 metres (3,060m to next storey floor level as per architect's drawings and assumed 3,395m to wallplate).
- Clubhouse
Assumed 3,060 metres to wallplate

Since the permissible height of buildings under a CO2-zoning is 18 metres from existing ground level to the top of roofs it follows from the above that the proposed development will comply with this development rule.

(4) Street boundary building-lines

A building-line of five metres (5m) applies to the following streets abutting the development site (notably proposed Erf 3), *viz*:

- Hout Bay Main Road
- Gumtree Lane
- Pine Street
- Conifer Road
- Birch Street
- Ash Lane
- Road
- Future High Level Road

With regards to the access control and refuse storage facilities at the Birch Street entrance, it should be noted from Item 121 Para (1)(a)(iv) and (x) as quoted in Para 4.4.1(4) *supra* that the following structures (or portions of same) may be erected within the 5m building-line, *viz*:

- a covered entrance or gatehouse with roofed area of 5m² or less and a roof height not exceeding 3m from floor to highest point; and
- a refuse room required with one week storage capacity.
- storage sheds not exceeding 5m² in area and 2,5m in height from existing ground level.

The project architects have confirmed that the 5m building-line along Hout Bay Main Road and the future High Level Road will be adhered to and not encroached upon. A departure from this development rule in the DMS will therefore not be required, for these two public roads. A permanent departure will however be required from the five metres (5m) street building-lines applicable to certain of the "stub roads" leading off Blue Valley Avenue westwards up to the development site boundary, as described more fully in Para 7 *infra*.

(5) Common boundary building-lines

The prescribed five metre (5m) building-line for non-street boundaries for CO2-zoned properties cannot be adhered to entirely for proposed Erf 1 in the development project. It will also not be possible to fully comply with the 5m building-line along certain communal property boundaries with proposed Erf 3. It is for this reason that the present application includes a component for a permanent departure from this development rule in the DMS along particular boundaries.

The proposed permanent departure to encroach on certain street and common boundary lines of proposed Erven 1 and 3 is discussed in more detail in Para 7 *infra*.

(6) Parking and access

The application complies with the official parking requirements of 0,25 bays per resident in a retirement home established and operated under a CO2-zoning. The directors of Oakhurst Lifestyle Estate (Pty) Ltd who will be the developer implementing the project have during the planning phase of the present application insisted that as much as possible parking be provided on site based on experience from similar projects elsewhere. This has indeed led to substantially more parking being provided than the minimum requirement only.

The project architects in conjunction with the developer have confirmed the projected number of future residents in the retirement centre to be the following:

- * Dwelling-house

29 houses @ 2 persons per house: 58 residents

* Apartments
76 apartments @ 2 persons per apartment: 152 residents

* Care centre units
34 suites / rooms: 39 residents

Therefore: 58 plus 152 plus 39 = 249 residents in total

Thus: 249 residents @ 0,25 bays per resident would require a total of 63 parking bays to be provided on site.

The actual number of parking bays being planned on site, will be as follows:

* Erf 1
4 dwelling-houses @ 2 bays per dwelling = 8 bays in total

* Erf 3

- Dwelling-houses
 - 24 @ 2 bays each : 48 bays
 - 1 @ 1 bay each : 1 bay
 - Visitor's parking : 7 bays
 - TOTAL DWELLING-HOUSES : 56 bays
- Apartments
 - 51 @ 2 bays each : 102 bays
 - 25 @ 1 bay each : 25 bays
 - Visitor's parking : 13 bays
 - TOTAL APARTMENTS : 140 bays
- Rooms / suites (care centre)
 - Rooms / suites (basement) : 26 bays
 - Visitor's parking : 14 bays
 - TOTAL ROOMS / SUITES : 40 bays
- Clubhouse
 - Administrative offices & visitor's parking : 29 bays
 - Additional: 10 golf cart parking bays

Thus, the total number of parking bays on Erf 3 will be 265, excluding 10 golf cart parking bays.

It follows therefore that parking will be provided on both Erven 1 and 3 in excess of the minimum requirement, as follows:

Erf 1:

- * Required: 8 residents @ 0,25 bays / resident: 2 bays
- * Provided: 8 bays
- * Excess provided: 6 bays

Erf 3:

- * Required: 241 residents @ 0,25 bays / resident: 61 bays
- * Provided: 265 bays
- * Excess provided: 204 bays

Access to the development site and to the different erven to follow the eventual subdivision will be provided in accordance with the standards and requirements of the City of Cape Town. It is evident from the Draft Site Plan and Traffic Impact Assessment discussed *infra* that the proposed accesses would meet official requirements.

(7) Loading facilities

On-site loading facilities will not be required for the development project under a CO2-zoning. No such bays have therefore been provided.

(8) Screening

With no loading facilities and open storage areas requiring screening, there is no formal obligation on the applicant to provide such screening on site.

A 2,1m high boundary wall will however be erected on the shared boundary of the development site (Erf 3) with the new Remainder of Erf R/2958, Hout Bay between Hout Bay Main Road (north) and approximately the northern edge of the existing dam, from where visually permeable fencing will continue southwards to the south-boundary of Erf R/2958, Hout Bay. The wall component will be implemented for reciprocal privacy reasons.

(9) Noise mitigation

Retirement centres do not generate excessive noise and the applicant does not foresee any conditions for mitigation being imposed on the present land development approval.

4.5 DRAFT SITE PLAN

4.5.1 Architect's proposal

Following an extensive and iterative process of engagement with the developer and specialist members of the professional consultants team the project architects have prepared a Draft Site Plan ("DSP") for the proposed development, which has served to inform the present application on a variety of levels. It as such forms the basis of the discussion in the balance of this subsection of the motivating memorandum.

[FIGURE 14: DRAFT SITE PLAN]

4.5.2 **Layout rationalé**

- The locality of the Old Dairy building on the development site in close proximity to the riverine corridor of the Bokkemanskloof River (west) and an existing off-stream dam with potential to be upgraded to an aesthetically pleasing landscaping feature (northwest) as well as its central position in relation to the overall site have led to the decision to convert, renovate and repurpose the building for future use as a clubhouse for the retirement centre. It's relative central location would mean shorter walking distances for most residents when attending any of the activities on offer by the clubhouse.
- The topography of the site has furthermore played an important role in the distribution of unit types in the layout planning. The lower-density dwelling-houses component were positioned primarily on the central and northern parts of the site with a shallower gradient, whilst the apartments component was positioned for the most part in the southeastern quadrant of the site where the gradient is steeper, immediately north of the future High Level Road alignment.

The steeper southeastern part of the site lends itself ideally for a terraced development of the stacked simplex units being proposed. With relatively little excavation and a retaining wall a row of apartments could be erected on a lower level with access from the north, creating an upper level platform for a row of apartments partially over the lower level row and partially on an elevated level with direct access from the south. In this way the topography could be used to ensure a feasible vertical layout configuration while at the same time serving to maximize the views from these units northwards towards the Disa River Valley and the mountains further north.

- The positioning of the care facility immediately south / southeast of the clubhouse stems from the shorter walking distance which such proximity would bring about. It should be kept in mind that the inhabitants of a care unit for assisted living are more often less mobile, necessitating the grouping of uses frequented by them within reasonable and easy walking distance.
- The best utilization of the small part of the development site to the west of the Bokkemanskloof River riverine corridor immediately north of the future High Level Road alignment was thought to be for low-density residential dwelling-house purposes. Four dwelling-houses have been positioned here which will form a harmonious visual and functional extension of the abutting Oakbridge Estate to the north.

4.5.3 Access

- No direct access will be gained off Hout Bay Main Road – i.e. Proclaimed Main Road (PMR) 134. Such access would not comply with the official minimum standards with regards to spacing between accesses on higher-order roads, and sight-distances.
- The main access to the retirement village over the medium to longer term will be from Hout Bay Main Road *via* Dorman Way, *via* Oakhurst Avenue, the latter to be extended south / southeastwards across private road Erf 10119, Hout Bay – the main spine through the Oakbridge Estate development – up to the north boundary of the development site to the west of the Bokkemanskloof River.
- Access control on the main access will be shared with that for Oakbridge Estate, positioned on the mentioned private road erf (Erf 10119) immediately south of the termination of Oakhurst Avenue.
- A secondary access is being planned on Birch Street, in a position approximately halfway along the length of the east / northeastern boundary of the subject property. Birch Street forms a full intersection at Blue Valley Avenue, with stop control already in place. It is therefore safer than for instance an access along Conifer Road or Ash Lane.
- Full access control will also be implemented at the Birch Street secondary access position. The project architects have prepared a sketch-plan illustrating the envisaged access control configuration *vis-à-vis* Birch Street. The sketch-plan shows *inter alia* the proposed position of the refuse room and an area carefully configured in conjunction with the project traffic engineer where the City's refuse removal trucks will be able to enter the property, reverse up to the refuse room access position and leave the premises again nose first back on Birch Street towards Blue Valley Avenue. A right-of-way servitude of appropriate dimensions and configuration will be created in favour of the Municipality to ensure unrestricted access for their refuse removal service to the property.

[FIGURE 7: ACCESS CONTROL ON BIRCH STREET ILLUSTRATION]

- The reason for phasing in of the Dorman Way / Oakhurst Avenue access as main access over time and phasing out the access on Birch Street to secondary status as soon as practicable lies in the fact that access to the main body of the development from the former requires the following actions to be undertaken successfully before it could be fully operational:
 - Environmental authorization in terms of the National Environmental Management Act, 1997 (Act 107 of 1997) (as

amended) for the road and bridge structure as well as certain engineering services infrastructure to cross the Bokkemanskloof River and its associated environmental buffer and wetland area, to link the western and eastern development enclaves of the development site;

- Water-use authorization in terms of the National Water Act, 1998 (Act 36 of 1998) to upgrade the existing bridge structure over the Bokkemanskloof River and the associated link-roads and infrastructural services over the mentioned environmental buffer and wetland areas;
- Detailed design and approval of plans for the roads, bridge structure and engineering services by the Municipality; and
- Construction and commissioning of the bridge structure and associated roads and engineering services.

While these actions take place the access on Birch Street will figure as main access to the development project, but will be relegated to secondary access status once the bridge has been approved and implemented. The Birch Street access will then continue to exist, but only for emergency purposes, Municipal use for refuse removal and access to the electrical substation.

4.5.4 Vehicular circulation

- The on-site road layout and design have strived for roads to follow the contour in steeper areas and to generally not be steeper than 10 percent. This was done for ease of driving / manoeuvring / walking by future residents in the estate. It will also serve to minimize stormwater run-off along roadways crossing the contours.
- A main spine road will serve to link the two accesses to the estate, extending northwards from the Birch Street access almost up to the Hout Bay Main Road edge. This main spine will have a predominantly collection / distribution function, also providing access from the south to the care facility.
- A series of strategically positioned *culs-de-sac* with predominantly access function to residential units, will serve to supplement the main spine road.
- It should be noted that all internal roads are indeed mere road carriageways over communal property, with no official public or private road status assigned to these as defined in the development rules of the DMS.

4.5.5 Pedestrian movement

- Walkability is of paramount importance for the success of a retirement estate. This requires a well-planned network of walkways designed to link all most-frequented land-use activities on site in a way that encourages walking as opposed to driving between these activities.
- With pedestrianization as aim the applicant has made provision for formal walkways along at least one side of most internal roadways, of which the paved surface and gradient are most conducive to walking by the elderly, including for movement by the wheelchair bound.
- The formal walkways will be extended informally (i.e. unpaved and environmentally friendly) into the riverine corridor of the Bokkemanskloof River where strategically positioned "pause areas" will be provided for e.g. meditation, reading, birdwatching and more. The six stormwater retention dams being planned, and especially the existing two dams from a previous agricultural era, present itself as ideal such pause areas where a gazebo and park benches could be provided to enhance the quiet-time experience.

4.5.6 Open space

- Approximately 1,34 hectares of open space delineated along the Bokkemanskloof River corridor on the development site, excluding a further similar corridor area over the future High Level Road alignment on the development site of ±0,47 hectares, form part of the open space component of the retirement estate. In total thus approximately 1,81 hectares (refer figure 4 *infra*).
- The existing expansive dam and surrounds in the central-north as well as two further stormwater retention ponds being planned outside / partially outside the mentioned riverine corridor will add further open space and recreation opportunity for future inhabitants of the retirement village.
- It should be noted furthermore that the dwelling-houses in the village will each in addition have access to its own private garden / recreation area, further contributing to the open space provisioning in the development complex.
- Finally, as alluded to earlier in the memorandum, the clubhouse will *ceteris paribus* sponsor two open space related outdoor activities, namely a bowling green and accompanying terraced seating, and a swimming pool with surrounding pool deck – both of these facilities linked functionally to the outside dining terrace of the clubhouse.

4.5.7 Landscaping

- Messrs Joubert & Brink Surveys in early March 2022 undertook a detailed site survey of all mature trees and other grown vegetation to

assist the project landscape architects with the preparation of a Landscape Plan for the proposed retirement village on the subject properties. As clear from the tree survey map appended hereto (refer Annexure 'K') most grown trees on site are either Blue Gums or Pines, none of which are protected or conservation-worthy.

- There are however a fair amount of Oak trees dispersed over the northern parts of the site which, together with those along the adjoining Hout Bay Main Road, serve to reflect the established ambience / sense of place of the original Oakhurst Farm. This ambience has been protected quite jealously by the Property owners and reinforced over time by incorporating the Oak tree theme in subsequent residential developments on parts of the original farm in the surrounding area, e.g. Oakwood Estate.
- With due cognizance to the directives and guidelines of the CCMM's Development Management Information Guideline: Landscape Plans and duly informed by the mentioned tree survey and the draft site plan for the envisaged development, Mesdames Rose Buchanan Landscape & Design proceeded to prepare a customized Landscape Plan for the proposed retirement village.
- Whereas the Draft Site Plan focuses on the built environment component, the focus of the Landscape Plan is on the natural environment and how nature can be protected and enhanced to complement the former. Most importantly also, to enrich and enhance the human experience of future residents through appropriate landscaping interventions to complement the natural environment on site.
- Specific interventions being proposed on the Landscape Plan include *inter alia* the following:
 - Informal scenic walks / trails in the riverine corridor flanking the Bokkemanskloof River, with seating areas where residents could sit and meditate, read, etc.
 - Replacement of alien vegetation with indigenous trees and other vegetation endemic to the area.
 - Retaining of existing Oak trees and strategic positioning of additional Oak trees along the main road carriageways in the development.
 - Extensive planting of additional trees throughout the development, with special focus on dams / retention pond environments, along the outside perimeter of the site and along internal roadways.

For a comprehensive plant list refer to Annexure 'K'.

[ANNEXURE 'K': TREE SURVEY MAP & LANDSCAPE PLAN]

5. RECONFIGURING OF ERVEN R/2224, R/2958 & R/8343, HOUT BAY

In this section of the memorandum the proposed subdivision of the Remainders of Erven 2224 and 2958 and the consolidation of the subdivided portions (i.e. proposed Portion 1) of each with each other, and with the as yet unregistered Remainder of Erf 8343, Hout Bay to form the development site, is discussed.

5.1 PROPOSED SUBDIVISION: ERF R/2224, HOUT BAY

5.1.1 Purpose

The purpose of subdividing Erf R/2224 is two-fold, *viz*:

- to sever the northern-most part from the balance of the property, for consolidation with a certain part of Erf R/2958 and Erf R/8343 for development of a retirement village after successful rezoning; and
- to facilitate a separate land-portion for the part of Erf R/2224 between the High Level Road alignment (north) and the official urban edge (south) for low-density residential subdivision (separate parallel application).

[FIGURE 5: CONCEPTUAL SUBDIVISION SKETCH-PLAN FOR AREA SOUTH OF PROPOSED HIGH LEVEL ROAD]

The balance of Erf R/2224 south of the urban edge will be availed to SANPark's for entering into a contractual management agreement.

5.1.2 Sketch-plan

Figures 1 & 2 (overleaf) shows the proposed subdivision of Erf R/2224 in three portions, i.e. a northern (blue), central (pink) and southern (green) portion.

[FIGURES 1 and 2: SUBDIVISION SKETCH-PLAN FOR ERF R/2224, HOUT BAY]

5.1.3 Extent & minimum erf-size requirement

Erf R/2224 extends to 77,9524 hectares (refer Para 2.2.1 *supra*), which will be subdivided in three portions extending to the following:

- Portion 1 : 6,7835 hectares
- Portion 2 : 13,0319 hectares
- Remainder : 58,1370 hectares

These portions will all be in excess of the minimum erf-size as per the current zoning of the Property, *viz* 650m² per erf for the part of Erf R/2224 between Hout Bay Main Road and the urban edge zoned Single Residential Zoning 1: Conventional Housing (SR1) and 20ha per erf for the part of Erf R/2224 south of the urban edge zoned Agricultural Zoning (AG).

5.1.4 Servitudes

All existing servitudes registered against Erf R/2224 will be transferred to the subdivided portions as applicable. These have been indicated on the Subdivision Sketch-plan in the Servitude Notes box in detail, and in essence entail the following:

- A 20m wide engineering services servitude protecting an existing bulk water pipeline in favour of the Municipality traversing the northern-most part of proposed Portion 2 in an east / west direction;
- A 3m wide engineering services servitude protecting an existing bulk sewer line in favour of the Municipality traversing proposed Portion 1 and part of proposed Portion 2 along its east / northeastern boundary;
- A triangular private servitude for right-of-way purposes in favour of abutting Erf 2842, Hout Bay affecting proposed Portion 1 along its east / northeastern boundary between Hout Bay Main Road and Gumtree Lane; and
- A 3m wide private servitude for conveyance of water from the Bokkemenskloof River over Erf R/2224 to the dam on Erf R/2958 affecting proposed Portion 1.

5.1.5 High Level Road alignment

Provision has also been made for accommodating of the alignment of the future High Level Road along the south boundary of proposed Portion 1. This alignment will be reserved for the possible implementation of this higher-order road in future and will as such-

- retain its current zoning; and
- not be developed / improved in anyway pursuant to the present application.

5.1.6 Flood-lines

The 1:50 and 1:100 year flood-lines of the Bokkemenskloof River traversing Erf R/2224 have been indicated on the Subdivision Sketch-plan and certified by mr Graeme McGill of Graeme McGill Consulting for correctness. The River and floodplains will not be impacted upon by the present application for subdivision of Erf R/2224 in three individual portions.

5.1.7 Access

Since the present subdivision proposal is a mere interim step towards further applications for development on proposed Portions 1 and 2, the

matter of access to these portions of Erf R/2224 should be deferred. Both Portions 1 and 2 can however gain access off public streets, as follows:

- Portion 1 : Gumtree Lane, Pine Street, Conifer Road, Birch Street, Ash Lane and Road.
- Portion 2 : Rushia Lane, Restio Road, Myrica Road and Saffron Road.

The proposed Remainder of Erf R/2224 would only require access for fire control and combatting purposes, for which a servitude will be registered against proposed Portion 2 in favour of the Municipality. The servitude will be 10 metres wide along the east / northeastern boundary of proposed Portion 2 between Saffron Road and the urban edge (south boundary of Portion 2), with its main purpose being to provide access to the mountain for fire-fighting purposes.

5.1.8 Future use

- Proposed Portion 1 of Erf R/2224 will be consolidated with proposed Portion 1 of Erf R/2958 (refer Para 5.2 *infra*) and Erf R/8343 to form the development site for the envisaged retirement village as discussed in preceding sections.
- Proposed Portion 2 of Erf R/2224 will in future be subdivided in eight portions for single residential use each, for which a separate application for subdivision will be lodged in parallel to the present land development application (Refer Figure 5).
- The proposed Remainder of Erf R/2224 will *ceteris paribus* be availed to the SANParks for its management of same under contract, in conjunction with the Table Mountain Nature Reserve.

5.2 PROPOSED SUBDIVISION: ERF R/2958, HOUT BAY

5.2.1 Purpose

The sole purpose of subdividing Erf R/2958 in two portions is to create a separate land-unit to be consolidated with proposed Portion 1 of Erf R/2224 (as discussed above) and Erf R/8343, Hout Bay to serve as land assembly for the development of the envisaged retirement village.

5.2.2 Sketch-plan

The proposed subdivision of Erf R/2958 in two portions is shown on figure 3 (overleaf). Proposed Portion 1 (pink) will be consolidated with Erf R/8343 and proposed Portion 1 of Erf R/2224 to form the development site of the proposed retirement village.

[FIGURE 3: SUBDIVISION SKETCH-PLAN FOR ERF R/2958, HOUT BAY]

5.2.3 Extent & minimum erf-size requirement

The minimum erf-size for Single Residential Zoning 1: Conventional Housing (SR1) zoned properties here like Erf R/2958, is 650m², pursuant to the Hout Bay Local Area Overlay Zone Plan LAO/11. Both the resultant portions will exceed this minimum by a large margin with proposed Portion 1 being 0,6833 hectares and the Remainder 1,9457 hectares. Since proposed Portion 1 will not continue to exist on its own the matter of minimum erf-size for same becomes moot.

5.2.4 Servitudes

- Existing servitudes registered against Erf R/2958 affecting the proposed Remainder, will be transferred to the subdivided Remainder and honoured in position. Likewise will all servitudes to which Erf R/2958 is entitled to at present, remain applicable to the proposed Remainder of Erf R/2958.
- Erf R/2958 is furthermore entitled to a 3m wide servitude over Erf R/2224 for conveyance of water from the Bokkemanskloof River to the dam on Erf R/2958. Since the portion of Erf R/2958 accommodating the dam will be consolidated with the portion of Erf R/2224 against which this servitude is registered, the servitude will lapse through merger and would therefore not be carried forward.

5.2.5 Hout Bay Main Road

The northern boundary of proposed Portion 1 of Erf R/2958 has been selected to exclude the existing alignment of Hout Bay Main Road, which will therefore continue to traverse the proposed new Remainder of Erf R/2958.

5.2.6 Flood-lines

The proposed Remainder of Erf R/2958 is being affected by the 1:50 and 1:100 year flood-lines of the Bokkemanskloof River. The flood-lines do not affect proposed Portion 1 to be subdivided, consolidated with Erf R/8343 and proposed Portion 1 of Erf R/2224 and developed as discussed in preceding sections.

The River and its associated flood plains will not be affected by the present application. The correctness of the position of the flood-lines on Erf R/2958 has been certified on the Subdivision Sketch-plan for Erf R/2958 (figure 3).

5.2.7 Access

Access to the proposed Remainder of Erf R/2958 will remain unchanged, i.e. from Hout Bay Main Road *via* Dorman Way along its western boundary.

Since proposed Portion 1 of Erf R/2958 will be consolidated with proposed Portion 1 of Erf R/2224 and Erf R/8343 and derive access to Hout Bay

Main Road *via* Blue Valley Avenue and Birch Street in the end, access to the public street system is not a requirement for this land-portion at this stage.

5.2.8 Future use

Proposed Portion 1 of Erf R/2958 will be consolidated with proposed Portion 1 of Erf R/2224 and Erf R/8343 to form the development site for the envisaged retirement village as discussed.

5.3 PROPOSED CONSOLIDATION OF PORTIONS 1 OF ERVEN R/2224 & R/2958 AND ERF R/8343, HOUT BAY.

5.3.1 Purpose

The land assembly comprising Erf R/8343 and proposed Portions 1 of Erven R/2958 & R/2224 needs to be consolidated to form a unified development site for the establishment and operating of a retirement village. Hence the *rationalé* for the proposed consolidation of same.

5.3.2 Consolidation diagram

Figure 6: Consolidation Diagram (overleaf) depicts the proposed consolidation of Erf R/8343 and proposed Portions 1 of Erven R/2224 & R/2958.

[FIGURE 6: CONSOLIDATION DIAGRAM FOR ERF R/8343 AND PORTIONS 1 OF ERVEN R/2224 & R/2958]

5.3.3 Extent

The consolidated property will extend to 7,6658 hectares comprising –

- Erf R/8343 : 0,1990 ha (2,6%)
- Portion 1 of Erf R/2224 : 6,7835 ha (88,5%)
- Portion 1 of Erf R/2958 : 0,6833 ha (8,9%)

5.3.4 Servitudes

The following two servitudes will remain in place on the consolidated property, *viz:-*

- The private right-of-way servitude over the northeastern part of the property in favour of abutting Erf 2842, Hout Bay (between Hout Bay Main Road (north) and Gumtree Lane (south); and
- The 3m wide engineering services servitude along the full distance of the east / northeastern boundary of the property protecting an existing bulk sewer line in favour of the Municipality.

As mentioned before, the 3m wide servitude over Portion 1 of Erf R/2224 in favour of Portion 1 of Erf R/2958 will lapse through merger. It will therefore cease to exist because both the dam and water furrow will be situated on the same property after consolidation.

5.3.5 High Level Road alignment

The alignment of the future High Level Road has been accommodated along the entire distance of the south boundary of the consolidated erf. The area effected by the road alignment will not be rezoned from its present zoning and will not be improved / developed in any way.

5.3.6 Flood-lines

The Consolidation Diagram reflects not only the 1:50 and 1:100 year flood-lines of the Bokkemanskloof River as these affect the consolidated erf, but also the environmental buffer around the River defining the edge of future development on the consolidated property. The flood-lines have been duly certified by the engineer responsible for its calculation and plotting, mr Gaeme McGill.

5.3.7 Access

Although the consolidated property may rightfully be accessed from any of the stub roads on its east / northeastern boundary, a different proposal is being put forward for the proposed retirement village on the consolidated stand. These stub roads include Gumtree Lane, Pine Street, Conifer Road, Birch Street, Ash Lane and Road.

Access to / from the development project will however in the end be taken off Hout Bay Main Road as follows:

- (1) Primary access (medium to long term): *Via* Dorman Way and Oakhurst Avenue – the latter to be extended southwards through Oakbridge Estate up to the boundary of the consolidated erf; and
- (2) Secondary access (medium to long term): *Via* Blue Valley Avenue and Birch Street to the east / northeastern boundary of the consolidated erf.

Although the Birch Street access will in the short to medium term function as the main access, the intention is to relegate it to secondary status (i.e. service access) as soon as the proposed bridge on site over the Bokkemanskloof River has been improved / upgraded to accommodate the projected traffic volumes and flows.

5.3.8 Future use

As alluded to earlier, the consolidated stand will after successful rezoning to subdivisional area overlay zoning and subdivision be utilized for the establishment and operating of a new retirement village.

5.4 OFFICIAL ERF-NUMBERS & AREAS

5.4.1 Draft diagrams

The project land surveyor mr Richard Abrahamse had been briefed to prepare draft Surveyor General ("S G") Diagrams for the erf-portions

described in the preceding subsection as proposed portions 1 of Erven R/2224 & R/2958 as well as Erf R/8343, Hout Bay. Furthermore also for the consolidation of the above-mentioned property portions to form the development site. The resultant draft SG Diagrams have been appended to the memorandum as Annexure 'L'.

[ANNEXURE 'L': DRAFT S G DIAGRAMS FOR CONSTITUENT PORTIONS OF LAND ASSEMBLY]

5.4.2 Erf-numbers

Table 6 serves to relate the erf-portion numbers thus far referred to in Paras 5.1, 5.2 and 5.3 and on figures 1 & 2, 3 and 6 *supra* to the future official erf-numbers as reserved at the Surveyor General and depicted on the draft S G Diagrams in Annexure 'L'.

TABLE 6: OFFICIAL ERF-NUMBER ALLOCATION TO ERF-PORTIONS OF LAND ASSEMBLY

ERF-PORTIONS IN LAND ASSEMBLY		OFFICIAL ERF-NUMBERS RESERVED / ASSIGNED
1.	Portion 1 of Erf R/2224, Hout Bay *	Erf 12632, Hout Bay
2.	Portion 1 of Erf R/2958, Hout Bay	Erf 12635, Hout Bay
3.	Erf R/8343, Hout Bay	Erf 12634, Hout Bay
4.	Consolidated erf comprising Portions 1 of Erven R/2224 & R/2958 and Erf R/8343, Hout Bay	Erf 12636, Hout Bay

[*NOTE: Since Erf R/2224 is being subdivided in three portions an S G Diagram has also been prepared for proposed Portion 2 as shown on figure 1, and assigned the number Erf 12633, Hout Bay]

It follows from table 6 that the consolidated erf to form the development site will ultimately upon registration at the Deeds Office be known as Erf 12636, Hout Bay. This Erf will again be subdivided in three individual erven to which the appropriate zoning rights will be assigned herewith being applied for, as evident from figure 4: Subdivision of Subdivisional Area *infra*.

5.4.3 Extent of erven

As evident from the comparative summary in table 7 there are certain minor discrepancies between the areas of erven in the foregoing townplanning memorandum and the draft S G Diagrams.

TABLE 7: COMPARISON OF AREAS OF ERVEN

TOWN PLANNING MEMO		S G DIAGRAMS (DRAFT)		DIFFERENCE IN AREA (ha)
DESCRIPTION	AREA (ha)	DESCRIPTION	AREA (ha)	
1. Portion 1 of Erf R/2224	6,7835	Erf 12632	6,7782	-0,0053
2. Portion 1 of Erf R/2958	0,6833	Erf 12635	0,6836	+0,0003

3. Erf R/8343	0,1990	Erf 12634	0,1991	+0,0001
4. Consolidated Erf comprising 1 to 3 above	7,6658	Erf 12636	7,6609	-0,0049

It follows from the table that the draft S G Diagrams prepared for the relevant land-portions differ marginally in area with a combined effect of a mere 49m² which the consolidated erf will in the end be smaller. These differences are negligible and indeed allowed for in the Land Survey Act, 1997 (Act 8 of 1997) (as amended). The discrepancies noted will have no effect on the development control parameters alluded to in earlier sections of the memorandum.

5.5 SYNTHESIS

It follows from the foregoing discussion on the subdivision and consolidation that the resultant development site would be well proportioned / dimensioned to accommodate the proposed retirement village and that it was indeed necessary and desirable to combine the relevant portions of the subject properties to form a feasible development site.

6. SUBDIVISION OF REZONED CONSOLIDATED PROPERTY AND IDENTIFICATION OF DEVELOPMENT PHASES

6.1 SUBDIVISION OF REZONED CONSOLIDATED PROPERTY

6.1.1 Purpose

The purpose of the subdivision of the consolidated property comprising proposed Portions 1 of Erven R/2224 & R/2958 and Erf R/8343 is to assign the proposed new zoning applied for to particular parts of the development site and to create separate erven for each part zoned differently and / or separated from a similarly zoned part by a differently zoned part of the property.

6.1.2 Sketch-plan

The proposed subdivision of the consolidated erf is depicted on figure 4 overleaf, with the pink colour representing the developable part, the yellow the future High Level Road alignment and the green the Bokkemanskloof River and associated protected buffer area.

[FIGURE 4: SUBDIVISION OF SUBDIVISIONAL AREA SKETCH-PLAN]

6.1.3 Rationalé for subdivision configuration

The irregular erf-boundaries of the subdivision layout can be ascribed to the following factors, *viz*:

- the requirement to accommodate the Bokkemanskloof River and its associated sensitive environmental buffer area on a separate property. The thin red line on the Subdivision Sketch-plan (figure 4) reflects the extent of the buffer area, the latter to be accommodated on an appropriately zoned erf to ensure *inter alia* its "environmental conservation use" as defined in the DMS, p80 (refer Para 3.4.3 pp 14, 15 *supra*) under a CO3-zoning.
- the detailed Draft Site Plan prepared for the site to ensure its highest-&-best use for the intended purpose. For various reasons the bowling green between the clubhouse (existing building to be converted with fixed position) and the Bokkemanskloof River, on a level part of the site adjacent to the clubhouse for functionality reasons, needs to encroach marginally upon the demarcated environmental buffer area with its northwest- and southwestern corners. This has necessitated the proposed subdivision-line between Erven 2 and 3 to here include a very small part of the buffer area in proposed Erf 3 to ensure that the bowling green does not transgress property boundaries.

6.1.4 Extent and zoning of erven

Table 8 (to be read with figure 4) contains the extent and future zoning of each of the three erven to result from the present application.

TABLE 8: LAND-USE TABLE

ERF NUMBER	AREA		ZONING
	(ha)	(%)	
1 (part xvutsrqw)	0,3995	5,2	COMMUNITY ZONING 2: REGIONAL (CO2)
1 (part xwqyGHJ)	0,4570	6,0	TRANSPORT ZONING 2: PUBLIC ROAD & PUBLIC PARKING (TR2)
TOTAL ERF 1	0,8565	11,2	
2 (part mlkju'v'w'x'hgfednpqrstuvKLMNPQR)	1,3400	17,5	OPEN SPACE ZONING 3: SPECIAL OPEN SPACE (OS3)
2 (part qpndDEFy)	0,4717	6,2	TRANSPORT ZONING 2: PUBLIC ROAD & PUBLIC PARKING (TR2)
TOTAL ERF 2	1,8117	23,6	
3 (part Aabcdefghx'w'v'u'jklmSTUVWXYZ)	4,5613	59,5	COMMUNITY ZONING 2: REGIONAL (CO2)
3 (part BCDdcba)	0,4363	5,7	TRANSPORT ZONING 2: PUBLIC ROAD & PUBLIC PARKING (TR2)
TOTAL ERF 3	4,9976	65,2	
TOTAL: CONSOLIDATED ERF	7,6658	100,00	

It follows from the table that Erf 3 will be the biggest (4,9976 ha), Erf 2 smaller (1,8117 ha) and Erf 1 the smallest (0,8565 ha), each representing 65,2%, 23,6%, and 11,2% of the overall consolidated land assembly respectively. It should furthermore be noted that each of the three erven will sponsor a dual or split zoning, as follows:

- Erven 1 and 3 : Community Zoning 2: Regional (CO2); and Transport Zoning 2: Public Road & Public Parking (TR2)
- Erf 2 : Open Space Zoning 3: Special Open Space (OS3); and Transport Zoning 2: Public Road & Public Parking (TR2)

The reason for the dual zoning is found in the fact that the alignment of the future High Level Road requires to be protected. For this reason it was not included in the rezoning to CO2 and OS3 as applicable. Should the roads authorities in future wish to build the road, the reserved alignment would then have to be expropriated, and due process followed to obtain environmental authorization for its implementation.

The northern parts of Erven 1 and 3 will be zoned Community Zoning 2: Regional and the northern part of Erf 2 will be zoned Open Space Zoning 3: Special Open Space. The southern-most "strip" of all three erven representing the future High Level Road alignment will retain its existing zoning of Transport Zoning 2: Public Road & Public Parking (TR2)

6.1.5 Access

(1) Erf 1

Erf 1 will derive access to/from the public street network indirectly *via* a servitude of right-of-way over Erf 10119, Hout Bay, the latter being a private road erf in the adjoining Oakbridge development.

(2) Erf 2

Access to this erf for the owners of Erf R/2958 will be secured by way of a servitude to be registered over the entire erf, but excluding the southern-most part representing the future High Level Road alignment. The same part of Erf 2 will similarly be protected by an access / maintenance servitude in favour of the Municipality (refer figure 4).

(3) Erf 3

The development project on Erf 3 will gain access off Birch Street on its east / northeastern boundary. As explained earlier, this access will over the short to medium term figure as the main access to the retirement village but as soon as the bridge over the Bokkemanskloof River has been upgraded and the private road on Erf 10119 in the Oakbridge development constructed, the Birch Street access will become a secondary access primarily for emergency and service vehicles only. The access on Erf 10119 in Oakbridge will then assume the function of primary access to the development project.

6.1.6 Servitudes

- Erf 1 will not be subject to any servitudes. It will however, together with Erven 2 and 3, be entitled to a servitude of right-of-way over Erf 10119, Hout Bay, the latter being the private road-link between Oakhurst Avenue and Erf 1.
- Existing servitudes affecting Erf 3 include the 3m wide sewer servitude along its east / northeastern boundary in favour of the Municipality, and a private right-of-way servitude between Hout Bay Main Road and Gumtree Lane along the east / northeastern boundary of Erf 3 of favour of Erf 2842, Hout Bay.
- An access servitude will be registered against Erf 3 as depicted on figure 4 in favour of the Municipality for refuse removal, maintenance of electrical substation and related infrastructure, and emergency vehicles.
- An electrical service servitude to accommodate an electrical substation and associated infrastructure will be registered against Erf 3 as depicted on figure 4 in favour of the Municipality.

6.1.7 Flood-lines

Proposed Erf 2 is affected by the 1:50 and 1:100 year floodlines of the Bokkemenskloof River, as well as a protecting buffer of 30 metres measured from the top of the River bank on the subject property. Save for a minor part of the environmental buffer area encroached upon by the proposed bowling green on Erf 3, the entire environmentally sensitive area has been accommodated on Erf 2. The flood-lines have been scientifically calculated, plotted and certified by mr Gaeme McGill of Graeme McGill Consulting.

6.2 NOTARIAL TIE OF ERVEN

6.2.1 Ownership model

The ownership model being pursued for units in the retirement village does not allow for the establishment of a Home Owners' Association ("HOA") for full-title ownership or a Body Corporate for sectional-title ownership to which individual owners would be obliged to belong. This is due to the fact that units would neither be sold on full-title, nor on sectional-title, but instead as a "life right". The life right purchased in a unit terminates and reverts to the developer at time of death, at a price agreed to at the outset. The developer can then proceed to sell a similar life right in the unit to another purchaser for the term of that person and his/her spouse's life.

Thus with no registered unit owners, the options of a HOA or Body Corporate are not available. The developer will however establish an appropriate residents representative body to allow participation of residents in the day-to-day affairs of the retirement village.

6.2.2 Unified site

Since proposed Erven 1, 2 and 3 as depicted on figure 4 will be functioning as an integrated whole but had to be subdivided due to the Bokkemenskloof River and its associated riverine corridor bisecting the development site, it is proposed that these erven be tied notorially to ensure a unified development site in perpetuity. Tying the three properties notorially will have the following advantages:

- The erven can not be alienated and transferred to another owner separately.
- The core natural asset of the retirement village on Erf 2 will always be available to residents on Erven 1 and 3.
- Free movement of vehicles and pedestrians along predetermined routes will always be available to residents across any of the mentioned erven.

- The communal building-lines between Erven 1 and 2 and Erven 3 and 2 will for Erven 1 and 3 be reduced to “zero”, thereby contributing to the design flexibility of the retirement village.

6.3 PHASED DEVELOPMENT

6.3.1 Number of phases

The present application also seeks approval for the implementation of the subdivision approval in phases, as allowed for under Section 42(e) of the Bylaw. The developer foresees the implementation of the retirement village project in six development phases that could take up to 10 years to complete depending on market for retirement homes in the area.

6.3.2 Purpose

Property development projects with large capital outlay are often implemented in phases for optimal project finance and cash-flow management purposes, as also in the present case. The phases identified for implementation have been informed by a particular promotion, marketing and sales strategy on the revenue side, and a cost management strategy on the expenditure side. With regards to the latter, the main reason for the proposed development phasing, is to:-

- install the engineering services incrementally, i.e. per development phase identified; and
- pay the requisite development charges to the Municipality in increments proportionate to each development phase.

6.3.3 Development phases

The six phases envisaged for implementation of the overall project are depicted on figure 8 (overleaf).

[FIGURE 8: DEVELOPMENT PHASING PLAN]

Each development phase will accommodate the land-use activities as summarized in table 9.

TABLE 9: LAND-USE ACTIVITIES PER DEVELOPMENT PHASE

PHASE	LAND-USE			
	Dwelling houses	Apartments	Care facility (suites / rooms)	TOTAL “units”
A*	15	20	34 rooms	69
B	2	24	-	26
C	8	-	-	8
D	-	16	-	16
E	-	16	-	16
F	4	-	-	4
TOTAL	29	76	34	139

[*Phase A also includes the implementation of the clubhouse facility]

6.3.4 Chronology of implementation

Although it is at this stage foreseen that the development phases would be implemented chronologically from Phase A to Phase F, the developer hereby reserves the right to implement the phases differently. This will be a function of continuous marketing results. Phase A will be implemented first due to it incorporating the access position to the development from Birch Avenue and the delay before access will be possible *via* Oakhurst Avenue primary access over medium term) due to the requirement to expand the existing bridge structure over the Bokkenmanskloof River.

6.3.5 Small-scale diagrams

The developer is aware that separate Surveyor General Diagrams would be required for each development phase at time of implementation. Careful attention has therefore been awarded to the selection of the phases to ensure that the outside figure of these future SG Diagrams would as far as practicable coincide for one or more of its boundaries with that of Erven 1, 2 and 3 of the Subdivisional Area. In this regard the phasing proposal has achieved the following:

- Phase A: Includes the entire Erf 2
- Phase F: Includes / entails the entire Erf 1.
- Phases B, C, D & E will all form part of Erf 3.

Although forming an integral part of Erven 1, 2 and 3 the alignment of the future High Level Road has not been included in the Phasing Plan for obvious reasons.

6.3.6 Phasing of engineering services

The project civil engineers have in its Engineering Services report (refer Annexure 'N') for the project identified the phasing of the implementation of the services to be as follows:

"Due to the site topography and development phasing plan (See Figure 4¹ 8) the roads and services infrastructure for the development will be installed in the following sequence to ensure that each phase will be able to function independently upon completion and issuing of its occupancy certificate. (Refer to drawings P3126-C-301 Rev B, P3126-C-701, P3126-C901 attached)

The roads and stormwater services to be installed that will be required per phase as per the development phasing plan are as follows:

¹ Refer to letter dated 24 August 2022 to Development Management where the applicant has indicated the renumbering of certain of the plans in the townplanning motivational memorandum. Thus figure 4 quoted here should be replaced to Figure 8.

- *Phase 1 – Roads and Stormwater to phase 1 and phase 6*
- *Phase 2 – Roads and Stormwater to phase 2*
- *Phase 3 – Roads and Stormwater to phase 3*
- *Phase 4 – Roads and Stormwater to phase 4 and phase 5*

The bulk water reticulation services to be installed that will be required per phase as per the development phasing plan are as follows:

- *Phase 1 – The bulk water connection to the development as well as the water reticulation to phase 1*
- *Phase 2 – Water reticulation to phase 2*
- *Phase 3 – Water reticulation to phase 3*
- *Phase 4 – Water reticulation to phase 4 and phase 5*
- *Phase 6 – Water reticulation to phase 6*

The bulk sewer reticulation services to be installed that will be required per phase as per the development phasing plan are as follows:

- *Phase 1 – Sewer reticulation to phases 1, 2 and 3.*
- *Phase 2 – Sewer reticulation to phase 4 and phase 5*
- *Phase 6 – Sewer reticulation to phase 6” (pp 23, 24)²*

The project engineers have confirmed that each phase of the development project, no matter in what order it will be implemented, is fully sustainable per phase in terms of all the required / necessary engineering service connections, bulk, link and network service installations.

It is important to note that the applicant will take special care to mitigate the implementation of the phasing to ensure that with each subsequent phase being developed it will not impact on the previous already constructed and operational phase and / or the surrounding residential developments. Thus the implementation of the development proposal will be done sustainably and in collaboration with the environmental control officer (ECO).

Since all 6 phases of the development project (and thus all three erven too) will belong to a single development company / land-owner, there is no need for servitudes to be registered against any phase or erf in the Oakhurst Lifestyle Estate in favour of the other phases or erven in same.

² Refer to letter dated 24 August 2022 to Development Management where the applicant has indicated that any reference in this document and / or specialist reports when discussing the implementation of the development project in phases, phases 1 to 6 should read development phases A to F.

7. BUILDING-LINES DEPARTURE

7.1 PERMANENT NATURE

The only departure from the development rules in the Development Management Scheme applied for pertains to the building set-backs along the boundaries of proposed Erven 1 and 3 on figure 4: Subdivision of Subdivisional Area. Since the future buildings in the retirement village will represent a long term capital investment, its positioning on site will require a permanent departure from the prescribed rule, where it would not be possible or desirable to adhere to same.

7.2 DETAILED PLANNING

The project architects have prepared a detailed draft site plan discussed extensively in preceding sections of the memorandum. The development and site layout proposal are the culmination of an iterative process of robust engagement between the professional team, current land-owners and the developer boasting vast experience of retirement developments, to ensure the best possible, optimized end-result. In this process it was realized that the five metre (5m) building-lines for a CO2-zoning along both street and communal boundaries could not be fully complied with. The proposed building-line encroachments have therefore not been randomly arrived at, but were rather informed by terrain specifics like gradient, prevalence of mature trees to be retained, proximity requirements and optimum space utilization.

7.3 NOTARIAL TIE EFFECT

As discussed in Para 6.2 *supra* the three erven to result from the subdivision of the Subdivision Area will be notarially tied. The notarial tie will serve to eliminate the building-lines along the communal boundaries of Erven 1 & 2 and Erven 3 & 2, effectively relegating these to "zero" as if the erven were consolidated.

7.4 PROPOSED RELAXATION / ENCROACHMENT

The proposal here put forward has been formulated as if the building-lines along Erven 1 & 2 and Erven 3 & 2 have not been relegated to "zero" pursuant to the notarial tie of the three erven concerned. This is done for the eventually where the CCMM either disapproves the proposed notarial tie, or disagrees with the applicant's contention that the mentioned building-lines after notarial tie would be zero.

The particulars of the proposed permanent building-line relaxations / encroachments applied for are shown on figure 9(a) & (b): Building-line departure plan (overleaf).

[FIGURE 9(a) & (b): BUILDING-LINE DEPARTURE PLAN]

These are summarized as follows:

(1) Erf 1

- South boundary along future High Level Road: 5m (no relaxation required). (It should be noted that the High Level Road alignment still forms part of Erf 1 but a 5m set-back has been allowed for in the event that it be implemented in future).
- North / northwestern boundary: 3m

- Eastern boundary: zero (i.e. 0-metres).

(2) Erf 3

- West / southwestern boundary, shared with Erf 2: zero (i.e. 0-metres)
- West / southwestern boundary, shared with Erf R/2958 along line STUVWX: 1,5m
- North / northwestern boundary, shared with Erf R/2958 along line mS: 1,5m
- North / northwestern boundary along Hout Bay Main Road: 5m (no relaxation required).
- East / northeastern boundary: 3m
- South / southeastern boundary along future High Level Road: 5m (no relaxation required). (It should be noted that the High Level Road alignment still forms part of Erf 3 but a 5m set-back has been allowed for in the event that it be implemented in future).

7.5 IMPACT OF REDUCED SET-BACKS

- The potential impacts of a building-line relaxation of Erf 10049, Hout Bay (and any of its subdivisions) and the new Remainder on Erf R/2958, Hout Bay as being proposed have been discussed with and accepted by the owner of these properties. The parties concurred that the impact would be negligible.
- Since proposed Erf 2 will be zoned Open Space Zoning 3: Special Open Space (OS3) and will serve a subservient passive recreation function to Erven 1 and 3, the encroachment of building-lines along its shared boundaries with these erven to zero will have absolutely no impact on same at all. All three erven have been meticulously planned / designed by the project architects and landscape architect as a fully integrated whole, and hence the assertion that the absence of a building set-back on Erven 1 and 3 would have no negative impacts.
- A zero building-line along the shared boundaries of Erven 1 and 3 with Erf 2 will allow for closer proximity of some of dwellings to nature and the benefits on offer by the natural environment on Erf 2.
- The proposed relaxation of the 5m building-line along the east / northeastern boundary of Erf 3 by 2m to 3m will also have a negligible effect on adjacent residential properties. The 3m set-back will coincide with the edge of the 3m wide sewer servitude in favour of the Municipality along the east / northeastern boundary. It should be noted that the encroachment of buildings here will not occur along the full length of the erf-boundary. There is an internal road being planned adjacent to approximately a third of this erf-boundary (northern half) which would here lead to a building set-back of much more than the prescribed.

- The development site is generally situated on a lower elevation than the existing adjacent dwelling-houses in the Blue Valley township. This reduces the probability of privacy infringement through overlooking drastically, effectively negating any potentially negative impacts. Add to this the north-orientation of existing dwelling houses adjoining the development site and its becomes evident that the proposed building-line relaxation along this boundary would have a negligible effect on neighbouring properties.

8. ENGINEERING SERVICES

In this section of the memorandum the applicant sets out to prove the sustainability of the proposed development project from an engineering services perspective. The following services are being considered below:

- Roads
- Stormwater
- Water
- Sanitation
- Refuse removal
- Electricity

8.1 ROADS

8.1.1 Specialist reports

The application has with regards to the road infrastructure been informed by the following two engineering service reports, *viz*:

- (1) Transport Impact Assessment (TIA) by ITS Innovative Transport Solutions; and
- (2) Engineering Service Report by Ekcon Engineers & Project Managers.

The salient features, findings and recommendations of each of these reports have been summarized in the balance of this subsection.

8.1.2 Transport impact assessment (TIA)

- (1) The project transportation engineers confirm the purpose of the study as being to evaluate the impact of the traffic generated by the development project on the surrounding public road network and to recommend mitigation measures, if required, to alleviate constrictions.
- (2) The study has been undertaken with Birch Street being the primary access over the short term and Oakhurst Avenue the primary access over the medium term. The intersections therefore studied include the following:
 - Intersection 1: Hout Bay Main Road / Dorman Way (Priority stop control); and
 - Intersection 2: Hout Bay Main Road / Blue Valley Avenue (Priority stop control).
- (3) A total of five traffic scenarios have been identified and analysed, the details of which can be perused in the TIA report appended as Annexure 'M'. Each scenario has been evaluated in terms of its effect on the road capacity and level of service (LOS) at the mentioned intersections, with concluding remarks for each scenario.

- (4) The report concludes that right-turning vehicles from Dorman Way onto Hout Bay Main Road would find it increasingly difficult over time to join the main road traffic east / northeastwards as measured in terms of expected time delays. To mitigate this potentially worsening situation it is recommended that a traffic circle be implemented at this intersection.
- (5) The report identifies the need for formal sidewalks along certain public roads for ease of and safer pedestrian movement, but advises that due to the absence of such facilities generally the requirement for the developer to provide particular sections of same would not contribute to NMT-facilitation significantly.
- (6) On the matter of public transport it is recommended that a bus embayment should be considered in both directions on Hout Bay Main Road.
- (7) The report concludes with the following findings and recommendation:

"... it is evident that the impact of this development is insignificant onto the external road network. Hence, it is recommended that this development be considered for approval, from a transport point of view."(p6)

[ANNEXURE 'M': TRANSPORT IMPACT ASSESSMENT – TIA]

8.1.3 Engineering services report

- (1) The project civil engineers describe the surrounding public road network with reference to the following:
 - Blue Valley Avenue and the various "stub roads" between same and the development site – Class 5: Local Streets
 - Hout Bay Main Road – Class 3: Minor Arterial Road
- (2) The project transportation engineers in their TIA report expands on the description in Para (1) above by adding the following roads:
 - Dorman Way – Class 5 Road
 - Oakhurst Avenue – Class 5 Road
- (3) The engineering service report furthermore contains a diagram demonstrating how the Municipal refuse removal truck could access the development site, reverse on-site to the refuse storeroom and leave nose first again *via* Birch Street towards Blue Valley Avenue.

- (4) Also availed for purposes of the proposed development is the alignment and broad-based specification of the envisaged bridge structure over the Bokkemanskloof River on Erf 2, as well as the alignment of the internal roadway on same affecting the sensitive environmental buffer along the River. This internal road-link between Erf 1 and Erf 3 is crucial for purposes of substitution of the main access on Birch Street with the Oakhurst Avenue access as main access over the medium term. The idea is to upgrade the existing bridge structure over the Bokkemanskloof River to serve a vehicular and pedestrian crossing function that would serve to not only "relocate" the main access from Birch Street to Oakhurst Avenue, but also to integrate the proposed development on Erf 1 and Erf 3 functionally in a harmonious whole.

[ANNEXURE 'N': CIVIL ENGINEERING SERVICES REPORT BY EKCON ENGINEERS]

8.2 STORMWATER

8.2.1 Specialist reports

Stormwater disposal as supporting engineering service to the proposed new retirement village on the development site has been informed by the following two professional specialist reports, *viz*:

- (1) Stormwater Management Plan by Graeme McGill Consulting dated December 2021; and
- (2) Engineering Services Report by Ekcon Engineers & Project Managers.

The salient features, findings and recommendations of each of these reports have been summarized in the balance of this subsection below.

8.2.2 Stormwater Management Plan

- The Stormwater Management Plan ("SMP") served to not only inform the Civil Engineering Service Report mentioned above, but also the Landscape Plan by Rose Buchanan Landscape & Design – a copy of which can be viewed in Annexure 'K' hereto. The SMP furthermore plays an important rôle in the environmental assessment process being conducted by the independent EAP of Sillito Environmental Consulting contracted to the project to ensure the environmental sustainability of same.
- Due to its paramount importance as foundational document to the development project on a variety of levels, it is important to note that the SMP has been lodged with the City of Cape Town Water & Sanitation Bulk Services Department where its contents had been scrutinized in detail and accepted in writing on 8 March 2022, with the following commendation:

"Lastly, Graeme McGill Consulting is highly commended for the excellent quality of the report."(p2)

- The mentioned letter issued by the Department summarized its finding in brief as follows:

"Herewith the response from the Catchment, Stormwater and River Management Office (this office). Please note that these comments are based on the information that this office has received to date. Should any new information be provided to this office, then this office reserves the right to review the comments as deemed appropriate.

1. *After scrutinizing the report including various supporting documents and detailed calculations, this office is satisfied that the report more than adequately illustrate how stormwater will be managed in accordance with Councils Management of Urban Stormwater Impacts Policy and Councils Floodplain and River Corridor Management Policy – both policies approved by Council in 2009. The report is therefore, supported from a stormwater planning perspective.*
 2. *This office understand that the report suffices for any land use management application/s as well.*
 3. *It is imperative to note that the report was compiled for this specific development scenario and accordingly, for the site development plan presented in the report – summarized as follows:*
 - a. *The development type is for private residential*
 - b. *The development will be implemented over 6 phases*
 - c. *Site area is 22,63 Ha and proposed development area of 19,81 Ha*
 - d. *SuDS range from 5 stormwater attenuation ponds and the existing two stormwater ponds to be upgraded, to permeable paving, amongst other SuDS,*
 4. *Although the report is quite detailed, the stormwater infrastructure is at conceptual design, and is adequate for the land use management application/s. Detailed design of stormwater infrastructure is to be undertaken at building plan stage"(pp1, 2).*
- It should be noted that the SMP included the entire stormwater catchment area upstream of the Bokkemenskloof River and its tributaries traversing the subject properties, also taking cognisance of the planned future development of eight single residential erven to the south of the development site of the proposed retirement

village i.e. between the future High Level Road alignment's south boundary and the south-lying official urban edge at the 152m amsl contour line (refer Figure 5).

- The entire SMP report has not been attached to the town planning memorandum as an annexure, due to its vast magnitude. It will however be available for scrutiny as part of the land development application documentation.

[ANNEXURE 'O': LETTER OF ACCEPTANCE OF STORMWATER MANAGEMENT PLAN BY CCMM DEPARTMENT WATER & SANITATION – CATCHMENT STORMWATER AND RIVER MANAGEMENT]

8.2.3 Engineering services report

- With reference to the SMP by Graeme McGill Consulting the engineering services report states the following:

"In summary the proposed stormwater system has been designed to mimic the pre-development run-off conditions of this site and treat the stormwater to achieve the quality standards as per City of Cape Town requirements. Attenuation and treatment standards are achieved using two existing dams, a further 3 attenuation ponds, permeable paving, and bio-infiltration treatment areas"(p19).

- On existing stormwater infrastructure and features in proximity to the development site the report records the following, with reference to the mentioned SMP by Graeme McGill Consulting:

"To the east there is an existing stormwater pipe network in Blue Valley Avenue conveying runoff in a northerly direction towards Hout Bay Main Road and discharging in the Disa River.

To the north there is an existing roadside kerb and gutter in Hout Bay Main Road collecting sheet flow from erven 2958 and R/2224. The runoff is discharged in a south-westerly direction towards the Bokkemanskloof River where it crosses Hout Bay Main Road.

To the west there is an existing stormwater pipe network in Dorman Way conveying runoff in a northerly direction. The runoff is eventually discharged downstream of Hout Bay Main Road in the Bokkemanskloof River.

To the southwest there is an existing stormwater pipe network discharging runoff from Oakwood Close and River Walk upstream of the development site into the Bokkemanskloof River"(p8).

For more detailed information on the existing stormwater infrastructure refer to page 9 of the engineering services report where various aspects like the flood-line determination along the Bokkemenskloof River are mentioned as well as the existing bridge structure culvert, conduits crossing Hout Bay Main Road, an open stormwater channel below the Road, existing and planned attenuation dams on site and more. The engineering services report relies heavily on the SMP as specialist report in this regard.

8.2.4 Synthesis

It follows from the above that the post-approval stormwater run-off can be adequately mitigated on site in a sustainable and acceptable way to the City of Cape Town, in line with the relevant policies of the City relating to stormwater management for developments like the proposed new retirement village on the development site.

8.3 WATER

8.3.1 Engineering services report

Messrs Ekcon Engineers & Project Managers have investigated Municipal bulk water availability and supply to the development project and summarized their findings and recommendations in the report appended hereto as Annexure 'N'. The information in the balance of this subsection of the memorandum was gleaned from this specialist report.

8.3.2 Findings and recommendation

- The report confirms the existence of the following bulk water infrastructure in the vicinity of the development site:
 - East: Two water mains in Blue Valley Avenue and one water mains in each of Gumtree Lane, Pine Street, Conifer Road, Birch Street, Ash Lane, Restion Road, Myrica Road and Saffron Road.
 - North: Three existing water mains in Hout Bay Main Road, of 150mm, 160mm and 300mm diameter each.
 - West: An existing water main network of 100mm diameter along Dorman Way, Oakwood Close, River Walk and Whitlers Way.
 - Southwest: An existing 110mm diameter water main network along Grotto Way, Oakhurst Avenue, Greenacres Close and Whitlers Way.
 - South: A bulk water pipeline of 600mm diameter located in the so-called pipe-track servitude just outside / abutting the development site.

- The project civil engineers have, based on the number and type of accommodation units as well as all ancillary and subservient uses (e.g. clubhouse) in the proposed retirement village and the projected occupancy rate calculated the water demand for the project scientifically and meticulously. The following is a summary:
 - The average annual daily water demand (AADD): 94,7 kilolitres per day (kl/d)
 - The total average annual water demand (TAADD): 113,64 kl/d
 - The peak hour demand: 5,31 litres per second (l/s).

For a more detailed breakdown of the calculations refer to the report.

- Internal fire hydrants spaced at 200m radii will be provided in the development complex in compliance with statutory requirements. A flow of 20l/s at 3 bar pressure is required for full and effective functionality.
- The City of Cape Town is in process of confirming capacity in the bulk Municipal system to accommodate the proposed development.
- Connection to the existing external bulk water system will be to the west at the 110m diameter water main in Grotto Way. The link-pipe will require a 2m wide servitude over Erf R/4320, Hout Bay. Due to reliability challenges experienced from time to time the project engineers will also investigate a connection eastwards in Blue Valley, which would be the preferred connection position to the bulk water reticulation network of the Municipality.
- The internal distribution system will follow the internal roads and will comprise 110mm diameter Class 12 internal water mains up to contour elevation RL59,35m, where the static head will be 90m relative to the connection point head at contour elevation RL148,35m. Below this elevation reticulation will be by way of 110mm diameter Class 16 water mains with (a) pressure reducing valve(s) at contour elevation RL59,35m.

8.3.3 Sustainable solutions

As part of a broad water resource management approach the developer envisages actively pursuing rainwater harvesting to supplement the municipal water supply. The rainwater will be utilized primarily for gardening and outside domestic use, e.g. for car wash purposes.

8.4 SANITATION

8.4.1 Engineering services report

As with the discussion on water above, the civil engineering services report for the project by messrs Ekcon Engineers & Project Managers served to inform the discussion on the sewer engineering service to the proposed retirement village here as well (refer Annexure 'N').

8.4.2 Findings and recommendation

As gleaned from the civil engineering services report the salient features of sewer / sanitation to the project can be summarized as follows:

- An existing 160mm diameter bulk sewer pipeline traverses the development site along its east / northeastern boundary within a 3m wide servitude registered in favour of the Municipality. It serves to collect sewer run-off from the east-lying Blue Valley residential development conveying it northwards towards Hout Bay Main Road where it connects to further bulk sewer pipelines of the municipal network.
- The report describes two further 160mm diameter sewer lines in the area in support of the development site directly or indirectly. These are a sewer line servicing Erf 8627, Hout Bay (Quentin's Restaurant) feeding northwards to the Oakhurst Farm Stall commercial site, and a future line being planned along the eastern edge of the Oakbridge Estate gravitating northwards as well. The western enclave of the retirement village comprising four dwelling-houses will connect to the latter system.
- The bulk of the development project to the east of the Bokkemanskloof River will connect to the existing 160mm diameter line along the east / northeastern boundary of the development site. The collection of sewer run-off internally will be done by implementing a 160mm diameter reticulation network essentially following the internal roadway alignment.
- Detailed calculations of the sewer flow have resulted in the following relevant findings:
 - The peak daily dry weather flow (PDDWF) will amount to around 56,56 kl/d total.
 - Given an instantaneous peak factor of 2,20 the instantaneous peak dry weather flow (IPDWF) will be 1,52 l/s excluding infiltration. With ground water infiltration the total IPDWF is 1,76 l/s.
 - With an allowance for 30 percent spare capacity for stormwater ingress the design IPDWF will be 2,29 l/s.

It is advised that the relevant tables, etc. in the report be consulted for more complete information on these matters.

- The City of Cape Town is in process of confirming capacity in the bulk Municipal network to accommodate the sewer run-off emanating from the proposed development.
- The internal sewer network will comprise of a water borne gravitation-led system with main sewer lines of 160mm diameter Class 34 pipes with 110mm diameter connections.

8.5 REFUSE REMOVAL

The final service addressed by the project civil engineers in its engineering services report is the matter of refuse removal. The following extract finds relevance:

"Refuse removal facilities will be provided, and arrangements made for collection in accordance to the Integrated Waste Management Policy of the City of Cape Town and the guidelines for minimum requirements for waste collections and waste storage areas / rooms published by the solid waste management department."

It furthermore confirms that:-

- a refuse storage room will be provided near the Birch Street entrance on the eastern boundary of the development site;
- the access control gate has been sufficiently set back to allow refuse removal trucks to enter the property outside the security gate, with allowance for sufficient maneuvering space for ease of in- and egress.

8.6 DEVELOPMENT CONTRIBUTIONS: CIVIL ENGINEERING SERVICES

The project civil engineers have included a section in their Engineering Services Report for the project on Development Contributions ("DCs"). It confirms that DCs would be payable due to the increased use-rights on the development site, and that payment of same would be effected per development phase. Their provisional estimate of the total amount for DCs on civil services approximates R4,4 million.

The DCs for the project may be used for the required upgrades of roads and other bulk infrastructure as required by the City and as agreed in writing in a Civil Services Agreement between the developer and the City of Cape Town.

8.7 ELECTRICITY

8.7.1 Electrical engineering service report

MAC Engineers, appointed consulting engineers to the project, prepared a report to inform the present land development application titled-

"Electrical Engineering & Fibre Service Report"
(11 May 2022)

[ANNEXURE 'P': ELECTRICAL ENGINEERING SERVICE REPORT]

8.7.2 Salient features, finding & recommendations

- Based on the overall development proposal the project electrical engineers have calculated the total electricity demand to be 971,9 kVA, i.e. the After Diversity Maximum Demand (ADMD). Rounded-up this means the total capacity required from the CCMM amounts to 1 000 kVA (=1 MVA).
- The City has confirmed that there is sufficient spare capacity on its supply network to accommodate the estimated load, but that the capacity can understandably not be reserved (refer report Para 6.1.1 and letter from City dated 23 September 2021 included with the electrical engineering service report in Annexure 'P' hereto).
- The medium-voltage (MV) connection will require an electrical substation, provided for by way of a 6 x 4 metre servitude in favour of the Municipality at the Birch Street entrance to the development project (refer figures 4 and 7 *supra*). A further servitude (both shown on figure 4 *supra*) will be created in favour of the Municipality between Birch Street and the substation to ensure unimpeded access to the latter by maintenance technicians to the City's infrastructure.
- A further infrastructure requirement entails the Medium Voltage protection switchgear including a bulk check meter for control / protection of the internal MV network. This will be a private installation less than 10m from the substation discussed above.
- The report furthermore confirms in Para 6.2 that:-

"Distribution to the residential homes will be via road side metering / distribution kiosks which can serve nine (9) to twelve (12) homes respectively. The kiosks will accommodate electrical circuitry being the homes supply circuit breaker of 63A SP curve D and meter unit (ECU) including all associated wiring."

- A discussion on various alternative renewable energy sources is also included in the report, including e.g. solar collectors + inverter + battery backup, LPG-gas, etc. Other matters covered include the provision of fibre to the complex, pre-paid *versus* credit facility metering, internal street and walkway lighting, the need for on-site energy management, energy efficiency and more.
- Electrical fencing and CCTV cameras for perimeter security will be implemented.

- The report summarizes the discussion on its contents confirming the bulk services requirements to be the following:

"11.1 ELECTRICAL INSTALLATION

- i. A utility substation with an outdoor bulk metering unit (1000kVA at 11kV) for the exclusive use of the City of Cape Town Department to be developed at the gatehouse entrance off of Birch Street with 24hour access;*
- ii. A consumer substation with a ring main unit for the control of the estate private MV network;*
- iii. Minisubs, LV network and kiosks with the provision of prepaid and conventional credit metering;*
- iv. Internal and external MV and LV cables shall be underground installed in the road reserve as indicated on the concept preliminary layout;*
- v. Internal road lighting;*
- vi. A general services supplies at the gatehouse, booster pump stations, and etc.*

11.2 FIBRE INSTALLATION

Suggestion be development company managed internal fibre network and single node ISP who maintains and responsible for their network infrastructure and service delivery.

Private perimeter fibre network for CCTV camera surveillance and any other communication based infrastructure, present or future."

9. PRIVATE SECURITY ESTATE

9.1 GATED DEVELOPMENT POLICY

9.1.1 Adoption and promulgation

The City of Cape Town has approved and on 28 November 2007 adopted its Gated Development Policy ("Policy") to guide and inform proposals for enclosing of residential areas. While the Policy appears to be ambivalent about the apparent constitutional conflict between freedom of access and movement on the one hand and the right to safety and security on the other, it ends up lending credence to the necessity and increasing tendency for the world-wide gated community phenomenon.

9.1.2 Official authorisation

The Policy in Section 7.4 (pp 24, 25) with regards to the requirement for official approval of proposed gated communities, confirms the following:

"There is no separate application procedure for gated community proposals. Instead, approval thereof forms part of and is integrated with normal land use and property management procedures. Forming part of a normal development application, proposals in this regard may therefore be submitted to the Director: Planning and Building Development Management on the prescribed form and accompanied by supporting documentation and application fee... This policy and its guidelines is therefore applied in deciding all applications where a development... proposal falls within the definition of a gated development."

9.1.3 Purpose

The purpose of this section of the memorandum is to describe the proposed private security estate to result from the present development application, to assess same against the Policy imperatives and guidelines and to motivate its merit for consideration and approval.

9.2 CLASSIFICATION

As evident from information in preceding sections of the memorandum the present proposal represents a *de novo* security estate establishment request, as opposed to a retro-fit "privatisation" enclosure endeavour involving an existing neighbourhood with diverse vested interests and inhabitant views, as well as affecting public roads and engineering services.

9.3 DESCRIPTION

9.3.1 Ownership

The three erven to result from the present land development application will remain in ownership of the private company Oakhurst Lifestyle Estate (Pty) Ltd. The company will also retain ownership of all the accommodation units and buildings, including the care centre and clubhouse facility. All infrastructural services not being transferred to the CCMM will likewise remain the property of the company, including

electrical perimeter fencing and CCTV cameras, access control gatehouse and associated facilities.

Due to the fact that no units in the retirement village will be sold to individual owners it would not be possible and / or practical to establish a Home Owners' Association ("HOA") for the development project. As explained earlier the company intends selling a "life right" to families (including individuals) which will allow them occupation for the duration of the lives of the resident families. The company will therefore remain responsible for the maintenance and upkeep of all infra- and superstructures in the development, as well as all gardens and the Bokkemanskloof and its associated riverine corridor accommodated on proposed Erf 2.

9.3.2 Extent

- The area to be enclosed and secured entails the entire development site as described earlier, i.e. all three erven to result from the subdivision of the rezoned Subdivisional Area.
- Due to *inter alia* the positioning of the access control facility on Erf 10119, Hout Bay (i.e. the private road erf) in the abutting Oakbridge Estate and due to the shared exquisite natural asset between the Oakhurst Lifestyle Estate and Oakbridge Estate the parties may consider the inclusion of Oakbridge Estate in the gated community in future.

9.4 ACCESS CONTROL AND SECURITY FENCING

Access control will be strictly enforced at both the Birch Street and Oakhurst Avenue access positions. The access control facilities will comply with official requirements / standards for same, including sufficient queueing distances for ingress and egress traffic at the entrance gate (refer figure 7: Access Control on Birch Street Illustration *supra*).

It is the applicant's intention to enclose the entire land development area with a 2,1m high visually permeable fence (e.g. Clear-Vu), with the exception of the shared boundary of the development site with the new Remainder of Erf R/2958 between Hout Bay Main Road (north) and the northern edge of the existing dam on the Property (south), along which a 2,1m high solid brick wall will be erected. The reason for the solid brick wall is to ensure reciprocal privacy for both the owners of Erf R/2958 living on the Property and the future residents of the retirement village adjoining the latter. (For more information on the perimeter fencing / wall refer to the Landscape Plan in Annexure 'K' hereto).

The entire outside figure of the land development area will be secured by means of electrical fencing and CCTV-surveillance cameras. The applicant has indicated that more vulnerable fence sections would *ceteris paribus* be provided with a double security / electrical fence. (For more information on the security fencing system refer to the Electrical Engineering Service Report in Annexure 'P').

9.5 ENVIRONMENTALLY SENSITIVE CORRIDOR

9.5.1 Fencing

All fencing abutting or crossing the Bokkemanskloof River and its associated riverine corridor will receive special attention to ensure *inter alia*-

- that natural features would not be disturbed;
- visual permeability be retained;
- the continued migration of smaller animals not be inhibited; and
- the continued most-desirable sense of place be complemented / enhanced.

9.5.2 Pedestrian access and movement

Fencing in proximity of and / or within the riverine corridor shall make provision for pedestrian access by residents in the retirement village. The corridor is being regarded as a very important passive recreation and psychologically enhancing feature which will be dealt with with sensitivity and care.

As mentioned tentatively before, the developers of Oakhurst Lifestyle Estate and Oakbridge Estate are currently exploring the very real possibility of incorporating the latter into the security confines of the former, in which instance no internal fences between the two estates would need to be erected, affecting the riverine corridor.

9.6 MERIT OF SECURITY ESTATE

In this subsection of the memorandum the merit of the proposed enclosure and controlled access to the envisaged retirement village is discussed.

9.6.1 Vulnerability of residents

With future residents in the retirement village in the age group of 50 to 90+ years it follows that these individuals and families would generally no longer be at their physical peak and thus less adept at defending themselves against intruders with criminal intent. The more advanced in years the more reliant a person becomes on a safe and secure living environment.

9.6.2 Worldwide phenomenon

Compaction and densification policies and strategies globally acknowledge the existence and desirability of a variety of housing typologies, each suitable for a particular locality in a town or city. These furthermore confirm the need to protect and maintain unique or special residential neighbourhoods and to provide appropriate new housing developments as part of a range of choices available to inhabitants of the city.

The Hout Bay Upper Valley area is one such unique neighbourhood with high residential amenity which the present development proposal is

foreseen to complement while at the same time introducing a much desirable and highly compatible new housing typology to the area. These policies and strategies furthermore emphasise that developments should promote safety and security in an area through creation of defensible spaces.

Low-density residential developments usually serve families in the middle to upper socio-economic strata of the population as is the case for existing developments in the vicinity of the development site. These families have in the last decade increasingly become the target of housebreaking and entering, home invasions with dire physical and psychological consequences to individuals and families, driveway hijackings and many attacks and assaults. Children and older people have become the soft targets of hardened criminals, and should be protected with all means and methods available.

9.6.3 Right of admission / entry

Erven R/2224, R/2958 and R/8343 are at present privately owned and enjoyed. Neighbours and other members of the public thus do not have the right to enter these properties, save with the permission of the owners.

The forming of a private security estate on the development site will have a similar effect than the *status quo*, namely excluding people without ownership and / or a vested interest from entering the estate. Neighbours and other members of the public will therefore not be worse-off.

9.6.4 Absence of public assets / attractions

The current proposal is a developer-led initiative as opposed to a "retro-fit" initiative where a part of an existing neighbourhood with public roads and other community assets will be enclosed and gated. All proposed internal roadways will be privately held by the development company.

The development site does not host any important asset, whether it be a natural, cultural, historical, archaeological or other similar element / phenomenon / occurrence that warrant access to the general public to visit / enjoy / study. Even the Bokkemanskloof River and associated riverine corridor is not open to or available for enjoyment by the general public. With reference to the approval of a previous application for amendment of zoning conditions 5 and 13 the CCMM confirms in writing the following regarding the section of the Bokkemanskloof River traversing Erf R/2224:

"It is agreed with the applicant that the river is not significant enough to justify public access and that this could lead to unnecessary damage to the riverine area. The applicant argues that private ownership of the riverine

area will incentivise the applicant / developer and future owners to invest in its enhancement.”(Para 7.11, p638)

The official recommendation at the time to the Spatial Planning, Environment and Land Use Management Committee dated 08 June 2016 and finally approved on 04 August 2016, states the following reasons for same, viz:

- "* *The river is not significant enough to justify public access which could lead to unnecessary damage to the riverine area.*
- * ...
- * ...
- * *The proposal is not undesirable and does not impact on the existing rights, thus satisfying the approval requirements of the Land Use Planning Ordinance.”(Para 8, p639) (Own emphasis).*

This approval entails the amendment of a condition of zoning for the previously approved zoning of Subdivision Area and is completely relevant in the present circumstance.

Furthermore, since a similar application had been approved for retention of the Bokkemenskloof River corridor in private ownership for Erven 8343 (now Erf 10049), 2958 (now Erf R/2958) and the then Erf 8295 (since subdivided to form Erven R/8295 and 8627, Hout Bay), access to the riverine corridor on the development site would in any event not be possible from Hout Bay Main Road (or any other public road or place).

[ANNEXURE 'Q': APPROVAL OF AMENDMENT OF CONDITION LETTER DATED 08 JULY 2016]

9.6.5 Access to Table Mountain National Park

In as far as it may be argued that the creation of a private security estate on the subject properties might serve to deny members of the public access to the Table Mountain National Park in the vicinity of the Skoorsteenkop and Vlakkenberg mountain peaks, it should be noted that access to the Table Mountain National Park is strictly controlled, with no designated access points on Erf R/2224, Hout Bay.

It should furthermore be kept in mind that the ±9,9 hectare portion of Erf R/2224 situated above the 152m contour level defining the urban edge not yet covered by same, will be incorporated in the servitude area over the south-lying parts of Erf R/2224 subjected to a management contract with SANParks in terms of which it will be managed and maintained as conservation land.

The establishment of a private security estate to control access to the retirement village on the development site will thus not be responsible for denying the general public access to the mountainside and / or the Table Mountain National Park. The public already does not have free access to or over Erf R/2224 and in any event is SANParks on record denying the existence of any designated accesses to the Park over Erf R/2224, Hout Bay.

9.6.6 East / west road-links

The planning for development along Hout Bay Main Road has historically not provided for the implementation of a remote service road parallel to Hout Bay Main Road on both sides, as dictated by good planning principles. The reasons for the absence of such secondary supporting road system are elusive, but may be to some degree at least, ascribed to topographical challenges. There is thus no obligation on the applicant to in this instance, allow for such link-road through the development site, which confirms its suitability for private security estate purposes from this perspective.

Allowance has however been made in the planning layout for the future High Level Road traversing the subject property in an essentially east / northwestern-direction. This new road may well eventually serve a similar role as a conventional remote service road *vis-à-vis* Hout Bay Main Road. It will as such also to some degree serve an integration function to unify residential neighbourhoods east- and westwards of the development site. It is furthermore clear that the proposed security estate would be one of several similar residential estates and would by itself not serve to hamper social and physical integration of surrounding neighbourhoods.

9.6.7 Physical and social integration

The applicant is strongly opting for the inclusion of the adjoining Oakbridge Estate within the security and functional confines of the proposed Oakhurst Lifestyle Estate. The extension of the estate boundaries in this way would hold the advantage of binding together future residents in the two estates by a common vision for and utilization of the natural and other assets underpinning their lifestyle choice and will work together towards the protection and enhancement of same. A single *de facto* estate will induce enhanced physical and social integration through communications and interactions brought about by shared interests.

The combining of the two mentioned abutting estates in this way would see to the increased freedom of movement between the two coupled developments (i.e. better integration) and facilitation of access to and enjoyment by more families of the valuable open space assets on offer by the combined development sites.

9.6.8 Mono-functional suburb

Both private security estates will be exclusively residential in nature, without any higher-order non-residential land-use activities which may serve to attract members of the public to same, e.g. shopping facilities, offices, storage, etc.

9.6.9 Failure of State to protect citizens

The underlying *rationalé* for the increasing need / necessity for private security estates (both for residential and non-residential activities – e.g. corporate business parks) is due to the failure of the State to effectively and successfully protect its citizens. This has over time led to the emergence of an explosively growing private security industry, costing citizens over and above normal taxes being paid for such constitutional protection, a large proportion of their hard-earned income to implement measures to safeguard themselves and their families against criminal attacks.

Private security estates at least contribute to lesser spending on individual properties (e.g. alarm systems, excessive perimeter walls, electric fencing, etc.), since the entire estate will be protected similarly along its perimeter and access fully controlled at its entrances.

9.6.10 Community feel / integration

The applicant contends that the proposed private estate will lead to greater community cohesion and participation in social events by residents within the estate. Firstly will families not each be isolated on his / her own property, in lock-up behind walls and security equipment designed to keep people out, and secondly will there be ample opportunity for strollers, joggers and even cyclists to meet and greet and for nature lovers to congregate in the River corridor and enjoy the beauty of nature or do birdwatching and other leisure / passive recreation activities together.

Also, relationships and associations with family and friends will not be negatively affected by the private security estate since visitors will still be able to access the estate subject to prevailing security measures / requirements.

9.6.11 Livability, functionality and aesthetics

By comparing a private security estate with a conventional “open” neighbourhood it becomes evident that the former is much preferred over the latter for reasons of liveability, increased functionality and enhanced aesthetics:

- Private estates generally have a set of architect’s guidelines which has the purpose of influencing the design and layout, as well as landscaping (including street furniture) to ensure the best possible spatial milieu for human habitation.

- None of the accommodation units in the Oakhurst Lifestyle Estate will be fenced-in individually, save perhaps for the drying yard of free-standing dwelling-houses. This will create an openness and flow of space making a valuable contribution as place making measure in the estate.
- Architect's style and desired design standards, including the use of particular materials, colours and finishes, will contribute to a much better built environment than that for individual properties not subjected to same.
- The developer is committed to a particular architectural theme which will together with a landscape plan and environmental management programme see to the proper contextualizing of the proposed retirement village in relation to its surrounding milieu, e.g. blending / visual impact. The built environment component will therefore respond appropriately to the site characteristics and its environs.

9.6.12 Urban form and function

The proposed private security estate will not impede the existing or planned future form and function of this part of the city in the Hout Bay Upper Valley area. The site layout configuration and land-uses, as well as the connectivity of motorised as well as non-motorised transport in local and district context would be exactly the same, whether it be an enclosed security estate, or an open ordinary residential neighbourhood. This is mainly due to the fact that the development represents an "in-fill" situation where adjoining properties have for the most part been either fully developed or finally planned and approved for imminent development.

The scale of the development is also relatively modest, with little or no chance as such to affect urban form and function noticeably negatively.

9.6.13 Contextual contrast requirement

The Policy states as one important requirement for private security estates the following:

"Notwithstanding the provisions of any separate inclusionary housing policy, locating gated developments or areas in existing communities should avoid creating utter extremes of wealth next to each other, as this would only encourage higher and stronger enclosures. Rather a gentle grading of housing (and income) types would facilitate easier spatial integration"(p14)

The nearest very poor community is found in Imizamu Yethu, approximately two kilometres southwestwards along Hout Bay Main Road. The character of the area in the immediate vicinity of the development site has been described by the CCMM Department Planning and Building

Development Management in its approval letter for retention of the Bokkemanskloof River corridor in private ownership (refer Annexure 'Q'), as follows:

"Character of the Area and the surrounding Land Uses

The area is characterised as high income, suburban, residential area with large sized detached dwelling houses set on large erven, some of which are within secure estates. The area is further characterised by its close relationship to the surrounding mountains"(Para 7.1 p 637)

Although there are already other similar private security estates prevalent in the area, these are the minority in relation to other non-enclosed residential neighbourhoods, from which it is evident that the present enclosing proposal would not lead to a series of undesirable contiguous private security estates which may exert a negative influence on urban form and the prevailing built environment and its optimal functioning.

9.6.14 Other supporting matters

- The proposal at hand would not see any pedestrian or other "desire lines" affected / impeded. The site is a privately owned property without any such pre-existing traversing routes prevalent.
- There are no existing bulk engineering services that belong to the CCMM that would need to be accessed on a regular basis, e.g. water reservoir, sewer pump station or outfall works, etc. The only public engineering services present on the subject property is a Municipal bulk sewer-line along the east / northeastern boundary of the development site serving to collect and convey sewerage from the adjacent Blue Valley residential area. The sewer-line is protected by a servitude in favour of the Municipality, with access secured for maintenance by way of a condition registered against the property title.
- The proposed private security estate will not serve to compromise any existing public pedestrian / cycling and vehicular access to the area or any public facilities located within or in proximity to same.
- Although the population threshold of the proposed retirement village will be less than 250 dwelling-units, an additional alternative emergency escape route will be possible, due to two accesses being planned for implementation – one on Birch Street and another on Oakhurst Avenue.
- The access control facilities will *ceteris paribus* be manned 24/7 at at least one entrance to the estate.

For more information on the merit of the proposed security estate refer to Annexure 'R'.

[ANNEXURE 'R': FILLED-OUT GOOD PRACTICE GUIDELINE CHECKLIST FOR APPLICANTS]

9.7 SYNTHESIS

As demonstrated above, the proposed private security estate will be in substantial compliance with the City's official Gated Development Policy. Its impact on surrounding neighbourhoods will be negligible and neither will its establishment detract from the prevailing ambience and associated urban form and functionality of the area.

10. STATUTORY PLANNING FRAMEWORK: INSTITUTIONAL SUSTAINABILITY

This section of the memorandum relates to the institutional sustainability of the development project. It deals with appropriate policy and legislation on national, provincial and municipal level and gauges the contribution to, and compatibility of the proposed development project against the intent and provisions of these.

10.1 NATIONAL LEVEL

10.1.1 Constitution of Republic of South Africa, 1996 (Act 108 of 1996) ['the Constitution']

The provisions of the Constitution is in strong support of the present application. The following extracts serve to elucidate:

- * Section 26 : Housing
*"(1) Everyone has the right to have access to adequate housing.
(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the right".*

- * Section 152 : Objects of local government.
*"The objects of local government are –
(a) ...
(b) ...
(c) to promote social and economic development;
(d) to promote a safe and healthy environment".*

- * Section 153 : Developmental duties of municipalities.
*"A municipality must –
(a) structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and
(b) participate in national and provincial development programmes"*

- * Section 195 : Basic values and principles governing public administration.
*"Public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:
(a) ...
(b) Efficient, economic and effective use of resources must be promoted.
(c) Public administration must be development-orientated
(d) ...
(e) People's needs must be responded to ..."*

* Synthesis

It is clear from the extracts from the Constitution above that municipalities are *inter alia* tasked with and should use its best endeavours to ensure the following:

- i. Provision of housing in conjunction with national and provincial governments
- ii. Promote socio-economic development and a safe and healthy environment
- iii. Ensure the highest-and-best use of resources, including development land in response to the needs of people
- iv. Public administration must be development-orientated.

10.1.2 National Development Plan. Vision for 2030 (November 2011) [NDP]

In the foreword the chairperson of the National Planning Commission states the following:

"The National Development Plan is a plan for the country to eliminate poverty and reduce inequality by 2030 through uniting South Africans, unleashing the energies of its citizens, growing an inclusive economy, building capabilities, enhancing the capability of the state and leaders working together to solve complex problems"

This policy document addresses the purpose of the NDP through an in-depth discussion on certain objectives and actions to achieve its vision for transformation by 2030. The economy, environment, social upliftment and poverty alleviation are but some of the issues being discussed in detail, with the aim of transforming society and uniting the country.

Chapter 8 of the NDP titled "Transforming Human Settlement and National Space Economy" deserves mention. The need for transformation of historically inefficient and spatially unsustainable settlement patterns and the concomitant social upliftment and enhancement of disadvantaged and vulnerable, poor communities are the central theme and vision for the future. The necessity for well-functioning, aesthetically pleasing and liveable urban environments is of paramount importance. The provision of housing is but one component to contribute to a liveable community. The provision of public / social facilities are also essential for development.

The NDP reveals the shocking truth of a market where only 15 percent of households can provide housing for themselves without state assistance:

"Fifteen percent of households in South Africa have access to bond finance. Around 60 percent of households qualify for subsidised houses, leaving a group representing approximately 25 percent that does not qualify for a fully subsidised house, yet

does not earn enough to qualify for a bond. This segment is known as the gap in the housing market”(p 271).

It concludes that this state of affairs... *"points to market failure”*(p 271).

The need for the provision of housing in urban areas, especially those metropolitan areas sponsoring high levels of employment opportunities, is pointed out on page 266 where it is stated that by 2030 7,8 million more people will be living in South African cities and a further 6 million people by 2050, of which a large proportion will be poor. It is therefore especially the demand for social and gap housing, as well as the demand for rental housing that will be highest.

Housing policies have evolved over time since 1994 and are today propagating housing as an instrument for developing sustainable human settlements (p 268). Mixed-income, well-located projects offering a varied mix of housing types for both owner and rental markets are preferred for the low / medium income groups, compared to historic mono-functional housing projects. There is thus a need for a variety of housing typologies for different income groups, supported by schools, parks, shops, clinics and either job opportunities or appropriate public transport for easy commuting. The NDP emphasises the need for:-

"...developing quality environments for low-income communities supported by the necessary physical, social and environmental services”(p 270)

The huge (and growing) demand for affordable housing is confirmed by the National Planning Commission on page 272 as follows :

"The current housing programme is costly with an estimated R300 billion required to address the current 2.1 million backlog in housing units”.

The Commission finally laments the failure of municipalities on several levels to execute its developmental duties to provide housing for the poor. Examples are as follows:

"The development of new housing stock is severely constrained by failure of municipalities to provide bulk infrastructure proactively... The housing challenge is therefore closely related to the need to provide access to basic services”(p 272).

And

"Bureaucratic delays in approval of new development applications... increase the holding cost of land”(p 271).

The unfortunate consequence is an increase in the cost of the end-product in a market highly sensitive to price increases.

The scope of the vision and underpinning discussions in the NDP covers a wide, all-encompassing field of life, living and the achieving of a better life for all citizens of the country.

As will become evident when discussing the future planning policies for the Hout Bay area, the Upper Valley area has not been earmarked for high-density, mixed-use developments as required for social and gap housing initiatives. The environmental sensitivities of the area, roads and transportation issues, topographical constraints and prevailing sense of place are but some of the reasons for its designation as lower development densities / intensities. The present proposal is a private initiative with no appeals on the public sector for financial or other contributions, which could rather be directed to alleviating the housing needs of the poor.

10.1.3 Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) [SPLUMA]: Development principles

Certain "*overarching principles for spatial development*" identified in the NDP have been incorporated in Chapter 2, Section 7 of SPLUMA. The NDP on these states the following:

"All spatial development should conform to the following normative principles and should explicitly indicate how they would meet the requirements of these principles:

- * *Spatial justice...*
- * *Spatial sustainability...*
- * *Spatial resilience...*
- * *Spatial quality...*
- * *Spatial efficiency...* "(p 277)

These have been adapted somewhat in Section 7 of SPLUMA, against which the present application has been assessed for its value and contribution to same.

(i) Principle 7(a): Spatial justice

This principle aims to redress historic spatial and other developmental imbalances through improved access to, and the use of land. It requires of municipalities the inclusion of previously marginalized persons and communities in its spatial development frameworks, policies, land-use schemes and land-use management systems through provisions that are flexible and appropriate and directed at land development procedures which include provisions to promote and facilitate access to secure tenure.

Accommodation units (i.e. dwelling-houses, apartments and rooms / suites in the care centre for assisted living and frail care) in the proposed retirement village will be open to anyone to purchase a "life right" in same and in all the supplementary uses on offer in the development complex. There will therefore be no restriction on access to acquire occupation rights and utilization of the land in question.

(ii) Principle 7(b): Spatial sustainability

The principle of spatial sustainability requires that land development be within the fiscal, institutional and administrative means of the Republic, that prime and unique agricultural land be protected, that land-use activities consistently meet the requirements of environmental sustainability, that free and open market competition be stimulated, that the cost of the provision of infrastructure and social services be considered, urban sprawl be curtailed and that development locations and future communities in same be sustainable and viable.

Measured against the different elements responsible for spatial sustainability, the proposed new retirement village on the subject properties will comply as follows:

- The additional loads imposed on bulk engineering services of the Municipality will be made good / neutralized by the development charges to be paid by the applicant for each service as applicable, which will serve to ensure that the development is within the fiscal, institutional and administrative means of the Municipality as representative body substituting the 'Republic'.
- The proposed development will not cause valuable or unique agricultural land to be stymied. At the time of a previous application for rezoning to Subdivisional Area in the 1990's, Erf R/2224 was determined to have low agricultural potential. The development site is also too small for commercial farming purposes and surrounded by middle- to up-market residential developments which may be adversely affected by e.g. cattle farming or horse breeding due to foul odours, flies, etc.
- The development of the site will furthermore be sustainable from an environmental perspective, as proved by the environmental authorization issued by the Western Cape Department Environmental Affairs & Development Planning (DEA & DP) for a residential development on Erf R/8343 and Erf R/2224 on 21 October 2021. The authorization is presently in process of being amended to include a part of Erf R/2958 in the development project and with regards to the development concept (i.e. retirement village) being pursued.

- The increase in the retirement unit offering in the market segment of the population older than 50 years of age will serve to stimulate competition, which usually leads to better prices in the market place for end-user families. The proposed new development will therefore serve to stimulate the effective and equitable functioning of this niche market. This principle will be further bolstered by the offering of a varied housing typology in the area compared to the prevailing residential uses comprising predominantly single dwellings on individual stands.
- The development of the subject properties will constitute “infill” development within the official urban edge. The Properties are surrounded by other formal residential developments to its east, west and southwest and have been earmarked in the City’s forward planning policies for residential development purposes. The development site in the Upper Valley area of Hout Bay therefore constitutes a sustainable locality which would serve the principle of “inward” planning as opposed to horizontal expansion on the urban periphery leading to undesirable urban sprawl.
- The engineering services reports serving to inform the present application confirm the availability of services to the project. The utilization of these available Municipal services will therefore not be availed to the applicant at a cost to any other party.
- The sustainability principle is furthermore served by creating of a viable community in the estate, with shared interests, companionship and uplifting social mingling / interaction.

(iii) Principle 7(c): Efficiency

The principle of efficiency requires that the use of existing resources and infrastructure be optimised, that decision-making procedures be designed to minimise negative financial, social, economic and environmental impacts and that land development application processes be streamlined, speedy and efficient.

The development proposal no doubt represents the optimal utilization of land as a resource, and infrastructure, as evidenced by the draft site plan discussed earlier. The environment as a natural resource has received priority attention in the preceding planning process having had a major influence of the part of the Property to be developed. The built environment component and natural environment component have both been optimized and serve here as two sides of the same coin. The inter-dependency between these components has led to an efficient and sustainable development proposal.

Developers *per se* are obliged by the nature of property development and the sizeable capital requirements of same to undertake the

planning and implementation processes with caution and the highest levels of efficiency. Once submitted to the CCMM for consideration and approval, the efficiency requirement is transferred to the authorities who should see to the efficient and expeditious processing of the land development application.

(iv) Principle 7(d): Spatial resilience

This all-important and very pertinent development principle reads as follows:

"...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" (SPLUMA, p18).

This principle requires the CCMM to formulate its forward planning plans and policies with sufficient flexibility to accommodate the needs of more disadvantaged communities. The principle does not find application here.

(v) Principle 7(e): Good administration

The applicant subscribes to the principle, and will do its best to assist / facilitate good public sector administration. It appears from the hierarchy of official plans and policies applicable to the present situation that a high level of co-operative governance is already being achieved.

10.2 PROVINCIAL LEVEL

10.2.1 Western Cape Land Use Planning Act, 2014 (Act 3 of 2014)

The Land Use Planning Principles provided for in Chapter VI, Section 58 of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) ["LUPA"] are to a large degree similar to the Development Principles provided for in Chapter 2, Section 7 of the SPLUMA rendering our discussion under Para 10.2.3 *supra mutatis mutandis* applicable here. LUPA addresses the following principles, *viz*-

- Spatial justice
- Spatial sustainability
- Efficiency
- Good administration
- Spatial resilience

The following additional matters were found in LUPA under the principle of sustainability:

"(2)(a) Land use planning should-

- (i) promote land development that is spatially compact, resource frugal and..."*
 - (ii) – (vii) ...*
 - (viii) strive to ensure that the basic needs of all citizens are met in an affordable way*
- (b) the sustained protection of the environment should be ensured by having regard to the following:*
- (i) natural habitat, ecological corridors and areas with high biodiversity importance;*
 - (ii) ...*
 - (iii) areas unsuitable for development, including flood plains, steep slopes, wetlands and areas with a high water table and landscapes and natural features of cultural significance;*
- (c) climate change adaptation and climate change mitigation strategies should be developed and considered in land use planning;..."*

Measured against these principles it is evident that the development proposal here being put forward would go a long way towards serving these principles. The following deserve mention:

- The development site is situated within the urban edge and will be developed as intensely as permissible in spatial context. This would serve the principle of a spatially compact city.
- The present application was preceded by a comprehensive environmental site sensitivity analysis which served to inform the development proposal on various levels. The resultant site layout, zoning and subdivision are all based on the findings of the site assessment in terms of which the Bokkemenskloof River ecological corridor with associated flood plains were identified, demarcated and set aside for protection / conservation.
- With cognisance to climate change and the frugal use of resources the applicant is committed to "off-grid" energy solutions, including solar and gas heating. On stormwater run-off / discharge the developer furthermore will employ sustainable drainage systems (SuDs) like attenuation / retention ponds, permeable paving, etc. Water resource management will in turn include harvesting of rain water from the roofs of buildings in the retirement village.
- The development will not encroach on the flood plains of the Bokkemenskloof River as defined by the 1:100-year flood-lines, and will therefore be safe and not susceptible to flooding during exceptional rainfall occurrences.

10.2.2 Western Cape Provincial Spatial Development Framework, 2014 (“PSDF”)

- The PDSF prepared by the DEA & DP in collaboration with various role players and the public serves to provide guidance on the vision for the Province and the spatial direction for socio-economic growth and development. The fact that the PSDF has been informed by a variety of National and Provincial policies, plans, strategies and frameworks negates the necessity for addressing these individually in this memorandum. Examples include the National Development Plan, OneCape 2040, Western Cape Infrastructure Framework, Western Cape Provincial Land Transport Framework and Western Cape Green Economy Strategic Framework. The PSDF is thus fully aligned with these, and it has been noted that all the Municipal policies, plans and frameworks discussed in the memorandum are in turn fully aligned with the PSDF.
- As a Provincial policy framework the PSDF covers all other cities, towns and villages in the Western Cape, as well as the rural areas outside the urban edge of each of these. The City of Cape Town is however the main development centre where people tend to be drawn to and congregate for various reasons. One such draw card is the cultural and scenic landscapes comprising monumental mountain ranges together with the pristine coastline and beaches representing significant assets at the base of the tourism industry. Of late these very scenic and quality-of-life natural assets have served to increasingly cause individuals and families to “semigrate” from other provinces to the Western Cape, and notably to Cape Town itself, reestablishing their home base locally while continuing to work long-distance from here. In parallel to this phenomenon and for similar reasons people have over many years already elected to retire in Cape Town following a productive economically active lifetime in Gauteng or elsewhere. The proposed retirement village in Hout Bay will serve to accommodate those “semigrants” over the age of 50 still economically active as well as the *bona fide* retirees wishing to exploit this unique and most satisfying lifestyle offering of the Cape.
- The guiding principles of spatial justice, sustainability & resilience, spatial efficiency, accessibility and quality & liveability served to inform the PSDF – similar to the guiding principles in the NDP, SPLUMA and LUPA. The guiding role provided by these development principles is imperative due to prevailing and on-going urban development inefficiencies persisting even after decades of the dawn of the new democracy. Urban sprawl propelled by mono-functional dormitory towns inhabited by the poor and vulnerable with concomitant high cost of commuting to / from places of employment, education, health services and other opportunities in the City form the essence of the spatial inefficiencies and exorbitant cost of living for the poor.

- Transforming these sprawling dormitory towns to integrated human settlements is a most challenging aim that would take a long time to achieve. By linking land-use planning to public transport initiatives and promoting mixed-use developments in pre-selected, targeted localities with promise of the best results in the shortest term, the PSDF envisages to turn cities / towns / villages into spatially sustainable and more vibrant, liveable entities. Compaction through intensification and densification as a "smart growth" initiative is therefore promoted by the PSDF. The following excerpt serves to confirm:

"Promoting an urban rather than suburban approach to settlement development (i.e. diversification, integration and intensification of land uses)"(p33).

- * Also on its "spatial agenda" the PSDF promotes the following intents which serve to support the proposed retirement village in Hout Bay fully if measured against same, viz:
 - *"Safeguarding and celebrating the Western Cape's unique cultural, scenic and coastal resources, on which the tourism depends.*
 - *Safeguarding the biodiversity network and functionality of ecosystem services, a prerequisite for a sustainable future"* (p33).

The PSDF propagates better protection for these natural assets and the applicant contends the preservation / conservation of same can be better achieved by allowing development in relation to same whereby developers will be obliged to protect the environment legally and to industry standards through mechanisms like an Environmental Management Plan.

- Natural resources, the space economy and human settlement planning & development form three so-called spatial themes of the PSDF not here being discussed in detail, save for certain relevant excerpts alluded to below as relating to the present land development proposal.
- On the matter of landscape and scenic assets the proposed new retirement village as it was guided and informed by the natural characteristics of the development site to ensure an optimized symbiotic relationship with future inhabitants, relates to the following extracts from the PSDF:

"In terms of landscape setting, maintain the role of the natural landscape as a 'container' within which settlements are

embedded, the landscape providing the dominant setting or backdrop”(p55).

and

“A strong sense of place and quality environments at all scales is increasingly recognized as an essential dimension of sustainable settlement”(p74).

- The PSDF laments the low average development densities in cities of the Western Cape and promotes much higher residential densities and non-residential intensities in acknowledged nodes and areas, notably those being served or planned to be served by public transport. Mixed-use developments in a relatively confined / compact space provide opportunity for much preferred NMT options. Spatial targeting of priority areas for such “smart growth” development will see to increased urban efficiencies, much deserved relief for the less well-off and increased liveability and sustainability of the City as human settlement.
- Synthesis: As evident from subsections to follow the PSDF has laid the foundation for the spatial approach of the City of Cape Town as reflected, elaborated on and refined in more detail in the Municipal Spatial Development Framework and Southern District Plan for Hout Bay. Although very small-scale / high level the PSDF indeed supports the development proposal at hand and it could be safely stated that the proposed new retirement village on the subject properties does not militate against the provisions of this Provincial policy framework.

10.3 MUNICIPAL LEVEL

10.3.1 Five-year Integrated Development Plan July 2017 – June 2022 (as amended for 2021/22) [“IDP”]

- The IDP serves as instrument for developmentally oriented planning and development in the City towards achieving the vision of the City which includes... *“to be an opportunity city that creates an enabling environment for economic growth and job creation...”*(p6).
- The IDP consists of a strategic plan (longer term vision, priorities and narrative) and an implementation plan focusing on key strategic programmes, projects and initiatives to achieve the priorities.
- It is confirmed that-
*“Cape Town’s population has continued to grow at 1,7% and due to the level of service access and economic opportunities, the city has proven to be a **choice destination for residents from across the country**”*(p24) (own emphasis).

- On the ageing population of Cape Town and the need to cater for these families / individuals the IDP confirms the following:

"The Western Cape, of which Cape Town has the largest population, had the country's highest average life expectancy at birth (estimated at 68 years for the period 2016 to 2021). People are living longer and healthier lives, thus increasing the proportion of ageing residents in the city.

*Projections suggest that Cape Town's population is ageing: While, in 2018, 6% of the city's population were 65 years and older, this figure is projected to increase to 6,60% by 2021. At the same time, population ageing and urbanization can be considered the culmination of successful human development. The increase in post-retirement aged residents presents the City with the opportunity to put in place facilities that bring together and draw on the skill sets of people of diverse demographic profiles, who can assist with advancing the City's social cohesion and integrated economic growth objectives. The social impact of an ageing population is a complex issue, which needs to be considered well in advance. The implications for the City of Cape Town are wide-ranging. These include loss of skills (and opportunity for younger workers), **new housing** and transport **needs**, a reduction in the potential rates-paying base, a greater need for elderly support and care services, as well as other City organizational adjustments. Urban design and service delivery will need to consider **how best to plan for the needs of multi-generational communities and create urban environments where elderly residents can live healthier longer lives**" (p26) (own emphasis).*

- Five Strategic Focus Areas (SFAs) to achieve the City's vision have been identified in the IDP, viz-
 - The opportunity city
 - The safe city
 - The caring city
 - The inclusive city
 - The well-run city (p44)

The City has identified 11 priorities to accelerate the five SFA outcomes, discussed in detail on pp 45 to 55 of the IDP. Some of these include safe communities, dense and transit-oriented urban growth and development and building integrated communities.

- The Municipal Spatial Development Framework for the City of Cape Town ("MSDF") forms an integral part of the IDP, with the purpose of translating the vision and strategy of the City's IDP into a desired spatial form for the Municipality. It should serve to guide and inform

public and private investment decisions to achieve long term growth and transform the City into an inclusive and efficient spatial form and structure (p71).

- The MSDF is discussed in more detail in Para 10.3.2 *infra*, but note should be taken of the three Spatial Priorities for the City as identified and discussed in the IDP (pp 72 – 74), *viz*:
 - Spatial Priority 1 : Build an inclusive, integrated, vibrant city.
 - Spatial Priority 2 : Manage urban growth and create a balance between urban development and environmental protection.
 - Spatial Priority 3 : Plan for employment and improve accessibility and access to economic opportunities.

All three these priorities will indeed be served by the proposed new retirement village. It will provide a different housing typology serving a growing retirement market, being a social facility, available to all race groups, genders, etc. in a nature-based environment where a perfect balance is being created between urban development and environmental protection. The project will furthermore create various employment opportunities – both during the construction and operational phase – of a quality nature.

- The implementation plan of the IDP states 11 objectives to achieve based on the 11 priorities from the strategic plan. Several projects and programmes are identified that do not relate directly to the proposed development of the retirement centre. An important programme is the provision of housing, and how it could become an instrument of spatial transformation in Transit Oriented Developments (“TODs”) and Corridor Development, in conjunction with mass public transport (bus & rail). Resultant high-density mixed-use developments in spatially targeted precincts with allowance for ample public space for e.g. recreation are foreseen to be the panacea for solving the present inefficient and unsustainable urban form and structure.
- The IDP acknowledges the existence of low / medium density residential neighbourhoods and the need for these to be maintained for its character and contextual characteristics (e.g. sense of place), like the Upper Valley area of Hout Bay. The following extract serves to elucidate:

"- incremental growth and consolidation areas where the City is committed to servicing existing communities and new developments, subject to

capacity;”(p136)

- The Upper Valley area of Hout Bay falls outside the mainstream programmes of the IDP in respect of intense densification. Hout Bay Main Road is not a development corridor and physiographic constraints serve to inhibit an expanded secondary public road network in the area. Add to this the exquisite prevailing natural landscape and it can be understood why the area has been designated for only incremental densification and consolidation.
- Assessed in context of the IDP priorities / programmes / projects it is clear that the proposed new retirement village on the subject properties would not compete against these for public funding / investment, available infrastructural services and the like. It is a private initiative / endeavour which will contribute to public requirements of engineering services through development contributions and / or direct improvements to infrastructural services to mitigate / neutralize its envisaged impact on same.

10.3.2 City of Cape Town Municipal Spatial Development Framework, 2018 (“MSDF”)

- The MSDF sets out the spatial vision and development priorities as interpretation of the City’s IDP. It strives towards a more compact urban form and function focused on inward growth and development to counter rampant historic sprawl on the urban periphery. This inward spatial transformation strategy intended to increase urban efficiency and spatial sustainability is based on targeted investment in -

“... transit-oriented development: land use intensification (namely diversification and densification) in and around the corridors, nodal points and transit precincts serviced by an existing and future public transportation network and a prioritisation of development and investment to support this approach”(p15)

This spatial transformation approach takes place against the background of the current development phase of Cape Town -

“... characterized by demographic and spatial consolidation within the context of low growth forecast for the global economy”(p xi).

- Four Spatial Transformation Areas underpin the growth management strategy of the City, *viz*:
 - Urban Inner Core
 - Incremental Growth & Consolidation Areas
 - Discouraged Growth Areas

- Critical Nature Asset Areas

The MSDF identifies a fifth Spatial Transformation Area category of Unique Cases, including areas of priority not included in the four areas listed above, e.g. Atlantis, Paardevlei (p47).

Growth and development to be directed (or discouraged) to these transformation areas through prioritisation of public investment and incentivised private sector investment – with primary focus on the Urban Inner Core of the City (p xiii).

- The proposed new retirement village in Hout Bay in terms of the four Spatial Transformation Areas resorts under Incremental Growth & Consolidation Areas, which are-

"... areas where the City is committed to servicing existing communities and where new development will be subject to infrastructure capacity" (p xiii).

- On where spatial planning should focus the MSDF confirms strategies and policies to emphasize-

- "- *Intensification of land use (diversity and density) within the existing urban footprint.*
- *Inward growth optimizing existing infrastructure and viable public transport" (p7).*

It furthermore emphasises *inter alia* the protection of biophysical assets and infrastructure, resource and energy efficiency and sustainability, risk management and precautionary buffers informed by specialist studies (p7).

- On biophysical assets the following excerpt from the MSDF serves to support the present land development proposal:

"An imperative is the functional integrity and connectivity of ecosystems to facilitate easy movement of fauna and growth of flora.

Urban development must respect the presence, role and function of natural assets, develop in a complementary manner making the most of the possible benefits residents and visitors can derive from them" (p17).

The proposed retirement village will serve to complement the natural environment manifesting *in loco* as the Bokkemansloof River and its associated riverine corridor. The prevailing ecological system will continue to function as before, with full connectivity southwards

towards the Drakenstein Mountain Range (and protected Table Mountain National Park) and northwards towards the Disa River and its riverine corridor.

- A range of housing and accommodation typologies is being promoted in the MSDF (p23), which would serve to provide choice and variety of tenure options on a wide affordability spectrum. This is especially important in mono-functional, low-density residential areas to break the monotony and enrich the urban landscape for a quality living experience of residents.
- Importantly Hout Bay, including the Upper Valley area, has been earmarked as so-called "Consolidation Area" (refer MSDF Maps 4, 5d pp 49, 71), with table 3, confirming the following on Incremental Growth & Consolidation Areas:
 - Principle: City committed to serving existing communities. New developments subject to available engineering services capacity.
 - Informant: Existing built footprint, subject to *inter alia* infrastructure master planning.
 - Desired spatial outcomes: Current social infrastructure backlogs, etc. addressed; diversification of mono-use residential patterns; incremental intensification (density & diversity); development according to infrastructure capacity (p51).

The proposed new retirement village is indeed positioned within the existing built footprint (i.e. infill development within the urban edge) and will serve to expand the range of social infrastructure locally, provide diversification in residential typologies and be serviced as a private / public partnership from existing available infrastructure capacities, with marginal extensions / upgrades financed through development charges (refer table 4 in MSDF re Investment Partnerships for Spatial Transformation).

- The MSDF furthermore determines that City-wide incremental densification be permitted on areas zoned Single Residential, with density guideline of-

"Second dwellings as of right, as well as other forms of development, provided no external departures are required.

Subject to engineering services capacity clearances”(p79).

- **Synthesis:** As evident from the discussion in the preceding subsection the proposed new retirement village on the subject properties will be fully commensurate with the MSDF guidelines, including the following:
 - Located in a “Consolidation Area” where land-use intensity (i.e. diversity & density) should be increased;
 - Located in an “Incremental Growth & Consolidation Area” Spatial Transformation Area where the City will provide infrastructural services to new developments in line with the MSDF, available capacity permitting.
 - Retaining of integrity of existing ecosystems for fauna & flora on site and mutually beneficial and sustainable relationship between natural and built environment components.
 - A new housing / accommodation typology to be introduced to the area as promoted.
 - Provision of a new “social facility” being the retirement village to the area thereby expanding the existing range.
 - Development density commensurate with MSDF determinants.

10.3.3 District spatial development framework: Southern District Plan, 2012.

The City of Cape Town Municipal Planning Bylaw, 2015 (Revised 2019) (as amended) provides in Chapter 3: Spatial Planning – Part 3 for District Spatial Development Frameworks, and in Schedule 1 to same adopts certain existing structure plans at the time as deemed District Spatial Development Frameworks. The Southern District Plan: Technical Report, 2012 (“SDP”) is one report adopted in this way. In the balance of this subsection the Southern District Plan: Technical Report is discussed in as far as serving to guide and inform spatial planning on a more detailed level than the MSDF for the Hout Bay area.

- The SDP, based on the previous Cape Town Spatial Development Framework informs three key spatial strategies on a more detailed level, *viz:*
 - Strategy 1 : Plan for employment and improve access to economic opportunities
 - Strategy 2 : Manage urban growth and create a balance between urban development and environmental protection
 - Strategy 3 : Build an inclusive, integrated and vibrant City.

Strategy 2 is especially applicable and the applicant has gone to great lengths to ensure environmental and spatial sustainability through

protection of the natural environment and creation of an appropriate interface with same for maximum appreciation and visual enjoyment by future residents in the retirement village.

- In furtherance of *inter alia* environmental protection the SDP recommends the following:

"Assist with this protection of environmental and economic value by guiding new urban development towards appropriate infill areas..."

and

"Urban development must respect the presence, role and function of natural assets, and should make the most of the possible benefits residents and visitors can derive from them" (p35).

It elaborates on infill areas as the preferred way for development to take place as follows:

"Those undeveloped areas within the urban edge which are suitable for urban development should be identified for such. These could in general be developed at slightly higher densities than their surrounding areas in support of a more compact city, but not to the detriment of the local area" (p43).

The development site clearly represents such infill situation, being surrounded by other approved and / or developed residential neighbourhoods and estates and located within the existing urban footprint and development edge.

- The subject properties are clearly indicated as being located within the prevailing official urban edge for the Upper Valley area of Hout Bay.
- The SDP furthermore promotes a mix of residential typologies in the same area – a principle pursued by many future planning policies countrywide – as evident from the following extract:

"Support and facilitate the creation of environments that accommodate a mix of residential types and also, in well located areas, a range of income levels" (p40).

The proposed retirement village will sponsor various residential typologies, ranging from conventional dwelling-houses to apartments, to suites / rooms in an assisted living care centre.

- In further elaboration on the encouragement of a varied housing typology, the SDP states the following:

"All areas within the district are, and will continue to be, subject to a degree of change. The change in some areas can occur without altering the character of an area, whereas other areas, particularly within activity corridors, can be subject to significant change in which the character of an area can change significantly. The need to move away from blueprint planning and to allow diversity within areas is acknowledged" (p46).

The SDP also confirms the following, which relates to the availability of engineering services:

"Support the incremental densification over time of urban areas where appropriate. This should be guided by available infrastructure capacity, neighbourhood density and character, proximity to job opportunities and social facilities and access to public transport. These are especially important considerations in the district's isolated urban enclaves of Hout Bay and the 'Far South'" (p51).

- Hout Bay Main Road is described as a scenic route, but has not been gazetted as an official scenic drive.
- On the future High Level Road, referred to as the Hout Bay by-pass the SDP confirms that its implementation is a medium to long term vision, to be preceded by a comprehensive EIA, which would present various serious challenges like the crossing of highly sensitive natural elements and the considering of alternatives (pp 97, 99).
- The establishment of an area-wide open space network is one of the key objectives of the SDP, requiring various interventions (p101). The following extract serves to elucidate with the Bokkemanskloof River and its riverine corridor as well as the stormwater detention ponds being planned on the development site in mind:

"Greater attention generally needs to be given to improving the lower reaches of most riverine systems to ensure that they function hydrologically and ecologically as well as do their upper reaches currently. This includes in some areas providing further detention pond facilities along their lengths, de-canalising, removing alien vegetation, and introducing natural vegetation filtering where possible, as well as other modifications which would not compromise the hydraulics and improve the ecology, and introducing more restrictive future re-development building line setbacks. It also includes ensuring the redevelopments and

new developments maximize their on-site water infiltration permeability and minimize run-off"

Also in support of the open space utilization on the development site, is the following guideline:

"Open space improvements, such as pedestrian pathways and low impact recreation facilities like playground facilities, should also be promoted to maximize linear linkage and public utilization"(p101).

- Five different "sub-district geographical areas" have been identified in the SDP, in which distinctly appropriate visions for future spatial development apply (p117). Hout Bay and Llandudno represent one of the five (i.e. Sub-district 1). The following extracts explain certain pertinent objectives and development guidelines as applicable to Hout Bay:

- * **Vision Statement:** *"An urban valley area renowned for its natural and cultural beauty, with a well-defined and protected natural environment, and recognised for its distinct semi-isolated valley sense of place and living experiences within the metropolitan region, vibrant tourism and service orientated economy, and with world class natural amenity and historical heritage areas accessible to all city inhabitants"(p120).*

- * *"Within the broader vision for the Southern District the vision for this area is that of a unique 'valley enclave' urban environment based on development closely attuned to the environmental opportunities available and constraints affecting it"(p101)*

- * *Growth is to be closely aligned with available and adequate supporting infrastructure and service provision"(p101).*

- * *"Whilst the vision anticipates some future growth in the area, this is not an identified growth area of the city"(p101).*

- * *"The provision of a wider variety of urban forms and residential opportunities within the identified future growth area, to which an increasing range of people can have access, is encouraged"(p101).*

- * *"The vision strongly encourages bona fide, low impact, working from home practices with larger scale businesses operating within the village nodes"(p101).*

On this matter, working from home has received a major impetus from the Covid-19 pandemic, and has in the last two years become a widely accepted norm in society. Although not wholly applicable to a

retirement centre, it should be kept in mind that the inhabitant's of same would be in the age-range of 50 to 90+, with a high probability of a sizeable proportion between 50 and (say) 70 years of age still economically active. It is for this reason that the developer has committed to a high-speed fibre-based internet installation in the retirement village, to facilitate work-from-home for individuals so inclined.

- And finally as drawn from the SDP the following contextual observation and guideline:

"There are therefore limited urban infill opportunities overall, and in particular very few opportunities for larger greenfields 'economies of scale' developments. Not only are these sites few in number and small in size, but most are located within low density high income areas. This has implications for development options, the development process, and residential integration" (P118);

and, as also promoted in the MSDF –

"... the development of vacant sites, if suitable for urban development, should generally be at higher density than that of existing surrounding developed areas. This should, however, be site specific and appropriate to the locational opportunities and constraints"(p118).

- Synthesis: It is clear from the various extracts and other confirmations in the Southern District Plan generally, and as applicable to Hout Bay, that the development proposal on the subject properties is substantially commensurate with the provisions of this forward planning policy adopted by the CCMM for the particular area. There is only a very small part of the development site being regarded as inconsistent with the SDP, having an Open Space designation. This has led to the motivation of a partial deviation from the SDP for which a separate addendum to the town planning memorandum had been prepared to form part of the present land development application.

10.3.4 Cape Town Densification Policy

- This policy adopted by CCMM on 29 February 2012 and subsequently used to inform other policies, strategies and frameworks for the City provides guidelines for sensible densification of different parts of the City to ensure achievement of its target of an average or gross base density of 25 dwelling-units per hectare within 20 to 30 years of approving the policy (pp8, 10).
- For "infill" sites like the one here under consideration the policy directs as follows:

"The development of these sites should be guided by the decision-making framework, and should ideally be at a higher density than the adjacent properties"(p11).

Also applicable to some extent to the present circumstance is the following extract:

"Greenfields developments within the urban edge, and more specifically adjacent to existing urban development: The development and zoning of these areas should be guided by the targeted average gross base density and the decision-making framework"(p11).

- * It should be noted that land-uses like a retirement village, boarding house, social housing, student accommodation establishment, hostels and the like are not subject to conventional densification guidelines due to its nature and composition. This is an acknowledged principle in metropolitan cities countrywide where the "density" of these development projects are rather assessed on the basis of scale, positioning, configuration architectural style / design, proximity to places of education (for student accommodation), open space and public transport (as applicable), and more. Of importance with regards to retirement villages are the following basic requirements:
 - proximity to neighbours: Short walking (or shouting) distance in an emergency. Also important for reciprocal "surveillance" while looking out for each other's welfare.
 - smaller units more closely positioned relinquish more usable space for more units.
- * On the matter of surrounding land-uses the policy on densification provides as follows:

"The general land use character of an area is important when considering the suitability of higher-density development. Urban areas (existing or planned) characterized by a diverse land use mix (including different types of residential development) and a fine built grain of development are best suited as locations for higher densities. If an area is solely single-dwelling residential, greater attention needs to be given to the height and form of new developments than where flats and other forms of mixed land use development already exist. Townhouses or low-rise flats can be highly compatible within a single-dwelling residential area. Higher-density residential development is not particularly appropriate in predominantly industrial areas, where amenity and general living are negatively affected"(p16).

It has already been determined that the abutting Blue Valley township sponsoring single residential dwellings has been developed at a noticeably higher development density than most other low-density residential developments in the Upper Valley area of Hout Bay.

- * And finally, as also applicable here, the policy determines the following with regards to the natural environment:

"Higher-density forms of development should not have a negative impact on the landscape and scenic aspects of the surrounding natural environment, or on the operation of natural systems. The location, orientation, scale, height and design of higher-density development in scenic and sensitive landscapes should therefore be carefully considered to ensure that densification-related applications do not have a negative impact on the surrounding natural environment. For example, in locations abutting productive agricultural areas, lower-density forms of development may provide a more appropriate rural-urban interface and may reduce negative impacts such as crime and theft"(p16).

- * **Synthesis:** The development proposal on the development site had been preceded by an extensive assessment of the natural environment, as well as the contextual environment in which the development would take place. It was concluded that the development and natural attributes of the site will complement each other while preserving / conserving nature as a valuable asset for the development project. The development proposal will also not serve to detract from the overall general built form and character of the area. It will furthermore be softened by appropriate landscaping and not serve to create unacceptable privacy and / or overshadowing problems for neighbours to the development site.

10.3.5 City of Cape Town Municipal Planning Bylaw, 2015 (Revised 2019) (as amended) ("Bylaw").

This subsection of the memorandum should be read with Para 10.3.4 above discussing the Cape Town Densification Policy.

The City of Cape Town Development Management Scheme ("DMS") in Item 181 – Specific Provisions: Hout Bay Local Area (LAO 11) determines in sub-item (2) as follows:

"No subdivision of land that is zoned Single Residential SR1 shall be permitted with an erf size of less than the minimum erf size specified in Plan LAO/11"(p175).

In terms of Plan LAO/11 the minimum erf-size for subdivisions of SR1-zoned properties essentially to the south of Hout Bay Main Road, including the development site, is 650m².

Overlay Zone Plan No LAO/11 was promulgated in the Western Cape Provincial Gazette on 22 June 2015.

[ANNEXURE 'S': OVERLAY ZONE LAO/11 & PROMULGATION NOTICE]

Thus, should the development site have been zoned for purposes of single residential dwelling-houses (i.e. Single Residential Zoning 1: Conventional Housing), proposed Erven 1 and 3 would theoretically be able to accommodate the following number of subdivided erven at the minimum erf-size of 650m² (refer figure 4 *supra*):

- * Erf 1 of Subdivisional Area: $3\,995\text{m}^2 \div 650 = 3$ erven
- * Erf 3 of Subdivisional Area: $45\,613\text{m}^2 \div 650 = 70$ erven

Therefore, a total of 73 single residential erven.

10.3.6 Cape Town Development Edges Policy: Urban and Coastal Edge

- The parts of Erven R/2224 and R/2958 as well as Erf R/8343 forming the development site are located well-within the official urban edge as determined by the City of Cape Town for the Upper Valley area. The position of the urban edge has been informed by certain historic land development approvals and a site plan approved on *inter alia* Erf R/2224, Hout Bay in the 1990's. Furthermore also by the average development edge on the eastern and western sides of the latter property. The area to the south of (i.e. outside) the urban edge is being regarded as of high conservation value not suitable for urban development and abuts the proclaimed Table Mountain Nature Reserve further south under control and management of SANParks.

The owners of Erf R/2224 have entered into a management agreement with SANParks in terms of which a servitude would be registered on the southern-most ±48 hectares of Erf R/2224 placing same under SANParks' control for future conservation purposes. The applicant envisages also relinquishing the balance of this property outside the urban edge for inclusion in the servitude area.

- The urban edge is one of a suite of management techniques available to the City to further the aims of the MSDF of a more compact city, limiting 'uncontrolled' horizontal urban expansion at the urban periphery with dire impacts on *inter alia* the functionality / efficiency and spatial sustainability of the City. It also, most importantly, serves

to prevent development on valuable conservation land and unique and / or high potential agricultural land.

- Although the City's development edges policy allows for a management zone in- and outside the urban edge, this will not be applicable here due to the physical distance between the southern edge of the development site and the actual urban edge.
- The policy requires low-intensity land-use activities in proximity to the urban edge for a non-intrusive visual transition outwards towards the urban edge.
- There is no contention about the geographical position of the official urban edge as over Erf R/2224. The exact position has been sourced for a previous land development application on the subject property from the City of Cape Town – Resource Management Branch and confirmed by the Project & Policy Support Division of the City's Spatial Planning & Urban Design Department at the time.
- It is clear from the Municipal urban edge policy that-
 - * land inside an urban edge can be developed right up to the urban edge
 - * a land-use buffer or low-intensity transition zone to be implemented along the edge to protect core conservation areas.
 - * land inside an urban edge may include *inter alia* open space (e.g. river corridor)
 - * a management / protection zone exists immediately within and immediately outside the urban edge
 - * alien vegetation infestation to be eradicated and fire breaks established outside the urban edge
 - * Urban densification and intensification in line with the City's Densification Strategy encouraged on the urban edge in the transition zone.
 - * Local open space systems inside the urban edge should be linked with the rural environment outside the urban edge.
 - * Low-intensity land-uses should be positioned along the urban edge to serve as buffer protecting conservation / farming areas from negative impact of urban development.
 - * A positive urban / rural interface can be created along the urban edge by employing appropriate building designs, materials, finishes, fencing and landscaping.

As mentioned, the area outside the urban edge will soon be entirely contracted to SANParks to assume responsibility for its conservation, management and care in future, including presumably the eradication of any remaining alien vegetation.

- Synthesis: The proposed retirement village on the development site is situated well-within the official urban edge, and will adhere to all requirements of the City's urban edges policy alluded to above.

10.3.7 Veldfire risk management

With cognisance to the City's veldfire related planning guidelines the following should be noted:

- A separate application for subdivision of the part of Erf R/2224 between the future High Level Road alignment (north) and the urban edge (south) to facilitate eight large SR1-zoned erven ranging between 0,55ha (smallest) and 3,80ha (biggest) is in process of being prepared to be lodged with the City shortly. This subdivision will extend up to the urban edge.
- Since this development will be higher-up against the mountain than the retirement village, it follows that the former would be required to address and make provision for the prevention of veldfires and for access to emergency vehicles to combat any veld fires which might originate against the mountain slopes.
- Not only will the subdivision layout make provision for 20m wide firebreaks on the south-boundary of future erven adjoining the urban edge, but also for proper vehicular access to this firebreak *via* Saffron Road from the east (Blue Valley neighbourhood).

10.4 SYNTHESIS

As evident from the assessment above and with cognisance to the positive alignment between official policies / plans / framework on National, Provincial and Municipal level it is evident that the development proposal is in line with the provisions of these and that as such it would constitute an institutionally sustainable development.

11. OTHER MATTERS OF MERIT

11.1 PRECEDING SECTIONS

Several matters serving to substantiate the merit of the application and underpinning development proposal have already been dealt with in preceding sections of the memorandum (and accompanying annexures) which are not repeated here again. It is therefore important for a full understanding of the merit that the entire memorandum be read and considered. Examples include the discussion on the state and impact of engineering services, flood-line determination and certification, transport considerations and impact assessment, various environmental and heritage issues / considerations and more.

11.2 CONTEXTUAL ENVIRONMENT & COMPATIBILITY WITH SURROUNDING USES

11.2.1 Land-use pattern

The development site finds itself wedged between a variety of mid- to up-scale residential developments, mostly with a low-density character. While some of these have been established and operating as private security estates (e.g. Oakwood Village in Grotto Way west / southwestwards), other represent the usual traditional neighbourhood variety (e.g. Tierboskloof westwards).

While development densities westwards are in general varying between 650m² and 1 000m² per erf, densities northwards are much lower towards the Disa River and environs. Properties here (i.e. to the north of Hout Bay Main Road) are generally 2 hectares and more in extent.

The Blue Valley development to the east between the subject property and Blue Valley Avenue has a much higher development density than anywhere else in the Upper Valley for single residential housing, with erf-sizes generally smaller than 500m².

Figure 10: Land-use Map (overleaf) reflects the *de facto* land-use distribution around the subject property as of date.

[FIGURE 10: LAND-USE MAP]

The development of abutting Erf 10049, Hout Bay to the west of the Bokkemenskloof River corridor is imminent. The subdivision has been approved and is still valid for the foreseeable future (Oakbridge Estate).

The predominantly residential area is interspersed with certain non-residential land-uses, complementary to the residential function. These include *inter alia* a small shopping facility (Oakhurst Farm Stall), restaurants, schools, guesthouses and more. Equestrian facilities occur northwards as well as several open space elements associated with various natural attributes.

The southern, southwestern and southeastern parts of the area in relation to the development site is characterized by the Constantia Mountain Range of which the prominent Skoorsteenkop and Vlakkenberg mountain peaks are outstanding landmarks. These are located to the west and east of the site respectively. Most of the mountainous area fall under the Table Mountain Nature Reserve and have been proclaimed for conservation purposes.

11.2.2 Area zoning

As clear from the Zoning Map for the area (overleaf) the predominant zoning of properties favours residential use and a variety of "green space" rights.

[FIGURE 11a, b & c: ZONING MAP]

The Zoning Map depicts the zoning of Erf R/2224 as being Single Residential 1: Conventional Housing up to the urban edge and beyond the latter as being Agricultural. Erven R/8343 and R/2958 are shown as being zoned Single Residential 1: Conventional Housing. It furthermore confirms the zoning of properties in the area to be largely consistent with the land-use activities on same. It however does not reflect approved use-rights obtained by way of consent-use, permission or departure approvals.

11.2.3 Applicant's vision

The applicant envisages the establishment and operating of an up-scale retirement village where like-minded families and individuals of 50 years and older can live in a safe and secure neighbourhood anchored in nature. The site has much to offer (and has in fact been selected for the intended purpose) in terms of natural attributes, and the built environment component will be designed and implemented to complement and respond to the natural environment and to maximize compatibility with the spatial context.

The Upper Valley area of Hout Bay with its countryside character and rustic ambience combined with the majestic backdrop of Skoorsteenskop and the peaceful tranquillity exuded by the Bokkemenskloof River flowing through the site, have together played a major role informing the desired "look and feel" of the proposed new retirement village. By employing appropriate architecture endemic to Cape Town and more specifically the Upper Valley area of Hout Bay, the envisaged outcome is foreseen to result in a well-appointed sought-after residential village serving to reinforce and enhance the prevailing character of both the immediate and the wider Upper Valley area.

The vision for the development project therefore acknowledges the prevailing sense of place of the built and natural environment and the cultural context which it will aim to conserve / preserve and strengthen, in compliance with policy objectives on both provincial and municipal level.

11.2.4 Blue Valley residential township

The Blue Valley township abutting the development site on the east / northeast plays an important role defining the surrounding context. It is a prominent feature on the landscape with a harsh visual impact which can be ascribed to *inter alia* its:-

- cross-contour design / layout;
- smaller than average (for the area) erven;
- lack of cohesion and blending through:-
 - a uniform architectural theme; and
 - appropriate materials and finishes, and (e.g.) earth-tone colouring; and
- stark protrusion into the rural area beyond the average urban development boundary.

A sizeable proportion of the erven in this township is smaller than the minimum extent of 650m² for single residential erven in the area. A detailed analysis of erf-sizes in the township has revealed the following significant findings:

- The average erf-size is 625,8m² in extent.
- The development density is 15,4 du/ha (gross).
- The ruling erf-size is a small 496m² (almost seventy percent (70%) of erven in the township is 496m² or smaller).
- By excluding the five biggest erven in the township, the average erf-size of the remaining 75 erven is 542,6m².

At a gross development density of 15,4 dwelling-units per hectare the Blue Valley township is much more dense than other developments in the area. This fact, as well as its locality high up against the mountain, contribute largely to the detrimental visual impact of this development on the surrounding landscape.

11.2.5 Impact on existing rights

Due to the nature of a retirement village the applicant contends that its impact on existing rights in the area would be much lower than most other residential land-use activities and that in this particular instance it would be negligible.

(1) Co-ordinated & harmonious

The proposed development has been planned / designed to form a co-ordinated whole internally, as well as externally in relation to adjoining uses. It will as such be consistent and in complete harmony with surrounding developments.

(2) Health

The residential function of the proposed retirement village poses no threat to the health of surrounding residents. It does not emit poisonous gases, foul odours, unacceptable noise levels or any similar activity that could be harmful to the health of residents in and around the development complex alike.

(3) Safety & good order

The retirement village will not host any activities which may have a negative impact on the safety and good order of surrounding neighbourhoods. It will accommodate people of 50+ years of age who prefer peace and quiet and a safe and secure environment.

(4) Amenity

With its roots in nature and the architectural style, materials and finishes finely attuned to the contextual milieu and the prevailing sense of place, the applicant contends that the proposed new development would make a valuable contribution to reinforcing and perpetuating the sought-after ambience of the Upper Valley area of Hout Bay.

(5) Convenience

It can not be imagined how the new retirement village on the subject properties could constitute an inconvenience to anyone in the vicinity. The project does not entail any road closures or deviations and roads will indeed be improved to ensure a better level of service through increased capacity – notably at the Hout Bay Main Road / Dorman Way intersection.

(6) General welfare

With the subject properties having been largely vacant and not put to its highest-and-best use for several decades, the certainty of a well-planned and well-executed development project with minimal externalities would serve the general welfare of the receiving community very well. The retirement village is seen to be highly compatible with uses in the area, with no negative impacts on the wellbeing and / or existing rights of neighbouring properties.

11.2.6 Sense of place

The Oak trees along Hout Bay Main Road and on parts of the development site are widely acknowledged for its place making qualities locally, which has prompted the developer to have all trees on site surveyed and plotted. This survey has served to inform both the draft site plan by the project architects as well as the landscape plan by the project landscape architects. Where Oak trees may perhaps be lost pursuant to the development, they will be replaced in strategic positions on the development site, to ensure retaining of this valuable asset and its contribution to the much desired character of the Oakhurst environment (refer Annexure 'K').

11.2.7 Height profile and visual impact

The proposed height-profile of buildings in the retirement village varying between single and double storeys holds the promise of a very interesting visual experience. It will serve to create variance as opposed to a monotonous single or double storey development over the entire site. The height-profile will furthermore be fully commensurate with that of surrounding developments.

With regards to visual impact it is important to note that the development will take place below (i.e. to the north of) the future High Level Road alignment, where the terrain is much less steep compared to the part of Erf R/2224 situated to the south of same. It will therefore not be unduly conspicuous from north-lying vantage points on e.g. Hout Bay Main Road.

The applicant therefore contends that the visual impact of the proposed development will compare favourably with any other residential development which could be considered for the development site, as well as with existing residential developments on neighbouring properties.

11.3 ENVIRONMENTAL CONSIDERATIONS

11.3.1 Historic authorization

- The Western Cape Department of Environmental Affairs and Development Planning ("DEA & DP") on 04 January 2016 issued authorization in terms of the Regulations, 2010 and 2014 to the National Environmental Management Act, 1998 (Act 107 of 1998)(as amended) ["NEMA"] for the implementation of a residential development on a portion of Erf 8343 and the Remainder of Erf 2224, Hout Bay. The decision was taken on appeal by certain interested / affected parties, which has led to the Ministry of Local Government, Environmental Affairs and Development Planning on 19 September 2016 dismissing the appeal and confirming the original decision with conditions imposed by DEA & DP on 04 January 2016.
- The following extract from the original environmental authorization letter dated 04 January 2016 confirms the approval for the following development related to the listed activities applied for:

"This Environmental Authorization is for the construction of a residential development on Portion A of Erf 8343 and the Remainder of Erf 2224, Hout Bay. The site is approximately 78.15ha in extent. However, it is important to note that the proposed residential development will cover approximately 19ha of the site. The proposed development will consist of "full title" (i.e. separate title) residential properties, open spaces, private roads and bulk services infrastructure. The residential component will consist of the following:

- *65 single residential erven;*

- *1 special residential erf consisting of 8 units;*
- *2 rural erven; Private Open Spaces / ecological buffers / riparian corridors;*
- *Private roads; and-*
- *An Undetermined land portion (for future high level road reserve).*

The residential erven will range in size, but will not exceed the minimum permissible extent. The remainder of the site will comprise of the following:

- *An open space area of approximately 9ha just south of the developmental footprint, which is too steep and ecologically-sensitive to develop; and-*
 - *An area of approximately 48.28ha adjacent to the Table Mountain National Park (TMNP) which is currently being managed by the South African National Parks ("SANParks"). The area is being managed in accordance with a long term management agreement between the landowner and SANParks.*
 - *The 9ha open space area will be included into the contracted area managed by SANParks."(Pp 6, 7).*
- The DEA & DP concluded with the following confirmation in its letter dated 04 January 2016:

"In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorization, and compliance with the EMP, the Competent Authority is satisfied that the proposed listed activity will not conflict with the general objectives of Integrated Environmental Management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No 107 of 1998) and that any potentially detrimental environmental impact resulting from the listed activities can be mitigated to acceptable levels."(p 21).

- Some of the reasons offered for the authorization of the particular development alternative (i.e. Alternative 4) by DEA & DP are reflected in the following extract:

"This is the preferred alternative as it considers the findings of the freshwater specialist for the protection of the Bakkemanskloof River; the findings of the faunal specialist with regards to the need to protect the habitat for sustaining Western Leopard Toad activity across the site; as well as the recommendations made by the botanical specialist for conserving the indigenous trees which grow along the drainage lines on the site. The preferred layout also considers the visual specialist input in terms of softening the visual impact of the

proposed development. The need to avoid the steep slopes has also been considered. In addition, the preferred layout addresses the need for adequate fire management measures along the interface of the development with the natural mountainside, including aspects such as adequate fire breaks and access through the development” (p 16).

This extract speaks to the depth of the environmental aspects assessed at the time and the valuable contribution made to the process by the various specialist consultants.

11.3.2 Approved amendments to environmental authorisation

Messrs Sillito Environmental Consulting applied for, and on 21 October 2021 received approval from DEA & DP for the following two amendments to the approved appeal environmental authorisation, *viz*:

- (1) Change of ownership / transfer of rights and obligations from Mesdames BI Scher and MH Derman to Oakhurst Lifestyle Estate (Pty) Ltd represented by mr Ian Raubenheimer; and
- (2) Extension of the validity of the approved appeal environmental authorisation for a five year period from the Amended Appeal decision issued on 21 October 2021.

[ANNEXURE 'T': ENVIRONMENTAL APPEAL AUTHORISATION AND AMENDMENT TO SAME]

11.3.3 Part 2 Amendment Application

Messrs Sillito Environmental Consultants are presently in process of amending the currently approved and valid amended appeal environmental authorisation with regards to *inter alia* the development concept and detailed planning of the enlarged development site, the latter now comprising Erf R/8343 and certain portions of Erven R/2224 and R/2958, Hout Bay. Application will be made to DEA & DP shortly for this so-called Part 2 Amendment Application.

It should be noted that the new retirement village concept will honour all the specialist study findings with regards to environmental sensitivities, with the only exception being the upgrade of the existing vehicular bridge over the Bokkemanskloof River and the road carriageways leading to and from the bridge across the environmental buffer area (refer Para 11.3.4 below).

11.3.4 Basic Assessment for bridge upgrade and associated roadways

The project environmental consultants are presently undertaking the Basic Assessment process for the upgrade / improvement of the existing bridge structure over the Bokkemanskloof River. The assessment also

includes the road-ways across the sensitive wetland buffer area to and from the bridge on both sides. The assessment has been informed by a concept bridge design by messrs Ekcon Engineering.

The process has been initiated by submitting a Notice of Intent to DEA & DP, accompanied by all relevant information as required. This will be followed by a public participation process and the subsequent preparation of a Substantive Amendment Report to be submitted to DEA & DP, as well as any interested and / or affected parties for further comment. Further amendments may follow after which the basic assessment report will be finalised and lodged with the DEA & DP for a final decision.

11.3.5 Water-use authorisation

The applicant's consultants are furthermore in process of procuring the necessary water-use authorisation from the Department of Water and Sanitation for the bridge crossing over the Bokkemenskloof River, and also for the discharge of stormwater into the River.

11.4 GEOLOGY

As gleaned from the Notice of Intent of Application for Environmental Authorisation prepared for the bridge upgrade, messrs Sillito Environmental Consultants confirm the geology of the site to comprise the following soils, viz:

"The site is located on Cape Granite Suite (ED-CAC) and is underlain by porphyritic, medium or fine-grained granite and granodiorite, with subordinate syenite, gabbro, diorite and quartz porphyry".

11.5 PUBLIC INTEREST

- Although for the most part provided by the private sector, retirement villages / old age homes are being regarded as a public or social facility providing in a growing demand for appropriate accommodation for the segment of the population in the more advanced stages of the human life cycle. Other such public / social facilities identified in the Department of Human Settlements' Guidelines for Human Settlement Planning & Design include children's homes, fire stations, parks, libraries, schools, sport facilities, hospitals, community centres and more.
- The proposed new retirement village in the in-land part of the sought-after coastal town of Hout Bay in the City of Cape Town will provide a housing typology in a peaceful environment and tranquil, nature-based setting away from the more harsh climate conditions associated with a beachfront locality, most appealing to retired families and individuals locally and from elsewhere. There is an increasing demand for retirement accommodation in Cape Town by people who have lived their entire working life elsewhere (e.g. Gauteng) who now wish to retire closer to the coast yet not right on the beachfront where wind and seaspray could serve to inhibit their lifestyle to some extent (notably walking and sitting outside enjoying the sun and nature).

- With the environment being regarded as a “public good” despite being situated on private property, the proposed new retirement village is foreseen to make an exceptionally valuable contribution to the public interest by assuming custody of its wellbeing and management through *inter alia* a formal Environmental Management Plan / Programme (“EMPr”) for the site in perpetuity. The applicant contends that there are few other institutions better qualified / suited than a retirement village to undertake this all-important public service prudently and sustainably through future generations. It should be kept in mind that the exceptional natural attributes on site and in the surrounding landscape will be the allure for like-minded families sharing a passion for the natural environment to gravitate towards the retirement village in this locality.
- The public interest will furthermore be served by the compatibility of the proposed new use as an infill development not only complementing existing adjoining developments, but also serving to maintain and indeed enhance the prevailing country-side character and sense of place.
- It is foreseen that the proposed retirement village on the development site would generate much less traffic on the surrounding public road network during peak hour periods compared to the alternative of a conventional housing development accommodating younger, working families with school-going children and extra-mural activities (e.g. sport, recreation). This will serve the public interest from various perspectives, including safety and frustration associated with traffic congestion (even road rage).

11.6 SOCIAL DEVELOPMENT & ECONOMIC GROWTH

With reference to the City’s Social Development Strategy and Economic Growth Strategy the following facts bear relevance:

- The vast capital injection in the local economy by construction of a multi-million rand project of a highly prestigious nature will see to growth and development in the construction industry of the City and reinforcement of the sought-after character of the Upper Valley area of Hout Bay.
- The local economy will receive further impetus of a long term duration through spending by residents in the retirement village on daily consumables and to an extent also on durables. Such spending usually has a multiplier effect leading to higher economic growth and development.
- It is foreseen that numerous new quality employment opportunities would be created, initially during the construction phase (engineering services, building and landscape contracts) and subsequently during the operational phase. Examples of formal, long term employment opportunities include-
 - security staff
 - estate manager
 - administrative staff
 - maintenance staff

- health care professionals
 - various levels of care givers
 - recreational staff
 - domestic workers
 - gardeners
 - conservation monitoring & management professionals
- Preference to local labour will see to training and employment of unskilled and semi-skilled individuals presently unemployed or under-employed in terms of ability and / or skills sets, which would lead to social development and restoration of dignity / pride in people and communities previously neglected and marginalized. Socio-economic upliftment of previously disadvantaged individuals and families of e.g. Imizamu Yetho will therefore be an advantage. In this way a contribution will be made to the alleviation of the three scourges of society in South Africa, namely poverty, inequality and unemployment.
 - The development project will therefore from a desirability perspective make a valuable contribution to socio-economic development locally in the Hout Bay area.

11.7 CONSTITUTIONAL TRANSFORMATION IMPERATIVES

In compliance with Section 42(1)(c)(ii) of SPLUMA cognizance should be taken of the so-called constitutional transformation imperatives to be derived from land development applications.

- In essence the future planning policies and plans discussed in Section 10 *supra*, have a recurring theme in common, being the plight of the poor and vulnerable and the pressing need for socio-economic upliftment of previously disadvantaged families and communities. The dire need for improved living conditions and a better quality of life forms a golden thread throughout these.
- The heart of the problem lies in the three enormous challenges today facing society, namely unemployment, poverty and inequality, with concomitant inadequacies of human dignity, freedom of movement and association, safety / security, health and more.
- Although the term 'transformation' is nowhere to be found in the Constitution, the Constitutional Court has coined the phrase 'constitutional transformation imperatives' to deal with the Bill of Rights issues, to *inter alia* heal divisions of the past, enhance social justice, weed out unfair discrimination and redress imbalances of the past.
- Constitutional transformation imperatives find application mostly in the public sector and bigger private business concerns where e.g. affirmative action policies have been devised to increase owner / employee representivity in line with the race and gender composition of the population. It thus essentially relates to more black ownership and more efforts towards employment equity.

- The on-going dire circumstances of the majority of the population have in recent times led to a call for so-called radical transformation which has created the public perception that everything “white and / or colonial” should be replaced by “black and indigenous”, currently serving to increase socio-political tension and divisions.
- In the People’s Guide to the 2017 Budget, the National Treasury on radical economic transformation for inclusive growth however stated the following:

*"The alternative to raising taxes is faster economic growth. This will require economic transformation. Government's objective is to transform the economy, not simply transfer ownership or hand out tenders. Transformation must aim to **build a new economic momentum, mobilize new investments, create new jobs and create new resources to support social change.**"*(p1) (own emphasis).

- Unfortunately redress through representivity has in many public bodies and parastatals led to a reduction in efficiency and effective service delivery, as evident from a multitude of dysfunctional municipalities today countrywide. This state of affairs is in stark contrast to the Constitutional role of municipalities which should be that of developmental agencies in pursuance of growth and development.
- Economic growth and development is seen as the ultimate prerequisite for socio-economic transformation, i.e. the catalyst to propel transformation into an achievable goal to culminate in job and income creation, enhance dignity / pride, increased welfare and a better quality of life for all.
- Socio-economic growth and development to result from the development project will not only see to increased employment levels and higher gross domestic product (GDP) achievement in the local economy, but also in terms of an increase in welfare and quality of life.

11.8 RIGHTS & OBLIGATIONS OF AFFECTED PARTIES

- First and foremost is the right of the land development applicant to due process and consideration of the application in terms of existing statutory provisions of the relevant townplanning legislation and policies. In this regard the applicant contends that it has discharged its responsibility to prove the merit of the development proposal in the selected locality unequivocally and decisively.
- The rights of parties potentially affected by the land development proposal will be honoured by affording them the opportunity to participate in the decision-making process as interested and / or affected parties. This is usually done by registering an objection during the public participation phase of the application process, followed by pro-active engagement between the parties to endeavor finding common ground.
- Furthermore has the “duties of state” (which include municipalities) been well documented in various pieces of townplanning legislation, including in the Development Principles of Section 7 of SPLUMA. These are not repeated here, save

to point out that the proposed development project would contribute to the transformation / redress agenda of government through socio-economic growth and enhancement / advancement.

11.9 STATE OF AND IMPACT ON SOCIAL INFRASTRUCTURE, OPEN SPACE & ENGINEERING SERVICES

The applicant has already dealt with the state of and impact on the proposed development on engineering services, which will not be repeated here again (refer Section 8 *supra*). It has also been mentioned that the retirement village is viewed by the Department of Human Settlements as a social / public facility, even though most such homes, villages, centres, etc. are being established and operated by the private sector. The impact of the new retirement village on other social / public facilities is envisaged to be the following:

- It will as such complement and expand on the accommodation offering of appropriate housing for people with differing physical abilities in the more advanced years of their lifetime. Figure 12: Locality of Existing Retirement Facilities in the Local Area depicts various existing such facilities to be complemented by the proposed new retirement village in the Upper Valley area of Hout Bay.
- Due to the vast open space component provided on site (i.e. proposed Erf 2 of the Subdivisional Area) with associated walking trails, strategically positioned seating areas as well as the clubhouse facility with both in- and outdoor recreation / sports facilities, it is foreseen that public parks and similar other facilities in the area would *ceteris paribus* not be frequented too often by future residents in the proposed new retirement village. It can be expected though that residents would from time to time drive to the village and beachfront to enjoy the beach and various tourist attractions and facilities on offer to the general public.
- With some members of the older generation not entirely versed in the use and enjoyment of the internet, it may be found that the public libraries in town would still be visited often by these individuals. The retirement village will however sponsor high-speed internet access guaranteeing a quality internet experience for those so inclined.

[FIGURE 12: LOCALITY OF EXISTING RETIREMENT FACILITIES IN THE LOCAL AREA]

11.10 TRANSPORT CONSIDERATIONS

- It is foreseen that most inhabitants of the retirement centre would own a private car to be used for local outings, shopping excursions, etc. The use of battery operated golf carts for internal trips to e.g. the clubhouse will be encouraged for individuals less mobile and unable to walk. Internal pavements will be carefully graded and surfaced to ensure ease of movement, also for the wheelchair bound.
- Public bus and minibus taxi services are found along Hout Bay Main Road which will be available for use by future residents as well as employees working in the

retirement village. For more personal, customized trips the fast-growing e-hailing taxi industry is ever ready and available to serve (e.g. Uber, Bolt, Taxify).

- It may in future be considered by the retirement village operator to employ an in-house shuttle service for residents preferring not to drive anymore and those requiring assistance in this regard, for e.g. regular shopping trips, scheduled trips to religious services and more.

11.11 NEED / NECESSITY

The need / necessity for a retirement village of the nature, composition and extent as being proposed in the particular locality stems from various considerations of which the following include some:

- The development will be undertaken by a seasoned developer specializing in retirement estates, who has informally assessed the particular market segment locally from a variety of perspectives and concluded to proceed with same on the basis as set out in the memorandum.
- Cape Town has an ageing population with a documented trend of people in the retirement phase of their lives living longer. This trend is foreseen to continue in future with people reaching higher ages due to medical progress as well as a societal shift towards a healthier lifestyle through better nutrition and exercise.
- Population projections by the Centre for Actuarial Research (CARE) of the University of Cape Town in 2012 recorded the following increase in the population of Cape Town in the age group 50 to 85+ years:

From 629 173 in 2011 to 863 713 in 2021 to 1 061 098 in 2031 – thus a total increase of 431 925 people (68,7%) over the 20 year period considered.

- The natural population growth focused on by CARE above is however only one component of growth of the population segment under consideration. Another most important one and increasing trend is that of so-called “semigration” of individuals and families from other parts of South Africa to make Cape Town their home base from which to live and work. It is foreseen that a sizeable proportion of future residents in the 50+ years age group may still be economically active and conduct their businesses (notably office-use) from home in the retirement village. Business Tech (2 April 2022) estimated that the Western Cape has between 2016 and 2021 witnessed an inflow of 470 000 semigrants, mostly originating from the Eastern Cape, Limpopo and Gauteng, and they are expecting a mass migration to Gauteng and the Western Cape in the next three decades. The City of Cape Town can be expected to be a preferred destination for reasons mentioned below.
- The exquisite natural attributes of the development site and its surrounds portraying a high amenity value, rustic country ambience and high aesthetic scenic value will see the development site being sought-after, with active demand by prospective inhabitants exerted to make this lifestyle their own.

- Cape Town has always been a destination for retirees from elsewhere, including other countries like the UK and Europe. This trend is seen to continue and to escalate due to the recent Covid-19 pandemic which has been instrumental in firmly establishing the concept of working from home / remote working. This is presently escalating the semigration movement of people to Cape Town who no longer need to wait for retirement age to take the big step.
- Some of the reasons for choosing Cape Town as a retirement destination found in relevant literature include the following:
 - Beautiful surroundings, safety and security and service delivery
 - Laid-back lifestyle within proximity to mountains, beaches, vineyards & winelands, friendly people and perfect mix of cosmopolitan cultures.
 - Cheaper than most European and American destinations
 - World class hospitals and medical facilities
 - Lots to do to stay active after retirement
 - Favourable climate conditions
 - First class shopping and recreational facilities
 - High quality, sophisticated lifestyle in a world class city.
- Synthesis: The need / necessity for a new retirement village sponsoring all the benefits alluded to above in the Upper Valley of Hout Bay to supplement the present offering by existing retirement facilities like Kronendal and Riverside in Hout Bay, can therefore not be disputed. It will serve a specific and growing need for appropriate retirement accommodation with added advantages for the local economy. Apart from the initial capital injection, continuous consumer spending by future inhabitants would have a positive effect on job and income creation in an area beleaguered by high unemployment rates and poverty in the nearby Imizamo Yethu informal settlement.

12. CONCLUSION AND RELIEF SOUGHT

12.1 CONCLUSION

The applicant has provided all information required for a land development application as set out in Section 71 of the Bylaw. It has furthermore motivated and proven the merit of the development proposal unequivocally in compliance with Sections 99 of the Bylaw and 42 of SPLUMA.

12.2 RELIEF SOUGHT

Based on the proven merit of the development proposal and its constituent components the City of Cape Town Metropolitan Municipality is hereby urged to award the application its positive consideration and to approve it as applied for, *viz*:

- (1) Subdivision of the Remainders of Erven 2224 and 2958, Hout Bay (Section 42(d) of Bylaw);
- (2) Consolidation of the subdivided portions of the Remainders of Erven 2224 and 2958 (i.e. proposed Portion 1 of each) with each other and with the unregistered Remainder of Erf 8343, Hout Bay (Section 42(f) of Bylaw);
- (3) Rezoning of the consolidated erf comprising Portion 1 of the Remainder of Erf 2224 ("Erf 1/R/2224"), Portion 1 of the Remainder of Erf 2958 ("Erf 1/R/2958") and the unregistered Remainder of Erf 8343 ("Erf R/8343"), Hout Bay to subdivisional area overlay zoning, comprising Community Zoning 2: Regional ("CO2") and Open Space Zoning 3: Special Open Space ("OS3") (Section 42(a) of Bylaw);
- (4) Permanent departure from the development rule for building-lines along non-street boundaries for the CO2-zoning (Section 42(b) of Bylaw);
- (5) Subdivision of the consolidated erf comprising the relevant portions of Erven R/2224 and R/2958 as well as unregistered Erf R/8343, Hout Bay (Section 42(d) of Bylaw);
- (6) Implementation of the subdivision approval in Para (5) *supra* in phases (Section 42(e) of Bylaw).



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