



BLYTHEDALE

Coastal Estate

North Coast KwaZulu-Natal

DEVELOPMENT APPROVALS

SUMMARY DEVELOPMENT APPROVALS

- 1. The Development Application, No 2005/1298 was approved by The Development Tribunal of KwaZulu - Natal in terms of the Development Facilitation Act on 8 November 2006 and amendments approved on 17 June 2010.**
- 2. An extension was provided to submit General Plans to the Surveyor General for approval. (16 April 2015)**
- 3. Legal Opinion - Validity of DFA approval (21 July 2018)**
- 4. KwaDukuza Municipality - Confirmation of validity of DFA approval (17 August 2018)**
- 5. Confirmation of lodgment of General Plans with the Surveyor General (14 January 2019)**

**DEVELOPMENT TRIBUNAL
KWAZULU NATAL**

DEVELOPMENT APPLICATION NO. 2005/1298 submitted on behalf of Amberlock Investments (Pty) Ltd by Ndebele Kirby Planners cc and heard on the 16 February 2006 and further hearing held on 5 & 6 June 2006.

These amended conditions are approved at per the section 35 amendment and hearing held on 17 February 2009.

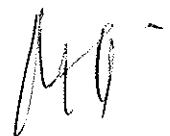
AMENDMENTS TO TRIBUNAL CONDITIONS DATED 8 NOVEMBER 2006


PART B

Application for the establishment of a land development area in terms of Chapter V Section 31(2) of the Development Facilitation Act No. 67 of 1995 on Portions 19, 20, 21, 23, 26, 27 And 29 And Remainder Of Portion 1 (Of 1) of The Farm Blythdale No. 1380; Portions 2, 3, 4, 24, 25 of The Farm Blythdale No. 1380; Subs 22, 28 of The Farm Blythdale No. 1380; Proposed Portions 21, 34, 41 And 91 of The Farm New Guilderland No. 1404; Portion 1 of The Farm Hyde Park No. 1388; Erven 77, 78, 79 Blythdale Beach, to be Consolidated and Redesignated Erf 3 New Guelderland on registration is hereby approved, subject to the following to be known as Blythdale Coastal Resort


A SPECIAL CONDITIONS

1. The provision of all services, roads, sewage, water etc to be satisfied for each phase before any development takes place on such phase.



2. In the first phase, 50% of the units must be sold before construction in the second phase can be proceeded with. ~~Phase 1A (erf 1313) being the "Lifestyle village for the Elderly"~~ and Phase 2E (Erf 1530) being the "Hotel" shall be able to be sold independently and not linked to sales in any other phase. 
3. In phase 1B 50% of the units must be sold before the construction in the next phase can be proceeded with. The same principle will apply to the development of each of the further phases in that there must be a 50% sold of the individual units before the next phase can be proceeded with.
4. Before any construction takes place on the development, the Department of Water Affairs and Forestry, the Department of Agriculture and Environmental Affairs and the National Department of Agriculture must certify to the satisfaction of the Tribunal that if the desalination plant is to be provided by the developer that it is appropriate, practical and accepted by these departments.

B ADDITIONAL CONDITIONS

1. Helistop Erf 1090
The landing of Helicopters shall be restricted to Erf 1090. All helicopter pilots landing at the Blythedale Coastal Resort shall be instructed that they are not to fly over the existing Blythedale Beach and Prince's Grant residential areas. This clause shall be included in the HOA rules and the EMP for ongoing control. 

2. External Road upgrades

A monitoring committee shall be formed comprising KZN DOT, SANRAL, the Local Authority and the applicant (and any successors in title)to review road infrastructure and intersection upgrade requirements to the P105, D804, and N2 arising from the Blythedale Coastal Resort Development.

The applicant /developer shall pay for the costs of the following incremental upgrades as and when the committee deems an upgrade is required, to a maximum value of R38.5 million with a 6% escalation as per the following schedule:

- MR105
 - Dual carriageway between N2/Stanger interchange & Access 4
 - Traffic circle at MR105/Access 4 with 2 circulating lanes and two lanes on each approach
 - Traffic circle at MR105/Access 7 with 2 circulating lanes and two lanes on each approach

- N2/Stanger East Ramp Terminal
 - Signallisation
 - Additional (shared) right turn lane (heading east to south), southbound on ramp
 - Partial two lane section on the southbound on ramp
 - Widen southbound off ramp

- N2/Stanger West Ramp Terminal
 - Signallisation
 - Additional right turn lane on the northbound off ramp.
 - N2/Stanger Interchange
 - Additional lane (eastbound) between west ramp and east ramp

- N2/Stanger Interchange
 - Additional lane (eastbound) between west ramp and east ramp

- D804 (Construction Phase 1)
 - Surface and rehabilitate (single carriageway standard)
 -

- Link Road between D804 and MR105
 - First carriageway (7.5m) of future north-south arterial

The timing of the abovementioned road elements/improvements will be dictated by the pace of development implementation.

3. Bulk Water supply

All water supplies to the development shall be by way of a desalination plant unless the Ilembe Municipality is able to supply a bulk supply of potable water from one of the available Water boards.

4. Borehole Water

Borehole water will only be used during the “construction of services” stage and the developer undertakes that the desalination plant shall be operational or the relevant water board shall be supplying water before any of the individual erven in the development requires a water connection or water for construction purposes.

As soon as the desalination plant is commissioned, or Ilembe provides bulk potable water supplies, whichever is applicable, all boreholes will be decommissioned save for those presently in use and required for ongoing irrigation of farming activities pending development.

The following clauses shall be included in the Environmental Management Plan:

"All boreholes within the applicant site shall be registered and licensed with the Department of Water Affairs and Forestry, and shall be fitted with a suitable meter for monitoring purposes.

Records of water use shall be recorded by the ECO and records submitted monthly by the appointed ECO to the Department of Water Affairs and Forestry, and Ilembe District Municipality (The water services authority)".

5. Prince's Grant Homeowners Access

All Prince's Grant Homeowners (not including visitors) will be provided with security-controlled access through the Blythedale Coastal Resort development utilizing access erven 878, 1094, 2036, 2065, 2068, 6504 that will run through the development when such road is completed.

6. Hardened surfaces

The following clauses shall be included in the Environmental Management Plan and Architectural Controls for the Resort

"In order to facilitate groundwater infiltration and reduce accumulated surface runoff, hardened parking and driveway surfaces are to be constructed of jointed block paving or other surfaces which optimize the infiltration of surface water for all community facilities, beach areas and residential driveways. All runoff should approximate the natural runoff characteristics of the system "

7. Access to Common Facilities

All homeowners within the development, including the Social Housing (namely Portions 19, 21, 35, 58, 59 & 60 of Erf 3 New Guelderland)

Development, shall be entitled to use and enjoy all of the common facilities, including uses on all Community Facility sites, the golf course, hotels, access to the conservation areas and the equestrian facilities in the Blythedale Coastal Resort Resort, subject only to the rules and regulations of the relevant Home Owners' Association or the Management Committee, as the case may be.

C CONDITIONS OF ESTABLISHMENT

1. Geotechnical Investigation:

A detailed geotechnical investigation shall be conducted by a registered professional engineer prior to the development of each phase of the development and all recommendations shall be adhered to.

2. Approval of Minor Amendment to the Layout Plan:

The Tribunal may approve minor changes to the layout, including the creation of mini subs within Medium Density Housing erven depicted on plan no. 2350/8 Phases dated 5 May 2010 provided the total number of units proposed on plan 2350/8 Phases dated 5 May 2010 is not exceeded. A minor change is defined as an inconsequential change to the layout such as the movement of individual boundaries, rationalization of turning circle geometry and slight changes to road alignments.

3. Transfer of erven prior to installation of services

The Road reserves of P105 and D804 shall be transferred to Kwa-Zulu Natal Department of Transport, prior to 31 December 2013.

4. KwaZulu-Natal Heritage Act of 1997:

The archaeological mitigation as identified within the Archaeological Report and authorised and approved by Amafa, shall be carried out to the satisfaction of Amafa before construction commences and during construction.

5. Environmental Record of Decision:

The Record of Decision (EIA 5641) dated 17 July 2006 and the amended Record of Decision dated 21 August 2009 (DC29/Amend/5641/08) issued by the Department of Agriculture and Environmental Affairs together with the requisite Environmental Management Plan prepared by Guy Nicolson Consulting cc shall be adhered to.

A formal agreement between SAPPI and the applicant/developer shall be concluded with regard to the discharge of treated wastewater effluent directly to the SAPPI Stanger Mill should the on-site treatment works be constructed. The consequent reduced abstraction by SAPPI from the Mvoti River shall be monitored by DWAF.

The disposal of wastewater in excess of 2MI/day shall be subject to a Reserve Determination of the Mvoti River as required by DWAF.

Should the desalination plant be constructed, the Applicant shall:

- commission a bathymetric survey to map the sea floor within which the desalination plant marine pipelines will be located;
- undertake a survey of benthic organisms and an assessment of the larger marine organisms;
- undertake an assessment of dune vegetation ;
- undertake a noise assessment of the desalination plant

in order to ensure that the location and design of the marine and land pipelines will have as little impact as possible on the marine coastal and dune environment. Such surveys and assessment shall include plans for ongoing monitoring programmes to evaluate impacts, and be submitted to the Department of Water Affairs and Forestry, the Provincial Department of Agriculture and Environment Affairs, and the National Department of Environment and Tourism for written approval prior to construction of any part of the marine pipelines within the sea or seashore.

With the use of stormwater retention ponds, stormwater shall approximate the natural flow characteristics of that system.

No irrigation run off into streams is to be permitted.

For all of the dams in the development, a wetland functional analysis, a dam management plan and a flow monitoring programme must be undertaken. Such analysis, plan and programme must be submitted to the Departments of Water Affairs and Forestry, Agriculture and Environmental Affairs, and eZemvelo KZN Wildlife for approval prior to the construction of any dam commencing.

River systems and drainage lines are to be rehabilitated to their natural state ensuring that the natural features are safeguarded in perpetuity.

Sand sourced for the construction of the development must be sourced from sustainable and permitted resources and shall not be sourced from an estuary.

6. Exemption from Regulation 23(1)

The development is hereby exempted from the need to submit general plans or diagrams for Phases 1B-7F within the timeframe of 5 months stipulated in Regulation 23(1). All general plans or diagrams must be submitted by 31 March 2016.

7. Legislation To Be Set Aside/Suspended

The Following Laws on Physical Planning:

- Section 11, 11bis, 12 -28, 32, 35- 39 and 47 bis of the Town Planning Ordinance, 1949 (Ordinance No. 27 of 1949), shall not apply to the land development area for the purpose of the development thereof in accordance with these conditions of township establishment.
- Act 70 of 70 Subdivision of Agricultural Land Act.
- The following conditions of title are suspended and will come into effect when published in the Provincial Gazette in terms of section 33(4) and shall be removed upon the opening of the township register in terms of section 34(3):

Title Deed No.:

T6156/1974	Para 8	Condition 8(B) on Pg 6
T6156/1974	Para 9	Condition 9(B) on Pg 6
T6156/1974	Para 29	Condition 29(B), (C), & (D) on Pg17
T6156/1974	Para 4	Condition 4(B), & 4(C) on Pg 4
T6156/1974	Para 10	Condition 10(B) on Pg 7
T32436/1983	4(a), (b), (c), (d), & (e)	on Pg 3
	4(f), & (g)	on Pg 4

T32935/1983	4(a), (b), (c), (d), & (e) on Pg 3 4(f), & (g) on Pg 4
T32934/1983	4(a), (b), (c), (d), & (e) on Pg 3 4(f), & (g) and 5(a) on Pg 4

8. Designation:

The name of the Township shall be **New Guelderland** which name has been confirmed by the Surveyor-General.

9. Layout:

The land Development shall be laid out substantially in accordance with Plan no. 2350/8 Phases dated 5 May 2010 prepared by Ndebele Kirby Planners cc. which plan is hereby approved. The development shall be developed in phases as depicted on plan no. 2350/8 Phases dated 5 May 2010.

10. Lodging of the General Plan:

The applicant shall lodge General Plans or diagrams for each Phase of New Guelderland with the Surveyor-General together with all the necessary documents contemplated by Section 37 (a) of the Development Facilitation Act, 1995 (Act 67 of 1995).

The Phases will be created in portions as set out below

Proposed Portion of Road 804 to be transferred to KZNDOT – Portion 1 of Erf 3 New Guelderland

Proposed Portion "A" of Road 105 to be transferred to KZNDOT - Portion 2 of Erf 3 New Guelderland

Proposed Portion "B" of Road 105 to be transferred to KZNDOT - Portion 3 of Erf 3 New Guelderland

Phase 1A	Ptn 4 Of Erf 3 New Guelderland
Phase 1B	Ptn 5 Of Erf 3 New Guelderland
Phase 1C	Ptn 6 Of Erf 3 New Guelderland
Phase 1D	Ptn 7 Of Erf 3 New Guelderland
Phase 1E	Ptn 8 Of Erf 3 New Guelderland
Phase 1F	Ptn 9 Of Erf 3 New Guelderland
Phase 1G	Ptn 10 Of Erf 3 New Guelderland
Phase 1H	Ptn 11 Of Erf 3 New Guelderland
Phase 1J	Ptn 12 Of Erf 3 New Guelderland
Phase 1K	Ptn 13 Of Erf 3 New Guelderland
Phase 1L	Ptn 14 Of Erf 3 New Guelderland
Phase 1M	Ptn 15 Of Erf 3 New Guelderland
Phase 1N	Ptn 16 Of Erf 3 New Guelderland
Phase 1P	Ptn 17 Of Erf 3 New Guelderland
Phase 1Q	Ptn 18 Of Erf 3 New Guelderland
Phase 1R	Ptn 19 Of Erf 3 New Guelderland
Phase 1S	Ptn 20 Of Erf 3 New Guelderland
Phase 1T	Ptn 21 Of Erf 3 New Guelderland
Phase 1U	Ptn 22 Of Erf 3 New Guelderland
Phase 1V	Ptn 23 Of Erf 3 New Guelderland
Phase 1W	Ptn 24 Of Erf 3 New Guelderland
Phase 1X	Ptn 25 Of Erf 3 New Guelderland
Phase 1Y	Ptn 26 Of Erf 3 New Guelderland
Phase 2A	Ptn 27 Of Erf 3 New Guelderland
Phase 2B	Ptn 28 Of Erf 3 New Guelderland
Phase 2C	Ptn 29 Of Erf 3 New Guelderland
Phase 2D	Ptn 30 Of Erf 3 New Guelderland
Phase 2E	Ptn 31 Of Erf 3 New Guelderland
Phase 2F	Ptn 32 Of Erf 3 New Guelderland
Phase 2G	Ptn 33 Of Erf 3 New Guelderland
Phase 2H	Ptn 34 Of Erf 3 New Guelderland
Phase 2J	Ptn 35 Of Erf 3 New Guelderland
Phase 3A	Ptn 36 Of Erf 3 New Guelderland
Phase 3B	Ptn 37 Of Erf 3 New Guelderland
Phase 3C	Ptn 38 Of Erf 3 New Guelderland
Phase 4A	Ptn 39 Of Erf 3 New Guelderland
Phase 4B	Ptn 40 Of Erf 3 New Guelderland
Phase 4C	Ptn 41 Of Erf 3 New Guelderland
Phase 5A	Ptn 42 Of Erf 3 New Guelderland
Phase 5B	Ptn 43 Of Erf 3 New Guelderland
Phase 5C	Ptn 44 Of Erf 3 New Guelderland
Phase 5D	Ptn 45 Of Erf 3 New Guelderland
Phase 6A	Ptn 46 Of Erf 3 New Guelderland
Phase 6B	Ptn 47 Of Erf 3 New Guelderland
Phase 6C	Ptn 48 Of Erf 3 New Guelderland
Phase 6D	Ptn 49 Of Erf 3 New Guelderland



Phase 6E	Ptn 50 Of Erf 3 New Guelderland
Phase 6F	Ptn 51 Of Erf 3 New Guelderland
Phase 6G	Ptn 52 Of Erf 3 New Guelderland
Phase 6H	Ptn 53 Of Erf 3 New Guelderland
Phase 6J	Ptn 54 Of Erf 3 New Guelderland
Phase 6K	Ptn 55 Of Erf 3 New Guelderland
Phase 6L	Ptn 56 Of Erf 3 New Guelderland
Phase 6M	Ptn 57 Of Erf 3 New Guelderland
Phase 6N	Ptn 58 Of Erf 3 New Guelderland
Phase 6P	Ptn 59 Of Erf 3 New Guelderland
Phase 6Q	Ptn 60 Of Erf 3 New Guelderland
Phase 7A	Ptn 61 Of Erf 3 New Guelderland
Phase 7B	Ptn 62 Of Erf 3 New Guelderland
Phase 7C	Ptn 63 Of Erf 3 New Guelderland
Phase 7D	Ptn 64 Of Erf 3 New Guelderland
Phase 7E	Ptn 65 Of Erf 3 New Guelderland
Phase 7F	Ptn 66 Of Erf 3 New Guelderland

11. Opening of the Township Register:

A print of the approved General Plans or diagrams shall be lodged with the Registrar of Deeds, together with a copy of these conditions signed by the Tribunal Chairman and the Title Deeds under which the subject land is held as contemplated by section 37(b) and subject to section 23(10) of the Development Facilitation Act, 1995 (Act 67 of 1995).

Prior to the opening of the township register:

1. Ptns 2, 3, 4, 19 (of 1), 20 (of 1), 22, 23 (of 1), 24, 25, 26 (of 1), 27 (of 1), 28, 29 (of 1) and Rem all of the farm Blythdale No. 1380, Ptn 1 of the farm Hyde Park No.1388 and Ptns 151 (of 21), 152 (of 34), 153 (of 41), 154 (of 91) all of the Farm New Guelderland No. 1404 are to be consolidated to form the farm New Guelderland No.17930. (which is to be redesignated to Erf 1 New Guelderland on registration)

2. Erven 77, 78 and 79 Blythdale Beach are to be consolidated to form Erf 333 Blythdale Beach. (which is to be redesignated to Erf 2 New Guelderland on registration)
3. Erf 1 and 2 New Guelderland will then be consolidated to form Erf 3 New Guelderland

4. All of the above will happen simultaneously.

12. Provision of Services:

The land development applicant and the relevant local government body shall provide and install the services, in the land development area, as provided for in terms of Section 40 of the Act as detailed in the Services Agreements entered into between Amberlock Investments (Pty) Ltd and Ilembe District Municipality dated 3 February 2006, and Amberlock Investments (Pty) Ltd and Kwa Dukuza Municipality dated 1 June 2006.

Prior to the transfer of any erf or sectional title unit in any phase of the development the Designated Officer shall be supplied with a certificate signed by a professional engineer registered in terms of Act No. 46 of 2000 to the effect that the following services as listed in 12 (1) to 12 (7) have been installed for that erf or unit and that a professional engineer has certified that the bulks infrastructure as listed for each construction phase as listed in condition 13 below have also been complied with to the satisfaction of the relevant authority including any special or additional conditions listed in Sections A and B respectively of Part B of this judgement.

1. The developer shall provide a supply of potable water to within the normal connection distance of each erf to the satisfaction of the Water Authority.

2. The developer shall provide an efficient and sanitary method of sewage disposal to within the normal connection distance of each erf to the satisfaction of Ilembe District Municipality.
3. The developer shall provide an efficient supply of electricity to within the normal connection distance of the boundary of each erf to the satisfaction of the supply authority
4. The developer shall construct all internal roads to the engineers satisfaction
5. The developer shall construct such stormwater drainage facilities as are necessary for the disposal of stormwater.
6. The developer shall provide fire services to the satisfaction of the Kwa Dukuza Municipality.
7. The developer shall provide solid waste disposal to the satisfaction of the Kwa Dukuza Municipality.

Once satisfied that the requirements of Section 38 (1) (c) and (d) have been met the Designated Officer will issue the certificate contemplated in Section 38 (1) to the Registrar of Deeds, and such certificate may be issued in respect of services per sub-phase/phase.

13. Installations of Services (Construction Phases)

All bulk, link, and internal services shall be installed in accordance with the following 7 construction phases.

It must be noted that the installation of additional expansion modules of the sewer plant will only be implemented as and when the volumes of waste reaching the plant are sufficient to ensure the optimal operation of the extended / upgraded plant.

Divergence from the time indicated shall only be permitted at the discretion of the Tribunal or its successor-in title.

Construction Phase 1 : July 2010 – February 2012

Phase 1 will consist of the development of Phases 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1J, 1K, 1L, 1M, 1N, 1P, 1Q, 1R, 1S, 1T, 1U, 1V, 1W, 1X, 1Y on drawing 2350/8 Phases dated 5 May 2010

The infrastructure will generally entail the following services;

- The construction of the internal roads;
- The upgrading of the D 804 (resurfacing of the un-surfaced section to the west of the N2 and the construction of a Type A2 intersection at the D804 & P2 intersection;
- The construction of the two traffic circles on MR105 at Entrances 4 and 7;
- The construction of the storm water drainage systems;
- The construction of the water supply reticulation;
- Installation of general service ducting;
- The construction of a Water Reservoir;
- The construction of the sewer network with pump stations and rising mains as well as the required outfall line to the treatment works including pipe jacking and pipe bridges where required;
- The first phase of the treatment works;
- The construction of the dams and required attenuation structures;
- The installation of the bulk water main;
- The construction of the internal electricity network with substations to provide electricity to the above phases and to upgrade the existing electricity supply network for initial supplies for Phases 1 and 2 while the bulk supply is being installed.;

The following comments are pertinent to the construction items reflected above:

- The Retirement Village (1A) will have its sewer discharging into a temporary conservancy tank until such time as the outfall sewer and treatment works are completed.
- The portion known as Celebrity Mile (1B) will be temporarily serviced from the Sovereign Sands development with regards to water, sewage and road access.



Construction Phase 2 : March 2012 – December 2012

Phase 2 will consist of the development of Phases 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H & 2J on drawing 2350/8 Phases dated 5 May 2010.

The infrastructure will generally entail the following services:

- The construction of the internal roads;
- The construction of the storm water drainage systems;
- The construction of the water supply reticulation;
- The construction of the sewer network with pump stations and rising mains where required;
- Installation of general service ducting;
- A phased expansion of the treatment works if required;
- The construction of the dams and required attenuation structures;
- The construction of the internal electricity network with substations to provide electricity to the above phases;
- The Bulk H.V. Connection to be available for Construction Phase 3. Construction Phase 3 will not be permitted to commence unless the Bulk H.V. supply is available.

Construction Phase 3 : January 2013 – April 2014

Phase 3 will consist of the development of Phases 3A, 3B & 3C, on drawing 2350/8 Phases dated 5 May 2010.

The infrastructure will generally entail the following services:

- The construction of the internal roads;
- The construction of the storm water drainage systems;
- The construction of the water supply reticulation;
- The construction of a second Water Reservoir;
- The construction of the sewer network with pump stations and rising mains where required;
- Installation of general service ducting;
- A phased expansion of the treatment works if required;
- The construction of the dams and required attenuation structures;
- The construction of the internal electricity network with the required substations for the above phases;

Construction Phase 4 : May 2014 – March 2015

Phase 4 will consist of the development of Phases 4A, 4B & 4C on drawing 2350/8 Phases dated 5 May 2010.

The infrastructure will generally entail the following services;

- The construction of the internal roads;
- The construction of the storm water drainage systems;
- The construction of the water supply reticulation;
- The construction of the sewer network with pump stations and rising mains where required;
- Installation of general service ducting;
- A phased expansion of the treatment works if required;
- The construction of the dams and required attenuation structures;
- The construction of the internal electricity network with the required substations for the above phases

Construction Phase 5 : April 2015 – January 2016

Phase 5 will consist of the development of Phases 5A, 5B, 5C & 5D on drawing 2350/8 Phases dated 5 May 2010.

The infrastructure will generally entail the following services;

- The construction of the internal roads;
- The construction of the storm water drainage systems;
- The construction of the water supply reticulation;
- The construction of the sewer network with pump stations and rising mains where required;
- Installation of general service ducting;
- A phased expansion of the treatment works if required;
- The construction of the dams and required attenuation structures;
- The construction of the internal electricity network with the required substations for the above phases

Construction Phase 6 : February 2016 – August 2017

Phase 6 will consist of the development of Phases 6A 6B, 6C, 6D, 6F,6G, 6H, 6J, 6K, 6L, 6M, 6N, 6P & 6Q on drawing 2350/8 Phases dated 5 May 2010.



The infrastructure will generally entail the following services;

- The construction of the internal roads;
- The construction of the storm water drainage systems;
- The construction of the water supply reticulation;
- The construction of another Water Reservoir;
- The construction of the sewer network including pipe jacking and pipe bridges where required;
- Installation of general service ducting;
- A phased expansion of the treatment works if required;
- The construction of the dams and required attenuation structures;
- The interchange upgrade is as per the original Traffic report.
 - N2/Stanger East Ramp Terminal
 - Signallisation
 - Additional (shared) right turn lane (heading east to south), southbound on ramp
 - Partial two lane section on the southbound on ramp
 - Widen southbound off ramp
 - N2/Stanger West Ramp Terminal
 - Signallisation
 - Additional right turn lane on the northbound off ramp.
 - N2/Stanger Interchange
 - Additional lane (eastbound) between west ramp and east ramp
- Upgrading of the MR105 to 4 lanes from the N2 intersection through to Entrance No.7;
- The construction of the Alray Link between the D804 and the MR105 and associated traffic circles;
- The construction of the internal electricity network with the required substations for the above phases
- The Construction of Gatehouses and Security fencing to the estate.
- The construction of Community facilities for the estate.
- The construction of Estate Management facilities.

The following comments are pertinent to the construction items reflected above:

- The major up grade of the bulk road infrastructure has been included under this phase. It must be noted however that should the demands on the existing bulk road infrastructure be placed under pressure from traffic generation from the developed portions, the implementation of the bulk roads upgrade can be shifted into earlier phases.

Construction Phase 7 : December 2017- January 2019

Phase 7 will consist of the development of Phases 7A, 7B, 7C, 7D, 7E & 7F on drawing 2350/8 Phases dated 5 May 2010.

The infrastructure will generally entail the following services;

- The construction of the internal roads;
- The construction of the storm water drainage systems;
- The construction of the water supply reticulation;
- The construction of another two Water Reservoirs;
- The construction of the sewer network including pipe jacking and pipe bridges where required;
- Installation of general service ducting;
- A phased expansion of the treatment works if required;
- The construction of the dams and required attenuation structures;
- The construction of the internal electricity network with the required substations for the above phases

14. KwaZulu Natal Department of Roads (KZN DOT)

All conditions listed in the letters of approval dated 9 December 2005 and 2 June 2006 from KwaZulu-Natal Department of Transport shall be adhered to.

15. South African National Roads Agency (SANRAL)

All conditions listed in the letters of approval dated 22 September 2005 and 22 March 2006 from South African National Roads Agency shall be adhered to.

16. Application of Land Use Controls:

The Land Use Controls for Blythedale Coastal Resort marked Appendix A to this judgement shall apply in the Land Development area:

These controls are hereby included in the Blythedale Beach Town Planning Scheme in course of preparation and shall apply in addition to all other relevant controls in the Town Planning Scheme.



17. Transfer of Erven to H.O.A.:

Prior to the transfer of any erf within the relevant phase, the following erven shall be transferred to the H.O.A. free of charge for common usage for the use indicated:

- All Conservation and Open Space areas
Erven 467, 481, 490,511, 512, 876, 1092, 1253, 1314, 1470-1472, 1575, 1781,1787, 1789, 2030, 2032, 2037, 2038, 2039, 2046, 2047, 2-49, 2-5-, 2051, 2053, 2065, 3170 and 5186.
- All Access Erven
Erven 491, 617, 877, 878, 879, 982, 1254, 1255, 1257, 1316, 1473, 1474, 1475, 1476, 1577, 1579, 1783, 1785, 2033, 2034, 2035, 2036, 2039, 2065, 2068, 2069, 2073, 2074, 2075, 2076, 5046, 5139, 6504, 7082, 8000, 8001, 8002, 8003, 8004, 8005, 8006 and 8007.
- Reservoirs
Erf 808
- Sewage Treatment Works
Erf 488

18. Transfer of Erven to Local Authority

Prior to the transfer of any erf within the relevant phase, the following erven shall be transferred to the Local Authority free of charge for the use indicated:

- All Roads and footpaths in the Social Housing Village (namely Portions 19, 21, 35, 58, 59 & 60 of Erf 3 New Guelderland)
Erven 198, 444, 447, 513, 3171 and 2060
- All Community Facility Erven in the Social Housing Village (namely Portions 19, 21, 35, 58, 59 & 60 of Erf 3 New Guelderland)
Erven 249, 253, 254, 255, 509, 3000 and 3001

- Reservoir
Erf 3129
- Electrical substation
Erf 1788
- Public Open Space
Erven 11, 196, 250, 364, 443, 511, 2043, 3102, 3203, 6151

19. Transfer of Erven to the Education Department

Prior to the transfer of any erf within the relevant phase, Erven 251, 501 & 3052 shall be transferred to the Department of Education free of charge for the use indicated as and when required by the Department.

20. Reservation of school sites (Erven 249, 1787)

Erf 1787 (in the Activity node) shall not be used for any purpose other than educational purposes without the approval of the Local Authority and the Department of Education.

Erven 249 (social housing village), being a community facility erf may be used for educational purposes with the approval of the Local Authority and the Department of Education.

21. Phasing of Commercial Rights (Erf 1786)

No more than 5000m²gla floor space shall be constructed until 2000 residential units have been sold or approval has been obtained from the Local Authority and the Tribunal.

22. Notarial Deed of Servitude K1012/96

All conditions, rights and obligations included in the Notarial Deed of Servitude K1012/96 entered into between Prince's Grant Property Share Block Limited and New Guelderland Sugar Estates (Proprietary) Limited shall be honoured and enforced by Amberlock Investments (Pty) Ltd (or their successors in title) and the H.O.A.

23. Plan Approval Blythedale Coastal Resort :

Every erf have a Site Development Plan, Landscaping Plan and Building plan prepared for it by the owner and approved by the Local Authority prior to any construction or development on the erf provided that such plans have been recommended in writing for by the H.O.A. prior to submission to the Local Authority for approval.

D. CONDITIONS OF TITLE

1. Home Owners Association: (H.O.A.)

A Home Owners Association shall be formed in respect of each discrete sub-development in the land development area, and all owners shall become members of a H.O.A. responsible for such sub-development and ascribe to the rules and regulations of the same, and no erf/sectional title unit shall be transferred without the consent of the relevant H.O.A.

Erf owners in each sub-development will be obliged to become and remain members of the relevant HOA, and pay such levies and other charges as would customarily become due to the HOA from time to time.

As regards rights within the development, every homeowner will be entitled to use and enjoy all of the Resort facilities.

A Management Association shall be formed in respect of the entire development, on which each HOA in the development shall be equally represented.

The Management Association shall be responsible for the management and funding of matters relevant to the development as a whole, and for co-ordinating matters of common concern between all HOA's.

The inter-relationships of the HOA's and the Management Association shall be established in terms of the legal agreements between them and the homeowners, based on customary terms will shall include the following principles:

1. Funding for security and open space management within the development as a whole will be drawn from levy income raised from all except members of the Social Housing Village.
2. The Management Association shall have the power to raise additional levy income in order to alleviate financial hardship within the Social Housing Village, in appropriate cases and subject to principles to be set out in the relevant Rules.
3. 3m Omnibus Servitude (Blythedale Coastal Resort)
All erven (excluding erven to be transferred to the H.O.A. and Local Authority) shall be subject to the following condition along all boundaries.

The H.O.A., Local Authority or relevant service provider shall, without compensation, have the right to plant any vegetation and to erect, lay and maintain sewers, drains, water supply piping within such servitude and electricity mains above or under ground and shall have reasonable access

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thereto for the purposes of maintenance, removal or extension and the owner of the land shall, without compensation, be obliged to allow the sewerage and drainage of any other land or street to be conveyed along such sewers and drains and shall not permit such drain to be damaged or allow any material from whatever source to impede the flow of water within it.

No buildings or other structures shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within 1 (one) metre thereof nor shall the ground level therein be altered without the written consent of the H.O.A., Local Authority or relevant service provider.

The H.O.A., Local Authority or relevant service provider shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the course of construction, maintenance or removal of such sewerage mains and other works as it, in its discretion, may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose, subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the H.O.A., Local Authority or relevant service provider.

The owner of the erven shall, without compensation, be obliged to permit such deposit of material or excavation on the erf as may, in connection with the formation of any street in the township and owing to differences in level between the erf and the street, be deemed necessary by the H.O.A., Local Authority or relevant service provider in order to provide a safe and proper slope to the cut and fill commencing from the boundary of the erf unless he shall, at his own cost, elect to build a retaining wall to the satisfaction of the H.O.A., Local Authority or relevant service provider.



Encroachment over this servitude shall be at the discretion of the H.O.A., Local Authority or relevant service provider.

4. Access Erven Infrastructural Servitude:

All access erven being erven 491, 617, 877, 878, 879, 982, 1254, 1255, 1257, 1316, 1473, 1474, 1475, 1476, 1577, 1579, 1783, 1785, 2033, 2034, 2035, 2036, 2065, 2068, 2069, 2073, 2074, 2075, 2076, 5046, 5139, 6504, 7082, 8000, 8001, 8002, 8003, 8004, 8005, 8006 and 8007.

shall be subject to the following condition over the entire width:

The Local Authority or relevant service provider. shall, without compensation, have the right to erect, lay and maintain sewers, drains, water supply piping within such servitude and electricity mains above or under ground and shall have reasonable access thereto for the purposes of maintenance, removal or extension and the owner of the land shall, without compensation, be obliged to allow the sewerage and drainage of any other land or street to be conveyed along such sewers and drains and shall not permit such drain to be damaged or allow any material from whatever source to impede the flow of water within it.

No buildings or other structures shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within 1 (one) metre thereof nor shall the ground level therein be altered without the written consent of the local authority or relevant service provider.

The Local Authority or relevant service provider shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the course of construction, maintenance or removal of such sewerage mains and other works as it, in its discretion, may deem necessary and shall further be entitled to reasonable access to the said



land for the aforesaid purpose, subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the Local Authority or relevant service provider.

The owner of the erven shall, without compensation, be obliged to permit such deposit of material or excavation on the erf as may, in connection with the formation of any street in the township and owing to differences in level between the erf and the street, be deemed necessary by the Local Authority, in order to provide a safe and proper slope to the cut and fill commencing from the boundary of the erf unless he shall, at his own cost, elect to build a retaining wall to the satisfaction of the Local Authority or relevant service provider.

Encroachment over this servitude shall be at the discretion of the Local Authority or relevant service provider and the H.O.A.

5. 5m Planting and Services Servitude (Street Frontages)

5m planting and services servitudes as reflected on the general plans or diagrams shall be registered along the street frontages of all erven (excluding erven to be transferred to a H.O.A. and Local Authority erven fronting onto MR 105, and DR804). It shall be incumbent on the erf owner to plant and maintain the servitude to the satisfaction and approval of the H.O. A. according to the planting palette provided by the H. O. A. who reserves the right to plant and maintain the servitude in the event of non-compliance by the owner.

The H.O.A., Local Authority or relevant service provider shall, without compensation, have the right to plant any vegetation and to erect, lay and maintain sewers, drains, water supply piping within such servitude and electricity mains above or under ground and shall have reasonable access

thereto for the purposes of maintenance, removal or extension and the owner of the land shall, without compensation, be obliged to allow the sewerage and drainage of any other land or street to be conveyed along such sewers and drains and shall not permit such drain to be damaged or allow any material from whatever source to impede the flow of water within it.

No buildings or other structures shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within 1 (one) metre thereof nor shall the ground level therein be altered without the written consent of the H.O.A., Local Authority or relevant service provider.

The H.O.A., Local Authority or relevant service provider shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the course of construction, maintenance or removal of such sewerage mains and other works as it, in its discretion, may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose, subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the H.O.A., Local Authority or relevant service provider.

The owner of the erven shall, without compensation, be obliged to permit such deposit of material or excavation on the erf as may, in connection with the formation of any street in the township and owing to differences in level between the erf and the street, be deemed necessary by the H.O.A., Local Authority or relevant service provider in order to provide a safe and proper slope to the cut and fill commencing from the boundary of the erf unless he shall, at his own cost, elect to build a retaining wall to the satisfaction of the H.O.A., Local Authority or relevant service provider.

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Encroachment over this servitude shall be at the discretion of the H.O.A., Local Authority or relevant service provider.

6. 15m E.P.T.L.S. Servitude

Erven 953, 1091, 1248, 1260, 1314, 1386, 1471, 2000, 2045, 2068, 3170, and 6504 shall be subject to a 15m E.P.T.L.S. Servitude in favour of the Local Authority or relevant service provider.

7. 3m Electricity Cable Servitude(buried cable)

Erven 487, 510, 511, 3123, 3124, 3160, 3162, 3171, 5186, 6016 shall be subject to a 3m E.P.T.L.S. Servitude in favour of the Local Authority or relevant service provider.

8. Telecommunication Mast Servitude (Erf 1387)

Erf 1387 shall be subject to a telecommunication mast servitude registered in favour of Amberlock (Pty) Ltd.

9. Party-wall Servitude:

Party-wall servitudes as reflected on the general plan/s or diagrams shall be registered over and in favour of the affected erven, if and when required.

10. Building Line applicable to all Erven abutting Main Road P105 and District Road D804

a. No building or structure whatsoever other than a fence, hedge or wall which does not rise higher than 2,1m above the surface of the land on which it stands shall be erected on the land within a distance of 15 metres measured from the road reserve boundary of Main Road 105 and District Road 804.

b. No access to the individual erven shall be permitted from MR 105 and D804.

11. Building Line applicable to all Erven abutting National Road 2

- a. No building or structure whatsoever other than a fence, hedge or wall which does not rise higher than 2,1m above the surface of the land on which it stands shall be erected on the land within a distance of 20 metres measured from the road reserve boundary of National Route 2.
- b. No access to the individual erven shall be permitted from National Route 2.

12. Department of Agriculture :

All erven shall be subject to the following clause: No residents on any erf shall contest the normal farming operations necessary to sustain the viability of the surrounding cane farms. This will be for example things like noise generated from tractors and other farm machinery, chemical sprays, dust, smoke etc.

13. Non-building Right Of Way Servitude :

Erf 561 & 855 shall be subject to a non-building and Right of Way servitude as depicted on the General Plan or diagram in favour of the Home Owners Association.

14. 12,19m Right Of Way Servitude (12, 19m R.O.W) :

Erf 1789 shall be subject to a 12,19m wide Right of Way servitude as depicted on the General Plan or diagram in favour of Rem of 6 of the Farm Blythedale No. 1380 for use as an access limited to the exiting dwelling house and for agricultural purposes.

15. 10m Right Of Way Servitude (10m R.O.W) :

Erf 487 shall be subject to a 10m wide Right of Way servitude as depicted on the General Plan or diagram in favour of Ptn 31 (of 8) of the Farm Hyde Park No. 10233 for use as an access limited to agricultural purposes.

16. 10m Right Of Way Servitude (10m R.O.W) :

Erf 3170 shall be subject to a 10m wide Right of Way servitude as depicted on the General Plan or diagram in favour of Erf 327 Blythedale Beach for use as a vehicular and pedestrian access.

17. 5m Right Of Way Servitude (5m R.O.W) :

The Home Owners Association of Blythedale Beach Coastal Resort shall have the benefit of a 5m Right of Way servitude over Erf 327 Blythedale Beach for use as pedestrian access to the beach.

18. 5m Security Servitude :

A 5m security servitude as reflected on the general plan or diagram shall be registered over erf 561 and 953, in favour of the Home Owners Association.

19. 10m Non-building Servitude

Erven 1310-1312, 1387-1401 shall be subject to a non-building servitude as depicted on the General Plan or diagram in favour of the Home Owners Association.

20. 5m Right of Way Servitude (5m R.O.W) :

A 5m security servitude as reflected on the general plan or diagram shall be registered over erf 1387, in favour of the Home Owners Association.

19. 10m Right of Way Servitude

A 10m Right of Way servitude as reflected on the general plan or diagram shall be registered over Erven 1786, 1787, in favour of the Home Owners Association.

20. 10m Water Pipeline Servitude

A 10m Water Pipeline Servitude as reflected on the General Plan or diagram shall be registered over Erf 2030, in favour of the Home Owners Association or the relevant Services Provider.

21. Electrical Substation Servitude

An Electrical Substation Servitude as reflected on the General Plan shall be registered over Erven 600, 1253, 1534 and 2045. in favour of the relevant Services Provider.


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R.A.F. SWART
DEVELOPMENT TRIBUNAL CHAIRMAN

17. 6. 2010
.....
DATE

Appendix A

DENSITY ZONE	MAXIMUM PERMITTED F.A.R., COVERAGE AND HEIGHT	ADDITIONAL CONTROLS	COLOUR NOTATION ON SCHEME MAPS
Blythedale Coastal Resort/Special Zone (2)	0.45 : 40 : 2 (residential erven) 0.25 : 40 : 2 (non residential erven)	<ol style="list-style-type: none"> 1. F.A.R. and coverage controls shall apply to the bulk area of each erf and not individually to any mini-sub created within the bulk erf. 2. No dwelling house may be more than 7.6m above natural ground level measured at any point along the building, architectural features and chimneys not exceeding an additional 1m shall be permitted. Buildings on non-residential erven shall not exceed 9m in height. 3. A non-habitable basement 50% below natural ground level shall not constitute a storey. 4. A Home Owners' Association (H.O.A.) shall be formed and each landowner, shall belong to the H.O.A. and abide by its rules. 5. Development and land usage shall be substantially in accordance with the proposals depicted on layout plan no. 2350/8 Phases dated 5 May 2010 and Table C2 6. Clause 5.2 Lot Control does not apply. There is no minimum cartilage or erf size or other subdivisional control. Subdivisions shall be in accordance with layout plan 2350/8 Phases dated 5 May 2010. No further subdivision of any residential erf is permitted other than the creation of mini-subdivisions within Medium Density Housing sites. 7. The total number of units permitted shall be as depicted on layout plan no 2350/8 Phases dated 5 May 2010. 8. Development shall be subject to the provision of sewage disposal, stormwater, water supply, refuse disposal system and of other essential services to the satisfaction of the local authority. 9. The application of clause 4, 7 shall apply with the exclusion of clause 4. 10. Clause 3.1 and 3.2 shall not apply. Building lines shall be 5m. Side and rear spaces shall be 3m. Relaxation of building lines, side spaces, rear spaces and height shall be at the discretion of both the H.O.A. and the Local Authority. 11. Every erf shall have a Site Development Plan, Landscaping Plan and Building Plan prepared for it by the owner and approved by the Local Authority prior to any construction or development on the erf provided that such plans have been recommended in writing for approval by the H.O.A. prior to the submission to the Local Authority. 12. No individual flat, duplex flat, dwelling unit, maisonette, semi-detached house, or terrace house may exceed 600m² in floor area excluding patios, pergolas, verandas and garages, without the specific approval granted by the H.O.A. 13. No more than 5000m² of shopping floor area may be constructed in the Activity Node until 2000 residential units have been sold or approval has been obtained from the Local Authority and the Tribunal. No more than 3000m² of shopping floor area may be constructed outside of the Activity Node. 	Cross-hatched black BLYTHEDALE COASTAL RESORT/SPECIAL ZONE (2)

	<p>14. Other limitations</p> <ul style="list-style-type: none"> • Erf 1313 limited to 350 units • Hotel limited to 600 rooms on Erf 1530 • Conference centre limited to 300 seats on Erf 663 • Wellness centre limited to 30 rooms on Erf 663 • Equestrian Centre limited to erven 487 • Residential Building on golf course limited to 25 room lodge on erf 2007 • School of Golf limited to Erf 2005 • School of Excellence limited to Erf 510 with max F.A.R. of 15 000m². • Resort limited to erf 1534 with a max F.A.R. of 15 000m². • Golf driving range limited to erf 2006. • Helistop limited to Erf 1090 • Erf 1787 is earmarked for possible future schools • Educational Building Limited to Erven 251, 501, 510, 681, 1786, 1787 and 3052 • Office buildings limited to 5000m² in Activity Node • Office buildings limited to 500m² in Sporting School of Excellence on Erf 510 • Administration and Ablution limited to 300m² on Erven 1386, 1506, 1534 and 1541 • Restaurants limited to <ul style="list-style-type: none"> ◦ 2700m² on Erf 1534 ◦ 200m² on Erven 626, 681 and 1088 ◦ 900m² on Erven 1506 and 1541 • Shops limited to: <ul style="list-style-type: none"> ◦ 15000m² in Activity Node ◦ 1000m² on Erven 1506 and 1541 ◦ 200m² on Erven 602, 626, 681 and 1088 • Total Gross Shop Area is limited to 25000m² • Water theme park limited to Erf 1534 • Erf 1788 is set aside for electrical substation • Erf 488 is set aside for pump station site • Erf 1808 is set aside for reservoir site 	
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**DEVELOPMENT TRIBUNAL
KWAZULU NATAL**

DEVELOPMENT APPLICATION NO. 2005/1298 submitted on behalf of Amberlock Investments (Pty) Ltd by Ndebele Kirby Planners cc and heard on the 16 February 2006 and further hearing held on 5 & 6 June 2006.

APPLICATION FOR THE ESTABLISHMENT OF THE LAND DEVELOPMENT AREA ON PORTIONS 19, 20, 21, 23, 26, 27 AND 29 AND REMAINDER OF PORTION 1 (OF 1) OF THE FARM BLYTHDALE NO. 1380; PORTIONS 2, 3, 4, 24, 25 OF THE FARM BLYTHDALE NO. 1380; SUBS 22, 28 OF THE FARM BLYTHDALE NO. 1380; PROPOSED PORTIONS 21, 34, 41 AND 91 OF THE FARM NEW GUILDERLAND NO. 1404; PORTION 1 OF THE FARM HYDE PARK NO. 1388; ERVEN 77, 78, 79 BLYTHDALE BEACH TO BE KNOWN AS BLYTHDALE COASTAL RESORT

TRIBUNAL JUDGMENT

TRIBUNAL

Mr R A F Swart : Chairman
Prof R Diab
Prof V Soni
Mr P Akerman
Ms J Grieves
Mr B Edwards

REGISTRARS OFFICE

Mr G K Suzor : Deputy Registrar
Mrs H Clifton
Mrs H Konigkramer
Mr G Mathentamo

DESIGNATED OFFICER : Mr A Archary

APPEARANCES

For applicant :	Mr R G Kirby	Mr N Brauteseth
	Mr M Taylor	Mr S Isbister
	Mr G Nicolson	Mr M Turnbull
	Mr J Bodenstein	Mr G Visser
	Mrs J Thompson	Mr M Grunewald
	Mrs S George	Mr R Stewart
	Mr N Pistorious	Mr S Walden
	Mr S Venter	Ms N Demetriades
	Mr T Forbes	Mr F Smith
	Mr S Moodley	Mr T Botha
	Mr D King	

Departments

Department of Agriculture and Environmental Affairs :	Mrs S Allan	Mr S Armour
	Mr M Moses	Ms A Stoltz
KwaDukuza Municipality :	Mr M Mtanta	Mr M Moonsamy
Illembe District Municipality:	Mr J Naidoo	
Land Claims Commissioner:	Mr D M Zuma	Mr X Madikizela
eZemvelo KZN Wildlife :	Ms D Thambu	
Land Affairs :	Mr F Nzuzo	

Interested and Affected Parties

M Robert	M C Koenig	P Nash
C Kay	H Jacobs	C van der Merwe
T R Gorven	R L Evans	D Boodhar
P Nlovu	J E Gumede	N A Ngqotheni
R Ngqotheni	S R Maqwaza	A Hickman
N Schuit	A Maharaj	D Dugmore
D Govender	M Takurparsad	R Takurparsad
B Cheves	F Fokkens	E M Dube
T C Ndlovu	J E Dube	J S Phakathi
B Budhoo	S K Badul	F Moonsamy
H Luckynarayan	S Chetty	N C Mainiso
D M Zuma	D Boodhoo	D Jones
E M Dube	J S Phakathi	F Moonsamy
T C Nlovu	J E Dube	M V Mbonambi
S D Dube	L Knoll	M Akash

PART A

1. This development proposal is massive in proportion involving as it does the creation of more than 4 000 residential units, various in character, a variety of land uses to cater for an equestrian village, a beach hotel, an 18 hole golf course and club house, recreational areas and entertainment nodes, reservation of a ±200 hectare of coastal forest and re-establishment of ±180 hectares of new forest, a large social housing component together with a school and community facilities, beach facilities to accommodate residents, day visitors and tourists and a number of other uses.

The conveyance's certificate which forms part of the application papers testifies to the fact that the various portions of land which constitute the subject site are held by New Guiderland Sugar Estates (Pty) Ltd No. 1973/004968/07 under Deed of Transfer No. T6156/1974 save for Portions 77, Erf 78 and Erf 79 Blythdale Beach which are held by Eustan Investments (Pty) Ltd. No. 1973/002873/07 under Deed of Transfer No. T32934/1983.

2. The extent of the subject site according to the application papers is 982 hectares.
3. The applicant in this matter is Amberlock Investments (Pty) Ltd, which company is duly authorized to bring the application by the two owners referred to above and the applicant is represented herein by Ndebele Kirby Planners.

4. The application papers include appropriate company resolutions and Certificates of Incorporation confirming the authority of the companies to proceed in this matter and their respective identities. In its founding application papers the applicant referred the tribunal to Development Plan No. 2350/5 which reflected some 17 proposed land uses. The plan and the proposed uses have been varied during the process of the tribunal hearings and interaction with other interested and affected parties. These variations have also been reflected in the revised sets on Conditions of Establishment which the applicant has placed before the Tribunal for approval.
5. In its motivation for following the route of the Development Facilitation Act the applicant was made the following assertions:-
- The project forms a logical development node in this sub region as it is immediately adjacent to middle to up-market residential development of Blythdale Beach and the Princes Grant Golfing Estate and is situated only 3 kilometers from Stanger.
 - The development complies with the Integrated Development Plan and Spatial Development Framework both of the KwaDukuza Municipality and the Ilembe District Municipality.
 - Apart from Erven 77 to 79 both Blythdale Beach the area does not form part of the Blythdale Beach town planning scheme as it is currently a sugar cane farm and timber plantation.
 - The development company which is part of the Elan Group wish to commence construction as soon as possible to reduce escalation of costs of providing bulk services which is conservatively estimated at R500 000 per month.

- The research and studies on tourism demand by experts show an immediate need for a local and international tourist destination of the scale and type proposed. The applicant avers that the development would be considerably delayed if any routes other than the DFA were followed.
- 6. The applicant acknowledges that the subject site is extremely sensitive ecologically and that the proposed development plan has been the subject of multi-disciplinary team reports and analyses in order to provide for an estate of the highest international standard.
- 7. The proposed development has been the subject of on-going discussions and negotiations with both the KwaDukuza Municipality and the Ilembe District Council and both authorities are in support of the development.
- 8. The applicant proposes that an essential component for the success of the proposed resort and its desirability is to maximize its strategic advantages namely; direct access to the N2 national highway and the existing town of Stanger and most importantly its 3,5 kilometer of sea front and the magnificent on-site ±200 hectare indigenous forest and the beautiful Mdolotane River and estuary. The applicant stresses that no interference of any kind will be permitted within 30 meters of any defined wetland or forest with the existing ±200 hectare of natural forest being increased in size to ±386 hectare.

9. The applicant further claims that the development is aimed at creating a tourist resort of some 4 000 accommodation units varying in character from hotel rooms to cluster units in golf, forest or sea view villages and free-standing units. The applicant alleges that it is not aimed at the conventional township market because it believes that there is no need for this quantity of residential homes in this location at the present time. The proposed development will include accommodation for retired persons and an important part of the development will be to provide for social housing for the less privileged group.
10. The applicant highlights the need to provide for massive infrastructural services and undertakes to provide a water desalination plant, a new sewage works, new electricity substation and road upgrades and to reticulate the entire township within internal services. In addition it will provide typical holiday resort amenities such as golf course, water slides, swimming pools, tennis courts, squash courts, sports fields and an equestrian center and other amenities.
11. In its papers the applicant claims that a budget of some R250 million has been set aside by the Elan Group to achieve its ends in this development prior to any building commencing. Once all buildings are complete the applicant alleges that some R6 billion will be injected in the KwaZulu Natal economy creating some 20 000 construction jobs over a 10 year period. In addition the applicant claims that a least 2 000 full time jobs will be sustained after the operational phase.
12. Furthermore the applicant claims that the KwaDukuza Municipality can expect to receive some R40 million per annum in rates with very little on-going capital expenditure and no initial outlay of capital.

13. The applicant advises that whilst the entire estate is being fenced for security reasons and in order to control issues such as the poaching of game the general public will have access to all these facilities as day visitors, but will need to enter the resort by one of the three controlled entrances. The applicant stresses that the applicant's site is a private farm from which the general public has been excluded and that up until now, no public access to the beach has been permitted.
14. The applicant claims that in view of the environmental sensitivity of portions of the subject site extensive studies have been undertaken in the area in order to ensure that not only are any potential adverse environmental impacts mitigated but that in fact these sensitive areas are further protected and enhanced. The scoping reports have been submitted in terms of the Act in addition to an estuarine report on the effect on the estuary. All these matters have been the subject of in-depth discussions and negotiations with those responsible for protecting the environment.
15. The applicant has been involved in extensive participation with the public including the general public, the Princes Grant Home Owners' Association, Blythdale Beach residents and other on-site residents and committees including those in the commercial housing section which is to be upgraded.
16. In the process and following these discussions the applicant has made a number of amendments to its original proposals and to its development and layout plans for the project.

17. An impact assessment has been undertaken which concludes that the surrounding road network can adequately accommodate traffic to be generated from the Blythdale coastal resort with limited upgrading of the surrounding road network.
18. The applicant contends that the proposed development complies fully with the principles of Chapter 1 of the Development Facilitation Act as it falls within the development area of the KwaDukuza Municipality, it will prevent illegal occupation of land, it will make effective use of the land taking into account the environmental, topographical and geotechnical characteristics of the site and therefore be complementary to and become integrated with the existing urban fabric of the Blythdale Beach, KwaDukuza, Prince's Grant. In addition it will provide for residential development immediately adjacent to and integrated with employment opportunities in the commercial component of the scheme and Blythdale Beach and Stanger. It will also provide affordable housing accommodation for both of the lower, middle and upper income groups. The applicant also contends that the proposed development is in compliance with the principles set out in Chapter 4 of the Development Facilitation Act as it conforms to the integrated development plans of the local municipality and its social development framework.
19. Objections to the proposed development have been lodged by Prince's Grant Homeowners' Association, the local Ratepayers' Association, Blythdale Beach Residents' Association, Wildlife Society of South Africa, Ezemvelo Wildlife and the Department of Agriculture Cedara and National.

CONSIDERATION BY THE TRIBUNAL

20. The tribunal conducted a full scale site inspection accompanied by the applicant and other interested and affected parties on the 15th February, the day prior to the arranged 2 day hearing.
21. When the tribunal met on the 16th February members of the tribunal panel were critical of the fact that in view of the mass of documentation in support of this application and the late lodging of certain of the documentation they had not had adequate time to peruse and consider the written evidence before the tribunal.
22. When the hearing commenced and points in limine were invited, this sentiment was echoed by other interested and affected parties and notably Advocate Gorven on behalf of the Prince's Grant Estate who drew the tribunal's attention to the following:-
- a. The late submission of documents beyond the cut off time as stipulated at the pre-hearing conference;
 - b. The fact that the mass volume of the documentation required adequate time to consider and digest;
 - c. The fact that there was as yet no record of decision or report in any form from the Department of Agriculture and Environmental Affairs;
 - d. The fact that the estuarine report was only an interim and not a final report;
 - e. The fact that there was no completed services agreement in compliance with section 40 of the DFA;
 - f. That the Land Claims Commissioner was opposed to the application and that it was alleged that a land claim had been lodged in respect of the subject site;

- g. The fact that there was confusion on the land legal issues as to which company was in fact involved in bringing the application;
- h. An allegation that there was a substantial change to the proposals now put before the tribunal panel from those originally referred to in the documentation;

As a result of the above, Mr. Gorven suggested that the matter should become the subject of mediation between the parties.

23. Mr Brauteseth on behalf of the applicant responded to the points raised by the objectors explaining that meetings were still taking place between the applicant and the Department of Agriculture and Environmental Affairs in respect of the Department's assessment of the environmental impact of this development, the fact that the services agreement was being negotiated between two separate authorities, hence the delay; the fact that the interim estuarine report indicated satisfaction with the process and the fact that in his opinion the changes to the application before the tribunal now were not substantial in relation to the original application lodged.
24. The Tribunal on consideration of the points in limine ruled that they were valid and that as a result the hearing was premature and could not be proceeded with until the defects in the application were cured and until the parties had had adequate opportunities to consider and digest all the evidence before it. The Tribunal advised the applicant to endeavor to cure the defects and also to negotiate with Princes Grant Estate and other objectors in order to attempt to minimize the alleged defects in the application and also to obtain clarity on the alleged land claim.

The applicant undertook to endeavor to update all the documentation and references for the benefit of the tribunal panel and other interested parties. The hearing was thereafter adjourned until and 5th and 6th June.

25. Prior to the resumed hearing the applicant served re-arranged documentation on the tribunal and attempted to provide more effective cross references for the benefit of the Tribunal and also lodged additional documentation in an attempt to address the outstanding issues raised by the Tribunal at the first hearing. The applicant reported that the final estuarine report was available and consequently it was presented to the Tribunal, the services agreement had been concluded but was still awaiting signature, a revised layout plan also reflecting the phasing of the development proposals was lodged; legal opinions relating to alleged land claim were lodged; overview of the traffic impact assessment was lodged; and sundry additional correspondence relating to issues raised by interested and affected parties. In addition an environmental impact assessment review was provided to the panel.
26. No record of decision was available and because the Tribunal had been advised in advance of this fact Mrs Sarah Allen from the Department of Agriculture and Environmental Affairs had been invited to attend and was in fact present at the hearing.
27. The applicant advised the Tribunal that an agreement had been reached with the objectors Prince's Grant Estate under certain conditions which had been incorporated in the revised Conditions of Establishment.

28. **THE LAND CLAIM ISSUE** The issue of the alleged land claim and its impact on this hearing was dealt with, the presentation of a legal opinion by Advocate Wallis S.C. indicating that the issue as to whether or not there was a valid land claim over the property should not deter the Tribunal from considering the application on its merits as the Land Claims Commissioner had been given due notice of the hearing and would not be prejudiced or precluded from taking such steps as the Commissioner may deem necessary in terms of the restitution of Land Rights Act. The Tribunal accepted that the dispute over the validity or otherwise of an alleged land claim should not preclude it in terms of the Development Facilitation Act from considering an application for development rights on the land. The Land Claims Commissioner was represented at the hearing and the Tribunal advised that by allowing the hearing to proceed, the Commissioner was in no way being deprived of any rights in terms the restitution of Land Rights Act of 1994. The Tribunal noted that the Commissioner is free to invoke the provisions of that Act in dealing with the alleged land claim.
29. Mr Brauteseth on behalf of the applicant then proceeded to address the Tribunal on the merits of the application and referred the tribunal to the applicant's response to the request for outstanding documentation which had been highlighted at the first hearing.
30. On the subject of the environmental report the Tribunal asked Mrs Allan who was present representing the Department of Agriculture and Environmental Affairs to indicate what progress had been made by that department in its assessment of the environmental impact of the proposed development.

Mrs Allan indicated that the enormous size of the proposed development involved considerable and an indepth investigation into its impact on the environment and that the department had been fully involved in assessing these aspects over a period including receiving reports from KZN Wildlife and various discussions with the applicant. She indicated that queries raised at these meetings and the last hearing had been fully investigated and that she hoped to be in a position to produce a comprehensive record of decision by the end of June. She was not prepared to indicate however whether such record of decision would be negative or positive in regard to this development.

31. Mr Brauteseth then introduced Mr Thozamile Botha who is an adviser to the National Minister of Housing. Mr Botha was accompanied by Mr Saths Moodley also from the Department of the National Minister. Mr Botha advised that he was authorized by his Minister to address the Tribunal and he reported that his Minister had been in negotiation with the applicant's company in respect of the potential positive social housing impact of this development in that it was destined to include a substantial element of "social housing" in what is a multi-purpose gated estate which would offer benefits to all across the social stratum. Mr Botha indicated that his Minister was committed to supporting this application because the proposed development "is the first of its kind in the country and is an experiment at integrating social housing with an upmarket development in a gated estate".
32. Mr Brauteseth confirmed that the applicant had increased the "social housing" component of the application by transferring some additional 400 sites from the "upmarket" component to the social housing component.

33. Mr H. Luckynarayan representing the Residents' Association gave evidence indicating concerns by certain of the residents within the land development area regarding their possible movement from existing accommodation to another portion of the subject site. He stressed the fact that there were traditional considerations arising out of families having lived in their existing accommodation over some generations and there was uncertainty regarding the proposed development that it would unsettle them in their enjoyment of their rights and their culture and their traditions. The applicant responded that it was not the intention of the developer to move people from one area to another without their consent subject to the agreement as to the placing of residents in terms of the categories outlined in the agreements entered into between the parties. This was confirmed by Mr Stewart the owner of the existing farm and accepted by Mr Luckynarayan who expressed satisfaction at being given the assurance that subject to these conditions there would be no attempt to force people to move from one subject area to another.

34. Mr Armour of the Department of Agriculture Cedara gave evidence in support of his department's opposition to the development indicating the concern of the department regarding the loss of agriculture land and the effect the development may have on the area generally and on neighbouring land owners. Mr Armour conceded however that his department had been unaware of the attitude of the Department of Housing as reported by Mr Botha and that as a result of the evidence which had been placed before the Tribunal by Mr Botha on the strength of the social housing component and the interest of the Minister of Housing in this development, his department could reconsider its original stance in regard to the proposed development.

35. The Tribunal heard evidence regarding the desalinization proposals of the applicant the question of sewage disposal and the aspect of the diversion of sewage disposal to the Umvoti river which apparently is a requirement from the Department of Water Affairs and Forestry.
36. The requirements of DWAF in this regard were noted by the Tribunal where the applicant accepts that sewage disposal "must be subject to whatever requirements are needed by the relevant authorities to control effluent of sewage" such authority being the Department of Agriculture and Environmental Affairs and the Department of Water Affairs.
37. The Tribunal having concluded hearing evidence at the hearing the matter was adjourned for deliberation by the Tribunal on the 19 July 2006 and the applicant was required to provide the Tribunal with an amended set of conditions of establishment and also with a Record of Decision from the Department of Agriculture and Environmental Affairs prior to such deliberation date.
38. The relevant documents were duly provided prior to the deliberation but the Tribunal still found itself unable to give adequate consideration to the application and expressed its dissatisfaction in particular over the manner in which the environmental investigations had been undertaken by the applicant. The applicant was therefore required to give attention to the following matters before the Tribunal could resume its deliberation :-
- To undertake a specialist EIA report in which the environmental impact of effluent and sewage disposal on the Umvoti and Mlotane River systems are fully considered.

- Undertake a specialist EIA report, in addition, on the impact of the desalination plant on the marine environment and also its propensity of noise pollution on surrounding areas. In each of these instances the respective specialist consultants required the approval of the Department of Agriculture and Environmental Affairs, eZemvelo KZN Wildlife, Marine and Coastal Management and the Tribunal.
 - Clarity was required in detail as to how the beneficiaries of the social housing component would be accommodated within what is proposed as an integrated gated community, their rights, privileges, benefits and obligations in respect of the social amenities, road maintenance, environmental planting etc and their connection with the Home Owners Association.
 - Queries to be answered to the placing of dams on the river system and why no alternative sitings had been considered.
 - Comment on the fact that the heliport appeared to be too close to the main road and activity node should be on the northern side of the development
 - A revision of the conditions of establishment to provide for the requirements of the Department of Water Affairs, the proposed phasing and clarification of the school sites and other matters.
39. The Tribunal indicated that it required attention to the following matters before the end of the current year whereupon it would meet again to deliberate on the further evidence.

40. In due course the applicant advised that it had completed the investigations required by the panel and the panel met again to consider the evidence on the 27 October 2006. The tribunal again expressed its dissatisfaction over the manner in which the initial environmental investigations had been undertaken in respect of the proposed development, but having regard to the further assessment and investigations that had been undertaken at the instance of the Tribunal, the Tribunal concluded that subject to strict adhering to phasing of the development the proposals could be approved subject also to the conditions of establishment which follow in part B.
41. As a result the development is hereby approved subject to the conditions, which follow in part B.

PART B

Application for the establishment of a land development area in terms of Chapter V Section 31(2) of the Development Facilitation Act No. 67 of 1995 on Portions 19, 20, 21, 23, 26, 27 And 29 And Remainder Of Portion 1 (Of 1) Of The Farm Blythdale No. 1380; Portions 2, 3, 4, 24, 25 Of The Farm Blythdale No. 1380; Subs 22, 28 Of The Farm Blythdale No. 1380; Proposed Portions 21, 34, 41 And 91 Of The Farm New Guelderland No. 1404; Portion 1 Of The Farm Hyde Park No. 1388; Erven 77, 78, 79 Blythdale Beach, to be Consolidated and Redesignated Erf 3 New Guelderland on registration is hereby approved, subject to the following to be known as Blythdale Coastal Resort

A SPECIAL CONDITIONS

1. The provision of all services, roads, sewage, water etc to be satisfied for each phase before any development takes place on such phase.
2. In phase 1, in addition to the hotel, 50% of the units must be sold before phase 2 can be proceeded with.
3. The same principle will apply to the development of each of the further phases in that there must be a 50% sold of the individual units before ~~ensuing~~ *MO* ~~that~~ the next phase can be proceeded with.
4. Before any construction takes place on the development, the Department of Water Affairs and Forestry, the Department of Agriculture and Environmental Affairs and the National Department of Agriculture must certify to the satisfaction of the Tribunal that the desalination plant to be provided by the developer is appropriate, practical and accepted by these departments.

B ADDITIONAL CONDITIONS1. Hellstop Erf 1090

The landing of Helicopters shall be restricted to Erf 1090. All helicopter pilots landing at the Blythedale Coastal Resort shall be instructed that they are not to fly over the existing Blythedale Beach and Prince's Grant residential areas. This clause shall be included in the HOA rules and the EMP for ongoing control.

2. External Road upgrades

A monitoring committee shall be formed comprising KZN DOT, SANRAL, the Local Authority and the applicant (and any successors in title) to review road infrastructure and intersection upgrade requirements to the P105, D804, and N2 arising from the Blythedale Coastal Resort Development. The applicant /developer shall pay for the costs of the following incremental upgrades as and when the committee deems an upgrade is required, to a maximum value of R38.5 million with a 6% escalation as per the following schedule:

• MR105

- Dual carriageway between N2/Stanger interchange & Accesses 4/5 (Construction Phase 5)
- Traffic circle at MR105/Access 4/5 with 2 circulating lanes and two lanes on each approach (Construction Phase 2)
- Traffic circle at MR105/Access 6 with 2 circulating lanes and two lanes on each approach (Construction Phase 1)

- N2/Stanger East Ramp Terminal (Construction Phase 3)
 - Signallisation
 - Double right turn lane
 - Additional lane on P105 in each direction
 - Partial two lane section on the southbound ramp

- N2/Stanger West Ramp Terminal (Construction Phase 3)
 - Signallisation
 - Double right turn lane on the northbound off-ramp
 - Two lane approach on MR105 eastbound

- N2/Stanger Interchange (Construction Phase 3)
 - Additional lane (eastbound)

- P2/MR105/P20 (Construction Phase 3)
 - Extended left turn lanes on northern, eastern & western approaches

- D804 (Construction Phase 1)
 - Surface and rehabilitate (single carriageway standard)

- Link Road between D804 and MR105 (Construction Phase 4)
 - First carriageway (7.5m) of future north-south arterial

The timing of the abovementioned road elements/improvements will be dictated by the pace of development implementation.

3. Bulk Water supply

All water supplies to the development shall be by way of a desalination plant unless the Ilembe Municipality is able to supply a bulk supply of potable water from one of the available Water boards.

4. Borehole Water

Borehole water will only be used during the "construction of services" stage and the developer undertakes that the desalination plant shall be operational before any of the individual erven in the development require water connections or water for construction purposes.

As soon as the desalination plant is commissioned, or Ilembe provides bulk potable water supplies, whichever is applicable, all boreholes will be decommissioned save for those presently in use and required for ongoing irrigation of farming activities pending development.

The following clauses shall be included in the Environmental Management Plan:

"All boreholes within the applicant site shall be registered and licenced with the Department of Water Affairs and Forestry, and shall be fitted with a suitable meter for monitoring purposes. Records of water use shall be recorded by the ECO and records submitted monthly by the appointed ECO to the Department of Water Affairs and Forestry, and Ilembe District Municipality (The water services authority)"

5. Prince's Grant Homeowners Access

All Prince's Grant Homeowners (not including visitors) will be provided with security-controlled access through the Blythedale Coastal Resort development utilizing access erven 878, 1094, 2065, 2066, 2068, and 3053 that will run through the development when such road is completed.

6. Hardened surfaces

The following clauses shall be included in the Environmental Management Plan and Architectural Controls for the Resort

"In order to facilitate groundwater infiltration and reduce accumulated surface runoff, hardened parking and driveway surfaces are to be constructed of jointed block paving or other surfaces which optimize the infiltration of surface water. All runoff should approximate the natural runoff characteristics of the system "

7. Access to Common Facilities

All homeowners within the development, including the Social Housing Development, shall be entitled to use and enjoy all of the common facilities, including uses on all Community Facility sites, the golf course, hotels, access to the conservation areas and the equestrian facilities in the Blythedale Coastal Resort Resort, subject only to the rules and regulations of the relevant Home Owners' Association or the Management Committee, as the case may be.

C CONDITIONS OF ESTABLISHMENT

1. Geotechnical Investigation:

A detailed geotechnical investigation shall be conducted by a registered professional engineer prior to the development of each phase of the development and all recommendations shall be adhered to.

2. Approval of Minor Amendment to the Layout Plan:

The Tribunal may approve minor changes to the layout, including the creation of mini subs within Medium Density Housing erven depicted on plan no. 2350/5 dated 1 June 2006 provided the total number of units proposed on plan 2350/5 dated 1 June 2006 is not exceeded. A minor change is defined as an inconsequential change to the layout such as the movement of individual boundaries, rationalization of turning circle geometry and slight changes to road alignments.

3. Transfer of erven prior to installation of services

The Road reserves of P105 and D804 shall be transferred to Kwa-Zulu Natal Department of Transport, upon approval of this development.

4. KwaZulu-Natal Heritage Act of 1997:

The archaeological mitigation as identified within the Archaeological Report and authorised and approved by Amafa, shall be carried out to the satisfaction of Amafa before construction commences and during construction.

5. Environmental Record of Decision:

The Record of Decision (EIA 5641) dated 17 July 2006 issued by the Department of Agriculture and Environmental Affairs together with the requisite Environmental Management Plan prepared by Guy Nicolson Consulting cc shall be adhered to.

A formal agreement between SAPPI and the applicant/developer shall be concluded with regard to the discharge of treated wastewater effluent directly to the SAPPI Stanger Mill. The consequent reduced abstraction by SAPPI from the Mvoti River shall be monitored by DWAF. The disposal of wastewater in excess of 2Ml/day shall be subject to a Reserve Determination of the Mvoti River as required by DWAF.

The Applicant shall:

- commission a bathymetric survey to map the sea floor within which the desalination plant marine pipelines will be located;
 - undertake a survey of benthic organisms and an assessment of the larger marine organisms;
 - undertake an assessment of dune vegetation ;
 - undertake a noise assessment of the desalination plant
- in order to ensure that the location and design of the marine and land pipelines will have as little impact as possible on the marine coastal and dune environment. Such surveys and assessment shall include plans for ongoing monitoring programmes to evaluate impacts, and be submitted to the Department of Water Affairs and Forestry, the Provincial Department of Agriculture and Environment Affairs, and the National Department of Environment and Tourism for written approval prior to construction of any part of the marine pipelines within the sea or seashore.

Dams 1, 2, 3, 5, & 6 are to be located out of the major drainage line, river system and buffers thereto.

With the use of stormwater retention ponds, stormwater shall approximate the natural flow characteristics of that system.

No irrigation run of into streams is to be permitted.

For the remainder of the dams in the development, a wetland functional analysis, a dam management plan and a flow monitoring programme must be undertaken. Such analysis, plan and programme must be submitted to the Departments of Water Affairs and Forestry, Agriculture and Environmental Affairs, and eZemvelo KZN Wildlife for approval prior to the construction of any dam commencing.

River systems and drainage lines are to be rehabilitated to their natural state ensuring that the natural features are safeguarded in perpetuity.

Sand sourced for the construction of the development must be sourced from sustainable and permitted resources and shall not be sourced from an estuary.

6. Exemption from Regulation 23(1)

The development is hereby exempted from the need to submit general plans or diagrams for Phases 1b-15 within the timeframe of 5 months stipulated in Regulation 23(1). All general plans or diagrams must be submitted by 31 March 2012.

7. Legislation To Be Set Aside/Suspended

The Following Laws on Physical Planning:

- Section 11, 11bis, 12 -28, 32, 35- 39 and 47 bis of the Town Planning Ordinance, 1949 (Ordinance No. 27 of 1949), shall not apply to the land development area for the purpose of the development thereof in accordance with these conditions of township establishment.

- Act 70 of 70 Subdivision of Agricultural Land Act.
- The following conditions of title are suspended and will come into effect when published in the Provincial Gazette in terms of section 33(4) and shall be removed upon the opening of the township register in terms of section 34(3):

Title Deed No.:

T6156/1974	Para 8 Condition 8(B) on Pg 6
T6156/1974	Para 9 Condition 9(B) on Pg 6
T6156/1974	Para 29 Condition 29(B), (C), & (D) on Pg17
T6156/1974	Para 4 Condition 4(B), & 4(C) on Pg 4
T6156/1974	Para 10 Condition 10(B) on Pg 7
T32436/1983	4(a), (b), (c), (d), & (e) on Pg 3 4(f), & (g) on Pg 4
T32935/1983	4(a), (b), (c), (d), & (e) on Pg 3 4(f), & (g) on Pg 4
T32934/1983	4(a), (b), (c), (d), & (e) on Pg 3 4(f), & (g) and 5(a) on Pg 4

8. Designation:

The name of the Township shall be **New Guelderland** which name has been confirmed by the Surveyor-General.

9. Layout:

The land Development shall be laid out substantially in accordance with Plan no. 2350/5 dated 1 June 2006 prepared by Ndebele Kirby Planners cc. which



plan is hereby approved. The development shall be developed in phases as depicted on plan no. 2350/5 dated 1 June 2006

10. Lodging of the General Plan:

The applicant shall lodge General Plans or diagrams for each Phase of New Guelderland with the Surveyor-General together with all the necessary documents contemplated by Section 37 (a) of the Development Facilitation Act, 1995 (Act 67 of 1995).

The Phases will be created in portions as set out below:

Proposed Portion of Road 804 to be transferred to KZNDOT – Portion 1 of Erf 3 New Guelderland

Proposed Portion "A" of Road 105 to be transferred to KZNDOT - Portion 2 of Erf 3 New Guelderland

Proposed Portion "B" of Road 105 to be transferred to KZNDOT - Portion 3 of Erf 3 New Guelderland

Phase 1A - Portion 4 of Erf 3 New Guelderland

Phase 1B - Portion 5 of Erf 3 New Guelderland

Phase 1C - Portion 6 of Erf 3 New Guelderland

Phase 1D - Portion 7 of Erf 3 New Guelderland

Phase 2A - Portion 8 of Erf 3 New Guelderland

Phase 2B - Portion 9 of Erf 3 New Guelderland

Phase 2C - Portion 10 of Erf 3 New Guelderland

Phase 2D - Portion 11 of Erf 3 New Guelderland

Phase 2E - Portion 12 of Erf 3 New Guelderland

Phase 2F - Portion 13 of Erf 3 New Guelderland

Phase 2G - Portion 14 of Erf 3 New Guelderland

Phase 3 - Portion 15 of Erf 3 New Guelderland

- Phase 4A - Portion 16 of Erf 3 New Guelderland
- Phase 4B - Portion 17 of Erf 3 New Guelderland
- Phase 4C - Portion 18 of Erf 3 New Guelderland
- Phase 4D - Portion 19 of Erf 3 New Guelderland
- Phase 5A - Portion 20 of Erf 3 New Guelderland
- Phase 5B - Portion 21 of Erf 3 New Guelderland
- Phase 5C - Portion 22 of Erf 3 New Guelderland
- Phase 5D - Portion 23 of Erf 3 New Guelderland
- Phase 5E - Portion 24 of Erf 3 New Guelderland
- Phase 5F - Portion 25 of Erf 3 New Guelderland
- Phase 5G - Portion 26 of Erf 3 New Guelderland
- Phase 5H - Portion 27 of Erf 3 New Guelderland
- Phase 5I - Portion 28 of Erf 3 New Guelderland
- Phase 5J - Portion 29 of Erf 3 New Guelderland
- Phase 6A - Portion 30 of Erf 3 New Guelderland
- Phase 6B - Portion 31 of Erf 3 New Guelderland
- Phase 6C - Portion 32 of Erf 3 New Guelderland
- Phase 6D - Portion 33 of Erf 3 New Guelderland
- Phase 6E - Portion 34 of Erf 3 New Guelderland
- Phase 6F - Portion 35 of Erf 3 New Guelderland
- Phase 7A - Portion 36 of Erf 3 New Guelderland
- Phase 7B - Portion 37 of Erf 3 New Guelderland
- Phase 7C - Portion 38 of Erf 3 New Guelderland
- Phase 8A - Portion 39 of Erf 3 New Guelderland
- Phase 8B - Portion 40 of Erf 3 New Guelderland
- Phase 9 - Portion 41 of Erf 3 New Guelderland
- Phase 10A - Portion 42 of Erf 3 New Guelderland
- Phase 10B - Portion 43 of Erf 3 New Guelderland
- Phase 10C - Portion 44 of Erf 3 New Guelderland
- Phase 10D - Portion 45 of Erf 3 New Guelderland
- Phase 11A - Portion 46 of Erf 3 New Guelderland

Phase 11B - Portion 47 of Erf 3 New Guelderland
Phase 11C - Portion 48 of Erf 3 New Guelderland
Phase 12A - Portion 49 of Erf 3 New Guelderland
Phase 12B - Portion 50 of Erf 3 New Guelderland
Phase 12C - Portion 51 of Erf 3 New Guelderland
Phase 13 - Portion 52 of Erf 3 New Guelderland
Phase 14 - Portion 53 of Erf 3 New Guelderland
Phase 15 - Portion 54 of Erf 3 New Guelderland

11. Opening of the Township Register:

A print of the approved General Plans or diagrams shall be lodged with the Registrar of Deeds, together with a copy of these conditions signed by the Tribunal Chairman and the Title Deeds under which the subject land is held as contemplated by section 37(b) and subject to section 23(10) of the Development Facilitation Act, 1995 (Act 67 of 1995).

Prior to the opening of the township register:

1. Ptns 2, 3, 4, 19 (of 1), 20 (of 1), 22, 23 (of 1), 24, 25, 26 (of 1), 27 (of 1), 28, 29 (of 1) and Rem all of the farm Blythdale No. 1380, Ptn 1 of the farm Hyde Park No.1388 and Ptns 151 (of 21), 152 (of 34), 153 (of 41), 154 (of 91) all of the Farm New Guelderland No. 1404 are to be consolidated to form the farm New Guelderland No.17930. (which is to be redesignated to Erf 1 New Guelderland on registration)
2. Erven 77, 78 and 79 Blythdale Beach are to be consolidated to form Erf 333 Blythdale Beach. (which is to be redesignated to Erf 2 New Guelderland on registration)

3. Erf 1 and 2 New Guelderland will then be consolidated to form Erf 3 New Guelderland
4. All of the above will happen simultaneously.

12. Provision of Services:

The land development applicant and the relevant local government body shall provide and install the services, in the land development area, as provided for in terms of Section 40 of the Act as detailed in the Services Agreements entered into between Amberlock Investments (Pty) Ltd and Ilembe District Municipality dated 3 February 2006, and Amberlock Investments (Pty) Ltd and Kwa Dukuza Municipality dated 1 June 2006.

Prior to the transfer of any erf or sectional title unit in any phase of the development the Designated Officer shall be supplied with a certificate signed by a professional engineer registered in terms of Act No. 81 of 1968 to the effect that the following services as listed in 12 (1) to 12 (7) have been installed for that erf or unit and that a professional engineer has certified that the bulks infrastructure as listed for each construction phase as listed in condition 13 below have also been complied with to the satisfaction of the relevant authority including any special or additional conditions listed in Sections A and B respectively of Part B of this judgement.

1. The developer shall provide a supply of potable water to within the normal connection distance of each erf to the satisfaction of the Water Authority
2. The developer shall provide an efficient and sanitary method of sewage disposal to within the normal connection distance of each erf to the satisfaction of Ilembe District Municipality.

3. The developer shall provide and efficient supply of electricity to within the normal connection distance of the boundary of each erf to the satisfaction of the supply authority
4. The developer shall construct all internal roads to the engineers satisfaction
5. The developer shall construct such stormwater drainage facilities as are necessary for the disposal of stormwater from each erf.
6. The developer shall provide fire services to the satisfaction of the Kwa Dukuza Municipality.
7. The developer shall provide solid waste disposal facility to the satisfaction of the Kwa Dukuza Municipality.

Once satisfied that the requirements of Section 38 (1) (c) and (d) have been met the Designated Officer will issue the certificate contemplated in Section 38 (1) to the Registrar of Deeds.

13 Installations of Services (Construction Phases)

All bulk, link, and internal services shall be installed in accordance with the following 5 construction phases.

Divergence from the time indicated shall only be permitted at the discretion of the Tribunal.

Construction Phase 1 – Jan 2007 – March 2008

Phase 1 will consist of the development of Phases 1A – 1D; 2A; 2C; 2E; 4A – 4D, 5H, 10B; as indicated on layout plan 2350/5 dated 1 June 2006 ; The infrastructure will entail the following services:

- Construction of the circle on MR 105 at the southern entrance No. 6.
- The construction of the entrance road to Phases 1 & 2;

- The construction of the internal roads to the above phases;
- The upgrading of the D 804 to the west of the N2;
- The construction of the storm water drainage systems for the above phases;
- The construction of the desalination plant and reservoir to provide bulk water to phases 1 & 2;
- The construction of the water network to provide water supply to the above phases including a bulk supply line to Phases 2A, 2C and the sewerage purification plant;
- The construction of the sewerage purification plant to serve phases 1 & 2;
- The construction of the sewer network with pump stations and rising mains from the above phases to the sewerage purification plant;
- The bulk high voltage electricity connection;
- The construction of the electricity network with substations to provide electricity to the above phases;
- The construction of dams 9 & 10.

Construction Phase 2 – Sept 2007 – April 2009

Phase 2 will consist of the development of Phases 2B; 2D; 2F; 3; 9,10A, 13, 14.

The infrastructure will entail the following services:

- The construction of the internal roads for the above phases;
- The construction of the internal storm water drainage systems for the above phases

- The construction of the internal water network for the above phases;
- The construction of the internal sewer network with pump stations for the above phases;
- The construction of the internal electricity network with substations for the above phases.
- The construction of the circle on MR105 at the southern entrance No4/5

Construction Phase 3– Jan 2009 – August 2010

Phase 3 will consist of the development of Phases 2G; 5A – 5G; 6F; 10C

The infrastructure will entail the following services:

- The construction of the internal roads for the above phases;
- The construction of the internal stormwater drainage systems for the above phases;
- The construction of the internal water network for the above phases;
- The construction of the internal sewer network with pump stations for the above phases;
- The construction of the internal electricity network with substations for the above phases.
- Upgrading of the MR105 interchange
- Upgrade sewer purification plant and desalination plant to serve phase 3

- Upgrade the N2/MR105 interchange

Construction Phase 4 – July 2010 – Feb 2012

Phase 4 will consist of the development of Phases 5I; 5J; 6A - 6D; 7A – 7C and 11A.

- The infrastructure will entail the following services:
- The construction of the internal roads for the above phases;
- The construction of the internal storm water drainage systems for the above phases;
- The construction of the internal water network for the above phases;
- The construction of the internal sewer network with pump stations for the above phases;
- The construction of the internal electricity network with substations for the above phases;
- Construction of the golf course with irrigation system and dams 1 -6
- Upgrade sewer purification plant and desalination plant to serve phase 4 and 5
- Link road between D804 and MR105

Construction Phase 5 – Jan 2012 – Aug 2013

Phase 5 will consist of the development of Phases 6E; 8A; 8B; 10D; 11B; 11C; 12A, 12B, and 15.

- The infrastructure will entail the following services:
- The construction of the internal roads for the above phases;



- The construction of the internal stormwater drainage systems for the above phases;
- The construction of the internal water network for the above phases;
- The construction of the internal sewer network with pump stations for the above phases
- The construction of the internal electricity network with substations for the above phases;
- The construction of dams 7 & 8
- Upgrading of MR105 to 4 lanes

14. KwaZulu Natal Department of Roads (KZN DOT)

All conditions listed in the letters of approval dated 9 December 2005 and 2 June 2006 from KwaZulu-Natal Department of Transport shall be adhered to.

15. South African National Roads Agency (SANRAL)

All conditions listed in the letters of approval dated 22 September 2005 and 22 March 2006 from South African National Roads Agency shall be adhered to.

16. Application of Land Use Controls:

The Land Use Controls for Blythedale Coastal Resort marked Appendix A to this judgement shall apply in the Land Development area:

These controls are hereby included in the Blythedale Beach Town Planning Scheme in course of preparation and shall apply in addition to all other relevant controls in the Town Planning Scheme.



17. Transfer of Erven to H.O.A.:

Prior to the transfer of any erf within the relevant phase, the following erven shall be transferred to the H.O.A. free of charge for common usage for the use indicated:

- All Conservation areas Erven 77- 79 Blythedale Beach, 443, 467, 481, 487, 489, 490, 617, 874, 876, 982, 1092, 1253, 1314, 1470, 1471, 1472, 1575, 1576, 1781, 1789, 2030, - 2032, 2036, 2037, 2046 -2053, and 2055,
- All Access Erven 491, 619, 620, 877, 878, 879, 880, 984, 1093, 1094, 1254 , 1255, 1257, 1316, 1473 -1476, 1577 1579, 1783-1785, 2033-2035, 2052, 2061-2068 2069 2070, - 2076, 3069
- **Desalination Plant erf 1811**
- Reservoirs erven 1803, 1807, 2047
- Sewage Treatment Works 488
- All Private Recreation Erven in the Social Housing Village erven 11, 196, 197, 250, 252, 364, 443, 511, 1807, 2043, 2044, 2045, 2060, 3102, and 3103

18. Transfer of Erven to Local Authority

Prior to the transfer of any erf within the relevant phase, the following erven shall be transferred to the Local Authority free of charge for the use indicated:

- All Roads and footpaths in the Social Housing Village erven 198, 444, 447, 513, 593, 2060, 2077-2084, and 3171.
- All Community Facility erven in the Social Village erven 249, 254 and 255, 503, 509, 3000, and 3001
- Reservoir erf 3129
- Electrical substation erf 1788

19. Transfer of Erven to the Education Department

Prior to the transfer of any erf within the relevant phase, Erven 251, 501 & 3052 shall be transferred to the Department of Education free of charge for the use indicated as and when required by the Department.

20. Reservation of school sites (Erven 249, 1787)

Erf 1787 (in the Activity node) shall not be used for any purpose other than educational purposes without the approval of the Local Authority and the Department of Education.

Erven 249 (social housing village), being a community facility erf may be used for educational purposes with the approval of the Local Authority and the Department of Education.

21. Phasing of Commercial Rights (Erf 1786)

No more than 5000m²gla floor space shall be constructed until 2000 residential units have been completed or approval has been obtained from the Local Authority and the Tribunal.

22. Notarial Deed of Servitude K1012/96

All conditions, rights and obligations included in the Notarial Deed of Servitude K1012/96 entered into between Prince's Grant Property Share Block Limited and New Guelderland Sugar Estates (Proprietary) Limited shall be honoured and enforced by Amberlock Investments (Pty) Ltd (or their successors in title) and the H.O.A.

23. Plan Approval Blythedale Coastal Resort :

Every erf have a Site Development Plan, Landscaping Plan and Building plan prepared for it by the owner and approved by the Local Authority prior to any construction or development on the erf provided that such plans have been recommended in writing for by the H.O.A. prior to submission to the Local Authority for approval.

C. **CONDITIONS OF TITLE**

1. Home Owners Association: (H.O.A.)

A Home Owners Association shall be formed in respect of each discrete sub-development in the land development area, and all owners shall become members of a H.O.A. responsible for such sub-development and ascribe to the rules and regulations of the same, and no erf/sectional title unit shall be transferred without the consent of the relevant H.O.A.

Erf owners in each sub-development will be obliged to become and remain members of the relevant HOA, and pay such levies and other charges as would customarily become due to the HOA from time to time. As regards rights within the development, every homeowner will be entitled to use and enjoy all of the Resort facilities, without restriction.

A Management Association shall be formed in respect of the entire development, on which each HOA in the development shall be equally represented.

The Management Association shall be responsible for the management and funding of matters relevant to the development as a whole, and for co-ordinating matters of common concern between all HOA's. The inter-relationships of the HOA's and the Management Association shall be established in terms of the legal agreements between them and the homeowners, based on customary terms will shall include the following principles:

1. Funding for security and open space management within the development as a whole will be drawn from levy income raised from all except members of the Social Housing Village.
2. The Management Association shall have the power to raise additional levy income in order to alleviate financial hardship within the Social Housing Village, in appropriate cases and subject to principles to be set out in the relevant Rules.
3. 3m Omnibus Servitude (Blythedale Coastal Resort)

All erven (excluding erven to be transferred to the H.O.A.) shall be subject to the following condition along all boundaries including the street front.

The H.O.A., Local Authority or relevant service provider shall, without compensation, have the right to plant any vegetation and to erect, lay and maintain sewers, drains, water supply piping within such servitude and electricity mains above or under ground and shall have reasonable access thereto for the purposes of maintenance, removal or extension and the owner of the land shall, without compensation, be obliged to allow the sewerage and drainage of any other land or street to be conveyed along such sewers and drains and shall not permit such drain to be damaged or allow any material from whatever source to impede the flow of water within it.

No buildings or other structures shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within 1 (one) metre thereof nor shall the ground level therein be altered without the written consent of the H.O.A., Local Authority or relevant service provider.

The H.O.A., Local Authority or relevant service provider shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the course of construction, maintenance or removal of such sewerage mains and other works as it, in its discretion, may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose, subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the H.O.A., Local Authority or relevant service provider.

The owner of the erven shall, without compensation, be obliged to permit such deposit of material or excavation on the erf as may, in connection with the formation of any street in the township and owing to differences in level between the erf and the street, be deemed necessary by the H.O.A., Local Authority or relevant service provider in order to provide a safe and proper slope to the cut and fill commencing from the boundary of the erf unless he shall, at his own cost, elect to build a retaining wall to the satisfaction of the H.O.A., Local Authority or relevant service provider.

Encroachment over this servitude shall be at the discretion of the H.O.A., Local Authority or relevant service provider.

4. Access Erven Infrastructural Servitude:

All access erven being erven 491, 619, 620, 877, 878, 879, 880, 984, 1093, 1094, 1254, 1255, 1257, 1316, 1473 -1476, 1577 1579, 1783-1785, 2033-2035, 2052, 2061-2068 2069 2070, - 2076, 3069 shall be subject to the following condition over the entire width:

The Local Authority or relevant service provider. shall, without compensation, have the right to erect, lay and maintain sewers, drains, water supply piping within such servitude and electricity mains above or under ground and shall have reasonable access thereto for the purposes of maintenance, removal or extension and the owner of the land shall, without compensation, be obliged to allow the sewerage and drainage of any other land or street to be conveyed along such sewers and drains and shall not permit such drain to be damaged or allow any material from whatever source to impede the flow of water within it.

No buildings or other structures shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within 1 (one) metre thereof nor shall the ground level therein be altered without the written consent of the local authority or relevant service provider.

The Local Authority or relevant service provider shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the course of construction, maintenance or removal of such sewerage mains and other works as it, in its discretion, may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose, subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains

and other works being made good by the Local Authority or relevant service provider.

The owner of the erven shall, without compensation, be obliged to permit such deposit of material or excavation on the erf as may, in connection with the formation of any street in the township and owing to differences in level between the erf and the street, be deemed necessary by the Local Authority, in order to provide a safe and proper slope to the cut and fill commencing from the boundary of the erf unless he shall, at his own cost, elect to build a retaining wall to the satisfaction of the Local Authority or relevant service provider.

Encroachment over this servitude shall be at the discretion of the Local Authority or relevant service provider and the H.O.A.

5. 5m Planting and Services Servitude

5m planting and services servitudes as reflected on the general plans or diagrams shall be registered along the street frontages of all erven (excluding erven to be transferred to a H.O.A., erven fronting onto MR 105, and DR804). It shall be incumbent on the erf owner to plant and maintain the servitude to the satisfaction and approval of the H.O. A. according to the planting palette provided by the H. O. A. who reserves the right to plant and maintain the servitude in the event of non-compliance by the owner.

The H.O.A., Local Authority or relevant service provider shall, without compensation, have the right to plant any vegetation and to erect, lay and maintain sewers, drains, water supply piping within such servitude and electricity mains above or under ground and shall have reasonable access thereto for the purposes of maintenance, removal or extension and the owner of the land shall, without compensation, be obliged to allow the sewerage and

drainage of any other land or street to be conveyed along such sewers and drains and shall not permit such drain to be damaged or allow any material from whatever source to impede the flow of water within it.

No buildings or other structures shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within 1 (one) metre thereof nor shall the ground level therein be altered without the written consent of the H.O.A., Local Authority or relevant service provider.

The H.O.A., Local Authority or relevant service provider shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the course of construction, maintenance or removal of such sewerage mains and other works as it, in its discretion, may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose, subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the H.O.A., Local Authority or relevant service provider.

The owner of the erf shall, without compensation, be obliged to permit such deposit of material or excavation on the erf as may, in connection with the formation of any street in the township and owing to differences in level between the erf and the street, be deemed necessary by the H.O.A., Local Authority or relevant service provider in order to provide a safe and proper slope to the cut and fill commencing from the boundary of the erf unless he shall, at his own cost, elect to build a retaining wall to the satisfaction of the H.O.A., Local Authority or relevant service provider.

Encroachment over this servitude shall be at the discretion of the H.O.A., Local Authority or relevant service provider.

6. 15m E.P.T.L.S. Servitude

Erven 941, 1091,1094, 1248, 1260, 1301 – 1312, 1314, 1316, 1386 – 1401 1471, 1472, and 2000, 2045, 2047, 2048, 2050, 2051, 2052, 2055 shall be subject to a 15m E.P.T.L.S. Servitude in favour of Eskom.

7. 3m Electricity Cable Servitude(buried cable)

Erven 487, 511, and 513 shall be subject to a 3m E.P.T.L.S. Servitude in favour of Eskom.

8. 15m R.O.W.

Erf 1787 shall be subject to a 15m Right of Way (R.O.W.) in favour of Kwa Dukuza Municipality.

9. Telecommunication Mast Servitude (Erf 1387)

Erf 1387 shall be subject to a telecommunication mast servitude registered in favour of Amberlock (Pty) Ltd.

10. Party-wall Servitude:

Party-wall servitudes as reflected on the general plan/s or diagrams shall be registered over and in favour of the affected erven, if and when required.

11. Building Line applicable to all Erven abutting Main Road P105 and District Road D804

- a. No building or structure whatsoever other than a fence, hedge or wall which does not rise higher than 2,1m above the surface of the land on which it stands shall be erected on the land within a distance of 15 metres measured from the road reserve boundary of Main Road 105 and District Road 804.
- b. No access to the individual erven shall be permitted from MR 105 and D804.

12. Building Line applicable to all Erven abutting National Road 2

- a. No building or structure whatsoever other than a fence, hedge or wall which does not rise higher than 2,1m above the surface of the land on which it stands shall be erected on the land within a distance of 20 metres measured from the road reserve boundary of National Route 2.
- b. No access to the individual erven shall be permitted from National Route 2.

13. Department of Agriculture :

All erven shall be subject to the following clause: No residents on any erf shall contest the normal farming operations necessary to sustain the viability of the surrounding cane farms. This will be for example things like noise generated from tractors and other farm machinery, chemical sprays, dust, smoke etc.

14. Non-building Right Of Way Servitude :

Erven 561 and 855 shall be subject to a non-building and Right of Way servitude as depicted on the General Plan or diagram in favour of the Home Owners Association.

15. 12,19m Right Of Way Servitude (12, 19m R.O.W) :

Erf 1786 shall be subject to a 12,19m wide Right of Way servitude as depicted on the General Plan or diagram in favour of Rem of 6 of the Farm Blythedale No. 1380 for use as an access limited to the exiting dwelling house and for agricultural purposes.

16. 10m Right Of Way Servitude (10m R.O.W) :

Erf 487 shall be subject to a 10m wide Right of Way servitude as depicted on the General Plan or diagram in favour of Ptn 31 (of 8) of the Farm Hyde Park No. 10233 for use as an access limited to agricultural purposes.

17. 10m Right Of Way Servitude (10m R.O.W) :

Erf 1472 shall be subject to a 10m wide Right of Way servitude as depicted on the General Plan or diagram in favour of Erf 327 Blythedale Beach for use as a vehicular and pedestrian access.

18. 5m Right Of Way Servitude (5m R.O.W) :

The Home Owners Association of Blythedale Beach Coastal Resort shall have the benefit of a 5m Right of Way servitude over erf 327 Blythedale Beach for use as pedestrian access to the beach.

19.5m Security Servitude :

A 5m security servitude as reflected on the general plan or diagram shall be registered over erven 561- 567,569-573, 577, 885, 941, 948, 949, 969, 970, 973 -980, in favour of the Home Owners Association

PART C

REASONS FOR JUDGEMENT

1. The proposed development complies with the general principles set out in Chapter 3 of the Development Facilitation Act in that it is a major integrated development which will be sustainable, will provide a combination of social housing, middle and upper income housing in a gated community and it will provide employment opportunities of a large scale both during construction phases and thereafter on a more permanent basis, it will prevent the illegal occupation of land and it will be linked to existing urban development.
2. The development is unique in that the Minister of Housing through his representative at the hearing indicated enthusiastic approval of the development after consultation with the developer and has labeled the development as unique in that it is the first of its kind which combines social housing with upmarket housing in a gated community.
3. The development has the enthusiastic support of both the local municipality and the district council which have entered into the necessary services agreement with the developer relating to the provision of bulk services.
4. The development has the support of the Department of Agriculture and Environmental Affairs which has issued a Record of Decision. There are

various conditions in order to minimize any negative affect on the environment.

5. The concerns of the New Guelderland Ratepayers Association have been adequately dealt with by the application and the Association has acknowledge this fact evidence before the Tribunal.

6. The concerns of the Blythedale Ratepayers Association have been adequately addressed.

7. Although the Department of Agriculture has indicated opposition to the development in the early stages, the Department representative at the hearing ^{indicated} that he and his department had been unaware of the enthusiastic support for the development by the Minister of Housing as indicated during the course of the hearing. No further response from the Department has been received by the Tribunal since the hearing and since it became aware of the support given to the development by the Department of Housing.


R.A.F. SWART
DEVELOPMENT TRIBUNAL CHAIRMAN

DATE... 8. 11. 2006

