

EIA REFERENCE NUMBER: 16/3/3/5/D6/29/0001/23
NEAS REFERENCE: WCP/EIA/AMEND/0000709/2023
DATE OF ISSUE: 30 March 2023

ADDENDUM TO ENVIRONMENTAL AUTHORISATION

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) FOR THE AMENDMENT OF THE APPEAL ENVIRONMENTAL AUTHORISATION (REF: M 3/6/5 (624) ISSUED ON 25 MARCH 2014: THE PROPOSED RESIDENTIAL DEVELOPMENT ON PORTION 8 OF PORTION 2 OF THE FARM RHEEBOKSFONTEIN NO. 140 AND PORTION 28 AND A PORTION OF PORTION 3 OF THE FARM KLIPHEUWEL NO. 143, MID-BRAK

With reference to your application for the abovementioned, find below the decision with respect to the application (submitted 3 February 2023) for the amendment to the Appeal Environmental Authorisation issued on 25 March 2014 (hereinafter referred to as an "Environmental Authorisation").

A. DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998, as amended) and the Environmental Impact Assessment Regulations, 2014 (as amended) ("NEMA EIA Regulations") the competent authority herewith **grants** the amendment of the Appeal Environmental Authorisation issued on 25 March 2014.

The Environmental Authorisation is amended as set out below:

1. Details of the Applicant for this Environmental Authorisation (issued on 25 March 2014) in Section A is substituted with the following:

*"The Managing Director
Klipheuwel Lifestyle Estate (Pty) Ltd
PO Box 3
MOSSEL BAY
6500
Tel: 082 416 5150
E-mail: skyelite@worldonline.co.za"*

2. Section E: Condition 1 (as amended on 23 April 2019) is substituted with the following:

*"This Environmental Authorisation is granted for the period from date of issue until **30 April 2030** (validity period), during which period the Holder must ensure that the –*

- (a) physical implementation of all the authorised listed activities is started with and concluded, including top structures;*
- (b) construction, monitoring and reporting requirements are undertaken at the site and submitted to the Competent Authority in time to allow said authority to process such documents timeously;*
- (c) post construction rehabilitation and monitoring requirements is undertaken and completed; and*
- (d) environmental auditing requirements are complied with; and that such auditing is finalised in time to allow the competent authority to be able to process the environmental audits timeously within the specified validity period.*

If the Holder does not start with the listed activities and exceed the thresholds of the listed activities by 30 April 2030, this Environmental Authorisation shall lapse for those activities, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years."

3. Section B of the Environmental Authorisation: The last paragraph under Section B, after the words: *"The applicant is herein authorised to undertake the following alternative related to the listed activities"* is substituted for the following:

"Description of the development proposal:

The proposed development entails the development of a residential estate consisting of the following:

- *123 x Single Residential Zone I erven;*
- *28 x general Residential Zone I erven;*
- *7 x Open Space Zone II erven;*
- *4 x Transport Zone III erven;*
- *1 x Transport Zone II erf;*
- *1 x Utility Zone erf for refuse collection; and*
- *1 x Utility Zone erf for a sewage pump station*

The proposed development also includes the installation of water supply infrastructure, sewage infrastructure, electricity reticulation, stormwater infrastructure and internal roads. The proposal will be implemented in accordance with the Site Layout Plan

prepared by Formaplan Town and Regional Planners (Drawing No: Ken Mal 1.6; Date: December 2022) attached as Annexure 2 to the Environmental Authorisation."

4. Section E of the Environmental Authorisation: The insertion of the following conditions after Condition 22 under:

"Environmental Auditing

23. *The Holder must, for the period during which the environmental authorisation and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.*
24. *The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, must adhere to the following programme:*
- 24.1 *the holder must undertake annual environmental audit(s) of the environmental authorisation and approved EMPr and submit the Environmental Audit Report(s) to the Competent Authority.*
- 24.2 *the final construction phase Environmental Audit Report(s) must be submitted to the Competent Authority within ninety (90) days of completion of construction activities.*
25. The Environmental Audit Report, must –
- 25.1 be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;
- 25.2 *provide verifiable findings, in a structured and systematic manner, on–*
- 25.2.1. *the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and*
- 25.2.2. *the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.*
- 25.3. identify and assess any new impacts and risks as a result of undertaking the activity;
- 25.4. evaluate the effectiveness of the EMPr;
- 25.5. identify shortcomings in the EMPr;
- 25.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
- 25.7. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;

25.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;

25.9. include a photographic record of the site applicable to the audit; and

25.10. be informed by the ECO reports.

26. *The Holder must, within 7 calendar days of the submission of the audit report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable)."*

B. REASONS FOR THE DECISION

In reaching its decision, the department took, *inter alia*, the following into consideration:

1. The Appeal Environmental Authorisation issued on 25 March 2014 (as amended) is regarded to be valid.
2. The applicant has motivated that the previous holder of the Appeal Environmental Authorisation sold the subject properties with its development rights to *Klipheuwel Lifestyle Estate (Pty) Ltd*.
3. The application is regarded to be for a non-substantive amendment to the environmental authorisation as it will not change the scope of the valid environmental authorisation, nor increase the level or nature of the impact, which impact was initially assessed and considered when application was made for an environmental authorisation.
4. The changes to the Site Layout Plan do not increase the nature and extent of the impacts initially assessed and considered. However, any further changes to the Site Layout Plan as stated in this Addendum to the Environmental Authorisation must be approved by the Competent Authority prior to such changes being undertaken. Such changes may be subject to a further application in terms of Chapter 5 of the Environmental Impact Assessment Regulations, 2014 (as amended) or subsequent regulations. The onus is on the Holder of the Environmental Authorisation to confirm the correct procedure before continuing with the development.

Note: A copy of the Site Layout Plan ("Annexure 2") is attached to this Addendum to the Environmental Authorisation decision.

5. The environment and the rights and interests of other parties are not likely to be adversely affected by this decision to amend the environmental authorisation.
6. The validity period has been informed by the implementation programme provided by the applicant. In this regard the validity period has been granted until 30 April 2030, during which period the construction activities, including top structures, must commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit reports for the construction phase. In light of the proposed

implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase.

7. To give effect to the requirements of Regulation 34 of the Environmental Impact Assessment Regulations, 2014 (as amended) (Government Notice No. R. 982 of 4 December 2014, as amended) and bring the authorisation in line with the current legislative requirements, conditions relating to the auditing requirements during the non-operational phase of the development.

C. CONDITIONS

1. The applicant must in writing, within **14 (fourteen) calendar days** of the date of this decision (refer to Government Notice R.993 of 8 December 2014) –
 - 1.1. notify all registered interested and affected parties¹ of –
 - 1.1.1. the outcome of this application;
 - 1.1.2. the reasons for the decision as included in Section B (above);
 - 1.1.3. the date of the decision; and
 - 1.1.4. the date of issue of the decision.
2. draw the attention of all registered interested and affected parties to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulation, 2014 detailed in Section D below.
3. The holder of the environmental authorisation must provide the Competent Authority with **seven (7) calendar days' notice** before commencement of construction activities. This notice must include proof of compliance with Condition 1 described in Section C of this Addendum to the Environmental Authorisation.
4. All other conditions contained in the appeal Environmental Authorisation issued on 25 March 2014 still remain unchanged and in force.

D. APPEALS

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator;
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision; and

¹ This includes I&APs notified of the Appeal [Ref. M3/6/5 (624)] as registered for the application for Environmental Authorisation under DEA&DP Ref. No. EG12/2/1-74-Farms Rheebofsfontein 140/8 & Klipheuwel 143/28.

- 1.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Zaahir.Toefy@westerncape.gov.za
Gavin.Benjamin@westerncape.gov.za; and
DEADPEIAAdmin.George@westerncape.gov.za
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
 - 2.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Zaahir.Toefy@westerncape.gov.za
Gavin.Benjamin@westerncape.gov.za; and
DEADPEIAAdmin.George@westerncape.gov.za
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the Appeal Administrator at the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs
and Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Appeal Administrator
Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Administrator at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

E. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the Holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully

DIRECTOR: DEVELOPMENT MANAGEMENT
WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

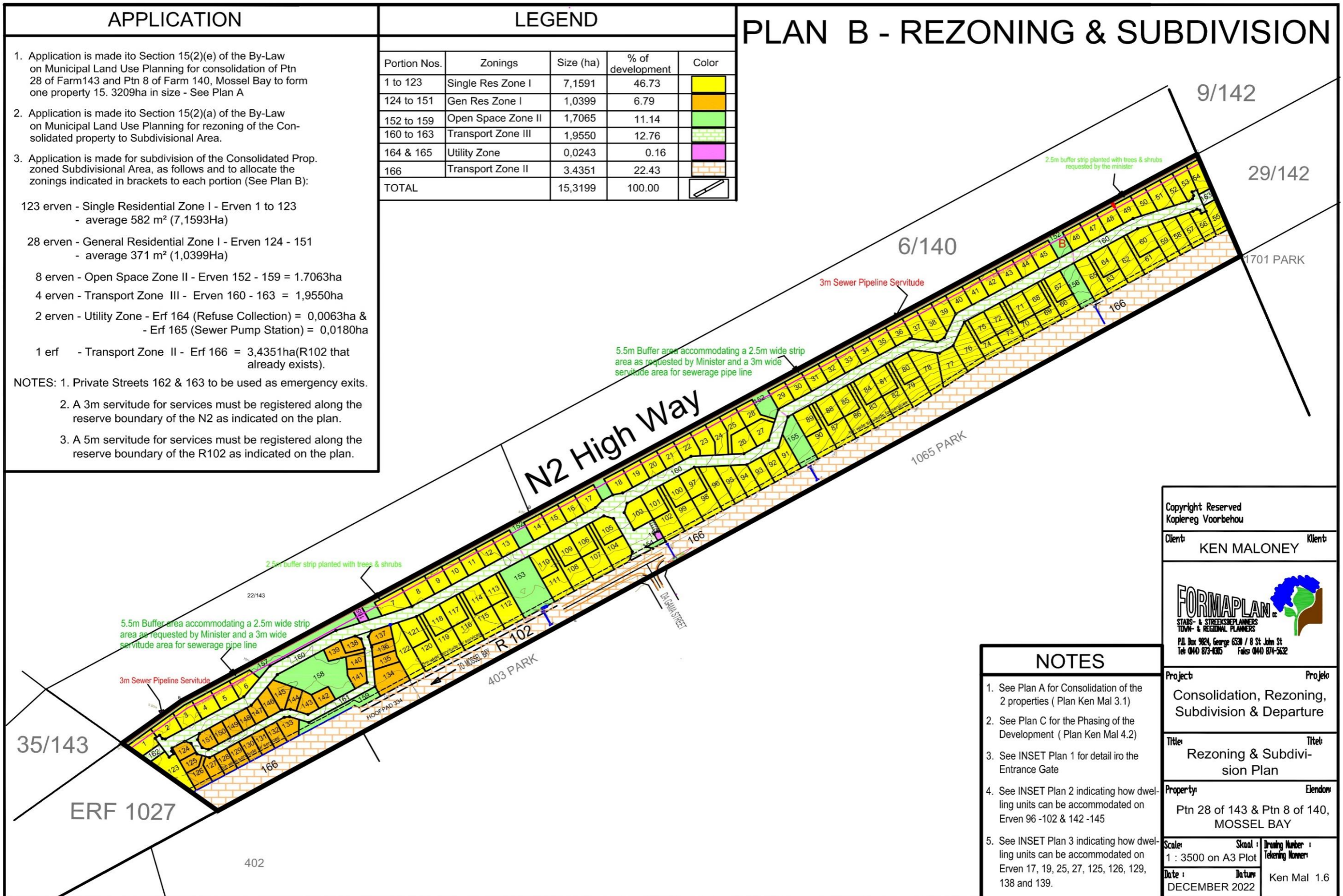
DATE OF DECISION: 30 MARCH 2023

FOR OFFICIAL USE ONLY:

ORIGINAL EIA REFERENCE NUMBER:	EG12/2/1-74-Farms Rheebofsfontein 140/8 & Klipheuwel 143/28
DATE OF ISSUE:	17 SEPTEMBER 2009
APPEAL EA:	M3/6/5 (624)
DATE OF ISSUE:	25 MARCH 2014
ADDENDUM TO APPEAL EA:	14/3/1/1/D6/29/0382/19
DATE OF ISSUE:	23 APRIL 2019
ADDENDUM TO APPEAL EA #2:	16/3/3/5/D6/29/0001/23
DATE OF ISSUE:	(Date of this Decision)
CASE OFFICER:	Mr Steve Kleinhans (Steve.Kleinhans@westerncape.gov.za)

ANNEXURE 2: SITE LAYOUT PLAN

(ANNEXURE 2 TO THE APPEAL ENVIRONMENTAL AUTHORISATION UNDER REFERENCENM3/6/5 (624) ISSUED ON 25 MARCH 2014.



APPLICATION

- Application is made into Section 15(2)(e) of the By-Law on Municipal Land Use Planning for consolidation of Ptn 28 of Farm 143 and Ptn 8 of Farm 140, Mossel Bay to form one property 15.3209ha in size - See Plan A
- Application is made into Section 15(2)(a) of the By-Law on Municipal Land Use Planning for rezoning of the Consolidated property to Subdivisional Area.
- Application is made for subdivision of the Consolidated Property into Subdivisional Area, as follows and to allocate the zonings indicated in brackets to each portion (See Plan B):
 - 123 erven - Single Residential Zone I - Erven 1 to 123 - average 582 m² (7,1593Ha)
 - 28 erven - General Residential Zone I - Erven 124 - 151 - average 371 m² (1,0399Ha)
 - 8 erven - Open Space Zone II - Erven 152 - 159 = 1.7063ha
 - 4 erven - Transport Zone III - Erven 160 - 163 = 1,9550ha
 - 2 erven - Utility Zone - Erf 164 (Refuse Collection) = 0,0063ha & Erf 165 (Sewer Pump Station) = 0,0180ha
 - 1 erf - Transport Zone II - Erf 166 = 3,4351ha(R102 that already exists).

NOTES: 1. Private Streets 162 & 163 to be used as emergency exits.
 2. A 3m servitude for services must be registered along the reserve boundary of the N2 as indicated on the plan.
 3. A 5m servitude for services must be registered along the reserve boundary of the R102 as indicated on the plan.

LEGEND

Portion Nos.	Zonings	Size (ha)	% of development	Color
1 to 123	Single Res Zone I	7,1591	46.73	
124 to 151	Gen Res Zone I	1,0399	6.79	
152 to 159	Open Space Zone II	1,7065	11.14	
160 to 163	Transport Zone III	1,9550	12.76	
164 & 165	Utility Zone	0,0243	0.16	
166	Transport Zone II	3.4351	22.43	
TOTAL		15,3199	100.00	

PLAN B - REZONING & SUBDIVISION

NOTES

- See Plan A for Consolidation of the 2 properties (Plan Ken Mal 3.1)
- See Plan C for the Phasing of the Development (Plan Ken Mal 4.2)
- See INSET Plan 1 for detail into the Entrance Gate
- See INSET Plan 2 indicating how dwelling units can be accommodated on Erven 96 -102 & 142 -145
- See INSET Plan 3 indicating how dwelling units can be accommodated on Erven 17, 19, 25, 27, 125, 126, 129, 138 and 139.

Copyright Reserved
Kopiereg Voorbehou

Client: **KEN MALONEY** Klient

FORMAPLAN cc
TOWN- & STREEKPLANNERS
TOWN- & REGIONAL PLANNERS
P.O. Box 9824, George 6530 / 8 St. John St
Tel 040 873-8365 Fax 040 874-5632

Project: **Consolidation, Rezoning, Subdivision & Departure** Projek

Title: **Rezoning & Subdivision Plan** Titel

Property: **Ptn 28 of 143 & Ptn 8 of 140, MOSSEL BAY** Eendow

Scale: **1 : 3500 on A3 Plot** Skaal
 Date: **DECEMBER 2022** Datum
 Drawing Number: **Ken Mal 1.6** Tekening Nummer