Portion 56 of the farm Chelsea No. 25
Nelson Mandela Bay Municipality

Application for:

- Subdivision into four portions (Portions A – D)
- Portion A:
  - Rezoning to Residential Zone II
  - Consent Use: Dwelling house
- Portions B – D:
  - Rezoning to Residential Zone I
  - Consent Use: Additional dwelling unit
  - Departure from total floor space of additional dwelling units
- Removal of Restrictive Title Conditions

August 2017
Report Number: 1580/2

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<td>Prepared By</td>
<td>Rowan van Gend PR.PLN A/857/1995</td>
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**Note:** The data and content contained in this report, annexures and maps are based on information as received and interpreted by Urban Dynamics Eastern Cape from secondary sources, including the Client, Land Owner and Specialist Studies. Although Urban Dynamics Eastern Cape attempts, at all times, to present accurate and reliable information, we make no warranty of any kind, expressed or implied, to the accuracy and reliability of information sourced and obtained from secondary sources.

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1. The Applicant

Urban Dynamics EC Inc has been appointed by the owner of the property to prepare and submit an application for the Subdivision, Rezoning, Removal of Restrictive Title Deed Condition, Special Consent of Council and Departure from Zoning Scheme of Portion 56 of the farm Chelsea No. 25, Port Elizabeth Registration Division.

Refer to Annexure 3: Power of Attorney

2. Locality, Ownership and Site Description

The subject property is located between Old Seaview Road in the south and Chelsea Road in the north and in the Chelsea Farms area of the Nelson Mandela Bay Municipal area.

Refer to Map 1: Locality
Refer to Map 2: Aerial View

Property description and ownership are reflected in the table.

<table>
<thead>
<tr>
<th>Portion 56 of the farm Chelsea No. 25</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Title Deed</td>
<td>T1S137/2017</td>
</tr>
<tr>
<td>Owners</td>
<td>Michael Schultz Capital Pty (Ltd)</td>
</tr>
<tr>
<td>Area</td>
<td>8.8682ha</td>
</tr>
<tr>
<td>Applicable Zoning Scheme</td>
<td>Area A Zoning Scheme</td>
</tr>
</tbody>
</table>
3. Zoning and Land Use

3.1 Zoning

The Area A Zoning Scheme is applicable to the site. The property is zoned Cluster Housing, permitting development parameters in the table below.

| Zoning | Clusters of dwelling houses
| Primary Use | Outbuildings
| Density | 1 erf per hectare
| Height | 2 storeys
| Parking | 2 parking bays per 1 dwelling unit
| Street building lines | 20m to any boundary of proclaimed road
| Side building lines | 3m or 8m if the boundary forms a common boundary with a different zone

Refer to Annexure 7: Zoning Confirmation
3.2 Land Use

The subject property is 8,8682ha in extent and Old Seaview Road forms the southern boundary of the property. A single dwelling and associated outbuildings are situated on the property.

Portion 56 of the farm Chelsea No. 25 obtains access from a road along the eastern boundary along the property.

A natural ridge and watershed is formed diagonally across the southern portion of the property whilst the property slopes in a south-westerly and north-westerly direction.

Refer to Map No. 3: Terrain Characteristics

The property is generally sparsely covered by bush, shrubs and a number of large exotic trees. The southern sloping portion comprises of fairly contained natural bush which will be kept in its natural state. The owner intends to plant and reinstate indigenous flora and trees on the vacant impacted areas.

Surrounding land uses include rural residential small-holdings, Wedding & Conference venues, Sardinia Bay Wildlife Estate, Grassroof Restaurant, limited agriculture, poultry houses, Kragga Kamma Game Park, open space and access roads.

Refer to Map No. 4: Existing Subdivisions, Land Use & Developments
Existing Subdivisions, Land Use & Developments
Chapter 2 : The Submission for Land Use Rights

This section deals with the stipulated procedure to acquire the land use rights sought.

1. The Stipulated Procedure and Supporting Documents

The overall application is prepared in terms of the stipulated guidelines and requirements of the NMBM for the submission of applications for the land development rights and includes the following supporting documentation:

- **Pre-Application Consultation with NMBM**
  
  The intention of the application and the proposed land development was discussed with Mr. Alan de Vries on 26 July 2017. This forms part of the pre-submission consultation required by the NMBM.

  Refer to Annexure 1.

- **The Application Form**
  
  The NMBM standard application form was completed and is attached as Annexure 2.

- **The Mandate of the registered owner**
  
  Power of Attorney is granted to Urban Dynamics EC to represent the land owner in this matter. Refer to Annexure 3.

- **Restrictive Conditions in the Title Deed**
  
  A Conveyancer Certificate confirming the conditions in the Title Deeds restricting the proposed development is attached. Refer to Annexure 5 & 6.

- **Property Description**
  
  The cadastral diagram of the subject property, namely SG No. 10055/1953 is attached. Refer to Annexure 7.

- **Zoning Enquiry Confirmation**
  
  Portion 56 of the farm Chelsea No. 25 is currently zoned Cluster Housing. Refer to Annexure 8.

- **Rural Land Use Management Development Framework**
  
  An extract from the Rural Land Use Management Policy : Peri Urban Zone 1 is attached. Refer to Annexure 9.
2. The Application

Application is hereby made for:

- **Subdivision** of Portion 56 of the farm Chelsea No. 25 into four portions (Portions A – D).
- **Portion A:**
  - **Rezoning** to Residential Zone II
  - **Consent Use** for Dwelling house
- **Portions B – D:**
  - **Rezoning** of the subdivided Portions B - D to Residential Zone I.
  - **Consent Use** for additional dwelling units on subdivided Portions B – D.
  - **Departure** from the size of the additional dwelling units.
- **Removal** of restrictive conditions applicable to **Portion 56 of the farm Chelsea No. 25** as registered in Title Deed T15137/2017.
- **Development parameters** applicable to the property:

<table>
<thead>
<tr>
<th>Portion 56 of the farm Chelsea No. 25</th>
<th>Portion A</th>
<th>Portion B</th>
<th>Portion C</th>
<th>Portion D</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subdivision</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Area</td>
<td>2,9935ha</td>
<td>2,2377ha</td>
<td>1,8344ha</td>
<td>1,8016ha</td>
</tr>
<tr>
<td><strong>Zoning</strong></td>
<td>Residential Zone II</td>
<td></td>
<td>Residential Zone I</td>
<td></td>
</tr>
<tr>
<td><strong>Primary Use</strong></td>
<td>Group house</td>
<td></td>
<td>Dwelling house</td>
<td></td>
</tr>
<tr>
<td><strong>Consent Use</strong></td>
<td>Dwelling house</td>
<td></td>
<td>Additional dwelling units</td>
<td></td>
</tr>
<tr>
<td><strong>Departure</strong></td>
<td>None</td>
<td></td>
<td>Total floor area of additional dwelling units more than 120m²</td>
<td></td>
</tr>
<tr>
<td><strong>Density</strong></td>
<td></td>
<td></td>
<td></td>
<td>2 du / 1.8ha</td>
</tr>
<tr>
<td><strong>Street Building lines</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- 0 m along access road</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>- 20 m along Old Seaview Road</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td><strong>Side Building lines</strong></td>
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<td>- 0 m</td>
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<td>- 2 m</td>
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3. Guidelines for Decision Making

Decision making by the Nelson Mandela Bay Municipality should be based, inter alia on legislative guidelines and informants:

- Sections 7, 22 (1) and 42 (1) of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

Although decision making on land use matters is a holistic and multi-disciplinary process, the above legislated criteria should form the basis for well-informed and sound decision making.

4. Public Interest and Participation

Public participation with respect to the application for Subdivision, Rezoning, Consent Use, Departure and Removal of Restrictive Title Condition should be conducted by the Nelson Mandela Bay Municipality through the normal procedures as outlined in the relevant Land Use Management Legislation.
Urban Dynamics EC, as the applicant, will assist the Nelson Mandela Bay Municipality with the process and in the unlikely event of any objections received, Urban Dynamics EC and the professional team will assist the Municipality to address and mitigate these submissions.

As part of the public participation process, the application should be advertised through the relevant media and referred to possible interested and affected parties, as identified by the Nelson Mandela Bay Municipality.
Chapter 3: Proposed Development

The purpose of this application is to subdivide and rezone the property in order to permit the development of three (3) rural residential properties, one (1) group housing site (freehold title) and associated infrastructure.

The development concept for the subject property comprises of the following main uses and components:

- **Three (3) small-holdings:**
  - With an average erf size of ±1.96ha
  - The development of 1 dwelling-house plus an additional dwelling unit per small-holding
  - A maximum development footprint of 3 000m² per erf, or 1 500m² per dwelling unit.
- **One (1) group housing site (2,9935ha):**
  - With three (3) freehold dwelling-houses
  - A maximum development footprint of 1 500m² per dwelling unit.
- **One access point per portion will be obtained from the access road along the eastern boundary of the property.**
- **Associated infrastructure.**

In the planning of the proposed development, the primary goal is to create a harmonious link between nature, security and estate living. The proposed development will be environmentally sensitive and aim to retain as much as possible, if not all, of the existing indigenous bush in the area. It is intended to structure the development in such a way that significant open space will be maintained in harmony with the environment. Additional indigenous trees and shrubs will be re-introduced on the vacant disturbed portions of the property.

The following key design principles were used:

- Applying the “cluster and space concept” where residential footprints are clustered to minimise broader impact on the site.
- Limit development impact and footprint.
- Adhere to existing Municipal policies with respect to rural development.
- A maximum of two dwelling units are allowed per 1.8ha portion, with a development footprint of 1 500m² per dwelling unit.
- All residential infrastructures, gardens, driveways, bulk services, homes and outbuildings will be confined within the footprint.
- The area outside the footprint may be used for conservation in keeping with the broader area of Chelsea and Theescombe.
- Minimising services and infrastructure cost and impact on environment.
- Adhere to principles of sustainability and onsite service provision.
- Minimal disturbance of natural vegetation and provision for future natural vegetation rehabilitation.
- Combination of small holdings and residential footprints to ensure market reach and sustainability.
- Maximise views to the north and south.
The following development parameters are sought:

<table>
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</tr>
</tbody>
</table>

- **Street Building lines**
  - 0 m along access road
  - 20 m along Old Seaview Road
  - 4 m
  - 20 m along Old Seaview Road

- **Side Building lines**
  - 0 m along access road
  - 20 m along Old Seaview Road
  - 4 m
  - 20 m along Old Seaview Road

Refer to Map No. 6: Subdivision Diagram
Refer to Map No. 7: Zoning & Development Parameters

### 3.1 Portion A: Residential Zone II

The Rezoning of Portion A to Residential Zone II with Consent Use for Dwelling houses will enable the development of 3 dwelling houses (freehold title) with one controlled access point from the access road. The actual position of the 3 individual properties will be determined in future and when the owner has introduced indigenous vegetation and rehabilitated the land.
Zonings:
The Rural Land Use Management Policy stipulates the various zonings, land uses permitted in the various zones. The zonings and land uses for dwelling units applied for, as stipulated in Chapter 2, paragraph 2, are in line with the zonings permitted by the Rural Land Use Management Policy for Peri-Urban Zone 1.

Coverage:
The proposed development of 3 dwelling houses on 2,9935ha with a maximum development footprint of 1,500m² per dwelling unit will result in a coverage of 15% of the total area.

Combined open space:
The required combined open space of 130m² per dwelling unit will result in a total area of 390m². Adequate open space is available on the proposed Portion A of 2,9935ha.

Density:
The Rural Land Use Management Policy stipulates a density of 2du / 1,8ha, permitted for residential development. The proposed development of 3 residential opportunities on 2,9935ha supports the density parameters.

Home Owner’s Association:
A Home Owners Association will be responsible for the maintenance of the private access road and security gate. The Home Owners Association will also provide guidelines regarding, among others:

- Waste handling and disposal practices (with specific reference to domestic waste).
- Management of sanitation infrastructure (emptying of conservancy tanks).
- Permissible land-use practices inside and outside development footprints.

3.2 Portions B - D: Residential Zone I

The rezoning of Portions B – D to Residential Zone I with Consent Use for additional dwelling units and Departure from the total floor space of the additional dwelling units will enable the development of 1 dwelling unit plus an additional dwelling unit per subdivided portion.

Zonings:
The Rural Land Use Management Policy stipulates the various zonings, land uses permitted in the various zones. The zonings and land uses for dwelling units applied for are in line with the zonings permitted by the Rural Land Use Management Policy for Peri-Urban Zone 1.

Coverage:
The development of 1 dwelling house and 1 additional dwelling units (maximum development footprint of 3,000m² per erf) will result in a 16% development footprint coverage.

Density:
The Rural Land Use Management Policy stipulates a density of 2du / 1,8ha, permitted for residential development. The proposed development of 2 residential opportunities on 1,8ha supports the density parameters.
4
Chapter 4: Planning and Evaluation Informants

The following sets of legislation and spatial planning policy guide the assessment and recommendation of the application.

1. Spatial Planning and Land Use Management Act

Section 7 of SPLUMA stipulates:

The following principles apply to spatial planning, land development and land use management:

- The principle of spatial justice
- The principle of spatial sustainability
- The principle of efficiency
- The principle of spatial resilience
- The principle of good administration

Section 22 (1) of SPLUMA stipulates:

A Municipal Tribunal or any other authority to make a land development decision in terms of this Act or any other law relating to land development, may not make a decision which is inconsistent with a municipal spatial development framework.

Section 42 (1) of SPLUMA stipulates:

In considering and deciding an application a Municipal Planning Tribunal must –

- be guided by the development principles set out in Chapter 2
- make a decision which is consistent with norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the municipal spatial development framework
- take into account –
  - the public interest
  - the constitutional transformation imperatives and the related duties of the State
  - the facts and circumstances relevant to the application
  - the respective rights and obligations of all those affected
  - the state and impact of engineering services, social infrastructure and open space requirements
  - any factors that may be prescribed, including timeframes for making decisions
2. Existing Planning in the Area & Policies


The Municipality’s vision and mission are translated into the following five municipal key performance areas:

- Effective city governance
- Integrated service delivery to a well-structured city
- Inclusive economic development and job creation
- Institutional and capacity development
- Financial sustainability and viability

The following strategic objectives have been set to deliver on the above stated key performance areas:

- Ensuring access to basic services for all residents;
- Developing and sustaining spatial, natural and built environments;
- Providing integrated and sustainable human settlements;
- Addressing the challenges of poverty, unemployment and social inequality;
- Fostering a safe, secure and healthy environment for employees and communities;
- Positioning Nelson Mandela Bay as a destination of choice to both investors and tourists;
- Developing a prosperous and diverse economy;
- Accelerating service delivery through the acquisition and retention of competent and efficient human capital;
- Ensuring sound financial management and viability.

The development on the property supports the Metro’s vision in developing a prosperous and diverse economy and sustaining built environments.


The NMBM Metropolitan Spatial Development Framework (MSDF) outlines the desired spatial development of the metropolitan area as contemplated in the Spatial Planning and Land Use Management Act, 2013.

In general, the SDF vision and aforementioned SDF Spatial Principles must promote:

- Economic growth
- Social inclusion
- Urban mobility through public and non-motorized transportation
- Efficient land development
- Urban growth
- An integrated and sustainable city and urban areas
- Economic development and growth
- Densification and contain urban sprawl
- Efficient, functional and integrated land development
- Residential and employment opportunities
- The quality and physical appearance of the built environment
Flowing from the Spatial Development Framework, Council prepared and approved a rural land use management policy. This is a strong guiding, strategic framework relevant to the subject property. The key design principles for the subject property have been the guidelines as provided by the Rural Development Policy.

2.3 Rural Land Use Management Policy of NMBM (2009)

The Rural Development Policy addresses the management and development of land beyond the Urban Edge of the Nelson Mandela Bay Metro. In order to achieve this, the Policy demarcated the area into different zones or areas of differentiating development density and land use.

This perspective identified four areas in the rural area of the metro, namely the Peri-urban Development Zones, Rural Development Zones, Biodiversity Zones and Agricultural Zones. Guidelines for the management and development of these areas are provided to support the objectives of the spatial perspective.

The subject property is located in the Peri Urban Zone 1.

Peri-urban Development Zone 1

Under this classification, reference is made to localities suitable for future, short term (10 year horizon) development. This implies that the areas are located in close proximity to urban areas of opportunity including employment and social amenities, are accessible in terms of the movement system, and are mostly areas which have potential for lower impact development with minimum ecological sensitivities. This zone is considered to be desirable for limited gradual expansion within the wider metropolitan context. The development of these areas will improve the overall efficiency of the area and allow greater access of residents to the benefits and opportunities of rural living. Although not currently served by bulk infrastructure in most cases, these are areas where such services should be provided in the short term (next 2-10 years).

Zonings: The Rural Land Use Management Policy stipulates the various zonings, land uses permitted in the various zones. The zonings applied for, as stipulated in Chapter 2, paragraph 2, are in line with the zonings permitted by the Rural Land Use Management Policy for Peri-Urban Zone 1.

Design: According to the Rural Land Use Management Policy residential development in the peri-urban areas has to adhere to the cluster and space design concept. “Cluster and space” refers to clustering of residential activities and consolidation of ecological spaces.

Density: The Rural Land Use Management Policy stipulates a density of 2du / 1,8ha, permitted for residential development. The proposed development of 3 residential opportunities on Portion A (2,9935ha) supports the density parameters.
Development of Portion 56 of the farm Chelsea No. 25 supports the general principles of the Rural Land Use Management Policy insofar as the land use is seen to be compatible with the rural area.

2.4 Area A Zoning Scheme Regulations

Land use parameters applicable to the subject site are regulated in the Area A Zoning Scheme and Regulations. Although the Area A Zoning Scheme is archaic the application has been customised to comply with the regulations.

3. Environmental Assessment

On 7 April 2017, and in terms of the National Environmental Management Act, 1998 (Act 107 of 1998), as amended (NEMA), the EIA regulations, 2017 were published in Government Gazette 40772.

Based on the land use, a number of listed activities require an Environmental Impact Assessment process and Habitat Link Consulting has been appointed as the Environmental Practitioner. This process has commenced and the NMB Municipality will be updated on progress and outcomes.
4. Removal of Restrictive Title Deed Conditions

Title Deed T15137/2017 is relevant to Portion 56 of the farm Chelsea No. 25, Port Elizabeth Registration Division.

A Conveyancing Certificate confirms that the following restrictive condition in the Title Deed prevents the proposed development on the property:

**Clause B.**
2. Building to be constructed of brick and/or stone and/or concrete.
3. Use for residential purposes only and value of buildings to be erected.

**Clause C.**
1. No building shall be erected on the said property other than a brick and/or stone and concrete building.
2. The said property shall be used for residential purposes only, and no dwelling shall be erected thereon save a dwelling house, which together with the usual servant’s room, garage and other similar outhouses, shall cost not less than R5000.00

**Clause E.**
2. Not more than one dwelling house together with such outbuildings as are ordinarily required to be used in connection therewith shall be erected on the land except with the written approval of the Controlling Authority, as defined in Act 21 of 1940

Refer to Annexure 5: Title Deed
Refer to Annexure 6: Conveyancing Certificate

This application is to remove the above mentioned restrictive conditions in Title Deed T15137/2017.

5. Engineering Services

Services are available to the subject site and any new infrastructure will be installed in accordance with the NMBM requirements and standards if need be.

6. Job Creation and Economic Impact

The development will increase the number of persons living in the area, simultaneously increasing the potential of job opportunities.

Job opportunities will be created during construction and operation phases. These include, but are not limited to:

- Construction and maintenance
- Domestic employment
- Garden services
The proposed development of the subject property will not only provide employment opportunities but will also:

- Contribute to the municipal rate base.
- Provide economic stability and promote economic sustainability.
- Increase property value.
- Support of the sustainability of the Rural Land Use Management Policy.
- Enhance the aesthetic and environmental value of the peri-urban area of the Metro.
Chapter 5: SPLUMA Development Principles

In terms of the provisions of Section 6 and Section 7 of the Spatial Planning and Land Use Management Act, the general principles set out in Chapter 2 apply to all organs of state and other authorities responsible for the implementation of legislation regulating the use and development of land.

The following Development Principles are applicable to spatial planning, land development and land use management and have been addressed accordingly.

1. The principle of spatial justice

- The property is located adjacent to existing rural residential small-holdings and access roads.

- The property is situated within the Peri Urban Zone 1, directly beyond the urban edge with a predominantly low density rural residential character.

- The property is surrounded by small-holdings with similar erf sizes, varying between 1.4ha (Portion 85/Farm No. 250 and 2.45 (Portion 56/Farm No. 25). The proposed subdivision of the property with an average erf size of 2.2ha will support and strengthen the exiting rural residential small-holdings in the surrounding area.

- The application strives to promote land densification which leads to maximization of peri-urban resources such as land, space and infrastructure.

- Containment and improvement of the natural environment.

2. The principle of spatial sustainability

- The Rural Land Use Management Policy indicates the property for dwelling units and residential estate developments.

- The development proposal for Portion 56 of the farm Chelsea No. 25 supports the general principles of the Rural Land Use Management Policy insofar as the land use is seen to be compatible with the rural area.

- The proposed subdivision and residential development on the subject property will complement the existing rural residential small-holdings component, supporting existing similar developments and at the same time strengthen the sustainability of the Chelsea area.

- Based on the existing subdivisions, developments and property sizes surrounding the property the proposed subdivision and rezoning of the property will not have a negative impact on the character of the surrounding area.
The economic spin-off created by the residential development enables the owner to re-
habilitate, protect and manage the environment which would otherwise not be properly managed.
Ensure economic sustainability and viability.

### 3. The principle of spatial efficiency

- The proposed subdivision and densification will maximize the use of existing infrastructure.
- The property is easily accessible from Seaview Road (M9) in the south via Old Seaview Road and from Kragga Kamma Road (M15) in the north via Welcome Road.
- The location and ease of accessibility to and from the surrounding areas and major routes enhances the utilisation of the property for rural residential purposes.
- The development will create various employment opportunities and other economic benefits such as:
  - Contribute to the municipal rate base
  - Increase property value and development levies
  - Support the principles of development in the rural residential area.

### 4. The principle of spatial resilience

- The subdivision of the property and residential development will make more effective use of existing infrastructure.
- Expand the rural residential small-holdings of Port Elizabeth.
- Contain the existing and expand the underdeveloped natural environment by enlarging the planting of additional indigenous forest and shrubs.

### 5. The principle of good administration

- Prior to implementation, all relevant legislative approval will be obtained to ensure legislative compliance.
- The application for subdivision, rezoning, consent use, departure and removal of restrictive title conditions supports the principles of the relevant policies, guidelines and Spatial Development Frameworks.
- Compliance with the existing scheme but the integration thereof with the Development Principles of SPLUMA.
Chapter 6: Conclusion

The application to obtain the required land use rights for the Subdivision of the property into four portions, Rezoning of Portion A to Residential Zone II with Consent Use for Dwelling Houses, Rezoning of Portions B – D to Residential Zone I, Consent Use: Additional Dwelling Units, Departure from size of additional dwelling units and Removal of Restrictive Title Condition has been motivated through Chapters 1 and 3 of this report, including annexures, maps and diagrams. The applicant, Urban Dynamics EC, concludes that the development proposal will fulfil the requirements and principles of the Spatial Planning and Land Use Management Act and supporting policies and principles applicable to the area. This enables the Nelson Mandela Bay Municipality to take a well informed decision and grant the required development rights.

To conclude, the following highlights the desirability and compliance of the development proposal:

- The development is in line with guidelines specified in the Rural Land Use Management Policy and supports the vision of the Policy.

- Council approved similar development densities in close proximity to the subject property.

- The development supports the rural residential small-holdings in the surrounding area.

- The subdivision and residential development will not have a negative impact on the environment.

- The proposed development will not be in conflict with the present character of the area but rather contribute towards the retention of the unique character of the area.

- Engineering services are available and will be improved to the standards of the NMBM if need be.

- The proposed development provides employment opportunities, contribute to the municipal rate base, provide economic stability, promote economic sustainability and increase property value.

- The SPLUMA principles are supported and entrenched.

It is therefore recommended, from a planning point of view, that this application should be supported as it will have a positive impact on development in the area.