

REMAINDER OF THE FARM ZANDHOOGTE NO. 139, MOSSEL BAY (TERGNIET)

APPLICATION FOR: REZONING & SUBDIVISION



CLIENT: IDEAL TRADING 301 CC
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A registered sewer line servitude surrounds the existing dwelling on the northern and eastern side. Impala Street forms a physical boundary as the southern boundary for the main house. The implication being that an area of approximately 0,37ha is divided off from the remainder of the farm, by means of an existing servitude. The applicant wishes to reside in the main house, take transfer of this portions, and to subdivide two (2x) single residential properties. For this reason, the applicant wishes to apply to subdivide this portion off from the remainder prior to deciding whether to lodge an application for the development of the remainder of the property, or whether to sell the remainder to another developer.

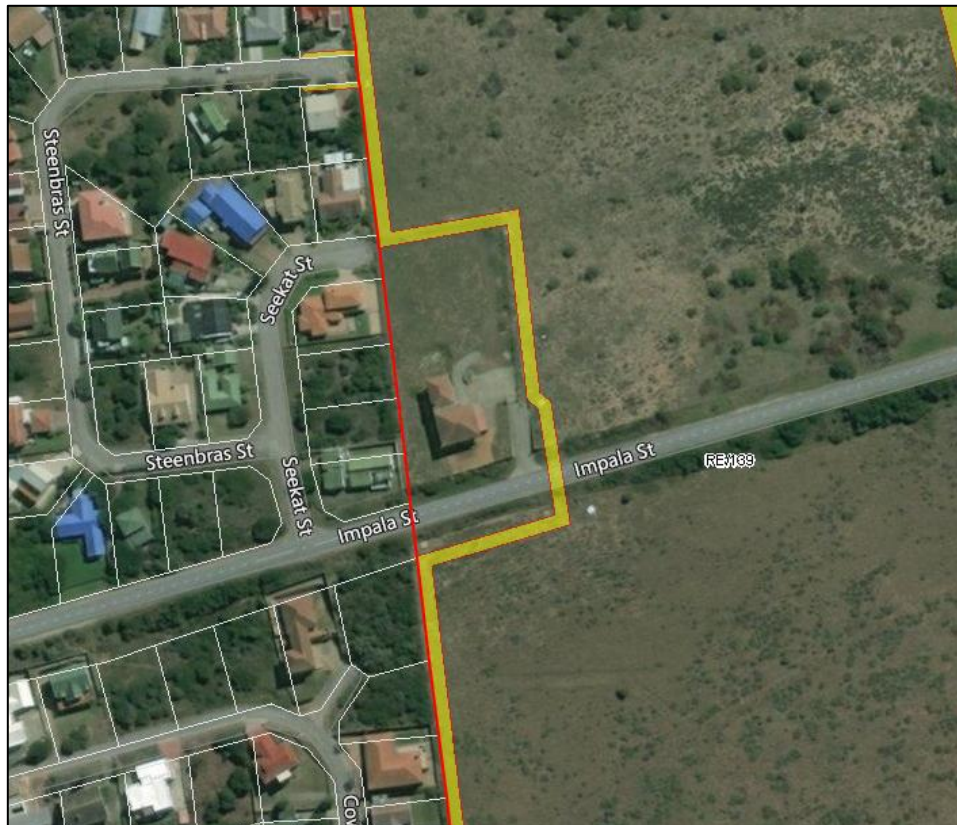


FIGURE 2: EXISTING MAIN HOUSE & EXISTING SERVITUDE

The intended rezoning and subdivision to create (3x) single residential properties, does not require any environmental authorisation. However, the potential future development of the remainder will require environmental authorisation, should this be developed as a separate entity in future. If these three (3x) single residential erven are subdivided off, the remainder of the farm can be transferred and a separate development application be lodged by another entity / owner, if it so wishes in the future.

In order to lawfully rezone and subdivide the portion off from the remainder, it is necessary to submit an application for rezoning and subdivision in terms of the Mossel Bay Municipality Standard By-Law on Municipal Land Use Planning.

2. THE APPLICATION

Marike Vreken Urban and Environmental Planners were appointed by **IDEAL TRADING 301 CC** (refer **ANNEXURE A: Power of Attorney & Company Resolution** and **ANNEXURE B: Application Form**) to prepare and submit the required application documentation for:

- (i) Rezoning of a portion of Remainder of the Farm Zandhoogte No. 139 from "Agricultural Zone I" to "Subdivisional Area" in terms of Section 15(2)(a) of Mossel Bay Municipality Standard By-Law on Municipal Land Use Planning;
- (ii) Subdivision of Remainder of the Farm Zandhoogte No. 139 into (4) portions: (3) Residential Erven (Residential Zone I) and the Remainder (Agriculture Zone I), in terms of Section 15(2)(d) of Mossel Bay Municipality Standard By-Law on Municipal Land Use Planning.

The required pre-application form was submitted to the Municipality. The pre-application feedback did not highlight any "red flags" regarding this application and is attached as **ANNEXURE C**. The pre-application feedback required the following information, which should accompany the application:

- *Confirmation that approval in terms of Act 70 of 1970 is not required for the subdivision of agricultural land.*
- *The application will include a rezoning as well.*

3. PROPERTY DESCRIPTION SIZE AND OWNERSHIP

The Title Deed & Windeed Copy for Remainder of the Farm Zandhoogte No. 139, containing the details outlined below are contained in **ANNEXURE D**. The Surveyor General Diagram (A1632/1924) is included in **ANNEXURE E**.

| | |
|---------------------------------|--|
| Title Deed Number: | T17938/2019 |
| Title Deed Description: | Remainder of the Farm Zandhoogte Nr 139, situated in the Mossel Bay Municipality, Division of Mossel Bay, Western Cape Province |
| Property Owner | Ideal Trading 301 CC Registration Number 2010/122651/23 |
| Title Deed Restrictions: | There are no title deed restrictions that could prevent the proposed application. |
| Bonds: | There is no bond registered to the property. |
| Property Size: | 38,2309 ha (Thirty-Eight Comma Two Three Zero Nine Hectares) |
| Servitudes: | The following servitudes are registered over the subject property: <ul style="list-style-type: none"> - SG No. 1512/2018 – Sewer pipeline servitude 6m wide (ANNEXURE F) - SG No. 1519/1985 – Electric Powerline servitude 20m wide (ANNEXURE G) - SG No. 9314/1991 – Water Pipeline servitude 10m wide & a Water Pipeline Servitude Area (ANNEXURE H) - SG No. 5192/1998 – Water Pipeline servitude 4m wide (ANNEXURE I) - SG No. 2658/2012 – Sewer pipeline servitude 5m wide (ANNEXURE J) |

None of the above servitudes will have an impact on, or could prevent the proposed development.

SECTION B : DEVELOPMENT PROPOSAL

4. DEVELOPMENT SPECIFICATIONS

(Refer to Plan 2: Layout Plan)

4.1. Proposed Development

An area of approximately 0,37ha is divided off from the remainder of the farm, by means of an existing servitude. The applicant wishes to reside in the main house, take transfer of this portions, and to subdivide two (2x) single residential properties. For this reason, the applicant wishes to apply to subdivide this portion off from the remainder prior to deciding whether to lodge an application for the development of the remainder of the property, or whether to sell the remainder to another developer.



FIGURE 3: EXTRACT OF THE LAYOUT PLAN

The property owner wishes to apply for the subdivision of Remainder of the Farm Zandhoogte No. 139 into (4) portions: (3x) Single Residential erven, and the Remainder. The southern and western boundary of the sewer line servitude will form the northern and

eastern property boundaries, and Impala Street will form the southern boundary of the proposed (3x) single residential properties.

Since this portion (portion within the sewer line servitude) is very large, and too large for the applicant’s needs, the proposal is to subdivide this portion into (3) portions:

- **Portion A** = 1001m² with a pan handle access from Seekat Street
- **Portion B** = 728m², With a 5m wide access off Seekat Street, and
- **Portion C** = 2643m², consisting of the main house, with an existing access off Impala Street.



FIGURE 4:PROPOSED DEVELOPMENT

The (3) portions will be used for single residential purposes, in order to allow a dwelling house². The (3) portions will be zoned 'Residential Zone I' in terms of the Mossel Bay Municipality: Integrated Zoning Scheme By-Law.

² Page 35 – Mossel Bay Municipality: Integrated Zoning Scheme By-Law (January 2018)
 Page 60 – "dwelling house"; Mossel Bay Municipality: Integrated Zoning Scheme By-Law (January 2018)

4.2. Rezoning (Subdivisional Area)

Remainder of the Farm Zandhoogte No. 139 is currently zoned 'Agricultural Zone I' in terms of the Mossel Bay Municipality: Integrated Zoning Scheme By-Law.

Section 20(2) of the Mossel Bay Municipality's Land Use Planning By-Law, states that: "...No application for subdivision involving a change of zoning may be considered by the Municipality unless the land concerned is zoned as a subdivisional area..." Therefore, to allow the proposed development it is necessary to rezone the property to 'Subdivisional Area'.

According to the Mossel Bay Municipality: Integrated Zoning Scheme By-Law: *The subdivisional area overlay (SAO) zoning designates land for future subdivision with development rights by providing development directives through specific conditions as approved in terms of this By-law. The SAO zoning confirms the principle of development and acceptance of future subdivision of land; but not the detailed layout that will be determined when an actual application for subdivision is approved.*

Land zoned as a 'Subdivisional Area' may be subdivided as contemplated in the Planning By-law.

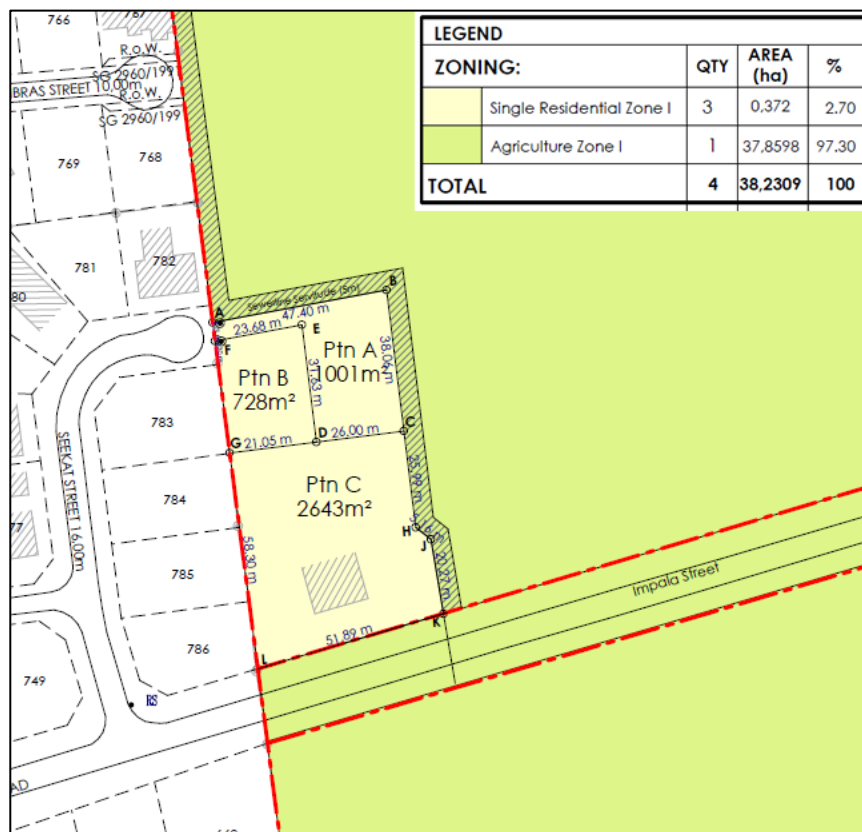


FIGURE 5: PORTION TO BE REZONED FROM 'AGRICULTURAL ZONE I' TO 'SUBDIVISIONAL AREA'

The purpose of this application is to rezone a portion off the remainder of the farm to "Subdivisional Area", and to subdivide this (rezoned) portion into (3x) portions; which will

be used for single residential purposes (Residential Zone I). However, in order to allow the proposed subdivision; a rezoning to 'Subdivisional Area' must first occur.

Therefore; an application to rezone a portion of Remainder of the Farm Zandhoogte No. 139 from 'Agricultural Zone I' to 'Subdivisional Area' must be submitted to Mossel Bay Municipality in terms of Section 15(2)(a) of Mossel Bay Municipality Standard By-Law on Municipal Land Use Planning.

4.3. Subdivision

The portion to be rezoned to 'Subdivisional Area' will be subdivided into (3x) portions. These (3x) portions will be used for single residential purposes and will be zoned 'Residential Zone I' in terms of the Mossel Bay Municipality: Integrated Zoning Scheme By-Law.



FIGURE 6: PROPOSED SUBDIVISION (PTN A, PTN B & PTN C)

In order to allow the desired outcome; it is necessary to apply for the subdivision of Remainder of the Farm Zandhoogte No. 139 into (4) portions:

- (3) x Residential Erven (Residential Zone I), to allow a 'dwelling house'
- (1) x the Remainder (Agriculture Zone I)

A subdivision application in terms of Section 15(2)(d) of Mossel Bay Municipality Standard By-Law on Municipal Land Use Planning must be submitted to Mossel Bay Municipality.

4.4. Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970)

It should also be noted that a portion of the Remainder of the Farm Zandhoogte No. 139, Mossel Bay was included in the former Mossel Bay / Riversdale Regional Structure Plan.

The farm is split by the N2 highway and the portion to the north is designated as 'Agriculture' and to the south of the N2 highway as 'Urban development'.

It is confirmed by DEA&DP (Development Management) that the portion of the property to the south of the N2 National Road is *exempted from the provisions of the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970) (ANNEXURE L)*.

The portion to be subdivided (proposed application) falls in the portion south of the N2, which is designated as 'Urban development'.

5. SERVICES INFRASTRUCTURE

Element Consulting Engineers were appointed to compile a Services Report (**ANNEXURE K**) for the proposed development. Their conclusion and recommendations are the following:

Conclusion:

1. The property is located in Tergniet, approximately 5km west of Great Brak River in the Mossel Bay Municipal area.
2. The proposed development envisages the subdivision of the Remainder of the Farm Zandhoogte 139 into (4) erven of respectively 1001m² (Ptn A), 728m² (Ptn B), 2,643m² (Ptn C) and with a Remainder of approximately 19.4ha.
3. Geotechnical conditions present on the site have been visually inspected and holistically, the conclusion reached is that the residual sands found on site are adequate for the construction of residential development.

5.1. Water reticulation

- a) Bulk water is available for the development and a confirmation email has been obtained.
- b) The bulk water connection point for Portion C is on the 110mm uPVC water main running along Impala Street (This is an existing connection as Portion C is the historic farmhouse). The bulk water connection point for Portions A and B is on the 100mm FC water main running along Seekat Street.
- c) The demand for this proposed development is calculated at approximately 2kl/day.

5.2. Sewer reticulation

- a) No bulk sewer reticulation network historically exists in the Tergniet area. The Mossel Bay Municipality has however commenced with the phased

implementation of a bulk sewer network for this area. The implementation of a bulk sewer network in this area, south of the watershed, has been programmed for 2019 – 2021.

- b) The design daily flow created by the development is calculated at approximately 2kl/day.
- c) Discussions with officials of the Mossel Bay Municipality concluded the following concerning the provision of sewer to the proposed subdivided erven:
 - i. Provide septic tank and french drain combination to Portions A and B as an interim measure (Portion C has an existing septic tank and french drain).
 - ii. At the time when the sewer network in the area is completed (approximately early 2021), connect the houses to the sewer network.
 - iii. Design of the sewer reticulation in the erven to tie into the preliminary design of the new sewer network.

5.3. Roads, access and traffic

- a) Access to Portions A and B is proposed from the dead-end in Seekat Street. Sight distance in the dead-end is acceptable for two residential accesses in both the horizontal and vertical alignments. Portion C obtains existing historic access from Impala Street at a point approximately 90m east of the Seekat Street intersection. Sight distance in both an eastern and western direction on Impala Street is excellent at this point in both the vertical and horizontal alignments.
- b) No internal roads will be required.
- c) Traffic generated from the proposed subdivision of 2 single residential erven (Portions A and B) will be negligible on the road network. (Portion C is the existing historic farmhouse)

5.4. Stormwater

- a) Proper surface stormwater management needs to be implemented on the erven due to the moderate gradients and high erosive nature of the sands.

5.5. Solid Waste

- b) A formal arrangement for the removal of solid waste shall be entered into with the Mossel Bay Municipality.

5.6. Electrical reticulation

- a) Portions A and B will be serviced from a kiosk situated approximately 48m from the dead-end of Seekat Street. Portion C is currently serviced from an existing connection on Impala Street.
- b) All design parameters for internal reticulation will be in accordance with the standard specifications of the Mossel Bay Municipality
- c) The design load of the development can be calculated as 8kVA.

5.7. Conclusion: Engineering Services

With reference to all of the conclusions above, it can holistically be concluded that the proposed subdivision of Zandhoogte 139, Tergniet, Mossel Bay can be designed and constructed to acceptable specifications and standards from an engineering design perspective, inclusive of water, sewer, roads, stormwater and electrical reticulation.

Recommendations:

With reference to the conclusions above, it is the holistic recommendation of Element Consulting Engineers that the proposed subdivision of Zandhoogte 139, Tergniet, Mossel Bay, be approved from an engineering design perspective.

SECTION C : CONTEXTUAL INFORMANTS

6. LOCALITY
(Plan 1: Locality Plan)

Remainder of the Farm Zandhoogte No. 139 is located in Tergniet, Mossel Bay Municipality. The subject property is split by the N2 highway; with a portion of approximately 18.62ha north of the highway and a portion of approximately 19.90ha south of the highway. The GPS co-ordinates for the centre of the proposed development are 34°3'42.31"S and 22°11'23.52"E.



FIGURE 7: LOCALITY

7. CURRENT LAND USE AND ZONING

7.1. Land Use

The majority of Remainder of the Farm Zandhoogte No. 139 is currently vacant. However, there is an existing farmhouse on the southern portion (below the N2 highway) used for residential purposes. The existing farmhouse will be accommodated on Portion C (as per the proposed subdivision).



FIGURE 8: EXISTING FARMHOUSE





FIGURE 9: VACANT LAND - REMAINDER OF THE FARM ZANDHOOGTE NO. 139

7.2. Zoning

Remainder of the Farm Zandhoogte No. 139 is currently zoned 'Agricultural Zone I' in terms of the Mossel Bay Municipality: Integrated Zoning Scheme By-Law.



FIGURE 10: EXTRACT OF THE MOSSEL BAY MUNICIPALITY GIS VIEWER

8. CHARACTER OF THE AREA

Remainder of the Farm Zandhoogte No. 139 is located within the suburb of Tergniet, Mossel Bay Municipality. The farm is one of the few 'vacant / undeveloped' properties in the suburb (Tergniet). The subject property sits basically in the middle of Tergniet, and currently split the existing developed areas, which is situated directly east and west of the subject property.

Mossel Bay Municipality approved the rezoning and subdivision of Remainder of the Farm Zandhoogte No 139, during November 2009. Mossel Bay Municipality granted approval for the extension of the validity of the approval during 2015, and this approval lapsed on 21 May 2017. Since no further application for extension was submitted prior to the lapsing date, the rights have lapsed.

Since the subject property is within the urban edge, it was (and still is) envisaged by the Municipality to allow urban development on it. Thus, even though the immediate character of the area is vacant the greater area is characterised as urban development and in particular a residential character.

The character of Tergniet is residential of nature, with a few 'vacant / undeveloped' parcels in between, one of them being the subject property (Remainder of the Farm Zandhoogte No. 139).

The proposal to rezone a portion of the property to 'Subdivisional Area' and a subdivision to allow a (3x) residential erven and a Remainder, will in no way change the existing character of the area, it would rather strengthen the existing character of the area, which is (and will be) residential.

The figure below illustrates the boundaries of Tergniet; it is clear that the area is characterised with a residential land use and that the subject property is one of few left undeveloped. The subject property is earmarked for urban development; and when the property is developed in future, it will connect the two existing developed areas of Tergniet.



FIGURE 11: TERGNIET - CHARACTER OF THE AREA

9. EXISTING POLICY FRAMEWORKS

9.1. Mossel Bay Municipality: Integrated Development Plan (2017-2022)

The Integrated Development Plan (2017-2022) is the fourth generation of strategic development plans adopted and implemented by this Municipality. This IDP serves as an enabler for mutual accountability towards the attainment of the agreed development priorities, hence it constitutes a social contract between the Council and residents of the greater Mossel Bay. It is therefore one of the most critical plans in ensuring equitable distribution of municipal resources and seamless development of infrastructure and upliftment of all communities.

The Municipal Key Performance Areas (KPA’S) and Strategic Objectives set the strategic tone and pave the direction for future developments, investments and public/private partnership interventions. The Key Performance Areas and Strategic Objectives will inform and guide service delivery and development over the prescribed five-years.

Key Performance Areas (KPA’S) and Strategic Objectives applicable to area is listed below:

| KEY PERFORMANCE AREA | BASIC SERVICES DELIVERY AND INFRASTRUCTURE DEVELOPMENT |
|--|---|
| STRATEGIC OBJECTIVES | FOCUS AREA |
| SO 1 Create an inclusive, responsive, and healthy environment conducive for living and sustainable growth | <ul style="list-style-type: none"> • Water provision • Sewerage and Sanitation Services • Household Electricity and lighting • Housing and Serviced Site Opportunities • Provide Public Transport and Road Infrastructure Solid Waste Management |
| SO 2 To manage land-use and development in line with the Spatial Development Framework | <ul style="list-style-type: none"> • Land-use Management |
| SO 6 To facilitate economic and tourism development to the benefit of the town and all residents | <ul style="list-style-type: none"> • Red-Tape Reduction • SMME Development • Tourism Development • Manage and Maintain Caravan Parks and Beaches |

The development proposal will comply with all the above-mentioned Strategic Objectives by providing additional housing opportunities in the Little Brak / Reebok / Tergniet area, allowing people to live in close proximity to various tourist attractions in surrounding area. The proposal is in line with the applicable SDF of the area, ensuring efficient land use management.

According to the IDP the application area is located in WARD 5. The following development need/priorities are listed for the area:

| DEVELOPMENT NEED / PRIORITY | DEVELOPMENT NEED / PRIORITY |
|---|---|
| MOSSEL BAY MUNICIPALITY | MBM / AGRICULTURE |
| ◆ Upgrade Gravel Roads & Paving of Sidewalks. | ◆ Food Gardens and Water Tanks Toekoms |
| ◆ Resealing of Tar Roads with Bad Surface | MBM / ESKOM / DOE |
| ◆ Storm Water Drainage Infrastructure. | ◆ Prepaid Electricity Jonkersberg |
| ◆ Upgrade Sewerage Network (Mid Brak) | MBM / SOCIAL DEVELOPMENT |
| ◆ Speed Humps "Traffic Calming" | ◆ Youth Programmes and Soupkitchens |
| ◆ Play Parks with Tar Surface for the Heuwel Area | ◆ Crèche for Jonkersberg Rural Settlement |
| ◆ Soccerfield for Toekoms Community | MBM / HUMAN SETTLEMENT (DHS) |
| ◆ Community Hall for Toekoms | ◆ Rectification of houses in Toekoms |
| ◆ Improve Street Lighting | ◆ New houses for Toekoms (PHP Project) |
| ◆ Replace Overhead Electricity Infrastructure | MBM / CULTURAL AFFAIRS AND SPORT |
| ◆ Beautification of Main Town Entrances | ◆ Upgrade Ellen van Rensburg Library |
| ◆ Dune Protection Disable Friendly Steps Beaches | ◆ Improve Mobile Library Toekoms |
| ◆ Cleaning of Road Reserves and Deforestation | TRANSPORT AND PUBLIC WORKS |
| HEALTH | ◆ Upgrade of Roads under Provincial Authority |
| ◆ Mobile Clinic for Jonkersberg Rural Settlement | |

FIGURE 12: DEVELOPMENT NEED/PRIORITY – WARD 5 (IDP)

Accept that the subject property is located in Ward 5, the proposed rezoning and subdivision application does not have a direct link to the strategic objectives set out in the IDP, as the proposed development is on a too small scale to contribute or to deviate from the strategic objectives as set out in the IDP.

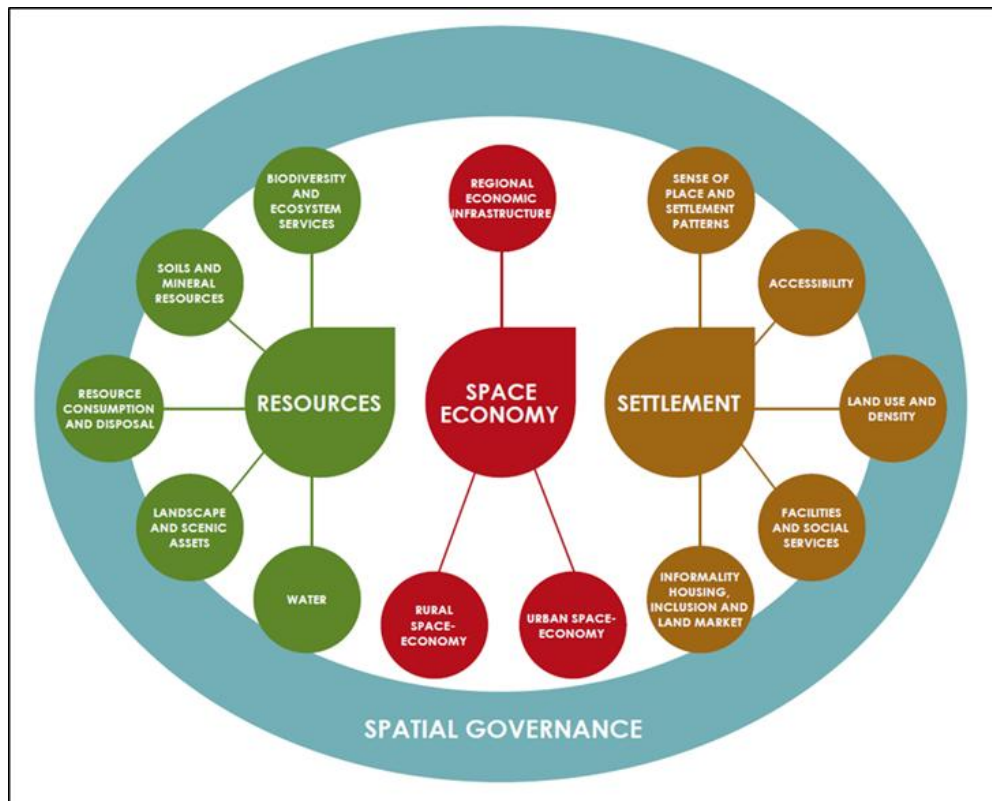
9.2. Western Cape Provincial SDF (2014)

The Western Cape Provincial SDF was approved in 2014 by the Western Cape parliament and serves as strategic spatial planning tool that *"communicates the provinces spatial planning agenda"*.

The recent shift in legislative and policy frameworks have clearly outlined the roles and responsibility of provincial and municipal spatial planning and should be integrated towards the overall spatial structuring plan for the province to create and preserve the resources of the province more effectively through sustainable urban environments for future generations. This shift in spatial planning meant that provincial inputs are in general limited to provincial scale planning. However, it is important to note some of the key policies laid down by the PSDF have a bearing on the application.

The proposed development compliments the SDF spatial goals that aim to take the Western Cape on a path towards:

- (i) Greater productivity, competitiveness and opportunities within the spatial economy;
- (ii) More inclusive development in the urban areas;
- (iii) Strengthening resilience and sustainable development.



- **Policy E3: Revitalise and Strengthen Urban Space-Economies as the Engine of Growth**

5. Existing economic assets (e.g. CBDs, township centres, modal interchanges, vacant and under-utilised strategically located public land parcels, fishing harbours, public squares and markets, etc.) should be targeted to levers the regeneration and revitalisation of urban economies.

7. Incentives should be put in place to attract economic activities close to dormitory residential areas, facilitate brownfields development.

- **Policy S3: Ensure Compact, Balanced & Strategically Aligned Activities & Land Uses**

This policy reflects the main aim of the policy through targeting economic assets (e.g. Modal Interchanges underutilised strategically located land parcels) should be used as a lever to regenerate and revitalise urban settlements.

1. Target existing economic nodes (e.g. CBDs, township centres, modal interchanges, vacant and under-utilised strategically located public land parcels, fishing harbours, public squares and markets, etc) as levers for the regeneration and revitalisation of settlements.

2. Promoting functional integration and mix land use to increase liability of urban areas. Thus, the policy specifies the importance to- increase density of settlements and number of units in new housing projects; continue to deliver public investment to meet the needs in settlement developments; integrate packages of land, infrastructure and services as critical to promote densification and efficiency associated with agglomeration.

- **Policy S5: Ensure Sustainable, Integrated and Inclusive Housing Planning and Implementation**

1. Provide a wide choice of housing typologies and tenure options, based on economic, fiscal, and social affordability. Incremental housing development to be pursued, with phased service provision to accelerate housing provision.

5. The policy reflects to provide households with the residential environments, mobility and access to opportunities that support productive activities and reduce levels of exclusion from opportunity, increase residential densities of settlements and dwelling units in new projects that provide accommodation, prioritise investment in community facilities, public infrastructure and public space, rather than an exclusive focus on housing or top structures.

Achieve a wider range of housing opportunities with regards to diversity of tenure, size, density, height and quality in order to promote a ladder of upward mobility for households to progress as economic circumstances change over time

Acknowledge the social value of land and develop investment and land management tools that evaluate development.

Planning Implication:

The Western Cape Spatial Development Framework has a strong emphasis on creating an urban living environment which is more convenient, efficient and aesthetically pleasing to residents. Density and functional use of space needs to be increased within economic urban centres to promote functional urban integrated spaces between commercial, recreational and residential to promote accessibility and walkability in core economic areas. The development proposal will comply with the Western Cape Spatial Development Framework as the proposed development contribute to the regeneration and revitalisation of urban economies. The development proposal ensures densification and contribute to infill development. The proposed development is within the existing urban development site, thus contributing to infill development and it will be strengthening the character of the area by contributing to an existing residential neighbourhood. The proposal promotes smart growth, by ensuring the efficient use of land and infrastructure by containing urban sprawl and prioritising infill, intensification and redevelopment within settlements.

9.3. Mossel Bay Municipality Spatial Development Framework (June 2018)

The Mossel Bay Municipality has accepted and implemented a new Spatial Development Framework during (June 2018).

The Spatial Vision of the municipality is to create a long-term, sustainable land use pattern that:

- conserves Mossel Bay municipality's significant rural resources for the biodiversity conservation of its:
 - rivers, wetlands, estuaries and coastline,
 - natural vegetation,
 - scenic landscapes, and

- extensive and intensive agriculture resources,

to support rural tourism and agricultural economic growth and employment creation. The municipality places a greater focus on leveraging its history, heritage and sense of place of the natural scenic areas and old town to revive its underperforming tourism economy; and,

- promotes inclusionary, efficient, urban growth that:
 - provides comfortable and convenient access to urban opportunities and livelihoods for all of its existing and future residents;

while at the same time;

- decoupling this growth from excessive water, energy and land consumption along the coastal settlement strip; and,
- the municipality should place effort and energy in developing partnerships, lobbying and undertake proactive planning initiatives in seeking to upgrade, refurbish and link the 'old town' with the existing port in a heritage appropriate way to create a new jewel in the crown of the garden route which both attracts visitors but creates a solid locally-driven economy.

According to the Mossel Bay Municipality Spatial Development Framework (SDF) the application area is located within the urban edge for Mossel Bay, therefore the site has been identified as within the desired envelope of development for the settlement.

The southern portion of the subject property is situated south of the N2 highway, within the suburb of Tergniet. This portion is within the urban edge as seen in the extract below off the Mossel Bay SDF (2017):

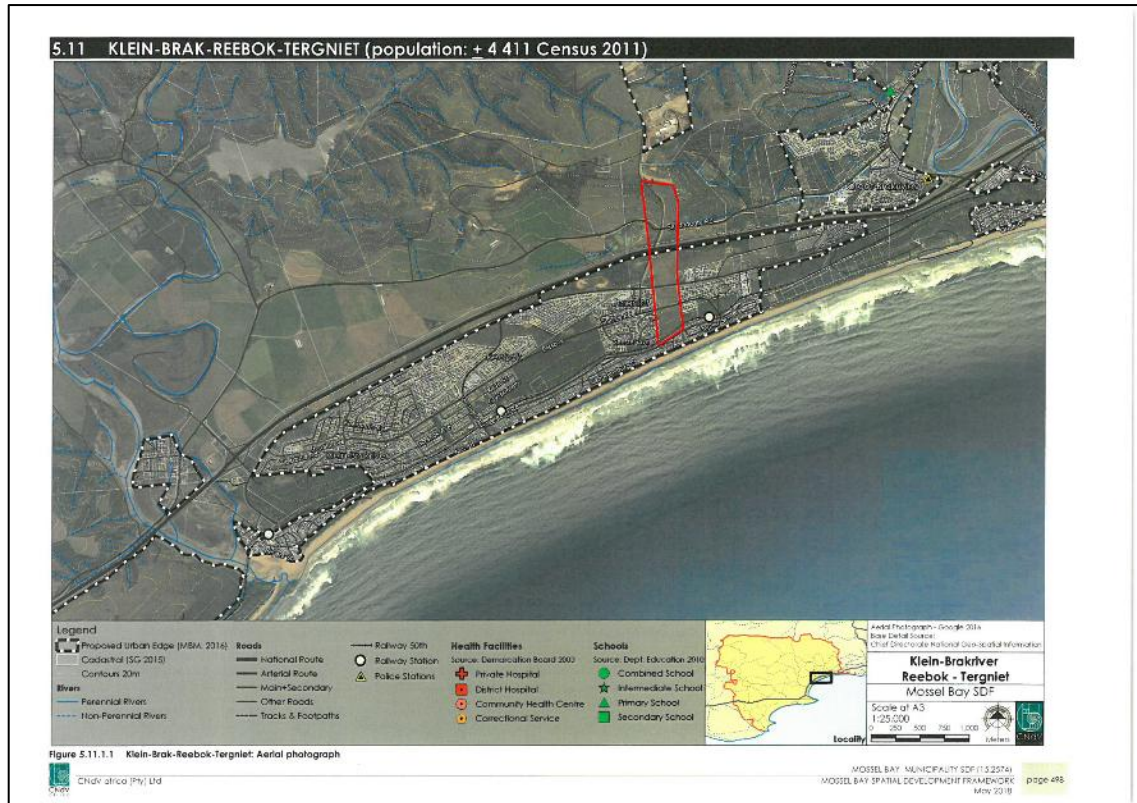


FIGURE 13: EXTRACT OF THE MOSSEL BAY SDF (2017)

According to the SDF:

- There should be no new development outside the proposed urban edge
- New development areas to be mainly focused around Tergniet on properties where applications are already in process, there is land suitable for development or there are approved and/or services.
- Increased permanent residency and more efficient use of low-density properties should be encouraged.

The current application is on a very small scale as it proposes only (3x) residential erven. It is the considered opinion that the current application is on a too small scale to contribute or deviate from the guidelines of the SDF. However, when a larger development proposal is proposed, it (the current application) will contribute to the overall densification, development within the urban edge, development focused in Tergniet and increase in permanent residency.

Planning Implication:

The application area is located in the Tergniet urban edge and within the existing urban area of Tergniet, thus the property is earmarked for urban development purposes. The proposal will also contribute to the existing residential character of the area and efficient use of services in the area.

SECTION D : MOTIVATION

The Standard By-Law on Municipal Planning as promulgated by G.N 7565 dated 12 February 2016 states in Section 65 the general criteria necessary for considering an application by the municipality.

It must be noted that the application has not undergone the notice phase of the application process and that the information below is the necessary information required by the municipality to process the application. The following criteria must be taken into account when evaluating the desirability of this application:

- The integrated development plan, including the municipal spatial development framework;
- The applicable local spatial development frameworks adopted by the Municipality;
- The applicable structure plans;
- The applicable policies of the Municipality that guide decision-making;
- The provincial spatial development framework;
- The policies, principles and the planning and development norms and criteria set by the national and provincial government;
- The matters referred to in Section 42 of the Spatial Planning and Land Use Management Act;
- Principles referred to in Chapter VI (6) of the Land Use Planning Act; and
- The applicable provisions of the zoning scheme.

10. THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (16 OF 2013)

The Spatial Planning and Land Use Management Act (SPLUMA) came into effect on 1 September 2014. One of the main objectives of this act is to provide a framework for spatial planning and land use management to address past spatial and regulatory imbalances.

Section 42 of SPLUMA prescribe certain aspects that have to be taken into consideration when deciding on an application. These are:

- development principles set out in Chapter 2 of SPLUMA
- protect and promote the sustainable use of agricultural land
- national and provincial government policies
- the municipal spatial development framework; and
- take into account—
 - (i) the public interest;

- (ii) the constitutional transformation imperatives and the related duties of the State;
- (iii) the facts and circumstances relevant to the application;
- (iv) the respective rights and obligations of all those affected;
- (v) the state and impact of engineering services, social infrastructure and open space requirements; and
- (vi) any factors that may be prescribed, including timeframes for making decisions.

10.1. Development Principles

SPLUMA sets out the following 5 main development principles applicable to spatial planning, land use management and land development:

- Spatial justice
- Spatial sustainability
- Efficiency (optimising the use of existing resources and infrastructure)
- Spatial resilience (allow for flexibility in spatial plans)
- Good administration

11. CONSISTENCY WITH SPATIAL PLANNING POLICIES

This development proposal is consistent with all of the approved spatial policy frameworks that apply to the area. This statement is supported by the following:

- (i) The development proposal complies with the Mossel Bay Municipality IDP (2017-2022) as the proposal is consistent with the Strategic Objectives as set out for the Municipal Area and the objectives in the Ward 5 area.
- (ii) The development proposal complies with the Western Cape Spatial Development Framework as the proposed development will contribute to the regeneration and revitalisation of urban economies. The development proposal ensures densification and contribute to infill development. The Western Cape Spatial Development Framework has a strong emphasis on revitalising urban spaces creating an urban living environment which is more convenient, efficient and aesthetically pleasing to residents. The proposed development is within the existing urban edge, thus containing urban sprawl and it will be strengthening the character of the area by contributing to an existing residential neighbourhood.
- (iii) The proposal will also strengthen the character of the Tergniet Area. The proposed development will contribute to the integrated living environment which is strategically aligned with the surrounding land uses of the surrounding area.
- (iv) The proposal promotes smart growth, by ensuring the efficient use of land and infrastructure by containing urban sprawl and prioritising infill, intensification and redevelopment within settlements. The development is a private-sector development,

which will help to provide a housing opportunity and expand the housing delivery options. Therefore, the proposal is consistent with strategic objectives as set out by the Western Cape Spatial Development Framework.

- (v) The proposed development is located inside the urban edge of Tergniet and therefore the site is suitable for development. The proposed development will result in the optimal use of unutilised land in the urban edge, thereby preventing urban sprawl. The proposal will contribute to the existing residential character of the area. Therefore, the proposed development is highly consistent with the spatial planning policies applicable to this area. Thus, the development could be considered consistent with the Mossel Bay SDF.

12. CONSISTENCY OF THE DEVELOPMENT WITH THE CHARACTER OF THE SURROUNDING AREA

As described in Par. 8 of this report Remainder of the Farm Zandhoogte No. 139 is located within the suburb of Tergniet, Mossel Bay Municipality. The farm is one of the few 'vacant / undeveloped' properties in the suburb (Tergniet). The subject property sits basically in the middle of Tergniet, and currently split the existing developed areas, which is situated directly east and west of the subject property.

Since the subject property is within the urban edge, it was (and still is) envisaged by the Municipality to allow urban development on it. Thus, even though the immediate character of the area is vacant the greater area is characterised as urban development and a residential character.

The character of Tergniet is residential of nature, with a few 'vacant / undeveloped' parcels in between, one of them being the subject property (Remainder of the Farm Zandhoogte No. 139). It is the intention of the new property owner to develop this property for various residential uses, but in the interim, the owner of the land wishes to upgrade the existing dwelling house on the property and to subdivide this parcel off from the Remainder.

The proposal to rezone the property to 'Subdivisional Area' and a subdivision to allow a (3x) Residential Erven and a Remainder, will in no way change the existing character of the area, it would rather contribute to the existing character of the area, which is (and will be) residential.

13. TRAFFIC AND ACCESS

13.1. Access

(Extract out of the Services Report - ANNEXURE K)

Access to Portions A and B is proposed from the dead-end in Seekat Street. Sight distance in the dead-end is acceptable for two residential accesses in both the horizontal and vertical alignments.

Portion C obtains existing historic access from Impala Street at a point approximately 90m east of the Seekat Street intersection. Sight distance in both an eastern and western

direction on Impala Street is excellent at this point in both the vertical and horizontal alignments.

13.2. Traffic Impact

(Extract out of the Services Report - ANNEXURE K)

Traffic generated from the proposed subdivision of 2 single residential erven (Portions A and B) will be negligible on the road network. (Portion C is the existing historic farmhouse).

14. POSITIVE ECONOMIC IMPACT

Additional accommodation opportunities will attract new residents; and new residents will allow for the increase in expenditure in the area. New residential properties allow for additional rates & taxes to the municipality; contributing directly to one of the main income sources of the Municipality.

15. EXISTING RIGHTS

Given the residential character of the area and the existing urban developments in the area, it is the considered opinion that the proposed development of (3x) additional single residential erven will not have any impact on the existing land use rights of any property owners in the area.

The proposal will not prevent any surrounding owner to exercise their legal land use rights, in fact, the proposal will rather enhance the amenity of the area. The fact that there will be additional movement in this area leads to an increase in security and the development of vacant properties will increase in urban renewal to the property, as well as increase the property values.

16. NO ENVIRONMENTAL IMPACT

No negative environmental impacts will be created as a result of the development. The proposed development area is disturbed and within the urban edge of Mossel Bay and is not classified or earmarked as a Critical Biodiversity Area. The proposed development does not trigger any listed activities in terms of the National Environmental Management Act (1998) as amended.

Therefore, the development will not have any significant negative impacts on the natural environment on or around the application area.



FIGURE 14: CRITICAL BIODIVERSITY AREAS

17. RELEVANT CONSIDERATIONS, WESTERN CAPE - ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

The following key considerations are taken into account to determine the desirability of the proposed land use.

| ELEMENTS FOR CONSIDERATION | KEY QUESTIONS TO ASK | PROPOSAL (DESIRABILITY) |
|---|--|--|
| Economic impact | <i>Positive or Negative impact on neighbourhood / settlement?</i> | <ul style="list-style-type: none"> ▪ Positive economic impact ▪ Additional expenditure in area ▪ Additional employment opportunities |
| Social impact | <i>Greater social justice, equity of access to opportunity</i> | <ul style="list-style-type: none"> ▪ More accommodation opportunities ▪ Wider variety of housing ▪ Contribute to permanent residency |
| Scale of capital investment | <i>> capital investment - > positive impact</i> | <ul style="list-style-type: none"> ▪ New development, will attract new property owners and investment opportunities |
| Compatibility with surrounding land uses | | <ul style="list-style-type: none"> ▪ Contribute to the existing character of the area ▪ Infill development ▪ Additional accommodation opportunities |
| Impact on external engineering services | <i>How much must the developer contribute to municipal costs incurred?</i> | <ul style="list-style-type: none"> ▪ No impact on existing service infrastructure ▪ No additional services needed ▪ Make use of existing services connections |
| Impact on safety, health & wellbeing of the surrounding community | | <ul style="list-style-type: none"> ▪ Infill development will increase safety in the area ▪ Urban upgrade will allow for a more aesthetic pleasing environment ▪ New buildings attract people ▪ More security cameras |
| Impact on heritage | | <ul style="list-style-type: none"> ▪ No heritage impacts ▪ No heritage value |
| Impact on the biophysical environment | <i>Are there negative impacts? Are they adequately mitigated?</i> | <ul style="list-style-type: none"> ▪ Within urban edge ▪ No NEMA listed activities triggered ▪ Outside any CBA areas ▪ No harvesting of trees and plants |

| ELEMENTS FOR CONSIDERATION | KEY QUESTIONS TO ASK | PROPOSAL (DESIRABILITY) |
|--|--|---|
| Traffic impacts, parking access, other transport considerations | <i>Support for densification & functional public transport system?</i> | <ul style="list-style-type: none"> ▪ No additional traffic ▪ Minor impact on traffic flow ▪ Access from existing road network |
| Impact on quality of life (incl. views, sunlight, privacy, visual impact, character) | | <ul style="list-style-type: none"> ▪ No views will be obscured ▪ Within the allowed height ▪ Fits within character of the area |
| Timing – need to densify or protect urban edges | <i>Best option for site at this point in time?</i> | <ul style="list-style-type: none"> ▪ Infill development ▪ Densification ▪ Within urban edge ▪ Acceptable scale of densification |
| Cumulative impacts | <i>Unacceptable cumulative impacts?</i> | <ul style="list-style-type: none"> ▪ Only positive impacts |
| Opportunity costs | <i>Any unacceptable opportunity costs?</i> | <ul style="list-style-type: none"> ▪ Private investment ▪ No municipal funding required |
| Alignment with SDF's | | <ul style="list-style-type: none"> ▪ Refer to Par. 9 |

Note: LUPA (Land Use Planning Act) does not refer to a lack of desirability, nor does it require there to be a positive advantage (i.e. the absence of a positive advantage should not automatically lead to a decision to refuse)

From the table above, it is clear that the proposed development is desirable on the subject properties.

18. SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013)

One of the main objectives of SPLUMA is to provide a framework for spatial planning and land use management to address past spatial and regulatory imbalances. This section illustrates how the application is consistent with the 5 main development principles applicable to spatial planning, land use management as set out in Section 42 of SPLUMA.

18.1. Spatial Justice

| Criteria | Compliance | Planning Implication |
|---|----------------|--|
| Past spatial and other development imbalances must be redressed through improved access to and use of land. | Not applicable | This policy is not applicable to the application area. |

| Criteria | Compliance | Planning Implication |
|--|----------------|---|
| Spatial development frameworks and policies at all spheres of government must address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterised by widespread poverty and deprivation. | Not applicable | This policy is not applicable to the application area. |
| Spatial planning mechanisms, including land use schemes, must incorporate provisions that enable redress in access to land by disadvantaged communities and persons. | Comply | The development proposal aims to provide more housing opportunities and expand the housing delivery options in the Tergniet area. |

18.2. Spatial Sustainability

| Criteria | Compliance | Planning Implication |
|---|------------|--|
| Promote land development that is within the fiscal, institutional and administrative means of the Republic. | Comply | The proposed development is within the urban edge of the Mossel Bay area, and within an established urban environment. The rezoning & subdivision will allow the owner to lawfully allow (3) residential erven within the development parameters of the Integrated Mossel Bay Zoning Scheme. |
| Ensure that special consideration is given to the protection of prime and unique agricultural land. | Comply | Even though the application area is currently zoned for agricultural purposes, it is not prime or unique agricultural land. |
| Uphold consistency of land use measures in accordance with environmental management instruments. | Comply | The application area is located within the urban edge of Mossel Bay. The proposed Development does not trigger any environmental listed activities according to the National Environmental Management Act (1998). |
| Promote and stimulate the effective and equitable functioning of land markets. | Comply | The proposed development is consistent with the character of the surrounding area. It will not impact the value of its surrounding properties as it is a conforming use and modern building complementing the area. The operation of (3) residential erven in the area will contribute to the effective functioning of land markets. It will contribute to the economic |

| Criteria | Compliance | Planning Implication |
|--|---------------|--|
| | | environment and allow for additional expenditure in the area. |
| Consider all current and future costs to all parties for the provision of infrastructure and social services in land developments. | Comply | All the erven have an existing connection to municipal services. Any additional cost required will be for the cost of the applicant. |
| Promote land development in locations that are sustainable and limit urban sprawl; and result in communities that are viable. | Comply | The proposed development is within an existing urban development and adhere to the parameters of the proposed zoning "Residential Zone I" in terms of the Mossel Bay Integrated Zoning Scheme. No urban sprawl will be created because of this land use application. |

18.3. Spatial Efficiency

| Criteria | Compliance | Planning Implication |
|--|----------------|---|
| Land development optimises the use of existing resources and infrastructure. | Comply | Proposal will fully utilise municipal infrastructure. The proposed rezoning will result in the optimal use of existing municipal infrastructure. |
| Decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts. | Not Applicable | The municipality should process this application within the prescribed time frames of the Mossel Bay Municipality By-law on Municipal Land Use Planning (2016). |
| Development application procedures are efficient and streamlined and timeframes are adhered to by all parties. | Not Applicable | The municipality should process this application within the prescribed time frames of the Mossel Bay Municipality By-law on Municipal Land Use Planning (2016). |

18.4. Spatial Resilience

| Criteria | Compliance | Planning Implication |
|---|---------------|---|
| Flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks | Comply | The proposal is in line with the various spatial plan and policies, as motivated in the report. The proposed application complies with the requirements of the Mossel Bay Municipality By-Law on Municipal Land Use Planning (2016). |

18.5. Good Administration

| Criteria | Compliance | Planning Implication |
|---|--|----------------------|
| All spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in this Act. | Applicable to Mossel Bay Municipality | |
| All government departments must provide their sector inputs and comply with any other prescribed requirements during the preparation or amendment of spatial development frameworks. | | |
| The requirements of any law relating to land development and land use are met timeously. | | |
| The preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, include transparent processes of public participation that afford all parties the opportunity to provide inputs on matters affecting them. | | |
| Policies, legislation and procedures must be clearly set in order to inform and empower members of the public. | | |

19. CONCLUSION

In light of this motivation, and the information contained in the foregoing report, it is clear that the application for:

- (i) Rezoning of a portion of Remainder of the Farm Zandhoogte No. 139 from "Agricultural Zone I" to "Subdivisional Area" in terms of Section 15(2)(a) of Mossel Bay Municipality Standard By-Law on Municipal Land Use Planning;
- (ii) Subdivision of Remainder of the Farm Zandhoogte No. 139 into (4) portions: (3) Residential Erven (Residential Zone I) and the Remainder (Agriculture Zone I), in terms

of Section 15(2)(d) of Mossel Bay Municipality Standard By-Law on Municipal Land Use Planning.

Meets the criteria as set out in The Spatial Planning and Land Use Management Act (SPLUMA) and the Mossel Bay Land Use Planning Bylaw; is desirable and it is therefore recommended that the application for the proposal be supported by the relevant authorities and approved by Mossel Bay Municipality.

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August 2019

