

**Protea Village Basic Assessment: Issues Trail- October 2020**

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| Business Case  | Trees / Vegetation  |
|--|---|
| <p><b>1. General explanation of the economics of the settlement in current proposal vs NMA recommendations and explain where they differ and why.</b></p> <p>An environmental and technical feasibility study was conducted by NM &amp; Associates (i.e. "NMA study"), which culminated in a report dated January 2004. This comprised a contextual analysis of the opportunities and constraints of the site, which provided a contextual analysis and some preliminary design guidelines. There was no business plan and proposal at the time, which is stressed throughout the report, and it was a high-level study done for the City of Cape Town, not the Protea Village community. The report did not consider the economics of the restitution project.</p> <p>Information from that study is now largely outdated and the findings have been updated, where required, for this Basic Assessment process. The site informants from the NMA study have also been considered and updated for this process.</p> | <p><b>24. Objections to the removal of the trees and other vegetation.</b></p> <p>An extensive process was undertaken to identify and assess all trees (greater than 100mm diameter) on site. This involved identifying the exact location of each tree through a detailed survey undertaken by a land surveyor, after which the canopy of each tree was then mapped. A specialist Tree Survey was then undertaken to identify the species of each tree and assess it from a Landscape Architecture standpoint (refer to Appendix G (a) of the BAR). This survey data and Tree Survey was then peer reviewed by an Arboriculture specialist (refer to Appendix G (b) of the BAR). The findings of this extensive process have informed the development layout and provided recommendations on which tree specimens should preferably be retained on site as well as those which probably can be removed due to concerns relating to age, safety and the spread of alien invasive species on site. Areas where indigenous vegetation is concentrated on site (i.e. the riverine and freshwater system) is proposed to be retained as proposed Public Open Space and managed as such by the City of Cape Town (noting that the City of not presently required to manage the area as a City Park, given that the</p> |

This Basic Assessment process (as well as the land use planning process, which is being undertaken by the town planners in parallel with this process) takes into account the most recent information thereby considering and weighing up the needs of the Protea Village community, current environmental baseline, and present status of the market.

- 2. Details on the business plan have been requested. Information that has been requested includes evidence that this works, evidence of independent verification and testing, the value of the capital generated from Erf 212, the building cost per square metre for the proposed Erf 242 homes, the capital (i.e. the quantum) which would be required for construction of Erf 242 homes, as well as the sources of funding. It has also been asked how it came about that Bethel was appointed as Development Managers. What is the source of funding for freehold and leasehold properties? Elaborate on when and who would build houses. How and when are those funds are going to be recouped and repaid?**

The business model has been informed through the Protea Village Community seeking the best business model proposal via a publicly advertised request for proposals process in 2015. The current proposal was selected by the Protea Village Community and has been extensively workshopped and improved upon in collaboration with the Department of Rural Development and Land Reform, the City of Cape Town, Bethel Partners, the professional team and the Protea Village Community and their independent advisors, over a 3-year iterative process. When considering the proposed development, it is important to note that it is fully endorsed and, in fact, desired, by the Protea Village community, who are the Developers/ Applicant and owners of the Development Company.

The business plan has been compiled in consideration of needs of Protea Village families, economic conditions, and long-term

present zoning of the land is Agriculture) and in accordance with an agreement or formal acknowledgement of responsibility amongst relevant parties. Within the context of the aforementioned studies, the engineering and structural requirements of the proposal have served to further refine which trees would be removed and which would be retained.

- 25. How were buffers around trees determined for fences, buildings, and roadways in the layout, particularly with regard to ensuring the protection of roots?**

General practice in this regard is to work on the canopy diameter/'dripline' (the dripline is defined as the outermost circumference of the tree's canopy, from which water drips onto the ground and the 'dripline area' is taken to include the soil and roots that lie within that circumference<sup>1</sup>) as the setback line and this has been carried out as far as possible, where services and infrastructure allow for it. In many cases, clumps or bundles of trees have been planned/located in open spaces/pocket parks (i.e. they have been incorporated into the development proposal as open areas rather than nearby built structures) to prevent root loss. However, it would not be possible to retain the full dripline as a buffer in all cases, particularly with regard to conservation-worthy trees located in road reserves – here a loss of +/- 30% of root area has been assumed, but the tree has still been considered worth retaining.

- 26. I&APs have suggest getting trees SA on board and getting the community to take some plants during construction- like a plant Open Day.**

Consultation with the appropriate and relevant public and private role-players would be sought during the landscaping implementation phase, in accordance with the City-approved Landscape Masterplan for the development. A specification has been included in the EMP to discuss this as an option during the detailed design (and associated engagement with the City of Cape Town) of the landscape masterplan.

<sup>1</sup> [https://www.designingbuildings.co.uk/wiki/Tree\\_dripline](https://www.designingbuildings.co.uk/wiki/Tree_dripline)

sustainability. Information regarding the proposed layout plan, the proposed phasing, the proposed implementation methodology and the proposed programme has been provided, which all addresses the sustainability of the proposal.

To summarise, the initial liquidity would be created by various Grants and the ongoing liquidity generated from the transfer of freehold and leasehold properties on Erf 212 (which would be available on the open market). The funding for the land-use rights process has partially come from State Grants and the shortfall has been / is being loaned to the Protea Village Community by Bethel Partners. With respect to future funding, the intention is to make use of State Grants, funding of some of the bulk and link services by the City of Cape Town and a responsive management of cash resources (waterfall of cash) that the Protea Village Community generate by selling both leasehold portions and leasehold and freehold stands on Erf 212. As no senior debt is currently proposed to provide liquidity, the development would be phased and implemented to match the cash resources that are generated by the project. Various scenarios have been considered to match the possible waterfall of cash flow projections.

The development and construction costs have been independently estimated and assessed by the project engineers and quantity surveyor and are in line with the market.

The detailed financial workings are confidential to the project and the Protea Village Community and will not be shared. Sufficient information has been presented in this process (in the Basic Assessment Report) to provide detail on sustainability of the proposal.

**3. The proposal and development managers are profit focused and want to line their pockets.**

This view is noted. A typical development model that provides the required market returns for risk and capital would not achieve the returns that are required by the Protea Village Community. The

**27. Carry out a search and rescue for bulbs and other important indigenous trees (e.g. Camellia's). Would it be possible to replant such trees and plants on other sites throughout the City?**

Appropriate collaboration and partnership with Kirstenbosch National Botanical Gardens and SANBI would be explored during the landscaping implementation phase, in accordance with the approved Landscape Masterplan for the development. A specification in this regard has been included in the EMPr. The EMPr also contains a recommendation for the search and rescue of bulbs on site, to be carried out during winter, and transplanted to appropriate areas in the proposed open space areas of the development (but not a formal requirement/ condition of approval). This would also negate the need for temporary nurseries and serve to preserve the local genetic structure of the plants. Final arrangements/ requirements in this regard would need to be carried out as per an approved Landscape Masterplan. Note that *Camellia* is not indigenous, it is originally from Japan.

**28. Include a definition of what is considered "significant" in terms of trees, particularly as it pertains to trees which have been earmarked for conservation.**

Trees have been considered significant in terms of a number of aspects, namely aesthetics, species, desirability in the landscape and general condition of the tree, general health of the trees, whether or not the tree could be considered a feature (in terms of stature, location, shape), whether or not the tree could be considered hazardous, invasive species, spreading characteristics and conservation (i.e. whether it is protected, indigenous or important for local ecology). The trees considered to be significant would be those which embody varying combinations of the above aspects.

**29. Clarity on the intentions for trees and inter-planting along Kirstenbosch Drive has been requested. Would Pin Oaks or normal Oaks be planted along Kirstenbosch Drive? It has further been suggested that**

public request for proposals process and the 3-year iterative planning process has resulted in a unique business model that creates shared value and has been carefully considered by the Department of Rural Development and Land Reform and other appropriate stakeholders.

It is important to note that the Protea Village Community is the Developer/ Applicant and the proposal as presented encompasses their intention for the site. Furthermore, their own representatives from the community have negotiated appropriate fees with their professional team and development managers.

**4. How benefits of Erf 212 properties would accrue to claimants, who else would benefit, and who would own leasehold & freehold properties on Erf 212?**

It is the intention of the Protea Village Community (i.e. the Developer/ Applicant) to develop the proposal for their benefit in respect of the following:

- o a serviced stand for each of the 86 Members;
- o a house on the serviced stand for each of the 86 Members (which would be owned on a freehold basis);
- o perpetual annuity income (sourced from the on-going sales of the leasehold properties on Erf 212 and a reasonable monthly levy contribution from the properties on Erf 212).

With respect to other parties who benefit from the proposed development, the professional team and development managers benefit by exchanging their time and intellectual property for various fees. Various contractors, sub-contractors, suppliers, service providers and the staff that they employ would benefit from construction and ongoing maintenance.

The City of Cape Town would benefit from an increased rates and services base.

**deciduous must be a criterion for replacement tree along Kirstenbosch Drive.**

It is the intention of the proposal to ensure that the existing Oak trees along Kirstenbosch Drive remain and that they would be supplemented with the planting of young trees along this stretch. The detail in terms of exact species of Oak proposed would be finalised following engagement with the City of Cape Town: Recreation and Parks department (as the plants are located within the City's road reserve), and would be included in the Landscape Masterplan (to be finalised during detailed design phase). However, assuming the City of Cape Town supports the proposed inter-planting of existing Oak trees along Kirstenbosch Drive with younger oak trees, then a suitable species such as *Quercus palustris* (Pin Oak), *Quercus cerris* (Turkish Oak) (deciduous), or *Quercus nigra* (Water Oak) – which has similar form and growth habit to the 'normal oak', but would be stronger and more viable species. The Water Oak is also preferable from a heritage perspective. With respect to "English Oaks" (*Quercus robur*), it should be noted that this species is not ideally suited to Western Cape climate and is therefore prone to disease.

**30. Consider the use of some exotic trees for the landscaping proposed in the proposed Public Open Space Area, as well as in the landscaping in general.**

A combination of indigenous and appropriate exotic trees would be planted within the areas proposed for development (including the stormwater attenuation ponds in the proposed Public Open Space), however the landscaping would tend toward keeping the new plantings (i.e. trees, shrubs and groundcovers) indigenous and locally indigenous as far as possible. A Detailed Landscaping Master Plan would also be submitted to the City of Cape Town for approval, in alignment with their related policies during the detail design phase. This is provided by the EAP as a condition of authorisation in the Basic Assessment Report and EMPr.

The surrounding community would continue to benefit from the use of the proposed Public Open Space area on Erf 212 (which has also been awarded to the Protea Village Community).

The property market would benefit through the offering of a unique residential product that adds to the current market offerings. The freehold properties on Erf 212 would be sold to third-party buyers. The leasehold property would be owned by the Protea Village Community, with perpetual 99-year land lease rights sold to third-party buyers.

**5. General questions have been raised regarding the need for the full development as proposed on Erf 212 have been raised, as well as how it addresses the freshwater aspects and public recreational area aspects.**

The costs of servicing the stands on Erf 212 and Erf 242 are reasonably fixed, subject to the final layout plan. The loss of revenue of a single stand – or multiple stands – on Erf 212 would not materially impact on the costs of serving and installing the amenities for Erf 212 (i.e. landscaping, internal roads and services, fencing / walling, gatehouse, etc.).

However, a reduction in the number and/or size of stands on Erf 212 would have a material influence on the gross revenue generated by the sales on Erf 212 (i.e. as smaller or fewer stands would attract lower purchasing values). The surplus resources created from the freehold and leasehold sale of the Erf 212 properties would shape the scale and amenity costs of each of the 86 houses for the Protea Village Community proposed on Erf 242 by virtue of the fact that the accommodation of additional costs would not be possible (i.e. the surplus generated from development on Erf 212 would provide for a substantial amount of the budget available for development on Erf 242).

The resources available for the construction of the 86 houses on Erf 242 would be variable and largely based on the surplus resources generated by development on Erf 212.

The specialist recommendations pertaining to the riparian zone of the rivers and conserved wetlands on site and their buffer areas arising from this Basic Assessment process strongly recommend the removal of listed invasive species and replanting of indigenous riverine plants in these areas in order to maintain the sustainability of the system. These are important mitigation measures. However, the responsibility for clearing of invasive species from the Public Open Space, the selection of specimens to plant therein, as well as the general management thereof would lie with City of Cape Town, which is aware of the requirements and accepts its responsibility for which it is mandated (as per discussions with the City of Cape Town Recreation and Parks branch). The removal of trees within the proposed Public Open Space area would be subject to the agreement/ formal acknowledgement of responsibility for those tasks between the City of Cape Town and Applicant must be provided to the DEA&DP for their records. Listed invasive species must be removed from the riparian zone (Day, 2019), but certain exotic trees may remain in the remainder of the proposed Public Open Space areas in terms of an approved Landscape Masterplan (and some are necessary to maintain the sylvan character of the site (Gibbs, 2019 and Hart, 2019)).

Given the importance of the sustainability of the freshwater ecosystem coupled with the fact that the Applicant is currently applying for the Environmental Authorisation of the proposed development and would be the holder thereof, but that the City of Cape Town would own and manage the proposed Public Open Space area, it is recommended that there be a parsing out and agreement or formal acknowledgement of this (and other related aspects for the proposed Public Open Space, rivers, wetland and stormwater systems) responsibility. The agreement should clarify responsibility for management of waste, stormwater, service infrastructure and the open space areas on both Erf 212 and Erf 242, including the rivers and wetlands (Day, 2019). Such allocations in part depend on agreements reached, or formal acknowledgement to be in place, between the City and the development team regarding which aspects must be implemented by the City, and which aspects should be the responsibility of the developer / future landowners (Day, 2019). The

Given that it is not a typical, profit-driven development model (noting that it has a clear goal for the use if all surplus funds- namely to develop homes for a dispossessed community of 86 families which would be fitting of the local context), it is necessary to create a balance between providing maximum land for creation of maximum capital and annuity income for the dispossessed Protea Village community of 86 families to invest in construction of the best 86 homes possible as well as respecting the natural/ environmental attributes of the site. Maintaining such balance is sensitive; to illustrate, it is estimated that a R1m differential in cash resources generated by Erf 212 would impact the size of each of the 86 houses by approximately 1 sqm, that is, after the base costs of the development of the 86 houses have been accounted for (i.e. the costs of 86 kitchens, bathrooms, fittings, stand amenities, VAT, etc.). The proposed layout comprises the maximum development footprint possible which could still ensure the sustainability of the environmental aspects of the site; therefore, it presents a balance between the maximum development and maximum conservation achievable for the site.

Ultimately, the final proposal design/layout, and value of opportunities created on Erf 212, would dictate the final construction and development cost of the 86 homes on Erf 242.

**6. There is not a high level of confidence in the proposal from some I&APs.**

This view is noted.

**7. How would leasehold and freehold be advertised and to whom?**

An appropriate marketing strategy would be implemented by the Protea Village Community, in conjunction with their development managers (i.e. Bethel Partners) at the appropriate time. However, this would be separate from this Basic Assessment process.

detailed mitigation measures which must be contemplated in this regard are described in the EMP. If the abovementioned agreement or formal acknowledgement of responsibilities cannot be finalised prior to the commencement of the construction phase and the Applicant/ Holder of the Environmental Authorisation wishes to commence with construction (and later, even operation), then they will be responsible for the implementation of all mitigation measures until such time as an agreement or formal acknowledgement of responsibilities is finalised, as this issue should not preclude development within permits and approvals granted. When the agreement is reached/ finalised, a copy thereof should be provided to the DEA&DP.

It is important to note that the Protea Village Community should not be responsible for executing or funding the mandate of the City of Cape Town, hence it is recommended that this agreement/formal acknowledgement be reached as early as possible, however the lack of such an agreement/formal acknowledgement should not prevent the development from progressing if the Applicant/ Holder of the Environmental Authorisation will implement the mitigation measures.

**31. Is a permit required for removal of trees on City land (even poplars and alders) and how would the administrative process for the removal of trees be executed?**

Note that no permits would be required to remove trees on the site unless they are protected trees (such as Milkwood, Yellow Wood or Champion Trees), which is the case for a single tree on Erf 242 which would need to be removed. In terms of the administration and permission aspect of tree removal for the proposed development, a detailed Landscape Masterplan would be submitted to the City of Cape Town for their approval. The Landscape Masterplan would clearly indicate all proposed tree removals for all of the proposed development pockets. Once approved by the City of Cape Town, it would be deemed that those trees can be removed legally. The removal of trees within the proposed Public Open Space area would be subject to the

**8. Questions have been asked about the previous intention to build a school and what came of it.**

The initial proposal was for a private school operator to lease a large portion of the property on Erf 212 (on a 99-year leasehold basis). The purchase of this 99-year lease would have provided the upfront capital required to implement the project.

Due to the price required for the leasehold land, a school operator required a school premises that would be capable of supporting up to 1,400 pupils. A preliminary transport impact assessment indicated that this would create approximately 1,200 peak hour trips (in comparison to the current development proposal of approximately 160 peak hour trips). This volume of trips would have necessitated significant external road upgrades at a considerable cost to the project and Protea Village Community (i.e. the Developer). In addition, it was the project team's considered view that the "impact" of this large volume of trips would have been too high on the surrounding communities (including the Protea Village Community on Erf 242).

Furthermore, upon receipt of the detailed freshwater assessment for the project it was found that the shape of the developable property was not conducive to the development of a multi-purpose school sports field.

Following an iterative and informed design process it is the view of the project team and the Protea Village Community that the current project proposal is more suited to the property than a school, which is why the concept with the school has been scoped out and is no longer considered a viable alternative.

**9. How much must be sold before development of Erf 242 can start?**

The number of leasehold and freehold properties that need to be sold on Erf 212 to enable the servicing of Erf 242 to commence would be determined by the following:

- o the final cost estimates of servicing the 86 stands on Erf 242;

agreement/ formal acknowledgement of acceptance of responsibility for those tasks between the CoCT, MPOA and Applicant, which must be provided to the DEA&DP for their records. Note that it is a mitigation measure of both Britton (2018) and Day (2019) that listed invasive species be removed from the riverine system, however some exotic (and possibly listed) trees would remain in the remainder of the site (as per the Landscape Masterplan) in order to maintain the sylvan nature, character and sense of place of the site (as prescribed by Gibbs, 2020, and Hart, 2019).

**32. Are there any particular intentions for the protection of trees (including root zones) during construction and operational phase? It is recommended that a Tree Protection Plan (including a map) be devised with input from an arborist. It is also recommended that certain zones/ maps for areas where landowners may not excavate during the operational phase must be part of the Tree Protection Plan, particularly for zones close to the tree root zone.**

A detailed Tree Protection Plan would be included in the detailed Landscape Masterplan during the detailed design phase. Note that this has been included as an environmental specification within the EMPr. The EMPr also requires that a Method Statement be compiled and approved (by the Engineer and ECO) prior to implementation of works within close proximity to trees to be retained.

**33. Which are the invasive/ listed *Eucalyptus*, and which would remain for bees?**

All listed invasive, including *Eucalyptus* trees, within riparian zones have to be removed. The following species of *Eucalyptus* are listed as Category 1b invaders within riparian zones:

- *Eucalyptus camaldulensis* (Red River Gum) and hybrids, varieties, and selections
- *Eucalyptus cladocalyx* (Sugar Gum) and hybrids, varieties, and selections
- *Eucalyptus conferruminata* (Spider Gum) and hybrids, varieties, and selections
- *Eucalyptus diversicolor*. (Karri) and hybrids, varieties, and selections

- o the final cost estimates of servicing Erf 212; and
- o the final prices for the Erf 212 properties (which would be informed by the final layout plan).

**10. How are claimants guaranteed they would receive the best houses possible, and like the ones presented in this Basic Assessment process?**

The architectural images presented as part of the Basic Assessment are images of reasonable expectations based on the current project viability. However, final designs can only be prepared once development rights are known and in place. The business model provides a mechanism whereby the Protea Village community can expect to obtain a much better house than anything that is possible by other mechanisms, including state housing programmes.

The Protea Village Community is the developer and is taking market risk in developing their land to enable returns accruing to the Protea Village Community that cannot be provided by other business cases.

The proposed development would also be carried out within the rights and limitations imposed by the Municipality's Development Management Scheme and any conditions of EA imposed (if approved).

**11. Why must land be sold to non-claimants to establish housing for the claimant community (some I&APs believe that this is a deviation from the claim awarded)?**

This is not a deviation from the award. The Protea Village Community has been awarded the land as restitution. In order to generate the resources necessary to service 86 stands and construct 86 houses, portions of property need to be sold to the market. The Community has elected to become the developer of their land, and in so doing to take market risk, to accrue the resources necessary to transform their resituated land into 86 homes. Note that this decision has been taken by the Protea Village Community (i.e. the Developer).

- *Eucalyptus grandis* (E. saligna Sm. in part) (Saligna Gum and Rose Gum) and hybrids, varieties, and selections
- *Eucalyptus tereticornis* Sm. (Forest red gum) and hybrids, varieties, and selections

It is generally advisable to even remove un-listed gums from riparian zones. On areas which are not riparian zones, unlisted Eucalyptus trees that have heritage value as well as the ones that are good for bees could be retained. Eucalyptus species which are good for bees include:

- *Corymbia ficifolia* (Red flowering gum);
- *Eucalyptus paniculata* (Grey ironbark) (note that many such species are located on site);
- *Eucalyptus melliodora* (Yellow box); and
- *Eucalyptus Sideroxylon* (Black ironbark).

**34. Would all listed and dangerous specimens be removed and removed/pruned respectively from the entire site? Or would the stands be sold "as is" and the new owner must remove them?**

Trees which have been identified as dangerous on Erf 242 would be removed or pruned appropriately as homes would be constructed by the Applicant on that erf. Trees which fall within the footprint of proposed roads and services within development parcels and civil infrastructure would be removed. With regard to the proposed development on Erf 212, the intention is to sell residential stands on Erf 212 "as is." Tree specimens that have been identified for removal or pruning by the Tree Survey and the peer review study by the Arboriculture specialist (refer to Appendix G(a)(b) of the BAR) may be removed appropriately, in keeping with their recommendations, however this would be the prerogative of the person or entity who purchases the stand/s.

Trees in the public open space recommended for removal or pruning, as well as trees in the Public Open Space in general are to be carried out and managed respectively by the City of Cape Town and in terms of the agreement/ formal acknowledgement of responsibilities among the various parties. Furthermore, it is within the mandate of the City of Cape Town to remove or prune hazardous/potentially hazardous trees from the proposed Public Open Space area. The information arising

**12. The proposed claimants' homes look like poor homes and should match the architectural style of the proposed leasehold homes on Erf 212 to better serve integration.**

Significant thought has been given to the conceptual design of the houses on Erf 242, by both the project team and the Protea Village Community. The claimants' homes would be similar in size to many of the proposed leasehold homes, but smaller in size when compared to the remaining leasehold homes and freehold homes, but would share some of the same quality and style of the leasehold homes. The claimants' houses and leasehold houses would share an architectural style to integrate into the surrounding neighbourhood. The size of the house would not compromise or dictate the quality of the product. Architectural aspects for, example roof details, window details and plaster techniques would be the same between the leasehold and the Protea Village community's houses. Similarities in colour, texture, material, and scale (height) in the buildings as well as recognisable landscape features would provide a common thread throughout the proposed development.

Note that the scale and amenity value of the proposed 86 houses would match the resources generated by the Protea Village Community through the sale (and lease) of properties on Erf 212.

**13. How would groundwater levels be dealt with; how has this been considered in the business case and marketability of the proposal?**

The team is aware of the groundwater levels on site as a geotechnical study (refer to Appendix G (d) of the BAR) has been carried out which has informed the stormwater management plan (refer to Appendix G (j) of the BAR) which proposes to manage the high water table on site through subsoil drains along the proposed roads and a stormwater pipe network. The proposed layer works of the roads also allow for a drainage layer. The costs of this engineering solution have been factored into the cost estimates for the project.

from this Basic Assessment process would, however, aid the City of Cape Town in carrying out such work.

**35. Clarity on the intention for Black Alders is required- would all of them be removed? Certain I&APs believe that Alders should not be removed from Liesbeek River as they are not listed.**

The proposed removal of the Alders has been suggested by the arboriculture specialist as well as strongly suggested by the freshwater ecologist in order to support the long-term sustainability of the riverine system. Ultimately the removal of the Alders from the riverine system and other areas of the proposed Public Open Space area would be executed by the CoCT, however, given that this is a mitigation measure proposed through the freshwater impact assessment where impacts are anticipated to be High (-) without appropriate mitigation, it is recommended that a condition of authorisation include that a copy of the agreement reached or formal acknowledgement regarding division of maintenance responsibilities between the Applicant and the CoCT be furnished to the DEA&DP once finalised, noting that should the Applicant/ Holder of the Environmental Authorisation (if granted) wish to progress with construction and/or operation in the absence of such an agreement or formal acknowledgement, they would be responsible for implementation of all mitigation and maintenance measures, as applicable to the relevant phase of development (i.e. construction, or operation).

**36. An I&AP has suggested that the poplars from river or rest of site should be retained, and that the Protea Village community should apply for a permit to keep them until the end of their lifespan.**

The case for the Poplars is much the same as the Alders, whereby the management thereof would be carried out by the CoCT. However, it is important to note that the specialist recommendations in this regard indicate that the poplars are extremely invasive and have adverse effects on the Liesbeek system and their removal within the riverine system is strongly recommended (Day, 2019). It is also important to note that the Protea Village Community should not be responsible for executing or funding the mandate of the CoCT and it is recommended that an agreement be reached between parties- or a formal

**14. The proposal does not really protect or retain the aspects of the site that were so important to the community. How has this been addressed? The proposal does not fit in with the local context and the claimants should get better looking, larger homes and stands and more parking space for more cars (because their homes are much smaller than the ones proposed on Erf 212), what gives in the business case?**

The proposal and available land (note that the Community has only been awarded approximately 43% of the land that was claimed as there are Fernwood and Bishopscourt residents who currently own and reside on some of the land that the Community were forcibly removed from) does not allow for the retention of the entire Erf 212. The riverine system and sensitive wetlands on Erf 212 are also important and, therefore, would not be developed upon. The remaining land would need to accommodate the 86 Community houses as well as to generate the capital to build their homes.

One of the primary aspects of importance to the Protea Village Community is to return home and live on their land, in homes. The sense of place has been retained and responded to through the retention of trees and riverine open space, proposed dwellings have architectural styles that fit in with the character of the area, the edge treatment along public streets has a human scale and is visually attractive.

It must be recognised, however, that most of the site has been designated in the Municipality's spatial development framework for urban development and the land restitution award has been confirmed. This means a change to the current character of the site is inevitable.

An HIA (refer to Appendix G (e) of the BAR) and VIA (refer to Appendix G (g) of the BAR) have assessed the proposal and found the overall impact to be positive, albeit with the implementation of mitigation measures. The VIA (refer to Appendix G (g) of the BAR) has found that the context of the site falls within a transitional landscape, with denser "block" typology to the north and more organic "fluid" typology to the south. Hence the draft layout plan has been devised in order to respond to this context. Furthermore, the proposal is

acknowledgement be finalised- on the division of the responsibility of implementation of various mitigation measures as soon as possible, but that reaching the agreement, or finalising the formal acknowledgement, should not preclude development within any rights afforded to the Applicant should they wish to continue with development prior to this, provided that they would then take on the responsibility of implementation of the relevant mitigation measures until such time as an agreement is reached, or formal acknowledgement is in place.

**37. I&APs have suggested that each tree be considered individually to see whether it should be removed or retained.**

This has been carried out through the Tree Survey and Peer Review (refer to Appendix G(a)(b) of the BAR). Furthermore, a detailed Landscape Masterplan would be submitted to the City of Cape Town for approval during the detail design phase. This plan would include a Tree Protection Plan for those to be retained in order to ensure the efficacy of the intention to retain them as healthy trees.

**38. When dealing with the trees in the river, they should be removed carefully, and no poison should be used.**

The removal of trees within the riverine system (as well as the proposed Public Open Space area) and associated methods employed would be decided upon and managed by the City of Cape Town, with the exception of the area for the proposed attenuation ponds.

In general, the removal method would depend on the location of individual plants. Where aliens are in seedling or sapling stage and can be hand-pulled without disturbing the riverbank or bed removal by hand is recommended. Where trees are on riverbanks or wetland areas or their buffers that are not earmarked for re-shaping, it is recommended that the trees be cut off close to the ground without removal of the root ball. In such cases, and depending on the species, it may be necessary to paint them with an appropriate herbicide to prevent re-sprouting. Where trees are in positions where their stumps pose an erosion risk or interfere with City-planned bank rehabilitation, these stumps would need to be removed as well.

aligned Spatial Planning in terms of the City of Cape Town's District Spatial Plan.

The business case for the proposal has been carefully crafted such that the surplus resources created from the freehold and leasehold sale of Erf 212 properties (to the open market) determine the scale and amenity costs of each of the 86 houses on Erf 242. Refer to the response to the business case above for more information.

**15. Who is going to manage the sale of the freehold and leasehold properties?**

The development managers would manage this process, with the appropriate property brokers / agents and legal team, on behalf of the Protea Village Community who is the Developer/ Applicant.

**16. What terms and conditions, if any, would apply to the proposed sale of the freehold and leasehold properties?**

Various title conditions, to ensure the ongoing sustainability of both Erf 212 and the required annuity income for the Protea Village Community, are being considered. These are, however, informed by the business model and not the land use rights processes. Buyers of the freehold and leasehold stands on Erf 212 would be able to construct their own homes thereon, in alignment with the conditions of approval contained in the Environmental Authorisation (if granted), the town planning approvals (if granted) , as well as the applicable aspects of appropriate Architectural Design Guidelines.

**17. What financial provision would be made for maintenance of private roads, POS, properties on Erf 242 and leased properties on Erf212?**

The funds for the maintenance of internal private roads would be sourced from levies applied to the homeowners on Erf 212, managed by a Master Property Owners' Association (MPOA). With respect to the proposed Public Open Space, the maintenance thereof would be carried out by the City of Cape Town as per their mandate to do so, and in accordance with an agreement/ formal acknowledgement of responsibilities between the City, project

With respect to the use of herbicides for plant removal, it has been recommended that specialists with knowledge of products be employed and engaged to select the correct product, and products suitable for use near aquatic environments should be used, and be hand-applied only (Day, 2019). The risks of even Round-Up to aquatic ecosystems are increasingly emphasised in research (Day, 2019). The recommendations pertaining to the use of herbicides have been included in the EMPr.

**39. Would all trees in the spring and buffer area be retained or would some be removed? Would only listed invasive species be removed?**

The removal of flora within the spring and buffer areas would fall under the mandate of the City of Cape Town and this would be detailed in agreement/ formal acknowledgement of acceptance of responsibility for those tasks between the CoCT, MPOA and Applicant, which must be provided to the DEA&DP for their records. The information from this Basic Assessment process would serve the City of Cape Town in this task.

Taking into account the recommendations of the Freshwater specialist, careful consideration should be given to the heritage value of this area and its historical sense of place within the Protea Village Community, given that a Memorial would be erected in this area to commemorate the Protea Village Community.

It has also been recommended by the freshwater ecologist that all Listed alien species, as well as the Black Alders (Britton, 2018), be removed from the riparian zone. The intention of the City of Cape Town should be to establish largely indigenous trees in these areas and their buffers. From a practical perspective, this means that many trees should be removed from the spring area in particular, which should then be replaced with indigenous species. However, the retention of trees is also required to maintain the sylvan nature and sense of place of the site (Gibbs, 2020) (Hart, 2019). These aspects would all be balanced in the Landscape Masterplan and agreement/ formal acknowledgement of acceptance of responsibility for those tasks between the CoCT, MPOA and Applicant, which must be provided to the DEA&DP for their records.

**40. What size trees would be planted?**

team, Application and/or MPOA. The maintenance of the proposed homes on Erf 242 would be funded by a portion of levies generated by the properties on Erf 212, as well as a portion of the transaction values on the "re-sales" of the leasehold properties on Erf 212 (i.e. annuity income).

**18. What would the freehold and leasehold opportunities be sold at?**

It is the view of the development managers that the pricing would be comparative to a typical freehold property in the surrounding market, and would take the address, the location, and the amenities into consideration. The security of perpetual 99-year leasehold tenure is comparable to freehold. The intention is that highest achievable market price would be sought, so as to maximise the returns for the Protea Village Community.

**19. It has been stated by Bethel that development on Erf 242 would not commence until all the financing for the entire development was in place. Please clarify this. How would the possibility of construction stopping half-way though be prevented?**

That is not quite what was said, in fact Mr. Glass (of Bethel) explained that it is envisaged that the Grants, together with the sale of the initial Phases on Erf 212, would provide the liquidity for the servicing of both Erf 212 and the 86 stands on Erf 242. Sale of further phases, along with the Grant, would assist with cash flow and unlock the funds required for construction of the homes on Erf 242. Note that construction would not commence until there is sufficient capital available to do so for each phase of the project. The development would be phased to match the "waterfall of cash flow." As no senior bank debt is currently envisaged to provide liquidity, the costs of completion of each phase must be matched by available cash resources. It is proposed that the 86 homes on Erf 242 would all be constructed at the same time in order to capitalise on economies of scale.

The proposal and the associated financial model have been carefully constructed in such a manner as to avoid a scenario whereby construction stops half-way through, which would not

The proposed new trees which would be planted would be 50l to 100l trees, approximately 2m tall to provide some immediate screening.

**41. Trees are important, many I&APs do not want to lose any of them.**

The importance of the trees as well as the sylvan nature of the landscape has been acknowledged in the BAR as well as the VIA (refer to Appendix G (g) of the BAR) and the HIA (refer to Appendix G (e) of the BAR). Although the loss of trees is unavoidable, the proposed landscaping plan of intent (refer to Appendix L of the BAR) makes provision for inter-planting and retention of certain trees in order to establish a tree canopy over the site at maturation. Note that the provision of a tree canopy over the site is an important aspect of the proposal in order to maintain the quality of the area.

**42. Are there any mechanisms to retain trees on the Erf 212 plots? -**

The intention is to sell residential stands on Erf 212 "as is." Tree specimens that have been identified for removal by the Tree Survey and the peer review study by the Arboriculture specialist (refer to Appendix G(a)(b) of the BAR) may be removed and/or made safe appropriately, in keeping with their recommendations. However, this would not be recommended as a condition of Environmental Authorisation.

benefit anyone, particularly the Protea Village community who is the Developer/ Applicant. Refer above to the explanation on the business case for more information.

**20. Is there an established financial threshold which would have to be reached in order to trigger the commencement of construction?**

Yes, there is, and various scenarios have been considered. However, the detailed workings are confidential. Refer above to the explanation on the business case for more information.

**21. What is the minimum build quality (cost per s m) that would currently be reckoned to make the development viable?**

It is presumed that this question refers to the 86 homes proposed on Erf 242. The total development cost of the houses on Erf 242 is currently estimated at between R14,500 and R17,500 / m<sup>2</sup> (excluding VAT and excluding escalation). Please note, however, that this is not the *construction* cost, but is the development cost.

The final house design (which would be dictated by the proposal for Erf 212) would influence the final construction and development cost of the 86 homes proposed on Erf 242.

**22. What is the demographic/ nature of people who would live on Erf 212- i.e. target market?**

It is the view of the development managers that the pricing would be comparative to a typical freehold property in Newlands and would take the address, the location, and the amenities into consideration. The security of tenure is comparable to freehold.

**23. What is the funding source for all the bulk services coming from and has it all been costed?**

The bulk services for the project have been costed and a portion thereof would be funded by the City of Cape Town. Negotiations with the City in this regard are presently underway. The remainder of the capital to fund the bulk services would come from the leasehold sales.

| Freshwater  | Traffic   |
|---|---|
| <p><b>43.The 15m buffer is not enough and the downstream effects have not been considered.</b></p> <p>The buffer requirement is stipulated by Dr Liz Day (Day, 2019), in accordance with the findings of the independent Freshwater Assessment (refer to Appendix G(c) of the BAR). The buffer is considered minimum but acceptable, as it takes into account the fact that while the buffer is measured from the top of bank, there is an additional protective distance along most of the river channels, where the river lies at the bottom of steep-sided banks, which themselves then slope gently to the low flow channel at the bottom of the incised valley – this situation confers additional protection. In many areas, there is an additional 2-3 m horizontal area between the top of the bank and the low flow channel.</p> <p><b>44.The role of the City of Cape Town and their management of riverine system should be explained. The City of Cape Town is not able to undertake this task.</b></p> <p>The City of Cape Town would undertake the required management and maintenance activities for the riverine system as per their Black River System MMP, which MMP includes the riverine system on site. Note that the City's MMP constitutes a separate process and is, therefore, not part of this Basic Assessment process. However, certain components of the river rehabilitation work have been deemed necessary in order to provide for the required resilience of the riverine system for the proposed development and these would have to be included as part of the bulk and link services (Day, 2019). Day (2019) lists the following:</p> <ul style="list-style-type: none"> <li>i. Measures to address existing riverbed and bank erosion in the river in these reaches must be implemented (as detailed in Figure 3.6 of Day, 2019) to improve resilience. Essential measures that must be addressed as part of bulk services (that is, to ensure improved resilience at the start of the project) include: <ul style="list-style-type: none"> <li>a. Stabilization of the riverbanks with gabion baskets where required as part of installation of the stormwater outlets –</li> </ul> </li> </ul> | <p><b>56.Please explain why only the assessed roads and points have been assessed and how “rat runs” through Bishopscourt and Fernwood have been considered.</b></p> <p>The methodology for undertaking TIAs have been standardized and is set out in the Committee of Transport Officials' (COTO) TMH 16, Volume 1, South African Traffic Impact and Site Traffic Assessment Manual.</p> <p>As part of this process the transport engineers assessed the number of trips generated by the development and consider the extent of the impact and the number of intersections that it would impact on.</p> <p>Based on this the transport engineers inspected the impact along Kirstenbosch Drive up to intersections with Rhodes Avenue and Edinburgh Drive and identified certain intersections for analyses.</p> <p>The rat-runs through Bishopscourt and Fernwood were not separately assessed as the rat-running traffic is already on the network. Also, as 160 trips are expected, the scope of the investigation was not extended into the residential areas of Fernwood and Constantia.</p> <p>However, a portion of the development trips can be assigned to some of roads running parallel to Rhodes Drive and Edinburgh Drive to determine what the impact is. However, it is the professional opinion of the transport engineers that once the proposed development trips are assigned through the local street network, the impact would still not be significantly more than what is currently experienced.</p> <p><b>57.Please explain why no upgrades to intersections and roads have been recommended as many I&amp;APs are recommending an array of traffic calming measures (e.g. circle at entrance to Erf 242, traffic lights at Rhodes and Kirstenbosch Drive crossing, zebra crossings).</b></p> <p>The current traffic congestion experienced along the metropolitan road network is due to the impact of regional traffic and not that of development traffic.</p> |

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| <p>note that gabion bank stabilisation must be limited to essential outlet areas;</p> <ul style="list-style-type: none"> <li>b. Stabilisation of the right-hand riverbank in the upper reaches of Window Stream using gabion baskets, to prevent further erosion and bank slump in this area prior to construction;</li> <li>c. Bank shaping and the installation of a low gabion weir at the point of channel incision just downstream of the existing pedestrian crossing on Window Stream, to prevent further incision and head-cut erosion;</li> <li>d. Bank shaping and planting where necessary along the two rivers as part of the bulk earth phase of the project, to allow them to tie into the gabion outlet sections referred to in (a) on a sustainable basis;</li> </ul> <ul style="list-style-type: none"> <li>ii. Measures such as the installation in places of a boulder lining along the undercut outside channel, edged on the channel side with Palmiet, should ideally take place during bulk services as well, as these measures will be less expensive if done at the same time as the gabion construction;</li> <li>iii. Palmiet must be propagated for planting purposes, using local stock already in the channel – Palmiet can be cultivated from both seed and cut truncheons / root stock and its propagation must precede the start of bulk services.</li> </ul> <p><b>45. I&amp;APs do not want the ponds and streams or areas immediately around them to be destroyed and reshaping of pond 3 would destabilise the ecology.</b></p> <p>The Freshwater Impact Assessment (refer to Appendix G(c)) of the BAR) has devised buffers around the riverine system and significant wetlands and ponds which are appropriate for achieving sustainability of the system. These buffers have been incorporated into the proposed draft layout. The extent of the proposed Public Open Space has been made as large as possible in order to achieve</p> | <p>The TIA report shows that the critical westbound traffic at Rhodes/ Kirstenbosch intersection during the AM peak hour can be expected to operate at Level of Service (LOS) B (please refer to Table 1). Based on this, signalisation was not considered.</p> <p>The TIA acknowledges the congestion experienced at Upper Bishopscourt/ Edinburgh Drive intersections. The M3 attracts regional traffic and congestion can always be expected along this route. The Upper Bishopscourt approach has already been widened to provide additional capacity. Any further upgrades would be limited by the river, existing properties, and the surrounding trees.</p> <p>Traffic calming measures can be assessed by the City of Cape Town, but this request must be directed to the City of Cape Town's Traffic Engineering unit. Existing traffic is responsible for the concerns and should as such be addressed by the City of Cape Town, not by the returning claimants. They cannot be held responsible for current traffic problems.</p> <p><b>58. Please explain the rationale behind the calculation of trips to be generated.</b></p> <p>The methodology is provided in section 12 and in Table 1 in Annexure B of the TIA report.</p> <p><b>59. Please explain which intersections constituted the "study intersections".</b></p> <p>The study intersections are listed in Section 9 of the TIA Report.</p> <p><b>60. What constitutes "acceptable levels of service" and to whom these levels are acceptable?</b></p> <p>Levels of Service criteria have been developed by, and are discussed in, the Highway Capacity Manual (HCM) which is used as a standard reference by transport engineers. An extract from HCM states that:</p> <p>"Level of service (LOS) is a quantitative stratification of a performance measure or measures that represent quality of service. The measures</p> |
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a balance between the financial and ecological sustainability of the proposal and site.

The mitigation measure for the reshaping of the wetland around Pond 3 has emanated from the Freshwater Impact Assessment (refer to Appendix G(c) of the BAR) and would serve to mitigate some of the anticipated impacts on the ecology of the area through the re-creation of seasonal wetland habitat. It is however acknowledged that there would be initial disturbance to Pond 3. This would be limited as far as possible (e.g. with strict provisos around the timing of construction activities) and through specified replanting of disturbed areas and the establishment of plants into newly created wetland and buffer areas.

However, it is also acknowledged that there would be less open space than currently present. Whilst the 3 ponds on Erf 212 are manmade, this area is being preserved given that it has freshwater importance on the site. The reshaping of pond 3, being a manmade structure, would, thus, not destabilise the ecology but ensure that the freshwater value of this portion of Erf 212 is maintained in keeping with the recommendations of the Freshwater Assessment (refer to Appendix G(c) of the BAR).

**46. Pond 3 should stay natural with stable water levels and not be part of stormwater system.**

Although a part of pond 3 would be lost, this would be replaced on the opposite side with an extended seasonal wetland and integrated into the surrounding wetland, in keeping with the recommendations of the Freshwater Assessment (refer to Appendix G(c) of the BAR). The pond itself is the result of past excavation into the spring. Stormwater would not pass into the pond but would be managed as a separate part of the site. The stormwater pipe system would be separate from the existing ponds.

However, the subsoil drains, which would convey clean underground water, would drain towards the spring and existing pond areas to feed groundwater into this area.

used to determine LOS for transportation system elements are called measures of effectiveness (MOEs). The HCM defines six levels of service, ranging from A to F, for each measure of effectiveness. LOS A represents the best operating conditions from the traveller's perspective and LOS F the worst. For cost, environmental impact, and other reasons, roadways are not typically designed to provide LOS A conditions during peak periods, but rather some lower LOS that reflects a balance between the roadway operator's needs and the traveling public's desires. Nevertheless, during low-volume periods of the day, a system element may operate at LOS A."

LOS C is considered acceptable and the criteria listed in Table 1.

**Table 1 Levels of Service**

| LEVEL OF SERVICE | OVERALL CONTROL DELAY |                       |
|------------------|-----------------------|-----------------------|
|                  | Priority controlled   | Signalised/Roundabout |
| A                | ≤ 10                  | ≤ 10                  |
| B                | 10 – 15               | 10 – 20               |
| C                | 15 – 25               | 20 – 35               |
| D                | 25 – 35               | 35 – 55               |
| E                | 35 – 50               | 55 – 80               |
| F                | > 50                  | > 80                  |

**61. Please explain why no mention has been made of the comparatively heavier congestion currently experienced at the intersection of Rhodes Avenue and the M3.**

This intersection is about 1.7km further along Rhodes Avenue and was not considered to be part of the scope of the intersection. In addition, the development traffic that would arrive at this intersection would be a very small proportion of the traffic that is already there.

**62. Please explain what the differences are between 2017 Existing Traffic Conditions, 2022 Background Traffic Conditions and 2022 Total Traffic Conditions**

**47. There are inadequate buffers for Pond 3 and some properties are too close to Pond 3.**

It is agreed that some properties are too close to Pond 3. For this reason, and given that Pond 3 itself is an excavation into the edge of a wetland, the specialist proposed that the section of the pond closest to the development be infilled and managed as an artificial setback, and that the pond should be expanded on the far side, to compensate for this loss. Furthermore, there are additional construction and operational phase mitigation measures included in the EMPr (refer to Appendix H of the BAR) to manage potential impacts on the pond.

**48. What would happen to the brook that flows from the spring through the ponds and down to the river at Bishopscourt?**

The channel from the spring area would be left untouched (apart from the alien clearing activities undertaken by the City of Cape Town as part of their mandate) as far as Pond 3. Here it would be diverted within a wetland swathe, to run into the Liesbeek River on Erf 212 instead of further downstream. The wetland swathe is shown in the landscape plan in Appendix L of the BAR. The existing wetland in the north eastern corner of the site would need to be infilled as part of this process.

**49. Be careful with rehabilitation of River and do not use too many hard-engineered structures.**

The rehabilitation of the Liesbeek River and banks does not form part of this process but falls under the mandate of the City of Cape Town and is addressed under the City's Black River System Maintenance Management Plan (MMP).

Certain requirements for bank stabilisation which are related to this proposal have, however, been incorporated into the City's Black River System MMP to ensure synergy between the two processes. These include bank shaping and planting, the use of boulder / planting combinations along the undercut bank in the upper reaches of one of the rivers, and limited use of gabion baskets – e.g.

These scenarios are explained in section 8 of the TIA report. For convenience they are repeated here:

- 2017 Existing traffic conditions
- 2022 Background traffic conditions (existing traffic volumes escalated with a traffic growth rate as discussed in Section 10).
- 2022 Total traffic conditions (background traffic plus the development trips).

**63. What does "LOS" mean?**

LOS refers to Level of Service.

**64. Please explain why "Upper Bishopscourt/Edinburgh Drive would continue to experience poor LOS during peak hours" as described in the 2022 Background Traffic Conditions.**

Upper Bishopscourt/ Edinburgh Drive is currently experiencing a certain level of congestion. With increased traffic volumes expected over the next 3 years up to 2022, it can be expected that this intersection would continue to experience congestion- the poor Level of Service.

**65. Please explain what possible differences there may be between the 2022 Background Traffic Conditions and the Total Traffic Conditions. They have been described as "similar" which implies that there may be differences.**

The possible difference is the very small increase in delay due to the development trips. Refer to Figures 4 and 6 in Annexure A of the TIA Report.

**66. With regard to cycle facilities, what are they and can the plans be made available?**

It is proposed that a shared pedestrian and bicycle facility (bi-directional) be constructed along the southern edge of Kirstenbosch Drive between Rhodes Avenue and the entrance to the adjacent Arambrook Boutique Hotel. The detailed design of this would be devised during the detail design phase.

where the bank is steep and undercut where the stormwater outlet would be.

There are several measures included in the Stormwater Management Plan, as well as which would be incorporated into the detail design thereof which have been provided by Day (2019) in order to safeguard the sustainability of the freshwater ecosystem on the site, which includes requiring the rehabilitation work of certain aspects of the Liesbeek River included in the Black River MMP to be done prior to construction of specific portions of the proposed development (i.e. this important work would have to be carried out before specific development may occur in these reaches and if this is not aligned with the schedule of the MMP, it would have to be done as part of bulk and link services of the relevant phase of this proposed development).

These activities are legally covered in terms of the City's MMP and do not require authorisation through this Basic Assessment process. Agreement would be reached between the Applicant and City of Cape Town as to implementation thereof as part of the bulk and link services.

**50. What measures have been recommended for inclusion in the City's MMP?**

Please refer to the relevant extract of the MMP included in the Stormwater Management Plan (Appendix G(j) of the BAR) indicating the proposed works.

Additional measures coming from this process and recommended for inclusion in the MMP include allowance to remove large root balls from the riverbank in some circumstances.

**51. The rivers on site have heritage value and should be protected.**

A Heritage Impact Assessment (HIA) has been conducted and it has been recommended that the Liesbeek River and associated riverine corridor be attributed a Grading in terms of the National Heritage Resources Act (No. 25 of 1999). Furthermore, HWC has indicated that a grade II rating would be appropriate – Provincial Heritage Site.

**67. Please explain what the anticipated extent is of the demand for public transport from and to the two Erven.**

The expected demand is relatively low. Assuming a person trip generation rate of 1.4 trips/ dwelling unit as set out in the attached public transport trip generation table (not included in the TIA report), results in a public transport demand of 47 pax using taxis and 16 pax using a bus, in the AM or PM peak hour.

**68. For which types of public transport is it envisaged that embayments be provided?**

The public transport embayment proposed could be used by taxis and buses.

**69. What would the capacity of these embayments be?**

The embayment is proposed to be 12m long. This could accommodate 1 bus or 2 taxis at any given time.

**70. Please provide the occupancy and throughput rates at these embayments, particularly at peak times.**

With reference to the attached public transport and NMT trip generation table, 4 taxis and 2 buses can be expected during the AM or PM peak hour.

**71. Please state whether embayments "will" be provided.**

Yes (if Environmental Authorisation is granted), this has been included in the proposed scope.

**72. Please state whether it has been recommended that embayments be provided.**

Yes, this has been included in the proposed scope.

**73. At which "main access" it is proposed that embayments be provided - seeing that there are two Erven with each erf having a main access point.**

**52.The same company that did baseline for NMA was used for current baseline.**

This was considered appropriate in order to make use of the existing knowledge within the organisation.

**53.No reference to the NMA study and the Freshwater Assessment contained therein is in the Freshwater Assessment and the conclusions from that study have been ignored.**

The "project informants" of the Freshwater Assessment undertaken by Dr. Day are clearly stated (refer to Appendix G(c) of the BAR) and make specific reference to the 2003 baseline study conducted by Ms Kate Snaddon (under the NMA study). The conclusions of the Freshwater Assessment undertaken by Dr Day are in keeping with the Terms of Reference stipulated at the outset of this assessment (refer to Appendix G(c) of the BAR). Furthermore, the report and the site were discussed between specialists.

**54.Concerns regarding the impacts on the freshwater system and sustainability thereof have been raised by many I&APs. Please explain the way the assessment, findings and mitigation has been balanced against sustainability.**

The main driver of the proposed development is achieving social and economic restitution rather than the ideal balance between ecological management and urban development. Therefore, the focus of the freshwater impact assessment and associated mitigation measures is on ensuring the continued sustainability of the system. This has been achieved through significant specialist input into the design of the proposal (including the proposed stormwater infrastructure) as well as through documentation of mitigation measures which would form conditions of authorisation (if granted) which are applicable to the construction and operational phases of the proposed development.

**55.Is the removal of listed invaders from the riparian corridor included in the City's MMP?**

The embayments would be provided at the main accesses along Kirstenbosch Drive, downstream of each access. Refer to Figure 8 in the TIA report.

**74.Where, exactly, would these embayments be positioned relative to the "main access"?**

Refer to Figure 8 in the TIA report. Subject to detail design considerations, it can be expected that the taper rate of the embayment would start about 10-12m from the bellmount breakpoint.

**75.What would the proposed routes through the area be for the public transport?**

Current taxi operations are between Wynberg and Claremont towards Hout Bay. It can be expected that taxis would drive along Kirstenbosch Drive.

**76.Please explain whether provision has been made for turn-around points for the public transport and, if so, where these points would be.**

No provision has been made for turn-around points as passenger boarding and alighting would be en-route. It is not expected that this be an origin-destination service.

**77.Please provide a motivation as to why the proposed access points have on Kirstenbosch Drive been located as planned (i.e. why at the same point and why not along some other road?), why they are opposite each other and how this would be managed at peak times.**

The access points on Kirstenbosch Drive are located in accordance with recognised intersection spacing requirements (i.e. the access spacing guidelines provided in the Road Access Guideline Manual (RAG) for a Suburban Environment- see Section 5 of the TIA)) which limit how close new intersections may be located in relation to existing intersections. The road access points are opposite each other in order to optimise sight distances and minimise traffic weaving and areas of potential conflict. Traffic would be moving relatively slowly along Kirstenbosch Drive due to the design of this road. This is appropriate in

The removal of listed invasive species is required of landowners in terms of the NEM:BA. The City of Cape town is, at present, and would remain responsible for the management of the riparian corridor and proposed Public Open Space area, respectively.

a residential neighbourhood such as Bishopscourt. Traffic signals have been investigated but are not warranted.

**78. How has the Hill and its parking/ congestion during peak times been considered in TIA and planning?**

Although the parking and drop-off arrangements of the Hill Pre-Primary School have not been considered in the TIA report, the proposed development is confined to the cadastral boundaries of the properties granted in terms of the restitution award and does not intrude into the public road reserve or another property. It should be noted that a place of instruction such as the Hill should have on-site parking and drop-off facilities as required by the Municipality's Development Management Scheme. One-on-one engagement with The Hill Pre-Primary school has also been undertaken in order to gain an understanding of their traffic planning needs (refer to Appendix F of the BAR for minutes of the meeting) and two solutions have been furnished to them for their own consideration and implementation.

**79. Is one parking bay per claimant home enough?**

Yes, the proposed plots are large enough to accommodate one formal parking bay plus opportunity to park another car on an informal basis to cater for visitors or other family members. This considered is sufficient and is in accordance with the City of Cape Town Zoning Scheme.

**80. More detailed methodology and assessment questions from an I&AP.**

The I&AP assumes a trip generation rate of 1.5 trips/du. The trip generation undertaken in the TIA is in accordance with the recommendations contained in the COTO Trip Data Manual TMH17 and the South African Trip Generation Rate; resulting in a trip generation rate of 0.72 trips/ du for the claimants and 1.5 trips/ du for the other residential units.

The I&AP queries whether an appropriate verification and validation process were undertaken. It should be noted that a traffic model was not developed for this TIA. A transport model was not developed for this TIA due to the small scope of the development (i.e. 160 trips). The City of Cape

|   |   |
|---|---|
|   | <p>Town typically maintains an overall metropolitan level transport model, and this is typically used when developments have a wider metropolitan impact. This is not the case for Protea Village. The use of the Traffix software is considered appropriate for this TIA.</p> <p>Typically, in developing a traffic model, a validation process would be undertaken. As part of the TIA, existing traffic volumes were surveyed at various intersections every 15min over the AM and PM peak periods. During this process, the temporal fluctuations in traffic volumes over this period can be determined. From this, a Peak Hour Factor is calculated and applied to the existing traffic on the road, to account for peak conditions over the peak hour.</p> <p>I&amp;AP says that at the Open House the statement was made that the traffic impact of the proposed development would be marginal compared to the existing level of congestion experienced. This is based on that the fact that the 160 trips expected are spread over the network at various locations, so that the nett effect is not concentrated at one location but over a few intersections.</p> <p>A time-analyses (as described by I&amp;AP) was not undertaken. The methodology followed in this TIA was guided by the recommendations of TMH 16: Volume 1, South African Traffic Impact and Site Traffic Assessment Manual Version and would be considered standard practice. It is not practical to undertake analyses for shorter time periods as we do not design transport infrastructure to be able to accommodate peak traffic volumes experienced over short periods of time. The methodology followed, through the application of the Peak Hour Factor, already makes allowance to account for the peak 15-min interval experienced over the peak hour. The hourly volumes are not assumed to be averaged over the peak hour; it is increased through the application of the Peak Hour Factor to account for the peak 15-min interval experienced over the peak hour.</p> |
| <b>Heritage/ Visual</b>   | <b>Claimants/ Integration</b>   |
| <b>81.The local sense of place has not been considered in the proposal.</b> | <b>126. How would the Protea Village community be integrated with schools in the area?</b>  |

The local sense of place has been considered, especially with respect to Kirstenbosch Drive and the Riparian zone. The 'sylvan' (forested) landscape, enclosed by mountain frame would not be compromised. The continuity of open space through the riparian zone also perpetuates the freedom of movement through the site.

**82. How many homes were demolished?**

The Protea Village Community lodged their Land Claim on 04 February 1995, in accordance with the Restitution of Lands Act (1994). The Reference Number is KRK6/2/3/A/1/0/9574/73 (P745). The Land Claims Commission verified the Land Claim and all 132 Claimants. The Land Claim was gazetted on 16 February 2001 (Notice 374 of 2001 GG Number 22047). A further corrective notice was published as Notice 2219 of 2001. 46 of the 132 Claimants opted for financial restitution, which was paid to them during the course of 2002. 86 Claimants opted for the restitution of land. An area of approximately 28.4 hectares of land was claimed in terms of the Claim relating to the Property that was lost by the Protea Village Community when forced removals took place. Not all of the dispossessed land can be restored to the Claimants. The entire area of the Property that can be restored is approximately 12.35 hectares, comprising Erf 212 and Erf 242, Bishopscourt.

Hart (2019) argues that there is no merit in taking cues from the prior historic village as a heritage informant for the renewed design because today there is far less space available and furthermore the returning community wishes to enjoy a reasonable standard of living in modern dwellings. They wish to benefit from modern services that need to be included in the layout and have requested the consultants to provide them with an erf size of 300m<sup>2</sup> for each of the proposed 86 plots (Hart, 2019). The priority of the community is to return to their original village site (Hart, 2019). For them that is the main heritage consideration, and it is this priority that the development consultants (i.e. the town planners, architects, and engineers) have tried to meet, whilst retaining as much of the character of the area as possible (Hart, 2019).

Protea Village is situated in a well located "school feeder zone" which would provide the Protea Village community with access to educational opportunities. The Protea Village business model provides for a percentage (to be determined) of the re-sale value of the residential leasehold and freehold properties on Erf 212 to be paid to the Protea Village community to generate annuity income. The Protea Village community would be able to use these funds as required, including for educational purposes, if deemed appropriate. Although finding appropriate schools for the community members who need them falls beyond the scope of this Basic Assessment process, it is noted that schools have been made aware of the proposal through this process.

**127. It has been stated by the project team that mechanisms to support the re-entry of the families of the Protea Village community into the existing local community would be investigated. Questions have been asked regarding whether there are any other mechanisms being investigated, how, with whom, etc...**

The proposal and business plan would facilitate the development of a home for each claimant family and also assists with the mechanisms necessary for generation of annuity income with a view to subsidising the cost of homeownership.

There are three aspects to this project- economic, environmental, and social integration. This Basic Assessment process considers the economic (particularly in terms of the nature of the proposal) and environmental aspects, however social integration would need to be driven and celebrated by the affected communities on the ground. This Basic Assessment process could facilitate initial interaction (this was, for example, done at the initial Open House event), however this aspect would need to be taken forward by the locals.

**83. What extent of heritage would be lost?**

The full extent of the freshwater systems which would be disturbed is indicated in the Freshwater Impact Assessment (refer to Appendix G(c) of the BAR). A Heritage Impact Assessment has also been carried out (refer to Appendix G(e) of the BAR) and the findings thereof have concluded that the impacts are acceptable with the proviso that the buffers and mitigation measures recommended in the Freshwater Impact Assessment be implemented. Note also that the most significant heritage impact would be the returning home of the Protea Village community, which has been found to be High positive. The riverine buffer zone incorporates the spring which is considered a heritage site. The spring would be retained and protected as part of the Heritage value of the system.

**84. The arboretum is Cape Town's heritage as well as that of all its citizens.**

A Heritage Impact Assessment (refer to Appendix G(e) of the BAR) has been conducted and the overall impacts have been found to be positive. However, many mitigation measures have been recommended through the Heritage Impact Assessment as well as the Visual Impact Assessment (refer to Appendix G(g) of the BAR) in order to retain the "sense of place" of the area such that it may be enjoyed by the parties returning home as well as the general public. These measures have been incorporated into the proposal and detailed information on the design informants can be found in Appendix Q of the BAR.

Furthermore, both Erf 212 and Erf 242 have been returned to the Protea Village community in terms of the land claim for which the land restitution process for these erven began in 1995.

**85. The density and nature of the proposal is inappropriate, given the proximity to Kirstenbosch Gardens, a World Heritage Site.**

Kirstenbosch Botanical Gardens is located within the heritage buffer

zone; however, it is not within the limits of a World Heritage Site and is, therefore, not considered as such. The site is located beyond any heritage buffer zones. Furthermore, the subject properties have been identified in the Municipal spatial development framework for medium density residential development.

**86. Please provide clarity on how social sensitivities have been addressed.**

A Heritage Impact Assessment (refer to Appendix G(e) of the BAR) was carried out and mitigation measures have been included in the BAR in this regard. The same applies for a Visual Impact Assessment (refer to Appendix G(g) of the BAR) which has considered the cultural landscape as well and has also included mitigation measures which have been incorporated into the layout and design of the proposal.

There are three aspects to this project- economic, environmental, and social integration. This Basic Assessment process considers the economic (particularly in terms of the nature of the proposal) and environmental aspects, however social integration would need to be driven and celebrated by the affected communities on the ground. This Basic Assessment process could facilitate initial interaction (this was, for example, done at the initial Open House event), however this aspect would need to be taken forward by the locals.

Finally, the success of this land claim has contributed to redressing historic social injustice in South Africa.

**HWC INTERIM COMMENT #1 (provided based on the first IACOM Meeting and HWC Site Inspection: Approved Minutes of Meeting, 5 December 2018, and site inspection of 2 December 2018)**

**87. The applicants noted that the application was still in the public consultation phase.**

Agreed. No further response required.

**88. The applicants acknowledged that the findings of the site inspection in respect of the inherent qualities of the site, are universally acknowledged by the consultant team.**

Agreed. No further response required.

**In setting out argument in support of the proposed development as tabled, the applicants submission included:**

**An overview of the proposed business model:**

**89. It was submitted that a number of options were looked at, but this was the only one which responded to various informants on a heritage and overall environmental and planning level, (including a landscape architect and arborist's analysis), and would accommodate the returning claimant community of 86 families. It was also argued to be a sustainable model whereby surcharge levies by the property owners' association will fund claimants for ongoing repairs, etc**

There are several detailed layers which have informed the development layout from a holistic perspective. The evolution of the development proposals is long, the various iterations tested, and alternatives assessed have been unpacked in more detail in the Basic Assessment Report.

The original design of NM Associates was the first concept, and this was then used as a starting point for environmental and financial testing.

While the proposed school on Erf 212 was welcomed as a source of immediate start-up funding it meant that part of Erf 242 had to be used for private development resulting in even of some 180m<sup>2</sup> each for the returning villagers. Furthermore, specialist tree and wetland studies further decreased the available land for redevelopment.

The small plot size did not meet the aspirations of the returning community who wished for 300m<sup>2</sup> per plot. This saw the project go back to the drawing board for further development.

The physical characteristics of the site have informed the planning layout and would accommodate the returning claimant community of

86 families. These aspects are provided visually in the Heritage Impact Assessment and Basic Assessment Report, but include the following:

- External views toward Table Mountain as well as internal views toward the riverine corridor;
- Wetlands, spring, ponds, and river system on the site and associated ecological corridor (and required buffers);
- Current pedestrian desire lines and access through the site (to guide future pedestrian access);
- Flow of stormwater on the site;
- Open areas for public access;
- Requirements for internal access and movement according to specifications of the City of Cape Town and best-practice design (i.e. a roadway);
- Trees of significance on the site which would be retained;
- The fit for the required residential opportunities (for both the Applicant's homes as well as those required for generation of capital for the construction thereof) within the context of the above as well as logistics considerations in terms of size.

The business case is also a sustainable model whereby surcharge levies by the property owners' association would fund claimants for ongoing repairs, etc.

It is important to note that it is not only the contribution from monthly levies that would provide a source of annuity income for the Protea Village community, but the re-sale levy proposed for the re-set of the 99-year leasehold properties on Erf 212.

Furthermore, it must be noted that the sustainability of the model is directly related to the ability of the Protea Village community to generate sufficient financial resources from the development of Erf 212 to fund and cash flow the servicing of 86 stands and the construction of 86 well-sized homes on Erf 242.

**90. It was submitted that the primary heritage resource in this instance, is the returning community itself, and that everything else is secondary to this, and that it should be borne in mind that what can be seen on site today is wholly resultant of a distressing history. Much of what exists today is furthermore a construct, and the sylvan landscape is a later construct, with the introduction of the site as an arboretum. The series of pools below the spring is a humanmade landscape**

The sylvan character of the site is highlighted in the Visual Impact Assessment report and several mitigation measures are indicated in response, which would ultimately ensure the retention of that character, while providing a new cultural landscape that reflects the history and transformation of the site over time.

The Heritage Impact Assessment asserts the importance of the sylvan nature and character of the site and also includes mitigation measures to accommodate this. However, the Heritage Impact Assessment also notes that the tree coverage of the site increased following the forced removals and that the landscape is artificial and a result of the apartheid policies.

**91. Rev. Van Dieman provided the Committee with background in respect of the formulation of the Community Property Association, as well as personal memories of the site prior to the Community being forcefully evicted, which served to highlight a strong, and indeed emotive, connection to the social history and remnant tangible heritage resources, such as the spring, and the cultural significance of the site. Whilst the Committee indicated that it was fully supportive of the redress and restitution of the community to the land, (indeed the preamble of the NHRA specifically sets out that the Act aims to facilitate healing and material and symbolic restitution), there are several concerns that it had in respect of the proposal as tabled.**

It must be noted that sustainable and meaningful "redress and restitution of the community to the land" can only be realised through development of the site that is able to generate sufficient financial

resources to both cash flow and fund the servicing of 86 stands and construction of 86 decently sized homes for the members of the community.

Should the ideals of design-driven concerns result in a reduction in financial resources, the sustainability of the redress and restitution of the community of the land would be threatened.

The proposal does, however, consider and respond to the contextual informants, as listed above. Furthermore, several mitigation measures would be cemented as conditions of authorisation (if granted) in order to ensure this.

**92. The Committee acknowledged the HIA as having provided a good historic and social background to the significance of the site and agreed that the returning community was the primary heritage consideration. It furthermore supported in principle the overall grading of the site as IIIA and the spring as a PHS.**

It is noted that "the returning community is the primary heritage consideration" and that each heritage concern and consideration must be assessed in light of this, being the primary heritage consideration for the project.

**93. However, the Committee was concerned that the HIA has not provided a more in-depth assessment of the significance of the site as a highly significant cultural landscape. It has not mapped heritage resources, provided clear, site-specific informants, no-go zones, or buffers. Neither has it, or the attendant VIA, provided for an adequate assessment of the impact of the proposed overall development on the significance of the site.**

Given the history of the site and the Protea Village community, the heritage significance is augmented by the return of the community (a notion which is supported by VASSA in their comment on the HIA dated 19 December 2017. This is only achievable through the development of the site. The (sylvan) landscape character has been identified as an indicator, as well as the water systems – both are protected within the

development through the open space system with buffers that have been prescribed by Day (2019).

**94. There is furthermore simply not enough information provided in the HIA or attending documentation for the Committee to agree with the broader assertion provided in the HIA that as the primary concern is the return of the community to the site, all other heritage considerations should effectively be secondary. It was a strong recommendation of the Committee that the heritage practitioners must engage another professional to assist with a more meaningful assessment of the heritage resources pertaining to the site and its location within the overall cultural landscape, interrogate the various tangible layers that pertain to the site, and in doing so, provide more appropriate and spatialised design indicators as to how an appropriate development could respond to the very strong informants present on the site.**

Given the unique process where the main creators of most of the heritage of the site are returning to take back possession of it, it is argued that the site is their heritage and that this should be afforded due consideration in the assessment thereof (a notion which is supported by VASSA in their comment on the HIA dated 19 December 2017).

Although the proposal is conservative in terms of footprint (given that it would preserve a significant proportion of the area as Public Open Space), it could be argued that in this case the Protea Village community have the full moral right to maximise the development opportunity as they see fit (pers comms, T. Hart, August 2019). What was expressed in the HIA was derived directly from the residents themselves and contains little imposed opinion of the heritage consultant. It has to be assumed, in good faith, that the proposed development is to their satisfaction and that they have pointed out the heritage features that are the greatest concern to them which is reflected in the report and would be reflected in the further design of the project. Furthermore, the proposed development layout and development footprint has been prepared in through a highly iterative process (refer to the Alternatives section of the Basic Assessment Report) to ensure that it is to the

satisfaction of the professional team and independent specialists, who have been appointed with the specific mandate to ensure that the development meets the highest professional standards for each discipline, as well as to assess the impacts of the development in terms of the legislated NEMA process.

It is unclear what specific “tangible layers pertain to the site.” The proposal does, however, consider and respond to the contextual informants, as listed above. Furthermore, several mitigation measures would be cemented as conditions of authorisation (if granted) in order to ensure this.

**95. The HIA has also made no reference at all to previous studies conducted for the site, including a detailed analysis by Nisa Mammon and Associates.**

It is important to note that the current HIA was undertaken in terms of the current NEMA process underway for the project, which has been informed by detailed specialist studies, and a detailed analysis of the site by the project professional team. The terms of the reference for the report prepared by NM Associates (NMA) are not relevant to the current NEMA process.

The report contains a referenced diagram developed by NM Associates research. The model designed by NM Associates was as per their own assertion, not backed by a financial plan and was not tabled for assessment as it was considered non-viable in terms of the current funding model.

To quote the NMA report (page 93), “The Development Framework is based on the condition that 86 claimants will be returning to the site to resettle in terms of the Land Restitution Act. The guidelines attached to the framework will only come into effect once a business plan that establishes the viability of resettling 86 claimants is compiled and there is commitment from all sectors to the process of resettlement.” Thus, whilst the NMA Report may represent a detailed analysis of the site, it is missing a fundamental level of analysis, being the financial mechanism

to enable the sustainable redress and restitution of the community of the land.

Therefore, the initial findings of the NMA Report have been used as a base to conceptualise the proposal with the additional consideration of the financial business model, which has been tested through this Basic Assessment process and associated specialist investigations to produce a balanced proposal which considers and responds to the social, environmental and economic context of the site.

**96. The VIA noted that “to minimise visual dominance of rooflines, the building footprints should step forward and backward to further articulate the roofscape and thereby reducing the cumulative impact of buildings” (p59). This design consideration has not been complied with in the current layout.**

This issue would be addressed in the Architectural Design Guidelines.

**97. The VIA also noted that ‘the underlying purpose must be to weave into the existing landscape pattern, rather than to displace it with a new pattern” (p59). However, as it stands, it appears as if the majority of the site is to be ‘wiped clean’, and, in the absence of any other supporting documentation informing to the contrary, have a new development layer, (noted by one member as being reminiscent of a 1950’s ‘planned neighbourhood’ ethos), superimposed onto the landscape, rather than being informed by, and weaving into the landscape.**

Contrary to the suggestion that the layout has been “superimposed onto the landscape” the layout has been informed by numerous environmental factors and contextual informants, as listed above. Several mitigation measures would be cemented as conditions of authorisation (if granted) in order to ensure this.

Large portions of the site would be undeveloped, notably the riparian corridors. Unfortunately, there is a dynamic quality to cultural heritage landscape which needs to be acknowledged – landscapes change

over time, sometimes gradually and sometimes more suddenly. However, structuring elements which are robust should be clearly legible (e.g. a river course, a tree-lined avenue), with these aspects being clearly described in the Basic Assessment Report as well as the Visual Impact Assessment Report and Heritage Impact Assessment Report appended to it. This would ensure that, while the infill of the site would change, the framework and aspects of the site which provide its character and sense of place would remain.

**Concerns relating to the above include, but are not limited to, the following:**

**98. The landscape plan, or tree survey, whilst appearing to be environmentally based, has little heritage significance assigned to it. The contention that the sylvan landscape, which is such a dominant feature of the site, is only an 'apartheid' construct with the establishment of Erf 212 as an arboretum, is dismissed by the Committee, as an interrogation of the 1945 aerial photograph clearly shows the site as being historically heavily treed and the rural development dominated by trees. The HIA has failed to acknowledge this. It is a strong view of the Committee that the development layout should be informed by the heritage significance of the heritage resources, adequate buffers, the trees, and the attendant canopy.**

The 1944 aerial photograph indicates a significant village of 100 plus homes on Erf 242. The site is outside the TMNP WHS buffer zone. It is only within a buffer zone or a heritage overlay zone that density can be restricted. Protea Village lies outside of these areas.

The Heritage Impact Assessment goes to some lengths to describe the historic landscape qualities of the site and provides historic photographs of the area. Erf 242 has to accommodate 86 claimants in good quality homes which does require felling of trees. The most significant patch of trees would be retained in a small park in Erf 242 and the trees along Kirstenbosch Drive. It is also expected that some residents would elect to retain trees where possible in their gardens, but that is their

prerogative. A number of trees on Erf 212 and 242 would have to be felled as they are diseased and unsafe around residences. Unfortunately, some of these are old and spectacular, but dangerous and would need to be replaced, if they cannot be made suitably safe through appropriate and feasible tree surgery. Numerous trees within the riverine area would be retained, and again owners of the properties on Erf 212 may elect to retain trees where this is viable. If the community is returned to the site, trees would have to be felled to make way for construction. There are not enough treeless areas that give rise to building opportunities without impacts.

It is important to account for the fact that an area of approximately 28.4 hectares of land was claimed in terms of the Claim relating to the Property that was lost by the Protea Village Community when forced removals took place. Not all of the dispossessed land can be restored to the Claimants. The entire area of the Property that can be restored is approximately 12.29 hectares. Thus only approx. 43% of the disposed land is being restored to the Protea Village community.

Based on the proposed development layout, it is currently estimated that  $\pm 12\%$  of the total land area of Erf 212 and Erf 242 would be transferred to third-parties to fund the development;  $\pm 34\%$  of the area would be retained by the City of Cape Town for Public Open Space;  $\pm 5.4\%$  would be transferred to the Home Owners' Association; and  $\pm 38\%$  of the area would be retained by the CPA and / or CPA Members.

**99. The proposed development appears to take little cognisance of the topography of the site.**

The topography of the site is relatively unremarkable – a gentle and uniform incline upslope towards Table Mountain. The topography of the site varies of course at the stream cuttings and valleys however this area would not be developed. In short, there is not enough topography to exploit to suggest that this is a significant heritage informant that would need to affect the proposed development. It is further confirmed in the

Visual Impact Assessment that the proposal responds to the topography of the site.

It must be noted that detailed topographical surveys of both Erf 212 and 242 have been undertaken to inform the detailed design of the development, to ensure that the topography of the site is taken cognisance of.

**100. The HIA has not provided, or assessed any development alternatives, as is required by the provisions of s38(3) of the NHRA.**

Alternatives have been assessed. Refer to the "Alternatives" and "Impact Assessment" sections of the Basic Assessment Report.

**101. As one example of the limitations of the HIA, the report has not meaningfully assessed either the tangible spatial or intangible social significance of the old sports/cricket ground, nor commented on the impact of the development on this area. To merely note as was done verbally, that "if the grounds were to be kept, then the development potential of the wider site is constrained, to the detriment of adequate provision of housing for the claimant community", is not considered as being an adequate assessment of the development on significance.**

The location of the sports field was indicated by the informants however there was no specific requests for the conservation of that area, and it has not been incorporated into the proposed development layout. Its physical re-establishment or recognition would impact significantly on the developable land. The heritage informants are based on what the members of the community reflected as important to them. The site of the sports field was remembered but not highlighted as a place that should be conserved, or its loss considered a significant impact.

The proposed layout has been informed by numerous environmental factors and contextual informants, as listed above. Several mitigation measures would be cemented as conditions of authorisation (if granted) in order to ensure this.

**102. It is acknowledged that the spring is one of the most significant tangible heritage resources present on site, however the Committee is concerned that there is hardly any meaningful linkage between the spring and the area of the village to which the community is returning. Indeed, the area earmarked as open space along the spring and Liesbeek River appears to be hardly accessible to the public and is cut off from the claimant village.**

Formal paths are proposed in the wetland areas which would give access to the spring.

The professional team have presented a layout that provides for a formal linkage between Erf 242 and the spring, together with the financial implications of this layout, indicating the impact that this would have on the ability of the project to provide decent sized homes to the 86 members of the Protea Village community. Nonetheless, it has been indicated as the preferred development alternative in response to HWC's firm position on the matter.

**103. Likewise, whilst the HIA refers to the significance of the Church of the Good Shepherd, (and its attendant graveyard), to the community, there is also no meaningful linkage between this site and the claimant village.**

The linkage to the church is the street system which has survived today and continues to function – notably Kirstenbosch Drive which would have been the primary route for all traffic in the village. The route survives today although the oak-trees are degraded. The HIA has indicated the measures to conserve Kirstenbosch Drive, which would naturally re-establish itself as the primary linkage when Protea Village is re-settled. There are lesser linkages off Winchester Road such as the school steps which are indicated in the study but would not be affected by the development proposal.

**104. The Committee noted strong reservations in regard to the location and form of the proposed townhouse mews between Kirstenbosch Drive and the spring and series of pools. This area of the**

**site had been identified in a previous study as a no-go area as it is located in a wetland.**

The boundaries of the wetland area have now been accurately defined by the wetland specialist and an appropriate buffer zone identified. This detailed specialist study has been undertaken in terms of the requirement of both the NEMA process and the National Water Act. Reference should not be made to earlier preliminary reports.

**105. The applicants acknowledged that there are gaps in the information provided to HWC, particularly design informants and that this would be rectified.**

Design informants have been provided and the Heritage Impact Assessment Report has been updated in response to the interim comment from HWC.

**INTERIM COMMENT:**

The Committee awaits the submission of an HIA that complies fully with the requirements of s38(3) of the Act, as well as all outstanding documentation.

**HWC INTERIM COMMENT #2**

Heritage Western Cape is in receipt of your application for the above matter. This matter was discussed at the Impact Assessment Committee (IACom) meeting held on 10 July 2019.

Amongst other things, the following was discussed:

- Mr Underwood gave a PowerPoint presentation which outlined the iterative internal planning process which the applicants had followed up to this point.
- Mr Hart addressed the Committee and provided an overview of the previous comments and concerns raised by the Committee which had been considered by the applicants. He informed the Committee that some concerns had been addressed, but that certain of the Committee's comments had been challenged. Amongst other things it was submitted that:

- There has been considered effort to keep trees on Erf 242. However, it will be up to the owners of the property if they wish to keep the trees, or plant more as the case may be.
- It is the wishes of the returning community, who have a particular sensitivity toward it, that there is no direct access to the Spring from Kirstenbosch Drive. The Spring will still open to the public but would be accessed via the north – south riverine open space system, which is being retained.
- It was reiterated that the client and the 'primary heritage source', is the returning community, and it was intimated that all other considerations should be secondary to this.
- It was further argued by Mr Hart that it is his contention, "should the returning community wish to build a five – storey on site, they should be allowed to do so". However, it was pointed out to Mr Hart that the returning community is bound by the provisions of the NHRA, as indeed is the State itself, and any other property owner. HWC is an objective body that has to consider every application submitted to it impartially and on its own merits. As such the Committee is obliged to consider the impact of the development on all identified heritage resources, no matter how compelling the argument may be in respect of the returning community.

Noted.

106. The Committee stated that it fully supports the restitution of the land to the community. Indeed, had any entity, other than this returning community been the applicant in this instance, the Committee would have no reservations whatsoever in proposing that the HWC provisionally protect the property in terms of the provisions of s29 of the NHRA, given that the proposed development model is so evidently inappropriate and reminiscent of an exclusive segregated model of spatial planning, let alone to the irreversible detriment of heritage resources.

Noted. The layout, and indeed the preferred alternative, has been revised following this meeting to provide direct access to

the spring as well as the proposed Public Open Space area for not only the Protea Village community, but also the community at large. The preferred development alternative, although would result in a loss of capital for the development of the homes of the Protea Village community, would provide a public access and parking area at the shared, central access point of Kirstenbosch Drive. This would serve to maintain a cross-linkage from the proposed claimant homes on Erf 242 to the spring and Open Space area on Erf 212. Furthermore, by virtue of including this access in the centre of the boundary along Kirstenbosch Drive, the development of a large “gated community” or development reminiscent of “Apartheid spatial planning” (as stated by HWC). It should be noted that this alternative is preferred from a visual/cultural perspective (Gibbs, 2019), but not from a freshwater ecology perspective (Day, 2019) (who does, however, note that both can be mitigated to a degree that would not compromise the sustainability of the freshwater ecosystem), and is equally preferred to the initial alternative from a heritage perspective (Hart, 2019).

**107. The Committee noted with regret, that other than the retention of some more trees within the overall layout, the development plan as previously seen by the Committee had not changed, and in this regard, given none of its concerns previously expressed had been addressed, it reiterated that its concerns expressed previously in regard to the proposed development model itself, are still regarded as valid. Furthermore, given that the Committee had been informed earlier that it would be the owners of the properties prerogative to keep or plant new trees, it is queried as to whether the retention of more trees as indicated on the SDP, is anything more than a token gesture.**

Noted. The intention was to provide more detail on the context of the evolution of the proposed development and various considerations applied to the design thereof (i.e. design informants). Refer to responses to the HWC Interim Comment #1 for more information.

**108. The Committee re-stated its opinion previously expressed in respect of the planning model proposed; it is the type of inwardly focussed development which is the antithesis of an integrated and inclusionary planning framework which should be addressing the ills of Apartheid spatial planning and suburban development, and not retrenching it, particularly with ore gated communities as is proposed for portions of the site to the South of Kirstenbosch Drive .**

This comment has been taken on board by the Protea Village community and a preferred alternative which provides a direct linkage to the spring is proposed for Environmental Authorisation.

**109. Over and above the very tangible loss of the link between Erf 242 and the Spring that would be the result of the proposed development model along the edge of the development to the south, it is queried why the returning community would request no direct access to the Spring from Kirstenbosch Drive be allowed, as it would be the up market development, which is funding the project, who would benefit from this, rather than the claimant community who would be returning to Erf 242, located to the north of Kirstenbosch Drive.**

The preferred development alternative would provide a direct link to the spring for the public and the Protea Village community, refer above. Therefore, all aspects of the community involved would enjoy direct access off Kirstenbosch Drive, namely the Protea Village community, existing community who make use of the site as well as the future new members of the community to elect to purchase/lease the proposed residential opportunities on Erf 212.

**110. It is evident that there is a very strong disconnect between what the Committee means by an inappropriate planning model, and the applicant's understanding of what the Committee means.**

Refer above, the preferred development alternative would be more directly accessible to all when compared to the proposal tabled at the IACom meeting.

**111. The Committee regrets that a very real opportunity for providing a meaningful and spatially integrated development response has been missed: The solution as proposed perpetuates divisive planning**

and market approaches, which are incongruous with the best virtues of place making, and fails to set the tone for progressive, inclusive spatial design that expresses the best values of our constitution and the moral and qualitative imperatives of spatial redress. The paramount necessity to redress social and spatial inclusion has been misinterpreted and has inadvertently replicated on out-dated and spatially exclusive planning model, based primarily on narrow market concerns, under the guise of social justice. This is a planning model that has been imposed on the landscape and not one which is informed by it.

Refer above, the preferred development alternative would be more directly accessible to all when compared to the proposal tabled at the IACom meeting. Furthermore, the conceptualisation of the proposed development and development footprint has been informed by social, environmental, and financial aspects of the context. Refer to responses to Interim Comment #1 for more information.

**112. The Committee does however agree that the primary consideration, on all levels, including heritage, must be the return of the community to the land they were evicted from in the 1960's, and in this regard if the proposed planning model of cross-subsidisation is indeed the only one that would provide the financial means of enabling this, then the Committee resolved as follows:**

**113. There are no objections to the development as proposed to the South Western portion of the site, (to the south of the stream).**

Noted.

**114. The Committee accepts that the community wish to return to Erf 242, and notwithstanding its reservations in respect of the inwardly focussed suburban development model as tabled, it is also accepted that had the community not been subjected to the provisions of the Native Land Act of 1913, the Urban Land Act of 1924, and the Group Areas Act of 1951, which precluded them from having title to their land in the first instance, and furthermore had they not been evicted from the land in the 1960's, Erf 242 may well have been developed already, in**

accordance with surrounding patterns and as market forces dictate. Whilst this is conjecture, it is recognition that both colonial, and apartheid laws had precluded the community from having tenure of the land and any say in its future. and that development of this portion of land, in accordance with the community's desire, is on appropriate means of restitution, (albeit the Committee remains deeply concerned in respect of the inwardly focussed. exclusionary planning model).

Noted. The preferred alternative would provide greater access to the spring and proposed Public Open Space area for all.

115. One area of this development that must be addressed however, and which the Committee has strong reservations about, is that the inwardly focused development turns its back on the stone cottages, which have historic, intangible and tangible connections with Erf 242, and as such it severs ties with the cottages that served as one of the more meaningful tangible reminders of the severed community through the 1960's to the present. A backdrop of a backyard, boundary walls etc, to the stone cottages would be to the detriment of their setting and significance.

There would be a direct pedestrian link to the stone cottages from Erf 242. This link would occur through a pedestrian gate that would allow residents from Erf 242 to walk along the internal local street network and access the stone cottages without having to exit along Kirstenbosch Drive. In addition, houses abutting the stone cottages would be designed so that they provide an appropriate interface.

116. The Committee is, albeit with reluctance, prepared to accept the development in the western half of the property, directly to the south of Kirstenbosch Drive.

Noted.

117. It does however not accept the severing of the link to the Spring, and likewise does not accept the extent of, or nature of the townhouse development on the eastern half of this portion, for all the reasons as provided in this meeting and previously.

**Whilst development of the other portions of the wider property, will certainly lead to the loss of tangible heritage resources, (which could be mitigated to a small degree), the townhouse development as currently proposed for this portion would result in a cumulative and irreversible negative impact, and indeed would impact on consideration of the Spring as a proposed Provincial Heritage Site, given its almost total severing from the land and community. It was noted that the Feasibility Study by NM & Associates (2004) indicate the Eastern parcel as a 'memory node' and 'no go' are. The current layout was a drastic depart as it stands. the Committee rejects the statement that should the development proceed as tabled, that the developed portions of the property should be regarded as Grade IIIA heritage resources. In response to a statement by Rev van Diemen, who noted that it feels as if the rug has continually been pulled from under the claimant community's feet since 1995, the Committee noted that heritage considerations of the site have remained unchanged from those as identified in the NM & Associates report of 2004, and it is only the proposed planning model which is objected to by the Committee for all the reasons as provided. The Committee requested that the community consider that the pursuance of the short-term benefits of the development would result in a complete and detrimental loss to tangible, as well as intangible heritage resources to future generations. This is wholly against the intent of the NHRA.**

The preferred development alternative has been devised in response to this comment to provide direct access to the spring.

With respect to the NM & Associates assessment, refer to the response to HWC Interim Comment #1 above.

Regarding the mews housing component of the proposed development, this is included in the proposal in order to broaden the range of residential typologies available within the proposal, including more affordable opportunities. This would also aid with the cash flow required to finance infrastructure for the Protea Village community homes, given

more affordable units tend to sell more quickly and same would be anticipated for the proposal. A range of residential types is consistent with the MSDF and District plan. The mews would help to promote a medium density while at the same time retain a human scale for the urban form in terms of height and mass. The mews would be limited to one portion of the site and take up about a third of the frontage along Kirstenbosch Drive, which means that the urban form of the mews would not dominate. A variety of residential forms would occur along Kirstenbosch Drive, and these forms would also be separated by the proposed public access and proposed public open space that provide access to the spring.

- 118. Furthermore, the Committee reminded the applicants that Heritage Western Cope is only a commenting body in respect of this application, and that the consenting authority is the DEA&DP. It recognizes that the comment provided at this stage is still an interim comment, and that final comment will be provided once the final Basic Assessment Report (BAR) is submitted. The final comment will be reflective of the comment provided at this meeting, should the development proposal remain the same.**

*This is noted.*

#### **INTERIM COMMENT**

- 119. The Committee retains its strong reservations in respect of the outdated and spatially exclusive planning model proposed, which is one that is imposed on the landscape and will have an irreversible impact on identified heritage resources.**

*The preferred development alternative would address this concern, at least in part, by providing more direct linkage to the Spring and proposed Public Open Space area for all.*

- 120. The Committee does however accept that the return of the claimant community must be the primary consideration, and in this respect if, and only if the outdated and spatially exclusive planning**

**model as proposed is the only one which would facilitate this return, then the Committee notes as follows:**

The heritage and visual impact assessments of the site consider (and agree) on various aspects of heritage and related indicators, not only the Protea Village community.

**121. There is no objection to development of the South Western portion of the property to the south of the stream, (regardless of the planning model).**

Noted, this would be part of Phase 2 of the proposed development and is no longer the subject of this application for Environmental Authorisation.

**122. The Committee accepts the development of Erf 242 the claimant village), however, the inwardly focussed model must address its relationship to the stone cottages to the west of its boundary and provide a meaningful tangible connection between the two.**

There would be a direct pedestrian link to the stone cottages from Erf 242. This link would occur through a pedestrian gate that would allow residents from Erf 242 to walk along the internal local street network and access the stone cottages without having to exit along Kirstenbosch Drive. In addition, houses abutting the stone cottages would be designed so that they provide an appropriate interface.

**123. The Committee furthermore would reluctantly accept development to the western half of the portion of land to the south of Kirstenbosch drive, with stringent conditions to be determined in due course.**

Noted.

**124. It does not however accept the severance of the Public Open Space system and spring from Kirstenbosch Drive. nor does it accept the extent, and nature of the development to the eastern half of the portion of land to the south of Kirstenbosch Drive, which is visually intrusive and partially fills in the easternmost pond. This development should be reduced in extent.**

The preferred development alternative has been devised in response to this comment to provide direct access to the spring.

Regarding the mews housing component of the proposed development, this is included in the proposal in order to broaden the range of residential typologies available within the proposal, including more affordable opportunities. This would also aid with the cash flow required to finance infrastructure for the Protea Village community homes, given more affordable units tend to sell more quickly and same would be anticipated for the proposal. A range of residential types is consistent with the MSDP and District plan. The mews would help to promote a medium density while at the same time retain a human scale for the urban form in terms of height and mass. The mews would be limited to one portion of the site and take up about a third of the frontage along Kirstenbosch Drive, which means that the urban form of the mews would not dominate. A variety of residential forms would occur along Kirstenbosch Drive, and these forms would also be separated by the proposed public access and proposed public open space that provide access to the spring.

**125. Finally, should it be unavoidable to have two security developments to the south of Kirstenbosch Drive, the interface / gap between these two should at least allow for a direct pedestrian route from the claimant village to the Spring.**

Refer above. Also note that reshaping of the pond is required in order to compensate for the proximity of the proposal to the pond (Day, 2019) and this has been incorporated into the proposal and has been recorded as an environmental specification in the EMP, which would form part of the conditions of Environmental Authorisation (if granted).

**HWC reserves the right to request additional information as required.**

**Should you have any further queries. please contact the official above and quote the case number.**

| Town Planning  | Engineering/ Stormwater & Services   |
|--|--|
| <p>128. <b>Define what “Medium Density” housing means.</b><br/> Medium density is a relative term to distinguish between low density (such as exists in the adjacent suburbs) and higher density such as is commonly found with apartments (such as parts of Claremont). Low density is commonly 15 dwelling units per hectare or less, medium density is commonly between 15 – 40 dwelling units per hectare and high density is commonly 100 dwelling units per hectare and above.</p> <p>129. <b>The proposed density would have a dramatic effect on surrounding area.</b><br/> The Municipality is promoting higher densities in appropriate locations. The subject properties have been identified in the Municipal spatial development framework for medium density residential development and so the proposal is aligned with local spatial planning intentions (the site has been designated in the plans for medium density housing).</p> <p>130. <b>Is Erf 212 also planned for medium density development?</b><br/> Erf 212 would have a low-density residential development in the central and western portions and medium density in the north eastern portion.</p> <p>131. <b>Would the CPA/other HOAs partner with the City of Cape Town to manage the proposed Public Open Space?</b><br/> The Municipality has the responsibility to manage the proposed Public Open Space, but it is likely that civic minded residents would also assist because this is part of their environment and amenity.</p> <p>132. <b>What would the Architectural Design Guidelines and building lines say to prevent second dwellings, particularly for properties along the river?</b><br/> Building lines are spaces adjacent to property boundaries that cannot contain buildings. These are statutory regulations administered by the Municipality and it is illegal to build inside a building line. The degree of control in the architectural guidelines is</p> | <p>147. <b>How has the Stormwater Management Plan (SMP) been designed, particularly at points daylighting into the Liesbeek River, to maintain the ecological integrity thereof?</b><br/> The pipes/swales/pond overflows would drain over and through gabions boxes provided in these isolated areas. The SMP aims to comply with the City's stormwater management policy for new developments. The plan allows for two enhanced dry swales treating runoff from development in the upper sections of Erf 212 – the swales include a number of check dams to increase detention time and catch sediment, with runoff being attenuated at the outlet into the Liesbeek River.<br/> Two “dry” attenuation ponds would also be created, to manage runoff from Erf 242 and major storms from both sites. Underdrains have been proposed in these dams to reduce dry season wetness. The ponds would discharge into the Liesbeek River.</p> <p>148. <b>The current Liesbeek River capacity the manner in which the stormwater management plan avoids placing additional pressure on the Liesbeek during typical weather as well as high rain conditions. Please also explain how the design addresses these effects and flood risk downstream?</b><br/> The purpose of the SMP is to consider these implications. The system has been designed to reduce the post development runoff to below the pre-development run-off. Very low flows into the ponds would be allowed to filter back into the soil. The 5, 10, 20- and 50- year floods would be detained in the proposed ponds.</p> <p>149. <b>Please explain the nature of the Boshof Avenue servitude.</b><br/> This would be a stormwater servitude that would not be publicly accessible. Refer to the cross section and layout plan in the Basic Assessment Report. Due to existing ground levels an outlet for overflow stormwater discharge is required from the claimants' village into the Municipal stormwater system in Boshof Avenue. It was originally anticipated that this would occur in a servitude on one of the claimant's erven. It has subsequently been decided to place the stormwater channel in a small strip of Public Open Space because the land would</p> |

still to be determined. This would be done in consultation with the Municipal Planning Department.

**133. What type of conditions would apply to new owners?**

Standard conditions imposed by the Municipal Development Management Scheme would apply. In addition, selected conditions relating to aesthetic design and landscaping would form part of the Architectural Design Guidelines. Lastly, any conditions of Environmental Authorisation (if granted) stemming from this Basic Assessment process would also apply to the proposed development.

**134. Could building heights for particular plots be reduced- and possibly paid for by external parties (e.g. adjacent landowners)?**

If external parties/adjacent landowners wish to make a financial contribution, that is up to them. However, with respect to the developable areas and maximum development limits, the planning and environmental applications and associated proposal cannot be premised on any financial inputs from external parties provided in order to limit any particular aspects. The development would occur within the limits of planning approvals and, where carried out in this manner, the full applicable rights should be relevant and not minimised through limitations requested by surrounding owners.

**135. How has the possibility of backyard dwellers been avoided?**

The buildings would be subject to building plan control by the Municipality and it has an efficient development control administration in this part of the city. Public surveillance and peer control would also assist to prevent unauthorised structures.

**136. Walls along the Erf 242 boundary would make it easier for backyard dwellers, but would also be bad for integration- how have these factors been considered in the design?**

The current wall layout and design provides safety and privacy to the residents.

A combination of visually permeable fences and walls would be used to allow for both privacy for the residence and integration with

be owned by the Municipality and the stormwater channel is part of Municipal infrastructure. The stormwater outlet would be a shallow, open, lined channel.

**150. Does the stormwater management plan consider the groundwater findings from the Geotechnical report as well as the potential additional water from all the removed trees?**

Yes

**151. There would be potential sewage problems, particularly during floods. Has this been considered and if so, how has it been addressed in the design?**

The sewer system would be designed in accordance with the City's requirements and recognised engineering standards. This also allows for the possibility of infiltration into the sewer system. Furthermore, the City of Cape Town has confirmed available capacity to receive and treat the additional sewage anticipated because of the proposed development (refer to Appendix E16 of the BAR).

**152. Water consumption would increase and place pressure on resources.**

With respect to water consumption, the City of Cape Town has confirmed that adequate services are available (refer to Appendix E16 of the BAR) for the proposed development.

**153. What would the ongoing maintenance of the attenuation ponds entail and who would do it? How would they be accessed if there is only a footpath? Bulrushes in particular need a lot of maintenance.**

The maintenance of the stormwater system and ponds would be interrogated in further detail (and confirmed with the CoCT in an agreement or formal acknowledgement) as part of the land use application, but it is envisioned that varying degrees of responsibility would fall on some combination of the Applicant, CoCT, and/or the Master Property Owners' Association for the proposed estate and row/mews homes.

the surrounding context. In general, visually permeable fences would be erected alongside the streets, but walls would be erected along the rear of properties where there are existing dwellings, however this would be resolved during detailed design and be implemented in accordance with the Architectural Design Guidelines.

Note also, that buildings would be subject to building plan control by the Municipality and illegal buildings would be subject to the processes of the Municipal enforcement section.

**137. What would the extent of the sidewalk on Kirstenbosch Drive be beyond the site?**

The construction of the 3m wide NMT path (for both cyclists and pedestrians) would occur along the southern edge of Kirstenbosch Drive between Rhodes Avenue and the entrance to the adjacent Arambrook Boutique Hotel (Pretorius, 2019). Pretorius (2019) adds that if the construction of the path up to Rhodes Avenue is not possible due to lack of clarity about Kirstenbosch Drive's road reserve adjacent to the Anglican Church of the Good Shepherd, then the sidewalk can extend between Winchester Road and the Arambrook Hotel only. It is suggested that issues pertaining to sidewalks beyond the borders of the proposed development be raised with the local Ward Councillor or appropriate City of Cape Town branch.

**138. Existing footpaths that have been uninterrupted and used for more than 30 years are Public rights of way- if path from Boshof Avenue would be closed, then this must be officially advertised.**

This is not true. There is no legal requirement to formally close this informal footpath. If prescription is claimed it would have to be proven in a court of law.

**139. Surrounding property values would be lowered as result of the proposal (somewhat related to density proposed).**

The proposal is aligned with local spatial planning intentions (the site has been designated in the plans for medium density housing). The land restitution process for these erven began in 1995, hence this knowledge has been in the public realm for some time. The success

**154. Why the stormwater ponds are located as indicated and why they cannot be designed around mature trees and root zones.**

As far as possible trees could be retained, but a certain volume and depth is required for the ponds in order to achieve the goals of the stormwater system, and thus deeper excavation is required to ensure sufficient stormwater retention during high rainfall events.

**155. With regard to the old dump site and the construction phase of the proposed development, what is the nature thereof, what would happen to it and how would it be cleaned?**

This area is not part of Phase 1 and would be considered at a later stage with Phase 2 of the proposed development.

**156. Can a cut and fill diagram be provided? Or an explanation of what would happen to the earth and the reshaping of the land required.**

Thorough earthworks calculations would be undertaken by the project consulting engineer as part of the detailed civil and electrical engineering design for the proposed development. This would be based upon the detailed land survey data undertaken for Erf 212 and Erf 242, Bishopscourt.

At this stage of the Land Use Rights process, a detailed cut and fill exercise has not yet been undertaken. However, minor earthworks per plot are foreseen in order to create a level platform for the construction of houses. In addition, all the road box excavations would be done to construct the road layer works. Note that the stormwater ponds could be considered as a bulk earthworks operation. A copy of the bulk earthworks drawings for the ponds is included in the SMP.

**157. How has flooding risk been accommodated in the proposed development?**

Please refer to the SMP included in the Appendix G(j) of the BAR, as this document contains the flood line report. The development team also undertook a flood line study for the rivers, and this has been used to inform the SMP.

of this land claim has contributed to redressing historic social injustice in South Africa.

**140. The proposal would increase property taxes in the area.**

The nature of property taxes falls beyond the scope of this Basic Assessment process; however, property taxes typically relate to the municipal value of the particular property which is being taxed. Furthermore, the density and nature of the proposed development aligns with Municipal spatial development planning as the subject properties have been identified for medium density residential development.

**141. Into whose name (s) would the sub-divided erven on Erf 242 be transferred?**

The names of the approved claimants.

**142. Into whose name(s) would the sub-divided erven on Erf 212 be transferred?**

The larger freehold plots proposed on Erf 212 would be registered in the names of the purchasers. The proposed leasehold land would be owned by the Protea Village community and leased to third parties.

**143. Why does the proposed development and related density not set precedent for future dense development?**

The proposed development is earmarked for medium density residential infill in the District Spatial Plan and is, therefore aligned with the City's spatial planning policy. Other properties in the area are not presently indicated as such. Furthermore, each individual in Bishopscourt who wishes to sub-divide a property would have to go through a process in terms of the Municipal Planning By-Laws and the individual merits thereof would be considered by Council, which has a policy on appropriate densification that would inform their decision on the matter.

**158. Overall, how has the high water table on site been considered in planning, particularly with regard to how the proposal would actually be developed (i.e. the land preparation required) and what effect it would have on groundwater?**

The team is aware of the groundwater levels on site as a geotechnical study (as contained in the SMP in Appendix G(d) of the BAR) has been carried out which has informed the stormwater management plan which proposes to manage the high water table on site through subsoil drains along the proposed roads and a stormwater pipe network. The proposed layer works of the roads would allow for a drainage layer. The costs of this engineering solution have been factored into the cost estimates for the project.

| <p>144. <b>Please confirm whether there are no servitudes adjacent to the river on properties downstream of the site.</b><br/>There are no servitudes indicated in the title deed.</p> <p>145. <b>While building lines would restrict development close to the river (particularly for the 1000m plots), what mechanism would be employed to restrict construction of other facilities like pools close to the river?</b><br/>No private development can occur outside the registered property boundaries. The property boundaries in the proposed development layout are set back from the riverbank in accordance with buffers required by the freshwater ecologist.</p> <p>146. <b>Why is there no access via Appian Way?</b><br/>The adjacent landowners to Erf 242 would appreciate that Appian Way remain separate from the proposed development. In addition, the Protea Village community wants their homes to relate to those of fellow community members (i.e. claimants) and the Protea Village community does not want access from Appian Way.</p> |  |                            |                                    |                     |     |                      |     |                         |     |
|--|--|----------------------------|------------------------------------|---------------------|-----|----------------------|-----|-------------------------|-----|
| <p><b>Land Claim</b></p>   | <p><b>Landscaping</b></p>  |                            |                                    |                     |     |                      |     |                         |     |
| <p>159. <b>Please clarify the full details of the land claim and agreements concluded.</b><br/>The Protea Village Community lodged their Land Claim on 04 February 1995, in accordance with the Restitution of Lands Act (1994). The Reference Number is KRK6/2/3/A/1/0/9574/73 (P745). The Land Claims Commission verified the Land Claim and all 132 Claimants. The Land Claim was gazetted on 16 February 2001 (Notice 374 of 2001 GG Number 22047). A further corrective notice was published as Notice 2219 of 2001. 46 of the 132 Claimants opted for financial restitution, which was paid to them during the course of 2002. 86 Claimants opted for the restitution of land. An area of approximately 28.4 hectares of land was claimed in terms of the Claim relating to the Property that was lost by the Protea Village Community when forced removals took place. Not all of the dispossessed land can be restored to the Claimants. The entire area of the Property that can be restored is approximately 12.35 hectares,</p>                     | <p>168. <b>Confirm that no trees beyond the boundary of the site would be affected (particularly on Boshof Avenue).</b><br/>Correct.</p> <p>169. <b>Tally required for trees removed, retained, and newly planted.</b><br/>The approximate numbers with respect to the retention, removal and planting of trees are indicated in the table below and are included in the Basic Assessment Report. There is also a version of the Landscape Intent which clearly shows the location of newly planted trees in Appendix L of the BAR.</p> <table border="1" data-bbox="1144 1182 1935 1388"> <thead> <tr> <th data-bbox="1144 1182 1711 1219"><b>Intention for Trees</b></th> <th data-bbox="1711 1182 1935 1283"><b>Approximate Number of trees</b></th> </tr> </thead> <tbody> <tr> <td data-bbox="1144 1283 1711 1319">Trees to be removed</td> <td data-bbox="1711 1283 1935 1319">413</td> </tr> <tr> <td data-bbox="1144 1319 1711 1356">Trees to be retained</td> <td data-bbox="1711 1319 1935 1356">430</td> </tr> <tr> <td data-bbox="1144 1356 1711 1388">New trees to be planted</td> <td data-bbox="1711 1356 1935 1388">357</td> </tr> </tbody> </table> | <b>Intention for Trees</b> | <b>Approximate Number of trees</b> | Trees to be removed | 413 | Trees to be retained | 430 | New trees to be planted | 357 |
| <b>Intention for Trees</b>   | <b>Approximate Number of trees</b>   |                            |                                    |                     |     |                      |     |                         |     |
| Trees to be removed  | 413  |                            |                                    |                     |     |                      |     |                         |     |
| Trees to be retained   | 430  |                            |                                    |                     |     |                      |     |                         |     |
| New trees to be planted  | 357  |                            |                                    |                     |     |                      |     |                         |     |

comprising Erf 212 and Erf 242, Bishopscourt. The award of the land claim provides a point of departure for this Basic Assessment process, which is being conducted in terms of the NEMA.

**160. If claimants rent out property, would they no longer have the rates and taxes holiday?**

Section 17(1)(g) of the Municipal Properties Rates Act (2004) applies to properties granted to Land Claimant projects. This "rates holiday" benefit applies for 10 years from the date of transfer of the property to the CPA and is not affected by rental of the property to tenants. The "rates holiday" applies only to property rates and not to utilities.

**161. When and how sale of land can occur?**

In terms of the Restitution of Land Rights Act (1994), the Minister of Rural Development and Land Reform is required to formally consent to any alienation of land where a land claim has been awarded. Application to the Honourable Minister for the required consent is underway in accordance with the business plan. The freehold and leasehold alienation of land on Erf 212, Bishopscourt is required to generate the cash resources required by the business model. For further details on the business model, see response provided in the Business Case comment above.

An appropriate marketing strategy would be implemented by the Protea Village Community, in conjunction with their development managers (i.e. Bethel Partners) at the appropriate time. However, this would be separate from this Basic Assessment process.

**162. Claimants must not accept a commercial proposal like this that damages their and everyone else's heritage**

The Protea Village community are the Developers and Applicant for the proposed development. Therefore, the proposal constitutes their intention for their properties (which have been returned to them through the land claim process), which they fully support.

The proposal is aligned with local spatial planning intentions (the site has been designated in the plans for medium density housing). The

**170. Could it be arranged for salvage of garden plants (i.e. Plant Open Day)?**

This idea has been taken on and included as a suggestion in the EMPr to be discussed with the City of Cape Town during the detailed design phase of the Landscape Masterplan.

**171. Please clarify how the landscape plan has been deigned to be resilient.**

The plant list consists of species that are indigenous, waterwise and tough. Note that the detailed Landscape Masterplan, devised during the detail design phase of the project, also has to be approved by the City of Cape Town. This is included as an environmental specification in the EMPr.

**172. The planting List contains certain species which are not indigenous to the Cape and, therefore, some of these species (e.g. *Afrocarpus falcatus*, *Outeniqua Yellowwood* *Podocarpus falcatus* and *Dais continifolia*) should not be considered.**

This is noted, the suggested trees have been omitted from the planting list. Note that the final planting list would also have to be approved by the City of Cape Town as it would be submitted as part of the detailed Landscape Masterplan. This is also an environmental specification in the EMPr.

**173. Would public be able to access the ponds and spring? Are there Plans for the ponds?**

Yes, the public would be able to access the spring and ponds. The plans for these areas are indicated in the proposed landscaping intent (refer to Appendix L of the BAR).

**174. Who would be responsible for the initial newly planted trees and landscaping and who would be responsible for the ongoing maintenance thereof, in the short- and long-term?**

land restitution process for these erven began in 1995, hence this knowledge has been in the public realm for some time. The success of this land claim has contributed to redressing historic social injustice in South Africa. The land claim itself has followed due process, with it even being tested in court and ultimately remaining in force. The culmination of the land claim has resulted in an area of approximately 12.29 hectares being returned to the Protea Village Community, comprising Erf 212 and 242, Bishops court.

This represents ± 43% of the 28.4 hectares of the land lost and claimed by the community. Despite this, approximately 4.21 hectares of Erf 212 would be rezoned to Open Space 2 for use as public open space by residents of and visitors to the City of Cape Town. Thus, the Protea Village Community would utilise approximately 8.08 hectares for development and resettlement purposes, which represents ± 30.99% of the land that was dispossessed.

The proposed Public Open Space also holds importance to the Protea Village community and the approximately 4.21 hectares of Erf 212 which is proposed as such accounts for over a third (± 34.26%) of the land returned to the Protea Village community. This figure demonstrates the importance of retaining open space within the proposed development layout to the Protea Village community.

**163. What law (reference) would allow for claimants to seek permission to sell certain portions of land/ what stage of process would waiver application be made to minister? Many I&APs commented on their belief that the Protea Village community's land should not be sold to third parties.**

In terms of the Restitution of Land Rights Act (1994), the Minister of Rural Development and Land Reform is required to formally consent to any alienation of land where a land claim has been awarded. Application to the Honourable Minister for the required consent is underway in accordance with the business plan.

Contractual maintenance would be carried out for the newly planted landscaping in the common/public open space areas, village and road verges, i.e. the contractor, under the landscape implementation tender, would maintain for a period of 3 months, however this is under discussion with the City of Cape Town. Thereafter the landscape would be handed over to the City of Cape Town Parks department, who would be responsible for the ongoing maintenance thereof.

The private homes/stands on Erf 242 and Erf 212 would be maintained by the owner.

**175. Where would the water come from for the establishment of the newly planted trees and landscaping?**

The anticipated establishment period would be approximately three years. The detail on the water course is unknown at this stage, but would be finalised during the detail design phase, when the Landscape Masterplan is compiled and would be done in accordance with applicable City of Cape Town policy and typical approach in this regard.

**176. What exactly would be done with trees in the riverine corridor?**

The riverine corridor would fall under the proposed Public Open Space, which would be managed and maintained by the City of Cape Town, as per their mandate to do so, and in accordance with an agreement/ formal acknowledgement reached for this among relevant parties.

**177. Could a separate planting list for the riverine corridor, proposed Public Open Space, Kirstenbosch Drive and the rest of the site be compiled?**

This would be compiled for the Landscape Masterplan (during detailed design phase) and submitted to the City of Cape Town for approval. This requirement is included as an environmental specification in the EMPr.

**178. When would proposed inter-planting of trees be done, relative to construction programme?**

The freehold and leasehold (noting that the Protea Village community would remain the landowners of this component of the proposal) alienation of land on Erf 212, Bishopscourt is required to generate the cash resources required by the business model. For further details on the business model, see response provided in the Business Case comment.

**164. Did the 86 former resident families have title to the land or were they tenants on the land?**

This question relates to the merits of the land claim, which are not the subject of this Basic Assessment process. Kindly note that the land claim has been awarded in terms of applicable law, contested in court, and remains valid. The site (i.e. Erf 242 and Erf 212, Bishopscourt) has been awarded to the Protea Village community and therefore no alternative sites are, or could be, considered. These are the properties belonging to the Protea Village community and are the properties which they would return to.

It is, however, important to note that under the apartheid regime, in terms of the Natives Land Act (1913) and Group Areas Act (1950) the Protea Village community were legislatively prohibited from "the purchase and leasing of land" and living in this area.

**165. Were claimants paid compensation or given alternative accommodation?**

The Protea Village Community lodged their Land Claim on 04 February 1995, in accordance with the Restitution of Lands Act (1994). The Reference Number is KRK6/2/3/A/1/0/9574/73 (P745). The Land Claims Commission verified the Land Claim and all 132 Claimants. The Land Claim was gazetted on 16 February 2001 (Notice 374 of 2001 GG Number 22047). A further corrective notice was published as Notice 2219 of 2001. 46 of the 132 Claimants opted for financial restitution, which was paid to them during the course of 2002. 86 Claimants opted for the restitution of land. An area of approximately 28.4 hectares of land was claimed in terms of the Claim relating to the Property that was lost by the Protea Village

Planting of trees in the proposed Public Open Space area would be done with a view to dovetailing with other landscaping works in order to achieve economies of scale. It would, however, have to coincide with an early winter season and the programme would have to be scheduled accordingly. The usual practice is to not start with any landscaping if there are still building/civil works close to an area.

For example, progression for the proposed homes on Erf 242:

- Civil underground services and roads;
- Boundary walls to secure site;
- Houses would be built at the same time as the boundary walls;
- On completion of a phase, the adjacent park would be developed (if applicable);
- When a phase is 100% complete, at the point of handover to end user the road landscaping would go in.

In the case of external public roads verges, same would apply, sans the house construction element.

Depending on time of year, if a phase is completed end November, it may be elected to only implement in January due to risk over the +-4 week builders' holiday.

**179. Provide an explanation as to how the proposal and associated reshaping of the land would affect the hydrology of the site as well as the water available to trees which would be retained and newly planted. How have the root zones and water requirements of trees to be retained been considered, particularly with the construction of the proposed development and the stormwater management system?**

The team is aware of the groundwater levels on site as a geotechnical study (refer to Appendix G(d) of the BAR) has been carried out which has informed the stormwater management plan (refer to Appendix G(j) of the BAR) which proposes to manage the high water table on site through subsoil drains along the proposed roads and a stormwater pipe network. The proposed layer works of the roads would allow for a drainage layer. In the open spaces where trees would be retained,

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| <p>Community when forced removals took place. Not all of the dispossessed land can be restored to the Claimants. The entire area of the Property that can be restored is approximately 12.29 hectares, comprising Erf 212 and Erf 242, Bishopscourt. The award of the land claim provides a point of departure for this Basic Assessment process, which is being conducted in terms of the NEMA.</p> <p><b>166. Certain I&amp;APS stated that they are against more development in City of Cape Town because of “Day Zero” and pressure on water resources.</b></p> <p>Note that the proposal is not a development by the City of Cape Town, but one in support of land restitution whereby members of the Protea Village community were forcibly removed from their homes and land.</p> <p>This proposal uses the awarded land claim, for Erf 242 and Erf 212, Bishopscourt (hence no other land could be considered) as a point of departure.</p> <p>Furthermore, the proposal is aligned with Spatial Planning in terms of the City of Cape Town's District Spatial Plan.</p> <p>Lastly, the City of Cape Town has confirmed supply of available water for the proposed development in Appendix E16 of the BAR.</p> <p><b>167. Why not rather develop Fernwood Sports grounds or an alternative site?</b></p> <p>Refer above, this question relates to the merits of the land claim and is beyond the scope of this Basic Assessment process. The proposal is aligned with Spatial Planning in terms of the City of Cape Town's District Spatial Plan.</p> | <p>rainwater would be allowed to infiltrate into the soil. The subsoil drains would also recharge ground water into the spring and existing ponds area.</p> <p>With respect to the trees and root zones, the general practice in this regard is to work on the canopy diameter/'dripline' as the setback line and this has been carried out as far as possible in the proposed layout, where services and infrastructure allow for it. In many cases, clumps or bundles of trees have been planned/ located in open spaces/pocket parks (i.e. they have been incorporated into the development proposal as open areas rather than nearby built structures) to prevent root loss. However, it would not be possible to retain the full dripline as a buffer in all cases, particularly with regard to conservation-worthy trees located in road reserves – here a loss of +/- 30% of root area has been assumed, but the tree has still been considered worth retaining.</p> |
| <p><b>Construction</b></p>  | <p><b>Operation</b></p>   |
| <p><b>180. What is the timing and intended roll-out for phasing of construction?</b></p>  | <p><b>182. Many I&amp;APs have expressed doubt that the City of Cape Town would be able to manage the proposed Public Open Space</b></p>  |

The BAR includes information on the anticipated timing. All going as desired and planned by the Applicant – and assuming no obstacles or delays to the land use rights process – the timeframe is anticipated as follows:

- Q3/Q4 2021: Commence civil infrastructure on Erf 212;
- Q2/Q3 2022: Start construction of the civil infrastructure for the 86 stands on Erf 242; and
- Q4 2022/Q1 2023: Commence construction of 86 homes on Erf 242, with completion anticipated Q2/Q3 2024.

This assumes that the land use rights process runs according to best case scenarios, the “market” buys into the product offering on Erf 212 and there is no delay in creating the required liquidity, the State performs its legislative functions in reasonable time periods, and the Minister of Rural Development and Land Reform makes the necessary Grant funding available timeously.

**181. Given that economies of scale would be utilised, would all Erf 242 homes be built at once? Or would they be completed one at a time?**

The business model proposes that the 86 homes on Erf 242 would be built simultaneously.

**appropriately. This serves as a standard response for issues related to the City of Cape Town's management of the proposed POS component.**

The proposed Public Open Space would be zoned Open Space 2 in terms of the Municipality's Development Management Scheme which is the zoning for public open space. It would be considered a “public park” in terms of the City of Cape Town Public Parks By-Law (August 2010). This includes the Liesbeek River and associated riparian zone. The City's mandate with regard to the management and maintenance of the proposed POS would lie within their control and concerns in this regard should be raised with the City of Cape Town. Note that the site is not presently zoned as POS, but rather Agricultural, therefore the City of Cape Town Recreation and Parks department is not required to manage it as attentively as it would should the area be zoned as a park (i.e. POS). Therefore, it is anticipated that the maintenance of the proposed POS area would improve significantly when compared to the *status quo* through the rezoning of the land to POS.

Therefore, these tasks would not be carried out by the Applicant.

Given that the Applicant is currently applying for the Environmental Authorisation of the proposed development and would be the holder thereof, but that the CoCT would own and manage the proposed Public Open Space area, it is recommended that there be a parsing out and agreement or formal acknowledgement of these responsibilities. The agreement should clarify responsibility for management of waste, stormwater, service infrastructure and the open space areas on both Erf 212 and Erf 242, including the rivers and wetlands (Day, 2019). Such allocations in part depend on agreements to be reached, or formal acknowledgement to be in place, between the City and the development team regarding which aspects must be implemented by the City, and which aspects should be the responsibility of the developer / future landowners (Day, 2019). The detailed mitigation measures which must be contemplated in this regard are described in the EMP. If the abovementioned agreement or formal acknowledgement of responsibilities cannot be finalised prior to the commencement of the construction phase and the Applicant/ Holder of the Environmental

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|   | <p>Authorisation wishes to commence with construction (and later, even operation), then they will be responsible for the implementation of all mitigation measures until such time as an agreement or formal acknowledgement of responsibilities is finalised, as this issue should not preclude development within permits and approvals granted. When the agreement is reached/ finalised, a copy thereof should be provided to the DEA&amp;DP.</p>  |
| <p><b>Layout</b></p>  | <p><b>Faunal</b></p>   |
| <p>183. <b>Can layout be redesigned to accommodate concerns of parties such as adjacent landowners, HWC, pathways, public access from Fernwood?</b></p> <p>The preferred development alternative layout has been designed through an extensive process of consultation and iteration with the project team and independent specialists to ensure that it fulfils the business plan's requirements for a commercially viable re-entry of the Protea Village community into the area, whilst taking full cognisance of the environmental opportunities and constraints of the site in a sustainable manner. In addition, the proposed development layout must balance the generation of cash resources required to build 86 decent houses on 86 decent sized erven against any potential or proposed design changes.</p> <p>Given this, the concerns of I&amp;APs, adjacent landowners and various state departments (e.g. HWC and City of Cape Town) as they relate to the development layout have been afforded due consideration in the context of the requirements and sustainability of the business model. A key change in the proposed layout (which is now the preferred development alternative) is that it has been revised to provide direct access to Erf 212 and the spring and proposed Public Open Space area, which was a recommendation from HWC and City of Cape Town. Input from the project team and independent specialists has been sought, where appropriate, when due consideration has been given to these concerns, several of which have been accommodated in how the various aspects of the</p> | <p>192. <b>Porcupines eat bulbs which is a point which adds to importance of retaining the bulbs on the site. Also, how have the fauna on site been considered?</b></p> <p>Porcupines do not feed on bulbs exclusively. No separate faunal assessment has been done, given that the site is not earmarked as a CBA (although fauna do make use of ecological corridors provided by riverine systems, which is another reason why the riverine system is proposed to be incorporated into the propose Public Open Space area), however there are many measures contained as environmental specifications in the EMPr which have been included to ensure minimal harm to local fauna during all phases of the proposed development. Furthermore, the EMPr suggests that a search and rescue for bulbs be carried out prior to commencement of construction works (and as per an approved Landscape Masterplan). These bulbs are recommended to be re-planted within the proposed Public Open Spaces of the proposed development.</p> <p>The impacts on fauna have been assessed and is based on conclusions drawn from a variety of sources. The site is not located within an Important Bird Area and there is a National Park nearby, where it is anticipated that many of the larger bird species which currently use the site for shelter or foraging would be able to make use of. The site is also not located in a terrestrial CBA, noting that it is located in some aquatic CESA and OESA. There is also a large area of Erf 212 which would be retained as Public Open Space, which would still provide habitat for local fauna, therefore there would not be a complete loss of habitat. Furthermore, many of the faunal species identified in Day (2019) are</p> |

proposed development would be designed, constructed and managed.

**184. There is no direct access to Erf 212 for claimants, who used to use it a lot.**

Although the initial development alternative did not have direct access to Erf 212, this has been revised to yield the preferred development alternative which does provide direct access to Erf 212 and the spring.

**185. Loss of arboretum/ large area currently used by the public and is important to Capetonians/I&APs against the loss of the freshwater system and forest. Queries around the loss of the arboretum and a “space used by many Capetonians”.**

The proposal is aligned with local spatial planning intentions (the site has been designated in the plans for medium density housing). The land restitution process for these erven began in 1995, hence this knowledge has been in the public realm for some time. The success of this land claim has contributed to redressing historic social injustice in South Africa. The land claim itself has followed due process, with it even being tested in court and ultimately remaining in force. The culmination of the land claim has resulted in an area of approximately 12.29 hectares being returned to the Protea Village Community, comprising Erf 212 and 242, Bishops court.

This represents ± 43% of the 28.4 hectares of the land lost and claimed by the community. Despite this, approximately 4.21 hectares of Erf 212 would be rezoned to Open Space 2 for use as public open space by residents of and visitors to the City of Cape Town. Thus, the Protea Village Community would utilise approximately 8.08 hectares for development and resettlement purposes, which represents ± 30.99% of the land that was dispossessed.

The proposed Public Open Space also holds importance to the Protea Village community and the approximately 4.21 hectares of Erf 212 which is proposed as such accounts for over a third (± 34.26%)

associated with the riparian zone, which would be retained and maintained through the proposed Public Open Space area, therefore a habitat would still exist (albeit to a smaller extent than present-day) for such species. This would also serve to respond to the sustainability of the CESA and OESA. The habitat would still be able to support some fauna provided that the sustainability thereof is maintained, and the assessment and mitigation measures in Day (2019) have been included such that the sustainability of the freshwater ecosystem would be sustained. At present, some ground-dwelling fauna would be disturbed by people and their pets who use the site recreationally. The prolific use of the site by people for recreation is corroborated through many I&AP comments which state this. Tree-dwelling species may be less affected by the pedestrian traffic as certain species of predatory birds have been known to roost and/or nest in areas where public access occurs (two examples include the owl pair in Kirstenbosch National Botanical Gardens, as well as a nesting pair with owlets which were located in a the Noordhoek Common in late 2019/early 2020).

**193. Would there be loss of owl nests?**

This cannot be said for certain, however the EMPr makes provision for the approach to be taken when identifying and managing the presence of nests in order to ensure protection of these specimens.

of the land returned to the Protea Village community. This figure demonstrates the importance of retaining open space within the proposed development layout to the Protea Village community.

With respect to the freshwater system, the impacts and baseline condition of the Liesbeek River have been assessed and included in the Freshwater Impact Assessment (refer to Appendix G(c)) of the BAR). Measures have been incorporated into the proposal to provide for the ongoing sustainability of the system.

**186. The Hill and impact of the proposal on the parking and drop-off/collection of their students as their parents use some of Erf 212 for parking.**

A solution to potentially formalise parking within the vicinity of the proposed development for usage by the Hill has been investigated by the project team and engagement with the Hill has been undertaken as part of this process.

This request has been investigated and the implication of opportunity cost to the Protea Village Community would be too high, if parking were provided through this proposal, on land which has been returned to the Protea Village Community. The Protea Village community would have to relinquish a meaningful portion of their land which would undermine the return on their investment.

It should be noted that a place of instruction such as the Hill should have on-site parking and drop-off facilities as required by the Municipality's Development Management Scheme. Furthermore, alternative suggestions have been devised by the project team and provided to the Hill.

**187. It has been suggested that an integrated pathway system be provided which reflects current desire lines. Please clarify the rationale for locating the proposed lines as they are and also comment on why the proposal in Figure 1 can only be fulfilled in part.**  
Most of the current desire lines are along the streams and these

would be retained in the same general location. Existing paths that cross the site and hinder a sensible and cost-effective layout would not be retained, but alternative routes are generally available.

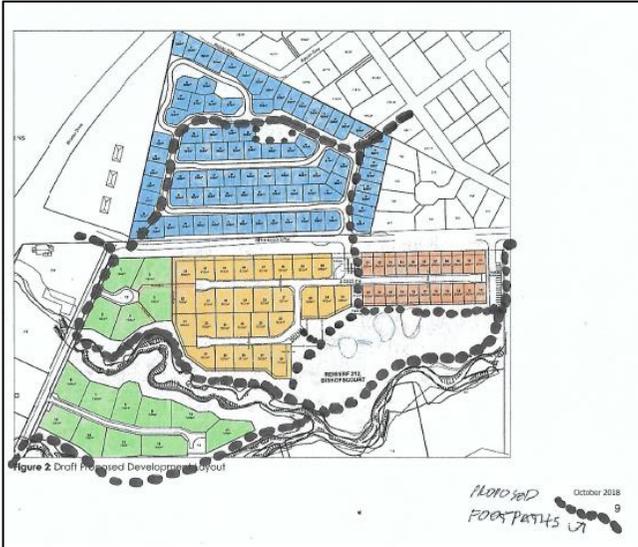


Figure 1 Pathways suggested by I&AP

The roads on Erf 242 would be zoned Public Road and could thus be used by pedestrians as walk paths, bearing in mind that a singular access point to Erf 242 would be provided on Kirstenbosch Drive.

188. **Details of an adjacent landowner's request:** Draw a section that spans our property, Protea Stream and Erf 212 (through the proposed portion 9 and 12). We would like to engage directly with the relevant members of the professional team in that regard in particular to understand the location of the top of the river bank from which the 15m setback is to be determined, and the location of the trees within the river corridor and on the proposed property (this was offered to them at the Open House by a team member). And other suggestions.

To clarify, kindly note that, at the Open House, it was explained to the I&APs that it is technically possible to prepare a cross section from their house to assess the implications for their property, and based on this they could consider an appropriate landscaping strategy on their property to screen the view (Steenberg golf estate was cited as an example). Furthermore, the team member at the Open House advised that they should engage a land surveyor to take measurements of the levels of their plot and house so that accurate information can be obtained. Their land surveyor can then prepare a cross section on your side of the river. Once this has been done the Protea Village professional team can add cross section details for the Protea Village side of the river. Based on this cross section the I&AP could then engage a landscape architect or horticulturalist to advise them on screen planting. Note that no offer was extended by this project team to compile the aforementioned survey and cross-section on their property as part of this project and Basic Assessment process. A response to this effect was submitted to the I&AP in March 2019.

189. • **Redesigning the proposed layout by moving the turning circle as indicated in Figure 2.**

This is part of Phase 2 of the proposed development and is not the subject of this Basic Assessment process and associated application for Environmental Authorisation. However, the *cul de sac* needs to be at the end of the road for reasons of good traffic management and stormwater management. This section is, however, part of Phase 2 of the proposal and is not the subject of the current application. Issues pertaining to Phase 2 would be dealt with when the necessary statutory processes are initiated.



Figure 2 Relocation of Circle as suggested by I&AP

190. • **Alternatively, limiting the permitted height on Portion 12 to one storey – we understand that this may limit the marketability of Portion 12 and would be prepared to consider a financial contribution to the development to offset this in exchange for a title deed condition limiting the height on portion 12 being imposed on that portion, in our favour;**

It is not desirable to limit the marketability of these erven as this would impact directly and negatively on the funds available to build houses for the claimants. This section is, however, part of Phase 2 of the proposal and is not the subject of the current application. Issues pertaining to Phase 2 would be dealt with when the necessary statutory processes are initiated.

191. • **Further planting of large trees along the southern boundary of portion 12 and within the river corridor to replace the proposed removal of the poplar and other trees in this area.**

Yes, new trees would be planted in that area in accordance with a Landscape Masterplan (which would be guided by the Landscaping Intent in Appendix L of the BAR). It is anticipated that the trees in that area would be the 100l bag size.

Design

BA Process/ General Impacts

**194. Would rainwater and grey water harvesting tanks be incorporated into the design/ Architectural Design Guidelines? As well as other sustainable design aspects- please provide me with some examples.**

It is recommended that the design of each house carefully considers various suitability concepts including water and electricity, in the interests of energy and resource efficiency. Incorporating water harvesting into the house design is recommended and should be carefully considered by each homeowner on Erf 212, Bishopscourt and incorporated into the building design, particularly for maintaining private gardens. The Architectural Guidelines would also enforce the use of energy efficient lighting and other electrical equipment, as well as the introduction of water harvesting, where possible, to maintain private gardens. These recommendations are envisaged as part of the Architectural Design Guidelines for the various homes to be built on Erf 212, Bishopscourt and have been incorporated into the EMPr.

The Architectural Design Guidelines would be enforced by the MPOA.

**195. Request for pedestrian/ NMT access from Boshof Avenue via the Boshof Avenue servitude.**

A stormwater servitude providing for an overland stormwater escape, as required by the City of Cape Town, would be registered over the proposed Public Open Space area between portions 17 and 18 on Erf 242, which would feed into the existing Boshof Avenue servitude to the north-east of Erf 242. This does not provide sufficient width to provide for a pedestrian/NMT access from Boshof Avenue into Erf 242.

It must also be noted that from a safety, security, and control perspective the Protea Village community are in favour of one access point into Erf 242 on Kirstenbosch Drive.

**196. Would there be pedestrian access from Appian Way, and would claimants be able to park along Appian Way?**

**210. Historic engagement with Bethel, the Protea Village Community, and the communities around the site.**

In the spirit of transparency, the Applicant was invited by local ratepayers' associations to provide feedback on the land claim and associated process at their AGMs on preliminary/ high-level concepts. Subsequent to this, this BA process has made use of contemporary data on the site and market to refine the proposal. During the initial engagement with local communities (which was initiated outside of any particular legally required process), it was pointed out that the necessary land use/ planning process would be followed. This Basic Assessment process is part of the steps which the Protea Village community must take to obtain land use rights.

**211. Reference to Bethel's website and experience**

Please note that anything on Bethel's website is not part of this Basic Assessment process and no comment or response would be delivered thereon in terms of this process.

**212. How the NMA study has been considered and incorporated into this proposal and process.**

An environmental and technical feasibility study was conducted by NM & Associates, which culminated in a report dated January 2004. This report was essentially a contextual analysis of the opportunities and constraints of the site, which provided a contextual analysis and some preliminary design guidelines. There was no business plan and proposal at the time, which is stressed throughout the report, and it was a high level study done for the City of Cape Town, not the Protea Village community. The report did not consider the economics of the restitution project.

Information from that study is now largely outdated and the findings have been updated, where required, for this Basic Assessment process. The site informants from the 2004 NM & Associates study have also been considered and updated for this process.

From a safety, security, and control perspective the Protea Village community are in favour of one access point into Erf 242 on Kirstenbosch Drive. Thus, no access to Erf 242 is planned from Appian Way.

**197. Have different types of housing for different claimants been considered (have you made any provision for a mixed development for the Protea village community, according to affordability levels?)**

Note that each of the 86 families would be provided with a house of equal value, extent, and design. Given the individual families are not purchasing the house, but rather raising funds through the business case as previously described for the proposed development, there is no need to consider any potential disparities in wealth amongst Protea Village community members.

**198. Please add a children's play area with park/jungle gym equipment (e.g. bench and swings) in one of the open spaces.**

All areas designated for Public Open Space on Erf 212 and 242, Bishopscourt would be rezoned to Open Space 2 and would be owned by the City of Cape Town. It should be noted that any amenities and "hard landscaping elements" for these public open space areas must be agreed to by the City of Cape Town Parks department and approved as part of the Landscape Masterplan. However, an environmental specification has been included in the EMPr which requires the planning team to raise this issue with the City of Cape Town Parks department at the relevant point (i.e. detailed design) in the process.

**199. Please explain the rationale behind the proposed boundary treatment of Appian Way.**

The images presented in the Basic Assessment indicate the proposed wall and fence boundary treatment for the boundary of Erf 242 alongside Appian Way. In addition, the indicative landscape plan indicates the proposed planting along this boundary.

This Basic Assessment process (as well as the land use planning process, which is being undertaken by the town planners in parallel with this process) takes into account the most recent information thereby considering and weighing up the needs of the Protea Village community, current environmental baseline, and present status of the market.

The project team has these documents and has utilised them as a point of departure for the proposed development. However, please note that this documentation has been made publicly available as part of a previous and separate process and comments and responses on this documentation is not be included in the Basic Assessment Report.

**213. What alternatives were there? Where were they assessed?**

The preferred development proposal as well as a development alternative and the no-go alternative have been formally assessed. Notwithstanding, numerous iterations have been considered and scoped out in response to various specialist and I&AP inputs. These are discussed in the "Alternatives" section in BAR.

**214. What is the population pyramid structure and demographic details for the 86 Protea Village community members?**

The Protea Village Community originates from the 86 families over four generations living in Cape Town, South Africa and Internationally. Like any community, the Protea Village Community is diverse in its skills, its education, and its wealth. More information in this regard is included in the Basic Assessment Report.

Currently the boundary with Appian Way has a low fence with vistas into the undeveloped Erf 242. The proposal is to erect a wall approximately 2.1m high along most of the erf boundary, however boundary treatment would be a combination of visually permeable fencing and walls, subject to detail design. The planting of trees and shrubs in the remaining road reserve in Appian Way is suggested to soften the visual impact of the proposed wall.

**200. Confirm that Appian Way is to remain a *cul de sac*.**

From a safety, security, and control perspective the Protea Village community are in favour of one access point into Erf 242 on Kirstenbosch Drive. Thus, no access to Erf 242 is planned from Appian Way.

**201. Is further engagement with specific adjacent landowners possible during detailed design phase?**

Engagement with specific adjacent landowners as identified focus groups for the project has been undertaken as part of the public participation process. Public participation engagement would continue with all registered I&AP's as part of the Basic Assessment process.

During detailed design phase, post-building plan approval, where there is common property, engagement would be initiated with the affected stakeholders.

**202. Design: How has the design created minimal hard surfaces?**

The proposal design would create minimal hard surfaces through limiting the road design to the minimum widths to limit the amount of hard surface. A swale would be used nearby the proposed public parking area to improve infiltration.

**Architectural Design Guidelines:**

**203. Drafting and timing of the architectural guidelines.**

The Architectural Design Guidelines would be compiled in general accordance with the images presented in the BAR. These guidelines

would be finalised during the detailed design phase, which would be subsequent to the decision on this application. However, it is important to note that no development would exceed the rights and limitations imposed by the Municipality's Development Management Scheme and any conditions of EA imposed (if approved).

204. Provisions need to be explicit and must address the critical design elements that impact the look, feel and performance of the collective structures. Elements often addressed include length, width, height, proportions, openings, roof pitch, materials, colours, spatial relations, streetscape, etc. A focus on "colours and textures of buildings" as mentioned in the public document is, of course, only a beginning.

Agreed, the above-mentioned comments / principles would without a doubt form part of the Architectural Design Guidelines at time when the document is developed in detail.

205. What aspects of the built environment would be addressed?

The project approach is all encompassing and would include all aspects of the built environment. A great number of disciplines are represented in the professional team for the proposed development, which are all working towards an integrated project.

206. Who would develop the Architectural Design Guidelines?

The Protea Village Architectural Design Guidelines would be developed by the appointed project professional team on behalf of the Protea Village CPA.

207. Boogertman & Partners website is extensive and yet reflects no practice in residential architecture whatsoever.

Boogertman + Partners has extensive experience in residential estates and architecture and more than 35 years of experience overall. Some of the most distinguished projects include Val de Vie residential estate in Paarl and Steyn City in Johannesburg.

208. Who would monitor and manage the Architectural Design Guidelines over time?

The Protea Village Architectural Design Guidelines would be monitored and managed by the Protea Village Master Property

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| <p>Owners' Association (MPOA) and enforced in accordance with the Constitution of the MPOA.</p> <p>209. Good architecture, whether modest or grand, is <u>thoughtful</u>, <u>functional</u>, and <u>well detailed</u>. It would be disappointing if this marvellous project does not achieve all that it could: good, tight, thoughtful, disciplined, elegant, well-detailed design. Good design is not necessarily expensive. How would these principles be incorporated into the proposed architectural guidelines?</p> <p>Quality, responsive, human-centred design is at the core of the architectural approach applied to the proposed development. It is the aim of the team to produce a well-integrated and contextually appropriate product. A contextual analysis of the surrounding neighbourhoods has revealed various architectural responses that would inform the design process going forward. The architectural language that would be captured in the guidelines would both respect and celebrate the built and natural environment that makes up the context of the proposed development.</p> |   |
| <p><b>Kirstenbosch Botanical Gardens/ Stone Cottages/ Craft Market</b></p>   | <p><b>Interested Developers/ Estate Agents</b></p>  |
| <p><b>215. Some I&amp;APs believe that there would be a negative impact on Kirstenbosch Gardens and tourism.</b></p> <p>The proposal is not anticipated to have an adverse effect on Kirstenbosch Botanical Gardens and its visitors who access it via Rhodes Drive.</p> <p>Although not part of this Basic Assessment process, it should be noted that, given the future plans to convert the stone cottages (visible from Rhodes Drive), into something beneficial for both SANBI and the Protea Village community, there would potentially be further opportunity for visitors to Kirstenbosch Botanical Gardens. The land on which the Stone Cottages are located is currently used to provide some parking for events held at Kirstenbosch. This, along with the Kirstenbosch Craft Market and other events, will be considered when the business plan is drafted, which will be beneficial to both SANBI and the Protea Village Community.</p>   | <p><b>220. Certain queries were submitted where I&amp;APs showed an interest in buying (or assisting with sales) for proposed development on Erf 212.</b></p> <p>On behalf of the Protea Village Community, who are the developers of the project (and owners of the Development Company), Bethel Partners has received and noted such contact details submitted in this process and would take this matter forward in the appropriate manner. However, any engagement in this regard would occur outside of this Basic Assessment process.</p> |

The same would apply for a commemoration at the spring which would allow visitors and tourists to engage more deeply with the local history.

**216. Please explain the situation regarding the Stone Cottage in terms of their role/fate in the land claim.**

The Stone Cottages are located on land that forms part of the Cecil John Rhodes Estate, which cannot be alienated. There is currently a lease over the land in favour of SANBI. The Memorandum of Agreement (MOA), concluded in support of the settlement of the land claim, states that the Protea Village CPA and SANBI should draft a business plan for the land on which the Stone Cottages are located, which business plan would be beneficial to both parties. This is not, however, part of this process and would be initiated at a later stage.

**217. Where would people park if there is a big event at the stone cottages?**

The land on which the Stone Cottages are located is currently used to provide some parking for events held at Kirstenbosch. This would be considered when the business plan is drafted, which would be beneficial to both SANBI and the Protea Village Community.

**218. What arrangements have been made for an alternative site for the Kirstenbosch Craft Market and other events?**

The business plan which would be drafted for the use of the land on which the Stone Cottages are located, must be beneficial to both SANBI and the Protea Village Community, and would thus take the Kirstenbosch Craft Market and other events into account. This would, however, take place outside of this Basic Assessment process.

**219. Please provide a bit more detail on the history of the stone cottages and how they were utilised by the Protea Village community.**

The three Stegmann's stone cottages which exist today were originally built as 6 semi-detached structures in 1913 and were

occupied at times by people working at Kirstenbosch (Hart, 2019). There were also 3 "rondawels", since demolished (Katherine Gribble, Kirstenbosch Botanical Gardens *pers comms*) (Hart, 2019).

Note that the stone cottages are not part of the proposed development.