IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 8866/21

In the matter between:

BUSINESS VENTURE INVESTMENTS 900 (PTY) LTD	Plaintiff
and	
CITY OF EKURHULENI METROPOLITAN MUNICIPALITY	First Defendant
MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT	Second Defendant

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FIRST DEFENDANT'S ADJUSTED PLEA IN TERMS OF RULE 28(8)

The First Defendant pleads to the Plaintiff's Particulars of Claim as set out hereunder.

1. **AD PARAGRAPHS 1 – 2**

   The contents hereof are admitted.

2. **AD PARAGRAPHS 3 – 3.1**

   The contents hereof are admitted.

3. **AD SUBPARAGRAPHS 3.2; 3.3; 3.4 and 3.5**

3.1 It is admitted that the First Defendant has expropriated the Plaintiff's property, in terms of the notice of expropriation, published in the Provincial Government Gazette of 6 February 2019. It is correct that the expropriation was carried out in terms of Section 9 (3) of the Housing Act 107 of 1997 ("the Housing Act"), read with Section 25 of the Constitution of the Republic of South Africa, and the Expropriation Act 63 of 1975 ("the Expropriation Act").

3.2 The First Defendant pleads that on a proper construction and interpretation of Section 25 of the Constitution, the State, of which the First Defendant is, in appropriate circumstances, when expropriating for a public purpose or in the public interest, may not offer compensation, or the compensation offered may be Nil compensation.

3.3 What this means in simpler terms is that in appropriate circumstances such as in this matter, the State may expropriate without compensation, because the effect of a Nil compensation is tantamount to no compensation.

3.4 It is denied that the Expropriation Act entitles the Plaintiff, as the owner of the expropriated property, to compensation.

3.5 The Plaintiff understands compensation to mean a monetary compensation or compensation with monetary value and based on a market value of the property on a willing seller- willing buyer basis.

3.6 To the extent that it is so, or it is found that the Expropriation Act obliges the State to pay compensation of monetary value and/or of a market related value of the expropriated property, then it is pleaded that the Expropriation Act is unconstitutional and invalid, as it is in conflict with Section 25 of the Constitution and should be struck down as unconstitutional and invalid as prayed for in the counter - claim foreshadowed hereunder. To this effect, the Minister of Agriculture, Land Reform and Rural Development is cited herein as the Second Defendant for purposes of the constitutional challenge.

4. **AD PARAGRAPH 4.1**

4.1 It is correct that the Plaintiff and the First Defendant did not agree on the amount of compensation, because the First Defendant's contention is that on the facts and circumstances of this expropriation, the nature of the property, the intended use, what the Plaintiff used it for, and what it intended to use it for, the history of the property, when and how it was acquired by the Plaintiff, and the purchase price paid if it was acquired through purchase, the Plaintiff is entitled to a Nil compensation, or that the First Defendant was lawfully permitted to expropriate the property without compensation.

4.2 It is therefore denied that the Plaintiff was entitled to compensation beyond what was offered by the First Defendant.

5. **AD PARAGRAPH 4.2**

5.1 It is so that Section 14 (1) of the Expropriation Act confers jurisdiction on the court to adjudicate the dispute where the parties do not agree on the compensation.

5.2 The First Defendant admits to the jurisdiction of this court. This court is also empowered to determine first, whether or not the Plaintiff is entitled to compensation before it could consider the compensation amount the Plaintiff may be entitled to, if any.

5.3 The First Defendant pleads that Section 25(2)(b) of the Constitution cannot be read in isolation with Section 25(3) of the Constitution.

5.4 If the court finds that there is no compensation to be paid to the Plaintiff, then it is the end of the matter. If the court finds that there is some compensation to be paid to the Plaintiff, then it would explain the basis for such finding and the calculation of the compensation.

5.5 It will also determine whether it should be market related based on willing buyer - willing seller principle or based on some other constitutional rationale.

5.6 In the result, should the court conclude that the compensation entitlement arises from the Expropriation Act, then in that event, as

pleaded, the Expropriation Act is inconsistent with Section 25 of the Constitution, and therefore unconstitutional and invalid.

5.7 The court will be called upon, as pleaded in the counter-claim hereunder, to rule that the Expropriation Act is unconstitutional and should be struck down as such by the court.

5.8 However, the First Defendant pleads that a proper reading of Sections 10(4) and 12 (1) of the Expropriation Act read with Section 25 of the Constitution permit, in appropriate circumstances and in appropriate cases, taking into account the factors set out in Section 25(3) of the Constitution, a Nil compensation.

6. **AD PARAGRAPH 5**

It is denied that the Plaintiff is entitled to compensation of not less than R30 055 000,00. Firstly, this amount is way above the market value of the property, based on a willing seller - willing buyer basis. Secondly, the amount is inflated. Thirdly, the amount is in conflict with Section 25(3) of the Constitution.

7. **AD SUBPARAGRAPHS 5.1 – 5.2**

7.1 The contents of these subparagraphs are denied. It is denied that a willing buyer would have paid a willing seller in the open market on the date of the notice of expropriation, an amount not less than R30 000 000,00.

7.2 Section 12 of the Expropriation Act does not entitle the Plaintiff with the compensation based on the market value of the property and on a willing buyer - willing seller basis. If it does, then, Section 12 of the Expropriation Act is unconstitutional and invalid.

8. **AD PARAGRAPHS 6 – 6A**

8.1 The contents of these paragraphs are denied. The amount of R30 055 000,00 is not just and equitable in terms of Section 25 of the Constitution. It is inflated and unjustified, unfair to the State and the public purse and ignores the purpose of the expropriation in Section 25(2) of the Constitution, which is for the public purpose and in the public interest. Further, it ignores the factors postulated in Section 25(3) of the Constitution.

8.2 A market value of the property is not an entry point or superior factor or overwhelming factor nor a decisive factor to any of the factors listed in Section 25(3) of the Constitution, including other relevant factors or circumstances not specifically mentioned in the said provision given the open-endedness of its subsection.

8.3 What Section 25 of the Constitution requires is the payment of just and equitable compensation and not a market value.

8.4 In considering the purpose of expropriating the property in question, the First Defendant had regard to the following legal issues confronting it:

8.4.1 That there is a clear public interest in housing the landless and the marginalized currently residing in informal settlements within the area of the First Defendant;

8.4.2 That the expropriated property is being expropriated for a public purpose, namely provisions of social housing to residents of informal settlements within the area of the First Defendant;

8.4.3 That any monies required by owners of unused properties kept for speculative purposes, ultimately emanate from the public purse which in the First Defendant's case is already strained by the cost of half a billion rand yearly expenditure on the provision of temporary services in informal settlement. And as such, it would not be just and equitable to compensate owners of unused land held for speculative purposes handsomely, the object of Section 25 of the Constitution is not to reward property speculators;

8.4.4 That a Bill of Rights value judgment is to be made when dealing with the purpose of the expropriation in determining what is a just and equitable compensation;

8.4.5 That the rate payers and the First Defendant's finances must not be frustrated by unjustifiable compensation claims in respect of unused land held for speculative purposes;

8.4.6 That the purpose of expropriation must be viewed in the context of the First Defendant's social and political history which created an acute socio-economic disaster of unequal spatial development planning and the creation of the urban poor residing in informal settlement due to landlessness;

8.4.7 It is the purpose of expropriation which ultimately guards against the question of just and equitable compensation being left to market forces, particularly in respect of compensation for unused land held for speculative purposes; and

8.4.8 That giving effect to the purpose of expropriation being the provision of social housing, regard must be had to the gross inequality in relation to health and access to land resources by the residents of informal settlements and their continuing disastrous conditions.

8.5 The First Defendant pleads that the purpose of expropriation enquiry is not mathematical or formulae based but rather it is value based, considering the purpose to be achieved by the expropriation and substantive issues of social justice and the fulfillment of rights in the Bill of Rights.

8.6 Therefore, the First Defendant pleads that the amount of zero compensation is just and equitable under the circumstances.

9. **AD PARAGRAPH 7.1**

The contents of this paragraph are admitted.

10. **AD PARAGRAPH 7.2.**

10.1 It is pleaded that Section 12 of the Expropriation Act is unconstitutional and invalid. As such, no interest can be levied on the strength of it.

10.2 Accordingly, the contents of this paragraph are denied.

WHEREFORE, the Plaintiff's claim should be dismissed with costs inclusive of costs of two Counsel.

THE FIRST DEFENDANT'S COUNTER CLAIM

1. The Plaintiff in reconvention is the First Defendant in convention.

2. The First Defendant in reconvention is the Plaintiff in convention.

3. The parties are referred to as in convention.

4. The Minister of Agriculture, Land Reform and Rural Development is cited in the counter-claim as the Second Defendant and joined as such in terms of Rule 10A of the Uniform Rules of Court because of the constitutional challenge of the Expropriation Act, a legislation which resides under the administration of the Minister. A Rule 10A notice accompanies this counter-claim and was served accordingly on the State Attorney to this effect.

5. A Rule 16A is also issued calling upon interested parties to participate as *amici* if they so wish.

6. The Minister is served care of the State Attorney, 10th Floor, North State Building, 95 Albertina Sisulu Street, Johannesburg and is joined as the Second Defendant in terms of Rule 10A as the National Executive Authority responsible for the administration of the Expropriation Act.

7. The First Defendant (Municipality) repeats paragraphs 3.1 to 3.6; 4.1 and 4.2; 5.1 to 5.7; 7.1 and 7.2; and 8 of the plea hereinabove and prays that they be read as if herein incorporated. A copy of the offer dated 17 April 2020, from the First Defendant to the Plaintiff is annexed hereto and marked as **Annexure "A"**. The contents of annexure "A" must be read as if herein specifically incorporated.

8. Section 12(1)(a)(i), of the Expropriation Act is inconsistent with Section 25(3) of the Constitution and thus unconstitutional.

9. The provision of Section 12(1)(a)(i) requires the First Defendant to offer the amount which the property would have realized if sold on the date of the notice in the open market by a willing Seller to a willing Buyer.

10. To the contrary, Section 25 of the Constitution postulates a just and equitable compensation, taking into account the factors in Section 25(3) and the purpose of expropriation in Section 25(2) of the Constitution.

11. Section 25 of the Constitution does not oblige the State to pay a market value nor a price based on a willing seller - willing buyer principle in the open market. Properly construed, Section 25 of the Constitution permits Nil compensation in appropriate cases and/or expropriation without compensation in other appropriate circumstances taking into account all factors listed in Section 25 (3) which are not exhaustive.

12. The Expropriation Act is at odds with the Constitution and should be struck down as unconstitutional. It serves no legitimate purpose. Any law that is inconsistent with the Constitution as contemplated by Section 2 of the Constitution is invalid.

13. The obligations imposed by the Constitution must be fulfilled. The Expropriation Act is also in conflict with Sections 1(c); 3(1)(2); 7; 8; 9; 10; 12 and 24 of the Constitution.

14. Further, the Expropriation Act infringes on the rights of the vulnerable groups of society, the poor and the landless, the historically disadvantaged population of the society who, due to past discriminatory laws, are landless, homeless and largely unemployed and who, by and large, are dependent on the State to provide housing for purposes of Section 26 of the Constitution, a healthy environment to the needy and the vulnerable by providing accommodation that enable the State to provide water and sanitation in an environment where they enjoy security of tenure, housing which gives them dignity and services which the State is obliged to provide on an equal and equitable basis irrespective of their status in society, an environment which offers them freedom and security and for their children to play safely and receive education.

15. The State should provide and fulfill these rights within its available means and resources. Expropriation of property on a market related value and on willing seller-willing buyer is beyond the means of the State, thus making the fulfilment of the rights in Section 26 of the Constitution an illusion.

16. Accordingly, the Expropriation Act is unconstitutional and invalid.

17. The offer made by the First Defendant to the Plaintiff is just and equitable in terms of Section 25 of the Constitution.

WHEREFORE, the First Defendant prays for relief in the following terms:

a) It is declared that the Expropriation Act 63 of 1975 is unconstitutional and invalid;

b) Alternatively, it is declared that Section 12 of the Expropriation Act 63 of 1975 is unconstitutional and invalid.

c) Parliament is afforded 24 months to remedy the defect in the impugned legislation;

d) In terms of Section 172(1)(b) of the Constitution, the court fashion a just and equitable remedy including the reading in and or reading down of words in the legislation during the period of 24 months when Parliament is required to remedy the defect aforesaid;

e) It is declared that the First Defendant's offer as contained in the offer dated 17 April 2020, is just and equitable in terms of Section 25 of the Constitution.

f) Costs including costs of two Counsel in respect of opposition of the relief herein.

DATED AT SANDTON ON THIS THE 14th DAY OF JULY 2021.

JOHN MASHIANE
First Defendant's Attorney with the right of appearance in the High Court in terms of Section 4(2) of Act 62 of 1995.

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TO:
THE REGISTRAR OF THE ABOVE HONOURABLE COURT
JOHANNESBURG

AND TO:
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Service By Email

AND TO:
THE STATE ATTORNEY
Second Defendant's Representative
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Johannesburg

Received a copy hereof on this
the day of July 2021

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For: Second Defendant's Representative

"ANNEXURE A"

OFFICE OF THE CITY MANAGER

To: MacRobert Incorporated
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Email: avniekerk@macrobert.co.za

From: Dr M I Mashazi
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Date: 17 April 2020

AN OFFER: PORTION 406 OF THE FARM DRIEFONTEIN 85 IR

1. INTRODUCTORY REMARKS

1.1. I refer to the settlement agreement between the parties which compelled the City of Ekurhuleni Metropolitan Municipality ("CEMM") to make an offer pertaining to the expropriated property, namely portion 406 of the farm Driefontein 85 IR ("property"). The settlement agreement concluded between the parties is attached hereto and marked as **Annexure ("CEMM1")**. It was agreed that an offer will be made by the CEMM on or before 17 April 2020 and that at an appropriate time, either party is entitled to make the aforementioned settlement agreement an order of court.

1.2. In compliance with the settlement agreement and the expropriation regulatory framework exploited fully hereunder, the CEMM records herein its offer for just and equitable compensation informed by substantive and yet non-exhaustive grounds. In making the offer for just and equitable compensation, the CEMM adopted the following structure:

1.2.1. Brief factual background surrounding the Notice of Expropriation;

1.2.2. Owner's offer for compensation through a written statement dated 8 April 2019;

1.2.3. CEMM's response to the owner's offer;

1.2.4. CEMM's substantive grounds for offering a just and equitable compensation; and

1.2.5. Conclusion.

2. BRIEF FACTUAL BACKGROUND SURROUNDING THE NOTICE OF EXPROPRIATION

2.1. On 6 February 2019, the CEMM issued a Notice of Expropriation (No 1 – 2019) expropriating portion 406 of the farm Driefontein 85 IR ("expropriated property") owned by Business Venture Investments No. 900 (Pty) Ltd ("owner"). The property was for all intents and purposes expropriated on 30 April 2019, and thus by operation of law, ownership passed from the owner (Business Venture Investments No. 900 (Pty) Ltd) to the CEMM on the same date. The CEMM has been in lawful possession and ownership of the property since the date of expropriation. The original title deed for the expropriated property was delivered by the owner to the CEMM. A copy of the title deed is attached hereto and marked as **Annexure ("CEMM 2")**.

2.2. Of importance, the Notice was issued in terms of the laws of general application, namely Section 9(3) of the Housing Act 107 of 1997 ("Housing Act") read with the relevant provisions of the Expropriation Act 63 of 1975

("Expropriation Act"). The Notice is attached hereto and marked as **Annexure ("CEMM3")**. Although the legality of the Notice is not in dispute, it is important to briefly outline that the Notice was issued in compliance with the provisions of Section 9 of the Housing Act. On 21 November 2018, the CEMM obtained prior approval from the MEC of Housing to expropriate the property. The MEC's requisite approval is attached hereto and marked as **Annexure ("CEMM4")**. Further, the Notice was published within the required six month-period of the date on which the permission of the MEC was granted.

2.3. The CEMM's offer for just and equitable compensation and the property owner's offer for compensation is so far apart that the expropriated property could not be purchased through negotiations in the normal course.

3. THE OWNER'S OFFER THROUGH A WRITTEN STATEMENT DATED 8 APRIL 2019

3.1. Since the offer for compensation was not contained in the Notice, the owner was advised of its rights in terms of Section 9 of the Expropriation Act 63 of 1975 ("Expropriation Act"). Section 9 of the Expropriation Act provides that "an owner whose property has been expropriated in terms of this Act, shall within 60 days from the date of the notice in question deliver a written statement indicating – (*inter alia*) (b) if no such Compensation was offered, the amount claimed as compensation by him and how much of that amount represents each of the respective amounts contemplated in Section 12(1)(a)(i) and (ii) or (b) and full particulars as to how such amounts are made up".

3.2. On 8 April 2019 and as advised in the Notice, the owner duly submitted its written statement in terms of Section 9 (1)(b) of the Expropriation Act. The

Section 9(1)(b) written statement is attached herein and marked as **Annexure ("CEMM5")**.

3.3. In terms of paragraphs 8 – 12 of the owner's written statement, the owner claims compensation for the amount in the sum of R30 050 000.00 **(Thirty Million and Fifty Thousand Rand)**.

4. THE CEMM'S RESPONSE TO THE OWNER'S OFFER

4.1. In response to the owner's offer, the CEMM records herein that it rejects the owner's claim and is not prepared to pay the claimed amount as compensation, as it is of the view that the said amount does not constitute a just and equitable compensation envisaged in Section 25 of the Constitution, 1996.

4.2. The provision of Section 10(4) of the Expropriation Act (offers of compensation) provides that "if an owner has in terms of Section 9(1) indicated what amount is claimed by him as compensation and has furnished the relevant information in terms of Section 9 and the Minister is not prepared to pay that amount as compensation, the Minister shall within a reasonable period offer him an amount as compensation and indicate how much of that amount represents each of the respective amounts contemplated in Section 12(1)(a)(i) and (ii) or (b) and furnish full particulars as to how such amounts are made up.

4.3. There can be little doubt that the provision of Section 9(3) of the Housing Act, being the expropriating legislation, empowers the City Manager in his/her capacity as the Chief Executive Officer or the Accounting Officer to make the

offer for compensation as contemplated in Section 10 (4) of the Expropriation Act, as the word Minister must be construed as referring to the Chief Executive Officer of the relevant Municipality.

4.4. For reasons fully stated hereunder, the CEMM offers Nil compensation being the sum in the amount of R0.00 (Zero Rand). Consequently, the CEMM shall provide hereunder substantive and yet non-exhaustive grounds for making an offer of Nil compensation as a just and equitable compensation.

4.5. In terms of Sections 10(4) and 12(1) of the Expropriation Act read with Section 25 of the Constitution 1996, the CEMM offers Nil compensation being the sum in the amount of R0.00 ("Zero Rand").

5. CEMM'S SUBSTANTIVE GROUNDS FOR OFFERING NIL COMPENSATION AS A JUST AND EQUITABLE COMPENSATION

5.1. As a starting point, it is of immense importance to provide the CEMM's position in respect of matters raised in the owner's offer for compensation dated 8 April 2019. In doing so, the CEMM states as follows:

5.1.1. The CEMM notes the information provided by the owner at paragraphs 9 – 12 of the written statement. The CEMM's view in respect of the said paragraphs is that it is fully in agreement with the owner that indeed the property is vacant. As a matter of fact, the property has been vacant for over 30 years;

5.1.2. Further, the CEMM is fully in agreement with the owner that there are no improvements on the property. The CEMM's position is that there has not been any improvement on the property for over 30 years;

5.1.3. The CEMM disputes the owner's version that there is a security fence surrounding the property. The CEMM's position is that there are remnants of what used to be a security fence scattered around the property;

5.1.4. The CEMM is fully in agreement with the owner that the property is currently unoccupied. The CEMM's position is that the property has not been occupied for over 30 years;

5.1.5. The CEMM accepts the owner's view that there is no lease agreement entered into with regard to any part of the property. The CEMM's position is that the property, being zoned for farming, has not generated any commercial activity, particularly agriculture – related activity in the past 30 years;

5.1.6. The CEMM is fully in agreement with the owner's view that the property has not been sold and no person has any right or claim to take transfer of the property. The CEMM's records show that the property has not changed any ownership since 2005 and that the property has been owned by interrelated entities since 1887 to date. Further particulars with regard to the history of the property shall be provided hereunder when dealing with the history of acquisition and use of the property under the Section 25(3) of the Constitution, 1996; and

5.1.7. The CEMM accepts the owner's view that there is no existing builder's lien over the expropriated property.

5.2. It shall be evident hereunder as to why the above mentioned factors are a critical – mass in the determination of Nil compensation as a just and equitable compensation contemplated in Section 25 of the Constitution.

5.3. With regard to Section 12(1)(a)(i) of the Expropriation Act, the CEMM's decision is that this factor relates to market value and as such it shall be dealt with simultaneously under the Section 25(3) analysis. The provision of Section 12(1)(a)(i) requires the CEMM to offer the amount which the property would have realized if sold on the date of the notice in the open market by a willing Seller to a willing Buyer. CEMM's position is that Section 25 of the Constitution enjoins it to offer just and equitable compensation and not market value or a willing buyer to a willing seller price. It is trite that the Constitution is the supreme law and thus a cardinal point of reference when dealing with Expropriation.

5.4. However, even at this stage, it is important to mention that the property has never been sold at a market value. And admittedly by the owner at paragraph 4 of the written statement, the property was not purchased at a true market value during 2005 when it was purchased by the owner from an interrelated entity within a related group of entities. Further, the CEMM shall illustrate herein and in due course, and at an appropriate forum that the property has never been sold at a market value, particularly when it was sold in 1997 to an interrelated entity within a group of related entities. In this regard, the value for the property to be relied upon could be R1 (One Rand) or R1 million or Zero Rand depending on the underlying speculative motives within the interrelated group of entities. As explained, this factor shall be dealt with under the Section 25(3) analysis because ultimately, the compensation which must be paid is not market value or what could be determined as a price between

a willing seller and willing buyer, but it must be just and equitable, taking into account the below detailed Section 25(3) analysis.

5.5. Further, Section 10(4) requires CEMM to assess a respective amount in terms of Section 12(1)(b), being an amount to make good any actual financial loss caused by the expropriation. The CEMM's position as articulated hereunder is that the owner suffered no financial loss as a result of the expropriation. Again, the CEMM takes the position that the owner's claimed loss of R50 000 is Nil, taking into account that any amount paid by CEMM to the owner including the claimed actual loss must be just and equitable, and as shown hereunder, the just and equitable amount is Nil.

6. ANALYSIS OF SECTION 25 OF THE CONSTITUTION IN MAKING JUST AND EQUITABLE COMPENSATION

6.1. It is critical to import the entire provisions of Section 25 of the Constitution. Section 25 of the Constitution provides as follows:

"25 Property

(1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property;

(2) Property may be expropriated only in terms of law of general application -

(a) For a public purpose or in the public interest; and

(b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.

(3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including:

(a) the current use of the property;

(b) the history of the acquisition and use of the property;

(c) the market value of the property;

(d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and

(e) the purpose of the expropriation.

(4) For the purposes of this Section:

(a) the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources; and

(b) property is not limited to land.

(5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

(6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

(7) A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.

(8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36 (1).

(9) Parliament must enact the legislation referred to in subsection (6)."

6.2. *Section 25(1): No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.*

6.2.1. Although expropriation is a form of deprivation, the CEMM's position is that it's Notice must be evaluated in terms of Section 25(2) which deals directly with expropriation and also an appropriate approach that has been recently adopted by our courts in dealing with an analysis of Section 25 when dealing with expropriations. As a matter of law, the CEMM has taken over ownership of the owner's property through expropriating it and permanently taking dominion over it, and it has not caused deprivation in the sense that it imposed restrictions

on the owner's right in terms of imposing zoning laws, nuisance laws, health and safety laws or some form of regulations.

6.2.2. However, to an extent that it may be argued that there is a grey area in that the expropriation in question constitutes a deprivation for purposes of Section 25(1), the CEMM maintains that it is compliant in that such deprivation was conducted in terms of the laws of general application, namely the provisions of the Housing Act and the Expropriation Act. Having regard to the current case law on Section 25 of the Constitution, it is trite that both the Housing Act and the Expropriation Act are indeed laws of general application.

6.2.3. Further, both laws, as read in conjunction with the provisions of Section 25 of the Constitution, do not permit for arbitrary deprivation as they pursue a legitimate public interest and public purpose such as the provision of social housing for the historically marginalized, poor and the most vulnerable in society. Further, the said pieces of legislation permit for some form of compensation for the deprivation albeit such compensation must be just and equitable having regard to the provisions of Section 25 of the Constitution. Even at this stage, it is important to state that the contention on whether the expropriation in question also constitutes a deprivation under Section 25(1) is a complex legal question that will be dealt with at an appropriate forum. The CEMM's position is that it's expropriation falls squarely within Section 25(2).

6.3. *Section 25(2): Property may be expropriated only in terms of law of general application for public purpose or in the public interest subject to agreed compensation or compensation approved by a court.*

6.3.1. As mentioned above and as informed by the current constitutional jurisprudence, both the Housing Act and the Expropriation Act constitute laws of general application. The expropriation is compliant with Section 25 (2) in that it was done in terms of Section 9 of the Housing Act 107 of 1997 read with the Expropriation Act 63 of 1975.

6.3.2. The expropriation is for a public purpose and it is in the public interest in that the CEMM expropriated the property in order to fulfill its statutory obligations to develop, amongst others, social housing projects as provided for in terms of Section 9 of the Housing Act.

6.3.3. In a nutshell, it is in the public interest or for a public purpose for the CEMM to have expropriated the property in question in order to fulfill its obligations in terms Section 9 of the Housing Act and more importantly, to give effect to the constitutional rights in the Bill of Rights, particularly the rights in terms of Section 10 (Dignity), Section 24 (Environment), Section 26 (Housing), Section 27 (Water) and any other interrelated right in respect of the poor, marginalized and vulnerable people who are residing in 123 different informal settlements (123 squatter camps), and condensed in 11 900 settlement units (Household) within the jurisdiction of the CEMM. Further, the CEMM has over 43 112 poor people living in the City-owned hostels and has a backlog of housing in excess of 427 802.

6.3.4. With regard to compensation, there is no agreement with regard to the amount of compensation payable and it is improbable that an agreement would be reached given the sum of (**Thirty Million Rand**) required by the owner and the sum of Nil compensation offered by

the CEMM. The owner's position is that thirty million is fair market value between willing buyer and willing seller whereas the CEMM's position is that Nil compensation constitutes a just and equitable compensation as contemplated in Section 25 of the Constitution. Consequently, the question of compensation is to be approved by court.

7. ***STRIKING AN EQUITABLE BALANCE BETWEEN THE PUBLIC INTEREST AND THOSE OF THE LANDOWNER: SECTION 25(3) FACTORS INCLUDING ALL OTHER RELEVANT CIRCUMSTANCES WHICH INCLUDE FACTORS NOT SPECIFICALLY MENTIONED IN SECTION 25(3) OF THE CONSTITUTION***

7.1. The provision of Section 25 (3) requires that the amount of compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interest of those affected (Landowner), having regard to all relevant circumstances, including Section 25(3)(a – e).

7.2. Prior to dealing with factors in Section 25(3), it is opportune for the CEMM to outline that its understanding of Section 25(3) is as follows:

7.2.1. That Section 25(3) is non – exhaustive or that it is open –ended. And as such, the CEMM is entitled to consider all relevant circumstances including factors which are not listed in Section 25(3) (a – e). In other words, the CEMM is entitled to show all factors and circumstances which are relevant and, which have informed it in arriving at Nil compensation;

7.2.2. That Section 25(3) does not limit itself to arithmetic formulae or quantitative quantum but that the provision requires that consideration and substantive value judgment be given to acute socio – economic conditions or lived experiences of those who are landless and subjected to inhuman living conditions in informal settlement as well as the CEMM's constitutional obligations to ameliorate the conditions of those vulnerable and landless;

7.2.3. That Section 25(3) must be considered equally and cumulatively or with everything else, without granting any specific factor the status of a super or superior factor, overwhelming factor, decisive factor or an entry factor; and

7.2.4. That in order to satisfy the constitutional standard in Section 25(3) in offering Nil as a just and equitable compensation, the CEMM's decision must be informed by striking an equitable balance between the public interest and those of the owner, and that relevance is decisive in what ought to be included or excluded as a consideration.

7.3. Section *25(3)(a):the current use of the property*

7.3.1. The current use of the property means exactly that, current use. The property is approximately 33.684 ha and is zoned for agriculture or farming. The property is vacant and has been vacant for over 30 years. The land use of the property has not changed for the last 30 years or more. Since acquiring ownership in 2005, the owner has not used the property. And admittedly, at paragraph 9 of the owner's written statement, the owner has not made any investments or improvements in the property.

7.3.2. In this regard, the CEMM is of the strong view that in light of the property being vacant for over 30 years and there being no investments or improvements on the property, the equitable balance favours the public interest over those of the owner. And thus, in taking a cumulative effect of all the relevant factors including current use, it is just and equitable to pay Nil compensation for the property.

7.4. Section *25(3)(b): the history of acquisition and the use of the property*

7.4.1. The record from the deeds office shows that on 26 November 1887, Mr. William Knight ceded the property as part of a large property to the Witwatersrand Gold Mining Company ("Gold Mining Company") with registration no: 1910/000032/06. The Cession documents as provided by the deeds office are attached hereto and marked as **Annexure ("CEMM 6")**.

7.4.2. The deeds records show that in 1997, a related entity to the Gold Mining Company was registered as "THE TRUSTEES FOR THE TIME BEING OF THE WITWATERSRAND GOLD MINING REALISATION TRUST N.O. IT 2417/97 ("Gold Mining Realization Trust"), and immediately thereafter, the property being part of a larger property namely THE REMAINING EXTENT of the farm DRIEFONTEIN 85, measuring in extent of 1282, 8256 ha, was purchased by the Gold Mining Realization Trust from the Gold Mining Company under deed of transfer no:T21249/99. The copy of the deeds office's record is attached hereto and marked as **Annexure ("CEMM7")**.

7.4.3. However, what is staggering about the sale of the property between the aforementioned interrelated entities is that the property was sold for the sum of R51 million **("Fifty-One Million Rand")** and the price included the sale of 14 other properties listed as follows:

7.4.3.1. Remaining Extent of the farm Driefontein 85, Registration Division I.R., Province of Gauteng;

7.4.3.2. Remaining Extent of Portion 1 of the farm Driefontein 87, Registration Division I.R., Province of Gauteng;

7.4.3.3. Remaining Extent of Portion 4 (a portion of Portion 1) of the farm Driefontein 87, Registration Division I.R., Province of Gauteng;

7.4.3.4. Remaining Extent of Portion 9 (a portion of Portion 1) of the farm Driefontein 87, Registration Division I.R, Province of Gauteng;

7.4.3.5. Remaining Extent of Portion 71 (a portion of Portion 1) of the farm Driefontein 87, Registration Division I.R, Province of Gauteng;

7.4.3.6. Portion 72 (a portion of Portion 4) of the farm Driefontein 87, Registration Division I.R. Province of Gauteng;

7.4.3.7. Remaining Extent of Portion 134 (a portion of Portion 1) of the farm Driefontein 87, Registration Division I.R. , Province of Gauteng;

7.4.3.8. Portion 6 of the farm Vogelfontein 84, Registration Division I.R., Province of Gauteng;

7.4.3.9. Portion 38 (a portion of Portion 5) of the farm Olifantsvlei 327, Registration Division I.R., Province of Gauteng;

7.4.3.10. Erf 3457 Piet Potgietersrus Extension 3 Township, Registration Division K.S., Northern Province;

7.4.3.11. Erf 5155 Middelburg Township, Registration Division J.S., Province of Mpumalanga;

7.4.3.12. Portion 1 of Erf 100 Groblersdal Township, Registration Division J.S., Province of Mpumalanga;

7.4.3.13. Portion 2 of Erf 357 Groblersdal Township, Registration Division J.S., Province of Mpumalanga;

7.4.3.14. Portion 3 of Erf 357 Groblersdal Township, Registration Division J.R., Province of Mpumalanga;

7.4.3.15. Erf 198 Newtown Township, Registration Division I.R., Province of Gauteng;

7.4.3.16. Erf 200 Newtown Township, Registration Division I.R., Province of Gauteng;

7.4.3.17. Erf 555 Brenton, in the Local Transitional Council of Brenton, Division of Knysna, Province of the Western Cape; and

7.4.3.18. Erf 88456 Cape Town at St James in the Municipality of Cape Town, Province of the Western Cape;

7.4.4. There is a compelling suspicion that when the property was sold together with the other properties listed herein above, the sale was not between the willing seller and willing buyer but was between interrelated entities and was for speculative purposes and was hopelessly below market value. Should the need arise, the CEMM will bring a property specialist that would assist the Court in showing that even in 1997, the property in question and together with other properties were collectively sold below market value and for speculative purposes and/or restructuring purposes.

7.4.5. It appears that after 1997, there was subdivision of THE REMAINING EXTENT of the farm DRIEFONTEIN 85, measuring in extent of 1282, 8256 ha, as a portion of this property became PORTION 406 of the farm Driefontein 85 measuring 33,6847 ha, and it is this 33,6847 that was transferred by the Gold Mining Realization Trust to the owner ("Business Venture Investments No.900 (Pty) Limited") on 23 September 2005 under title deed no: T4960/2005 attached hereto and marked as **Annexure ("CEMM8")**.

7.4.6. The owner purchased the expropriated property for the sum of R1 000 000 **(One Million Rand)**. Admittedly by the owner, this amount was not a true market value due to the transaction being concluded amongst the interrelated entities and solely for restructuring purposes. It is important to note that the owner was only incorporated on 24 April 2004 under registration number 2004/010990/07, a period of a year prior to the property being sold for restructuring purposes.

7.4.7. At paragraph 4 of the owner's written statement, it is stated that "The Property was transferred to our client from a related entity within the same group of Companies as part of a restructuring of the group. A Purchase price of R1 Million was allocated to the transfer, although this value did not reflect the true market value of the property at the time".

7.4.8. It is CEMM's view that even if it could be disputed that the 1997 transaction was not for speculative purposes, there is no doubt that the 2005 transaction between Gold Mining Realisation Trust and Business Venture Investments (interrelated entities) was for speculative purposes.

7.4.9. With regard to the use of the property, although the property was historically zoned for farming or agricultural purposes and it remains zoned as such, it was used for mining operations including being used as a mining dump site. At least from 1997 up to date, the property has been vacant and there has been no development or any substantive investment on the property.

7.4.10. Since 2005, the property remained vacant despite change of ownership. In this regard, it is important to reiterate the contents of the owner's written statement that the property has been vacant, no improvements on the property, the property is unoccupied, the property did not derive any commercial income in the form of a lease and that there is no *lien* over the property. It simply follows that the property is being held in abeyance for speculative purposes.

7.4.11. Should the need arise, the CEMM intends to provide the services of an expert to assist the Court seized with determining just and equitable compensation by giving a full account of the history of this property in the context of mining operations and its impact within the jurisdiction of CEMM. Further, the expert will show that not much commercial value could be derived out of the property given the context of the property dynamics in the area in question.

7.4.12. In 2018, the owner's developers lodged an application for land use for purposes of developing a proposed COMET Extension 8 Township, after a period of over 13 years since taking over the property. At the time of expropriation, the owner's application was not finalized due to an Appeal by sections of the residents opposing the owner's land use application. At the time of expropriation, the owner had requested an extension to submit plans for the development in light of the pending Appeal. The owner's letter is attached hereto and marked as **Annexure ("CEMM 9")**.

7.4.13. The CEMM's view is that use of the property is use of the property and nothing less, and that is not future based. And a just and equitable determination of Nil compensation must be freed from unwarranted influences of speculative forces such as potential for future township development which will greatly distort the value of what constitutes just and equitable compensation.

7.4.14. With regard to Section 25(3)(b), CEMM's view is that considering the history of acquisitions of the property between interrelated companies at below market value and for speculative purposes and/or restructuring purpose, the protracted period of vacancy of the

property and lack of any improvements or investments and lack of any commercial activity or commercial income being derived from the property, requires that the equitable balance between the public interest and those of the owner be struck in favour of the public interest to an extent that compensation be payable at Nil taking into account the cumulative effect of all factors in Section 25(3).

7.5. Section 25(3)(c): The market value of the property

7.5.1. Prior to dealing with the factor of the market value of the property, the CEMM deems it imperative to reiterate what it understands about the constitutional concept of the market value of the property as envisaged in Section 25:

7.5.1.1. That market value of the property is not an entry point or superior factor or overwhelming factor, decisive factor to any of the factors in Section 25(3) including other relevant factors or circumstances not specifically mentioned in the said provision given the open – endedness of the subsection;

7.5.1.2. That market value of the property is to be considered together with all other factors including those that require value judgment and are not arithmetic in nature or easily determinable in rand value but involves a substantive consideration of social justice and the lived experiences of those who are landless and subjected to inhuman living conditions in informal settlement; and

7.5.1.3. That what Section 25 requires is the payment of just and equitable compensation and not market value. And that such a determination inherently requires striking an equitable balance (not arithmetic or formulaic balance) between the public interest and those interests of the landowner via a cumulative analysis of all relevant factors.

7.5.2. With regard to the market value of the property, at least since 1997, there is no evidence of the property ever being sold at a market value and if anything, there is an admission by the owner that the property has been sold below the market value for speculative purposes and/or restructuring purposes among interrelated entities.

7.5.3. The CEMM is of the view that the market value is really an amount similar to the amount contemplated in Section 12 (1)(a)(i) of the Expropriation Act, being the amount which the property would have realized if sold on the date of notice in the open market by a willing seller to a willing buyer. However, in an event of expropriation such as this case in point, what is payable is not market value or a willing seller willing buyer value but a just and equitable compensation.

7.5.4. The CEMM's position is that it is improbable to arrive at a fair market value of the property in question. CEMM notes that there are no legally entrenched rules of valuation for market value but the practice has been to use the comparable sales method as the most acceptable norm or measure of market value. This method entails the identification, analysis and application of recent comparable sales involving similar properties in the general proximity of the subject property.

7.5.5. In determining market value for this property, the obvious challenge that arises is that historically, particularly in the last 20 years, the property has not been sold at a market value but was sold below market value and for speculative purposes among interrelated entities. The property has not been used to generate any commercial activity as it has remained vacant for a period of 20 years. The property is zoned for agricultural use and it has not been used for the said purpose for over 30 years or even more. In this regard, there are serious challenges to compare the property in question with other properties due to the uniqueness of the said property given the aforesaid factors.

7.5.6. The CEMM disputes the owner's value of thirty million as market value. The CEMM is of the view that in assessing any market value, the following factors need to be considered:

7.5.6.1. Historical usage of the property as a mine dump;

7.5.6.2. Protracted vacancy;

7.5.6.3. No improvements on the property;

7.5.6.4. No history of sales on market value in the recent past and that the property is being held and/or transacted for speculative purposes;

7.5.6.5. There has been no real commercial value being derived from the property for the protracted period; and

7.5.6.6. The challenges that arise in comparing this property with other properties through a comparable sale model in order to arrive at market value.

7.5.7. The CEMM is of the view that the aforementioned factors cannot be ignored in trying to attach some form of market value to the property, and that equitable balance favours the interest of the public in ensuring that the owner cannot derive benefit out of a market value of the property when it never purchased the property at market value in the first place.

7.5.8. CEMM's position is that in striking an equitable balance between the public interest and those of the owner, the equitable balance favours the public interest for Nil compensation in instances where market value has never been a factor in the purchase of the property.

7.6. Section 25(3)(d): The extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property

7.6.1. The CEMM is currently investigating evidence to demonstrate that the Apartheid State or the post 1994 Democratic State made any direct State investment or any subsidies in the acquisition and beneficial capital improvement of the property.

7.7. Section 25(3)(e): The purpose of the expropriation

Fulfillment of Constitutional and Legislative obligations

7.7.1. The purpose of the expropriation is to give effect to its obligations in terms of Section 9 of the Housing Act and more importantly to give effect to the constitutional rights in the Bill of Rights, particularly the rights in terms of Section 10 (Dignity), Section 24 (Environment), Section 26 (Housing), Section 27 (Water) and any other interrelated right in respect of the poor, marginalized and vulnerable people who are residing in 123 different informal settlements (123 squatter camps), and condensed in 11 900 settlement units (Household) within the jurisdiction of the CEMM. Further, the CEMM has over 43 112 poor people living in the City- owned hostels and has a backlog of housing in excess of 427 802.

7.7.2. In terms of Section 2 of the Housing Act, the CEMM must amongst others undertake the following:

7.7.2.1. respect, protect, promote and fulfil the rights in the Bill of Rights in Chapter 2 of the Constitution;

7.7.2.2. give priority to the needs of the poor in respect of housing development;

7.7.2.3. ensure that housing development –

7.7.2.3.1. provides a wide choice of housing and tenure options as is reasonably possible;

7.7.2.3.2. is economically, fiscally, socially and financially affordable and sustainable;

7.7.2.3.3. encourage and support individuals and communities, including, but not limited to, co – operatives, associations and other bodies which are community based, in their efforts to fulfil their own housing needs by assisting them in accessing land, services and technical assistance in a way that leads to the transfer of skills to, and empowerment of, the community;

7.7.2.3.4. promote the establishment, development and maintenance of socially and economically viable communities and of safe and healthy living conditions to ensure the elimination and prevention of slums and slum conditions;

7.7.2.3.5. promote the process of racial, social, economic and physical integration in urban and rural areas;

7.7.2.3.6. promote the effective functioning of the housing market while levelling the playing fields and taking steps to achieve equitable access for all to that market;

7.7.2.3.7. implement measures to prohibit unfair discrimination on the ground of gender and other forms of unfair discrimination by all actors in the housing development process;

7.7.2.3.8. ensure higher density in respect of housing development to ensure the economical utilization of land and services;

7.7.2.3.9. ensure the meeting of special housing needs, including, but not limited to, the needs of the disabled; and

7.7.2.3.10. ensure the provision of community and recreational facilities in residential areas.

7.7.3. Further and in terms of Section 9(1) of the Housing Act, the CEMM is obligated to undertake the following:

7.7.3.1. As part of its integrated development, planning, take all reasonable and necessary steps within the framework of national and provincial housing legislation and policy to –

7.7.3.1.1. ensure that the inhabitants of its area of jurisdiction have access to adequate housing on a progressive basis;

7.7.3.1.2. ensure that the conditions not conducive to the health and safety of the inhabitants of its area of jurisdiction are prevented or removed;

7.7.3.1.3. ensure that services in respect of water, sanitation, electricity, roads, stormwater

drainage and transport are provided in a manner which is economically efficient;

7.7.3.1.4. set housing delivery goals in respect of its area of jurisdiction;

7.7.3.1.5. identity and designate land for housing development;

7.7.3.1.6. create and maintain a public environment conducive to housing development which is financially and socially viable;

7.7.3.1.7. promote the resolution of conflicts arising in the housing development process; and

7.7.3.1.8. initiate plan, co – ordinate , facilitate, promote and enable appropriate housing development in its area of jurisdiction.

7.7.4. Further, the purpose of the expropriation is to avail the property to enhance amongst others, the CEMM's meaningful participation in the NATIONAL HOUSING PROGRAMME: UPGRADING OF INFORMAL SETTLEMENTS, wherein through the exploitation of the expropriated property, the CEMM aims to transform the lives of people living in informal settlement by ensuring that, on a progressive basis, such people have access to permanent and dignified residential structures with secure tenure, provision of sustainable and adequate sanitary facilities including portable water and energy supply.

7.7.5. Further, the CEMM aims to exploit the expropriated property in order to bring to a progressive realization the development of health and securing safe living environments through the sustainable provision of scalable, affordable municipal engineering infrastructure to the residents in order to restore the dignity of the urban poor, vulnerable and marginalized people living in informal settlement.

7.7.6. Further, the expropriated property is well located for the use of social residential township (social housing) particularly for higher density due to its proximity to major routes, easy access to public transport. In this regard, expropriation aims to provide social housing for people to reside in proximity to economic opportunities such as work, education and better health care in an era where pandemics such as the Coronavirus may have fatal effects in areas such as informal settlement.

Alleviate the Continuing unsustainable Financial Obligations from the CEMM

7.7.7. Further, the CEMM is of the view that the purpose of expropriating this property for housing development must be understood in the context where there is unavailability of suitable land due to the legacy of extensive mining in the area and substantial amount of dolomitic land which is unsuitable for housing development, particularly multi-story development given the lack of suitable land.

7.7.8. Furthermore, the purpose of the expropriation is to ensure the provision of permanent social housing settlement in order to alleviate

the CEMM's ongoing financial burden in providing temporary sanitary, water and other services at the 123 informal settlements.

7.7.9. Currently, the CEMM's public finances have been strained by the provision of temporary services to informal settlements, and the cost could be significantly reduced when the expropriated property is fully exploited for the development of social housing. The CEMM is unable to provide permanent infrastructure in dolomitic areas where some of the informal settlements are based and also in areas where it does not own the land.

7.7.10. In 11 900 settlement units (a unit being a single household), the CEMM is spending R5 712 000, 00 **(Five Million Seven Hundred and Twelve Thousand Rand)** per month at a rate of R48 **(Forty-Eight Rand)** per unit, which amounts to the sum of R68 544, 000.00 **(Sixty-Eight Million Five Hundred and Forty-Four Thousand Rand)** per annum. The aforesaid amount, with the necessary inflation adjustment, has been spent by the CEMM going back many years.

7.7.11. In addition, the CEMM is currently incurring a further cost of R35 million per month for the provision of emergency services of water and sanitation in informal settlement, which cost equates to over R420 million **(Four Hundred and Twenty Million Rand)** per annum. The said amount has been spent going back many years.

7.7.12. The CEMM finds itself in a desperate situation wherein its expenditure on temporary services to informal settlement is in excess of half a billion rand per annum, simply because there is inadequate

suitable land to construct permanent and sustainable social housing development to accommodate the residents of informal settlement.

7.7.13. In this regard, as long as there is unavailability of land, the CEMM will continue to incur the aforementioned cost of temporary services given that the CEMM is constitutionally obligated to provide alternative accommodation and temporary services even in cases of evictions of people residing in informal settlements. The CEMM's peremptory obligation is informed by the case of ***Occupiers of Erven 87 288 Berea v De Wet No and Another 2017(5) 346 (CC)***, which was decided on 8 June 2017.

7.7.14. The CEMM is currently receiving a huge number of requests for alternative accommodation on a monthly basis, and the alternative accommodation is accompanied by the obligation to provide temporary services at a huge cost to the Municipality and ratepayers. In recent times, the CEMM was forced to incur an unbudgeted amount of over twenty million rand in respect of an eviction matter involving eviction of residents of informal settlement, namely "Glen Marikana". The lack of suitable land within the jurisdiction of the CEMM has resulted in a situation wherein those with properties such as the owner in question, exploit the CEMM for each square meter in order to make obscene profits.

7.7.15. As already mentioned, CEMM shall avail an expert to explain the unique circumstances of CEMM with respect to unavailability of land due to the peculiar history of mining, dumping sites and dolomitic nature of land in the area, in order to assist in determining just and equitable compensation for the property in question. The lack of

suitable property within the CEMM is to be considered in the context of the owner being in possession of unused land for a protracted period and having kept such land for speculative purposes and/or restructuring purposes for long period of time and the area deriving no commercial value from the property for the longest of times.

7.7.16. In considering the purpose of expropriating the property in question, the CEMM had regard to the following legal issues confronting it:

7.7.16.1. That there is a clear public interest in housing the landless and the marginalized currently residing in informal settlements;

7.7.16.2. That the expropriated property is being expropriated for a public purpose, namely provisions of social housing to residents of informal settlements;

7.7.16.3. That any monies required by owners of unused properties kept for speculative purposes, ultimately emanate from the public purse which in CEMM's case is already strained by the cost of half a billion rand yearly expenditure on the provision of temporary services in informal settlement. And as such, it would not be just and equitable to compensate owners of unused land held for speculative purposes handsomely, the object of Section 25 is not to reward property speculators;

7.7.16.4. That a Bill of rights value judgment is to be made when dealing with the purpose of the expropriation in determining what is a just and equitable compensation;

7.7.16.5. That the ratepayers and the CEMM's finances must not be frustrated by unjustifiable compensation claims in respect of unused land held for speculative purposes;

7.7.16.6. That the purpose of expropriation must be viewed in the context of the CEMM's social and political history which created an acute socio – economic disaster of unequal spatial development planning and the creation of the urban poor residing in informal settlement due to landlessness;

7.7.16.7. It is the purpose of expropriation which ultimately guards against the question of just and equitable compensation being left to market forces, particularly in respect of compensation for unused land held for speculative purposes;

7.7.16.8. That giving effect to the purpose of expropriation being the provision of social housing, regard must be had to the gross inequality in relation to health and access to land resources by the residents of informal settlements and their continuing disastrous conditions;

7.7.16.9. That the lack of well-situated land to provide urban settlement for the resident of informal settlement within the CEMM remains a stark legacy of Apartheid planning

and discrimination, and the untold damage created by the legacy of mining operations in the area;

7.7.16.10. CEMM's view is that the purpose of expropriation enquiry is not mathematical or formulae based but rather it is value based considering the purpose to be achieved by the expropriation and substantive issues of social justice and the fulfillment of rights in the Bill of rights; and

7.7.16.11. The application of any sort of arithmetic calculation model is not applicable when dealing with the purpose of expropriation because by its nature, the purpose of expropriation is a counter – weight to market value or market forces. The enquiry into the purpose of expropriation is fact based or lived experienced based and not arithmetic based.

7.7.17. Therefore, in considering an equitable balance between the public interest and those of the landowner, the equitable balance favours the public interest considering the purpose of expropriation being to give effect to the fundamental rights in the Bill of rights, Housing Act, National Housing Programme for Informal Settlement, reduction of the CEMM's financial burden of over half a billion per annum in the provision of temporary services to over 11900 settlement units in 123 different informal settlement and addressing over 400 000 backlog in housing.

7.7.18. The equitable balance favours the public interest taking into account the unavailability of suitable land for housing due to legacy of Mining

operations and Apartheid spatial development patterns, and that the expropriated land has not been used for a protracted period of time and it has been held for speculative purposes. It is in the aforesaid context that the CEMM's decision that the purpose of expropriation warrants an offer of Nil compensation.

7.8. THE OTHER RELEVANT FACTORS

7.8.1. The CEMM is of the view that Section 25(3) envisages that beyond the Section 25(3)(a – e) factors, there must be a consideration of all relevant circumstances and that Section 25(3) is open – ended in that any relevant factor is to be considered when determining what constitutes just and equitable compensation. That the additional factors are to be considered in a manner that satisfies the constitutional standard in Section 25(3) by striking an equitable balance between the public interest and those of the landowner. In other words, the CEMM's approach is that relevance determines inclusion or exclusion of any additional factor.

Debt owed to the CEMM by the Owner in respect of rates and taxes

7.8.2. In this regard, the CEMM is of the view that there is a debt that was incurred by the expropriated property prior to the expropriation. As a result, the CEMM has included the sum of R 3 358 101.71 **(Three Million Three Hundred and Fifty-Eight Thousand One Hundred And One Rand Seventy-One Cents)** being the debt owed. The amount is in respect of the following accounts:

7.8.2.1. Account No 220 935 7167 (R3 284 448.65); and

7.8.2.2. Account No 220 975 1971 (R73 653.06).

7.8.3. The aforesaid accounts have not been paid by the owner in respect of the expropriated property for over many years. In this regard, the owner has failed to comply with its legal obligations as a responsible owner of the property.

Potential Expenditure to be incurred by the CEMM in making the land suitable for constructing a social housing development

7.8.4. As already mentioned, CEMM is faced with a unique problem of unsuitability of land due to historical legacies of mining operations and a plethora of mining dump sites in the area. Any land expropriated by the CEMM has to be subjected to extensive geo – technical studies in order to ensure its suitability. Within the jurisdiction of the CEMM, it is really a matter of turning the desperate and worse situation and making the best out of what is there in terms of available land due to the scarcity of suitable land.

7.8.5. The property in question was historically used as a Mining dump site despite it being zoned for agricultural purposes. Prior to expropriating the property, the CEMM conducted desktop feasibility studies which revealed the following:

7.8.5.1. Costs will be incurred by CEMM in respect of Geo – hydrological studies to determine existing levels of soil and groundwater pollution;

7.8.5.2. Costs will be incurred by CEMM in respect of toxicity of chemicals contained in slime dams and the potential impact on proposed social development housing;

7.8.5.3. Improvement on land use since the expropriated property falls within a radio – active gold mine residue area;

7.8.5.4. That near surface soils may be either compressible or expansive, which need to be taken into consideration for the foundation structures and road pavement layers;

7.8.5.5. That housing structures must be designed to accommodate the potential seismic loading associated with the Area;

7.8.5.6. That Mine dumps and slimes buffer make the eastern portion of the property unsuitable for development; and

7.8.5.7. That mitigating measures such as proper surface drainage or localized sub – soil drainage measures will need to be implemented to accommodate potential problems associated with shallow seepage or ground water levels.

7.8.6. The Feasibility Report is attached hereto and marked as **Annexure "CEMM10"**. At this stage, the CEMM will be commencing with the necessary Geo – technical studies in order to quantify the cost to ensure the suitability of the expropriated property for social housing. The relevant report detailing potential expenditure by the CEMM shall

be made available in due course in order to assist in determining a just and equitable compensation in respect of the property. The CEMM's position is that whatever cost revealed by the envisaged report must be included as a relevant factor in making an equitable balance between the public interest and the interests of the owner.

8. In Conclusion, the CEMM believes its offer of Nil compensation is just and equitable and was arrived at after having shown that the equitable balance favours the interest of the public, especially after taking into consideration all of the above mentioned grounds and which grounds are non – exhaustive, and will be supplemented at an appropriate forum.

9. In the event that the owner rejects this offer, the owner is at liberty to refer this matter to Court in accordance with the applicable legislative regime for the Court to finally determine what is just an equitable compensation.

Kind Regards

DR M I MASHAZI
CITY MANAGER

17/04/2020
DATE

IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG LOCAL DIVISION, JOHANNESBURG)

Case No: 44753/19

In the matter between:

BUSINESS VENTURE INVESTMENTS 900 (PTY) LTD Applicant

and

CITY OF EKURHULENI METROPOLITAN MUNICIPALITY Respondent

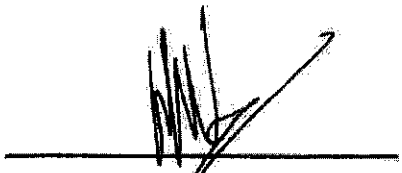
SETTLEMENT AGREEMENT

The parties have settle the Applicant's mandamus application on the following terms:

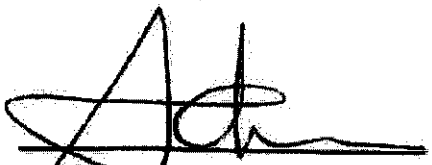
1. The Respondent is to make an offer for the Applicant's property, portion 406 of the Farm Driefontein 85 IR, on or before 17 April 2020, in respect of the Respondent's Notice of Expropriation (no. 1-2019) dated 6 February 2019;

2. The Respondent is to pay R30 000.00 to the Applicant in respect of the costs of this application up to date of signature, such payment to be made within 30 days from date of signature hereof.

3. Either party may make this agreement an order of court, at its cost.



On behalf of the Applicant
(Being duly authorized)
Date: 1 April 2020



On behalf of the Respondent
(Being duly authorized)
Date: 26 March 2020

Annex CEMM 1

Model Agreement

CEMM2

366

SEALED .....
STAMP DUTY R400,00
FOOL FEES

HOFMEYR HERBSTEIN & GIHWALA INC
6 SANDOWN VALLEY CRESCENT
SANDOWN
SANDTON, 2196
(011) 286 1100/33

Prepared by me

CONVEYANCER
WEBBER JG

DEED OF TRANSFER

T 165522 05

BE IT HEREBY MADE KNOWN THAT

ANNELISE CATHARINA BUCHLING

appeared before me, REGISTRAR OF DEEDS at PRETORIA, he the said Appearer being duly authorised thereto by a Power of Attorney signed at SANDTON on 26 October 2004 and granted to him by

The Trustees for the time being of WITWATERSRAND GOLD MINING REALISATION TRUST
No. IT 2417/1997

2006 -12- 0 /

VIOLET
2006 -01- 16
SARTUBER

And the Appearer declared that his said principal had truly and legally sold on 23 September 2005 and that he, the said Appearer, in his/her capacity aforesaid, did, by these presents, cede and transfer to and on behalf of

BUSINESS VENTURE INVESTMENTS No. 900 (PTY) LIMITED
No. 2004/010990/07

its Successors in Title or assigns, in full and free property

PORTION 406 OF THE FARM DRIEFONTEIN 85 REGISTRATION DIVISION I.R.,
PROVINCE OF GAUTENG;

MEASURING 33,6847 (THIRTY THREE COMMA SIX EIGHT FOUR SEVEN) HECTARES

FIRST registered and still held by Certificate of Registered Title No T4960/2005 with Diagram SG No.6038/2004 annexed thereto

SUBJECT TO THE FOLLOWING CONDITIONS :

1. Subject to the reservation of all rights to minerals in favour of Witwatersrand Gold Mining Company Limited, No. 01/00032/06 by virtue of Certificate of Mineral Rights No. K4735/1989, which reservation is in respect of the right of the Remaining Extent of the farm Driefontein 85, Registration Division I.R., Province of Gauteng, measuring 1302,7971 hectares.

2. The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 3073 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria

3. The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 758 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria.

4. The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 64 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under number EX 547/1970.

5. The former Remaining Extent of the farm Driefontein 85, Registration Division I.R., Province of Gauteng measuring 1282,8256 hectares is subject to a servitudes to convey electricity over the property in favour of the Eskom as will more fully appear from Notarial Deed No. K2114/1993S.

6. By virtue of Notarial Deed number K8078/2002S dated 19 July 2002, the within mentioned property is subject to a servitude in perpetuity in favour of Cape Morgan (Proprietary) Limited to convey and transmit water, sewerage, mining by products, effluent, slimes, tailings, rock and sand over the property by means of pipelines already laid and to be laid.

7. By virtue of Notarial Deed of Servitude K7263/2003S the within mentioned property is subject to a servitude of right of way in favour of Cape Morgan (Proprietary) Limited as will more fully appear from the said deed

SUBJECT to such conditions as are mentioned or referred to in the aforesaid Deed/s.

WHEREFORE the Appearer, renouncing all right and title which the said

The Trustees for the time being of WITWATERSRAND GOLD MINING REALISATION TRUST
No. IT 2417/1997

heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

BUSINESS VENTURE INVESTMENTS NO. 900 (PTY) LIMITED
No. 2004/010990/07

its Successors in Title or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 000 000,00 (ONE MILLION RAND)

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer q.q., have subscribed to these presents and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the Registrar of Deeds at Pretoria on

14 12 05

q.q.

In my presence

REGISTRAR OF DEEDS

CEMM3

Beeld 06 February 2019 D

Notice 01/2019

City of Ekurhuleni Metropolitan Municipality
Notice of Expropriation

Issued by the City of Ekurhuleni Metropolitan Municipality (the Municipality) in terms of Section 9(3) of the Housing Act, 1997 (Act No. 107 of 1997) Read with Sections 1, 6 to 15 and 18 to 23 of the Expropriation Act, 1975 (Act No. 63 of 1975).

TO: Business Venture INV NO 800 (PTY) Ltd.
AD Outpost Building
54 Maxwell Drive
Woodmead
Gauteng
2192

AND TO: All other persons claiming any right to or interest in the land described in this Notice of Expropriation whether by virtue of registration or otherwise, and particularly any lessee, buyer or builder contemplated in section 9(1)(d) of the Expropriation Act, 1975.

Notice is hereby given in terms of Section 7, read with Section 5(2) of the Expropriation Act No. 63 of 1975 (the Act) that the Municipality, having obtained permission of the Member of the Executive Committee of the Province of Gauteng responsible for Human Settlements on 21 November 2018, hereby expropriates the land described hereunder under powers vested in it by Section 9(3) of the Housing Act No. 107 of 1997 (the Housing Act) and Section 5 of the Act, for public purposes, in particular for the purposes of a national housing programme as defined in Section 1 of the Housing Act. The land being expropriated is the following:

PORTION 408 OF THE FARM DRIEFONTEIN 85 IR, MEASURING 33,6847 HECTARES IN EXTENT.

PLEASE NOTE THE FOLLOWING:

a. The date of expropriation shall be 30 April 2019 with effect from which date, where applicable, ownership of the said land will pass to the Municipality;
b. The date upon which the Municipality will take possession of the said property shall be 30 April 2019.
c. Where land is expropriated, with effect from the date of possession of the land by the Municipality, the Owner(s) will be relieved of the obligation to take care of and maintain the land and to pay taxes and other charges thereon, and will no longer be entitled to the use of and any income from the land;
d. Where the property has been partially expropriated, at the request of the Owner(s) this notice shall be deemed to include the remainder of the property or part thereof in terms of Section 2 of the Act, provided that the Municipality is satisfied that such remainder has been rendered useless by the expropriation; and
e. The costs of the survey required and the survey itself will be borne and undertaken by the Municipality.

YOUR ATTENTION is directed to the provisions of Section 9(1) and 12, (in particular sub-sections 3(a) (ii)) of the Act and in particular to the obligations which you must comply with under the said sections. For your convenience, the sections are reproduced here: (please read Municipality where it states 'Minister' or 'State').

9. Duties of owner of property expropriated or which is to be used by State. –
(1) An owner whose property has been expropriated in terms of this Act, shall, within sixty days from the date of notice in question, deliver or cause to be delivered to the Minister a written statement indicating-
(a) if any compensation was in the notice of expropriation offered for such property, whether or not he accepts that compensation and, if he does not accept it, the amount claimed by him as compensation and how much of that amount represents each of the respective amounts contemplated in section 12(1)(a)(i) and (ii) or (b) and full particulars as to how such amounts are made up;
(b) if no such compensation was so offered, the amount claimed as compensation by him and how much of that amount represents each of the respective amounts contemplated in section 12(1)(a)(i) and (ii) or
(c) and full particulars as to how such amounts are made up;
(d) if the property expropriated is land and any amount is claimed in terms of paragraph (a) or (b), full particulars of all improvements thereon which, in the opinion of the owner, affect the value of such land;
(e) if the property being expropriated is land-
(i) which prior to the date of notice was leased as a whole or in part by unregistered lease, the name and address of the lessee, and accompanied by the lease or a certified copy thereof, if it is in writing, or full particulars of the lease, if it is not in writing;
(ii) which, prior to the date of notice, was sold by the owner, the name and address of the buyer, and accompanied by the contract of purchase and sale or a certified copy thereof;
(iii) on which a building has been erected which is subject to a builder's lien by virtue of a written building contract, the name and address of the builder, and accompanied by the building contract or a certified copy thereof;
(f) indicate the address to or at which you desire that further documents in connection with the expropriation may be posted or delivered. Provided that the Minister may at his discretion extend the said period of sixty days, and that, if the owner requests the Minister in writing within thirty days as from the date of notice to extend the said period of sixty days, the Minister shall extend such period by a further sixty days.
(3) You are hereby requested, within sixty (60) days of the date of this notice, to -
(a) Deliver or cause to be delivered to the Municipality at the address stated hereunder the title deeds of the property hereby expropriated or, if such document is not in your possession or under your control, the name and address of the person in whose possession or under whose control it is;

12. **Basis on which compensation is to be determined.**
3(a) (ii) If the owner fails to comply with the provisions of section 9 (1) within the appropriate period referred to in the said section, the amount so payable shall during the period of such failure and for the purpose of the payment of interest be deemed not to be an outstanding amount.

COMMUNICATION with the Municipality and in connection with any matter arising from or related to this Notice of Expropriation must be directed to: HoD: Corporate Legal Services, Office 1-047, 1st Floor, EGSC Building, Corner Cross & Rose Streets, Germiston, 1400; Tel. 011 999772 or emailed to expropriation@ekurhuleni.gov.za.

Dr. Imogen Mashazi, City Manager, City of Ekurhuleni

06 February 2019
Notice 1-2019

a partnership that works
www.ekurhuleni.gov.za

City of Ekurhuleni

SOVETAN NOTICE 06 FEBRUARY 2019 01/2019

Metropolitan Municipality

Notice of Expropriation

Metropolitan Municipality (the Municipality) in terms of Housing Act, 1997 (Act No. 107 of 1997) Read with Sections 1, 6 to 15 and Expropriation Act, 1975 (Act No. 63 of 1975).

Ventures INV NO 900 (PTY) Ltd.
Building, 54 Maxwell Drive, Woodmead, Gauteng, 2192

other person claiming any right to or interest in the land described in this Notice of Expropriation whether by virtue of registration or otherwise, and particularly any lessee, buyer or contemplated in Section 9(1)(d) of the Expropriation Act, 1975.

Notice is hereby given by terms of Section 7, read with Section 5(2) of the Expropriation Act No. 63 of 1975 (the Act) that the Municipality, having obtained permission of the Member of the Executive Committee of the Province of Gauteng responsible for Human Settlements on 21 November 2018, hereby expropriates the land described hereunder under powers vested in it by Section 9(1) of the Housing Act No. 107 of 1997 (the Housing Act) and Section 5 of the Act, for public purposes, in particular for the purposes of a national housing programme as defined in Section 1 of the Housing Act. The land being expropriated is the following:

PORTION 406 OF THE FARM DRIEFONTEIN 85 IR, MEASURING 13,6847 HECTARES IN EXTENT.

PLEASE NOTE THE FOLLOWING

a. The date of expropriation shall be 30 April 2019 with effect from which date, where applicable, ownership of the said land will pass to the Municipality;
b. The date upon which the Municipality will take possession of the said property shall be 30 April 2019.
c. Where land is expropriated, with effect from the date of possession of the land by the Municipality, the Owner(s) will be relieved of the obligation to take care of and maintain the land and to pay taxes and other charges thereon, and will no longer be entitled to the use of and any income from the land; e
d. Where the property has been partially expropriated, at the request of the Owner(s) this notice shall be deemed to include the remainder of the property or part thereof in terms of Section 2 of the Act, provided that the Municipality is satisfied that such remainder has been rendered useless by the expropriation; and
e. The costs of the survey required and the survey itself will be borne and undertaken by the Municipality.

YOUR ATTENTION is directed to the provisions of Section 9(1) and 12, in particular sub-sections 3(a) (ii) of the Act and in particular to the obligations which you must comply with under the said sections. For your convenience, the sections are reproduced here (please read Municipality where it states 'Minister' or 'State').

9. Duties of owner of property expropriated or which is to be used by State. -

(1) An owner whose property has been expropriated in terms of this Act, shall, within sixty days from the date of notice in question, deliver or cause to be delivered to the Minister a written statement indicating-
(a) if any compensation was in the notice of expropriation offered for such property, whether or not he accepts that compensation and, if he does not accept it, the amounts claimed by him as compensation and how much of that amount represents each of the respective amounts contemplated in section 12(1)(a)(i) and (ii) or (b) and full particulars as to how such amounts are made up;
(b) if no such compensation was so offered, the amount claimed as compensation by him and how much of that amount represents each of the respective amounts contemplated in section 12(1) (a)(i) and (ii); or
(c) and full particulars as to how such amounts are made up;
(d) if the property expropriated is land and any amount is claimed in terms of paragraph (a) or (b), full particulars of all improvements thereon which, in the opinion of the owner, affect the value of such land;
(e) if the property being expropriated is land-
(i) which prior to the date of notice was leased as a whole or in part by unregistered lease, the name and address of the lessee, and accompanied by the lease or a certified copy thereof, if it is in writing; or full particulars of the lease, if it is not in writing;
(ii) which, prior to the date of notice, was sold by the owner, the name and address of the buyer, and accompanied by the contract of purchase and sale or a certified copy thereof;
(iii) on which a building has been erected which is subject to a builder's lien by virtue of a written building contract, the name and address of the builder, and accompanied by the building contract or a certified copy thereof;
(f) indicate the address to or at which you desire that further documents in connection with the expropriation may be posted or delivered. Provided that the Minister may at his discretion extend the said period of sixty days, and that, if the owner requests the Minister in writing within thirty days as from the date of notice to extend the said period of sixty days, the Minister shall extend such period by a further sixty days.
(2) You are hereby requested, within sixty (60) days of the date of this notice, to -
(a) Deliver or cause to be delivered to the Municipality at the address stated hereunder the title deeds of the property hereby expropriated or, if such document is not in your possession or under your control, the name and address of the person in whose possession or under whose control it is;

12. Basis on which compensation is to be determined.

1(a) (i) If the owner fails to comply with the provision of section 9 (1) within the appropriate period referred to in the said section, the amount so payable shall during the period of such failure and for the purpose of the payment of interest be deemed not to be an outstanding amount.

COMMUNICATION with the Municipality and in connection with any matter arising from or related to this Notice of Expropriation must be directed to Head: Corporate Legal Services, Office 1-047, 1st Floor, EGSC Building, Corner Cross & Rose Streets, Germiston 1400; Tel: 011 999772 or emailed to expropriations@ekurhuleni.gov.za.

Dr. Imogen Mashazi, City Manager, City of Ekurhuleni
06 February 2019
Notice 1-2019

CEMMY

GAUTENG PROVINCE

Enquiries: Mr Fred Mokoko
Chief of Staff: Office of the MEC
Tel: 068 4777 052

Cllr Mzwandile Masina
Executive Mayor
City of Ekurhuleni
GERMISTON
1400

Dear Honourable Mayor

REQUEST FOR PERMISSION TO EXPROPRIATE PRIVATELY OWNED LAND PARCELS FOR HUMAN SETTLEMENTS PURPOSES IN THE CITY OF EKURHULENI

By virtue of powers vested upon me in terms of section 9(3)(ii) of the Housing Act 107 of 1997, I hereby grant permission to the City of Ekurhuleni Metropolitan Municipality for expropriation of the land parcels hereinafter-described for human settlements development purposes:

(i) Remaining Extent of Portion 40 of the farm Rietfontein 63 IR measuring 5, 0340 hectares in extent, owned by Gemma Diamonds Pty Ltd;

(ii) Remaining Extent of Portion 2 of farm Elandsfontein 90 IR measuring 355, 1240 hectares in extent, owned by three companies, namely Redefine Prop Ltd, Pivotal Fund Ltd and GGP Investment Pty Ltd; and

(iii) Portion 406 of farm Driefontein 85 IR measuring 33, 6847 hectares in extent, owned by Business Venture Investment No 900 Pty Ltd

Yours sincerely

Mr. DU Molloa, MPL
MEC: COGTA and Human Settlements
Date: 21/11/18

CEMM5

MacRobert
Attorneys

MacRobert Building
cnr Justice Mahomed & Jan Shoba Streets
Brooklyn Pretoria RSA
Private Bag X18 Brooklyn Square 0075
Docex 43 Pretoria
GPS Co-ordinates: S 25° 46' 2.28", E 28° 14' 10.68"
law@macrobert.co.za www.macrobert.co.za
Pretoria Tel +27 12 425 3400
Fax +27 12 425 3600

Other Branches:
Johannesburg Tel +27 010 110 9699 Fax +27 86 575 7609
Cape Town Tel +27 21 464 2400 Fax +27 21 461 2840
Durban Tel +27 31001 8905 Fax +27 86 650 4288

HOD: Corporate and Legal Services
CITY OF EKURHULENI
Office 1-047, EGSC Building
Cnr Cross & Rose Streets
Germiston
1400
By courier

And by Email: expropriation@ekurhuleni.gov.za

YOUR REF:
Expropriation Notice 1-2019

OUR REF:
AVN/sg/00045667

DATE:
8 April 2019

Rec 10/04/19

Dear Sirs

CLAIM FOR COMPENSATION IN TERMS OF SECTION 9 OF THE EXPROPRIAITON ACT, 63 OF 1975: BUSINESS VENTURE INVESTMENTS NO. 900 (PTY) LTD / PORTION 406 OF THE FARM DRIEFONTEIN 85 IR

1. We act on behalf of Business Venture Investments No. 900 (Pty) Ltd, the owner of portion 406 of the Farm Driefontein 85 IR ("the Property").

2. Our client received a Notice of Expropriation (no. 1-2019) from the City of Ekurhuleni Metropolitan Municipality, dated 6 February 2019. In terms of paragraph 3 of the said notice, and in terms of section 9 of the Expropriation Act, 63 of 1975 ("the Act"), read with section 9(3) of the Housing Act, 1997, our client has, 60 days, i.e. until 8 April 2019, to submit this claim, as we hereby do.

BACKGROUND OF THE PROPERTY

3. The Property was registered in our client's name on 14 December 2005.

MERITAS
Member

Your strategic partner at law

Directors GP van der Merwe (Chairman) LM Mankongu SM Jacobs CA Wessels N Cama J Albertse S van der Merwe KM Greig JA Erasmus JD van Streepzuzen DN Groenewald AS van Niekerk L Gan KC Cameron JC Jansen van Rensburg S Wolstraat JB Meyase J Nedzo A Fortuin A Aberder PS Nair K Zyranos K Thomas FA Dreyer T Booyse D Vraagom
Consultants DE Pfaff GK Hay T Charters NA Janse van Rensburg S Hayat D Vogel C Peppmans
Senior Associates E Deppe D du Plooy C Le Roux T Rengasas N Ramcharan E Wam HP Mahlangu H Hamman JS Uys AA Lakay

10. The Property is currently unoccupied and no lease agreements have been entered into with regard to any part of the Property (section 9(1)(d)(i));

11. The Property has not been sold and no person has any right or claim to take transfer of the Property (section 9(1)(d)(ii));

12. There is no existing builder's lien over the Property (section 9(1)(d)(iii)).

ADDRESS FOR FURTHER CORRESPONDENCE - SECTION 9(1)(e)

13. All further correspondence and documents can be addressed to the owner at the following address:

MACROBERT ATTORNEYS
MACROBERT BUILDING
CNR JAN SHOBA AND JUSTICE MAHOMED STREET
BROOKLYN
PRETORIA
REF: AS VAN NIEKERK/45667

EMAIL: avniekerk@macrobert.co.za

14. The original title deed of the Property couldn't be found by our client. And will continue to search for same and will apply for a replacement original from the Deeds Office, if the original cannot be found. The original or the replacement original will be delivered to the City of Ekurhuleni once it is available.

15. Our client currently employs the services of a security company to guard the Property. This is specifically necessary to prohibit the illegal occupation of the Property. Our client will discontinue the services of this security company with effect from the date of expropriation (being 30 April 2019) and the City of Ekurhuleni shall have to make its own security arrangements from that date.

16. Should you wish to discuss any practical arrangements with regard to the hand over and occupation of the Property, you are requested to contact writer hereof.

17. We trust you find this in order and await your reply to the compensation claimed.

4. The Property was transferred to our client from a related entity within the same group of companies as part of a restructuring of the group. A purchaser price of R1 million was allocated to the transfer, although this value did not reflect the true market value of the Property at the time.

5. In 2006 our client received a bona fide offer from a third party to purchase the Property for an amount of R145 per square metre of developable land, less actual services costs per square metre, provided that the ultimate purchase price shall not be less than R100 per square metre. That would amount to not less than R30 million for the Property. That sale did not proceed as our client considered the offer too low.

6. Our client commenced with the development of the Property and obtained approval for township establishment from the City of Ekurhuleni on 01 August 2018. A copy of this approval letter is attached and marked "BV1".

7. The township has not yet been proclaimed and an appeal was filed against the township approval.

COMPENSATION CALCULATION – SECTION 9(1)(b)

8. Our client claims a total compensation amount of R30 050 000.00 for the expropriation of the Property, made up and calculated as follows:

Item	Description	Amount
8.1	Section 12(1)(a)(i) - The amount which the property would have realized if sold on the date of notice in the open market by a willing seller to a willing buyer	R30 000 000.00
8.2	Amount payable in terms of section 12(2)	R50 000.00

INFORMATION IN TERMS OF SECTION 9(1)(c)&(d)

9. The Property is vacant and there are no improvements on the Property, except for a security fence surrounding the Property (section 9(1)(c));

Yours sincerely

ADRIAAN VAN NIEKERK
MACROBERT INC
avniekerk@macrobert.co.za
Direct telephone number : (012) 425-3451
Direct telefax number : (086) 588-1556

AKTE VAN TRANSPORT, NO. 2115/1937.

UIT KRACHT VAN EENE PROCURATIE.

BY DEZEN WORDT KENNIS GEGEVEN AAN ALLEN TIJ[illegible]

DAT PAUL MARÉ, [illegible] COOPER [illegible],

Publiek Notaris in voor mij [illegible] KENNIS GEDRAGEN [illegible]

verkozen voor de [illegible] Transvaalsche republiek, [illegible],

de gezegde PAUL MARÉ [illegible] bekwaamheden, bij speciale

procuratie aan hem verleend door

gepasseerd den 15den [illegible] voor [illegible] en getuigen

DRIEFONTEIN die te [illegible] verleend is geweest door twee

bevestigende getuigen, welke [illegible] op heden werd

wettigd door de gezegde [illegible] in [illegible] bedanlijheden

voormeld, verklaart dat de gezegde

WILLIAM KNIGHT

waarlijk en wettiglijk heeft verkocht, en dat hij de gezegde

PAUL MARÉ, bij deze Akte, cedeert en transporteert in [illegible]

en zijden eigendom aan en ten behoeve van

JOHN ANDREW ROGER en THOMAS THIELS

in hunne hoedanigheid als de tijdelijke Trustees van:

THE WITWATERSRAND GOLD MINING COMPANY LIMITED

hunne opvolgers in [illegible] tijd Administrateuren of Gemagtigden, de

zeker resteerende Noord Oostelijke gedeelte van de eigendoms

plaats of stuk grond genaamd

DRIEFONTEIN NO. 176

gelegen in het district Heidelberg Afdeling Witwatersrand be-

vattende de gemelde resteerende Noord Oostelijke gedeelte 4879

morgen en 40 vierkante roeden volgens kaart geformeerd door den

Landmeter Jas Brooks gedateerd 21st November 1878 (No. 274), [illegible]

gemeld is onderhevig aan sekere huurcontract op de mineraale

regten [illegible] Johannes Phillippus Kraft en [illegible]

T37524/74

Certificate of Registered Title No. T37524/74

Art. 43 van Wet No. 47 van 1937, ten opsigte van / Sect. of Act No. 47 of 1937, in respect of the

Ptn 134 (Gedeelte van Ptn 1) van die Plaas Driefontein 87 IR

Restant 642,2762 ha 95560

Ptn 140 = 2,1527 ha

GETRANSPORTEER AAN / TRANSFERRED TO W Wyk en K

No. T37525/74 Restant / Remainder 640,1235

B. G. VAN BILJON

Asst.-Registrateur/Asst. Registrar

7-10-1974

Serwitut van Pypleiding

ENDORSEMENT IN TERMS OF SEC. 11(1)(B), ACT No. 37/1956.

In Gedeelte(e) groot ongeveer / A portion(s) measuring approximately

van hiervermelde eiendom is ooreen deur die Suid-Afrikaanse / of the within-mentioned property has/have been expropriated by

Besorgd vir Hawens Administrasie, Kyk asseblief na / Required by the South African Railways and Harbours Administration. See

gewing No. 37/73

Ekspropriasie Kennis No. / Expropriation Notice No.

Aktekantoor, / Deeds Office, Pretoria.

Asst.-registrateur/Asst. Registrar

19-6-73

IN VERBINDING MET DIE GEMELDE KYK / FOR FURTHER ENDORSEMENTS SEE

Serwitut van Pypleiding

ENDORSEMENT IN TERMS OF SEC. 11(1)(B), ACT No. 37/1956.

In Gedeelte(e) groot ongeveer / A portion(s) measuring approximately

van hiervermelde eiendom is ooreen deur die Suid-Afrikaanse / of the within-mentioned property has/have been expropriated by

Besorgd vir Hawens Administrasie, Kyk asseblief na / Required by the South African Railways and Harbours Administrasie, See

gewing No. 107/73

Ekspropriasie Kennis No. / Expropriation Notice No.

Aktekantoor, / Deeds Office, Pretoria.

Asst.-registrateur/Asst. Registrar

Serwitut van Pypleiding

ENDORSEMENT IN TERMS OF SEC. 11(1)(B), ACT No. 37/1956.

In Gedeelte(e) groot ongeveer / A portion(s) measuring approximately

van hiervermelde eiendom is ooreen deur die Suid-Afrikaanse / of the within-mentioned property has/have been expropriated by

Besorgd vir Hawens Administrasie, Kyk asseblief na / Required by the South African Railways and Harbours Administrasie, See

gewing No. 171/73

Ekspropriasie Kennis No. / Expropriation Notice No.

Aktekantoor, / Deeds Office, Pretoria.

Asst.-registrateur/Asst. Registrar

Serwitut van Pypleiding

ENDORSEMENT IN TERMS OF SEC. 11(1)(B), ACT No. 37/1956.

In Gedeelte(e) groot ongeveer / A portion(s) measuring approximately

van hiervermelde eiendom is ooreen deur die Suid-Afrikaanse / of the within-mentioned property has/have been expropriated by

Besorgd vir Hawens Administrasie, Kyk asseblief na / Required by the South African Railways and Harbours Administrasie, See

gewing No. 37/73

Ekspropriasie Kennis No. / Expropriation Notice No.

Aktekantoor, / Deeds Office, Pretoria.

Asst.-registrateur/Asst. Registrar

19-6-73

CEMM7

SEÉLRSB
STAMP DUTY
FOOI
FEES 165 R40-00

PREPARED BY ME

CONVEYANCER
D Freeman

Vir verdere endossemente sien
For further endorsements see
P8

Deed of Transfer No: T 21249 /99

BE IT HEREBY MADE KNOWN:

THAT ~~Jacobus Frederik De Beer~~ DAVID FREEMAN
appeared before me at Pretoria, the said Appearer, being duly authorised thereto by a Power of Attorney granted to him or her by

WITWATERSRAND GOLD MINING COMPANY LIMITED
No. 01/00032/06

dated 29th MAY 1997 and signed at JOHANNESBURG and the said Appearer declared that—

The transferor truly and legally sold the hereinafter-mentioned property, and that he or she, the said Appearer, in his or her capacity aforesaid, did by these presents, cede and transfer to and on behalf of

THE TRUSTEES FOR THE TIME BEING OF THE
WITWATERSRAND GOLD MINING REALISATION TRUST
No. IT 2417/97

their successors in office or assigns

in full and free property

THE REMAINING EXTENT of the farm DRIEFONTEIN 85,
Registration Division I.R., Province of Gauteng;

In Extent 1282,8256 (ONE TWO EIGHT TWO comma EIGHT TWO FIVE SIX) Hectares;

FIRST transferred by Deed of Transfer T.1576/1887 with diagram SG. A 1690/1909 relating thereto and held by Deed of Transfer T.2115/1887;

SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Subject to the reservation of all rights to minerals in favour of Witwatersrand Gold Mining Company Limited, No. 01/00032/06 by virtue of Certificate of Mineral Rights No. K4735/1989, which reservation is in respect of the Remaining Extent of the farm Driefontein 85, Registration Division I.R., Province of Gauteng, measuring 1302,7971 hectares.**

2. **A portion of the abovementioned property measuring 2637 square metres is subject to a Lease in favour of East Rand Proprietary Mines Golf Club from 25 July 1931 until liquidation of the abovementioned transferor Company, as will more fully appear from Notarial Deeds K 586/1931S and K587/1931S.**

3. **The abovementioned property is subject to a servitude of pipeline in favour of Rand Mines Limited as will more fully appear from Notarial Deed K596/1931S with diagram SG No. A1780/1931 annexed thereto.**

4. **The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 3073 square metres by the South African Railways and Harbour Administration, as will**

more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria.

5. The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 758 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria.

6. The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 2,1420 hectares by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under number EX 46/1967.

7. The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 64 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under number EX 547/1970.

8. The former Remaining Extent of the farm Driefontein 85, Registration Division I.R., Province of Gauteng, measuring 1335,5802 hectares is subject to the cession of Servitudes of Pipeline in favour of the Republic of South Africa as will more fully appear from Deed of Cession No. K3335/1967 S.

9. The abovementioned property is subject to an expropriation of a portion measuring approximately 600 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under number EX 518/1976.

10. The abovementioned property is subject to an expropriation of a servitude approximately 1 metre wide by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under number EX 133/1976.

11. The abovementioned property is subject to an expropriation of a portion measuring approximately 5680 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under number EX 434/1983.

12. The abovementioned property is subject to an expropriation of a portion measuring approximately 26,3600 hectares by the South African Transport Services, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under number EX 345/1985.

13. The former Remaining Extent of the farm Driefontein 85, Registration Division I.R., Province of Gauteng measuring 1302,7971 hectares is subject to a servitude to convey electricity over the property in favour of Eskom as will more fully appear from Notarial Deed No. K1664/1990S.

14. The former Remaining Extent of the farm Driefontein 85, Registration Division I.R., Province of Gauteng measuring 1282,8256 hectares is subject to a servitude to convey electricity over the property in favour of Eskom as will more fully appear from Notarial Deed No. K2114/1993S.

15. The abovementioned property is subject to an expropriation in terms of Act 65/1981 of a portion by Transnet Limited, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under number EX 6/1991.

16. The abovementioned property is subject to an expropriation in terms of Section 18(1)(a) of Act 3/1987 of a portion measuring 10,0782 hectares by Devlopment Board, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under number EX 331/1989.

17. The abovementioned property is subject to a powerline servitude in favour of Eskom as will more fully appear from Notarial Deed of Servitude K5482/1996S.

AND SUBJECT FURTHER to such conditions as are mentioned or referred to in the aforesaid Deeds.

WHEREFORE the Appearer, renouncing all the right and title

WITWATERSRAND GOLD MINING COMPANY LIMITED
No. 01/00032/06

heretofore had to the property, did, in consequence also acknowledge him/her/it, to be entirely dispossessed of, and disentitled to, the same; and that, by virtue of these presents, the said

THE TRUSTEES FOR THE TIME BEING OF THE
WITWATERSRAND GOLD MINING REALISATION TRUST
No. IT 2417/97

their successors in office or assigns

now is and henceforth shall be entitled thereto, conformably to local customs; the State, however, reserving its rights, and finally acknowledging that the property was sold on 17th March 1997 for the sum of R51 050 000,00 (FIFTY ONE MILLION FIFTY THOUSAND RAND) together with the following properties:

1. Remaining Extent of the farm Driefontein 85, Registration Division I.R., Province of Gauteng;

2. Remaining Extent of Portion 1 of the farm Driefontein 87, Registration Division I.R., Province of Gauteng;

3. Remaining Extent of Portion 4 (a portion of Portion 1) of the farm Driefontein 87, Registration Division I.R., Province of Gauteng;

4. Remaining Extent of Portion 9 (a portion of Portion 1) of the farm Driefontein 87, Registration Division I.R, Province of Gauteng;

5. Remaining Extent of Portion 71 (a portion of Portion 1) of the farm Driefontein 87, Registration Division I.R, Province of Gauteng;

6. Portion 72 (a portion of Portion 4) of the farm Driefontein 87, Registration Division I.R. Province of Gauteng;

7. Remaining Extent of Portion 134 (a portion of Portion 1) of the farm Driefontein 87, Registration Division I.R., Province of Gauteng;

8. Portion 6 of the farm Vogelfontein 84, Registration Division I.R., Province of Gauteng;

9. Portion 38 (a portion of Portion 5) of the farm Olifantsvlei 327, Registration Division I.R., Province of Gauteng;

10. Erf 3457 Piet Potgietersrust Extentsion 3 Township, Registration Division K.S., Northern Province;

11. Erf 5155 Middelburg Township, Registration Division J.S., Province of Mpumalanga;

12. Portion 1 of Erf 100 Groblersdal Township, Registration Division J.S., Province of Mpumalanga;

13. Portion 2 of Erf 357 Groblersdal Township, Registration Division J.S., Province of Mpumalanga;

14. Portion 3 of Erf 357 Groblersdal Township, Registration Division J.R., Province of Mpumalanga;

15. Erf 198 Newtown Township, Registration Division I.R., Province of Gauteng;

16. Erf 200 Newtown Township, Registration Division I.R., Province of Ganteng;

17. Erf 555 Brenton, in the Local Transitional Council of Brenton, Division of Knysna, Province of the Western Cape;

18. Erf 88456 Cape Town at St James in the Municipality of Cape Town, Province of the Western Cape;

IN WITNESS WHEREOF I, the said REGISTRAR, together with the Appearer, have subscribed to these presents and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the REGISTRAR OF DEEDS at Pretoria

on 25/02/99 ~~26/02/99~~ 26 02/99

q.q. Signature of Appearer

In my presence.

REGISTRAR OF DEEDS

8

T 21249/99

By virtue of notarial deed of servitude dated 15/2/2000 the within mentioned property is subject to a personal servitude of usufruct in favour of The Church of the Emmanuel Gospel which servitude area is indicated by the figure A B C D E F on Diagram SG No. 3933/99 as will more fully appear from the mentioned notarial deed.

Vide 00933/2000 S

9/3/2000
Date

Reg Gen Aktes

Para 13: By virtue of notarial deed of cancellation of servitude K 5589/2000 S dated 13 August 1998 K 1661/90 has been cancelled.
I As will more fully appear from the said notarial deed.

Date
24/10/2000

Registrar of Deeds

VIR VERDERE ERDOSSEMENTE KYK A9

CEMM8

HOFMEYR HERBSTEIN & GIHWALA INC Prokureur/Attorney
366
TEL: (011) 286-1100

DEED OF TRANSFER

in favour of

BUSINESS VENTURE INVESTMENTS No. 900 (PTY) LIMITED

over

PORTION 406 OF THE FARM DRIEFONTEIN 85 IR

Hofmeyr

Hofmeyr Herbstein & Gihwala Inc/Ing

HOFMEYR HERBSTEIN & GIHWALA INC
6 SANDOWN VALLEY CRESCENT
SANDOWN
SANDTON, 2196
Tel: (011) 286-1100

366

SEALED
STAMP DUTY R400,00
FOOL
FEES

HOFMEYR HERBSTEIN & GIHWALA INC
6 SANDOWN VALLEY CRESCENT
SANDOWN
SANDTON, 2196
(011) 286 1100/33

Prepared by me

CONVEYANCER
WEBBER JG

DEED OF TRANSFER

T 165522 05

BE IT HEREBY MADE KNOWN THAT

ANNELISE CATHARINA BUCHLING

appeared before me, REGISTRAR OF DEEDS at PRETORIA, he the said Appearer being duly authorised thereto by a Power of Attorney signed at SANDTON on 26 October 2004 and granted to him by

The Trustees for the time being of WITWATERSRAND GOLD MINING REALISATION TRUST
No. IT 2417/1997

2006 -12- 0 /

VIOLET
2006 -01- 16
CARTWRIGHT

And the Appearer declared that his said principal had truly and legally sold on 23 September 2005 and that he, the said Appearer, in his/her capacity aforesaid, did, by these presents, cede and transfer to and on behalf of

BUSINESS VENTURE INVESTMENTS No. 900 (PTY) LIMITED
No. 2004/010990/07

its Successors in Title or assigns, in full and free property

PORTION 406 OF THE FARM DRIEFONTEIN 85 REGISTRATION DIVISION I.R.,
PROVINCE OF GAUTENG;

MEASURING 33,6847 (THIRTY THREE COMMA SIX EIGHT FOUR SEVEN) HECTARES

FIRST registered and still held by Certificate of Registered Title No T4960/2005 with Diagram SG No.6038/2004 annexed thereto

SUBJECT TO THE FOLLOWING CONDITIONS :

1. Subject to the reservation of all rights to minerals in favour of Witwatersrand Gold Mining Company Limited, No. 01/00032/06 by virtue of Certificate of Mineral Rights No. K4735/1989, which reservation is in respect of the right of the Remaining Extent of the farm Driefontein 85, Registration Division I.R., Province of Gauteng, measuring 1302,7971 hectares.

2. The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 3073 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria

3. The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 758 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria.

4. The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 64 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under number EX 547/1970.

5. The former Remaining Extent of the farm Driefontein 85, Registration Division I.R., Province of Gauteng measuring 1282,8256 hectares is subject to a servitudes to convey electricity over the property in favour of the Eskom as will more fully appear from Notarial Deed No. K2114/1993S.

6. By virtue of Notarial Deed number K6078/2002S dated 19 July 2002, the within mentioned property is subject to a servitude in perpetuity in favour of Cape Morgan (Proprietary) Limited to convey and transmit water, sewerage, mining by products, effluent, slimes, tailings, rock and sand over the property by means of pipelines already laid and to be laid.

7. By virtue of Notarial Deed of Servitude K7263/2003S the within mentioned property is subject to a servitude of right of way in favour of Cape Morgan (Proprietary) Limited as will more fully appear from the said deed

SUBJECT to such conditions as are mentioned or referred to in the aforesaid Deed/s.

WHEREFORE the Appearer, renouncing all right and title which the said

The Trustees for the time being of WITWATERSRAND GOLD MINING REALISATION TRUST
No. IT 2417/1997

heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

BUSINESS VENTURE INVESTMENTS NO. 900 (PTY) LIMITED
No. 2004/010990/07

its Successors in Title or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 000 000,00 (ONE MILLION RAND)

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer q.q., have subscribed to these presents and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the Registrar of Deeds at Pretoria on

14 12 05

q.q.

In my presence

REGISTRAR OF DEEDS

366

HOFMEYR HERBSTEIN & GIHWALA INC
6 SANDOWN VALLEY CRESCENT
SANDOWN
SANDTON, 2196

Prepared by me

CONVEYANCER
WEBBER JG

POWER OF ATTORNEY TO TRANSFER

I, the undersigned

MICHAEL JORDAAN duly authorised hereto by the trustees for the time being of
WITWATERSRAND GOLD MINING REALISATION TRUST
No. IT 2417/1997
by Letters of Appointment issued by the Master of the High Court of South Africa at TRANSVAAL PROVINCIAL DIVISION on
14 March 1997

do hereby nominate, constitute and appoint STANLEY HILLIARD TREISMAN and/or LEONARD JOHANNES KRUGER and/or JOHN GRANT WEBBER and/or SALOMINA SALOME' DEKKER and/or ADRIAAN WILLEM PRETORIUS and/or MURIEL SERFONTEIN and/or HANSUEREE KALIDEEN

with power of substitution to be the true and lawful Attorney/s and Agent/s of the Transferor to appear before the REGISTRAR OF DEEDS at Pretoria and there to declare that I did on 23 September 2005 sell to:-

BUSINESS VENTURE INVESTMENTS No. 900 (PTY) LIMITED
No. 2004/010990/07

for the sum of R1 000 000,00 (One Million Rand) the following property/ies, namely -

PORTION 406 OF THE FARM DRIEFONTEIN 85 REGISTRATION DIVISION I.R.,
PROVINCE OF GAUTENG;

MEASURING: 33,6847 (THIRTY THREE COMMA SIX EIGHT FOUR SEVEN) HECTARES

HELD BY Certificate of Registered Title No. T4960/2005

and further cede and transfer the said property in full and free property to the said Transferee; to renounce all right, title and interest which the Transferor heretofore had in and to the said property, to promise to free and warrant the said property and also to clear the same from all encumbrances and hypothecations according to law, to draw, sign and pass the necessary acts and deeds, or other instruments and documents; and generally, for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, to all intents and purposes, as the Transferor might or could do if personally present and acting therein; hereby ratifying, allowing and confirming all and whatsoever the said Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

Signed at SANDTON on 26 October 2005 in the presence of the undersigned witnesses.

AS WITNESSES :

1. _____

2. _____

_____

WITWATERSRAND GOLD MINING REALISATION TRUST

244

SARS

366

Hofmeyr

(011) 286-1100

TRANSFER DUTY

TD5

Receipt or exemption certificate

Transfer Duty Act, 1949 and Value-Added Tax Act, 1991

Part 2

Details of seller/transferor

Full name of seller/transferor	WITWATERSRAND GOLD MINING REALISATION TRUST
Identity/Trust/CC/ Company number	IT 2417/1997
VAT number	

Details of purchaser/transferee

Full name of purchaser/ transferee	BUSINESS VENTURE INVESTMENTS No. 900 (PTY) LIMITED
Identity/Trust/CC/ Company number	2004/010990/07
VAT number or income tax number if not a VAT vendor	

Details of sale transaction

Date of transaction	23 September 2005
Bought by:	Private Treaty ✓ / Public Auction
Consideration	R1 000 000,00
Bond granted by	
Amount of bond	R0,00
Description of property (as per Deeds registry)	PORTION 406 OF THE FARM DRIEFONTEIN 85 REGISTRATION DIVISION I.R., PROVINCE OF GAUTENG; MEASURING 33,6847 (THIRTY THREE COMMA SIX EIGHT FOUR SEVEN) HECTARES
Physical address	Rondebult Road, Germiston
Postal code	1417
Property is:	Improved / Unimproved

Nature of property: ☐ Primary residence ☐ Other residential property ☐ Small holding ☐ Farm ☐ Commercial building ☐ Industrial building ☐ Other, specify

Calculation of VAT payable

VAT rate: Standard ✓ / Zero

1. Payment of the VAT is tendered herewith		R
2. The output tax will be declared in the VAT201 return for the	Next due Date after registration	period R0.00
3. The supply is that of a going concern which qualifies for the zero rate		R

Declaration by Conveyancer/Attorney – (Ref: 01862097/CARLA DE ABREU/JWR)

I JOHN GRANT WEBBER of HOFMEYR HERBSTEIN & GIHWALA INC (full name) hereby certify that this is a true copy of the transfer duty receipt / exemption certificate, drawn from the SARS website (e-filing only).

32202

Signature

2005 09 23

Date

RECEIPT/EXEMPTION

HEREREGTE VERKRYGING VAN HIERDIE EIENDOM IS VRYGESTEL VAN HET-REGTE KRAGTENS ART. 9(5) VAN DIE HEREREGTE WET, No. 40/49

2005-11-17

ONTVANGER VAN INKOMSTE DATUM

363
Hofmeyr
(011) 286-1100

LAWYERS NAME: HOFMEYR HERBSTEIN GI
ADDRESS: PRIVATE BAG X40
BENMORE
2010

EKURHULENI
METROPOLITAN MUNICIPALITY
2005 -11- 17
SDC BOKSBURG - FINANCE
Dept. Head / Authorised Signatory

DATE OF APPLICATION: 2005/11/07 CLEARANCE CERTIFICATE NUMBER 35468

CLEARANCE CERTIFICATE

THIS IS TO CERTIFY

THAT ALL AMOUNTS DUE IN TERMS OF SECTION 118(1) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, ACT 32 OF 2000, PAYABLE TO THE EKURHULENI METROPOLITAN MUNICIPALITY, IN RESPECT OF THE LAND OR THE RIGHT IN LAND DESCRIBED HEREUNDER HAVE BEEN PAID IN FULL

DESCRIPTION OF LAND OR RIGHT IN LAND/PROPERTY

STAND NUMBER/REFERENCE: F26 000 00000406 00000 0000 0000

STAND DESCRIPTION: STAND 0000406

TOWNSHIP: DRIEFONTEIN 85-IR

STAND AREA: 336847 SQ METER

THIS CERTIFICATE IS VALID UNTIL: 2006/04/30

Signed at BOKSBURG on this the 17 day of NOVEMBER 2005

(Signature) Authorized Official

SCHEDULE

CERTIFICATE IN TERMS OF SECTION 118 OF THE LOCAL GOVERNMENT:

MUNICIPAL SYSTEMS ACT, 2000 (ACT NO. 32 OF 2000)

(AS PRESCRIBED IN TERMS OF SECTION 120 OF ACT NO. 32 OF 2000)

ISSUED BY
BOKSBURG SDC

In terms of section 118 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000), it is hereby certified that all amounts that became due to EKURHULENI METROPOLITAN MUNICIPALITY in connection with the under mentioned property situated within that municipality for municipal fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for this certificate, have been fully paid.

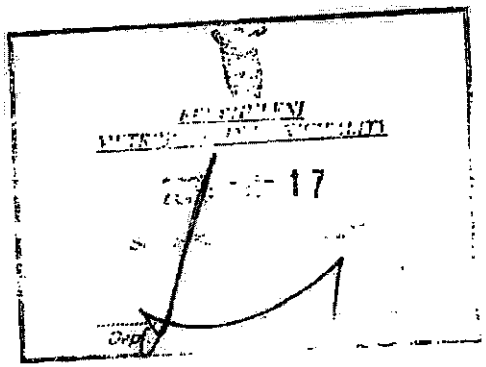
DESCRIPTION OF PROPERTY

Erven	: 00000406
Portion	: 00000
Extension	: 000
Zoning	: AGR BUSINESS
Suburb/Town	: DRIEFONTEIN 85-IR
Registered owner	: WITWATERSRAND GOLD MINING REALISATION

This certificate is valid until 2006/04/30

Given under my hand at _____, on _____

MUNICIPAL MANAGER
BOKSBURG SDC



Prod DEEDS REGISTRATION SYSTEM - PRETORIA DATE : 20051128 TIME : 10:34:10.9 PAGE : 1
Prepared By : DRS01025 - Liezl Marais, Pta office

TRACK NUMBER : 3285212

BLACK-BOOKING ENQUIRY ON NAME - WITWATERSRAND GOLD MINING REALISATION TRUST
ID NUMBER - 2417/1997
BIRTH DATE - 0
MARITAL STATUS -
MAIDEN NAME -
TYPE OF PERSON - TRUST

PERSON NAME AND ID		CONTRACTS/INTERDICTS	NOTED ON MICROFILM REF
WITWATERSRAND GOLD MINING REALISATION TRUST	2417/1997	K2512/2004RM	20040430 2004 0770 2617
	2417/1997	PA1063/1998	19980930 1998 1042 0098
	2417/1997	VA407/2005-T3432/2000	20050117 2005 0576 2702
	2417/1997	VA8149/2003-T72287/1997	20030923 2005 0909 1142

* * * END OF REPORT * * *

Prod DEEDS REGISTRATION SYSTEM - PRETORIA DATE : 20051128 TIME : 10:34:17.5 PAGE : 1
Prepared By : DRSO1025 - Liezl Marais, Pta office

TRACK NUMBER : 3285212

PROPERTY DETAILS PRINT FOR PORTION 406
FARM NO 85
REG DIV IR

PROVINCE GAUTENG

PREV DESCRIPTION
DIAGRAM DEED NO T4960/2005
EXTENT 33.6847 H
CLEARANCE PERI URBAN
FARM NAME DRIEFONTEIN

INTERDICTS

CAVEATS

OWNER DETAILS

FULL NAME & SHARE	PURCH DATE	AMOUNT/REASON	O/P/A	IDENTITY	TITLE DEED	MMDD	MICROFILM REF
WITWATERSRAND GOLD MINING REALISATION TRUST				2417/1997	T4960/2005	0112	2005 0558 0985
			CRT				

* * O/P/A - O - MULTIPLE OWNER P - MULTIPLE PROPERTY A - MULTIPLE OWNER AND PROPERTY

* * * END OF REPORT * * *

CEMM 9

Date: 15 May 2018
Reference: DvdM14678
Enquiries: Danie van der Merwe

Ekurhuleni Metropolitan Municipality
2nd Floor, Boksburg Customer Care Centre
Cnr Commissioner and Trichardts Road
Boksburg
1460

Attention: Mr Allan Smith

Dear Sir,

PROPOSED TOWNSHIP: COMET EXTENSION 8
- EXTENSION OF TIME -

The abovementioned township and letter of township approval by the Ekurhuleni Municipal Planning Tribunal dated 19 June 2018 refers.

We herewith request an extension of time in terms of Section 72(1) of the Town-Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) for a period of 12 months (from the date of the decision by the Ekurhuleni Municipal Planning Tribunal) until 19 June 2019 to enable us to register the General Plan for Johandeo Extension 1.

As you are aware we cannot continue at the moment due to the appeal that has been lodged against the decision.

We trust that the above meets with your approval. Should you have any queries or require further information, please do not hesitate to contact us.

Yours faithfully

Urban Dynamics Gauteng Inc

Danie van der Merwe
Pr. Pln A/085/2008

CC MM 10



Prepared for:
Ekurhuleni Metropolitan Municipality (Department of Human Settlements)

Contact person:
Charlotta Mokhethi

Tel: (011) 999 7962
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EMM FEASIBILITY DRIEFONTEIN

RESIDENTIAL TOWNSHIP FEASIBILITY REPORT

REVISION 00

MARCH 2018

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1 Introduction

This section of the report is presented under the following sub-headings:

- **Background**
- **Purpose of the Report**
- **Structure of Report**
- **Glossary and Definitions.**

Wayo Consultants appointed Delta BEC as part of an appointment for the Development Bank of South Africa to conduct a feasibility study for a potential residential development on a Portion of land in the southern parts of Boksburg for the Ekurhuleni Metropolitan Municipality Department of Human Settlements. The study area is situated on the following land portion:

- **Portion 406 Of Farm Driefontein 85-IR.**

Portion 406 Of Farm Driefontein 85-IR are situated in the southern part of Boksburg and is 33.6 ha in extent. The entire portion 406 forms the study area which will be analysed for the proposed residential development.

The purpose of the report is to provide a feasibility study report for the potential development of a Residential area on a portion of Portion 406 Of Farm Driefontein 85-IR, specifically in order to determine the current state and context of this specific land parcel and its surroundings, together with proposed plans in place, in order to identify the opportunities and constraints affecting the development potential of the site and possible interventions required to achieve the most optimal development and use of the land.

The prescribed Scope of Works specifies inter alia the following:

- **determine land ownership;**
- **examine physical properties (geology, topography and flood lines) and environmental issues that may affect feasibility;**
- **determine physical planning status and propose appropriate planning process and schedule;**
- **determine legal status with regard to surface rights, servitudes and other legalities that my negatively affect the project;**
- **determine guiding planning documents and guiding principles for development;**
- **develop a development proposal/conceptual urban design framework;**
- **determine environmental impact and mitigation measures as well as specialist studies that may be needed.**
- **determine availability of bulk and link engineering infrastructure;**
- **determine layout standards (stand size, road alignment) and level of service in consultation with EMM;**

develop an implementation program and responsibility matrix;
- determine any other constraint that may negatively affect the development potential of the land; and
- make recommendations that may enhance the project and project yield.

The report comprises of the following sections:

Section 2: Approach and Method
Section 3: Property Assessment
Section 4 Infrastructure Assessment
Section 5: Geotechnical Conditions Assessment
Section 6: Environmental Conditions Assessment
Section 7: Existing and Future Plans
Section 8: Findings and Influencing Factors.

Table 1-1: Acronyms

BRT	Bus Rapid Transit
CBD	Central Business District
Delta BEC	Delta Built Environment Consultants
EBOSS	Ekurhuleni Bio-diversity and Open Space Strategy
EMM	Ekurhuleni Metropolitan Municipality
EIA	Environmental Impact Assessment
GDF	Growth and Development Framework
GDS	Growth and Development Strategy
GSDF	Gauteng Spatial Development Framework
ICT	Information and Communication Technology
IDP	Integrated Development Plan
IRPTN	Integrated Rapid Public Transport Network
ITP	Integrated Transport Plan
LED	Local Economic Development
LSDF	Local Spatial Development Framework
LUMS	Land use management system
MSDF	Municipal Spatial Development Framework
NDP	National Development Plan
ORTIA	OR Tambo International Airport
RSDF	Regional Spatial Development Framework
SDF	Spatial Development Framework
SG Diagram	Surveyor General Diagram

2. Approach and Methodology

The feasibility assessment comprises the assessment of the property attributes, including its location, infrastructure services capacity and condition, the existing land use, etc. The approach adopted for commissioning the technical assessment of the property is based on the following:

- **The determination of the current physical and legal conditions and obligations, which could affect the development of the property**
- **The determination of existing and future plans that could potentially influence or govern the potential development options for the land**

The methodology used in undertaking the assessment is as follows:

- **Source plans and relevant documentation from the various departments within the EMM department, relevant to the study area**
- **Source information by way of a desktop study**
- **Conduct a physical inspection of the property and its surrounds in order to record the current physical attributes of the property, by way of site visits**
- **Discuss the information sourced and confirm findings with relevant officials within EMM**
- **Compile the Technical Assessment.**

The technical aspects that have been investigated consist of and are presented under the following headings:

- **Property Assessment**
- **Infrastructure Assessment**
- **Geotechnical Conditions**
- **Environmental Conditions**
- **Future Development Plans**
- **Influencing Factors and Findings.**

The development framework draws on work that was previously conducted. It comprises an overview of the Technical Assessment, presents a high-level site development concept, an overview of the development potential, bulk demands and implementation considerations and recommendations. The approach adopted for commissioning the Development Framework of the property is based on the following:

A consolidated review of the outcomes and findings from the Technical Assessment;
A rough draft concept was prepared for internal team discussions;
A document (report and drawings) that contains the final conceptual development framework, based on the steps above, was produced.

3. Property Description

This section of the report is presented under the following sub-headings:

- **Location**
- **Description and Address**
- **Size/Extent**
- **Legal Status**
- **Existing Land Use**
- **Surrounding Land Use and Zoning.**

3.1 Property Location: Regional Context

The study area is situated within the southern part of the Ekurhuleni Metropolitan Municipality, in administrative Region A, ward 34. It is bounded by Region B to the north, region C and D to the east and Region F in the south.

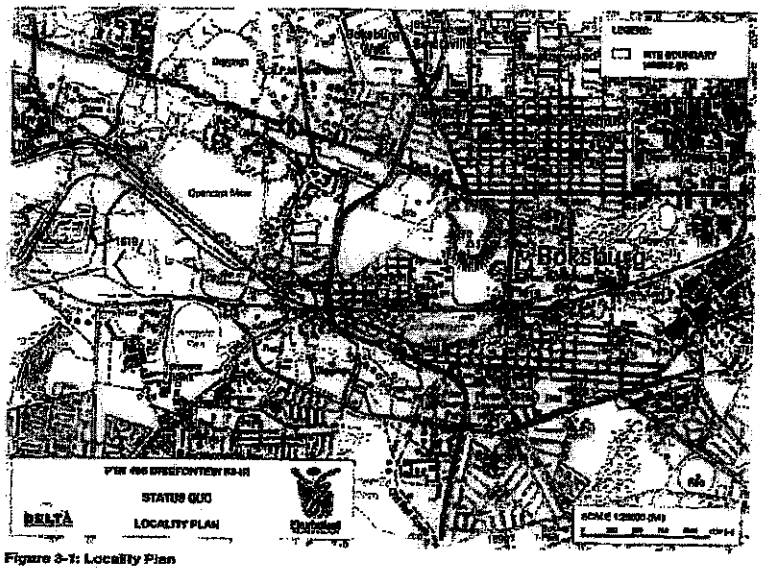


Figure 3-1: Locality Plan

5. Geotechnical Conditions Assessment

A desk study was conducted of the available geological and geotechnical information of the site in order to identify geotechnical considerations that may have an influence on the development of the site.

According to the geological map of the area (2628 East Rand) the entire site is underlain by sandstone and shale (with possible coal beds) of the Vryheid Formation of the Karoo Supergroup.

Near surface soil that overly the bedrock geology is typically expected to consist of a layer of transported material (hillwash) which can vary from sandy to clayey deposits. Portions of the site can also be covered by mine tailings. Sites on Karoo shale often have a shallow water table or development of perched conditions on the low permeability transported and residual soil below. Prominent drainage or erosion features were not noted at the site.

As part of the development plan of the site, detailed geotechnical investigations must be conducted to augment this desk study.

The purpose of this report is to provide a general overview of the site and to evaluate the suitability of the land for future development. The following geotechnical related factors have to be considered in the evaluation of the sites for urban development:

- **Collapsible / compressible soil profile;**
- **Expansive soil profile;**
- **Shallow seepage or groundwater level;**
- **Erodibility of the soil profile;**
- **Excavatability;**
- **Undermined ground;**
- **Instability of areas of soluble rock;**
- **Steep slopes;**
- **Unstable natural slopes;**
- **Seismic activity;**
- **Areas subject to flooding; and**
- **Other considerations**

Each of the above-mentioned constraints and its applicability to this specific site are discussed in the sections that follow.

5.1.1. Collapsible / Compressible Soil Profile

The sandstone bedrock of the Vryheid Formation is expected to weather into sandy soils which display may have a collapsible or compressible structure.

The main access routes into the region include the N3, N12 in the south and the R21/R24 in the north.

The study area is located in Ward 34 within the administrative Region A of EMM. The property is situated along Rondebult road east of the site, composting site to the north of the site, Plantation township to the south and old mine dump to the west. The geographical position of the property is at the following GPS coordinates: 26°12'42.05"S and 28°14'22.23"E at an Elev: 1631 m.

Rondebult Road (R21) is the main arterial road that connect the study area with the N17 and N12 highways. The study area is well located along Rondebult Road (R21), and within the Boksburg precinct. The study area is currently vacant with a berm and water pipe dissecting the land portion into two.

The study area is located within close proximity to the Boksburg CCC and 1.75 km from Boksburg CBD. There currently are a number of schools available within two kilometres of the site with a police station and hospital as well.

The study area consists of 1 farm portion which is listed below:

Portion 406 Of Farm Driefontein 85-IR.

The cadastral demarcation and property boundary of the land portion is indicated in Figure 3-2.

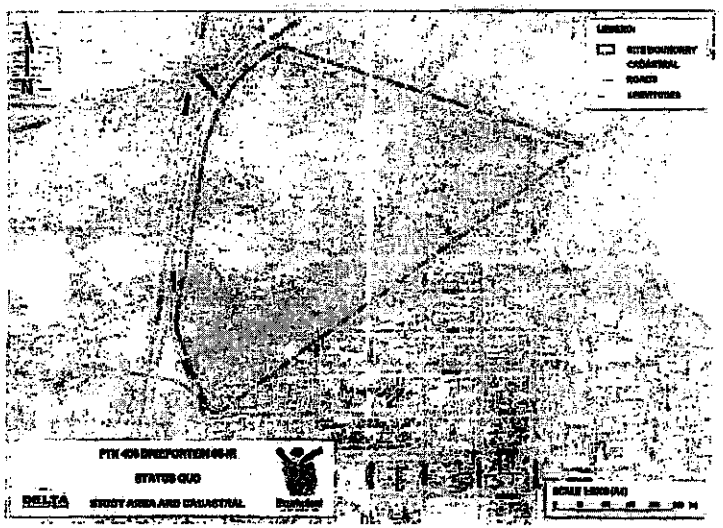


Figure 3-2: Cadastral outline of the entire land portion

The total area of the study area is approximately 336 847 m² in extent.

The ownership information of the property is outlined in Table 3-1, and the Certificate of Registered Title is attached in Annexure B2 of this report.

Table 3-1: Property Ownership Information

Portion 408 of Farm Driefontein 65-IR	BUSINESS VENTURE INV NO 800 PTY LTD	T165522/2005	2005/12/14	33.6847

3.4.2 Servitudes

The property is subject to the following servitudes and expropriations:

- The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 3073 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria.
- The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 758 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria.
- The abovementioned property is subject to an expropriation in terms of Section 11(1)(B) of Act 37/1955 of a portion measuring approximately 64 square metres by the South African Railways and Harbour Administration, as will more fully appear from the Notice of Expropriation filed in the Deeds Office in Pretoria under EX 547/1970.
- By virtue of Notarial Deed number K6078/2002S dated 19 July 2002, the within mentioned property is subject to a servitude in perpetuity in favour of Cape Morgan (Proprietary) Limited to convey and transmit water, sewerage, mining by products, effluent, slimes, tailings, rock and sand over the property by means of pipelines already laid and to be laid.
- By virtue of Notarial Deed number K6078/2002S dated 19 July 2002, the within mentioned property is subject to a servitude of right of way in favour of Cape Morgan (Proprietary) Limited as will more fully appear from the said deed.

3.4.3. Restrictive Title Conditions

The title deed for the subject property did not include any restrictive title conditions.

3.4.4. Bonds

There are no bonds registered over the subject property.

3.4.5. Existing Municipal Zoning

The zoning in terms of the Ekurhuleni Town Planning Scheme, 2014 is illustrated in the **Figure 3-3** and also described in the table below:

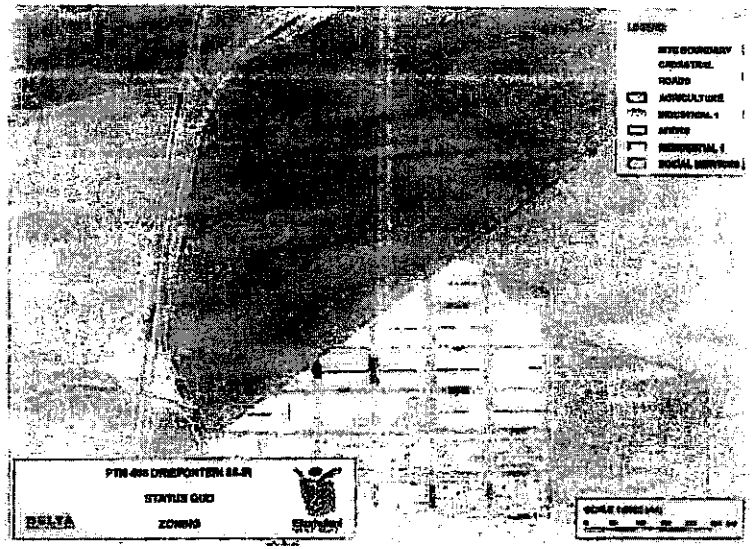


Figure 3-3: Current Zoning of the erven

Portion 408 Of Farm Driefontein 85-IR	Agriculture	Agricultural uses, plant nurseries, dwelling house, agricultural outbuildings, cultivation sheds, conservation areas.

Permissible Height, Coverage and Density in terms of the Ekurhuleni Town Planning Scheme, 2014:

The land use controls for use zone "Agriculture" is as follows:

Height in storeys: 2
Coverage %: 5% for Farm Portions
30% on Agricultural Holdings
Density: N/A

The current uses on the site are in line with the land use rights as set in the scheme.

According to the 2007 GIS information obtained from Ekurhuleni as shown on Figure 3-4, the land use of the study area is identified as "Vacant".

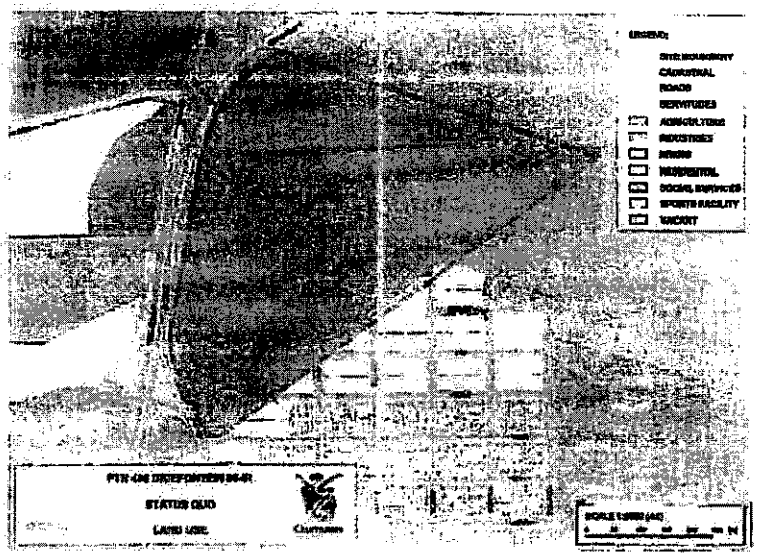


Figure 3-4: Existing Land Use of study area given

From historic aerial photos as well as the historic 1:50 000 topographic maps it seems that the site was previously used for mining purposes (mine dump). The southern part of the study area also had mine housing situated on the property, which started to become dilapidated in 2005 and was demolished in 2009.



Figure 3-5: Site indicated as Mine Dump on Topographic Maps

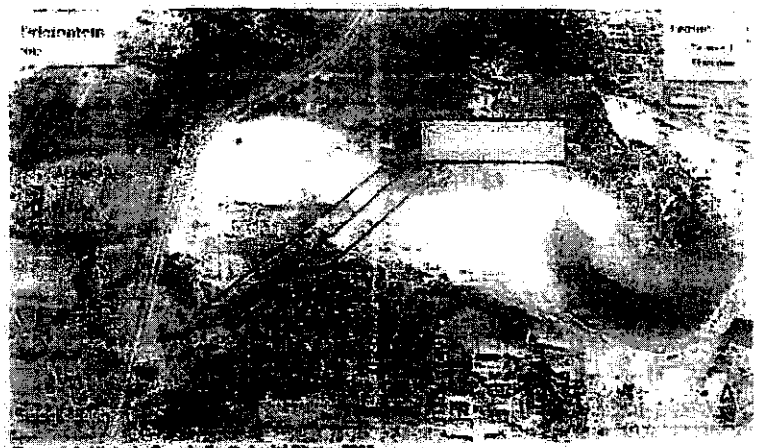


Figure 2-6: Historic Google Earth Aerial Photo, 2002



Figure 2-7: Historic Google Earth Aerial Photo, 2005



Figure 3-5: Historic Google Earth Aerial Photo, 2008



Figure 3-6: Historic Google Earth Aerial Photo, 2017

From site visit it was also evident that some of the houses adjacent to the study area on the southern extent of the study area have extended their erven onto the subject property.

4. Infrastructure Assessment

This section will describe the following items in detail:

Potable water reticulation
Firewater reticulation
Sewer reticulation
Wastewater Treatment Works
Stormwater reticulation
Roads, pavement and parking.

The study area is located in an area supplied of potable water by the Madeley Reservoir which is located approximately 4kms from the study area. The reservoir has spare capacity sufficient to supply an additional 13 500 kl/day.

There is no pipeline traversing the site, but a possible water connection is located along the southern, and western boundaries of the study area.

Fire and potable water are ordinarily a single network within the municipality. However, no confirmation could be made on site with the absence of fire hydrants within close proximity of the study area.

It is however assumed that the area should have the bulk firewater available, with the supply reservoir having spare capacity. An analysis is required at the next phase of the project, and a possible recommendation for the installation of a fire hydrant.

Sewer reticulation pipeline were found to traverse the study area during site investigations. The diameters of these sewer pipelines are unconfirmed. Based on site investigations and existing GIS data, the following is deduced of the external reticulation:

- **A network of sewer pipelines**
- **Non-overflowing manholes**
- **The network drains to a Waste Water Treatment Works (WWTW) in the south-eastern part of the study areas near Vosloorus.**

The sewer reticulation network is in a good working condition, with no over flowing manholes, and all are seemingly in order. The image below depicts one of the non-overflowing manholes:

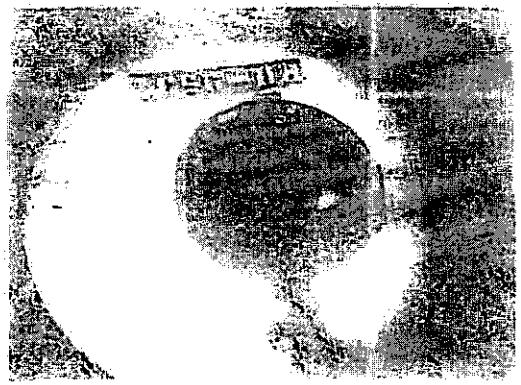


Figure 4-1 Non-overflowing manhole

The study area drains to the Vlakplaats Waste Water Treatment Plant which is situated in Vosloorus and falls within the DD6 drainage district. The WWTP has a capacity of 63 Ml/day and is currently operating at full capacity. All excess flow to the WWTP is bypassed to the Waterval WWTP, which also now operating at full capacity. It is recommended that upgrades or alternative methods of drainage be taken into consideration during the next phase of the project.

GLS Consulting is still to advise whether there are existing plans to upgrade the WWTW in the near future.

The study area does not have any internal Stormwater drainage, with no manholes or drains being identified during site investigations. The Driefontein farm area is naturally sloping towards the east, which will not allow for a tie in to an existing stormwater pipeline towards the main road (Rondebult Road). The nearest tie in point can be found in an intersection of Ash Avenue and Beech Street. There are no Stormwater channels to assist the flow from the area.

The study areas have no internal road network. The access to the areas is mainly through Rondebult Road. The road is in a fairly good condition and only requires minor repairs to surface cracks.

The surface slopes towards the Study area. If the area is to be developed an open Stormwater channel should be installed in order to aid the surface runoff from the road towards the nearest outlet point.

The figure below shows the Rondebult Road next to the Driefontein farm:



Figure 4-2 Roundabout Road near Driefontein Farm

The current electrical and ICT infrastructure for the study and surrounding areas are discussed as follows:

- Bulk electrical infrastructure (88 / 44 / 11 / 6.6 / 3.3 kV)
- Medium Voltage reticulation (6.6/3.3 kV)
- Low Voltage reticulation (400V)
- ICT infrastructure
- Study area specific information

4.7. Bulk Electrical Infrastructure (88 / 44 / 11 / 6.6 / 3.3 kV)

The study and surrounding areas are deemed to be fed from the Eskom the Cason Mill 44/6.6/3.3 kV Substation. Numerous 44 kV overhead lines exist feeding the Eskom owned Angelo 44/3.3 kV and Cason Mill 44/6.6/3.3 kV Substations. There are three decommissioned Eskom substations to the south of the study area.

The Ekurhuleni Municipality Electricity Department in Boksburg has been contacted for further information pertaining to the municipalities current electrical infrastructure. This report will be updated with this information, such as installed capacity and available spare capacity, once received.

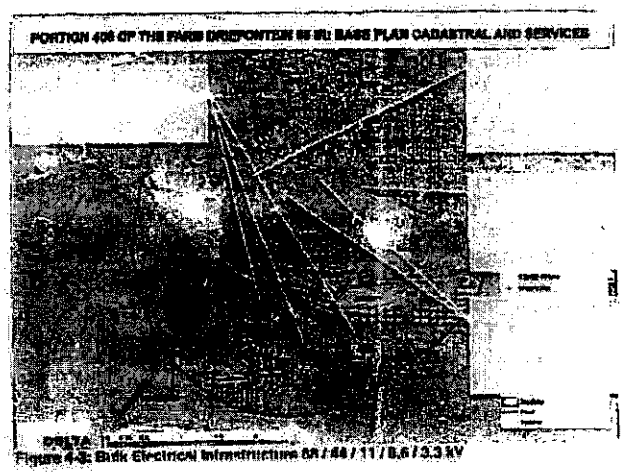


Figure 4-3: Bulk Electrical Infrastructure 88 / 44 / 11 / 6.6 / 3.3 kV

4.7.2. Medium Voltage Reticulation (6.6 kV)

The medium voltage reticulation within the area is achieved via underground 6.6 kV and 3.3 kV cables terminating at various miniature substations installed along the road sides.

The figure below indicates the location of miniature substations in the surrounding areas near the study areas.

The municipality has been contacted for further information on their infrastructure and this report will be updated upon receipt of this information.

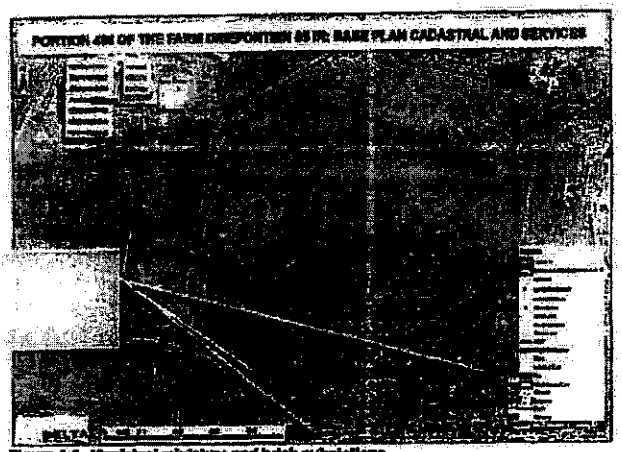


Figure 4-4 Municipal miniature and brick substations

Generally, the low voltage reticulation consists of underground cabling fed from the various miniature substations and brick substations installed along the road side.

Currently ICT reticulation in the area is achieve via underground cabling originating from road side distribution point's terminating at the various residential and industrial properties.

Telkom is deemed to be the predominant service provider for the area.

4.5. Study Area Specific Information

No electrical or ICT infrastructure exists within the study area's boundaries.

4.6. On-Site Developments

The site is vacant and undeveloped. It is as discussed earlier evident that there were mine houses developed on the site previously but these were totally demolished.

4.6.1. Security and Fencing

The site is not fenced currently.

4.6.2. On-Site Utility Services

There is a pipeline traversing the site.

The transported horizon covering the site can also comprise a potentially collapsible or compressible soil profile. Signs of a potentially collapsible soil profile (loose consistency or pinholed structure) can be observed during the geotechnical investigation and remedial measures, such as in situ compaction or removal and re-compaction can typically be implemented to alleviate the problem. Laboratory testing on undisturbed samples of the soil can confirm the collapse potential of the problematic soil horizons.

The shale bedrock of the Vryheid Formation is known to weather into clay soils which display may be expansive.

Signs of expansive soil behaviour (slicken siding or shattering) noted in the soil horizons during the proposed test pitting site investigation will give an indication that the deeper residual soil horizons are potentially expansive. Laboratory tests conducted on samples of the in-situ materials can quantify the extent of the potential problem. Mitigating measures such as soil rafts (removal of the expansive soil horizons and replacement with compacted granular material) or special founding measures, such as concrete raft foundations can be employed to counter the potential negative effects of potentially expansive soil horizons.

5.1.3. Shallow Seepage or Ground Water Level

Because of the low permeability of the clayey residual soils and the underlying bedrock it is also usual for a pedogenic (typically ferricrete) horizon to develop at the interface between the transported and residual soils. This may also result in the occurrence of a seasonal perched water at the site.

The site is fairly flat and the presence of a clayey residual soil profile may result in a shallow ground water regime at the site. Mitigating measures such as proper surface drainage or localised sub-soil drainage measures can be implemented to accommodate potential problems associated with shallow seepage or ground water levels.

5.1.4. Erodibility of the Soil Profile

The site is flat and erosion features were not observed on the photographs taken of the site.

5.1.5. Excavatability

It is not envisaged that excavatability of the soil will be problematic, to the depths at which township services are normally installed (typically 3 to 5 m).

5.1.6. Undermined Ground

No indication of the presence of shallow undermined areas was found during the desk study. The geological map of the area however indicates that the entire site can be undermined at depth. This must be confirmed during the geotechnical investigations for urban development

5.1.7. Instability of Areas of Soluble Rock

No indication of the presence of soluble rock (dolomitic) formations was found during the desk study.

5.1.8. Steep Slopes

Steep natural slopes are not present at the site.

5.1.9. Unstable Natural Slopes

No indication of the presence of unstable natural slopes was found during the desk study.

The SANS 10160-4:2011 guideline for seismic loading design on structures (Edition 1.1, SOUTH AFRICAN NATIONAL STANDARD *Basis of structural design and actions for buildings and industrial structures Part 4: Seismic actions and general requirements for buildings*) prescribe that structures must be designed to accommodate a peak ground acceleration value of 0,15 g for a 10% probability of being exceeded during a 50 year recurrence period (see Figure 5-1 below).

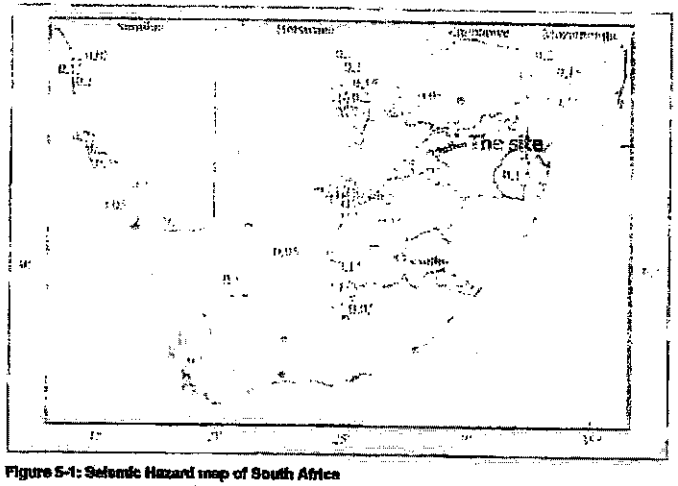


Figure 5-1: Seismic Hazard map of South Africa

5.1.11. Areas Subject To Flooding

No prominent drainage features were noted at the site. The site is however fairly flat and a storm water management system will be required for surface drainage.

5.1.12. Other Considerations

It is unlikely that good quality construction material will be found on site. These will have to be sourced from commercial operations in the area.

The site is also expected to be underlain at a shallow depth by shale or sandstone bedrock. It is therefore unlikely that any shallow mineral deposits will be sterilized by residential or commercial development of the site.

Based on the above, the following geotechnical related considerations will have an influence on the development of the site:

- Near surface soils that may be either compressible or expansive, which need be taken in consideration for the foundations structures and road pavement layers.

6. Environmental Conditions Assessment

This section serves as the basis for 1) biodiversity inputs into land use planning processes in the EMM; 2) Provides for basic input for biodiversity inputs into site specific development plans and/or programmes; 3) Serves as primary informant for a systematic conservation planning approach and decision-making; and 4) provide guidelines for determining the level of assessment required in terms of the Basic Assessment and Environmental Impact Assessment (EIA) processes, where relevant.

This section of the report is presented under the following sub-headings:

- **Topography**
- **Vegetation Types and Conservation Status**
- **Sensitive Ecosystems**
- **Possible Heritage Features**
- **Palaeosensitivity**
- **Potential Impacts of Development on the Above Environmental Parameters**
- **Potential Impacts of the Above Environmental Features on Development**
- **Assumptions/limitations**
- **SWOT Analysis.**

The property is moderately steep with elevations between 1598 m and 1637 m. Higher lying areas are towards the western extent of the property.

Feature:	**Threatened Terrestrial Ecosystems**	**Yes**	**No**
	Critically Endangered	**Yes**	**No**
Ecosystem Status:	**Endangered**	**Yes**	**No**
	Vulnerable	**Yes**	**No**

Critically Endangered Ecosystem: Klipriver Highveld Grassland.

Development Implications:

- Activity 15 in Listing Notice 2 of EIA Regulations 2014 (as amended) relates to the clearance of 20 hectares or more of indigenous vegetation.

This means that any development that involves the loss of 20 hectares or more of indigenous vegetation is likely to require Scoping & EIA in terms of the National Environmental Management Act: EIA regulations, 2014 (as amended).

Biodiversity specialists should be consulted in areas where there is a high likelihood that threatened species are present.

Source:

GDARD (2014): Technical Report for the Gauteng Conservation Plan (Gauteng C-Plan v3.3). Gauteng Department of Agriculture and Rural Development: Nature Conservation Directorate.

Gauteng Department of Agriculture and Rural Development. Gauteng C-Plan 3.3 Terrestrial CBAs and EASs 2011 [vector geospatial dataset] 2011. Biodiversity GIS.

GDARD Requirements for Biodiversity Assessments, Version 3, March 2014

Biodiversity Mainstreaming Toolbox for land-use planning and development in Gauteng

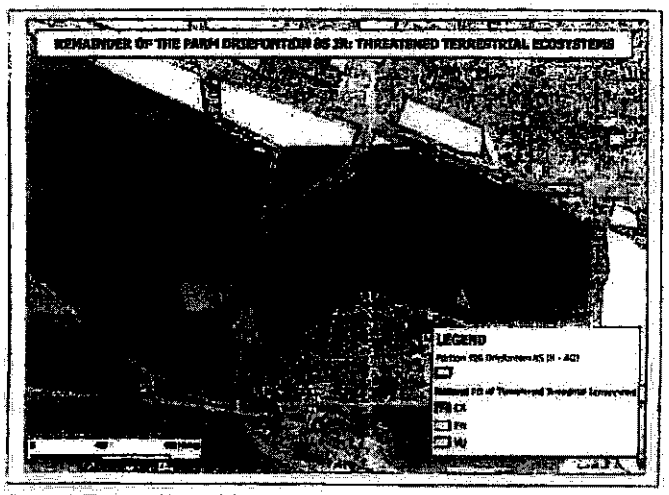


Figure 6-1: Threatened terrestrial ecosystems

6.3.1. Critical Biodiversity Areas

Feature:	Critical Biodiversity Area (CBA)	Yes	No
	Protected Area	Yes	No
C-Plan Area:	Important Area	Yes	No
	Irreplaceable Area	Yes	No
	Ecological Support Area	Yes	No
Ridges:	**Transformed**	Yes	No

Development implications:

The property is located on a transformed class 4 ridge.

At least a scoping report is required with the following specialist assessments:

- An ecological impact assessment
- A red data study for fauna and flora
- An invertebrate study
- A geotechnical assessment
- A socio-cultural assessment
- A visual study
- A management to maintain the ecological integrity of the remaining property.

Source:

GDARD (2014). GDARD Requirements for biodiversity assessments version 3.

GDARD (2014): Technical Report for the Gauteng Conservation Plan (Gauteng C-Plan v3.3). Gauteng Department of Agriculture and Rural Development: Nature Conservation Directorate.

EMM Guideline document for implementing the Environmental Policy

Biodiversity Mainstreaming Toolbox for land-use planning and development in Gauteng

Bioregional Plan for Ekurhuleni Metropolitan Municipality, 2014

GDARD (2001) Development guidelines for ridges



Figure 6-2: Critical Biodiversity Areas

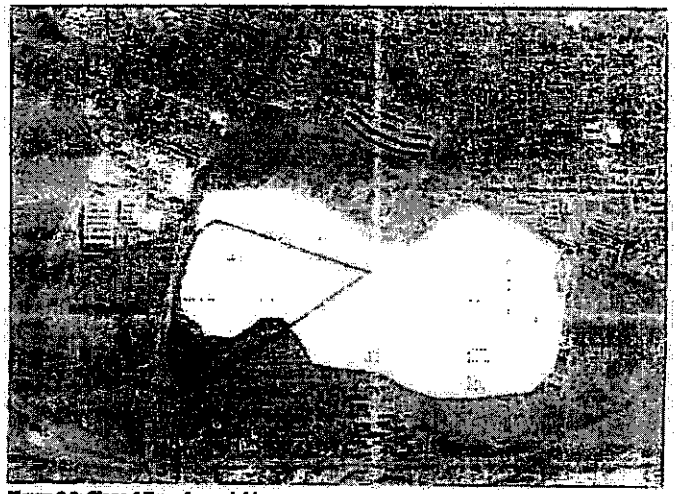


Figure 6-3: Class 4 Transformed ridge
(Gauteng City-Region Observatory (GCRO), hosted on behalf of the Gauteng Department of Agriculture and Rural Development.

6.3.2. Important Aquatic Features

Feature:	Freshwater Ecological Priority Areas	Yes	No
	River	Yes	No
	River (NFEPA)	Yes	No
	Wetland	Yes	No
	Wetland NFEPA	Yes	No
	Wetland and Estuary FEPA	Yes	No
FEPA Categories:	Wetland Cluster	Yes	No
	Fish Sanctuaries and associated sub-quaternary catchment	Yes	No
	Fish Support Areas and associated sub-quaternary catchment	Yes	No
	NFEPA Free-flowing River	Yes	No
	NFEPA Flagship Free-Flowing Rivers	Yes	No

Water Management Area FEPA name: Upper Vaal

There is a stormwater pipeline that feeds stormwater into a dam located towards the property's western extent.

Development Implications: None

Source:

Atlas for Freshwater Ecosystem Priority Areas – Maps to support sustainable development of water resources (WRC Report No. TT 500/11)

Biodiversity Mainstreaming Toolbox for land-use planning and development in Gauteng

Technical Report for the Freshwater Ecosystem Priority Areas Project (WRC Report No. 1801/2/11)

GDARD (2014): Technical Report for the Gauteng Conservation Plan (Gauteng C-Plan v3.3). Gauteng Department of Agriculture and Rural Development: Nature Conservation Directorate.

DWS (2017). Regulations regarding the procedural requirements for water use license applications and appeals.

DWS (2016). General authorisation in terms of section 39 of the National Water Act, 1998 (Act No. 36 of 1998) for water uses as defined in section 21(c) or section 21(i)



Figure 6-4: Aquatic features



Figure 6-5: Dam located towards western extent of property



Figure 6-6: Pipeline that feeds effluent water from the mine to the east of the property into the dam

3.3.3. Protected Areas

Feature:		National Protected Areas	Yes	**No**
		National Park (NBA 2011)	Yes	**No**
		Formal Protected Area Park (NBA 2011)	Yes	**No**
Protected Area Category:		Informal Protected Area (NPAES)	Yes	**No**
		Marine Protected Area (NBA 2011)	Yes	**No**
		NPEPA Focus Area	Yes	**No**

	Ramsar Rites	Yes	No

Source:

GDARD (2014): Technical Report for the Gauteng Conservation Plan (Gauteng C-Plan v3.3). Gauteng Department of Agriculture and Rural Development: Nature Conservation Directorate.

Biodiversity Mainstreaming Toolbox for land-use planning and development in Gauteng

EMM Guideline document for implementing the Environmental Policy

Pienaars River	Yes	No
Olifants River	Yes	No
Kaalspruit	Yes	No
Swartspruit	Yes	No
Jukskei River	Yes	No
Upper Blesbokspruit	Yes	No
Natalspruit	Yes	No
Middle Blesbokspruit	Yes	No
Rietspruit	Yes	No
Klip River	Yes	No
Lower Blesbokspruit	Yes	No

Heritage Feature	Graves and Burial grounds	Yes	No
	Structures older than 60 years	Yes	No

Development Implications:

Section 38(1) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) requires that any person who intends to undertake a development categorised as –

a. The construction of a road, wall, powerline, pipeline, canal or other similar form of linear development or barrier exceeding 300 m in length;
c. Any development or other activity which will change the character of a site –
    I. Exceeding 5000 m² in extent; or
    II. Involving three or more existing erven or subdivisions thereof; or
d. The rezoning of a site exceeding 10 000 m² in extent; or
e. Any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority

Must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.

Source: EMM ENVIRONMENTAL GIS DATA
National Heritage Resources Act, 1999 (Act No. 25 of 1999)

Very High	Yes	No
High	Yes	No
Moderate	Yes	No
Low	Yes	No
Insignificant/Zero	Yes	No
Unknown	Yes	No

Development Implications:

A field assessment and protocol for finds is required

Source: South African Heritage Resources Information System

Critically Endangered Terrestrial Ecosystem	It is recommended that an ecological specialist verifies if species of conservation concern exist on the property.
Air pollution	Dust emanating from excavations and construction activities.
	Exhaust emissions from construction machinery will produce noxious gases such as sulphur, carbon and nitrogen oxides.
Noise	Construction machinery and activities will produce noise to surrounding areas.
Erosion	Potential soil erosion during development activities.

Traffic and Population	Increased traffic in the area and an increase in population that will have a substantial impact on local services.
Waste generation and Water requirements	Increase in solid and liquid waste generation and the demand for water, during construction and the operational phase of the development.
Critically Endangered Terrestrial Ecosystem	It is recommended that an ecological specialist verify if there is vegetation of conservation concern on site, which will require permits for their removal and relocation. The clearance of more than 20 hectares of indigenous vegetation will require environmental authorisation from the competent authority.
Heritage Features	SAHRA must be notified at the earliest stages of initiating development with details regarding the location, nature and extent of the proposed development.
Mining Areas	**Mine dumps (rock dumps or stockpiles)** Mine dumps do not pose major dust or other pollution threats, as the particle sizes are relatively large. A buffer of 100 metres is required for visual purposes because of the scale difference between rock dumps and residential areas.[1] The wind blows in an East-West direction.[2] **Mine slimes dams and ash dumps** A worst-case buffer of 500 metres and a best-case buffer of 1000 metres are specified. Beyond this distance, dust levels can no longer be distinguished from ambient dust pollution. The following studies may be requested from development applicants planning housing projects in identified buffer zones[3]: • Analysis of toxicity of chemicals contained in slime dams and the potential impact on proposed development. • Analysis of the influence of wind on dust dispersion. • Geo-hydrological study to determine existing levels of soil and groundwater pollution. • Analysis of the impact of leachate treatment and disposal on living conditions and the management thereof. • Health impact assessment.

[1] GDARD (2017). The Gauteng Pollution Buffer Zones Guideline. http://www.gauteng.gov.za/government/departments/agriculture-and-rural-development/Environment/Sustainable%20Utilisation%20of%20the%20Environment/Gauteng%20Provincial%20LMF/Approved%20Gauteng%20Pollution%20Buffer%20Zone%20Guideline%202017.pdf [Accessed: 22 February 2018]

[2] Wind Report (2017). Springs Airfield. http://www.windreport.co.za/page_gauteng.shtml

[3] GDARD (2017). The Gauteng Pollution Buffer Zones Guideline. http://www.gauteng.gov.za/government/departments/agriculture-and-rural-development/Environment/Sustainable%20Utilisation%20of%20the%20Environment/Gauteng%20Provincial%

Mine Residue Areas

The full extent of the property falls within a radioactive gold mine residue area.

The property is also likely to be contaminated by mining waste through the effects of wind and water.

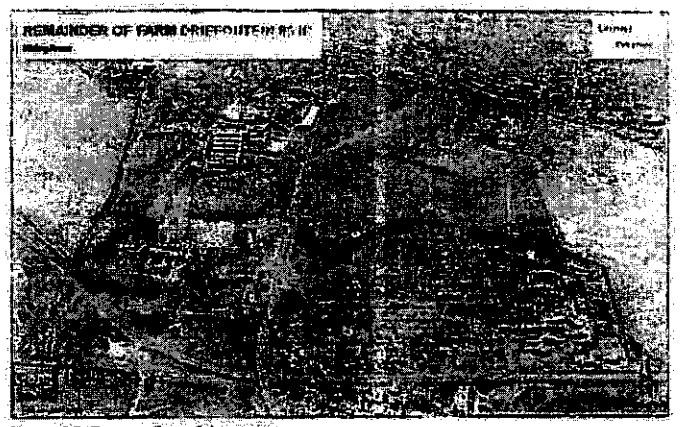


Figure 8-2: Surrounding mining areas



20-MF/Approved%20Gauteng%20Pollution%20Buffer%20Zone%20Guideline%202017.pdf (Accessed: 22 February 2018)

Figure 6-8: Mine residue areas
(Gauteng City-Region Observatory (GCRO), hosted on behalf of the Gauteng Department of Agriculture and Rural Development.

EIA Process Required:	Environmental authorisation (Scoping and EIA) will be required for the clearance of over 20 hectares of indigenous vegetation and the transformation of land zoned open space bigger than 1000 square metres in size to residential use. The proposed development's details should be sent to GDARD for confirmation of all other related listed activities.
HIA Required:	SAHRA should be notified about the proposed development and provided with details regarding the location, nature and extent of the proposed development.



Figure 6-9: Viewpoint farming - Compost, topsoil and instant lawn retailer.



Figure 6-10: Compost, topsoil and lawn retailer north of the property.

Aspect of the study:	Environmental
Strengths:	None identified
Weaknesses:	Mine dumps and slimes buffer make the eastern portion of the property unsuitable for development. Pipeline that traverses southern extend of property limits development extent.
Opportunities:	Improving land use management through sustainable development.
Threats:	The property falls within a radioactive gold mine residue area.

7. Future Development Plans

This section of the report identifies the key provincial and municipal plans as well as proposals currently in place with regard to the study area in order to further examine the impact thereof on the property's future development.

The future planning context is presented under the following sub-sections:

- **Municipal Planning**
- **On-site Development Proposals.**

According to the ***Local Government Municipal Systems Act, 2000 (Act 32 of 2000)***, a Spatial Development Framework (SDF) is a core component of a municipality's economic, sectorial, spatial, social, institutional, and environmental vision. Thus, it is a tool to achieve the desired spatial form for the municipality (Metropolitan, District or Local). The ***Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)*** requires each municipality to develop a Spatial Development Framework (SDF) as part of its Integrated Development Planning (IDP) process.

The EMM adopted a 'System of Plans' spatial planning approach consisting of a Metropolitan Spatial Development Framework (MSDF) supported by six Regional Spatial Development Frameworks (RSDF's) for each administrative area, and associated Precinct Plans for development areas of strategic importance. The Ekurhuleni SDF system is illustrated as follows:

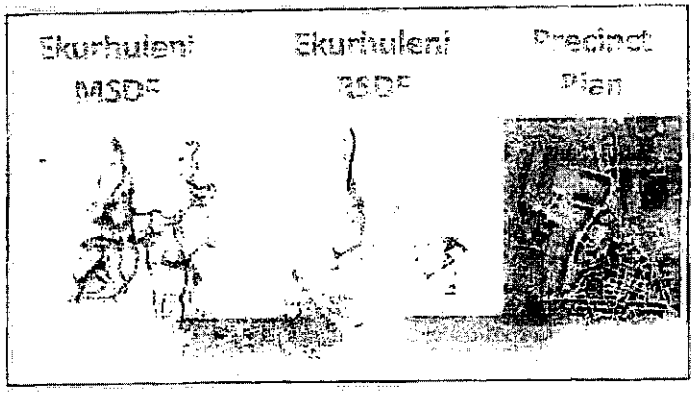


Figure 7-1: EMM Spatial Planning System

The final MSDF, 2011, is a key component of the IDP and represents the first of three levels of spatial plans developed for EMM. This MSDF is a visual representation of the 'development vision' and 'interventions' required to achieve the development objectives of the Growth and Development Strategy (GDS) and Integrated Development Plan (IDP) for the EMM. It provides the objectives reflecting the desired urban form and puts forward policies and strategies to achieve these objectives. It is therefore a key strategic framework and plan for the spatial performance and investment in the city's geographic space. The MSDF replaced all previous versions of the Ekurhuleni MSDF, as well as the three RSDFs approved in 2007.

The Draft RSDF, 2014, addresses the spatial issues and challenges, and aims to direct development within the metropolitan area. EMM completed the RSDF for Region A and is now embarking on the compilation of the remaining RSDF Regions B to F. The RSDFs are inter-linked and supports the Ekurhuleni MSDF, Ekurhuleni GDS, and the Ekurhuleni Environmental Management Framework (EMF). The RSDF will replace all Local Spatial Development Frameworks (LSDFs) developed for EMM to date.

Precinct Plans will be developed for strategic development areas of the metro. Where the need for a fine level of detail with proposals up to individual erf level persists, or where specific trends and tendencies require an overall policy approach, Precinct Plans and policies are used as mechanisms to guide decision making. Such areas will be identified and demarcated in the RSDFs being drafted.

7.1.1. Ekurhuleni Metropolitan Spatial Development Framework, 2011

Based on the development objectives as outlined in the Ekurhuleni MSDF, a Spatial Concept was created for the Ekurhuleni Municipality. The Ekurhuleni Spatial Concept described is spatially indicated on the map Error! Reference source not found. below.

The spatial concept outlines areas of focus and priority, with the development triangle being at the core of the concept. It is also important to note that, within this Core Development Triangle, the centre of gravity in terms of accessibility, visibility and economic activity lies within the triangular area linking the central business districts of Kempton Park, Boksburg, Germiston and Benoni to one another.

Furthermore, one of the key objectives of the MSDF is to promote infill development on vacant land located close to CBDs, industrial areas, bus and taxi routes and railway stations. To address the challenges of urban sprawl and congested infrastructure the MSDF identifies a critical tool to assist, that of densification. This will allow for a more compact city, support the provision of public transport and create a more user friendly city. The MSDF promotes high density residential land uses with a variety of housing typologies that should be used.

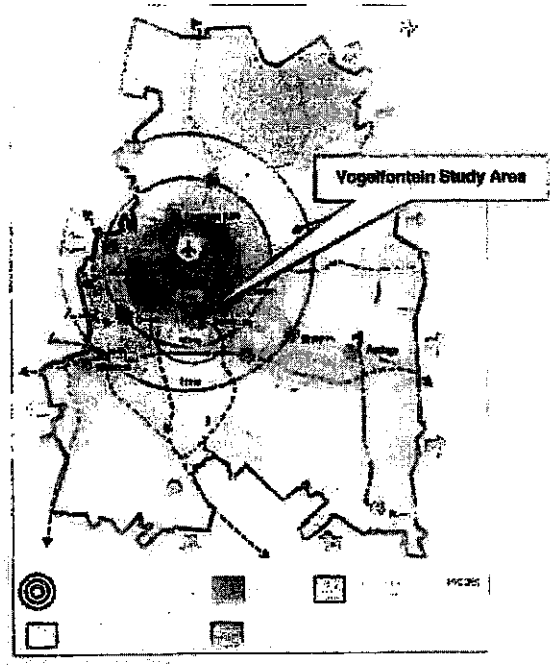


Figure 7-2: MSDF Primary Nodes

7.1.2. Region A: Regional Spatial Development Framework (2015)

The RSDF for Region A is guided by the vision of EMM and the concept developed in the MSDF. The purpose of the RSDF concept is not only to guide the future development of the metropolitan area, but also to ensure integration between regions A-F.

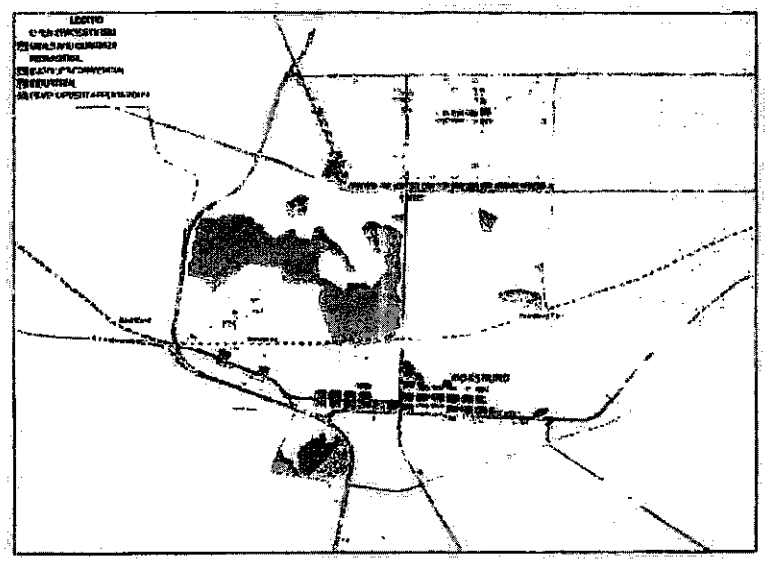
Region A will be built on the strength of the airport and the manufacturing industry reinforced through aviation activities, the development of the Industrial Development Zone (IDZ), business tourism and aviation logistics. The aerotropolis concept will form the basis for the economic growth of the whole city for the benefit of redistribution of financial resources throughout the city. Given the strength of the road network and railway linkages, freight and logistics will be leveraged in the region. Steel industry is also strong in the region.

The region has been identified as an area of residential infill in the MSDF and development densification, urban renewal and brownfields redevelopment. Cognisance is taken of shallow undermining along the mining belt and radiation caused by mine dumps and acid mine drainage related to mining. This is the area in which low income residential areas, as well as social housing, should be located.

There is a backlog of an estimated 50 000 units in Region A (approximately 10% of the total backlog in EMM). Only 21% of the region is made up of residential development.

The study area is situated directly adjacent to Rondebult Road (R21 south). The RSDF for Region A indicates the R21 South corridor (South of the ORTIA) should grow by utilising the potential of the ORTIA and the Inland Port (located in Region F of Ekurhuleni). It should be the area of one of the biggest concentrations of freight and logistical businesses. In the section of the R21 South near Boksburg, developments connected with the local car industry should be encouraged.

The R21 South development corridor will have the function of a tool for achieving the economic integration of the freight industry of the Aerotropolis and the freight activities of the Inland Port.



The land use of the study area is indicated in the RSDF as "Mines and Quarries". The proposed land uses for Region A is indicated in the RSDF map below. The main land use proposed for the study area is indicated as a Mixed Use activity node.

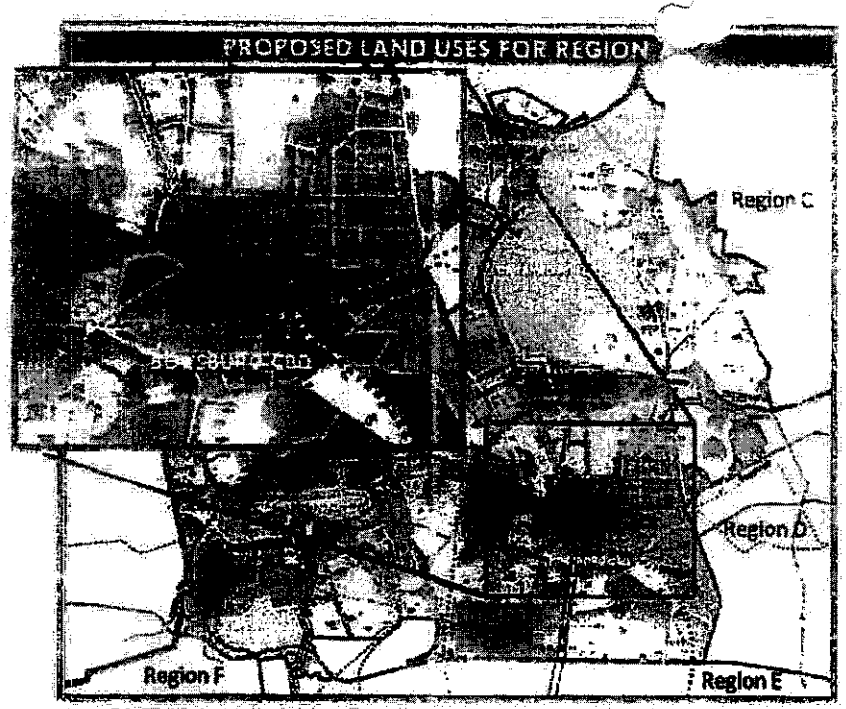


Figure 7-3: Region A: Development Concept

8. Influencing Factors and Findings

This section of the report outlines the qualitative assessment of the Driefontein Feasibility study area, assessing both the physical and legal aspects of the site in order to provide an overview of study area.

8.1.1. Access Limitations/Considerations

The region in which the study area falls is well located from a major access perspective with the R21, N12 and N3 traversing the area. The study area is located adjacent to Rondebult Road (R21) which links to the N17 with the N12 as well as with the ORTIA. The study area is currently not accessible via Rondebult Road and can be accessed through the Plantation Township.

8.1.2. Legal Limitations/Considerations

The study area is situated on one property with a total size of approximately 338 847 m². The property is owned by Business Venture Inv No 900 Pty Ltd, and there are currently no bonds registered over the properties.

Portion 406 Of Farm Driefontein 85-IR is zoned as "Agriculture". A Township Establishment application will be required in order to allow for the development of the properties which is still farm land.

8.1.3. Infrastructure Limitations/Consideration

The study area has no internal roads. The access to the areas is through Rondebult Road. The road network is in a fair condition with just minor concerns requiring remedial works. The study area is supplied of water by the Madeley Reservoir which has spare capacity sufficient to supply an additional 13 500kl/day. A water connection is available. No hydrants were identified within close proximity of the study area, thus we conclude that the study area is not adequately covered in terms of fire-water. It is however deduced that there should be sufficient bulk firewater storage, as potable and firewater reticulation networks are ordinarily a single network within the municipality.

The sewer reticulation network drains to the Vlakplaats WWTP located South-East of the study areas. The sewer reticulation network operates satisfactorily with no evident signs of blockages such as overflowing manholes. The Vlakplaats Waste Water Treatment Plant is currently operating at full capacity. Excess flow is bypassed to the Waterval WWTP which is also currently operating at full capacity. Alternative options and upgrades will have to be investigated and implemented.

8.1.4 Geotechnical Limitations/Consideration

The following geotechnical related considerations will have an influence on the development of the site:

- Near surface soils that may be either compressible or expansive, which need be taken in consideration for the foundations structures and road pavement layers.
- Potentially shallow seasonal perched water tables that may affect foundation excavations and service installation trenches.

- Structures must be designed to accommodate the potential seismic loading associated with the area

A detailed geotechnical investigation should therefore be conducted, if it was not done previously, and must include:

- A Phase 1 investigation that must comprise excavation and soil profiling of approximately 27 test pits. Laboratory test must be conducted to confirm the potential problematic soil conditions identified at the site.
- A Phase 2 investigation must also be conducted to confirm the zoning classification for each stand.
- Detailed investigations must be conducted for all high rise or settlement sensitive structures.

8.1.5 Environmental Limitations/Considerations

Environmental authorisation (Scoping and EIA) will be required for the clearance of over 20 hectares of indigenous vegetation and the transformation of land zoned open space bigger than 1000 square metres in size to residential use. The proposed development's details should be sent to GDARD for confirmation of all other related listed activities.

SAHRA should be notified about the proposed development and provided with details regarding the location, nature and extent of the proposed development.

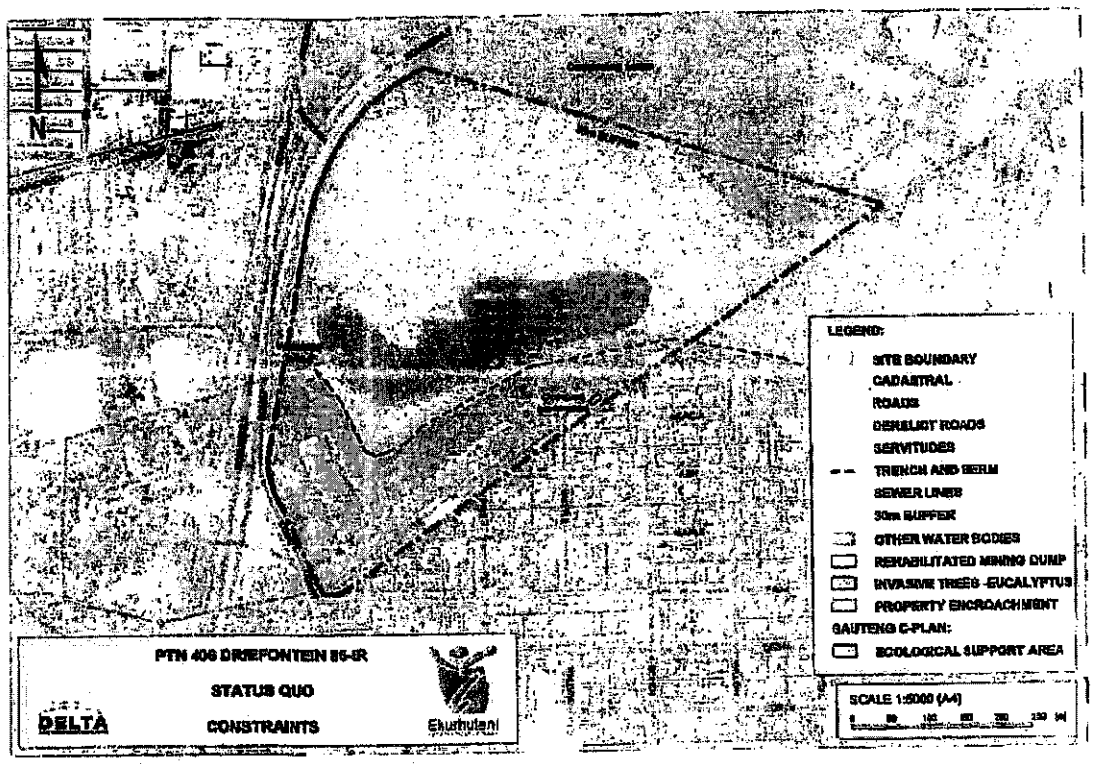


Figure 9-1: Constraints Map

Table 8-1: The Study area SWOT Analysis

Location	Access to major routes and public transport on Rondebult Rd. Area is earmarked for infill development. Boksburg areas favoured for residential development Closely located to Boksburg Police Station and CBD	The property is located on a site that was used as a mine dump. The soil might not be suitable for development but the relevant studies will need to confirm this.	Well located for the use of a residential township. Higher densities due to its proximity to major routes	None
Legal	No bonds registered;	Privately owned. Zoned for "Agriculture". Pipeline servitudes traversing study area. Certain properties on the southern part of the site extended their boundary walls into the subject property.	Opportunity to acquire the land from owner who is not currently using the property.	Change of land use rights Objections Acquire land from land owner.
Land Use	The site is currently vacant	None	Possibility to use land for residential development Property is entirely undeveloped	None
Infrastructure and Services	Possibility to connect to the available municipal infrastructure;	Pipeline servitude traversing site can hamper development	Connection points to the site; Well-connected electricity, water and sewer network adjacent to site. Gentle slopes from south to north, favourable for gravity services (sewerage/stormwater)	Vosloorus Treatment plant is currently operating at capacity. No formal stormwater network can put the study area at the risk of flooding.
Environmental	None identified	Mine dumps and slimes buffer make the eastern portion of the property unsuitable for development. Pipeline that traverses southern extend of property limits development extent.	Improving land management through sustainable development	The property falls within a radioactive gold mine residue area.
Geotechnical	Erosion features were not observed; No presence of shallow undermined areas; No presence of unstable natural slopes;	Near surface soils that may be either compressible or expansive, which need be taken in consideration for the foundations structures and road pavement layers. Potentially shallow seasonal perched water tables that may affect foundation excavations and service installation trenches.	Mitigating measures such as proper surface drainage or localised sub-soil drainage measures can be implemented to accommodate potential problems associated with shallow seepage or ground water levels.	Phase 1 and Dolomitic and Phase 2 Geotechnical Investigation Required. Structures should be designed to accommodate potential seismic loading;

Road Network	R21 and N17 provides regional access; Site is bordered by Rondebult Road (R21).	Difficult access. Will need to determine whether access is possible from Rondebult Road.	Located near N17 and adjacent to Rondebult Road which provides linkage opportunities to link Ekurhuleni Access to major routes and public transport on Rondebult Road. Within Capital Investment Framework priority area and BRT route Phase 1	None
Municipal Planning	Falls within the core support zone MSDF plan to develop Boksburg as a primary node	RSDF promotes area for non-residential development (mixed use)	Higher density can be sustained Consider site for "Integrated Development" with surrounding activities	None

9. High Level Site Development Concept

This section presents the conceptual thinking underpinning the preparation of the Development Framework for the site and is sub-sectioned as follows:

- **Concept Plan;**
- **Height and Bulk Distribution;**
- **Massing;**
- **Land Use;**
- **Proposed Zoning;**
- **Public Space and Landscaping;**
- **Movement; and**
- **Environmental Network.**

The findings of the technical assessment and demand assessment outlined in this report have informed the site development framework concept.

Due the site being vacant, a new layout is developed for the site which will consider the neighbouring land uses as well as potential access and future development surrounding the property. The development concept is based on a mixed housing residential township also allowing for some commercial / light industrial as well as a school and a creche.

The key spatial features of the concept for the site are indicated in the concept drawing below with the rationale for these features being outlined in the text below:

9.1.1. Spatial Concept

The concept provides for a residential township in the form of four storey walk-ups for social housing and two storey row housing. The residential township includes uses such as retail and municipal uses as well as a school and public open space. The buildings will have sufficient parking for social housing and row housing as well as sufficient landscaping and open areas to ensure a pleasant design for the resident of the housing development. The design takes the neighbouring uses into consideration and also allows for future development surrounding the development to be able to interconnect with this development. The site also allows for light industrial / commercial facilities next to Rondebult Road due to the nature of developments currently next to the road as well as the high visibility, and linkage between ORTIA and the proposed Tambo Springs inland port.

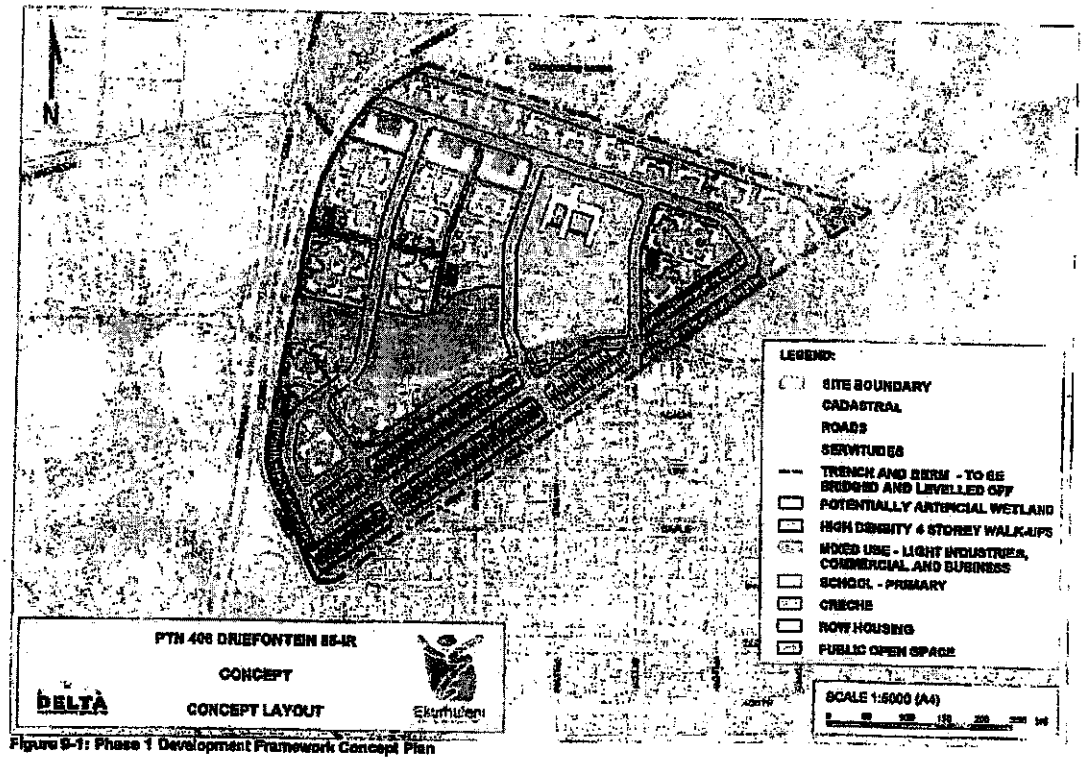


Figure 9-1: Phase 1 Development Framework Concept Plan

It is proposed that a diverse range of housing typologies are provided. The concept design provides different unit typologies and densities cognisant of SHRA regulations. The different household typologies explored are listed below.

The typical unit typologies are indicated in the figures below. The concept design provides different unit typologies. The configuration of the units is illustrated below:

9.2.1.1. Community Residential Unit - 572m² (4 Storeys)

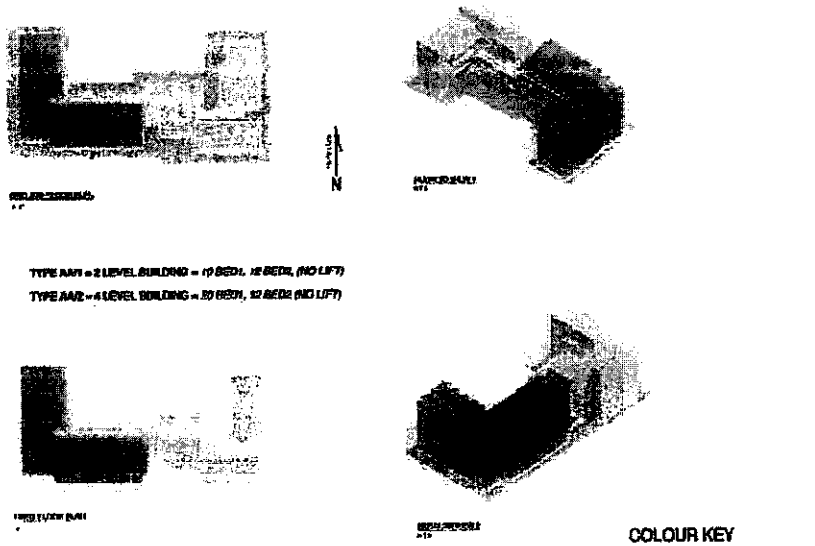


Figure 9-2: Building Layout 1

Community Residential Units - 572m² (4 Storeys)			
	Number per Floor	Total per building	Development Total (Total Area)
			880
TOTAL UNITS	11	44	1 980

Table 9-1: Community Residential Units - 572m² (4 Storeys)

9.2.1.1 Community Residential Units – 248m² (4 Storeys)

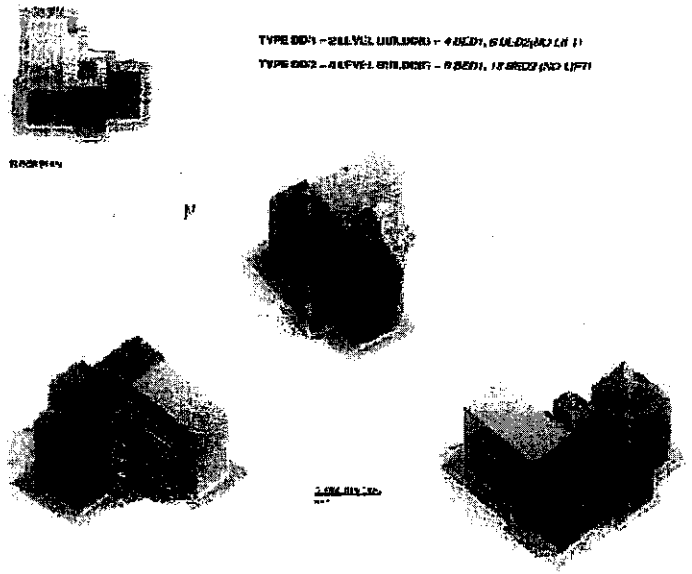


Figure 9-3: Building Layout 4

COLOUR KEY

UNIT	MIX	NRLU	PRO.	SIZE
1-BEDROOM	60%	3	-	42m²
2-BEDROOM	40%	2	2	62m²

Community Residential Units – 248m² (4 Storeys)			
	Number per Floor	Total per building	Development Total (Total Area)
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
TOTAL UNITS	5	20	900

Table 9-2: Community Residential Units – 248m² (4 Storeys)

9.2.1.2. Row Housing/ Duplex (BNG) – 44m² (2 Storeys)

The row housing development will consist of units that are approximately 44m² in extent and have a height of two storeys. Each property will consist of a row house along with a front yard and a private back yard.

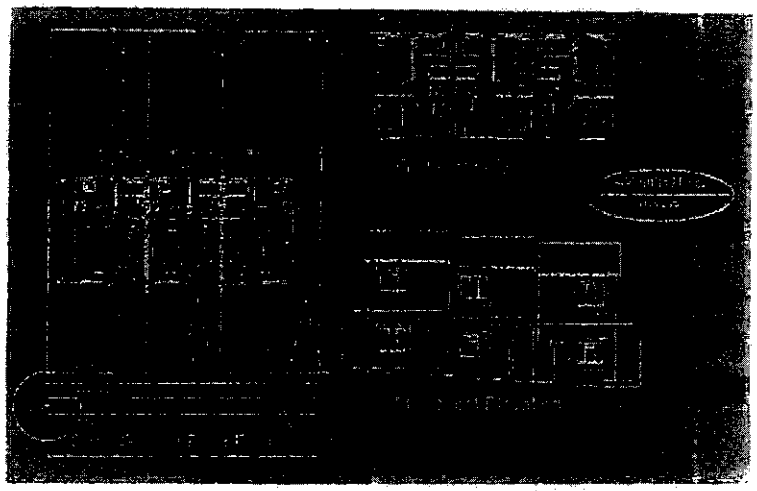


Figure 9-4: The block layout for Row Housing (Source: Paardefontein Precinct Plan, 2017):

Row Housing/ Duplex (FLISP) – 44m² (2 Storey)			
	Number per Floor	Total per building	Development Total (Total Area)
TOTAL UNITS	1	1	384

Table 9-3: Row Housing/ Duplex (FLISP) – 44m² (2 Storey)

9.2.2. Social Housing-Financial Linked Individual Subsidy Housing (FLISP)

To support the housing development the Finance Linked Individual Subsidy Programme (FLISP) is included. It is specifically intended for the market segment whose income is inadequate to qualify for a home loan, but exceeds the maximum limit applicable to access Government's 'free basic house' subsidy scheme. This market segment, generally known as the 'affordable/gap' market, earns between R3 501 and R15 000 per month. To qualify for FLISP you:

- must be first time home buyer
- must be a South African citizens with a valid bar-coded identity document (ID), or if a Permanent Resident must have a valid bar-coded permit
- must be over 18 years old and competent to legally contract
- must have financial dependants
- must never have benefitted from any Government Housing Subsidy Scheme before

- **This will imply that the EMM needs to avail a part of the development property for development that could be owned.**

9.2.3. Community Residential Units (CRU)

Community Residential Units (CRU) aim to facilitate the provision of secure, rental housing accommodation for households earning between R800 and R3 500 per month. This programme focusses on public rental housing stock, whether it is the refurbishment thereof, the demolition thereof for the purpose of developing new stock or for infill. You qualify for the service if you are:

Married or cohabiting.
A single person with financial dependants.
A South African citizen.

- Competent to contract.
- Have a joint monthly household income of between R800 - R3 500.
- Registered on the Municipal Housing Demand Database.

3.2.4 Breaking New Ground (BNG) / Project Linked Subsidy Housing

The Breaking New Ground (BNG) strategy aims to promote an integrated society by developing sustainable human settlements and quality housing within a subsidy system for different income groups. The BNG house is 40 m2 in size with two bedrooms; a separate bathroom with a toilet, shower and hand basin; a combined living area and kitchen with wash basin; and a ready-board electrical installation where electricity supply is available in the township, to qualifying households earning less than R3 500 a month.

A maximum building height of four storeys is considered to be appropriate for the four storey walk-ups and 2 storeys for the row housing with reference to the site context and for achieving the bulks necessary to maximise the potential housing provision.

The development concept promotes a clear and legible form at a scale of development that is appropriate to the activities of the area in which the site is located.

The site will comprise of social housing and row housing residential units, retail, light industrial, a creche and public open space.

It is proposed that the erven to be zoned as "Residential 4", "Residential 1", Business 1", "Community Facility" and "Public Open Space". A Township Establishment application will be required in order to vest he necessary land use rights for the proposed development.

Soft landscaped open space areas with facilities for recreational and amenity purposes is proposed throughout the development.

The site is accessed off Rondebult Road as well as a new proposed road to the south of the site. The internal circulation and parking of the site will be reconfigured to accommodate the increased bulk.

The development concept for the site does present a significantly modified built form. An EA Process and Authorisation will be required for development activities.

10. Overview of Development Potential

This section presents under the following headings:

- **Breakdown of Development Potential;**
- **Access and Circulation;**
- **Parking;**
- **Subdivision/Consolidation;**
- **Land Uses; and**
- **Massing and Building Density.**

The development potential is premised on an ideal outcome based on the indicators for residential development in accordance with the Ekurhuleni Town Planning Scheme, 2014. It is shaped by the principles of optimising asset value and achieving an appropriate balance of land uses, and the objectives of supporting a residential township development where opportunity exists.

10.1. Development Potential

Table 10-1: Breakdown of Development Potential

Existing Bulk	0
Proposed Bulk	± 157 985 m²
Bulk increase	± 157 985 m²
Proposed Land Use	Social Housing, Row Housing, Retail, Light Industrial, Community Facility & Open Space
Proposed Height	4 Storeys – Social Housing 2 Storeys – Row Housing 4 Storey – Retail / Light Industrial 2 Storeys – Light Industrial 2 Storeys – School 2 Storeys – Community Facility To be determined by the municipality - Open Space
Proposed Density	Social Housing (Residential 4) – 193du/ha Row Housing (Residential 4) – 68 du/ha
Parking Requirements/ Recommendations	Social Housing (Residential 4) – 0.85 parking spaces per dwelling unit with 1 or 2 bedrooms; Row Housing (Residential 4) – 1 parking space per dwelling unit Retail & Light Industrial – 4 parking spaces per 100m² Community Facility – 10 parking spaces per 100m² floor area
Bulk Service Requirements	Water and sewerage services is currently installed on site , however connection points and capacity requirements will have to be determined

The site is accessed via Rondebult Drive in the west and a new proposed road in the south.

The portions of land within the site will be accessed via five entrances into the study area which are located on the eastern and southern boundaries of the site. The internal road network will consist of collector routes and provide adequate access to all facilities and residential areas within the development.

[illegible] Pedestrian and Non-Motorised Transport

The development framework prioritises good quality pedestrian linkages integrated into the site. The site is located within close proximity to a proposed IRPTN route. The proposed IRPTN route will be a service between Kempton Park and Vosloorus via OR Tambo International Airport and Boksburg and will be opening in 2016 at the same time as the rest of the Phase1A network. This will be operated as a regular bus route. Appropriate levels of infrastructure will be implemented to complement this stage of operation.

The parking must be rationally laid out to allow adequate circulation and access to facilities by the public and for service vehicles. The area extent of the site is limited and parking must therefore be carefully considered and rationalised to ensure that the space is optimally used.

According to the Ekurhuleni Town Planning Scheme, 2014, the following parking requirements are applicable to the ancillary activities:

10.2.1. Phase 1

Table 10-2: Parking Requirements

Social Housing	0.35 parking spaces per dwelling unit	2280 u	800
Row Housing	1 parking space per dwelling unit	384	384
Retail & Light Industrial	4 parking spaces per 100m²	1	490
School	2 per classroom		160
Community Centre	10 parking spaces per 100m² floor area	1	100
Total Parking Bays			1934

Please note that the table is indicative only and has been generated in order to identify the potential scale of demand for parking. The standards applied will need to be confirmed with more detailed planning related to the development. A detailed design of the parking layout should be conducted.

It is proposed to submit a township establishment application for the proposed development which consists of a number of erven.

The proposed land use for the study area will be residential along with public open spaces, retail, light industrial and community facilities (educational, creche, etc.).

Development requirements according to the Ekurhuleni Town Planning Scheme:

Table 10-3: Scheme Development Restrictions

	SOCIAL HOUSING – RESIDENTIAL 4	
Height	3 Storeys	4 Storeys
Coverage	60 %	30 %
Bulk	N/A	117 840 m²
	ROW HOUSING – RESIDENTIAL 2	
Height	3 Storeys	2 Storeys
Coverage	60 %	30 %
Bulk	N/A	39 424 m²
	RETAIL – BUSINESS 1	
Height	4 Storeys	2 Storeys
Coverage	70 %	50 %
Bulk	N/A	12 332 m²
	COMMUNITY CENTRE	
Height	3 Storeys	2 Storeys
Coverage	60 %	60 %
Bulk	N/A	7 300 m²

A maximum building height of four storeys is considered to be appropriate for the social housing and row housing with reference to the site context and for achieving the bulks necessary to carry the required activities. Limited intensification of the bulk distribution will create additional support for the social housing and row housing development and will take advantage of underdeveloped land.

11. Bulk Demands and Cost Estimates

This section is presented under the following headings:

- **Bulk Services;**
- **Roads, Circulation and Parking; and**
- **Bulk Costing.**

The following paragraphs present an outline of the potential impact the proposed development framework would have on bulk services for the property, namely:

- **Water;**
- **Sewer;**
- **Stormwater;**
- **Fire;**
- **Electricity; and**
- **Solid Waste.**

11.1. Water

According to the master plan the site obtains its water supply directly from the municipality. The Madeley which is located approximately 4kms from the study area. The reservoir has spare capacity sufficient to supply an additional 13 500 kl/day.

The demand for water will be approximately 2943 kl/day with the proposed housing facilities.

11.1.2. Sewer

The reticulation drains to the Vlakplaats Waste Water Treatment Plant which is situated in Vosloorus and falls within the DD6 drainage district. The WWTP has a capacity of 63 Ml/day and is currently operating at full capacity. All excess flow to the WWTP is bypassed to the Waterval WWTP, which also now operating at full capacity.

The sewer outfall is estimated to be approximately **1390 kl/day** for with the proposed residential facilities.

11.1.3. Storm Water

All the roads, surfaces and open spaces will be drained through pipe and open channel networks towards the municipal roads surrounding the site. Un-concentrated surface flows will be promoted where possible.

Fire and potable water are ordinarily a single network within the municipality. However, no confirmation could be made on site with the absence of fire hydrants within close proximity of the study area.

It is however assumed that the area should have the bulk firewater available, with the supply reservoir having spare capacity. It should also be noted that hydrants have to be connected to mains with a minimum diameter of 75mm. The current diameter of the site supply mains is unknown, and should be determined for development purposes.

11.1.4. Electricity

The study and surrounding areas are deemed to be fed from the Eskom the Cason Mill 44/6.6/3.3 kV Substation. Numerous 44 kV overhead lines exist feeding the Eskom owned Angelo 44/3.3 kV and Cason Mill 44/6.6/3.3 kV Substations.

The medium voltage reticulation within the area is achieved via underground 6.6 kV and 3.3 kV cables terminating at various miniature substations installed along the road sides.

There is no electrical reticulation within the study area. However, the nearby townships are supplied via underground reticulation which in turn supplies the overhead areal bundled conductors supplying electricity to the residential stands.

Future daily consumption demand based on the proposed development concept is estimated to be **4 210 kVA.**

11.1.5. Waste

Dustbins are distributed throughout the study area for solid waste management. It is deduced that solid waste is collected by the municipality on a weekly basis.

11.2. Roads

The increase in bulk and activities will have an impact on the surrounding road network.

11.2.2. Internal Circulation

The increase in development bulk will have an impact on internal circulation road network. The final layout will determine the road length required.

11.2.3. Parking

A parking demand of **1934 parking bays** is estimated for the proposed residential township development.

The capital costs of the proposed housing development have been estimated based on the spatial layout and the gross floor areas of the buildings as indicated in the Development Framework concept plan. All costs exclude Value Added Tax (VAT) and are based on the value of the Rand in year 2017.

The building costs include the foundations, structure, finishes, building services (electrical) and the contractor's overheads (P&G) and professional fees and infrastructure services cost. It excludes costs related to special dolomitic conditions, land costs, escalation and contingencies at this stage.

The breakdown below indicates the construction costs excluding land cost, escalation, special additions, infrastructure and VAT.

Table 11-1: First order estimate construction cost

Social Housing	117 840 m²	R 8 007/m²	R 943 544 880
Row Housing	20 720 m²	R 5 400/m²	R 111 888 000
Retail / Light Industrial	12 332 m²	R12 500/m²	R 154 150 000
School	6 300 m²	R8000/ m²	R 50 400 000
Community Facility / Creche	1 000 m²	R10 000/ m²	R 10 000 000
TOTAL COST			R 1 269 982 880

The infrastructure costs will be verified and included in the final submission of this report.

12. Implementation Considerations / Recommendations

This section is presented under the following sub-headings:

Influencing Factors;
Proposed Phasing; and
Way Forward

The following factors will influence the development of the site.

12.1 Legal

The immediate development of the site will be influenced by a township establishment application for Portion 406 of Farm Driefontein 85-IR. The property need to be acquired from Business Venture Inv (Pty) Ltd.

12.2 Geotechnical

Based on the above, the following geotechnical related considerations will have an influence on the development of the site:

- Near surface soils that may be either compressible or expansive, which need be taken in consideration for the foundations structures and road pavement layers.
- Potentially shallow seasonal perched water tables that may affect foundation excavations and service installation trenches.
- Structures must be designed to accommodate the potential seismic loading associated with the area

It is our opinion that the site can be developed subject to a detailed geotechnical investigation to inform planning for the urban development of the site. According to the GFSH-2 guidelines (*Generic SpecificationGFSH-2 for Geotechnical Site Investigations for Housing Developments*, compiled in September 2002 by the National Department of Housing) this must comprise the following:

- A Phase 1 investigation that must comprise excavation and soil profiling of approximately 27 test pits. Laboratory test must be conducted to confirm the potential problematic soil conditions identified at the site. For budgeting purposes, we estimate that an allowance be made for approximately R 132 000.00 for the required Phase 1 geotechnical investigation and reporting (based on the requirements proposed by the GFSH2 guidelines and current professional time and laboratory test rates).

A Phase 2 investigation must also be conducted to confirm the zoning classification for each stand. These investigations are generally conducted during the installation of services and it is difficult to provide a fixed cost estimate as it is dependent on the performance of the bulk services contractor. For budgeting purposes an amount equal to the Phase 1 investigation cost estimate should be allowed for.

- Detailed investigations must be conducted for all high rise or settlement sensitive structures. It is not possible to provide a cost estimate for these investigations as it is dependant of the details of the proposed development.

Site reticulation services need to be installed.

The following activities are recommended:

- **Conduct a detailed Geotechnical Investigation**
- **Conduct Radon and general radiation Study**
- **Conduct Wetland Delineation and Biodiversity Assessment**
- **Acquire the Land.**
- **Submit a Township Establishment Application to EMM for approval.**
- **Apply for environmental authorisation to change the use of farm land.**
- **Conduct Traffic Impact Assessment**
- **Soil contamination test**
- **Backfill of mine dump berm**

Table 12-1: Follow-on Projects, Time and Cost Estimate

Township Establishment Application	12 Months
Detailed Geotechnical Investigation	2 – 4 Months
Environmental Authorisation	9 months
Wetland Delineation	1 Month
Biodiversity assessment	1 Month
Radon Study	2 Months
Traffic Impact Assessment	1 Month
Soil Contamination tests	1 Month

Approximate costs of these studies will be included in the final feasibility report.

13. References

EnviroNomics. (2009). *Ekurhuleni Biodiversity and Open Space Strategy (EBOSS) Report.* Germiston: Ekurhuleni Metropolitan Municipality.

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Gauteng Provincial Government: Roads and Transport. (2013). *Gauteng 25-year Integrated Transport Master Plan: Final Report.* Gauteng Province: Department of Roads and Transport

EMM City Planning Department (2017). *Palmietfontein Precinct Plan.* Alberton: Ekurhuleni Metropolitan Municipality

Annexure 1: Layout Drawings

Development Concept

LAND USES	PARKING RATIOS
BUSINESS USES	
Home Care Facilities	A minimum of 2 parking spaces; and Additional parking to the satisfaction of the Municipality
Retirement Villages	1,5 parking spaces per dwelling unit
Old Age Homes	0,5 parking spaces per bed
Frail Care	0,3 parking spaces per bed
Guest Houses	1,5 parking spaces per guest room or suite
Business 1 - CBD's	No parking is required, provided that sufficient on-street parking is provided, to the satisfaction of the Municipality
Business 1 – Other Areas	
Subservient Offices (where permitted)	2 parking spaces per 100m²
All other Offices	4 parking spaces per 100m²
Shops	6 parking spaces per 100m²
Business Purposes (excl offices)	6 parking spaces per 100m²
Restaurants	10 parking spaces per 100m²
Places of Entertainment	12 parking spaces per 100m²
Gymnasiums	10 parking spaces per 100m²
Conference Centres	10 parking spaces per 100m² public room floor area
Hotels	1,5 parking spaces per bedroom or suite
Related Conference Centres	10 parking spaces per 100m² public room floor area
Related Restaurants	10 parking spaces per 100m²
Resorts	1 parking space per bedroom or chalet; and 4 parking spaces per 100m² public room floor area; and Sufficient staff parking to be provided to the satisfaction of the Municipality
Funeral Parlours	6 parking spaces per100m²
Plant Nurseries	4 parking spaces per 100m² total display and retail areas
Related Restaurants	10 parking spaces per 100m²
Showrooms (Business 1 and 2)	4 parking spaces per 100m²

LAND USES	PARKING RATIOS
BUSINESS USES	
Motor Dealers	2 parking spaces per 100m² showroom floor area
Filling Stations	No parking required for the refuelling of motor vehicles
Ancillary Shop	6 parking spaces per 100m²
Related Restaurant	10 parking spaces per 100m²
Related Car Wash	4 parking spaces per wash bay
MEDICAL USES	
Medical Consulting Rooms	6 parking spaces per consulting room
Veterinary Clinics and Veterinary Hospitals	6 parking spaces per 100m²
Hospitals, Clinics and Institutions	1 parking space per bed; and 6 parking spaces per 100m²
INDUSTRIAL USES	
Industries and Noxious Industries	1 parking space per 100m²
Light Industries	2 parking spaces per 100m²
All Industrial Uses:	
Subservient Offices (where permitted)	2 parking spaces per 100m²
All other Offices	4 parking spaces per 100m²
Showrooms (Industrial 1 and 2)	2 parking spaces per 100m²
Service Industries	4 parking spaces per 100m²
Commercial Purposes, Builder's Yards and Scrap Yards	10% of the erf for parking and loading purposes
Warehouse Retail	3 parking spaces per 100m²
Filling Stations	No parking required for the refuelling of motor vehicles
Ancillary Shop	6 parking spaces per 100m²
Related Restaurant	10 parking spaces per 100m²
Related Car Wash	4 parking spaces per wash bay

LAND USES	PARKING RATIOS
INDUSTRIAL USES	
Motor Workshops	4 parking spaces per service bay; and 2 parking spaces per 100m² for offices and spares
Fitment Centres	4 parking spaces per service bay; and 2 parking spaces per 100m² for offices and spares
BUSINESS USES	
Panel Beaters	4 parking spaces per service bay; and 2 parking spaces per 100m² for offices and spares
Motor Dealers	2 parking spaces per 100m² showroom floor area
Motor Dealers (Auctioneers)	4 parking spaces per 100m² auction floor area (whether indoors or outdoors)
COMMUNITY FACILITIES	
Places of Public Worship	10 parking spaces per 100m² floor area
Social Halls	10 parking spaces per 100m² floor area
Child Care Facilities Residential 1 (more than 6 children)and Residential 2 (more than 30 children)	1 parking space per 10 children or portion thereof; and 1 parking space per teacher / admin. staff member; and Drop-off and manoeuvring space on site to the satisfaction of the Municipality
Child Care Facilities (Residential 2 less than 30 children)	Drop-off and manoeuvring space on site to the satisfaction of the Municipality
Places of Instruction	**Classes/lessons for adults:** 1 parking space per 2 students or portion thereof; or **Classes/lessons for children under 18 years:** 1 parking space per 4 students or portion thereof
Place of Education - Primary and Secondary Schools	2 parking spaces per classroom; and 2 parking spaces per office; and Drop-off and manoeuvring space to the satisfaction of the Municipality
Place of Education - Universities, Colleges and Training Facilities	1 parking space per 3 students or portion thereof; and Sufficient on-site staff parking to be provided to the satisfaction of the Municipality

LAND USES	PARKING RATIOS
SOCIAL SERVICES, PUBLIC SERVICES AND OPEN SPACE	
Social Services Zoning	Parking to the satisfaction of the Municipality
Public Services Zoning	Parking to the satisfaction of the Municipality
Transportation Zoning	Parking to the satisfaction of the Municipality, at a ratio to be determined by the Municipality, in conjunction with the relevant agency (eg. ACSA, PRASA, Gautrain, etc.)
Public Open Space Zoning	Parking to the satisfaction of the Municipality
Private Open Space Zoning	Parking to the satisfaction of the Municipality
All other uses	Parking to the satisfaction of the Municipality, at a ratio to be determined by the Municipality

25.2 Alternatives to the Provision of On-site Parking:

Where the parking accommodation, in respect of a ***property*** has been determined in terms of Table E, the ***Municipality*** may, if satisfied of the necessity and desirability thereof and on account of the size of the ***property***, the availability of public parking in the direct vicinity of the ***property***, the nature of the ***buildings*** on the ***property*** and the likely parking demand, instead of the provision of the parking spaces on the ***property***, grant Written Consent A for the provision of the required number of parking spaces elsewhere than on the ***property*** of the ***building*** concerned.

25.3 The ***Municipality*** may consider the provision of a fewer number of parking spaces required, in terms of Table E, by means of Written Consent A and shall in addition to any other relevant factors, have regard to the following, which shall be included in a report by a suitably qualified professional:

(a) Accessibility of the ***property*** for private or public transport;
(b) The availability of existing parking and/or public transport facilities in the vicinity of the ***property***;
(c) Availability of off-street parking in the vicinity of the ***property***;
(d) The number of staff members and customers related to the use of the ***property***;
(e) The socio-economic ***structure*** and density of the population which the development serves;
(f) The size and nature of the proposed development and the size of vehicles likely to be used in connection with the proposed development;
(g) The likelihood of a reduction in parking provision causing injury to the amenity of the area in which it is, or will be situated including, without prejudice to the generality of the foregoing, increased traffic and parking difficulties;
(h) The likelihood of parking shared by different ***land*** uses;
(i) The provision of a formal taxi rank provided for on Business 1 and 2 zonings only; or a taxi drop-off bay provided on a Residential 4 zoning; and
(j) The provision of sufficient loading bays (refer to Clause 26) on Industrial 1 and 2 zoned erven.

WinDeed [redacted] Office Property

windeed

A

DRIEFONTEIN, 85, 406 (PRETORIA)

[redacted]

Date Requested	2018/03/08 10:09
Deeds Office	PRETORIA
Information Source	WINDEED DATABASE
Reference	16015

[redacted]

Property Type	FARM
Farm Name	DRIEFONTEIN
Farm Number	85
Portion Number	406
Local Authority	PERI URBAN
Registration Division	IR
Province	GAUTENG
Diagram Deed	T4960/2005
Extent	33,8847H
Previous Description	-
LPI Code	T0IR00000000085500406

[redacted]

Owner 1 of 1

Type	COMPANY
Name	BUSINESS VENTURE INV NO 900 PTY LTD
ID / Reg. Number	2004010090007
Title Deed	T185522/2005
Registration Date	2005/12/14
Purchase Price (R)	1,000,000
Purchase Date	2005/08/23
Share	0.00
Microfilm	-
Multiple Properties	NO
Multiple Owners	NO

[redacted]

No documents to display

[redacted]

#	Document	Owner	Amount (R)	Microfilm
1	T4960/2005	[redacted]	CRT	2005 0558 0585

[redacted]

[redacted]

UITVOERING — EXECUTION

A. VIR AKTEKANTOOR GEBRUIK/FOR DEEDS OFFICE USE:

(a) Datum van Indiening/Date of lodgement:

LODGED
25 NOV 2005
DEEDS OFFICE
INGEDIEN

(b)

FINAL BLACKBOOK
2009 -12- 13

30/04/06

	Ondersoekers/Examiners		Skakeling/Linking		Verwerp/Reject	Paseer/Pass
1	[illegible]					
2	H G GLUTZ					
3						

B. VIR AKTEBESORGER SE GEBRUIK/
FOR CONVEYANCER'S USE:
Aard van Akte bv.: Transport, Verband, ens.
Nature of Deed e.g.: Transfer, Bond, etc.

Transfer

T 165522 05

Verw. No./Ref. No.:
01862097/CDA

Skakeling/Linking
1 | 1

GELYKTYDIGE/SIMULS

	Kode Code	Name van Partye/Names of Parties	Firma No. Firm No.	No. in stelsel/in	Titelaktes ens. blokke Titles etc. within
1	T	Witsemet (BVI No900 (Pty) Ltd	3616	1	T4960/2005
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					

FINAL BLACKBOOK
01 -12- 2009

Portion 406 of the farm Driefontein 15 IR

Registrasie Versoek deur:
Registration requested by:

DATUM:
DATE: 12/12/05

9005285212

(Kort beskrywing van eiendom (bloga parra. 1 in Akte)/Brief description of property (Y parts. 1 in Deed))