

# Newcastle Municipality



## DEVELOPMENT PLANNING & HUMAN SETTLEMENTS

### Municipal Planning Appeals

#### AGENDA

*For the*

#### MEETING

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**APPEAL SUBMITTED AGAINST THE DECISION BY THE NEWCASTLE MUNICIPAL PLANNING TRIBUNAL TO APPROVE AN APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT (SPLUMA) REGULATIONS AND BY-LAWS: APPLICATION FOR CONSENT TO ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL EAST: TP (13/3/4/1-1430) – WARD 34**

**1. DETERMINATION OF THE APPEAL**

This submission is brought before Appeal Authority in terms of section 51(2) and 30(1) of SPLUMA and Regulations respectively. The Appeal Authority is expected to make a determination on the decision of the Municipal Planning Tribunal to approve an application for the Consent to establish a Guest House as stated above.

This matter has been pending for some time and it is therefore put before the Appeals Authority for adjudication. Attached is the appeal pack to be relied upon at the hearing with the necessary documentation.

**Attached** : Appeal Pack

Attachment A: Appeal Memorandum  
Attachment B: Responding Memorandum

  
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REGISTRAR

Attachment A: Appeal Memorandum



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**MEMORANDUM OF APPEAL TO THE MUNICIPAL PLANNING TRIBUNAL'S RECORD OF DECISION GRANTING  
CONSENT TO ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL**

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2022-05-15

15 June 2022

URUTHUKISWA

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To the Attention of:

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**MEMORANDUM OF APPEAL AGAINST THE RECORD OF DECISION BY THE MUNICIPAL  
PLANNING TRIBUNAL GRANTING CONSENT TO ESTABLISH A GUEST HOUSE IN FAVOUR OF MR  
T. NKOSI ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL EAST: SPATIAL PLANNING  
AND LAND USE MANAGEMENT ACT (SPLUMA), ACT 16 OF 2013 AND THE NEWCASTLE  
MUNICIPALITY SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW**

Please find the attached Memorandum of Appeal submitted by AK and S.I. Gerber (objector and now appellant and neighbouring owners of Erf 1427 Newcastle, 12 Earl Street, Central) and assisted by Mr Gilbert Phiri (Professional Town and Regional Planner, Reg No. A/1468/2011, South African Council for Planners).

The Memorandum of Appeal is lodged to the Newcastle Municipal Planning Appeal Authority and is served on you in your respective capacities in terms of the Spatial Planning and Land Use Management Act (Act 16 of 2013) and Section (3) of Schedule 10 of the Newcastle Municipality Spatial Planning and Land Use Management By-Law.

The appeal is in response to the record of decision of the Municipal Planning Tribunal (MPT) dated 17 May 2022 and notification of which we received by way of email on 23 May 2022. We lodge the attached Memorandum of Appeal against the granting of consent approval for the establishment of a Guest House on Erf 1430 Newcastle, No. 11 Earl Street, Central East.

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**MEMORANDUM OF APPEAL TO THE MUNICIPAL PLANNING TRIBUNAL'S RECORD OF DECISION GRANTING  
CONSENT TO ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL**

The purpose of this appeal is to seek relief from the Newcastle Municipal Planning Appeal Authority to review and set aside the Newcastle Municipal Planning Tribunal's (MPT) Record of Decision of 17 February 2022 granting consent to Mr T. Nkosi for the establishment of a Guest House on Erf 1430 Newcastle, No. 11 Earl Street, Central East. The appeal is supported by procedural and substantive issues which are pertinent in seeking relief from the Municipal Planning Appeal Authority to review and set aside the Municipal Planning Tribunal's decision.

It would be noted that the appellant, AK & S.I. Gerber the owners of Erf 1427 Newcastle (12 Earl Street, Central) was on 10 June 2021, granted by Newcastle Municipal Planning Tribunal, approval for the rezoning of Erf 1427 Newcastle from detached residential to residential high density only for the purpose of establishing a guest house.

The appellant objected unsuccessfully to the Newcastle Municipal Planning Tribunal (MPT) granting consent to the applicant (Mr T. Nkosi) for the establishment of a Guest House on Erf 1430 Newcastle, No. 11 Earl Street, Central East.

The grounds of appeal are detailed in this Memorandum of Appeal further to which we will allow the appeal process to unfold and take its course in line with the relevant legislation and particularly, the Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013 and the Newcastle Municipality Spatial Planning and Land Use Management By-Law. This of course does not exclude other relevant statutory instruments and policies.

We look forward to the Municipal Planning Appeal Authority considering the grounds of our appeal against the decision of the Municipal Planning Tribunal as we are of the view that it erred in arriving at its decision and trust that the former will rule in favour of the appellant.

Yours faithfully



**A.K. & S.I. Gerber  
Owners of Erf 1427 Newcastle  
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## **MEMORANDUM OF APPEAL**

IN TERMS OF:

**THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT (SPLUMA), ACT 16  
OF 2013 AND THE NEWCASTLE MUNICIPALITY SPATIAL PLANNING AND LAND USE  
MANAGEMENT BY-LAW, 2015**

TO

**THE RECORD OF DECISION BY THE MUNICIPAL PLANNING TRIBUNAL GRANTING  
CONSENT TO ESTABLISH A GUEST HOUSE IN FAVOUR OF MR T. NKOSI ON ERF  
1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL EAST**

To the Attention of:

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**15 June 2022**

MEMORANDUM OF APPEAL TO THE MUNICIPAL PLANNING TRIBUNAL'S RECORD OF DECISION GRANTING  
CONSENT TO ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL

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## **THE MEMORANDUM OF APPEAL**

### **1.0 PURPOSE OF THE SUBMISSION**

- 1.1 In brief, this is a submission by the appellant, AK, and S.I. Gerber (objector and now appellant and neighbouring owners of Erf 1427 Newcastle, 12 Earl Street, Central) and assisted by Mr Gilbert Phiri (Professional Town and Regional Planner, Reg No. A/1468/2011, South African Council for Planners). The appeal is supported by procedural and substantive issues which are pertinent in seeking relief from the Municipal Planning Appeal Authority to review and set aside the Municipal Planning Tribunal's decision.
- 1.2 The appeal against the decision of the Municipal Planning Tribunal (MPT) is lodged to the Newcastle Municipal Planning Appeal Authority (MPAA) in terms of and jointly, the Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013 and the Newcastle Municipality Spatial Planning and Land Use Management By-Law.
- 1.3 It is the appellant's view that the MPT did not consider other fundamental aspects and therefore erred in arriving at its decision of 17 February 2022 granting consent to Mr T. Nkosi for the establishment of a Guest House on Erf 1430 Newcastle, No. 11 Earl Street, Central East. The appellant, therefore, implores on the Newcastle Municipal Planning Appeal Authority to review and set aside Municipal Planning Tribunal's decision. The appeal is founded on the reasons outlined in the ensuing paragraphs hereunder. Other relevant legislation, policies and by-laws are without prejudice, applicable in advancing the appeal.

### **2.0 RELIEF SOUGHT BY THE APPELLANT FROM THE MUNICIPAL PLANNING APPEAL AUTHORITY**

- 2.1 The relief sought by the appellant (AK & S.I. Gerber) the owners of Erf 1427 Newcastle (12 Earl Street, Central) and neighbour to the applicant, who on 10 June 2021, was granted by the Newcastle Municipal Planning Tribunal, approval for the rezoning of Erf 1427 Newcastle from detached residential to residential high density only for the purpose of establishing a guest house is as follows:
- 2.2 That the Newcastle Municipal Planning Appeal Authority review and set aside the Newcastle Municipal Planning Tribunal's decision of 17 February 2022 granting Mr

T. Nkosi consent to establish a Guest House on Erf 1430 Newcastle, No. 11 Earl Street, Central East which property is located directly opposite to the appellant's property.

### 3.0 BACKGROUND

- 3.1 On 10 June 2021, the Newcastle Municipal Planning Tribunal granted consent to the appellant, AK & S.I. Gerber the owners of Erf 1427 Newcastle (12 Earl Street, Central) for the rezoning of Erf 1427 Newcastle from Detached Residential to Residential High Density Only for the purpose of establishing a guest house. The Record of Decision is attached hereto as **Annexure A**.
- 3.2 Granting of planning permission to the appellant for the rezoning of Erf 1427 Newcastle (12 Earl Street, Central) triggered objections to which a responding memorandum was lodged with the municipality. After submitting the responding memorandum to the objections to the proposed development on appellant's property, there was only an intention to appeal the decision of the Municipal Planning Tribunal in favour of AK & S.I. Gerber. If ever there was an appeal, it was never brought to our attention. We therefore assume that approval granted in respect of the appellant's development on Erf 1427 Newcastle (12 Earl Street, Central) still stands.
- 3.3 The appellant also wishes to draw the Municipal Planning Appeal Authority's attention to the fact that the appellant's property is situated directly opposite (across Earl Street) to the proposed development approved on Erf 1430 Newcastle, 11 Earl Street, and which consent as granted by the Municipal Planning Tribunal as per its decision of 17 February 2022 which granted Mr T. Nkosi consent to establish a Guest House on Erf 1430 Newcastle, No. 11 Earl Street, Central East (**Annexure B**).is subject of this appeal.
- 3.4 In this appeal, the appellant implores on the Municipal Planning Appeal Authority to review and set aside the Municipal Planning Tribunal's decision to grant consent to the establishment of a development which is substantially similar to the one of which the appellant has development rights over the appellant's property through a rezoning process.
- 3.5 The appellant contends that the Municipal Planning Tribunal's decision is unsound, irrational and not objective in that it has not adequately, fairly nor meticulously considered the legislative and policy provisions including the spatial planning and land use management principles enshrined in the Spatial Planning and Land Use Management Act (Act 16 of 2013). In fact, the appellant is compelled to question whether the existence of planning approval for the rezoning of Erf 1427 Newcastle from detached residential to residential high density only for the purpose of establishing a

**MEMORANDUM OF APPEAL TO THE MUNICIPAL PLANNING TRIBUNAL'S RECORD OF DECISION GRANTING  
CONSENT TO ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL**

guest house was ever considered by the Municipal Planning Tribunal in arriving at its decision.

- 3.6 There is no doubt that after the review, the Newcastle Municipal Planning Appeal Authority will set aside the Newcastle Municipal Planning Tribunal's decision of 17 February 2022 which granted Mr T. Nkosi consent to establish a Guest House on Erf 1430 Newcastle, No. 11 Earl Street, Central East.

#### **4.0 LEGISLATIVE AND POLICY FRAMEWORK**

- 4.1 This appeal is brought before the Municipal Planning Appeal Authority in terms of Section 51 of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) as read jointly with Section 58 (1) of the Newcastle Spatial Planning and Land Use Management By-Law (2015). This notwithstanding, there are other pieces of legislation including the Constitution of the Republic and policies which have a bearing on this appeal as relevant.

- 4.2 The appeal is supported by procedural and substantive issues which are pertinent in seeking relief from the Municipal Planning Appeal Authority to review and set aside the Municipal Planning Tribunal's decision.

#### **5.0 THE GROUNDS OF APPEAL**

- 5.1 This appeal is grounded on procedural and substantive issues as outlined in this memorandum. The appeal further serves to corroborate appellant's objection to the application submitted to the Municipal Planning Tribunal prior to granting of the consent to establish a establish a Guest House on Erf 1430 Newcastle (11 Earl Street, Central East). The following are the grounds of appeal:

- 5.2 **The Appellant (AK & S.I. Gerber) has endured about 9 months regarding the issue of the outstanding or presumed finalisation of an intention to appeal or as per the attorneys words *"...we want to note an appeal on behalf of the owner..."* the Appeal against the MPT's decision granting approval of the rezoning of their property, Erf 1427 Newcastle (12 Earl Street, Central) from detached residential to residential high density for the purpose of establishing a guest house and yet the MPT is granting a similar approval across the road.**

- 5.2.1 While this appeal is about consent approval granted in respect of Erf 1430 Newcastle, it directly impacts on the record of decision granted by the MPT in respect of the appellant's property, Erf 1427 Newcastle (12 Earl Street, Central) in a significant way.

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**MEMORANDUM OF APPEAL TO THE MUNICIPAL PLANNING TRIBUNAL'S RECORD OF DECISION GRANTING  
CONSENT TO ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL**

It is, therefore, of vital importance and inescapable that this appeal starts by addressing the issue of the outstanding or presumed finalisation of the rezoning approval on the appellant's property, Erf 1427 Newcastle which is located directly opposite the former.

- 5.2.2 Approval for the rezoning of the appellant's property, Erf 1427 (12 Earl Street, Central) Newcastle from detached residential to residential high density for the purpose of establishing a guest house was granted by the MPT on 10 June 2021 as per letter dated 19 July 2021 as per Annexure A attached hereto.
  - 5.2.3 What appears as an intention to appeal by the objectors' attorney remains a mystery to considering that 9 months later, it remains to us, as an intention to appeal or as per the attorneys words *"...we want to note an appeal on behalf of the owner..."*.
  - 5.2.4 The lack of finality on the decision regarding the appeal against the rezoning of Erf 1427 Newcastle is problematic to the appellant's business plans. The status of the appeal remains unclear 9 months later outside the legislated lodging timeframes for serving of the memorandum on the relevant parties as provided for in the Spatial Planning and Land Use Management Act (Act 16 of 2013) and Section (3) of Schedule 10 of the Newcastle Municipality Spatial Planning and Land Use Management By-Law.
  - 5.2.5 It is therefore improper that the Municipal Planning Tribunal would go to the extent of granting consent to a substantially similar use within the backdrop of planning permission having been granted to the appellant and over which status there still hangs a cloud of uncertainty.
  - 5.2.6 The delay in giving finality to the appellant's application has needlessly given rise to a situation where the appellant finds themselves in direct competition with a competitor who is uncomfortably too close to the applicant's premises. The appellant further contends that the competitor may not have been motivated to establish this facility so close to the appellant's site had the municipality been efficient and timeously finalised appellant's application by dealing with limiting and constraining effect of the appeal.
  - 5.2.7 The appellant prays that the Municipal Planning Appeal Authority sets aside the MPT's decision since allowing the decision to stand would not only be an unsound planning decision but a serious breach of the appellant's rights. Furthermore, allowing the decision to stand would throw the planning decision-making in connection with this application, into chaos. The effect would be a chaotic land use system and structure.
- 5.3 Notification of the appellant of the Municipal Planning Tribunal Decision's decision on Erf 1430 Newcastle in is contravention of the Spatial Planning and Land Use Management Act, 2013 and Newcastle Spatial Planning and Land Use Management By-Law and is therefore invalid.**



- 5.3.1 Section 8 (2) (a) of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013) requires planning practitioners to ensure that land development and land use management processes, including applications, procedures and timeframes are efficient and effective. As would be demonstrated from paragraphs 4.2.2, this requirement, Section 8 (2) (a) of SPLUMA on procedures and timeframes has been violated through inefficiency and ineffective administration in connection with this matter with the result that the MPT's decision becomes contaminated, has compromised the appellant's rights and should be declared invalid.
- 5.3.2 In terms of Section 57 of Newcastle Spatial Planning and Land Use Management By-Law (2015) the municipality should have within 21 days after the Municipal Planning Tribunal's decision, informed the appellant of the MPT's decision. This requirement was violated by the municipality which indicates on its approval letter that the consent to the application by T. Nkosi (Erf 1430 Newcastle) was granted on 17 February 2022 and yet the appellant was notified of the Municipal Planning Tribunal's decision on 23 May 2022. Notification of the MPT's decision was received by the appellant ninety-five (95) days or (seventy-four) 74 days outside the legislated 21-day period after the MPT's decision as shown on **Annexure C**.
- 5.3.3 Laws are enacted to be complied with. Specifically, they must be adhered to otherwise contravention of timeframes as legislated is a reason to declare decisions associated therewith invalid such as in this case. The law was violated by the municipality in communicating the decision of the MPT beyond the stipulated 21-day timeframe resulting in the planning process being severely compromised and to the detriment of the appellant. The MPT's decision is therefore tainted and cannot be allowed to remain valid.
- 5.3.4 The delay in communicating the decision has infringed on the rights of the appellant and has caused considerable harm on the appellant as a directly affected party with development rights over, Erf 1427 Newcastle, a property which has a 'frontage to frontage contact' with Erf 1430 Newcastle across Earl Street.

We submit that the appellant has made a case on non-compliance with SPLUMA and the Newcastle Spatial Planning and Land Use Management By-Law. The appellant prays on the Municipal Planning Appeals Authority to set aside the decision of the Municipal Planning Tribunal as its decision is now invalid.

**5.4 The validity of our objection to the establishment of a Guest House on Erf 1430 Newcastle (11 Earl Street, Central East) was not given profound and meticulous consideration by the Municipal Planning Tribunal.**

- 5.4.1 Attached as **Annexure D** for the Municipal Planning Appeals Authority's convenient reference is a copy of the objections to the proposed guest house on Erf 1430

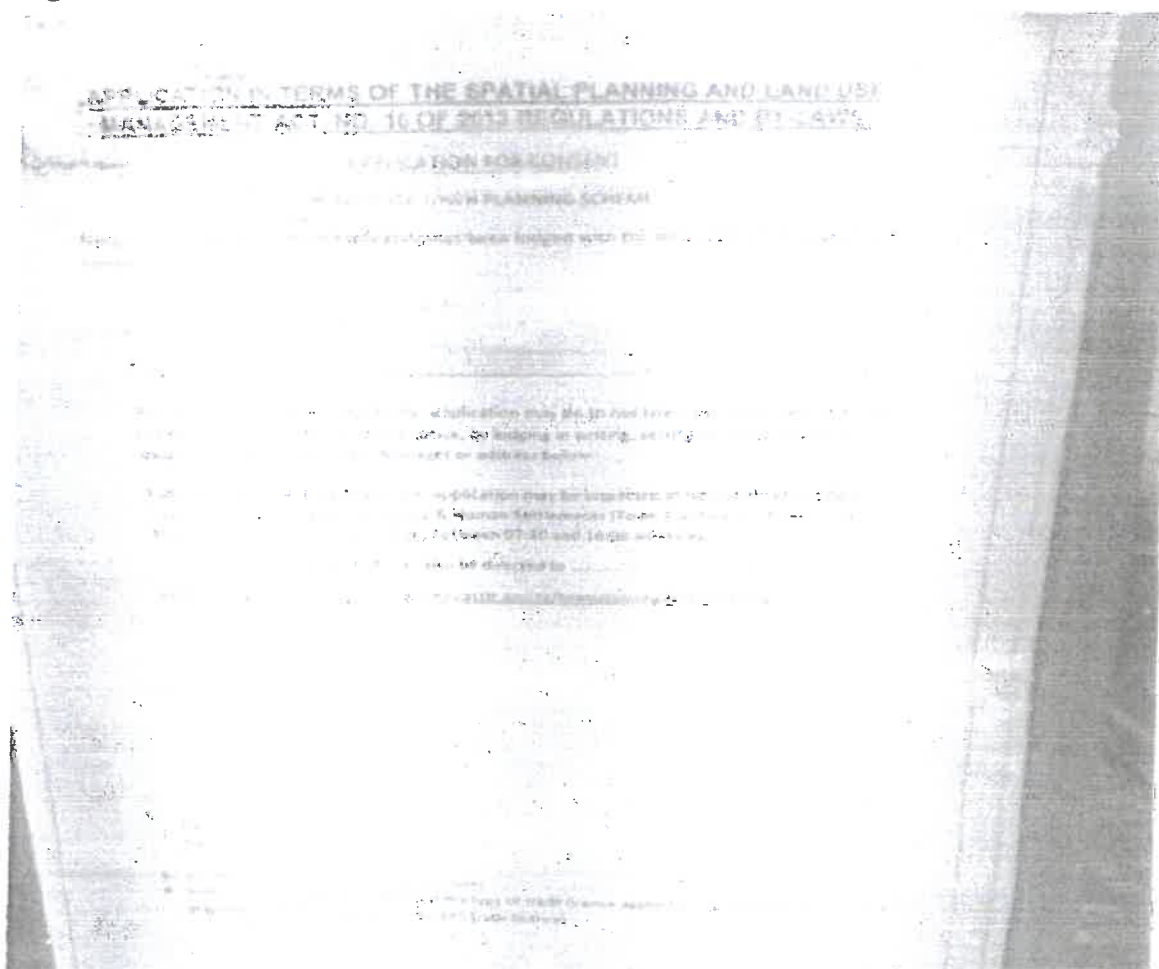
MEMORANDUM OF APPEAL TO THE MUNICIPAL PLANNING TRIBUNAL'S RECORD OF DECISION GRANTING  
CONSENT TO ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL

Newcastle which the appellant had lodged with the Municipal Planning Tribunal. However, given their decision, the MPT did not consider the basis of our objections objectively, but considered instead, to overrule it. In the objection we raised fundamental issues recast briefly as follows:

**The defective site notice compromised the public participation process**

- 5.4.2 The appellant brought to the Municipal Planning Tribunal that an inspection of the site revealed that the advert on-site is defective as shown on Figure 1. and we have attached a photo of the site notice (**Annexure E**) which shows no details of the intended use of the property. This alone constitutes a basis for the refusal of planning permission as it hugely compromised the public consultation process by denying the public and interested parties to be informed about the proposed use of the site at the very location where the planning approval is being sought.

Figure 1: Defective Site Notice



- 5.4.3 To put it bluntly and clearly, based on what was displayed on site, there was effectively, **no** site notice as prescribed in Schedule 5 of Section 11 of the Newcastle Spatial Planning and Land Use Management By-Law. There were inadequate details for effective communication with the public in connection with the proposed

development. The decision by the MPT implies that it did not seriously take note of the breach of this critical aspect of public consultation in connection with this application. The public who may have had an interest in the application were denied the right to be informed.

- 5.4.4 The appellant implores the Municipal Planning Appeals Authority to set aside the MPT's decision as the site notice denied the public their right to information in contravention of the Constitution of the Republic, the Spatial Planning and Land Use Management Act (2013) and the Newcastle Spatial Planning and Land Use Management By-Law.

**Planning Permission has been Granted for the Rezoning of our property Erf 1427 Newcastle (12 Earl Street, Central) for a similar use**

- 5.4.5 We brought it to the MPT's attention that planning approval was granted for a similar use to AK & S. I Gerber the owners of Erf 1427 Newcastle (12 Earl Street, Central) for the rezoning of Erf 1427 Newcastle from Detached Residential to Residential High Density Only for the purpose of establishing a guest house across the road.
- 5.4.6 In connection with this, we indicated that this is anti-competitive behaviour wherein we stated that this runs contrary to the accepted tenets of healthy competition as granting this application would kill our business at the very beginning.

**The MPT did not consider the adverse traffic impacts likely to arise from its decision**

- 5.4.7 We also indicated that granting planning permission to the applicant would result in adverse traffic impacts both to our establishment and the proposed usage of their property. The appellant reiterates as stated in the objections that the granting consent to the application would result in adverse traffic impacts both to appellant's establishment and the proposed usage of their property. There are commercial enterprises in the area already we fear that would increase traffic volumes to the detriment of the residents in the area.
- 5.4.8 It is our view that the MPAA would take note of this as reason enough to set aside the MPT's decision.

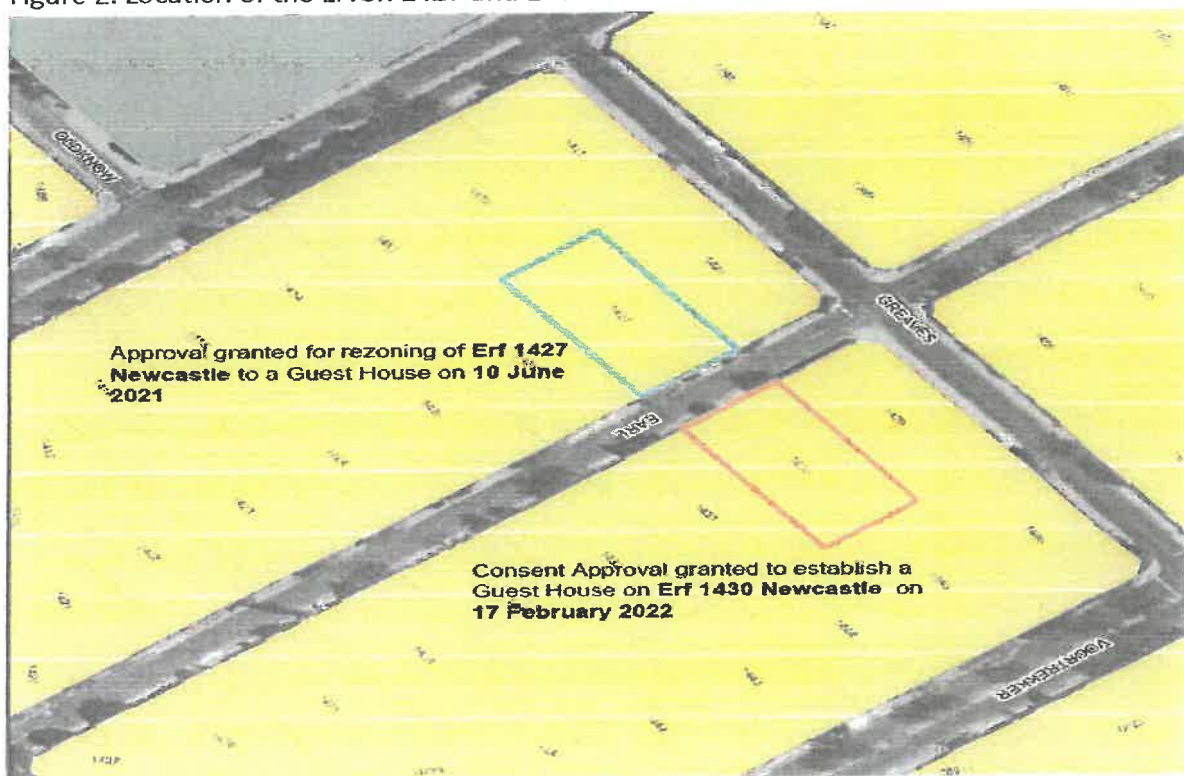
- 5.5 **From a geographic locational viewpoint, granting of planning permission on Erf 1430 Newcastle for a substantially similar use approved on a neighbouring property directly opposite (the appellant's property, Erf 1427 Newcastle) is not a sound planning decision, is irrational and inconsiderate.**

- 5.5.1 Planning is very central in promoting local economic development initiatives contributing towards creating ideal conditions and leveraging for investment by both the public and private sectors. The MPT's decision to grant consent for a guest house on Erf 1430 Newcastle similar to that on Erf 1427 Newcastle 'next door' runs contrary

to the duty of planners to create ideal conditions to thrive as expected in their planning mandate.

- 5.5.2 It is the appellant's submission that it is irrational and inconsiderate for the Newcastle Municipal Planning Tribunal to grant approval without having taken into consideration that the MPT had barely 9 months ago, granted approval for a substantially similar use on our property (Erf 1427 Newcastle) as shown on **Figure 2**.
- 5.5.3 These two properties are directly opposite each other, frontage to frontage and separated by a 15-metre-wide Earl Street. It is inconceivable that the MPT would allow scrutiny and due diligence to escape its attention in this way unless if this scenario did not catch its attention. The appellant is of the firm belief that had the MPT considered this scenario or undertaken a site visit, there is no doubt that the MPT would have arrived at a different decision.

Figure 2: Location of the Erven 1427 and 1430 Newcastle



- 5.5.4 The MPT's decision renders the proposed business on the appellant's property Erf 1427 Newcastle unviable before it even starts operating. It is the view of the appellant that if the Municipal Planning Appeals Authority were to visit the sites, the members would see for themselves empirically, the potential planning and business disaster the MPT's decision is likely to cause should the MPT's decision be upheld by the MPAA.
- 5.5.5 It is unfortunate that the MPT chose to make a decision which glaringly, is likely to erode appellant's clientele base and therefore threatening the viability of appellant's business. When planning decisions of this nature are not informed by comprehensive

analysis and evaluation, businesses fail before they even take off, not because of the failures of entrepreneurs but because planning authorities do not give due consideration of the likely impacts of their decisions.

- 5.5.6 The MPT's decision does not make planning nor business sense and is an indictment on the object of planning which among other things is to create order rather promote conflicts among land uses, facilitate and promote the establishment and growth of businesses than the opposite.
- 5.5.7 Surely, the MPT cannot be allowed to frustrate our business idea considering that the appellant came up with the business concept/proposal on the site, only for the MPT to let the appellant's business idea come crashing down by allowing a direct competitor at its doorstep. The decision of the MPT should not be allowed to stand. It may be further suggested that the applicant with respect to Erf 1430 Newcastle may have been inspired by appellant's business and would unfortunately, affect appellant's clientele market in the area.
- 5.5.8 The MPAA would agree with us that based on the above facts, it is not a sound planning decision to grant consent for the establishment of a guest house on Erf 1430 Newcastle. The appellant further asserts the view that the MPT erred monumentally in granting this decision hence the appellant implores the MPAA to review and set aside this grossly unsound decision by the MPT.
- 5.6 **The Municipal Planning Tribunal did not take into consideration the rezoning of the appellant's property (Erf 1427 Newcastle) will result in materially significant investment on existing development whereas the same is not applicable to the proposed consent use on Erf 1430 Newcastle.**
- 5.6.1 The appellant's property, Erf 1427 Newcastle is being rezoned from detached residential to residential high density for the purpose of establishing a guest house as opposed to Erf 1430 Newcastle which is a special consent approval without a rezoning burden. The use of their property would therefore be more flexible as the rights may lapse no material changes may not be undertaken on their property.
- 5.6.2 On the other hand, the rezoning on Erf 1427 Newcastle changes the use of appellant's property and is less flexible. The rezoning use will result in changing the property materially whereas the same is not applicable to consent use. The appellant will incur significant investment on the property and this ought to have been considered by the MPT.
- 5.6.3 Nevertheless, we are of the view that the MPAA will review and set aside the MPT's decision.

## **6.0 CONCLUSION**

We are of the view that having considered the merits of our appeal, based on the procedural flaws and substantive arguments raised in this appeal, the Municipal Planning Appeal Authority will review and set aside the Record of Decision of the Newcastle Municipal Planning Tribunal's decision of 17 February 2022 which granted Mr T. Nkosi consent to establish a Guest House on Erf 1430 Newcastle, No. 11 Earl Street, Central East. This will then pave the way for the implementation of the rezoning approval granted in respect of the appellant's property, Erf 1427 Newcastle (12 Earl Road, Central).

Yours faithfully



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Owners of Erf 1427 Newcastle  
(12 Earl Street, Central)**

**Assisted by:**

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ANNEXURE A: ANNEXURE A:RECORD OF DECISION - REZONING OF ERF 1427  
NEWCASTLE





# NEWCASTLE KWAZULU NATAL

My Verw: TP 13/3/4/1 - 1427  
My Ref:

Munisipaliteit: Privaatsak X6621  
Municipality: Private Bag X6621  
Newcastle  
2940

Navrae: B. Thusi  
Enquiries:

Tel (034) 328 7600  
Fax (034) 312 1570

Email address: [bheki.thusi@newcastle.gov.za](mailto:bheki.thusi@newcastle.gov.za)

19 July 2021

Allen Gerber  
12 Earl Street  
Newcastle  
2940

Dear Sir

**RECORD OF DECISION: APPLICATION IN TERMS SPATIAL PLANNING LAND USE  
MANAGEMENT ACT (ACT 16 OF 2013) REGULATIONS AND BYLAW 'S: REZONING  
OF ERF 1427 NO. 12 EARL STREET NEWCASTLE WEST FROM "DETACHED  
RESIDENTIAL" TO "RESIDENTIAL ONLY HIGH DENSITY" FOR THE PURPOSE  
OF ESTABLISHING A GUEST HOUSE: TP (13/3/3-1427)**

With reference to your subject application, please note that the following decision regarding your application was made by the Newcastle Municipal Planning Tribunal (MPT) at its meeting held on the 10<sup>th</sup> of June 2021:

1. The Newcastle Municipal Planning Tribunal in terms of the Spatial Planning and Land Use Management Regulations and Bylaws, approve the application for the rezoning of Erf 1427 Newcastle from "Detached Residential" to "Residential Only High Density" for the purpose of establishing a Guest House, based on the following reasons:
  - i) The proposed development promotes the efficient utilization of as the land resource;
  - ii) The development will not have any negative impacts on surrounding properties and amenities;
  - iii) No new infrastructural services will be required as the site has already been developed
  - iv) The proposed development will broaden the Municipalities rates base.

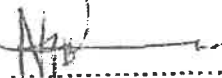


2. The following conditions shall be applicable to the proposed development:

- (i) This approval is linked to the revised Site Development Plan, **LA (10) 002** should the developer wish to extend, new application must be submitted to the municipality;
- (ii) The property shall conform to the planning scheme development controls imposed and its subsequent additions;
- (iii) Building plans must be submitted and approved by the Strategic Executive Director: Development Planning and Human Settlements prior to commencement of any major alterations/construction on the property;
- (iv) Rubble and building material must not at any stage impede onto the roadway during construction;
- (v) The owner shall construct such facilities as are necessary for the control and disposal of stormwater from the property. All costs incurred as a results of these requirements shall be borne entirely by the owner;
- (vi) The developer must install water saving system only, such as water basin taps with faucet aerator, water saving shower etc;
- (vii) The property has an existing 60A single phase connection, should the applicant require to upgrade the supply to accommodate the aforementioned guest house, costs & regulations shall be as per The Electricity Supply Bylaws and Tariff Structure;
- (viii) The entrance to the site must not be moved as a result of this development.
- (ix) Owner must provide adequate onsite parking;
- (x) No offsite parking of any vehicle allowed without approval of the municipality;
- (xi) No loud music and noise between 20:00 pm to 09:00 am;
- (xii) All costs incurred as a results of these requirements shall be borne entirely by the owner;

- (xiii) Owner must provide adequate onsite parking;
- (xiv) No offsite parking of any vehicle without approval of Council;
- (xv) That this approval shall be subject to review if the municipality is of the opinion that that the conditions for which this application is approved have been violated, municipal bylaws flawed, other legislation/s transgressed or any other matter deemed necessary for purpose of this approval to remain in force.
- (xvi) Objectors have 30 days after being notified of the decision of the Municipal Planning Tribunal and their right to appeal with Newcastle Municipal Appeal Authority.

Yours faithfully,



N.P. KHATHIDE  
**ACTING STRATEGIC EXECUTIVE DIRECTOR:  
DEVELOPMENT PLANNING AND  
HUMAN SETTLEMENTS**

**ANNEXURE B: RECORD OF DECISION-CONSENT FOR GUEST HOUSE ON ERF  
1430 NEWCASTLE**



# NEWCASTLE KWAZULU NATAL

**My Verw:**

**My Ref:**

TP13/3/4/1 – 1430

**Navrae:**

**Enquiries:**

S. Sithole

**Tel (034) 328 7600**

**Fax (034) 312 1570**

**Munisipaliteit: Privaatsak X6621**

**Municipality: Private Bag X6621**

**Newcastle**

**2940**

E-mail: [siyabonga.sithole@newcastle.gov.za](mailto:siyabonga.sithole@newcastle.gov.za)

**17 May 2022**

Mr T Nkosi  
No. 11 Earl Street  
Central East  
Newcastle  
2940

Dear Sir/Madam

**RECORD OF DECISION IN TERMS OF THE SPATIAL PLANNING LAND USE  
MANAGEMENT ACT (ACT 16 OF 2013) REGULATIONS AND BYLAW: CONSENT TO  
ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET,  
CENTRAL EAST**

With reference to the above, please note that the following decision was made by the Newcastle Municipal Planning Tribunal on 17 February 2022.

1. The Newcastle Municipal Planning Tribunal in terms of Spatial Planning and Land Use Management Act (Act 16 of 2013) Regulations and Bylaws, hereby approves the application for consent to establish a Guest House on Erf 1430 Newcastle, based on the following reasons:
  - a) Newcastle is in a process of being transformed a city status by 2035. Therefore, this Guest House aims to provide accommodation for visitors and entrepreneurs wishing to explore Newcastle for business and investments opportunities;
  - b) Given its location, this Guest House aims to provide accommodation closer to amenities and services offered by the amenities, such as retails stores (Newcastle mall), private and provincial hospital to name a few as well as easy access to the Newcastle Central Business District;
  - c) This Guest House will not only benefit the property owner through income and long-term investment, but it will significantly contribute in creating employment for the local residents of Newcastle;
  - d) The character of the property including the "curb appeal" will not deviate from the existing residential nature of the surrounding properties. The primary use will still be residential in nature in order to blend in well with the surrounding residential properties;

2. The following conditions shall be applicable to the proposed development:

- (a) This approval is linked to the site development plan submitted (Drawing No: 575), any other amendments to this site development plan will prompt further consultation with the Town Planning Directorate;
- (b) The property shall conform to the development controls imposed and its subsequent additions;
- (c) The developer shall install water saving systems only, such as water basin taps with faucet aerator, water saving showers, etc;
- (d) Noise nuisances/disturbances from the establishment is prohibited;
- (e) The owner shall construct necessary facilities for the control and disposal of stormwater from the property. All costs incurred as a results of these requirements shall be borne entirely by the property owner;
- (f) Provision must be made on the building plan for a bulk storage container;
- (g) Parking on the side walk is strictly prohibited (in terms of regulation 305 of the National road Traffic Act 93 of 1996).
- (h) The electricity Supply Bylaws and Tariff will be applicable for costs and regulations;
- (i) The developer must install fire hydrants at a position of 1×FH per every 1000 square metre;
- (j) The granting of this consent does not override formal requirements regarding submission and approval of a building plan;
- (k) The storage area of at least 2,5m ×3m per mobile refuse container, with a washable floor and a tap is required and should preferable be covered. Waste disposal trucks should have unimpeded access to the storage area;
- (l) If there are any conditions contained in a title deed of Erf 1430 Newcastle which are in conflict with this consent, it shall be the responsibility of the applicant to have such restrictive conditions removed;
- (m) Any conditions of this consent may be altered or any conditions added thereto by the Municipality if it is of the opinion that owing to a change in the circumstances or for any other reason such alteration or addition is necessary or desirable from a town planning point of view;
- (n) Any adjustment to assessment rates and the other tariffs for municipal services necessitated by this consent be implemented upon the issuing of the final occupation certificate by Council;
- (o) This approval shall be subject to review if the municipality is of the opinion that that the conditions for which this application is approved have been violated, municipal bylaws flawed, other legislation/s transgressed or any other matter deemed necessary for purpose of this approval to remain in force;

3. Should you feel aggrieved by the decision of the Newcastle Municipal Planning Tribunal, please be informed of your right to appeal with the municipality within 30 days of being notified of the decision. The appeal or memorandum of appeal must be served to:

The Municipal Appeals Authority Registrar  
Newcastle Municipality  
No. 37 Murchison Street  
Private Bag X6621  
Newcastle  
2940  
[Sphephelo.Cindi@newcastle.gov.za/Xoliswa.Madela.gov.za](mailto:Sphephelo.Cindi@newcastle.gov.za/Xoliswa.Madela.gov.za)  
Cc: [Sandra.Tshabalala@newcastle.gov.za](mailto:Sandra.Tshabalala@newcastle.gov.za)

Yours Faithfully,

  
.....  
N. P. KHATHIDE  
**ACTING STRATEGIC EXECUTIVE DIRECTOR:  
DEVELOPMENT PLANNING AND HUMAN SETTLEMENTS**

**ANNEXURE C: NOTIFICATION OF DECISION - CONSENT FOR GUEST HOUSE -  
ERF 1430 NEWCASTLE**

# Application to establish a guest house on Erf 1430 Newcastle, No. 11 Earl Street, Central East. Inbox 27

Mon, May 23, 10:49 AM

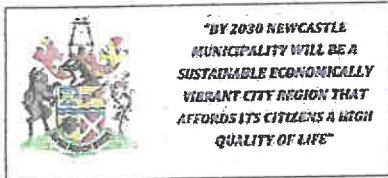
**Siyabonga Sithole**

to me, dawjee@newcastle.co.za

Good Day,

Please find the attached decision made by the MPT regarding the application to establish a guest house on Erf 1430 Newcastle, No 11 Earl Street, Central East.

Siyabonga Sithole  
Town Planner: City Planning  
Town Planning  
Development Planning  
and Human Settlements  
Tel: 034 328 7920 (7868)  
37 Marchison Street, Civic Centre  
4<sup>th</sup> Floor, Room 403.  
**Newcastle Municipality**





**ANNEXURE D:      OBJECTION TO GUEST HOUSE - ERF 1430 NEWCASTLE**

AK & S. I Gerber  
 12 Earl Street  
 Newcastle  
 Central  
 allankevingerber@gmail.com

The Municipal Manager  
 Newcastle Municipality  
 Murchison Street  
 siyabonga.sithole@newcastle.gov.za/townplanning@newcastle.gov.za

9 December 2021

Attention: Siyabonga Sithole

**OBJECTION TO THE APPLICATION FOR CONSENT: PROPOSED BED AND BREAKFAST ON ERF 1430 NEWCASTLE (11 EARL STREET), CENTRAL, NEWCASTLE**

**PURPOSE OF THE SUBMISSION**

The purpose of this submission is to object to proposed establishment of a Bed and Breakfast facility on the abovementioned property. Our reasons for the objections are outlined hereunder:

**OBJECTIONS:**

The following form the basis of our objection

**1. The site Notice is Defective Site Notice**

We start by bring to the Municipal Planning Tribunal that an inspection of the site revealed that the advert on-site is defective, and we have attached a photo of the copy (Annexure A) which shows no details of the intended use of the property. This alone constitutes a basis for the refusal of planning permission as it hugely compromised the public consultation process by denying the public and interested parties to be informed about the proposed use of the site at the very location where the planning approval is being sought.

It is either that the applicant The applicant failed to maintain the advertisement with the result that the public's right to information for effective participation is severely denied. Put

differently, there is effectively no notice on-site when information is not conveyed to the public. We pray for the Planning tribunal to refuse planning permission for the proposed use.

## **2. The Site Notice Compromises the Public Participation Process**

The advert does not satisfy the public's right to information in contravention of both the Constitution of the Republic and Spatial Planning and Land Use Management Act (2013).

## **3. Planning Permission has been Granted for the Rezoning of our property Erf 1427 Newcastle (12 Earl Street, Central) for a similar use**

We would like to bring to the Planning Tribunal's attention Planning Permission was granted to AK & S. I Gerber the owners of Erf 1427 Newcastle (12 Earl Street, Central) for the rezoning of Erf 1427 Newcastle from Detached Residential to Residential High Density Only for the purpose of establishing a guest house.

We understand that the municipality must accept and consider applications on their merits but we would like to indicate that these properties are directly opposite each other and we feel that it would be unfair to us and the applicant if the municipality were to grant permission planning to this application.

## **4. Anti-competitive behaviour**

The granting of planning permission goes against the accepted tenets of healthy competition. It would adversely affect the applicant and us as the area already has such establishments in close proximity. The municipality has an obligation to promote businesses as part of its constitutional mandate hence it is obliged to make decisions to promote businesses rather than destroy them. Granting this application would kill our business which is at an advanced stage and ready for implementation.

## **5. Adverse Traffic Impacts**

We foresee that granting permission to the application would result in adverse traffic impacts both to our establishment and the proposed usage of their property. There are commercial enterprises in the area already we fear that that in the area would increase to the detriment of the residents.

**Conclusion**

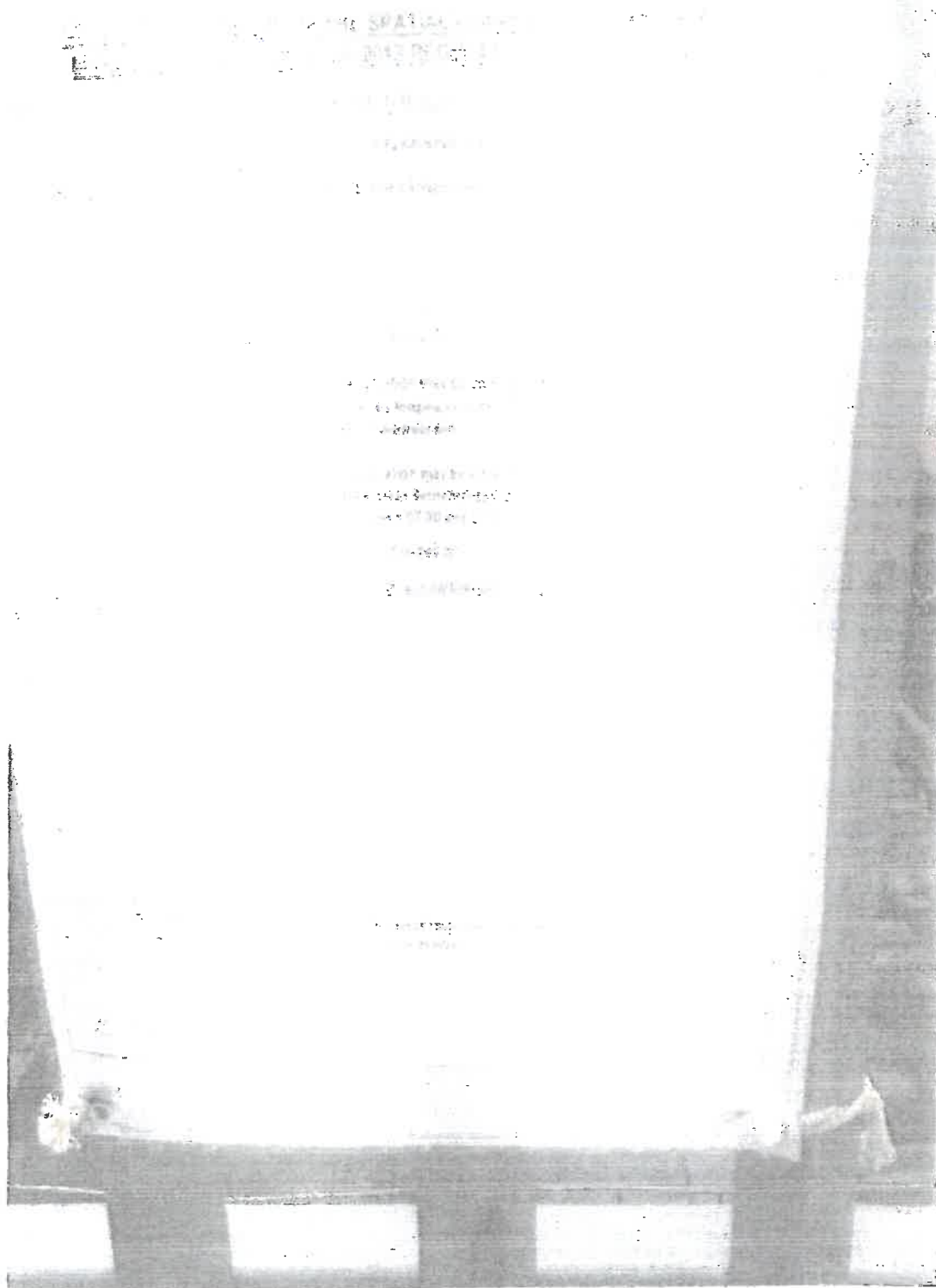
Having stated our objection to the application, we trust that the Newcastle Municipality would consider our application favourably

Yours faithfully

A handwritten signature in dark ink, appearing to be 'A.K. & S.I. Gerber', written over a horizontal line.

A.K. & S.I. Gerber

**ANNEXURE A: DEFECTIVE SITE ADVERTISEMENT**



**ANNEXURE E: DEFECTIVE SITE NOTICE**

APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND-USE  
MANAGEMENT ACT, NO. 16 OF 2013 REGULATIONS AND BY LAWS

## APPLICATION FOR CONSENT

### WATER SUPPLY AND TOWN PLANNING SCHEME

Service is hereby given that the application has been lodged with the New Zealand Companies Office and a copy of the application is being sent to you for your consent to the same.

the date of publication in this notice, by lodging in writing, setting out the grounds of objection, at the office of the Manager of Patents at the address below.

Please do not include anything in this application that may be impeded at Merced Hills Regional Landfill Transfer Station, 20000 Highway 38 Human Settlements (Town Planning) at least 100 feet from the property line. Do not place any material between 07:00 and 16:00 weekdays.

...and any other person to whom the same may be directed to

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

**Library of Theology** & **Journal of Theology**

- ✓ **Trade credit** – the type of trade finance applied for when the buyer is given a period of time to pay for goods received.



Attachment B: Responding Memorandum

**RESPONDING MEMORANDUM TO AN APPEAL SUBMITTED AGAINST A DECISION TO APPROVE AN APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013 (SPLUMA) REGULATIONS AND MUNICIPAL SPLUMA BY-LAWS FOR CONSENT TO ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, NEWCASTLE CENTRAL: TP (13/3/4/1-1430) – WARD 34**

## **1. INTRODUCTION**

1.1 A decision of the Municipal Planning Tribunal (MPT) to approve an application stated below was transmitted to Gilbert Phiri and Shurtleworth & Dawjee Attorneys respectively. On May 2022, the Newcastle Municipality through the Registrar (Mr. S. Cindi) received a memorandum of appeal containing the following:

1.1.1 It provided some issues of the matter;

1.1.2 Stated the grounds of appeal and relief sought;

1.1.3 Raised issues, which the Municipal Planning Appeal Authority must consider in making its decision;

1.1.4 The Memorandum of appeal was received on the 15th of May 2022 from A.K and S.K Gerber (assisted by G. Phiri).

1.2 The appeal stated the following grounds:

1.2.1 An appeal against the MPT's decision granting the approval of the rezoning of their property, Erf 1427 Newcastle (12 Earl Street, Central East) from "Detached Residential" to "Residential only High Density" for the purposes of establishing a guest house and yet a similar approval was granted across the road.

1.2.2 Notification of the appellant of the MPT's decision of Erf 1430 Newcastle is in contravention of the Spatial Planning and Land Use Management Act, 2013 and the Newcastle Spatial Planning and Land Use Management By-law and is therefore invalid.

1.2.3 The validity of our objection to the establishment of a Guest House on Erf 1430 Newcastle (11 Earl Street, Central East) was not given profound and meticulous consideration by the MPT.

1.2.4 Defective Site Notice compromised the public participation process.

1.2.5 The MPT did not consider the adverse traffic impacts likely to arise from its decision.

1.2.6 The MPT did not take into consideration the rezoning of the appellants property (Erf 1427 Newcastle) will result in materially significant

investment on existing development whereas the same is not applicable to the proposed consent use on Erf 1430 Newcastle.

## **2. BODY/ PERSONS RESPONDING TO THE APPEAL**

2.1 This responding memorandum filed by the Newcastle Municipal Planning Tribunal.

## **3. BACKGROUND TO THE MATTER**

3.1 In November 2021, an application in terms of the Spatial Planning and Land Use Management Act No. 16 of 2013 Regulations and Bylaw's has been received from Mr. T.G Nkosi the registered owner of the property. The purpose of this application is for onsent to establish a Guest House on Erf 1430 Newcastle.

3.2 The application was advertised in the local newspaper for 30 days, as per the Spatial Planning and Land Use Management Act No. 16 of 2013.

3.3 Three (3) objections were received from Mr. Seedat, Mr. I. Kharwa, and A.K. & S.I. Gerber.

3.4 The objections are concentrated on issues surrounding adequate parking for guests, traffic congestion and disturbance of peace, character of the area being transformed from a quiet residential area to a business area, defective site notice, planning permission granted for rezoning of Erf 1427 Newcastle and anticipated anti-competitive behaviour which might result from both properties.

3.5 On the 17th of February 2022, the Newcastle Municipal Planning Tribunal in terms of the Spatial Planning and Land Use Management Act No. 16 of 2013 Regulations and Bylaws resolved to approve the application for Consent to establish a Guest House on Erf 1430 Newcastle. (Annexure A).

3.6 Following the notification of the outcome of the application, Mr. G. Phiri and Shurtleworth & Dawjee Attorneys aggrieved by the decision of the Newcastle Municipal Planning Tribunal.

3.7 The memorandum of appeal was forwarded to the Newcastle Municipal Planning Appeal Authority Registrar, The Newcastle Municipal Manager and The Applicant.

3.8 The aggrieved on their memorandum of appeal seek relief from the Newcastle Municipal Planning Appeal Authority to review and set aside the Newcastle Municipal Planning Tribunal's Record of Decision of 17 February 2022 granting Consent to Mr. T. Nkosi for the establishment of a Guest House on Erf 1430 Newcastle, no. 11 Earl Street, Newcastle Central and challenged in this document.

#### 4. CONDONATION FOR SETTING THE DATE OF THE HEARING LATE

- 4.1 Section 2(3), Schedule 10 of the Newcastle SPLUMA bylaw states: A person who wants to lodge a responding memorandum must, within 30 days after the memorandum of appeal was served on that person serve the responding memorandum;
- 4.2 The Registrar: Appeals Authority (Committee of Officials) needed to ensure notification of all parties to the appeal;
- 4.3 The Registrar needed to ensure that all processes as specified by legislation will be complied with, without any error or omission;
- 4.4 All the parties were informed of the delay in the appeal process as the institutional arrangements were not yet in place;
- 4.5 An application for condonation of time compliance is hereby applied for to allow for consideration of the matter and ensure that none are prejudiced by the internal municipal systems.

#### 5. GROUNDS OF APPEAL

- 5.1 The following are the appeals lodged by the Appellant.

- 5.1.1 First ground of appeal. An appeal against the MPT's decision granting the approval of the rezoning of their property, Erf 1427 Newcastle (12 Earl Street, Central East) from "Detached Residential" to "Residential only High Density" for the purposes of establishing a guest house and yet a similar approval was granted across the road and no notice was given to the appellant to notify the seating of the meeting.

**Response:**

- 5.1.2 The appellants approved zone is intended to promote the development of a range of residential accommodation at a high density, together with a mix of activities that caters for broader community needs in densification zones such as central business districts, along development corridors and development nodes as a means to achieve densification of urban land. The applicants approval is for consent use where the zone is still Detached Residential where only a limited portion of the property may be used for the Activity applied for. The applications may be for similar activities but the Municipality treats applications independently and on their own merit. It is not for the MPT to decide on matters of competition but matters of land development, the correct department for matters of competition is Department of Trade, Industry and Competition (DTIC).
- 5.1.3 Second ground of appeal. Notification of the appellant of the MPT's decision of Erf 1430 Newcastle is in contravention of the Spatial Planning and Land Use Management Act, 2013 and the Newcastle Spatial Planning and Land Use Management By-law and is therefore invalid.

**Response:**

The appellant is correct to point out the discrepancy of the 21 day decision notification period in terms of legislation and is therefore regretted. This does not render the decision of the Municipal Planning Approval Authority invalid as compliance and notification still has to take place. The processes in the Municipal Planning Bylaws must still be instituted for development matters to be concluded.

- 5.1.4 Third ground of appeal. The validity of the objection to the establishment of a Guest House on Erf 1430 Newcastle (11 Earl Street, Central East) was not given profound and meticulous consideration by the MPT.

**Response:**

The Municipal Planning Approval Authority takes many matters into account when it decides on an application for municipal planning approval. The development principles in terms of Section 7 of the Spatial Planning and Land Use Management Act; the Municipality's Land Use Scheme, including matters that a Municipality must consider as outlined in Schedule 8 (Annexure E) of the Newcastle Municipality SPLUMA By-law. The appellant is therefore not correct to only limit the consideration of the MPT.

- 5.1.5 Fourth ground of appeal. The Defective Site Notice compromised the public participation process.

**Response:**

The notices issued to applicant for both site and 100m radius abutting properties letters, from Erf 1430 Newcastle, were not defective and the Municipality has no control over the external and environmental factors that may occur to affect the notice on site. Therefore it is not quite clear at this stage what could have led to the deterioration of the site notice on the property which may have been there for a period of time. The applicant certified that the processes required were followed accordingly as instructed by the Municipality.

- 5.1.6 Fifth ground of appeal. The MPT did not consider the adverse traffic impacts likely to arise from its decision.

**Response:**

Comments are sought from the relevant Municipal service departments who are competent to pronounce themselves on specific issues including traffic. No negative comments from respective departments were received in this particular regard. Schedule 8 (Annexure E) of the Newcastle Municipality SPLUMA By-law also outlines the matters that must be considered prior to reaching a decision on land development applications.

- 5.1.7 Sixth ground of appeal. From a geographical location viewpoint, granting of planning permission on Erf 1430 Newcastle for substantially similar use approved on a neighbouring property directly opposite (the appellants

property, Erf 1427 Newcastle) is not a sound planning decision, is irrational and inconsiderate.

**Response:**

From a geographical location viewpoint as the appellant points out and as previously indicated on part 5.1.3 of the memorandum, the MPT considers many aspects and does not confine itself to emotions when it decides on land development applications. Also, the Municipal Planning Approval Authority does not limit itself to matters of competition as they are not competent in that sphere.

## **6. GENERAL OVERVIEW OF THE MEMORANDUM OF APPEAL**

- 6.1 The appellant missed a good opportunity to assemble a convincing scenario and take the Appeal Authority to its confidence as to why it is necessary and desirable from the town planning point of view not to approve the Guest House on Erf 1427 Newcastle.
- 6.2 The appellant puts much emphasis on the Municipal Planning Tribunal decision of granting approval of the Rezoning of Erf 1427 Newcastle, No. 12 Earl Street from "Detached Residential" to "Residential Only High Density" for the purpose of developing a guest house and yet the Municipal Planning Tribunal is granting a similar approval across the road. The appeal in its current form cannot be considered to be sound, dependable and sustainable from a Town Planning point of view.
- 6.3 The Municipality is an organ of state whose fundamental course, operations and functionaries are guided by the constitution, Municipal System Act, etc, but appreciates that different organs of state dispense that which is constitutionally assigned to them. Therefore, other spheres of government or judicial institution must be given space to deal with matters of their competence.
- 6.4 For that reason, we put to the Appeal Authority that during its consideration of this matter, it zooms onto the gaps and weaknesses of this appeal and make the determination that it cannot be correct to dismiss the decision of the Municipal Planning Tribunal on the basis of the argument advanced by the appellant. Therefore, this appeal should be dismissed in its totality.

## **7. CONCLUSION**

- 7.1 Based on the above counter arguments the appeal should be dismissed completely.

## **7. ANNEXURES**

<b>Annexure A :</b>	MPT Approval Letter
<b>Annexure B :</b>	MPT Report
<b>Annexure C :</b>	Public Participation
<b>Annexure D :</b>	Site Development Plan

**Annexure E :** Schedule 8 of the Newcastle Municipality By-laws



.....  
X. Madela

**Land Use Management  
Dept. of Development Planning  
& Human Settlements**

#### ANNEXURE A: MPT APPROVAL LETTER





# NEWCASTLE KWAZULU NATAL

**My Verw:**

**My Ref:**

TP13/3/4/1 – 1430

**Munisipaliteit: Privaatsak X6621**

**Municipality: Private Bag X6621**

**Newcastle**

**2940**

**Navrae:**

**Enquiries:**

S. Sithole

**Tel (034) 328 7600**

**Fax (034) 312 1570**

E-mail: [siyabonga.sithole@newcastle.gov.za](mailto:siyabonga.sithole@newcastle.gov.za)

**17 May 2022**

Mr T Nkosi  
No. 11 Earl Street  
Central East  
Newcastle  
2940

Dear Sir/Madam

**RECORD OF DECISION IN TERMS OF THE SPATIAL PLANNING LAND USE  
MANAGEMENT ACT (ACT 16 OF 2013) REGULATIONS AND BYLAW: CONSENT TO  
ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET,  
CENTRAL EAST**

With reference to the above, please note that the following decision was made by the Newcastle Municipal Planning Tribunal on 17 February 2022.

1. The Newcastle Municipal Planning Tribunal in terms of Spatial Planning and Land Use Management Act (Act 16 of 2013) Regulations and Bylaws, hereby approves the application for consent to establish a Guest House on Erf 1430 Newcastle, based on the following reasons:
  - a) Newcastle is in a process of being transformed a city status by 2035. Therefore, this Guest House aims to provide accommodation for visitors and entrepreneurs wishing to explore Newcastle for business and investments opportunities;
  - b) Given its location, this Guest House aims to provide accommodation closer to amenities and services offered by the amenities, such as retails stores (Newcastle mall), private and provincial hospital to name a few as well as easy access to the Newcastle Central Business District;
  - c) This Guest House will not only benefit the property owner through income and long-term investment, but it will significantly contribute in creating employment for the local residents of Newcastle;
  - d) The character of the property including the "curb appeal" will not deviate from the existing residential nature of the surrounding properties. The primary use will still be residential in nature in order to blend in well with the surrounding residential properties;

2. The following conditions shall be applicable to the proposed development:

- (a) This approval is linked to the site development plan submitted (Drawing No: 575), any other amendments to this site development plan will prompt further consultation with the Town Planning Directorate;
- (b) The property shall conform to the development controls imposed and its subsequent additions;
- (c) The developer shall install water saving systems only, such as water basin taps with faucet aerator, water saving showers, etc;
- (d) Noise nuisances/disturbances from the establishment is prohibited;
- (e) The owner shall construct necessary facilities for the control and disposal of stormwater from the property. All costs incurred as a results of these requirements shall be borne entirely by the property owner;
- (f) Provision must be made on the building plan for a bulk storage container;
- (g) Parking on the side walk is strictly prohibited (in terms of regulation 305 of the National road Traffic Act 93 of 1996).
- (h) The electricity Supply Bylaws and Tariff will be applicable for costs and regulations;
- (i) The developer must install fire hydrants at a position of 1×FH per every 1000 square metre;
- (j) The granting of this consent does not override formal requirements regarding submission and approval of a building plan;
- (k) The storage area of at least 2,5m x3m per mobile refuse container, with a washable floor and a tap is required and should preferable be covered. Waste disposal trucks should have unimpeded access to the storage area;
- (l) If there are any conditions contained in a title deed of Erf 1430 Newcastle which are in conflict with this consent, it shall be the responsibility of the applicant to have such restrictive conditions removed;
- (m) Any conditions of this consent may be altered or any conditions added thereto by the Municipality if it is of the opinion that owing to a change in the circumstances or for any other reason such alteration or addition is necessary or desirable from a town planning point of view;
- (n) Any adjustment to assessment rates and the other tariffs for municipal services necessitated by this consent be implemented upon the issuing of the final occupation certificate by Council;
- (o) This approval shall be subject to review if the municipality is of the opinion that that the conditions for which this application is approved have been violated, municipal bylaws flawed, other legislation/s transgressed or any other matter deemed necessary for purpose of this approval to remain in force;

3. Should you feel aggrieved by the decision of the Newcastle Municipal Planning Tribunal, please be informed of your right to appeal with the municipality within 30 days of being notified of the decision. The appeal or memorandum of appeal must be served to:

The Municipal Appeals Authority Registrar  
Newcastle Municipality  
No. 37 Murchison Street  
Private Bag X6621  
Newcastle  
2940  
[Sphephelo.Cindi@newcastle.gov.za/Xoliswa.Madela.gov.za](mailto:Sphephelo.Cindi@newcastle.gov.za/Xoliswa.Madela.gov.za)  
[Cc: Sandra.Tshabalala@newcastle.gov.za](mailto:Cc:Sandra.Tshabalala@newcastle.gov.za)

Yours Faithfully,



.....  
N. P KHATHIDE  
**ACTING STRATEGIC EXECUTIVE DIRECTOR:  
DEVELOPMENT PLANNING AND HUMAN SETTLEMENTS**

## ANNEXURE B: MPT REPORT

**APPLICATION IN TERMS SPATIAL PLANNING LAND USE MANAGEMENT ACT (ACT 16 OF 2013) REGULATIONS AND BYLAW: CONSENT TO ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL EAST: TP (13/3/4/1-1430) (FEBRUARY 2022) – WARD 34**

## **SECTION 1**

### **1.0 EXECUTIVE SUMMARY**

An application in terms of the Spatial Planning and Land Use Management Act No. 16 of 2013 Regulations and Bylaw's has been received from Mr. T.G Nkosi the registered owner of the property. The purpose of this application is for consent to establish a Guest House on Erf 1430 Newcastle.

The subject property is located at No. 11 Earl Street, within the residential suburb of Central East, and measures approximately 1474 m<sup>2</sup> in extent and is currently zoned for "Detached Residential (Single Family Residential)" purposes, according to the Newcastle Land Use Scheme. The surrounding properties are zoned for "Detached Residential (Single Family Residential)", private and provincial hospital, park, and vacant properties. The surrounding land uses in the area is predominantly residential uses except for the approved Guest House which sits directly opposite to the proposed Erf. Newcastle is in a process of being transformed to a City status by 2035. Therefore, there is an urgent need to provide enough accommodation to house visitors and entrepreneurs wishing to explore Newcastle for business and investment opportunities, and a need to provide accommodation which provides easy access to amenities and services offered by the Municipality. For this reason, the proposed Guest House on Erf 1430 Newcastle will be compatible with the surrounding land uses as it will not alter the residential nature of the area.

The application underwent a public participation process from the 12<sup>th</sup> of February 2021 to the 13<sup>th</sup> of December 2021 where the application was advertised in the local newspaper, i.e. the Newcastle Advertiser, a public notice placed on site and notices were served to abutting property owners within a 100m radius via registered post for comments/objections on the application. As a result, three (3) objections were received from Mr Seedat, Mr I Kharwa, and AK & S.I Gerber. The objections are concentrated on issues surrounding adequate parking for guests, traffic congestion and disturbance of peace, character of the area being transformed from a quiet residential area to a business area, defective site notice, planning permission granted for rezoning of Erf 1427 Newcastle and anticipated anti-competitive behaviour which might result from both properties. As of the application process, the applicant submitted a response (Annexure D).

The application has been assessed in conjunction with the comments received from various departments and town planning rationale. From a Town Planning point of view the application for consent to establish a Guest House on Erf 1430 Newcastle **is supported**, based the on the reasons unpacked on this report.

### **2.0 PURPOSE**

The purpose of this report is to obtain the Newcastle Municipal Planning Tribunal's decision with respect to the consent to establish a Guest House on Erf 1430 Newcastle.

### 3.0 RECOMMENDATIONS

It is recommended that:

1. The Newcastle Municipal Planning Tribunal in terms of Spatial Planning and Land Use Management Act (Act 16 of 2013) Regulations and Bylaws, approves the application for consent to establish a Guest House on Erf 1430 Newcastle, based on the following reasons:

- a) Newcastle is in a process of being transformed a city status by 2035. Therefore, this Guest House aims to provide accommodation for visitors and entrepreneurs wishing to explore Newcastle for business and investments opportunities;
- b) Given its location, this Guest House aims to provide accommodation closer to amenities and services offered by the amenities, such as retails stores (Newcastle mall), private and provincial hospital to name a few as well as easy access to the Newcastle Central Business District;
- c) This Guest House will not only benefit the property owner through income and long-term investment, but it will significantly contribute in creating employment for the local residents of Newcastle;
- d) The character of the property including the "curb appeal" will not deviate from the existing residential nature of the surrounding properties. The primary use will still be residential in nature in order to blend in well with the surrounding residential properties;

2. The following conditions shall be applicable to the proposed development:

- (a) This approval is linked to the site development plan submitted (Drawing No: 575), any other amendments to this site development plan will prompt further consultation with the Town Planning Directorate;
- (b) The property shall conform to the development controls imposed and its subsequent additions;
- (c) The developer shall install water saving systems only, such as water basin taps with faucet aerator, water saving showers, etc;
- (d) Noise nuisances/disturbances from the establishment is prohibited;
- (e) The owner shall construct necessary facilities for the control and disposal of stormwater from the property. All costs incurred as a results of these requirements shall be borne entirely by the property owner;
- (f) Provision must be made on the building plan for a bulk storage container;
- (g) Parking on the side walk is strictly prohibited (in terms of regulation 305 of the National road Traffic Act 93 of 1996).

- (h) The electricity Supply Bylaws and Tariff will be applicable for costs and regulations;
- (i) The developer must install fire hydrants at a position of 1×FH per every 1000 square metre;
- (j) The granting of this consent does not override formal requirements regarding submission and approval of a building plan;
- (k) The storage area of at least 2,5m ×3m per mobile refuse container, with a washable floor and a tap is required and should preferable be covered. Waste disposal trucks should have unimpeded access to the storage area;
- (l) If there are any conditions contained in a title deed of Erf 1430 Newcastle which are in conflict with this consent, it shall be the responsibility of the applicant to have such restrictive conditions removed;
- (m) Any conditions of this consent may be altered or any conditions added thereto by the Municipality if it is of the opinion that owing to a change in the circumstances or for any other reason such alteration or addition is necessary or desirable from a town planning point of view;
- (n) Any adjustment to assessment rates and the other tariffs for municipal services necessitated by this consent be implemented upon the issuing of the final occupation certificate by Council;
- (o) This approval shall be subject to review if the municipality is of the opinion that that the conditions for which this application is approved have been violated, municipal bylaws flawed, other legislation/s transgressed or any other matter deemed necessary for purpose of this approval to remain in force;

3. Should any party be aggrieved by the decision of the Newcastle Authorised Planning Official, she/he will be informed of their right to appeal the decision within 30 days of being notified of the same.

#### 4.0 REPORT

##### 4.1 Application background

The registered owner submitted the application in terms of the Spatial Planning and Land Use Management Act (Act No. 16 of 2013) Regulations and Bylaw's. The purpose of the application for a consent to erect a Guest House on Erf 1430 Newcastle. A site inspection conducted by an official of this directorate on 19 November 2021 revealed that the property has a dwelling house.

##### 4.2 Property Particulars

Property description:	Erf 1430 Newcastle
Existing Zoning:	Detached Residential (single Family Residential)
Registered property owner:	Mr. T.G Nkosi the registered owner of the property

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Date of Publication:	12 November 2021
Closing date for objections:	13 December 2021
Objections:	Yes
Parking Requirements met:	Yes
Conditions of Title:	None
Expiry date	08/03/2023

#### 4.3 Location context and access arrangements

The subject property is located at No. 11 Earl Street, within the residential suburb of Central East, and measures approximately 1474 m<sup>2</sup> in extent. The residential property is accessible from Earl Street which connects to Greaves Street and provides linkage to Allen Street and leads to the Newcastle CBD, provincial hospital and Newcastle corner shopping complex towards the south and Newcastle Mall towards the North side.

#### 4.4 Surrounding uses and compatibility of the proposed use

According to the Newcastle Land Use Scheme, the surrounding properties are zoned for "Detached Residential (Single Family Residential)", private and provincial hospital, Park, and vacant properties. The proposed use is envisaged to be compatible with the surrounding land uses as it will not alter the residential nature of the area.

### 5.0 TOWN PLANNING CONDITIONS AND CONTROL

#### 5.1. Existing Town Planning Controls: **Single Family Residential**

<b>STATEMENT OF INTENT</b>	This zone is intended to promote the development of primarily detached dwelling units and an additional dwelling unit for the accommodation of single families where a limited number of compatible ancillary uses, which have a non-disruptive impact on a neighbourhood amenity may be allowed.	
<b>COLUMN 1</b>	<b>COLUMN 2</b>	<b>COLUMN 3</b>
<b>FREE ENTRY USES</b>	<b>SPECIAL CONSENT USES</b>	<b>PROHIBITED USES</b>
<ul style="list-style-type: none"> <li>• Dwelling house</li> </ul>	<ul style="list-style-type: none"> <li>• Additional Dwelling Unit</li> <li>• Boarding house</li> <li>• Club building</li> <li>• Child Care Facility</li> <li>• Extended dwelling</li> <li>• Guest house</li> <li>• Home business</li> <li>• Lodge</li> <li>• Place of assembly</li> <li>• Professional Office</li> <li>• Tuck shop</li> <li>• Tavern</li> </ul>	<ul style="list-style-type: none"> <li>• Building and land uses not included in columns 1 to 3.</li> </ul>



ADDITIONAL CONTROLS:						SCHEME MAP NOTATION		
1. Additional dwelling units shall be limited to a maximum of 80m <sup>2</sup> . 2. DERE 2 Newcastle West 3. DERE 3 Newcastle East						DERE 1	Acid Yellow: R 255, G 255, B 000	
						DERE 2	Pale Orange: R 251, G212, B 180	
						DERE 3		
DERE	BUILDING LINE	SIDE SPACE	REAR SPACE	UNITS PER HECTARE	MINIMUM ERF SIZE	HEIGHT (Storeys)	COVERAGE	FAR
1	3m	1m	2m	n/r	200m <sup>2</sup>	2 storeys	60%	0,50
2	4m	2m	2m	n/r	350m <sup>2</sup>	2	50	0,40
3	3m	1m	2m	n/r	800m <sup>2</sup>	2	50	0,40

## 6.0 COMMENTS

### 6.1 Technical Services:

#### *Water Service Authority*

- Application is supported

#### *Civils*

- Application is supported.

### 6.2 Community Services

#### *Traffic*

Traffic supports the application, on provision that the Guest House does not attract heavy motor vehicles to the area.

#### *Fire*

No objection from fire services provided there is full compliance with SANS10400.

#### *Culture & Amenities,*

No comments

#### *Parks*

No objection

#### *Waste*

No objections from waste provided that provision is made for a storage for our bulk refuse containers. The container is solely meant for domestic and commercial use waste. The storage area of at least 2,5m x3m per mobile refuse container, with a washable floor and a tap is required and should preferable be covered. Our compactors trucks should have unimpeded access to the storage area.

When the project has been completed the Landlord should contact the waste management section to make appropriate arrangements for refuse removal.

#### *Health*

Applicant must apply for certificate of acceptability for food premises at Environmental health services.

### **6.5 Electrical Services**

The Electrical department has no objection to the abovementioned application, the property has an existing 60A single phase connection, however should the applicant wish to upgrade the electrical supply to the property, the following procedures and requirements as per the Electricity Supply Bylaws and Tariff Structure shall be applicable:

- The electrical contractor and owner to complete application forms obtainable at Electrical department, 4 Flame Crescent;
- Set of approved building plans for the development, as well as the rezoning certificate;
- The licensed electrical contractor to produce his/her registration form from the Department of Labour;
- The licensed electrical contractor to advise the applicant on the size of electrical power required for the supply to the premise;
- Costs shall be as per the Electricity Supply Bylaws and Tariff Structure;
- The electrical installation shall be in compliance with SABS 0142;
- The total installation shall be subject to inspections at any time;
- The cable installation as well as all maintenance of the electrical installation from the point of supply (property boundary) shall be the responsibility of the property owner;
- Electricity shall not be switched on before a certificate of compliance completed by an accredited person is received and approved by the Department: Electrical/Mechanical Services prior to the date the supply is required. Should the supply be switched on without the certificate of compliance it shall be switched off until receipt of the required certificate;
- Payment is required at least 21 days prior to the commencement of any work;
- The Department: Financial/Treasury Services shall not accept any payment without presentation of the prescribed Commencement Form as set out in the Occupational Health and Safety Act and Regulations (Act 85/1993);
- It must be noted that should the electricity supply to the property or individual service connection on the property be inadequate to accommodate the electricity load, the owner of the property shall be responsible for the upgrading of the supply;

## 6.5 Town Planning

### Spatial Planning

Erf 1430 Newcastle is situated in the residential suburb of Central East, a few meters away from the Newcastle CBD, Equarand, and shopping malls. Central East is also associated with medium to high income families, high standard buildings, hospitals and larger stands. Such stands are illegible to be commercialised and be converted to medium and to high density residential making Central East an attractive residential destination for business and investment opportunities.

Therefore, the establishment of a Guest House on Earl Street will be beneficial for Central East as it will expand the growing business enterprise and increase the revenue base for Newcastle Municipality.

From a Spatial Planning point of view the above application is supported.

## 7.0 OBJECTION DISCOURSE

### 7.1 Objections and responses

Shuttleworth & Dawjee Attorneys <i>Instructed by: Mr Seedat &amp; Mr I Kharwa</i>	Response: Mr TG Nkosi
<ul style="list-style-type: none"> <li>This is a quiet residential area and having a bed and breakfast will create an increase in traffic and movement of people will disturb the peace.</li> </ul>	<p>Newcastle is transforming from a small Town to a large-scale town. Hence, the visitors wishing to explore Newcastle for business opportunities will require accommodation closer to town for easy access to amenities and services such as the hospital, Newcastle Mall, and Newcastle CBD. Moreover, the owner of the property will ensure that all activities emanating from the property are kept to minimum and are confined inside the property including the parking of cars.</p>
<ul style="list-style-type: none"> <li>Guesthouses are notorious for people getting together having parties, consuming alcohol, playing loud music and the like.</li> </ul>	<p>All activities emanating from the property will be kept to minimum including the drinking of alcohol, playing of music etc. In addition, the property owner will provide a set of rules and guidelines that will be applicable to all visitors to ensure that all activities from the property are kept to a minimum.</p>
<ul style="list-style-type: none"> <li>We have also noticed an escalation of parking that comes with a bed and breakfast as they have limited space and parking for the guests, visitors, staff and suppliers, inevitably, guests end up using the street to park which causes congestion in traffic.</li> </ul>	<p>The property owner has allocated each room "two parking bays" inside the property. Additional parking will also be allocated for employees and suppliers. In addition, the property owner will also install the front boundary to ensure that all parking is kept within the premises of the property.</p>
<ul style="list-style-type: none"> <li>The character of the area is being transformed from a quiet residential</li> </ul>	<p>The character of the property including the "curb appeal" of the building will not deviate from the</p>

area to a bustling business area with Salons and guesthouses mushrooming everywhere. We do not consider this in the best interests of the residents.	existing residential nature of the surrounding properties. The primary use of the will be residential in nature in form of a "business". This will not only benefit the property owner through income, but it will also contribute in creating employment for the local residents of Newcastle.
<ul style="list-style-type: none"> <li>With a low-income bed and breakfast, prostitutes are attracted to, the area without the owners being necessarily aware thereof or encouraging some (we do not suggest that the owner would encourage this).</li> </ul>	The vision and goal of this Guest House is to provide accommodation for visitors wishing to explore Newcastle for business opportunities and beyond as well as provide easy access to amenities and services such as the hospital, Newcastle Mall, and Newcastle CBD etc. The type of Guest House that will be established on the said property will be of "high standard"
<ul style="list-style-type: none"> <li>In a residential area, the residents expect children to be able to ride their bicycles and walk in the street freely without having to look out for the bustling traffic in the area.</li> </ul>	The vision and goal of this Guest House is not to contribute or trigger any traffic congestion on the street but to create a safe environment for the residents. In doing so, the property owner will ensure that the parking of cars are kept within the premises of the property in order to minimize any traffic disturbance as well as keep the street quiet at all times.
AK & S.1 Gerber	Response: Mr TG Nkosi
<p>The site notice is a defective site notice</p> <ul style="list-style-type: none"> <li>We start by bringing to the Municipal Planning Tribunal that an inspection of the site revealed that the advert on site is defective, and we have attached a photo of the copy [Annexure A] which shows no details of the intended use of the property, This alone constitutes a basis for the refusal of planning permission as it hugely compromised the public consultation process by denying the public and interested parties to be informed about the proposed use of the site at the very location where the planning approval is being sought.</li> <li>It is either the applicant failed to maintain the advertisement with the result that the public's right to information for effective participation is severely denied. Put differently, there is effectively no notice on – site when information is not conveyed to the public. We pray for Planning tribunal to refuse planning permission or proposed use.</li> </ul>	<p>The public participation was carried out from 12 November 2021. A (i) Complete site notice with full application details was placed in front of the property, and the (ii) advert was placed on the Newcastle advertiser and (iii) letters were sent via registered mail to affected properties. However, due to resent "heavy rains" in Newcastle, the details on the site notice were wiped off towards the end of the public participation period and the property owner was not aware of such since he does not reside permanently on site at the present moment.</p> <p>The property owner is of the opinion that the information concerning the application was conveyed to its fullest hence the number of objections received.</p>
<p>The site notice compromises the public participation process.</p> <ul style="list-style-type: none"> <li>The advert does not satisfy the public's right to information in contravention of</li> </ul>	The site notice did not compromise the public participation process since it was fully carried out and both the advert and letters were simultaneously carried out with the placement of the notice on the property. In addition to the site notice the advert was

<p>both the constitution of the Republic and Spatial Planning and Land Use Management Act (2013).</p>	<p>placed on the Newcastle advertiser and (iii) letters were sent via registered mail to affected property as an alternative should the site notice be compromised due to unforeseen circumstances such as "heavy rains" etc</p>
<p>Planning permission has been granted for rezoning of our property on Erf 1427 Newcastle.</p> <ul style="list-style-type: none"> <li>We would like to bring to the Planning Tribunal's attention that Planning Permission was granted to AK &amp; S. I Gerber the owners of Erf 1427 Newcastle from Detached Residential High Density Only for the purpose of establishing a guest house.</li> <li>We understand that the municipality must accept and consider applications on their merits but we would like to indicate that these properties are directly opposite each other and we feel that it would be unfair to us and the applicant if the municipality were to grant permission planning to this application.</li> </ul>	<p>The aim of this Guest House is to contribute and provide more accommodation to visitors in the central area of Newcastle. The aim is not to undermine nor to compete with the approved Guest House on Erf 1427 Newcastle but instead to co-exist and serve the same purpose which is to provide adequate accommodation.</p> <p>Furthermore, even though Erf 1430 Newcastle is located directly opposite to Erf 1427 Newcastle, the "clientele" and market of both these establishments will not be similar, hence both the establishments will be able to co-exist.</p>
<p>Anti-competitive behaviour.</p> <ul style="list-style-type: none"> <li>The granting of planning permission goes against the accepted tenants of healthy competition. It would adversely affect the applicant and us as the area already has such establishments in close proximity. The municipality has an obligation to promote business as part of its constitutional mandate hence it is obliged to make decisions to promote business rather than destroy them. Granting this application would kill our business which is at an advanced stage and ready for implementation.</li> </ul>	<p>The main aim of this Guest House is not to compete with Erf 1427 Newcastle but to co-exist and contribute in providing more accommodation options close to the Newcastle CBD.</p>
<p>Adverse traffic impacts</p> <ul style="list-style-type: none"> <li>We foresee that granting permission to the application would result in adverse traffic impacts both to our establishment and the proposed usage of their property. There are commercial enterprises in the area already we fear that in the area would increase to the detriment of the residents.</li> </ul>	<p>The property owner has allocated each room "two parking bays" inside the property. The property owner will ensure that the parking of cars is kept inside the property in order to minimize any traffic disturbance and keep the street quiet at all times.</p>

### 7.1.1. Town Planning Perspective

Even though the objections stated above are strongly against the establishment of the Guest House on Erf 1430 Newcastle, however, the department cannot ignore the significance and the impact it will have on the revenue and tourist market for Newcastle municipality.

The character of the subject area is slowly changing from a homogeneous residential neighbourhood to one where residential and soft commercial activity can exist in harmony. The planned guest house will be upmarket and will only provide breakfast to paying guests. Noise impact will be minimal, and it is unlikely that the Guest House will have a detrimental effect on the surrounding properties as it will maintain the residential nature on Earl street. Parking will be provided on site and will not cause a disturbance in traffic flow in the area. The proposal maintains the 2m building line along the boundary and will maintain the maximum height of 8m. There are thus no view, shade or privacy considerations.

Therefore, the proposed Guest House complies with the Newcastle Land Use Scheme and the Newcastle SPLUMA Bylaw.

## 8.0 COMPLIANCE WITH HIERERCHY OF LAWS

### 8.1 Chapter 1 of the Development Facilitation Act (Act. No. 67 of 1995), Section 3 (c):

- The proposed development aims to execute the notion of utilizing existing resources to their full potential, particularly the land resource.

### 8.2 Newcastle Integrated Development Plan 2021/22

- The IDP outlines the need for the municipality to encourage structural and spatial principles that call for the efficient use of land that aims to improve the livelihoods of local residents.

### 8.3 Spatial Development Framework 2021/22

- The Newcastle SDF, places emphasis on efficient use of land in efforts to optimal use of existing bulk infrastructure.

### 8.4 Spatial Planning and Land Use Management Act no. 16 of 2013 Regulations, read with the Newcastle Spatial Planning and Land Use Management Bylaw's

The application done in terms of the Spatial Planning and Land Use Management Regulations read with the Newcastle Spatial Planning and Land Use Management Bylaw's which amongst other requires the following:

- The application was circulated to various internal and external departments for their comments, no adverse comments were received;

- A public notice was placed in the local newspaper inviting interested parties to comment/object to the application within a period of 30 days, no objections have been received;
- Notices were served to property owners within a 100m radius of the subject site to attain their comments/objections to the application, no objections were received.

All of the above have been compiled with.

## **9.0 Growth Prospect**

Globally the tourism industry is one of the fastest growing economic sector and has the ability to increase the local wealth and contribute significantly to a country's economy. The South African government has recognised that local tourism has the potential to create jobs and provide business opportunities. The Guest House industry in particular has grown steadily from 1995 making them the perfect solution for property investors.

Newcastle on its own has a rich history and encompasses tourism routes. The provision of short term to medium term accommodation is seen as a key aspect in ensuring that the tourism sector of Newcastle thrives. The Central East suburb is suitable and desirable for the location of such a development as it is located in close proximity to Allen Street and N11 and has easy access to CBD for potential guests from inside and outside of Town. The provision of the bed and Guest House on the property will provide a variety in the types of accommodation for different sectors of the economy e.g. tourism, corporate, etc. Furthermore, the existing and supporting bulk infrastructure is available to accommodate such a development which will in-turn be utilized to reasonable capacity.


## **10.0 Conclusion**

The Guest House aims to bring about a positive impact in the area of Central East and it is unlikely that the Guest House will have a detrimental effect on the surrounding properties as it will maintain the residential nature on Earl street. The proposed guest house also complies with the Newcastle Land Use Scheme and the Newcastle SPLUMA Bylaw. Therefore, by application **is supported**.

**11.0 List of Annexures**

- |            |   |  |
|------------|---|--|
| Annexure A | : | Site Development Plan<br>Zoning Map<br>Land Use Map<br>Ariel Photo |
| Annexure B | : | Advert placed in Newcastle Advertiser                              |
| Annexure C | : | Title Deed   |
| Annexure D | : | Objection & applicant's response                                   |
| Annexure E | : | Registered Planners Certificate                                    |

Author: S Sithole  
Designation: Town Planner  
Directorate: Town Planning

  
.....  
**S Cindi**  
**Acting Manager: Land Use Management**  
Date:



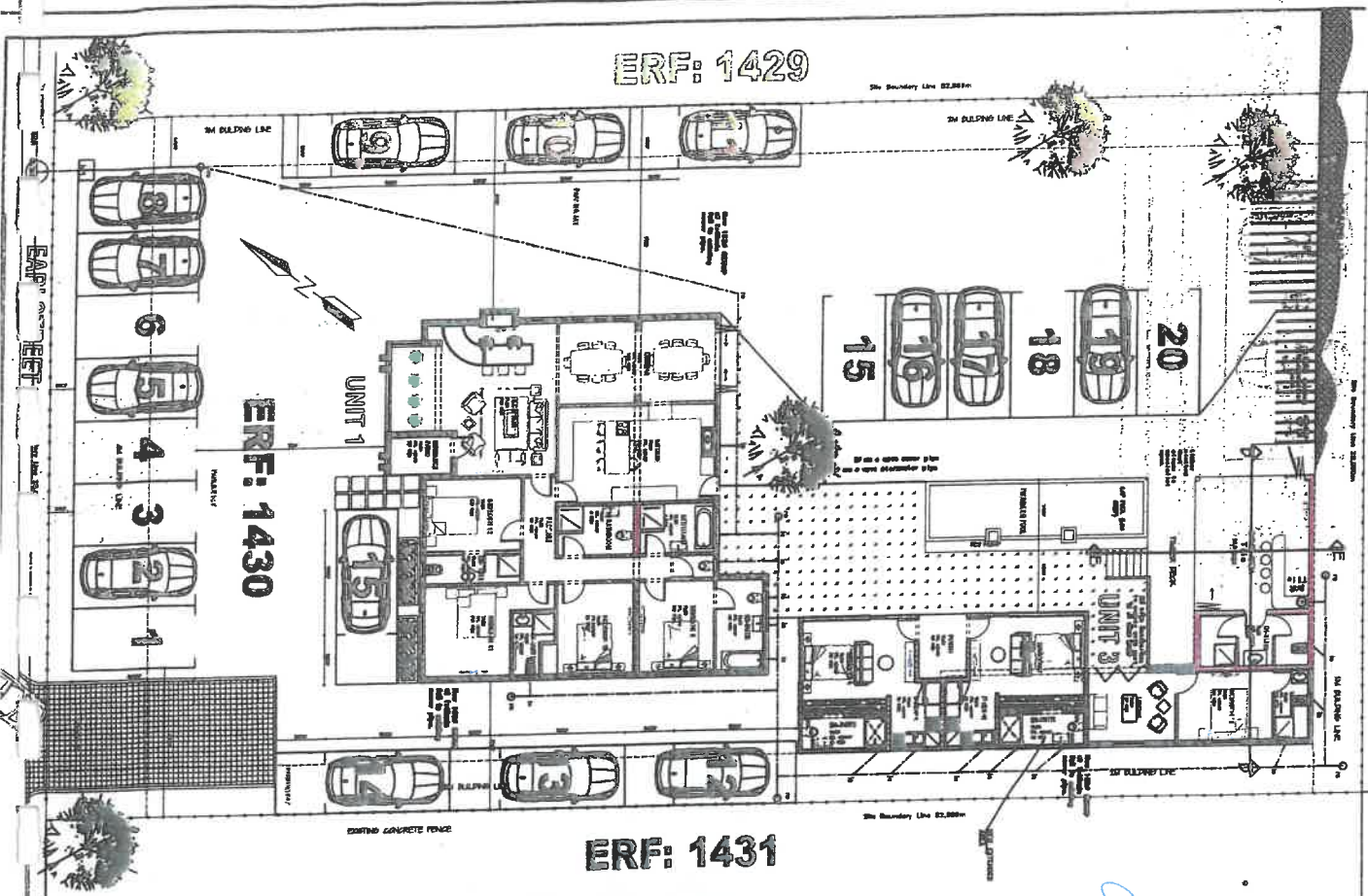
Annexure A :  
Site Development Plan  
Zoning Map  
Land Use Map  
Ariel Photo  
SG Diagram  
Radio Plans

ERF: 1445

ERF: 1429

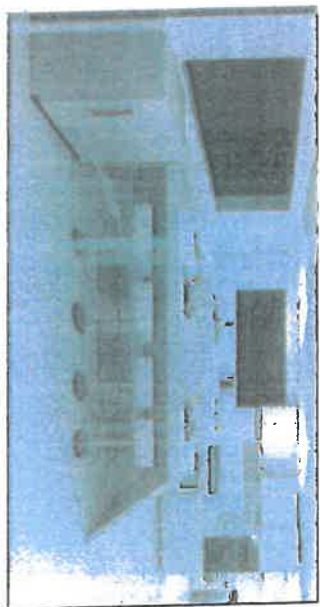
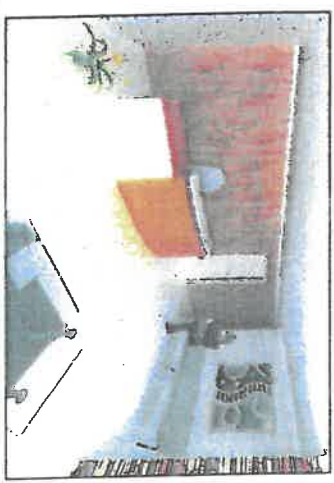
ERF: 1430

ERF: 1431



ANY ERRORS, DISCREPANCIES OR OMISSIONS TO  
BE REPORTED IMMEDIATELY.  
  
ALL CONSTRUCTION WORK TO BE IN ACCORDANCE WITH  
THE NATIONAL BUILDING REGULATIONS AND LOCAL  
AUTHORITIES BY LAW

# CENTRAL NEWCASTLE



## LOCAL AUTHORITY STAMP

THE COPYRIGHT OF THIS DRAWING IS RESERVED TO THE  
DESIGNER. THIS DRAWING MUST ONLY BE USED ON SITE  
FOR WHICH IT WAS PREPARED FOR, UNLESS OTHERWISE  
AUTHORISED BY THE DESIGNER.

Owner's Signature: \_\_\_\_\_ Architect's Signature: \_\_\_\_\_

Contact No: \_\_\_\_\_ Reg. No: \_\_\_\_\_

TOTAL BUILDING	:589,6	M <sup>2</sup>
EXISTING DWELLINGS	:488,8	M <sup>2</sup>
PROP. ADDITIONS	:100,8	M <sup>2</sup>
FAR	:0,31	
COVERAGE	:39,2%	
SITE	:1485	M <sup>2</sup>

PROP. SITE DEVELOPMENT PLAN FOR  
MR T.G NKOSI ON LOT 1430 EARL  
STREET CENTRAL, NEWCASTLE

Project:

Drawing title: SITE & INTERIOR

Date: 02-11-2021	Checked:
Scale: AS SHOWN	DWG No: 575
Drawn: Khaya	Sheet No: 1 of 1

**FDD PTY LTD**

SACAP NO.: PAT 29278118

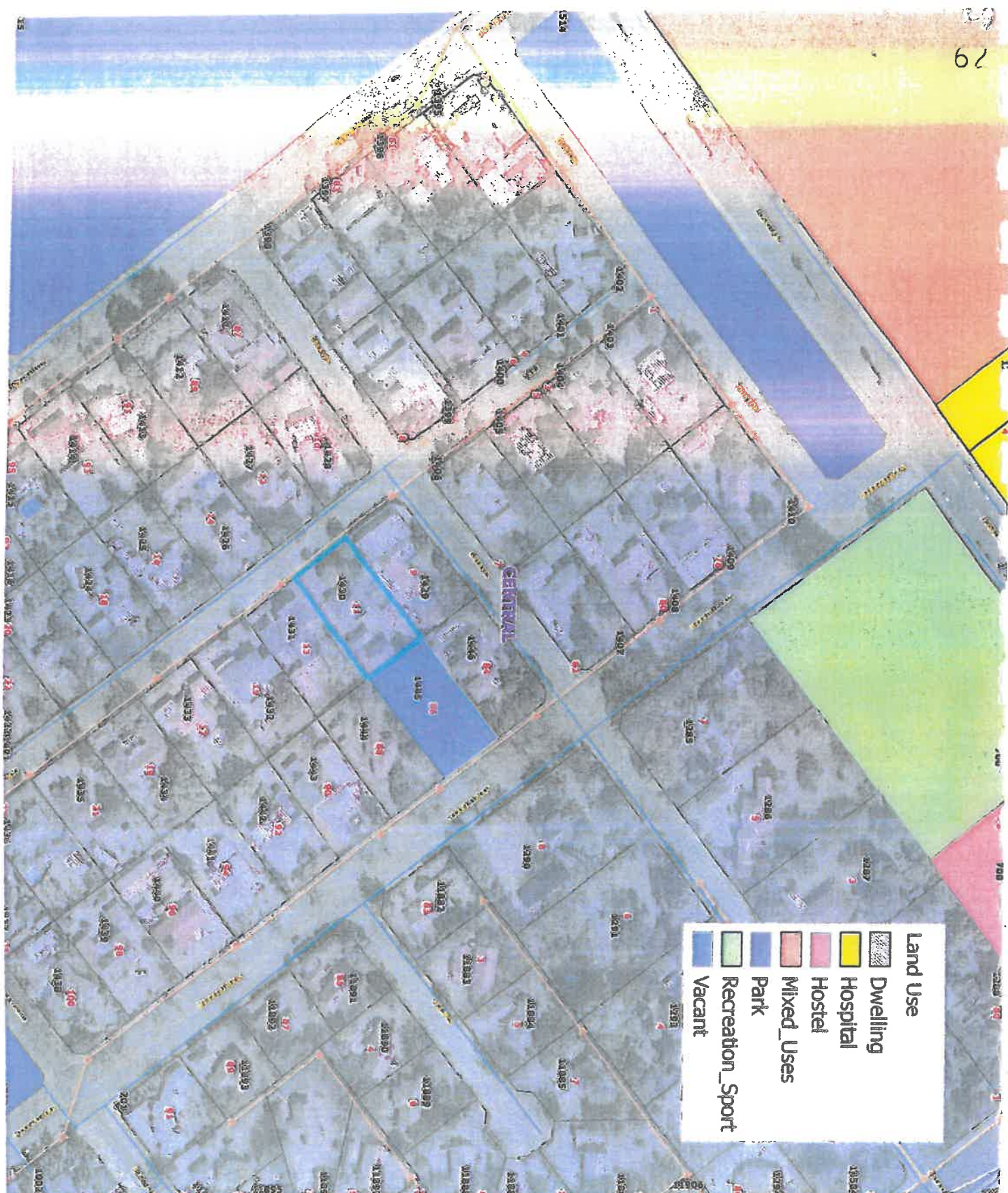
INNOVATIVE THINKING THROUGH DESIGN

(C): 076 189 4448

(A): 1 Pretorius Street, eThekweni Town

(E): [sacap@fdd.co.za](mailto:sacap@fdd.co.za)





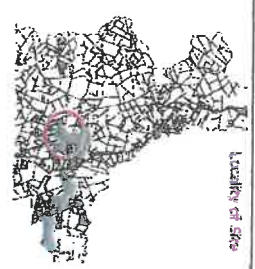
**Land Use**

- Dwelling
- Hospital
- Hostel
- Mixed\_Uses
- Park
- Recreation\_Sport
- Vacant

**Land Use Map**  
**Title:** Newcastle Central  
**Lot no:** 1430  
**Zoning:** Dwelling  
**Extent:** 1479.47m sq

**Legend**

- newcastle\_water
- Newcastle\_Sewer
- Newcastle Cadastral
- ERF 1430



**Projection:** Clarke 1880  
**Sphere:** WGS84  
**Datum:** Hatredoeshoek\_1994  
**LONGITUDE:** 29'  
**LATITUDE:** 31'

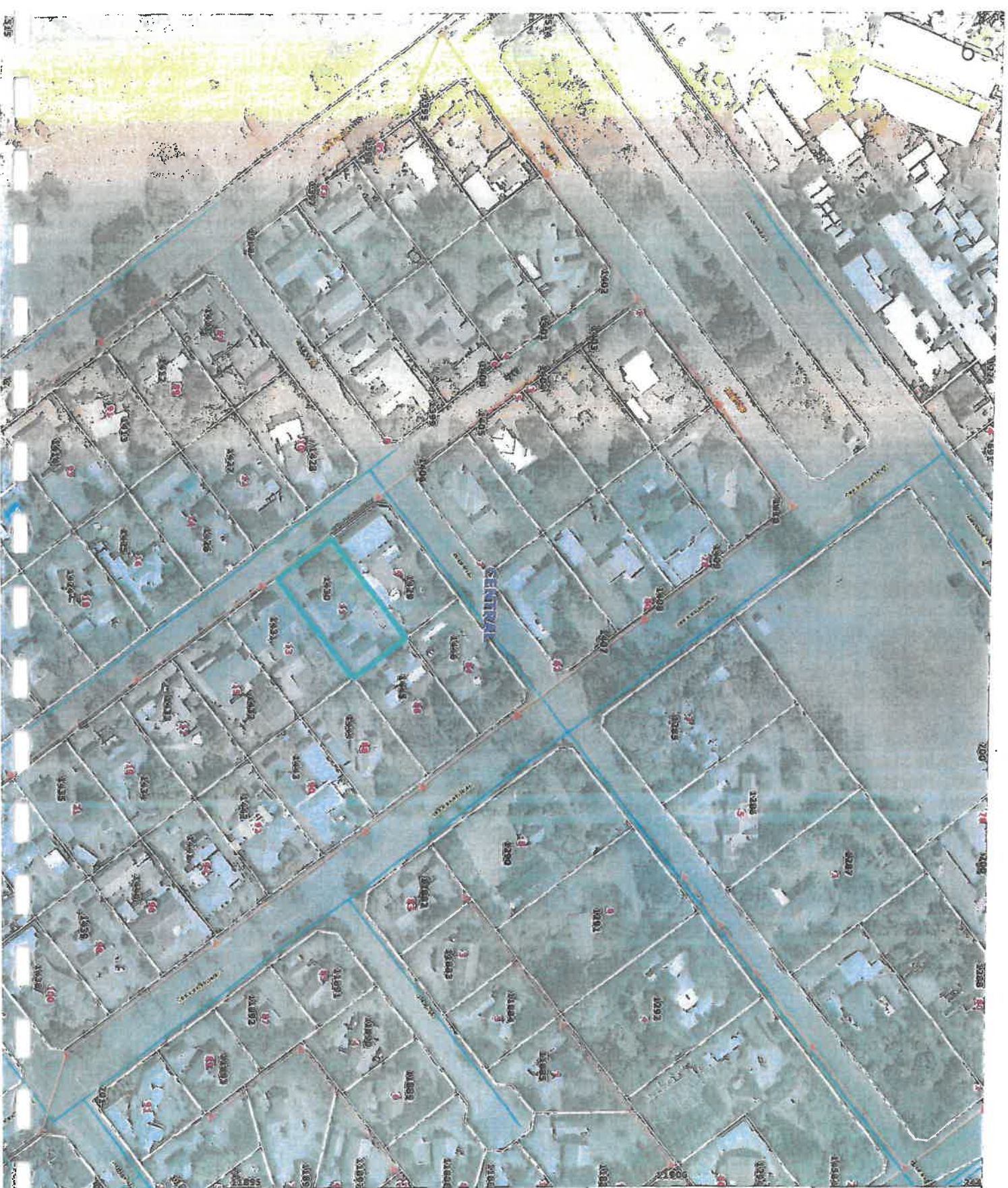
**Scale:**

NORTH

**Directorate:** Town Planning  
**Drawn By:** Nhlekani Zulu  
**(GIS Intern)**  
**Date:** 25/01/2022



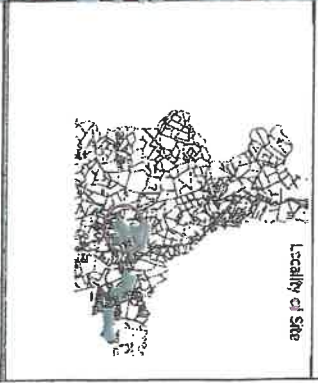




**Site & Locality Map**  
**Title:** Newcastle Central  
**Lot no:** 1430  
**Zoning:** Single Residential  
**Extent:** 1479.47m sq

**Legend**

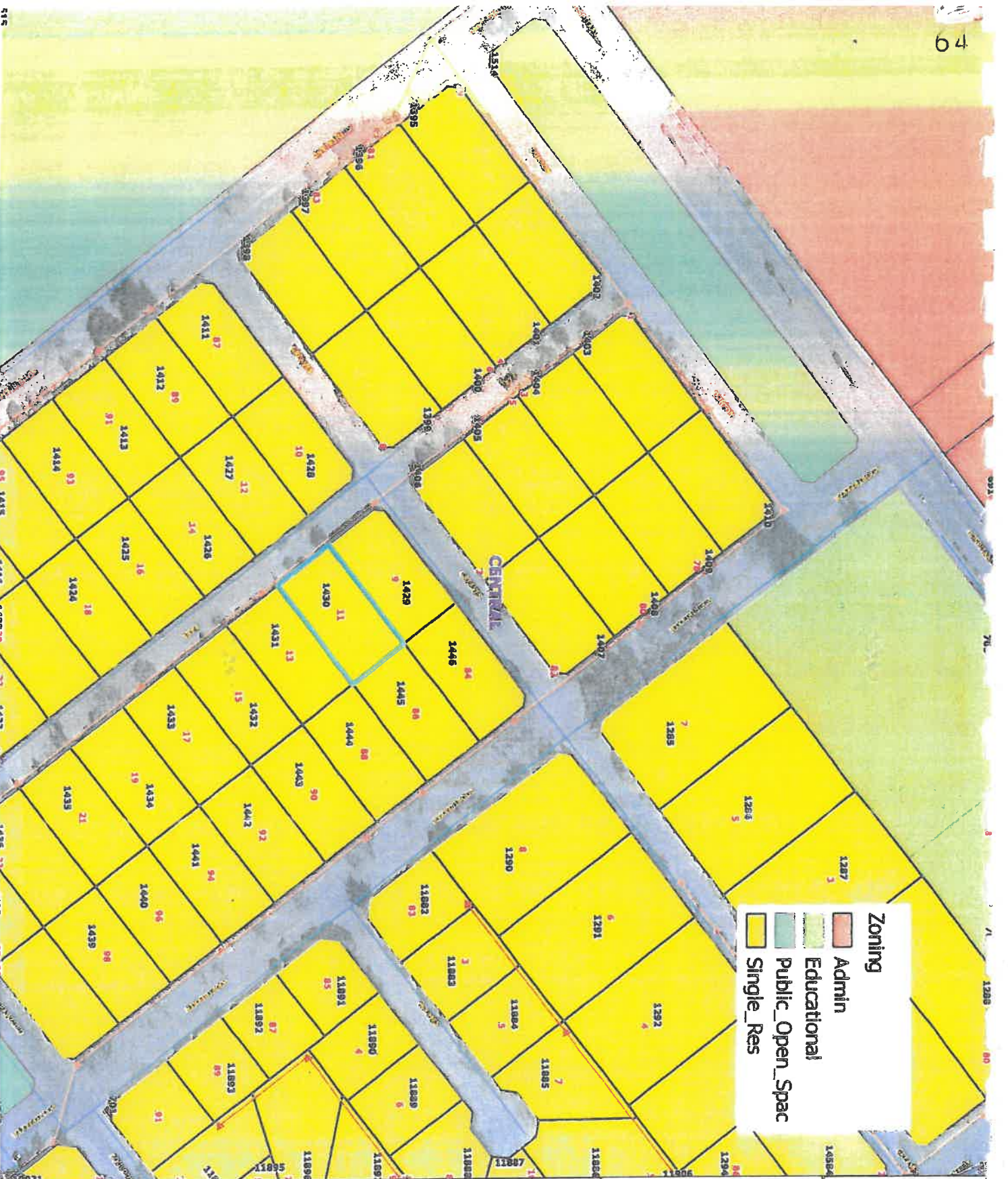
- newcastle\_water
- Newcastle\_Sewer
- Newcastle Cadastral
- ERF 1430



**Projection:** Clarke 1880  
**Sphere:** WGS84  
**Datum:** Hatrebeeshoek\_1994  
**LONGITUDE:** 29'  
**LATTITUDE:** 31'  
**Scale:**  
 NORTH

**Directorate:** Town Planning  
**Drawn By:** Nhlakanipho Zulu  
 (GIS Intern)  
**Date:** 25/01/2022





- Zoning**
- Admin
  - Educational
  - Public\_Open\_Spac
  - Single\_Res

**Zoning Map**  
**Title:** Newcastle Central  
**Lot no:** 1430  
**Zoning:** Single Residential  
**Extent:** 1479,47m sq

- Legend**
- newcastle\_water
  - Newcastle\_Sewer
  - Newcastle Cadastral
  - ERF 1430



**Projection:** Clarke 1880  
**Sphere:** WGS84  
**Datum:** Hatrebeshoek\_1994  
**LONGITUDE:** 29°  
**LATITUDE:** 31°

**Scale:**

NORTH

**Directorate:** Town Planning  
**Drawn By:** Nhlanipho Zulu  
 (GIS Intern)  
**Date:** 25/01/2022



Annexure B : Advert placed in Newcastle Advertiser



#### Minimum Requirements:

- Grade 12 matric certificate qualification or equivalent qualification.
- Minimum of 5 years' previous experience as a Community Leader.
- Valid Driver's license.
- Good verbal and written communication skills in isiZulu and English.
- Must have experience engaging with Communities and other Stakeholders (negotiation, conflict resolution and relationship building).
- Must have working knowledge of all the following minutes of meetings and must be computer literate.
- Hardware will be provided at the Site office

#### Duties Include:

- Plan, coordinate and implement community liaison activities.
- Promote participation and involvement of stakeholders, including beneficiary communities throughout the Project life cycle.
- Build strong relations and liaise with the relevant communities to facilitate and improve communication amongst all role players.
- Secure labourers for the contractor and sub-contractors in liaison with the Local Municipality and the Department of Labour.
- Ensure that community structures (PLC) for project management at local level are fully functional.
- Provide all the support necessary for the PLC to be effective in its rendering of an efficient and effective service.
- Ensure that PLC meetings are held regular at set timeframes; Monitor the project's development programmes.
- Keep a daily project diary.
- Coordinate submission of work and monthly reports by PLC.
- Prepare and submit monthly reports to Project Management Team.
- Report and minute writing; Facilitate meetings related to the project.
- Perform any other duties that may be delegated by the Project Management Team and ensure successful implementation of the project.

#### APPLICATIONS

All applications must be emailed to [bawmilled@ecoconsult.co.za](mailto:bawmilled@ecoconsult.co.za) with the following heading/subject: **Periodic Maintenance on National Route 11 Section 4 between Ingozo Station (km 31.90) and Kwagatsnek (km 39.90) - PLO APPLICATION** (All applications must include CV, certified copies of the qualification and application letter)

#### CLOSING DATE:

The closing date for this advertisement is 18 November 2021 at 16h00. If you have not been contacted within 1 month after the closing date of the advertisement, please accept that your application was unsuccessful.



#### LIQUIDATION AND DISTRIBUTION ACCOUNTS INSPECTION IN DECEASED ESTATES LYING FOR

In the Estate of the Late: Surname NENE, First Names: MSESHE ZEPHANIA, Estate Number: 98522005PMB, Identity Number: 2911035175088, Date of death: 1/08/2004. Last address: 104 IMPALA ROAD, HUTTEN HEIGHTS NEWCASTLE.

The SUPPLEMENTARY Liquidation and Distribution Account in the estate will be open for inspection for a period of 21 days from 12 November 2021 at the office of the Master of the High Court PIETERMARITZBURG and the Magistrate's Office, NEWCASTLE.

First Names and Surname of Surviving Spouse: SIBHELE AUDREY NENE, SUBSEQUENTLY DECEASED, Identity Number: 3208060234081.

Name and address of Executor or Authorised Agent:

DBM ATTORNEYS  
PO BOX 117  
NEWCASTLE 2840  
Tel (034) 328 1303

Reference: EST17THUSHENH08982.

CAN2020/15E

DBM ATTORNEYS  
Address: DBM OFFICE PARK, 4 Volstead Road, Newcastle, 2840  
E-mail address: [phumalele@dbmlaw.com](mailto:phumalele@dbmlaw.com)  
Contact number: 034 328 1303

CAN2020/15E

#### APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, NO. 16 OF 2013 REGULATIONS AND BY-LAWS:

##### APPLICATION FOR CONSENT

##### NEWCASTLE TOWN PLANNING SCHEME:

Notice is hereby given that an application has been lodged with the Newcastle Municipality for its consent to use:

Erf 1430 Newcastle

For the purpose of:

Establishing a Bed and Breakfast

Any person desiring to object to this application may do so not later than thirty (30) days from the date of the publication of this notice, by lodging in writing, setting out the grounds of objection, with the Municipal Manager or address below.

Plans and particulars relating to this application may be inspected at Newcastle Municipality Tower Block, Development Planning & Human Settlements (Town Planning, 4<sup>th</sup> Floor) No. 37 Macdonald Street, Newcastle, 2840, between 07:30 and 16:00 weekdays.

Enquiries and correspondence can also be directed to

Syabonga Sithole  
Tel: 034 3287 800  
[Syabonga.Sithole@newcastle.gov.za](mailto:Syabonga.Sithole@newcastle.gov.za)  
[townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)

Date of application: 12<sup>th</sup> November 2021

Name of newspaper: Newcastle Advertiser



#### LOST OR DESTROYED DEED

KINDLY TAKE NOTICE that the Applicant S D NTULI, ZONDI who died on the 28 JUNE 2000, Machine reference No. 7800/2011 PNB

The registered owner of the following immovable property, namely:

ERF 3005 MADADEN C REGISTRATION DIVISION HT PROVINCE OF KWA-ZULU NATAL in extent 465 square metres help under Deed of Grant Number 7848264/2003.

do hereby make an application in terms of Regulation 38 (1) of the Deeds Regulations of 1981 for the Registrar to issue a new Deed of Grant in place of the original Deed of Grant which has been lost or destroyed and cannot be found.

Any interested person or body who may object to this Application should lodge such objection with the Registrar within 14 (fourteen) days from the date of publication hereof.

DATED AT NEWCASTLE THIS 11<sup>th</sup> DAY OF NOVEMBER 2021

ROY RANDAW AND ASSOCIATES INCORPORATED - ATTORNEYS FOR THE APPLICANT

Office: 111 Newcastle Club  
NEWCASTLE 2840  
TEL: 034 312 7582  
FAX: 034 751 6760

CAN2020/15E



Annexure C : Title Deed



DBM Office Park, Corner of Memel Rd  
& Allen Street, 4 Volksrust Road, Newcastle  
PO Box / Posbus 117, Newcastle  
Docex 5, Newcastle, 2940

BEE CONTRIBUTOR LEVEL 3: Certificate No. RS-12092-0520-C31-R1

6897  
Personal E-mail: elize@dbmlaw.com  
Tel. No: 034 3281300  
Direct Tel. No: (034) 328 1305  
Fax No: 086 618 7188



Our Ref.: LG/Elize/DB4569  
Oms Verw.:

Your Ref.:  
U Verw.:

28 October 2021

TO WHOM IT MAY CONCERN

TRANSFER : K MOOSA / TG NKOSI  
PROPERTY : ERF 1430 NEWCASTLE (EXTENSION 3) - 11 EARL, CENTRAL EAST

We refer to the above matter and advise that we have received instructions to attend to the above registration.

We confirm that the seller has signed her transfer documents. We further advise that we have received payment in respect of the deposit and transfer costs.

The balance of the purchase price has been covered by a FNB Bond.

Yours faithfully

DBM ATTORNEYS

A handwritten signature in dark ink, appearing to be "Elize", written over a horizontal line.

[www.dbmlaw.com](http://www.dbmlaw.com)

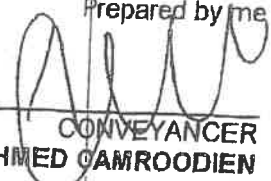
DBM Law Inc. Reg. No. 1994/001982/21  
Directors / Direkteure: G.C. Coetzee (B. Juris. LL.B.); W.J.S. Jooste (B. Juris. LL.B);  
L. Grobler (B.Proc); C Walker (LL.B); N.E. Nkosi (LL.B)  
Non-Executive Director: L. Mokgoro (LL.B. LL.M)  
Assisted by / Bygestaan deur: M.S. Gumbi (LL.B); K Maharaj (LL.B)  
Consultant / Konsultant: S.W. Saville (NLC.); J.J. de Jager (B.Juris); A. Peens (B.Proc)  
G.C. Coetzee (B.Juris. LL.B) – Member of Fiduciary Institute of Southern Africa (FISA)

Member of the Phatshoane Henney Group of  
Associated Law Firms  
The Phatshoane Henney Group is an association of  
independent firms, not practising in partnership  
and with separate liability.

member of

37  
033 845 9700

69

Prepared by me  
  
CONVEYANCER  
AYAZ AHMED CAMROODIEN

R1050.00  
WSP

2018-03-19

T  
18 06989

## DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

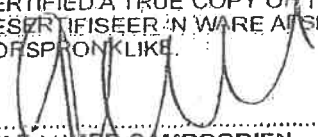
**CATHERINE ANN SMITH**

appeared before me, the Registrar of Deeds at Pietermaritzburg, the said appearer, being duly authorised thereto by a power of attorney granted to him by

CLAIRE LIN THERON (FORMERLY PROUDFOOT)  
Identity Number 821114 0033 08 0  
Married out of Community of Property

signed at NEWCASTLE on 7 December 2017

CERTIFIED A TRUE COPY OF THE ORIGINAL/  
GESKIEDTSEER 'N WARE AFSKRIF VAN DIE  
OORSPRONKLIKE.

  
AYAZ AHMED CAMROODIEN  
Attorney & Commissioner of Oaths  
169 Taronga Road  
Rondebosch East 7780

Page 1 of 4

And the appearer declared that:

Whereas the Transferor had truly and legally sold the undermentioned property on 17 November 2017 by Private Treaty

Now therefore the Appearer on behalf of the Transferor, did by these presents, cede and transfer to and on behalf of

KHATIJA MOOSA  
Identity Number 880827.0072 08 3  
Married out of Community of Property

her heirs, executors, administrators or assigns, in full and free property

ERF 1430 NEWCASTLE EXT 3  
REGISTRATION DIVISION HS,  
PROVINCE OF KWAZULU-NATAL

IN EXTENT 1474 (ONE THOUSAND FOUR HUNDRED AND SEVENTY FOUR)  
SQUARE METRES

FIRST TRANSFERRED BY DEED OF TRANSFER NO. T 507/1951 WITH DIAGRAM  
ANNEXED AND HELD BY DEED OF TRANSFER NO. T19705/2012

THIS PROPERTY IS TRANSFERRED:

- A. Subject to the conditions in so far as it is still in force and applicable and conditions of the original Government Grant Number 4702/1884.
- B. Subject to the following conditions imposed at the instance of the Administrator of the Province of Natal, in terms of Ordinance 10/1934, as created in Deed of Transfer No.T507/1951, namely:
1. No building whatsoever, unless permitted under special circumstances and in writing by the local authority shall be erected on the lot nearer than 7,62 metres from any boundary abutting on a street, nor within a distance of 1,83 metres from any other boundary. On consolidation of any two or more lots, this conditions shall apply to the consolidated area as a whole.
  2. The local authority shall, without compensation, have the right to erect, lay and maintain electric wires and/or water supply piping over or under the land along any boundary thereof other than a road frontage and within a distance of 1,83 metres from such boundary and shall have reasonable access thereto for the purpose of maintenance, removal or extension. The rights conferred by this condition shall be exercisable by any local authority or person legally authorised to supply electric current or water for the benefit of the inhabitants of the township. If the owner of the land be aggrieved by the unreasonable exercise of these rights, he shall have the right of appeal to the Administrator whose decision shall be final.
  3. The local authority shall, without compensation, have the right to construct and maintain sewers and drains over or under the land along any boundary thereof

CERTIFIED TRUE AND CORRECT COPY OF THE ORIGINAL  
GESERTIFISEER 'N WARE AFSKRIF VAN DIE  
OORSPRONKLIKE.

AYAZ AHMED CAMROODIEN  
Attorney-at-Law, Commissioner of Oaths

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other than a road frontage and within a distance of 1,83 metres from such boundary and shall have reasonable access thereto for the purpose of maintenance, removal or extension, and the owner of the land shall, without compensation, be obliged to allow the sewerage and drainage of any other land or street to be conveyed along such sewers and drains, provided that if the owner of the land be aggrieved by the unreasonable exercise of these rights, he shall have the right of appeal to the Administrator whose decision shall be final.

4. The owner of the land shall, without compensation, be obliged to permit such deposit of material or excavation on the lot as may, in connection with the formation of any street in the township and owing to differences in level between the land and the street, be deemed necessary by the local authority in order to provide a safe and proper slope to the cut and fill commencing from the boundary of the lot, unless he shall elect, at his own cost to build a retaining wall.

- C. The following condition in favour of and enforceable by the Town Council of the Borough of Newcastle, as created in Deed of Transfer Number T507/1951, namely: -

Within eighteen (18) months from the date of sale (21 September 1950) the Purchaser shall erect buildings on the land to the value of TWO THOUSAND FIVE HUNDRED RAND (R2 500.00). Unless buildings of the said value are erected within the time specified the amount of Two Thousand Five Hundred Rand (R2 500.00) will, for all intents and purposes of the general rate be added to the ordinary valuation, and such rates will be increased accordingly and from the time so appointed the value of the property shall for the purposes of such rates be deemed to increase from and above the ordinary valuation by the sum of R2 500.00 and additional rates may be imposed on the increased value immediately on the expiry of the aforesaid year or proportion of the unexpired period of the Financial Year. Such additional value, shall however, merge pro rata in the value of the buildings that may be subsequently erected, and in terms of the conditions of sale. The buildings proposed to be erected are to conform with the Borough Building By-Laws and be constructed of brick or other approved substantial materials, and no thatch shall be used for roofing purposes.

CERTIFIED A TRUE COPY OF THE ORIGINAL/  
GESERTIFISEER 'N WARE AFSKRIF VAN DIE  
OORSpronklike.

AYAZ AHMED CAMROODIEN  
Attorney & Commissioner of Oaths  
169 Taronga Road  
Rondebosch East 7780

WHEREFORE the appearer, renouncing all the right and title the said

CLAIRE LIN THERON (FORMERLY PROUDFOOT ), Married as aforesaid

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

KHATIJA MOOSA, Married as aforesaid

her heirs, executors, administrators 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 purchase price is the amount of R 1 580 000.00 (One Million Five Hundred and Eighty Thousand Rand).

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 SIGNED, EXECUTED AND SEALED at the Office of the Registrar of Deeds at Pietermaritzburg on

In my presence

2018 -03- 19

Registrar of Deeds

Signature of appearer q.q.

CERTIFIED A TRUE COPY OF THE ORIGINAL/  
GESERTIFIEER 'N WARE AFSKRIF VAN DIE  
OORSPRONKLIKE.

AYAZ AHMED DAMROODIEN  
Attorney & Commissioner of Oaths  
169 Taronga Road  
Rondebosch East 7780

Annexure D : Objections

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differently, there is effectively no notice on-site when information is not conveyed to the public. We pray for the Planning tribunal to refuse planning permission for the proposed use.

**2. The Site Notice Compromises the Public Participation Process**

The advert does not satisfy the public's right to information in contravention of both the Constitution of the Republic and Spatial Planning and Land Use Management Act (2013).

**3. Planning Permission has been Granted for the Rezoning of our property Erf 1427 Newcastle (12 Earl Street, Central) for a similar use**

We would like to bring to the Planning Tribunal's attention Planning Permission was granted to AK & S. I Gerber the owners of Erf 1427 Newcastle (12 Earl Street, Central) for the rezoning of Erf 1427 Newcastle from Detached Residential to Residential High Density Only for the purpose of establishing a guest house.

We understand that the municipality must accept and consider applications on their merits but we would like to indicate that these properties are directly opposite each other and we feel that it would be unfair to us and the applicant if the municipality were to grant permission planning to this application.

**4. Anti-competitive behaviour**

The granting of planning permission goes against the accepted tenets of healthy competition. It would adversely affect the applicant and us as the area already has such establishments in close proximity. The municipality has an obligation to promote businesses as part of its constitutional mandate hence it is obliged to make decisions to promote businesses rather than destroy them. Granting this application would kill our business which is at an advanced stage and ready for implementation.


**5. Adverse Traffic Impacts**

We foresee that granting permission to the application would result in adverse traffic impacts both to our establishment and the proposed usage of their property. There are commercial enterprises in the area already we fear that that in the area would increase to the detriment of the residents.

### Conclusion

Having stated our objection to the application, we trust that the Newcastle Municipality would consider our application favourably

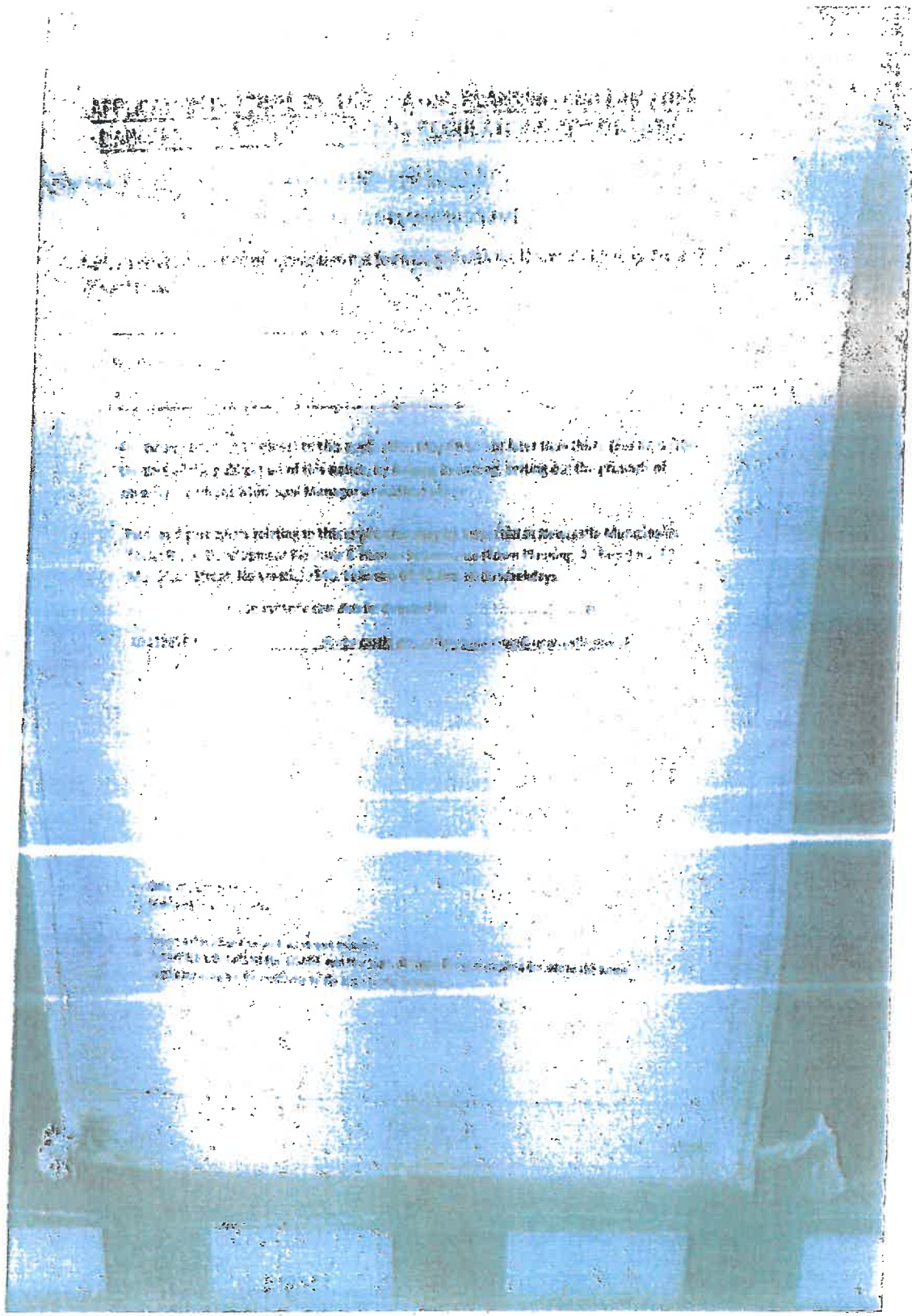
Yours faithfully



A.K. & S.I. Gerber



**ANNEXURE A: DEFECTIVE SITE ADVERTISEMENT**



**Siyabonga Sithole**

**From:** dawjee@newcastle.co.za  
**Sent:** 03 December 2021 10:49 AM  
**To:** Siyabonga Sithole; siyabongasithole@newcastle.gov.za  
**Cc:** Sandra Tshabalala; Mohamed Seedat; 'Ismail Kharwa'  
**Subject:** OBJECTION - B & B - EARL STREET- APPLICATION FOR CONSENT TO ESTABLISH B & B  
**Attachments:** Scan\_20211203\_095636.pdf; Scan\_20211203\_095739.pdf

**SHUTTLEWORTH & DAWJEE ATTORNEYS**

**P. O. BOX 1530 - 6 Greaves Street, Newcastle, 2940 -**

**Tel: 0343151505 -- Email: dawjee@newcastle.co.za -- Ref: ID/MH/**

---

**DEAR SIR/MADAM**

We attach herewith 2x letter of objections in respect of the abovementioned application.

Please confirm receipt hereof.

**Regards**

**Mr. M.H Essop ( Bcom Law – Unisa )**  
**O.B.O Mr. I.E Dawjee (BA LLB - Natal)**  
**Shuttleworth & Dawjee**

---

Confidentiality: This email is intended for the addressee only, and contains confidential information which may be legally privileged. If you are not the intended recipient kindly notify the sender immediately by return e-mail and delete the original message. You may not copy it or disclose its contents to any person.



# SHUTTLEWORTH & DAWJEE

## ATTORNEYS

Tel: 034 315 1505 - Fax: 034 315 3418 - 6 Greaves Street, Newcastle, 2940 -  
P.O. Box 1530 - dawjee@newcastle.co.za

03 DECEMBER 2021

Our ref: ID/MH/O1430

NEWCASTLE MUNICIPALITY  
TOWN PLANNING DEPARTMENT  
PER EMAIL : [townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)  
[Siyabonga.sithole@newcastle.gov.za](mailto:Siyabonga.sithole@newcastle.gov.za)

### RE:OBJECTION TO APPLICATION FOR CONSENT - BED AND BREAKFAST - ERF 1430 NEWCASTLE ( 11 EARL STREET)

Duly instructed by Mr Seedat of 10 A Earl Street , Newcastle .

We hereby submit and objection on behalf of our client to the proposed application to establish a bed and breakfast at 11 Earl Street , Newcastle.

The grounds of objection are as follows :-

- 1) This is quiet residential area and having a bed and breakfast will create an increase in traffic and movement of people will disturb the peace ;
- 2) Guesthouses are notorious for people getting together having parties , consuming alcohol , playing loud music and the like ;
- 3) We have also noticed an escalation of parking that comes with a bed and breakfast as they have limited space and parking for the guests, visitors , staff and suppliers , inevitably , guests end up using the street to park which causes congestion in traffic ;
- 4) With a low income bed and breakfast, prostitutes are attracted to the area without the owners being necessarily aware thereof or encouraging some ( we do not suggest that the owner would encourage this) ;
- 5) The character of the area is being transformed from a quiet residential area to a bustling business area with Salons

and guesthouses mushrooming everywhere . We do not consider this in the best interests of the residents ;

6. In a residential area , the residents expect children to be able to ride their bicycles and walk in the street freely without having to look out for the bustling traffic in the area ;

We await your advices.

Yours Faithfully

P P H E s s e

Ismail Dawjee





# SHUTTLEWORTH & DAWJEE

## ATTORNEYS

Tel: 034 315 1505 - Fax: 034 315 3418 - 6 Greaves Street, Newcastle, 2940 -  
P.O. Box 1530 - dawjee@newcastle.co.za

Our ref: ID/MH/O1430

03 DECEMBER 2021

NEWCASTLE MUNICIPALITY  
TOWN PLANNING DEPARTMENT  
PER EMAIL : [townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)  
[Siyabonga.sithole@newcastle.gov.za](mailto:Siyabonga.sithole@newcastle.gov.za)

**RE:OBJECTION TO APPLICATION FOR CONSENT - BED AND  
BREAKFAST - ERF 1430 NEWCASTLE ( 11 EARL STREET)**

Duly instructed by Mr I Kharwa , resident of Earl Street , Newcastle .

We hereby submit and objection on behalf of our client to the proposed application to establish a bed and breakfast at 11 Earl Street , Newcastle.

The grounds of objection are as follows :-

- 1) This is quiet residential area and having a bed and breakfast will create an increase in traffic and movement of people will disturb the peace ;
- 2) Guesthouses are notorious for people getting together having parties , consuming alcohol , playing loud music and the like ;
- 3) We have also noticed an escalation of parking that comes with a bed and breakfast as they have limited space and parking for the guests, visitors , staff and suppliers , inevitably , guests end up using the street to park which causes congestion in traffic ;
- 4) With a low income bed and breakfast, prostitutes are attracted to the area without the owners being necessarily aware thereof or encouraging some ( we do not suggest that the owner would encourage this) ;
- 5) The character of the area is being transformed from a quiet residential area to a bustling business area with Salons

and guesthouses mushrooming everywhere . We do not consider this in the best interests of the residents ;

6. In a residential area , the residents expect children to be able to ride their bicycles and walk in the street freely without having to look out for the bustling traffic in the area ;

We await your advices.

Yours Faithfully

P.P. H. Dawjee

Ismail Dawjee

**Applicant's response**



Attention: Mr S Sithole

Response to the objections received for Erf 1430 Newcastle

Shuttleworth & Dawjee Attorneys <i>Instructed by: Mr Seedat &amp; Mr I Kharwa</i>	Response: Thabo
<ul style="list-style-type: none"> <li>This is a quiet residential area and having a bed and breakfast will create an increase in traffic and movement of people will disturb the peace.</li> </ul>	<p>Newcastle is transforming from a small Town to a large-scale town. Hence, the visitors wishing to explore Newcastle for business opportunities will require accommodation closer to town for easy access to amenities and services such as the hospital, Newcastle Mall, and Newcastle CBD. Moreover, the owner of the property will ensure that all activities emanating from the property are kept to minimum and are confined inside the property including the parking of cars.</p>
<ul style="list-style-type: none"> <li>Guesthouses are notorious for people getting together having parties, consuming alcohol, playing loud music and the like.</li> </ul>	<p>All activities emanating from the property will be kept to minimum including the drinking of alcohol, playing of music etc. In addition, the property owner will provide a set of rules and guidelines that will be applicable to all visitors to ensure that all activities from the property are kept to a minimum.</p>
<ul style="list-style-type: none"> <li>We have also noticed an escalation of parking that comes with a bed and breakfast as they have limited space and parking for the guests, visitors, staff and suppliers, inevitably, guests end up using the street to park which causes congestion in traffic.</li> </ul>	<p>The property owner has allocated each room "two parking bays" inside the property. Additional parking will also be allocated for employees and suppliers. In addition, the property owner will also install the front boundary to ensure that all parking is kept within the premises of the property.</p>
<ul style="list-style-type: none"> <li>The character of the area is being transformed from a quiet residential area to a bustling business area with Salons and guesthouses mushrooming everywhere. We do not consider this in the best interests of the residents.</li> </ul>	<p>The character of the property including the "curb appeal" of the building will not deviate from the existing residential nature of the surrounding properties. The primary use of the will be residential in nature in form of a "business". This will not only benefit the property owner through income, but it will also contribute in creating employment for the local residents of Newcastle.</p>
<ul style="list-style-type: none"> <li>With a low-income bed and breakfast, prostitutes are attracted to, the area without the owners being necessarily aware thereof or encouraging some (we do not suggest that the owner would encourage this).</li> </ul>	<p>The vision and goal of this bed and breakfast is to provide accommodation for visitors wishing to explore Newcastle for business opportunities and beyond as well as provide easy access to amenities and services such as the hospital, Newcastle Mall, and Newcastle CBD etc. The type of bed and breakfast that will be established on the said property will be of "high standard"</p>
<ul style="list-style-type: none"> <li>In a residential area, the residents expect children to be able to ride their bicycles and walk in the street freely without having to look out for the bustling traffic in the area.</li> </ul>	<p>The vision and goal of this bed and breakfast is not to contribute or trigger any traffic congestion on the street but to create a safe environment for the residents. In doing so, the property owner will ensure that the parking of cars are kept within the premises of the property in order to minimize any traffic disturbance as well as keep the street quiet at all times</p>

AK & S.1 Gerber	Response
<p>The site notice is a defective site notice</p> <ul style="list-style-type: none"> <li>We start by bringing to the Municipal Planning Tribunal that an inspection of the site revealed that the advert on site is defective, and we have attached a photo of the copy [Annexure A] which shows no details of the intended use of the property, This alone constitutes a basis for the refusal of planning permission as it hugely compromised the public consultation process by denying the public and interested parties to be informed about the proposed use of the site at the very location where the planning approval is being sought.</li> <li>It is either the applicant failed to maintain the advertisement with the result that the public's right to information for effective participation is severely denied. Put differently, there is effectively no notice on – site when information is not conveyed to the public. We pray for Planning tribunal to refuse planning permission or proposed use.</li> </ul>	<p>The public participation was carried out from 12 November 2021. A (i) Complete site notice with full application details was placed in front of the property, and the (ii) advert was placed on the Newcastle advertiser and (iii) letters were sent via registered mail to affected properties. However, due to resent "heavy rains" in Newcastle, the details on the site notice were wiped off towards the end of the public participation period and the property owner was not aware of such since he does not reside permanently on site at the present moment.</p> <p>The property owner is of the opinion that the information concerning the application was conveyed to its fullest hence the number of objections received.</p>
<p>The site notice compromises the public participation process.</p> <ul style="list-style-type: none"> <li>The advert does not satisfy the public's right to information in contravention of both the constitution of the Republic and Spatial Planning and Land Use Management Act (2013).</li> </ul>	<p>The site notice did not compromise the public participation process since it was fully carried out and both the advert and letters were simultaneously carried out with the placement of the notice on the property. In addition to the site notice the advert was placed on the Newcastle advertiser and (iii) letters were sent via registered mail to affected properties as an alternative should the site notice be compromised due unforeseen circumstances, such as "heavy rains" etc</p>
<p>Planning permission has been granted for rezoning of our property on Erf 1427 Newcastle.</p> <ul style="list-style-type: none"> <li>We would like to bring to the Planning Tribunal's attention Planning Permission was granted to AK &amp; S. I Gerber the owners of Erf 1427 Newcastle from Detached Residential High Density Only for the purpose of establishing a guest house.</li> <li>We understand that the municipality must accept and consider applications</li> </ul>	<p>The aim of this bed and breakfast is to contribute and provide more accommodation to visitors in the central area of Newcastle. The aim is not to undermine nor to compete with the approved bed and breakfast on Erf 1427 Newcastle but instead to core exist and serve the same purpose which is to provide adequate accommodation.</p> <p>Furthermore, even though Erf 1430 Newcastle is located directly opposite to Erf 1427 Newcastle, the "clientele" and market of both these establishment will not be similar, hence both the establishments will be able to core exist.</p>

<p>on their merits but we would like to indicate that these properties are directly opposite each other and we feel that it would be unfair to us and the applicant if the municipality were to grant permission planning to this application.</p>	
<p>Anti-competitive behaviour.</p> <ul style="list-style-type: none"> <li>▪ The granting of planning permission goes against the accepted tenants of healthy competition. It would adversely affect the applicant and us as the area already has such establishments in close proximity. The municipality has an obligation to promote business as part of its constitutional mandate hence it is obliged to make decisions to promote business rather than destroy them. Granting this application would kill our business which is at an advanced stage and ready for implementation.</li> </ul>	<p>The main aim of this bed and breakfast is not to compete with Erf 1427 Newcastle but to core exist and contribute in providing more accommodation options close to the Newcastle CBD.</p>
<p>Adverse traffic impacts</p> <ul style="list-style-type: none"> <li>▪ We foresee that granting permission to the application would result in adverse traffic impacts both to our establishment and the proposed usage of their property. There are commercial enterprises in the area already we fear that in the area would increase to the detriment of the residents.</li> </ul>	<p>The property owner has allocated each room "two parking bays" inside the property. The property owner will ensure that the parking of cars is kept inside the property in order to minimize any traffic disturbance and keep the street quiet at all times.</p>

**Annexure E:Registered Planners Certificate**

**REGISTERED PLANNER'S CERTIFICATE**

**APPLICATION IN TERMS SPATIAL PLANNING LAND USE MANAGEMENT ACT (ACT 16 OF 2013) REGULATIONS AND BYLAW: CONSENT TO ESTABLISH A GUEST HOUSE ON ERF 1430 NEWCASTLE, NO. 11 EARL STREET, CENTRAL EAST: TP (13/3/4/1-1430) (FEBRUARY 2022) – WARD 34**

I, S.D. Cindi, certify that the application for consent to consent to establish a Guest House on Erf 1430 Newcastle has been evaluated by me in terms of the Spatial Planning and Land Use Management Regulations and Bylaw's and is supported for reasons stated in the report.

I understand that if it is subsequently discovered that the application was defective, I will be criminally liable and may be charged for misconduct in terms of Schedule 4, Section 16 of the Bylaw's.

  
S.D. CINDI

ACTING MANAGER: LAND USE MANAGEMENT

SACPLAN Reg. Number: B/8187/2012 Date: 7/02/2022

## ANNEXURE C: PUBLIC PARTICIPATION



**REGISTERED LETTER  
GEREGISTREERDE BRIEF**

Post Office

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**Full tracking and tracing/Volledige volg en spoor**

Addressed to/Geadresseer aan

Kharwa IA

P. O Box 2859

Newcastle

2940

Postcode  
Postkode

The value of the contents of this letter is as indicated and compensation is not payable for a letter received unconditionally. Compensation is limited to R100.00. No compensation is payable without documentary proof. Optional insurance up to R2 000.00 is available and applies to domestic registered letters only.

Die waarde van die inhoud van hierdie brief is soos aangedui en vergoeding sal nie betaal word vir 'n brief wat sonder voorbehoud ontvang word nie. Vergoeding is beperk tot R100.00. Geen vergoeding is sonder dokumentêre bewys betaalbaar nie. Opsionele versekering tot R2 000.00 is beskikbaar en is slegs op binnelandse geregistreerde briewe van toepassing.

Postage paid R 90  
Service fee/Diensgeld R  
Insurance/Versekering R  
Total/Totaal R

Insured value of contents

Versekerde waarde van inhoud R

Enquiries/Navrae  
Toll-free number  
Tolvry nommer  
0800 111 502

Initial of  
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officer

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Addressed to/Geadresseer aan

De Beer D

P. O Box 21063

Newcastle

2940

Postcode  
Postkode

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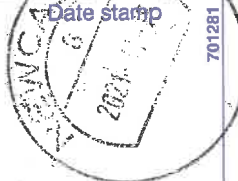
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Kaloo E

P. O Box 2595

2940

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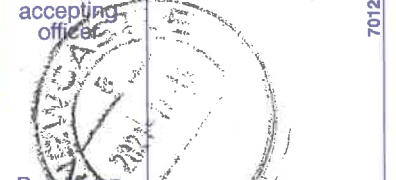
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Amad Y

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2940

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VANDER S.  
P.O. BOX 701  
NEWCASTLE

2940

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Newcastle

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GEREGISTREERDE BRIEF**

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Gerber A K & SI  
No. 33 Portland  
Durban

4051

Postcode  
Postkode

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Fatimoosa Investments CC  
P. O Box 2292  
Newcastle

2940

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Postkode

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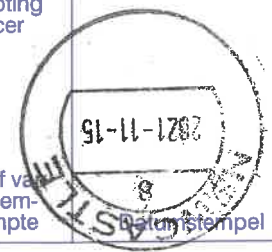
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Enquiries/Navrae  
Toll-free number  
Tolvry nommer  
0800 111 502

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**REGISTERED LETTER  
GEREGISTREERDE BRIEF**

Post Office

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**Full tracking and tracing/Volledige volg en spoor**

Addressed to/Geadresseer aan

B Seedat F & NP  
PO Box 1349  
Newcastle

2940

Postcode  
Postkode

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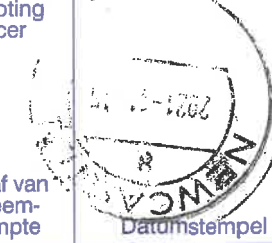
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Tolvry nommer  
0800 111 502

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Addressed to/Geadresseer aan

Honunram A & Ramguthy L  
P. O Box 1871  
Newcastle

2940

Postcode  
Postkode

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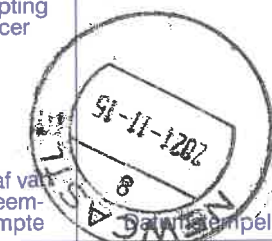
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Versekerde waarde van inhoud R \_\_\_\_\_ C

Enquiries/Navrae  
Toll-free number  
Tolvry nommer  
0800 111 502

Initial of  
accepting  
officer

Date stamp



701281

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CUSTOMER COPY 301028R

Paraaf van  
aaneem-  
beampte

Datumstempel

**REGISTERED LETTER  
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Total/Totaal R \_\_\_\_\_ C

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Versekerde waarde van inhoud R \_\_\_\_\_ C

Enquiries/Navrae  
Toll-free number  
Tolvry nommer  
0800 111 502

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accepting  
officer

Date stamp

Affix Track and Trace  
customer copy

Plate Volg-en-Spoor-

Paraaf van  
aaneem-

701281

**REGISTERED LETTER**  
**GEREGISTREERDE BRIEF**  **Post Office**  
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**Full tracking and tracing/Volledige volg en spoor**

Addressed to/Geadresseer aan  
**Mohamed F**  
**No. 1 High Wycombe, No. 5 Serridge**  
**Square, Marine Parade**  
**4001** Postcode  
Postkode

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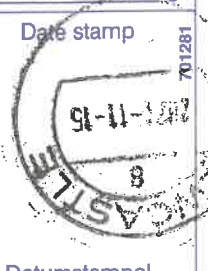
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**Total/Totaal** R \_\_\_\_\_ C

Insured value of contents  
Versekerde waarde van inhoud R \_\_\_\_\_ C

Enquiries/Navrae  
Toll-free number  
Tolvrý nommer  
**0800 111 502**

Initial of accepting officer \_\_\_\_\_

Date stamp  


Paraaf van aanneem-beampte \_\_\_\_\_

Datumstempel \_\_\_\_\_

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**REGISTERED LETTER**  
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CUSTOMER COPY 30102BR  
Spoor-tafskrif

**REGISTERED LETTER**  
**GEREGISTREERDE BRIEF**  **Post Office**  
(with an insurance option/met 'n versekeringsopsie)

**Full tracking and tracing/Volledige volg en spoor**

Addressed to/Geadresseer aan  
**Lombard L**  
**P. O BOX 627**  
**Newcastle**  
**2940** Postcode  
Postkode

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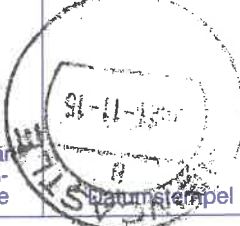
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Versekerde waarde van inhoud R \_\_\_\_\_ C

Enquiries/Navrae  
Toll-free number  
Tolvrý nommer  
**0800 111 502**

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Date stamp  


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Datumstempel \_\_\_\_\_

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Spoor-tafskrif

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**GEREGISTREERDE BRIEF**  **Post Office**  
(with an insurance option/met 'n versekeringsopsie)

**Full tracking and tracing/Volledige volg en spoor**

Addressed to/Geadresseer aan  
**Byili MIA & S**  
**P. O Box 17583**  
**Newcastle**  
**2940** Postcode  
Postkode

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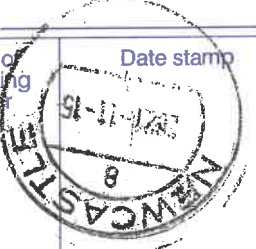
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**Total/Totaal** R \_\_\_\_\_ C

Insured value of contents  
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Enquiries/Navrae  
Toll-free number  
Tolvrý nommer  
**0800 111 502**


Initial of accepting officer \_\_\_\_\_

Date stamp  


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Datumstempel \_\_\_\_\_

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CUSTOMER COPY 30102BR  
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**REGISTERED LETTER**  
**GEREGISTREERDE BRIEF**  **Post Office**  
(with an insurance option/met 'n versekeringsopsie)

**Full tracking and tracing/Volledige volg en spoor**

Addressed to/Geadresseer aan  
**Patel ZF, P. O Box 23291**  
**Newcastle**  
**2940** Postcode  
Postkode

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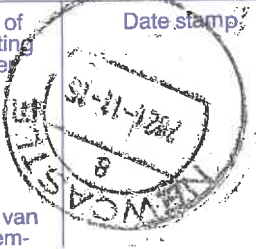
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Insured value of contents  
Versekerde waarde van inhoud R \_\_\_\_\_ C

Enquiries/Navrae  
Toll-free number  
Tolvrý nommer  
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Initial of accepting officer \_\_\_\_\_

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Spoor-tafskrif



# Minimum Requirements:

- Grade 12 matric certificate qualification or equivalent qualification,
- Minimum of 5 years' previous experience as a Community Leader,
- Valid Driver's license,
- Good verbal and written communication skills in isiZulu and English.
- Must have experience engaging with Communities and other Stakeholders (negotiation, conflict resolution and relationship building).
- Must have working knowledge of taking minutes of meetings and must be computer literate.
- Hardware will be provided at the Site office

## Duties include:

- Plan, coordinate and implement community liaison activities.
- Promote active participation and involvement of stakeholders, including beneficiary communities throughout the Project life cycle.
- Build strong relations and liaise with the relevant communities to facilitate and improve communication amongst all role players.
- Secure labourers for the contractor and sub-contractors in liaison with the Local Municipality and the Department of Labour.
- Ensure that community structures (PLC) for project management at local level are fully functional.
- Provide all the support necessary for the PLC to be effective in its rendering of an efficient and effective service.
- Ensure that PLC meetings seat regular at set timeframes. Monitor the project's development programmes.
- Keep a daily project diary.
- Coordinate submission of work and monthly reports by PLC.
- Prepare and submit monthly reports to Project Management Team.
- Report and minute writing; Facilitate meetings related to the project.
- Perform any other duties that may be delegated by the Project Management Team and ensure successful implementation of the project

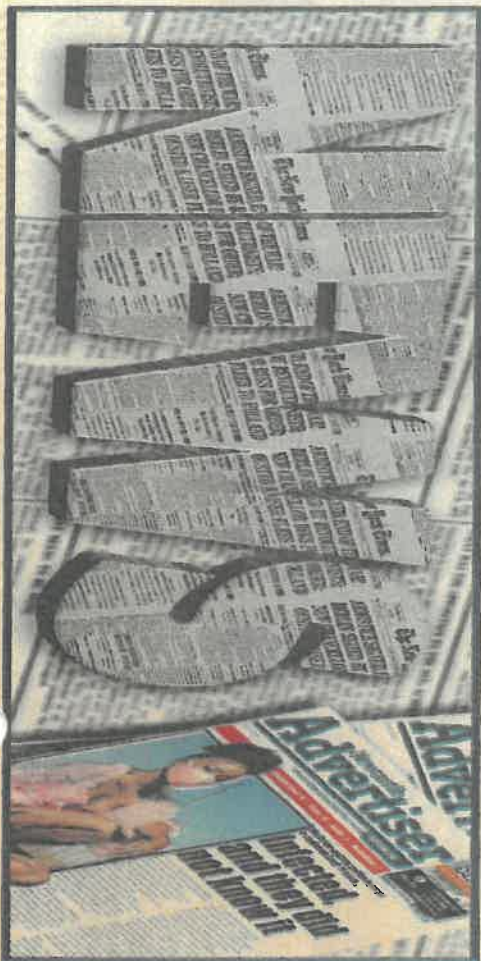
## APPLICATIONS

All applications must be emailed to [bawinile@leoconsult.co.za](mailto:bawinile@leoconsult.co.za) with the following heading/subject **Periodic Maintenance on National Route 11 Section 4 between Inongo Station (km 21.00) and Kwaggasnek (km 39.00) - PLO APPLICATION**

(All applications must include CV, certified copies of the qualification and application letter)

## CLOSING DATE:

The closing date for this advertisement is **18 November 2021 at 16h00**  
If you have not been contacted within 1 month after the closing date of the advertisement, please accept that your application was unsuccessful.



# dbm attorneys prokureurs • ophoof

## LIQUIDATION AND DISTRIBUTION ACCOUNTS IN DECEASED ESTATES LYING FOR INSPECTION

In the Estate of the Late: Surname NENE. First Names: MSESHE ZEPHANIA. Estate Number: 9652/2005PMB. Identity Number: 29110351750088. Date of death: 1/06/2004. Last address: 104 IMPALA ROAD, HUTTEN HEIGHTS NEWCASTLE.

The SUPPLEMENTARY Liquidation and Distribution Account in the estate will be open for inspection for a period of 21 days from 12 November 2021 at the office of the Master of the High Court PIETERMARITZBURG and the Magistrate's Office, NEWCASTLE.

First Names and Surname of Surviving Spouse: SIPHELELE AUDREY NENE - SUBSEQUENTLY DECEASED. Identity Number: 3208060234081.

Name and address of Executor or Authorised Agent:

**DBM ATTORNEYS**  
PO BOX 117  
NEWCASTLE 2940  
Tel (034) 328 1303

Reference: EST/THUSHEN/H06962.

CM0029785E

# ROY RAMDAN AND ASSOCIATES INC.

## LOST OR DESTROYED DEED

**KINDLY TAKE NOTICE** that the Applicant, S D NTULI, EXECUTOR in the Estate Late NTOMBITOMBI ASSCINA ZONDI who died on the 28 JUNE 2000, Masters reference No. 7600/2011 PMB

The registered owner of the following immovable property, namely:

ERF 3005 MADADENI C REGISTRATION DIVISION H T PROVINCE OF KWA - ZULU NATAL in extent 465 square metres half under Deed of Grant Number T646294/2003, do hereby make an application in terms of Regulation 68 (1) of the Deeds Registry Act of 1937 AND / OR Regulation 13 (1) of Proclamation R293 of 1962 for the issuing of a certified copy of the aforesaid Deed of Grant which has been lost or mislaid and cannot be found.

Any interested person or body who may object to this Application should lodge such objection with the Registrar of Deeds, Pietermaritzburg within 14 (fourteen) days from date of publication hereof.

**DATED AT NEWCASTLE THIS 11<sup>TH</sup> DAY OF NOVEMBER 2021**

**ROY RAMDAN AND ASSOCIATES INCORPORATED**  
-ATTORNEYS AND CONVEYANCERS

Attorneys for the Applicant  
Office 1, Newcastle Club  
29 Bird Street  
NEWCASTLE, 2940  
TEL: 034 312 7592  
FAX: 036 751 5760

CM0029615E

Dated at NEWCASTLE this 02<sup>nd</sup> day of November 2021  
DBM ATTORNEYS  
Address: DBM OFFICE PARK, 4 Volksrust Road, Newcastle, 2940  
E-mail address: [phumalele@dbmaw.com](mailto:phumalele@dbmaw.com)  
Contact number: 034 328 1300

CM0029785E

## APPLICATION IN TERMS OF THE SPATIAL

**PLANNING AND LAND USE  
MANAGEMENT ACT, NO. 16 OF 2013  
REGULATIONS AND BY-LAWS:**

## APPLICATION FOR CONSENT

## NEWCASTLE TOWN PLANNING SCHEME:

Notice is hereby given that an application has been lodged with the Newcastle Municipality for its consent to use:

**Erf 1430 Newcastle**

For the purpose of:

**Establishing a Bed and Breakfast**

Any person desiring to object to this application may do so not later than thirty (30) days from the date of the publication of this notice, by lodging in writing, setting out the grounds of objection, with the Municipal Manager or address below.

Plans and particulars relating to this application may be inspected at Newcastle Municipality Tower Block, Development Planning & Human Settlements (Town Planning, 4<sup>th</sup> Floor) No. 37 Murchison Street, Newcastle, 2940, between 07:30 and 16:00 weekdays.

Enquiries and correspondence can also be directed to

**Siyabonga Sithole**  
Tel: 034 3287 600  
[Siyabonga.Sithole@newcastle.gov.za](mailto:Siyabonga.Sithole@newcastle.gov.za)  
[townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)

Date of application: **12<sup>th</sup> November 2021**

Name of newspaper: **Newcastle Advertiser**

CM0029645E

Have you submitted your  
legals for next weeks  
paper?

**Advertiser**

**DEADLINE**  
Mondays 17:00

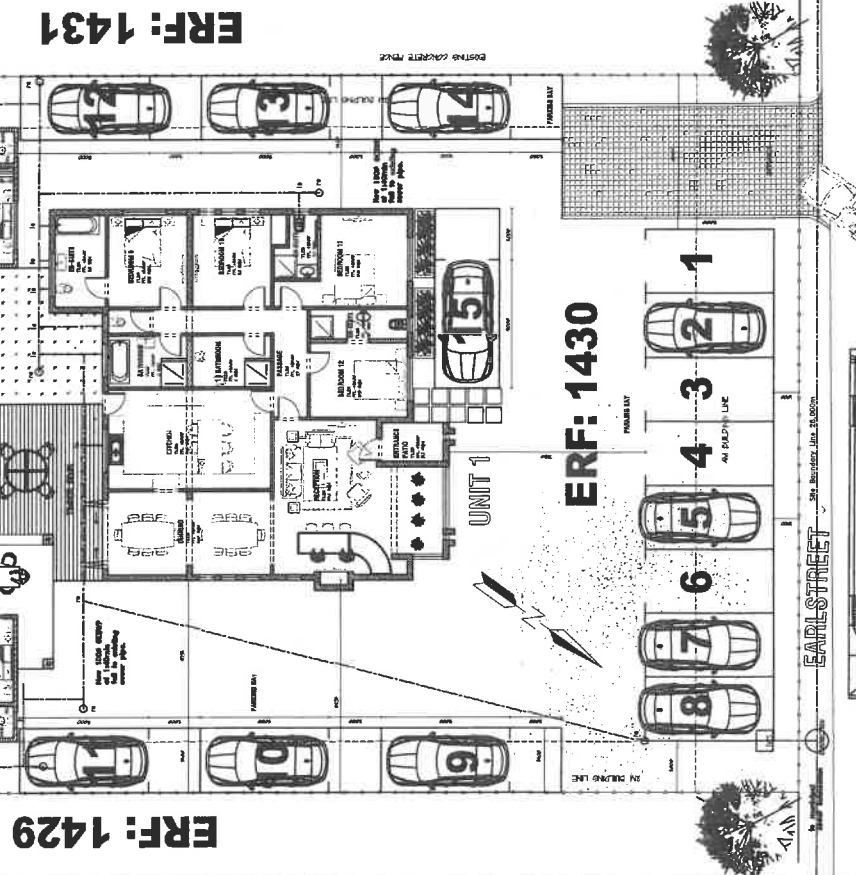
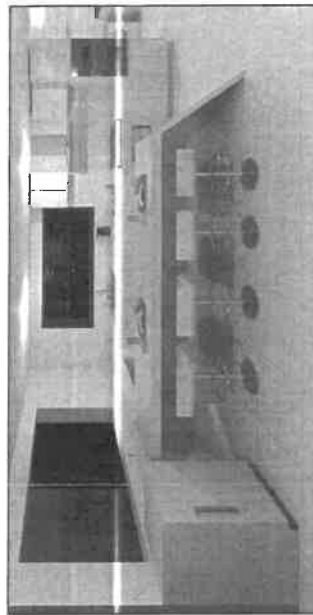
#### ANNEXURE D: SITE DEVELOPMENT PLAN



ANY ERRORS, DISCREPANCIES OR OMISSIONS TO  
BE REPORTED IMMEDIATELY.

ALL CONSTRUCTION WORK TO BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS AND LOCAL AUTHORITIES BY LAW .

## CENTRAL NEWCASTLE



LOCAL AUTHORITY STAMP

THE COPYRIGHT OF THIS DRAWING IS RESERVED TO THE DESIGNER. THIS DRAWING MUST ONLY BE USED ON SITE FOR WHICH IT WAS PREPARED FOR, UNLESS OTHERWISE AUTHORISED BY THE DESIGNER.

Owner's Signature:

Architect's Signature:

**Contact No:**

Req. No:

TOTAL BUILDING :707.8 M<sup>2</sup>

EXISTING DWELLINGS	:488,8	M <sup>2</sup>
PROP. ADDITIONS	:219,3	M <sup>2</sup>

FAR	:0,39
COVERAGE	:47,6%
SITE	:1485 M <sup>2</sup>

PROP. SITE DEVELOPMENT PLAN FOR  
MR T.G NKOSI ON LOT 1430 EARL  
STREET CENTRAL, NEWCASTLE

**Project:**

Drawing title:

## SITE & INTERIOR

Date: 02-11-2021

**Checked:**

Scale:

DWC No:

Drawn:

Sheet No.:

1 of 1

F.D.O. (PTY) LTD

**SACAP NO.: PAT 29278118**  
**INNOVATIVE THINKING THROUGH DESIGN**

(C): 076 189 4448

(A): 1 Pretorius Street, eMkhondo Town

(E): [atampiti@live.com](mailto:atampiti@live.com)

WE DO: Architecture | Building | Project Management | and More

ANNEXURE E: SCHEDULE 8 OF THE NEWCASTLE SPLUMA BYLAWS

## SCHEDULE 8

MATTERS THAT A MUNICIPAL PLANNING APPROVAL AUTHORITY MUST CONSIDER WHEN IT DECIDES OR  
MAKES A RECOMMENDATION ON AN APPLICATION FOR MUNICIPAL PLANNING APPROVAL  
(section 55(1))

**Matters that a Municipal Planning Authority must consider when it decides or makes a recommendation on an application for municipal planning approval**

1.(1) A Municipal Planning Approval Authority must take the following matters into account when it decides or makes a recommendation on an application for municipal planning approval, if applicable –

- (a) the application;
- (b) comments from the relevant departments and comments received in response to the public consultation process;
- (c) the applicant's reply;
- (d) the Municipal Planning Registrar's assessment of compliance of the application with the application process;
- (e) the Registered Planner's report and recommendation on the application, if applicable;
- (f) the development principles in terms of section 7 of the Spatial Planning and Land Use Management Act;
- (g) policies, including national and provincial policies adopted in terms of any law and the Municipality's own policies;
- (h) norms and standards, including –
  - (i) national norms and standards for land use management and land development in terms of section 8 of the Spatial Planning and Land Use Management Act;
  - (ii) provincial planning norms and standards; and
  - (iii) the Municipality's own norms and standards;
- (i) spatial development frameworks, including –
  - (i) a national spatial development framework adopted in terms of section 13(1) of the Spatial Planning and Land Use Management Act;
  - (ii) a provincial spatial development framework adopted in terms of section 15(1) of the Spatial Planning and Land Use Management Act;
  - (iii) a regional spatial development framework adopted in terms of section 18(1) of the Spatial Planning and Land Use Management Act; and
  - (iv) the municipal spatial development framework adopted in terms of section 25(1) of the Municipal Systems Act read with section 20(1) of the Spatial Planning and Land Use Management Act;
- (j) the Municipality's Integrated Development Plan in terms of section 25(1) of the Municipal Systems Act;
- (k) the Municipality's land use scheme, including matters that a Municipality must consider that have been identified in the land use scheme;
- (l) the design guidelines and rules for plan approval of the land owner's association, body corporate or share block company that has been deposited with the Municipality;
- (m) the authorisation in terms of the Environmental Impact Assessment Regulations;
- (n) the potential impact, including the cumulative impact, on –
  - (i) the environment;
  - (ii) socio-economic conditions;
  - (iii) cultural heritage;
  - (iv) existing developments;
  - (v) existing rights to develop land; and
  - (vi) mineral rights;
- (o) the human and financial resources likely to be available for implementing the municipal planning approval;
- (p) the benefits that accrue from the adoption, replacement or amendment of land use scheme compared to the cost of compensation in terms of Chapter 8;
- (q) the provision and standard of engineering services;

NEWCASTLE SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAW

- (t) the impact, including the cumulative impact, of the application on the national, provincial and municipal road networks, public transport, municipal services, sewage and waste water disposal, water and electricity supply, waste management and removal, policing and security;
- (u) access to health, educational and recreational facilities;
- (v) the historical effects of past racially discriminatory and segregatory legislation on land ownership, land development and access to engineering services and public facilities, and the need to address the historical imbalances;
- (w) the protection or preservation of cultural and natural resources, including agricultural resources, unique areas or features, landscape character and biodiversity;
- (x) the natural and physical qualities of that area;
- (y) the number and purpose for which properties will be used when a Municipality decides if the Surveyor-General should –
  - (i) approve a diagram for each property or a general plan for all the properties; and
  - (ii) approve the land –
    - (aa) as a farm, including a portion or a remainder of a farm;
    - (bb) as a subdivision of land that is not a farm; or
    - (cc) as an erf in a township;
- (z) the need to prohibit the alienation of a part of the land by means of a sectional title scheme in terms of the Sectional Titles Act or a share block in terms of the Share Blocks Control Act, 1980 (Act No. 59 of 1980);
- (aa) the provisions of section 13 of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989) relating to the zoning of land owned by Transnet and other laws which regulate the zoning of land;
- (ab) any local practice or approach to land use management that is consistent with –
  - (i) the laws of the Republic;
  - (ii) the provincial planning norms and standards; and
  - (iii) the Municipality's Integrated Development Plan; and
- (ac) any other relevant factor.

(2) A reduction in the value of land is not solely a relevant consideration for the purposes of considering the merits of an application for municipal planning approval.

(3) If the Municipal Planning Approval Authority is the Municipal Council –

- (a) it may consider a summary of the comments received in response to the public consultation process, instead of the comments; and
- (b) it must consider the Municipal Planning Tribunal's recommendation on the application in addition to the matters in this Schedule.



7 100


**APPEAL SUBMITTED AGAINST THE DECISION BY THE NEWCASTLE MUNICIPAL PLANNING TRIBUNAL TO APPROVE AN APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT (SPLUMA) REGULATIONS AND BY-LAWS: APPLICATION FOR THE REZONING OF ERF 1427 NEWCASTLE, NO. 12 EARL STREET, CENTRAL EAST FROM "DETACHED RESIDENTIAL" TO "RESIDENTIAL ONLY HIGH DENSITY" FOR THE PURPOSE OF ESTABLISHING A GUEST HOUSE (TP13/1/7-1427) WARD 34.**

**1. DETERMINATION OF THE APPEAL**

This submission is brought before Appeal Authority in terms of section 51(2) and 30(1) of SPLUMA and Regulations respectively. The Appeal Authority is expected to make a determination on the decision of the Municipal Planning Tribunal to approve an application for the rezoning of Erf 1427 Newcastle, No. 12 Earl Street, Central East from "Detached Residential" to "Residential Only High Density" as stated above.

This matter has been pending for some time, and it is therefore out before the Appeals Authority for adjudication. Attached is the appeal pack to be relied upon at the hearing with the necessary documentation.

<b><u>Attached</u></b>	: Appeal Pack
Attachment A	: Appeal memorandum
Attachment B	: Responding Memorandum

  
.....  
S. Cindi

**REGISTRAR**

Attachment A: Appeal Memorandum

NEWCASTLE MUNICIPALITY  
S.E.D. - D.P. & H.S. Tel: 034 315

Le: 034 315

1505 - Fax: 034 315 3418 - 6 Greaves Street, Newcastle, 2940 -

P.O. Box 1530 - dawjee@newcastle.co.za

08 NOV 2021

Our ref: ID/MH/G1468

91468 KUTHUTHUKISWA  
NOKUHELEWA KWEDOLOBHA  
P/BAG X6621, NEWCASTLE, 2940

**THE REGISTRAR**

# NEWCASTLE MUNICIPALITY

**PER EMAIL: Sphephelo.cindi@newcastle.gov.**

AND

**ALLEN GERBER**

**PER EMAIL: Gilbert.gp1800@gmail.com**

TOWN PLANNING		A/ NAME	DATE	SIGN
SEB				
DH				
PA/SEB				
LUMB	A. S. H. / K. S. H. / K. S. H.			
SP				
GIB				
ADM				

**RE: DECISION – RE-ZONING ERF 1427 -12 EARL STREET,  
NEWCASTLE GUEST HOUSE TP (13/3/3-1427)**

**We refer to your letter dated 19/07/2021 and note with tremendous disappointment that you have granted the license notwithstanding the objections of the neighbours' including :-**

- 1) The parking issues ;
- 2) The building structure problems ;
- 3) Mrs Noorget's Servitude held by 10 Earl Street over 12 Earl Street ;
- 4) The lack of procedural notice – objectors were not given time to study the proposals of Mr. Gerber ;

**You approved the re-zoning and have now stated that the development will be beneficial to your rates base and efficient utilization of land resources.**

**You made the following conditions :-**

- a) Revised site development plans to be submitted and upgraded ;
- b) Parking – you prohibited off site parking and loud music after 8:00 pm. How are these restrictions going to be policed and is the grant of the license going to be removed if there are insufficient on site parking or code violations .

**We want to note an appeal on behalf of the owner as the issues regarding parking , servitudes etc. have not been adequately addressed .**

**Yours Faithfully**

**Ismail Dawjee**

**Sphephelo Cindi**

---

**From:** dawjee@newcastle.co.za  
**Sent:** Tuesday, October 26, 2021 10:57 AM  
**To:** Sphephelo Cindi  
**Cc:** Ntsiki Khathide  
**Subject:** FW: RE-ZONING ERF 1427 -12 EARL STREET NEWCASTLE REFERENCE 13/3/3/-1427  
**Attachments:** Scan\_20210813\_093609.pdf

**SHUTTLEWORTH & DAWJEE ATTORNEYS**

**P. O. BOX 1530 -- Fax:0343153418 --6 Greaves Street, Newcastle, 2940 -  
 Tel: 0343151505 -- Email: [dawjee@newcastle.co.za](mailto:dawjee@newcastle.co.za) -- Ref: ID/MH/**

---

**DEAR SIR/MADAM**

Please acknowledge receipt of the appeal and confirm the procedures to follow the appeal.

Surely you cannot continue to ignore our emails Mr Cindi?

**Regards**

**Mr. M.H Essop ( Bcom Law – Unisa )  
 O.B.O Mr. I.E Dawjee . (BA LLB - Natal)  
 Shuttleworth & Dawjee**

Confidentiality: This email is intended for the addressee only, and contains confidential information which may be legally privileged. If you are not the intended recipient kindly notify the sender immediately by return e-mail and [delete](#) the original message. You may not copy it or disclose its contents to any person.

**SHUTTLEWORTH & DAWJEE ATTORNEYS**

**P. O. BOX 1530 -- Fax:0343153418 --6 Greaves Street, Newcastle, 2940 -  
 Tel: 0343151505 -- Email: [dawjee@newcastle.co.za](mailto:dawjee@newcastle.co.za) -- Ref: ID/MH/**

---

**DEAR SIR/MADAM**

We attach herewith our appeal sent to you on 12/08/2021.

Please may we have a response herein.

**Regards**

**Mr. M.H Essop ( Bcom Law – Unisa )  
O.B.O Mr. I.E Dawjee . (BA LLB - Natal)  
Shuttleworth & Dawjee**

Confidentiality: This email is intended for the addressee only, and contains confidential information which may be legally privileged. If you are not the intended recipient kindly notify the sender immediately by return e-mail and **delete** the original message. You may not copy it or disclose its contents to any person.

Attachment B: Responding Memorandum

**RESPONDING MEMORANDUM TO AN APPEAL SUBMITTED AGAINST A DECISION TO APPROVE AN APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013 (SPLUMA) REGULATIONS AND BY-LAWS FOR THE REZONING OF ERF 1427 NEWCASTLE, NO. 12 EARL STEET, NEWCASTLE CENTRAL FROM "DETACHED RESIDENTIAL" TO "RESIDENTIAL ONLY HIGH DENSITY ZONE" FOR THE PURPOSES OF ESTABLISHING A GUEST HOUSE (TP13/1/7-1427) (JULY 2023) WARD 34.**

## **1. INTRODUCTION**

- 1.1. A decision of the Municipal Planning Tribunal (MPT) to approve an application stated below was transmitted to all parties accordingly in line with the Spatial Planning and Land Use Management Act no. 16 of 2013, Regulations and the Newcastle Municipality SPLUMA Bylaws.
- 1.2. The memorandum of appeal was received on 12 August 2021 from Shuttleworth and Dawjee Attorneys. The appeal stated the following grounds:
  - 1.2.1 Parking issues;
  - 1.2.2 The building structure problems;
  - 1.2.3 The issue of servitudes;
  - 1.2.4 The lack of procedural notice.
- 1.3. The appeal as submitted is hereby opposed in its entirety for the reasons advanced in this responding memorandum.

## **2. BODY/ PERSONS RESPONDING TO THE APPEAL**

- 2.1. This responding memorandum filed by the affected party in line with all relevant legislations (SPLUMA).

## **3. BACKGROUND TO THE MATTER**

- 3.1. An application was submitted in terms the SPLUMA ~~Act~~, Regulations and Bylaws by Mr. Allen Gerber, who for the purposes of this responding memorandum is referred to as the applicant. However, it is important to provide an explicit background to this matter which gave rise to the application that surfaced from Mr. Allen Gerber.
- 3.2. In August 2020, an application in terms of the Spatial Planning and Land Use Management Act No. 16 of 2013, Regulations and Bylaws for the Rezoning of Erf 1427 Newcastle, No. 12 Earl Street, Central East was lodged by Allen Gerber.
- 3.3. The application was advertised in the Local Press (Newcastle Advertiser) on the 25th of September 2020 and a notice was also displayed on the property for a period of 30 days from the date of publication, as per the requirement of the Spatial Planning and Land Use Management Act No. 16 of 2013,



Regulations and Bylaws. There were four objections from neighbouring properties (Annexure B).

- 3.4. The objectors stated parking issues, the building structure problem, the servitude and lack of procedural notice- objectors not given time to study the proposals of Mr. Gerber.
- 3.5. The applicant in his response letter to the objections responded and motivated the application (Annexure C).
- 3.6. An objection meeting was held on the 23rd of March 2021 between the objectors and the applicant.
- 3.7. Following from this meeting a planner's report was submitted to the MPT. After much deliberation on the report (Annexure D), the MPT resolved to approve the application for the Rezoning of Erf 1427 Newcastle, No. 12 Earl Street, Central East from "Detached Residential" to "Residential Only High Density" for the purpose of establishing a Guest House.
- 3.8. ~~In 2021~~, the Newcastle Municipal Planning Tribunal (MPT), at its meeting which took place on the 10<sup>th</sup> of June 2021 resolved to approve the application for the Rezoning of Erf 1427 Newcastle, No. 12 Earl Street, Central East from "Detached Residential" to "Residential Only High Density Zone" for the purposes of establishing a Guest House based on the following reasons: (Annexure A).
  - a) The proposed development promotes the efficient utilization of the land resources;
  - b) The proposed development will not have any negative impacts on the surrounding properties and amenities;
  - c) No new infrastructural services will be required as the site has already been developed;
  - d) The proposed development will broaden the Municipalities rates base.
- 3.9. Following the notification of the outcome of the application, the appellant was aggrieved by the decision of the MPT and exercise their rights by appointing Shuttleworth & Dawjee Attorneys to lodge an appeal to the Municipal Appeals Authority Registrar.

#### **4. CONDONATION FOR SETTING THE DATE OF THE HEARING LATE**

- 4.1. Section 2(3), Schedule 10 of the Newcastle SPLUMA bylaw states: A person who wants to lodge a responding memorandum must, within 30 days after the memorandum of appeal was served on that person serve the responding memorandum;
- 4.2. The Registrar: Appeals Authority (Committee of Officials) needed to ensure notification of all parties to the appeal;

- 4.3. The Registrar needed to ensure that all processes as specified by legislation will be complied with, without any error or omission;
- 4.4. All the parties were informed of the delay in the appeal process as the institutional arrangements were not yet in place;
- 4.5. An application for condonation of time compliance had to be given to allow for consideration of the matter and ensure that none is prejudiced by the internal Municipal systems.

## 5. GROUNDS OF APPEAL

- 5.1. The following are the grounds of appeals:

- 5.1.1 The parking issues.

**Response:**

Parking requirements for this type of development in terms of the Newcastle Local Municipality Land Use Scheme are 1,5 parking bays per single room and the proposed development is 4 parking bays shy of the requirement. The decision taken for the proposed development in terms of negative traffic impacts is based on the fact that no objections were received from the Newcastle Local Municipality Traffic department.

- 5.1.2 The building structure problem.

**Response:**

The decision taken is based on the proposed Site Development Plan where once construction has commenced there would be no Permission to Occupy the building without an occupational certificate that is only issued out by the Newcastle Municipality after confirming on site that the building is appropriate for habitation.

- 5.1.3 Encroachment on the side space adjacent to Erf 1428 Newcastle.

**Response:**

The decision taken was based on the proposed Site Development Plan where no encroachment was presented. It must be any noted that any encroachment must be consulted on all affected parties as the law requires. The decision must not be empty when opposing development but be of substance which is how the authorities for approval operate. The applications are considered as the bylaws require and not on emotions hence the disregard by the MPT.

- 5.1.4 Lack of procedural notice.

**Response:**

Record shows that the correct procedure for public participation was followed where a notice was put up in Newcastle Local advertiser, a site notice was issued on site stating the proposed development and notices

were issued and delivered to properties abutting within 100m of the said property (Erf 1427 Newcastle) and signed for upon receipt.

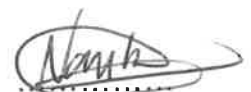
- 5.2. The thoroughness of the MPT committee is hereby commended for its sound principles to dispense of the matter without prejudice and biasness. The report attached to this responding memorandum as Annexure D shows the depth and consideration of matters given prior to the resolution to approve was made.
- 5.3. The development planning principles applied to the planning application to Rezone Erf 1427 Newcastle, No. 12 Earl Street, Central East from "Detached Residential" to "Residential Only High Density Zone" for the purpose of establishing a Guest House categorises that the matter at hand is about nothing else but planning and development.
- 5.4. It is therefore on this stance that the Municipality could not limit its consideration to the application of Rezoning of Erf 1427 Newcastle, No. 12 Earl Street, Central East from "Detached Residential" to "Residential Only High Density" for the purpose of establishing a Guest House in making its determination on the application.
- 5.5. Moreover, the appellant must note that what is desirable from the Town Planning point of view during processing of a planning application will prevail over economic aspirations of the interested or affected parties. It cannot therefore be that impartiality of the Municipality is tested through advancement of self-worth of the objectors over the applicant or vice versa.

## 6. CONCLUSION

- 6.1 Based on the above counter arguments the appeal should be dismissed completely.
- 6.2 The determination made by the MPT to approve the application to Rezone Erf 1427 Newcastle, No. 12 Earl Street, Central East from "Detached Residential" to "Residential Only High Density" for the purpose of establishing a Guest House must be upheld.

## 7. ANNEXURES

<b>Annexure A</b>	: MPT approval Letter
<b>Annexure B</b>	: Objection Letters
<b>Annexure C</b>	: Response Letter to Objections
<b>Annexure D</b>	: MPT report
<b>Annexure E</b>	: Public participation
<b>Annexure F</b>	: Site Development Plan



**X. Madela**  
**Land Use Management**  
**Dept. of Development Planning**  
**& Human Settlements**

**Annexure A**  
**MPT Approval Letter**



# NEWCASTLE KWAZULU NATAL

My Verw: TP 13/3/4/1 - 1427  
My Ref:

Munisipaliteit: Privaatsak X6621  
Municipality: Private Bag X6621  
Newcastle  
2940

Navrae: B. Thusi  
Enquiries:

Tel (034) 328 7600  
Fax (034) 312 1570

Email address: [bheki.thusi@newcastle.gov.za](mailto:bheki.thusi@newcastle.gov.za)

19 July 2021

Allen Gerber  
12 Earl Street  
Newcastle  
2940

Dear Sir

**RECORD OF DECISION: APPLICATION IN TERMS SPATIAL PLANNING LAND USE MANAGEMENT ACT (ACT 16 OF 2013) REGULATIONS AND BYLAW 'S: REZONING OF ERF 1427 NO. 12 EARL STREET NEWCASTLE WEST FROM "DETACHED RESIDENTIAL" TO "RESIDENTIAL ONLY HIGH DENSITY" FOR THE PURPOSE OF ESTABLISHING A GUEST HOUSE: TP (13/3/3-1427)**

With reference to your subject application, please note that the following decision regarding your application was made by the Newcastle Municipal Planning Tribunal (MPT) at its meeting held on the 10<sup>th</sup> of June 2021:

1. The Newcastle Municipal Planning Tribunal in terms of the Spatial Planning and Land Use Management Regulations and Bylaws, approve the application for the rezoning of Erf 1427 Newcastle from "Detached Residential" to "Residential Only High Density" for the purpose of establishing a Guest House, based on the following reasons:
  - i) The proposed development promotes the efficient utilization of as the land resource;
  - ii) The development will not have any negative impacts on surrounding properties and amenities;
  - iii) No new infrastructural services will be required as the site has already been developed
  - iv) The proposed development will broaden the Municipalities rates base.

2. The following conditions shall be applicable to the proposed development:

- (i) This approval is linked to the revised Site Development Plan, **LA (10) 002** should the developer wish to extend, new application must be submitted to the municipality;
- (ii) The property shall conform to the planning scheme development controls imposed and its subsequent additions;
- (iii) Building plans must be submitted and approved by the Strategic Executive Director: Development Planning and Human Settlements prior to commencement of any major alterations/construction on the property;
- (iv) Rubble and building material must not at any stage impede onto the roadway during construction;
- (v) The owner shall construct such facilities as are necessary for the control and disposal of stormwater from the property. All costs incurred as a results of these requirements shall be borne entirely by the owner;
- (vi) The developer must install water saving system only, such as water basin taps with faucet aerator, water saving shower etc;
- (vii) The property has an existing 60A single phase connection, should the applicant require to upgrade the supply to accommodate the aforementioned guest house, costs & regulations shall be as per The Electricity Supply Bylaws and Tariff Structure;
- (viii) The entrance to the site must not be moved as a result of this development.
- (ix) Owner must provide adequate onsite parking;
- (x) No offsite parking of any vehicle allowed without approval of the municipality;
- (xi) No loud music and noise between 20:00 pm to 09:00 am;
- (xii) All costs incurred as a results of these requirements shall be borne entirely by the owner;

(xiii) Owner must provide adequate onsite parking;

(xiv) No offsite parking of any vehicle without approval of Council;

(xv) That this approval shall be subject to review if the municipality is of the opinion that the conditions for which this application is approved have been violated, municipal bylaws flawed, other legislation/s transgressed or any other matter deemed necessary for purpose of this approval to remain in force.

(xvi) Objectors have 30 days after being notified of the decision of the Municipal Planning Tribunal and their right to appeal with Newcastle Municipal Appeal Authority.

Yours faithfully,

  
.....  
N.P. KHATHIDE

**ACTING STRATEGIC EXECUTIVE DIRECTOR:  
DEVELOPMENT PLANNING AND  
HUMAN SETTLEMENTS**



**Annexure B**  
**Objector's Letters**



SHUTTLEWORTH & DAWJEE  
ATTORNEYS

Tel: 034 315 1505 - Fax: 034 315 3418 - 6 Greaves Street, Newcastle, 2940 -

P.O. Box 1530 - dawjee@newcastle.co.za



Our ref: ID/MH/SEEDAT

NEWCASTLE MUNICIPALITY  
TOWN PLANNING DEPARTMENT

PER EMAIL : [Bheki.thusi@newcastle.gov.za](mailto:Bheki.thusi@newcastle.gov.za) ; [Townplanning@newcastle.gov.za](mailto:Townplanning@newcastle.gov.za)

[Gilbert.gp1800@gmail.com](mailto:Gilbert.gp1800@gmail.com)

**RE: PROPOSED RE-ZONING OF PORTION OF ERF 1427 NEWCASTLE – 12 EARL STREET  
NEWCASTLE TO ESTABLISH A GUESTHOUSE**

Duly instructed by Dr. Bigli and Mr. Bigli of 10 GREAVES Street, Newcastle .

We hereby submit an objection on behalf of our client to the proposed RE-ZONING OF  
PORTION OF ERF 1427 NEWCASTLE to establish a guesthouse

The grounds of objection are as follows: -

1. This is a quiet residential area and having a bed and breakfast will create an increase in traffic and movement of people and will disturb the peace;
2. Guesthouses are notorious for people getting together having parties, consuming alcohol, playing music and the like ;

3. We have also noticed an escalation of parking that comes with a bed and breakfast as they have limited space and parking for guests ,visitors and suppliers, inevitably guests end up using the street parking, causing congestion;

4. With a low income bed and breakfast, prostitutes are attracted to the area without the owners being necessarily aware thereof or encouraging some (we do not suggest that the owner would encourage this) ;

5. The character of the area is being transformed from a quiet residential area to a bustling business area with Salons' and bed and breakfasts' mushrooming everywhere. We don't consider this in the best interests of the residents';

6. In a residential area , we expect children to be able to ride their bicycles and walk in the street freely without having to look out for the bustling traffic in the area ;

**Kindly acknowledge the objection.**

Yours Faithfully



---

Ismail Dawjee

Dear Sir/Madam

**RE: APPLICATION FOR REZONING OF PORTION ERF 1427 NEWCASTLE  
FROM DETACHED RESIDENTIAL TO RESIDENTIAL ONLY OF HIGH DENSITY,  
TO ESTABLISH A GUEST HOUSE**

I refer to the above application, which is required to be filed by no later than 30 days from 25<sup>th</sup> September 2020.

I have the following objections and statements:

1. I am the owner of the house situated at 14 Earl Street. The property currently in the process of applying to be rezoned neighbours my property.
2. I note the rezoning is to establish a guest house.
3. I have read the objection of **Zaahed Noorget**, and I agree with the contents thereto and object on the same grounds as set out therein as if they were specifically incorporated herein by myself. I have attached **Zaahed Noorget's objection** for your ease of reference.

Based on the above, I consequently object to the proposed rezoning.

Yours faithfully,



**Ismail Kharwa**

6704165054082

Cell: 0836315125

**REPUBLIC OF SOUTH AFRICA**  
**NATIONAL IDENTITY CARD**

Surname:  
**KHARWA**  
 Names:  
**ISMAIL AHMED**  
 Sex:  
**M**  
 Nationality:  
**RSA**  
 Identity Number:  
**6704165054082**  
 Date of Birth:  
**16 APR 1987**  
 Country of Birth:  
**RSA**  
 Status:  
**CITIZEN**

Signature:

**ID**

Dear Sir/Madam

**RE: APPLICATION FOR REZONING OF PORTION ERF 1427 NEWCASTLE FROM DETACHED RESIDENTIAL TO RESIDENTIAL ONLY OF HIGH DENSITY, TO ESTABLISH A GUEST HOUSE**

I refer to the above application, which is required to be filed by no later than 30 days from 25<sup>th</sup> September 2020.

I have the following objections and statements:

1. I am the owner of the house situated at 10 Earl Street. The property currently making application to be rezoned borders my property.
2. I note the rezoning is to establish a guest house.
3. My concerns are these:
  - 3.1 To my understanding in KwaZulu-Natal, the maximum number of guest bedrooms in a B&B is three, and that only breakfast may be served.
  - 3.2 Any application received by the Municipality for a B&B establishment with more than 3 bedrooms is automatically treated as a guest house, and not as a B&B.
  - 3.3 A guest house is a commercial accommodation establishment offering between 4-16 bedrooms, Breakfast and dinner are made available to guests.
4. As noted above, the rezoning is to enable a guest house to be developed. The number of bedrooms and expected guests could range significantly as one could imagine between 4-16 bedrooms, the higher amount being unlikely, but not impossible, as I am advised that the applicant intends to create a double storey building.
5. I therefore must object in that the nuisance that can be expected from a guest house between 4-16 bedrooms is not reasonable and "to-be-expected-in-the-circumstances" of our neighbourhood and as my neighbour, on the following premise substantiated by law:

## **6. Potential Noise nuisance**

6.1 the locality in which noise occurs is very important. There is a saying, "that which is reasonable at midday might be unreasonable at midnight".

6.2 if the applicant intends to proceed with a guest house the applicant will be providing dinner and breakfast to the guests. My concern is that of the locality of where the guests will be eating and the kitchen which provides the food. These two areas can become very loud, especially in the evening.

6.3 The above being exacerbated if the applicant intends to sell liquor to his guests. I have concerns as to how the applicant would exercise control over his guests, especially if the guests retire to their rooms having liquor and additional 3<sup>rd</sup> parties present. The potential for a precedent to be set where guests have festive and joyous occasions at the expense of the neighbour's peace must be highlighted.

6.4 The applicant has a driveway against the shared wall of our properties, the said driveway is also an encroachment servitude registered in favour of my property. It is unfortunate because said driveway will most likely be used by the guests and trucks delivering necessities, this noise and busyness will be significant, bearing in mind the density potential envisaged for the guest house. The arrival of staff in the early morning and leaving in the late evening is unfortunately a consequence of a guest house. This additionally adds to the traffic noise and associated busyness noise.

6.5 It would be unreasonable for me to have to endure noise emanating beyond the applicant's property every day in the early morning and especially at night. The sanctity of sleep cannot be overstressed and is firmly protected in law.

6.6 I have no objection to noise emanating from a building that cannot be heard beyond the boundaries of the property. I also understand that one cannot reasonably control all sound emanating from social/business engagement and that at times we must "live and let live". However, for the reasons above regarding the potential for unreasonable nuisance I must object.

## **7. Privacy and space**

7.1 if the applicant intends to develop a double storey building, my concern is in regard to which direction the windows will face. If the windows provide a view over my property I object on the grounds of privacy. I must strongly object to the situation where strangers are able to see into my property. This detracts from our right to privacy, dignity and safety as provided for in the constitution.



7.2 I am additionally concerned about parking space for the applicant's guests and guest's visitors.

7.3 The volume of rooms will require significant parking. Cars parked in the street will detract from the homely environment of the neighbourhood and said cars should ideally be parked inside the property.

7.4 Cars parked in the street are potential targets for crime which I do not want any owner to endure. Neither do I or any other reasonable person want to attract the attention of "bystanders". The reasons again are our rights to privacy and security.

## **8. Reasonableness and coming with the nuisance:**

8.1 For the reasons stated herein, from detached residential to residential only of high density (up to 16 rooms) is a significant difference which cannot merely go unscrutinised and must be reasonable if the decision is made.

8.2 Reasonable would be the establishment of a bed a breakfast as it is capped at 3 Bedrooms. This is currently the situation with my rear neighbour at 16 Greaves street who runs the Executive House Bed and Breakfast.

8.3 I myself am the owner of a B&B and as such I am objectively aware of the noise and disturbance a B&B brings to neighbouring properties.

8.4 Consequentially, bringing a guest house to our front door entails a substantial change in our neighbourhood environment and identity, which is a quiet and peaceful area as is.

8.5 On the above statements and reasons I must object that a high density residential zone is to be expected, and it is not reasonable as a B&B would be expected and reasonable in the current circumstances, let alone the potential for a guest house to fill to capacity of up to 4-16 bedrooms. Furthermore, a guest house would be "coming with the nuisance" and further adds to the unreasonableness that may be brought by the proposed guest house.

## **9. Summary**

9.1 In conclusion, the potential for noise caused by guests, employees and vehicles at odd hours of the morning and at night is a reasonable ground to object on, in that the volume, relevant time and proximity (kitchen, eating rooms, driveway) of the situation are not in favour of the applicant.

9.2 The potential for strangers being able to peer through the envisaged windows and see into my property and neighbours is a reasonable ground to object on. Our security, dignity and privacy must be of importance.

9.3 The potential for cars to be parked outside the property and the resultant attraction of criminal activity is a reasonable ground to object on. Collectively our security and privacy must be protected.

9.4 The neighbourhood's identity is to be maintained and that by developing a guest house it would be "bringing the nuisance" to our quiet neighbourhood and which is not to be expected in these circumstances.

Based on the above, I consequently object to the proposed rezoning.

Yours faithfully,

**Zaahed Noorget**

17/10/20

DBM Office Park, Corner of Memel Rd  
& Allen Street, 4 Volksrust Road, Newcastle  
PO Box / Posbus 117, Newcastle  
Docex 5, Newcastle, 2940

Personal E-mail: tyronb@dbmlaw.com  
Tel. No: 034 328 1300  
Direct Tel. No: 034 328 2324  
Fax No: 034 328 1349

BEE CONTRIBUTOR LEVEL 3: Certificate No. RS-12092-0620-C31-R1



dbm attorneys  
prokureurs • abameli

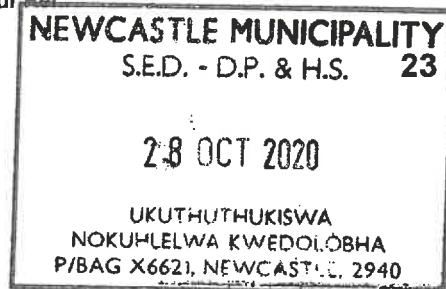
ORIGINAL

Our Ref.:

Your Ref.:

MR BHEKI THUSI  
NEWCASTLE LOCAL MUNICIPALITY  
TOWN PLANNING DIRECTORATE  
NEWCASTLE

By Email: bheki.thusi@newcastle.gov.za  
townplanning@newcastle.gov.za



23 October, 2020

"BY EMAIL"

RE: APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT  
ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS

PROPOSED REZONING OF PORTION OF ERF 1427 NEWCASTLE FROM DETACHED  
RESIDENTIAL (SINGLE RESIDENTIAL) TO RESIDENTIAL ONLY OF HIGH DENSITY  
(GENERAL RESIDENTIAL 3) TO ESTABLISH A GUEST HOUSE (12 EARL STREET, CENTRAL,  
NEWCASTLE)

## OBJECTION

OUR CLIENT: ISMAIL KHARWA

We act on instruction of our abovenamed client, owner and resident of the neighbouring property,  
being 14 Earl Street, Central, Newcastle.

It is our client's instruction to object to the application as advertised in the Newcastle Advertiser on  
25 September 2020 (annexed hereto marked "A").

Our client objects to the application on the following grounds:

- 1) The building which the applicant intends on erecting on the property is a double story which  
will be invasive of her privacy;
- 2) The Scheme stipulates that Residential Only High Density must have a minimum erf size of  
2,000m<sup>2</sup>. The applicant's property is 1474m<sup>2</sup> less the servitude of encroachment registered  
in favour of 10 Earl Street, Central, Newcastle, leaving only 1374m<sup>2</sup>;

TOWN PLANNING		A/I	NAME	DATE	SIGN
	SED				
	DIR				
	PA/SECR				
	LUMS		A SHA		
	SP				
	GIS				
	ADM				

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Directors / Direkteure: G.C. Coetzee (B. Iuris. LL.B.); W.J.S. Jooste (B. Iuris. LL.B.);  
A. Peens (B.Proc); L. Grobler (B.Proc); C Walker (LL.B); N.E. Nkomo (LL.B)  
Non-Executive Director: L. Mokgoro (LL.B. LL.M)  
Assisted by / Bygestaan deur: M.S. Gumbi (LL.B); K Maharaj (LL.B); E Bezuidenhout (LL.B)  
Consultant / Konsultant: S.W. Saville (NLC.); J.J. de Jager (B. Iuris)

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- 3) The Applicant intends on erecting a Guest House with 14 rooms, each room requiring a parking bay as well as one guest parking bay per every two rooms;
- 4) The property does not have capacity for 14 to 21 vehicle parking bays, meaning that space will have to be allocated on the street for parking;
- 5) 14 to 21 vehicles parking in the street will not only restrict the flow of traffic but will also cause a security risk in the area leading to an increase in crime;
- 6) Consumption of alcohol on the property, increased traffic and noise in the area will also contribute to our client's use and enjoyment of her property being disturbed and infringed upon.

It is our client's further instructions to bring to your notice that there are about nine Guest Houses within a 1.5km radius of her property which have already lead to issues in the area insofar as traffic is concerned due to vehicles parking on the street.

You are kindly requested to acknowledge receipt hereof and to consider our client's objections to this application.

Yours Faithfully



**TYRON BOTHA**  
**CANDIDATE ATTORNEY**  
**DBM ATTORNEYS**

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Assisted by / Bygestaan deur: N Nkosi (LL.B)

Consultant / Konsultant: S.W. Saville (NLC.); J.J. de Jager (B.Iuris)

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**ORIGINAL**

Our Ref.:

Your Ref.:



**MR BHEKI THUSI  
NEWCASTLE LOCAL MUNICIPALITY  
TOWN PLANNING DIRECTORATE  
NEWCASTLE**

By Email: bheki.thusi@newcastle.gov.za  
townplanning@newcastle.gov.za

**"BY EMAIL"**

**RE: APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS**

**PROPOSED REZONING OF PORTION OF ERF 1427 NEWCASTLE FROM DETACHED RESIDENTIAL (SINGLE RESIDENTIAL) TO RESIDENTIAL ONLY OF HIGH DENSITY (GENERAL RESIDENTIAL 3) TO ESTABLISH A GUEST HOUSE (12 EARL STREET, CENTRAL, NEWCASTLE)**

**OBJECTION**

**OUR CLIENT: ZAAHEDA NOORGET**

We act on instruction of our abovenamed client, owner and resident of the neighbouring property, being 10 Earl Street, Central, Newcastle (Erf 1428).

is our client's instruction to object to the application as advertised in the Newcastle Advertiser on 5 September 2020 (annexed hereto marked "A").

Our client objects to the application on the following grounds:

- 1) The building which the applicant intends on erecting on the property is a double story which will be invasive of her privacy;
- 2) A servitude of encroachment and a party wall was registered over the property in favour of our client as per the Title Deed annexed hereto marked "B";

	A/I	NAME	DATE	SIGN
TOWN PLANNING	SED			
	DIR			
	PA/SECR			
	LUMS	A BHEKI/SPHE		
	SP			
	ADM			

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A. Peens (B.Proc); L. Grobler (B.Proc); C Walker (LL.B); N. E. Nkomo (LL.B)  
Non-Executive Director: L. Mokgoro (LL.B. LL.M)  
Assisted by / Bygestaan deur: M.S. Gumbi (LL.B); K Mahiraj (LL.B); Bezuidenhout (LL.B)  
Consultant / Konsultant: S.W. Saville (NLC.); J.J. de Jager (B.Iuris)

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- 3) The Scheme stipulates that Residential Only High Density must have a minimum erf size of 2,000m<sup>2</sup>. The applicant's property is 1474m<sup>2</sup> less the servitude of encroachment, leaving only 1374m<sup>2</sup>;
- 4) Our client, being the Dominant Owner, was never consulted in this matter, nor has she given any consent regarding the abovenamed application;
- 5) The Applicant intends on erecting a Guest House with 14 rooms, each room requiring a parking bay as well as one guest parking bay per every two rooms;
- 6) The property does not have capacity for 14 to 21 vehicle parking bays, meaning that space will have to be allocated on the street for parking;
- 7) 14 to 21 vehicles parking in the street will not only restrict the flow of traffic but will also cause a security risk in the area leading to an increase in crime;
- 8) Consumption of alcohol on the property, increased traffic and noise in the area will also contribute to our client's use and enjoyment of her property being disturbed and infringed upon.

It is our client's further instructions to bring to your notice that there are about nine Guest Houses within a 1.5km radius of her property which have already lead to issues in the area insofar as traffic is concerned due to vehicles parking on the street.

You are kindly requested to acknowledge receipt hereof and to consider our client's objections to this application.

Yours Faithfully

  
**BYRON BOTHA**  
**CANDIDATE ATTORNEY**  
**DBM ATTORNEYS**

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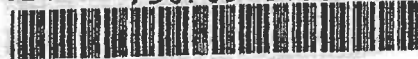
2. Indien u van adres verander het, of indien besonderhede van u huidige adres, by. straatnaam en/of nommer, ens. verander het, moet die vorm KENNISGEWING VAN ADRESVERANDERING, wat in die sakkie agter in die identiteitsdokument is, gebruik word om die verandering aan te meld en moet dit ingedien word by of gepos word aan die naaste streek-distrikkantoor van die DEPARTEMENT VAN BINNELANDSE SAKE.

REGISTERED RESIDENTIAL AND POSTAL ADDRESS

1. Keep the proof of your REGISTERED RESIDENTIAL AND POSTAL ADDRESS in this pocket.

2. If you have changed your address, or, if particulars of your present address, e.g. name of street and/or street number, etc., have been changed, the NOTICE OF CHANGE OF ADDRESS form in the pocket at the back of the identity document must be used to report the change and it must be handed in at or posted to the nearest regional/district office of the DEPARTMENT OF HOME AFFAIRS.

I.D.No. 750703 0037 08 6



S.A. BURGER/S.A. CITIZEN

VAN/SURNAME

NOORGET

VOORNAME/FORENAMES

ZAAHEDA

GEBOORTEDISTRIK OF LAND/  
DISTRICT OR COUNTRY OF BIRTH

SOUTH AFRICA

GEBOORTEDATUM/  
DATE OF BIRTH

1975-07-03

DATUM UITGEREIK  
DATE ISSUED

1993-09-14



UITGEREIK OP BEZAG VAN DIE  
DIREKTEUR-GENERAAL:  
BINNELANDSE SAKE

ISSUED BY AUTHORITY OF THE  
DIRECTOR-GENERAL:  
HOME AFFAIRS



**Annexure C**  
**Response Letter to Objections**

AK & S. I Gerber  
12 Earl Street  
Newcastle  
Central  
allankevingerber@gmail.com

The Newcastle Municipality  
The Town Planner  
Murchison Street

19 February 2021

**Attention: Mr B. Thusi**

Dear Sir

**RESPONSE TO OBJECTIONS TO THE PROPOSED REZONING OF PORTION OF  
ERF 1427 NEWCASTLE FROM DETACHED RESIDENTIAL (SINGLE  
RESIDENTIAL) TO RESIDENTIAL ONLY OF HIGH DENSITY (GENERAL  
RESIDENTIAL 3) TO ESTABLISH A GUEST HOUSE: 12 EARL STREET,  
CENTRAL, NEWCASTLE**

The application mentioned above refers.

**1. THE APPLICATION**

The application under consideration is for the Proposed Rezoning of Portion of Erf 1427 Newcastle from Detached Residential (Single Residential) to Residential Only of High Density (General Residential 3) to establish a Guest House.

**2. PURPOSE OF THE SUBMISSION**

The dual object of our submission is to present our response to the objections and to make the case for consideration for approval of our application by the Municipal Planning Tribunal. We attempt to demonstrate to the municipality that most of these objections are not material considerations towards making a planning decision and that they therefore, cannot affect the granting of planning permission to our application.

**3. SUMMARY OF OBJECTIONS AND RESPONSES**

For convenience, we have grouped the issues raised by the objectors to our application and provided our responses accordingly.

**3.1 *Objection:* The increase in traffic and movement of people will disturb the peace**

***Response:*** The scale of the proposed development is small and is not associated with high volumes of traffic as alleged hence it cannot be turned down on this ground. The facts are presented below.

- a) The scale of the proposed development is small and is not a generator of high volumes of traffic as implied. It is isolated and is not part of a busy complex. This is a predominantly residential area with normal low volumes of vehicular traffic. The proposed development does not have the capacity to generate large volumes of traffic to create traffic problems in the area as feared.
- b) Residential areas are designed fundamentally, as living areas for people. Movement by people in a residential area is therefore naturally expected. It is inconceivable how people (including the objector and family) walking about on a street in an area reserved as their living space, can disturb the peace. This objection is therefore, not valid.
- c) We are certain that Newcastle Municipality has the best interests of its residents and developers at heart and that it will view the proposal progressively as it has a by-law enforcement unit charged with land use management and enforcement in the town.
- d) Furthermore, the application was circulated to the municipal traffic department and no objections nor adverse comments on any foreseeable adverse impacts were expressed by traffic management specialists.

**3.2 Objection: Guesthouses are notorious for people getting together having parties, consuming alcohol, playing music and the like**

**Response:** This is an invalid general statement which does not apply to this application which is in accordance with and will comply with the provisions of the applicable laws. We elaborate further, hereunder.

- a) We propose a facility with a well-defined organisational management structure within the established institutional arrangements for the operation and management of such facilities in terms of the applicable laws. Furthermore, the provision of our services will be subject the applicable by-laws, terms and conditions.
- b) A generalisation of this nature is dangerous and is in this case, baseless for a development which is at a proposal stage and has not been associated with this imaginary negative perception. There are many guest houses which offer decent accommodation in the town and elsewhere, are endeared by clients as comfortable living facilities and in some cases, in a manner even better than some normal family residences. This baseless generalisation is not grounded on foreseen impacts of this particular facility and must be dismissed.
- c) This development is specifically for decent accommodation and is not intended as a venue for rowdy undesirable social events in a residential area.
- d) Newcastle has an abundance of venues in appropriately designated zones for the activities mentioned above and we fail to see how the proposed establishment is intended for such undesirable activities. The objector seemingly has experience of the negative operation of similar establishments elsewhere. We therefore urge the municipality to consider the basis for objection as irrelevant to this application hence it is only appropriate that our application be considered on its own merits and not based on illusionary speculative assumptions.

- e) To allay the objector's negative perceptions we would like to indicate that we are lodging this application for planning permission as provided in and subject to provisions of the applicable laws. Furthermore, as far as we know, Newcastle municipality has the professional by-law enforcement capacity to regulate the proposed development in terms the relevant by-laws.

**3.3 Objection: Shortage of parking resulting in the negative impacts on traffic**

**Response:** This objection is irrelevant to this proposal as our proposed developed conforms to minimum requirements on parking. The facts are briefly stated below:

- a) The objector's fear of a possible shortage of parking and adverse traffic impacts is seemingly based on experience in similar establishments elsewhere and is once again, a generalisation, is not applicable to this proposal and cannot be used speculatively for a decision against our application.
- b) Parking will be provided at a ratio that is in line with the Newcastle Town Planning Scheme. The Newcastle Municipality will consider parking among other issues when considering this application. The Newcastle Town Planning Scheme has clear development controls per zone/erf. Applications submitted to the municipality are assessed for compliance with parking requirements and our proposal complies with the minimum parking standards in line with the municipal requirements. The application was assessed by professionals charged with the traffic management responsibility and they were not against our proposal.

**3.4 Objection: With a low income bed and breakfast, prostitutes are attracted to the area without the owners necessarily aware of or encouraging it.**

**Response:** The assertion above is unfortunately based on misdirected profiling. It is prejudiced, alarmingly derogatory and is not a valid objection. In fact, it casts aspersions on us and our prospective clients and exceeds the limits of decent comment. We elaborate further as follows:

- a) The assertion above is very unfortunate and insensitive. It is pregnant with prejudice and is alarmingly derogatory. This irresponsible utterance casts aspersions on us as prospective developers and is potentially damaging to our integrity and those clients who might use our facility should our application for planning permission be granted. To imply the possibility of our prospective clients to be prostitutes is not only a potential human rights violation, insensitive but disparagingly harmful to us and our prospective clients. This is not a material planning consideration in the assessment of this application...
- b) As well-meaning people, we are disappointed that the objector would harbour such hideous insinuations about our proposal. At the very best, instead of the senseless self-contradiction by the objector on the same line, they should have realised the potential implications of their opinion than to carelessly put it to paper. The objector's not well-thought out opinion is not worthy of any favourable consideration by the municipality.

- 3.5 Objection:** The changing character of the area from a quiet residential area to a bustling business area is not in the best interests of the local residents and children will not be able to play in the area anymore.

**Response:** The structure of towns and land use activity systems are neither fixed nor static but are constantly in motion in response to ever-changing urban dynamics. We elaborate of this assertion below:

- a) Towns and cities are neither static nor dead places, they have a life and 'we need approaches that reflect an understanding of the city as a living entity, as a constantly changing whole that is capable of learning' (C. Pearson, 2007). Indeed, towns are alive and adapt to changing circumstances as societies change in their developmental cycles and so is Central.
  - b) Put differently, Newcastle was never what it is today since it was first established. It is flourishing today because it had to undergo change structurally and this is noticeable through spatial changes in land use zones and uses on even in response to development pressures. As this change happens over time, it does not just happen on its own but is driven by entrepreneurial initiatives under the guidance of development planning, other built-environment professionals and local communities (residents) themselves.
  - c) The reality of trends in the development of urban or rural areas, including Newcastle and in Central in particular, is that there is invasion and succession by development waves triggering land use changes. The Central Area has been undergoing change for some time now and this happens within the framework of the Spatial Development Framework and Newcastle Town Planning Scheme and involvement of various stakeholders. The momentum influencing the changing character of Central is real and evident and is there for all to see. What is evident empirically is that people have attempted to resist land use change (planners included) but with great difficulty. Such is the nature of urban dynamics over time and for the municipality to resist the changing spatial structure and land use zones would amount to interference with the town's development cycle and that might have adverse implications for the town's development vision.
  - d) In terms of the fear of the loss of play areas for children, we would like to indicate that the immediate vicinity of our proposal is characterised by hard building development and is therefore not contributing to the loss of public play areas in the locality. In fact, there is a play park within 100 metres of the property at the corner of Hospital Street and Sutherland Road. This objection is therefore invalid.
- 3.6. Objection:** The proposed extension of entails the construction of a double storey building which will be invasive of the privacy of the neighbouring property (Erf 1428 Newcastle).

**Response:** The building plans have been changed from a double storey to a single storey building hence the issue of invasion of the neighbour's privacy does not arise. The plans are available for the objector's inspection.

**3.7 Objection:** The scheme stipulates a minimum size of 2000m<sup>2</sup> for residential high density.

**Response:** The proposed development erf size complies with the norm in the planning field that an exemption of below and above 10% threshold in any value or deviation is accepted. We explain further as follows:

- a) The property is less than 2000m<sup>2</sup> and measures 1474m<sup>2</sup> in extent: the Newcastle Town Planning Scheme after amendment and adoption in 2016, required a minimum of 1500m<sup>2</sup>. With that said, it has always been a norm in the planning field that an exemption of below and above 10% in any value or deviation is accepted. This is a technical matter which will be decided upon by the municipality.

**3.8 Objection:** There is an encroachment servitude and a party wall registered against our property (Erf 1428 Newcastle) and the party in question was not consulted:

**Response:** We are aware of the servitude but it is disingenuous for the objector (owner of Erf 1428 Newcastle) to now seem to have a problem with a servitude which for all along has been in existence. We do not expect the owner to unreasonably determine how we use our property on account of the servitude. It is also not the correct position to suggest that the objector was never consulted as all notices were delivered physically and signed for upon delivery under the prevailing Covid 19 environment. We provide further facts below.

- a) It is disingenuous for the objector to now have a problem with a servitude which for all along has been in existence and that they used to own our property and allowed the reservation for a party wall servitude at the time of disposal of the their property then.
- b) The servitude has always been used for the fitting purpose and will continue being used as such, responsibly. The neighbour cannot unreasonably determine how we use our property based on the said servitude.
- c) The delivery of notices of the application to owners within 100 metres of the property was done in a physical address mode under the difficult Covid-19 pandemic environment. Several systems and services were disrupted as a result of the Covid 19 regulations and protocols and physical address delivery remained as a reliable alternative. All notices were signed for upon delivery as per the consultation list.
- d) It is therefore, not the correct position and misleading to suggest that the owner of Erf 1428 Newcastle was never consulted as all notices were delivered physically to addresses and signed for upon delivery by owners or were received on behalf of owners. Besides, responses were obtained from other property owners whose notices were served in the same manner.

### 3.9 **Objection: Existence of other guest houses within 1, 5 km of the site**

**Response:** Establishments within 1,5km or more from the proposed establishment have no bearing, inconsequential and cannot be cited as grounds to object to our application. We provide a brief below.

- a) Our proposal does not have any relation with or impact in its immediate vicinity arising from the existence of other guest houses in the locality. There are many other establishments in the town and such establishments cannot be cited as grounds to object to our application.

### 3.10 **Reasonableness and coming with the nuisance as expressed by the owner of Erf 1428 Newcastle**

**Response:** This personal basis for objecting is misplaced and irrelevant as we are directing this application to the municipality's professional assessment and not for the objector's consideration. The objector even suggests their ownership of a B&B. This is an irrelevant and invalid objection and we will not accord it unwarranted attention.

## 4. **CONCLUSION**

In conclusion, we would like to highlight the following:

- We are not quite sure if the objectors visited the Municipality to view the application including the site development plans. We also wonder if the Newcastle Town Planning Scheme was perused by the objectors and whether the objectors ever requested any clarification regarding interpretation.
- The structure of towns and land use activity systems are neither fixed nor static but are constantly in motion, are living entities and constantly undergoing change in many fronts and facets.
- The Central Area has been undergoing change for some time and this happens within the framework of the Spatial Development Framework and Newcastle Town Planning Scheme
- Some of the objections are based on generalisations based on similar establishments elsewhere and therefore their objections are speculative.
- The perception of our proposal in disparagingly derogatory light does not only profile us negatively but our prospective clients as well and is unfortunate.
- Some of the comments are not made in good faith but are desperately intended to get our application not to be approved but as matters stand, the objections are generally weak and in most cases invalid.
- We propose a facility with a well-defined organisational management structure within the established institutional arrangements for the operation and management of such facilities in the town
- The proposed development is specifically for decent accommodation and not is intended as a venue for rowdy undesirable social events in a residential area
- We are lodging this application for planning permission within the confines of and subject to provisions of the applicable laws.



- The building plans are available for inspection and have been changed from a double storey to a single storey building hence the issue of invasion of the neighbour's privacy does not arise.
- Establishments within 1, 5 km or more from the proposed establishment have no bearing, inconsequential and cannot be cited as grounds to object to our application.
- Personal opinion as a basis for objecting is misplaced and irrelevant as we are directing this application to the municipality's professional assessment and not for the objector's consideration.

Having stated our case on the objections received, we trust that the Newcastle Municipality would consider our application favourably

Yours faithfully



A.K. & S.I. Gerber

**Annexure D**  
Report Submitted to MPT

**APPLICATION IN TERMS SPATIAL PLANNING LAND USE MANAGEMENT ACT (ACT 16 OF 2013) REGULATIONS AND BYLAWS: REZONING OF ERF 1427 NO. 12 EARL STREET NEWCASTLE WEST FROM "DETACHED RESIDENTIAL" TO "RESIDENTIAL ONLY HIGH DENSITY" FOR THE PURPOSE OF ESTABLISHING A GUEST HOUSE: TP (13/3/3-1427) (MAY 2021) - WARD 34**

**SECTION 1**

**1. EXECUTIVE SUMMARY**

An application in terms of the Spatial Planning and Land Use Management Act No. 16 of 2013 Regulations and Bylaw's has been received from Allen Kevin Gerber the registered owner of the property. The purpose of the application for the rezoning of Erf 1427 Newcastle from "Detached Residential" to "Residential Only High Density" for the purpose of establishing a Guest House.

The subject property is located at no. 12 Earl Street, in Central, a residential suburb of Newcastle. The subject property measures approximately 1476 m<sup>2</sup> in extent and is currently zoned for Detached Residential purposes, according to the Newcastle Town Planning Scheme and surrounding properties are used for dwelling purposes. In this instance, the property fall short of the required minimum site size by 24 m<sup>2</sup>; the required minimum site size is 1500 m<sup>2</sup>. it is the general practise that discretion may be exercised on the 10% mark.

The application underwent a public participation process from the 25<sup>th</sup> of September 2020 to the 26<sup>th</sup> of October 2020 where the application was advertised in the local newspaper, i.e. the Newcastle Advertiser, a public notice placed on site and notices were served to abutting property owners within a 100m radius via hand delivery for comments/objections on the application and seven (7) objection/s were received which were mainly about nuisance, privacy, character of an area, site size, and parking will accompany this type of development. A meeting with the objector's representatives and the applicant's representatives was held on 23 March 2021 to deal with objections and see if parties can reach a common ground as indicated on point 7 of this report.

The application has been assessed in conjunction with the comments received from various departments and town planning rationale. From a Town Planning point of view the application for the rezoning of Erf 1427 Newcastle from Detached Residential to High Density Residential for the purpose of establishing a Guest House, is supported based on the conditions imposed.

**2. PURPOSE**

The purpose of this report is to obtain the Newcastle Municipal Planning Tribunal's decision with respect to the proposed rezoning of Erf 1427 Newcastle from "Detached Residential" to "Residential Only High Density" for the purpose of establishing a Guest House.

**3. RECOMMENDATIONS**

It is recommended that:

1. The Newcastle Municipal Planning Tribunal in terms of the Spatial Planning and Land Use Management Act. 16 of 2013 Regulations and Bylaws, approve the application for the rezoning of Erf 1427 Newcastle from "Detached Residential" to "Residential Only High Density" for the purpose of establishing a Guest House., based on the following reasons:

- a) The proposed development promotes the efficient utilization of existing land resource;
- b) The development will not have any negative impacts on surrounding properties and amenities;
- c) No new infrastructural services will be required as the site has already been developed
- d) The proposed development will broaden the Municipalities rates base.

2. The following conditions shall be applicable to the proposed development:

- (a) This approval is linked to the revised Site Development Plan, **LA (10) 002** should the developer wish to extend, new application must be submitted to the municipality for ;
- (b) The property shall conform to the Land Use Scheme and development controls imposed and its subsequent additions;
- (c) Building plans must be submitted and approved by the Strategic Executive Director: Development Planning and Human Settlements prior to commencement of any major alterations/construction on the property;
- (d) Rubble and building material must not at any stage impede onto the roadway during construction;
- (e) The owner shall construct such facilities as are necessary for the control and disposal of stormwater from the property.
- (f) The developer to install water saving system only, such as water basin taps with faucet aerator, water saving showers etc
- (g) The property has an existing 60A single phase connection, should the applicant require to upgrade the supply to accommodate the aforementioned guest house, costs & regulations shall be as per The Electricity Supply Bylaws and Tariff Structure
- (h) The entrance to the site must not be moved as a result of this development.
- (i) Owner must provide adequate onsite parking;
- (j) No offsite parking of any vehicle allowed without approval of the municipality;
- (k) No loud music and noise between 20:00 pm to 09:00 am;
- (l) All costs incurred as a results of these requirements shall be borne entirely by the owner;

- (m) That this approval shall be subject to review if the municipality is of the opinion that the conditions for which this application is approved have been violated, municipal bylaws flawed, other legislation/s transgressed or any other matter deemed necessary for purpose of this approval to remain in force.

3. Should any party be aggrieved by the decision of the Newcastle Municipal Planning Tribunal, she/he will be informed of their right to appeal the decision within 30 days of being notified of the same.

## SECTION 2

### 4.0 REPORT

#### 4.1 Application background

The registered owner of the property Allen Kevin Gerber and Mrs Sanet Idle Gerber submitted the application in terms of the Spatial Planning and Land Use Management Regulations and Bylaw's. The purpose of the application is for the rezoning of Erf 1427 Newcastle from "Detached Residential" to "Residential Only High Density" for the purpose of establishing a Guest House.

#### 4.2 Property Particulars

Property description:	Erf 1427 Newcastle
Existing Zoning:	Detached Residential
Proposed Zoning:	Residential High Density
Registered property owner:	Mr. Allen Kevin and Mrs Sanet Idle Gerber
Date of Publication:	25 <sup>th</sup> September 2020
Closing date for objections:	26 <sup>th</sup> October 2021
Objections:	Yes
Parking Requirements met:	Yes
Expiring date of application:	17 December 2021
Conditions of Title:	No

#### 4.3 Location context and access arrangements

The subject property is located at no. 12 Earl Street, in Central, a residential suburb of Newcastle. The property gain access and egress from Earl Street.

#### 4.4 Surrounding uses and compatibility of the proposed use

According to the Newcastle Town Planning Scheme, the surrounding properties are zoned for Detached Residential purposes and most of them are solely used for dwelling purposes. The proposed use will be compatible with the surrounding land uses as it will maintain the residential nature of the area. The proposed development will enhance the residential suburb by adding diversity in land uses which are not in conflict with one another.

## 5.0 TOWN PLANNING CONDITIONS AND CONTROL

### 5.1. Existing Land Use Zone

1	2	3	4	5
Use Zone	Scheme Map Notation	Purpose For Which Building May Be Erected And Used	Purpose For Which Buildings May Be Erected And Used With Special Consent Of Council	Purpose Which Buildings May Not Be Erected And Used
<ul style="list-style-type: none"> <li>Detached Residential</li> </ul>	Acid Yellow	Dwelling	<ul style="list-style-type: none"> <li>Additional Dwelling Unit</li> <li>Bed and Breakfast Facility</li> <li>Club building</li> <li>Creche</li> <li>Day care facility</li> <li>Guest house</li> <li>Home business</li> <li>Residential Building</li> <li>Place of instruction</li> <li>Place of physical instruction</li> <li>Place of public assembly</li> <li>Shop</li> </ul>	Buildings and land uses not included in columns (3) and (4)

### 5.2. Development Controls

F.A.R	:	0.40
Building Height	:	2
Coverage	:	40%
Building Line	:	4m
Side/Rear Space	:	2m

### 5.3. Proposed Land Use table

USE ZONE	SCHEME MAP NOTATION	PURPOSES FOR WHICH BUILDINGS MAY BE ERECTED AND USED	PURPOSES FOR WHICH BUILDINGS MAY BE ERECTED AND USED WITH SPECIAL CONSENT OF COUNCIL ONLY	PURPOSES FOR WHICH BUILDINGS MAY NOT BE ERECTED OR USED
Residential Only High Density	Light Brown  C13/3/3/1/10]	Dwelling house Cluster housing Group housing Hotel Residential building	Club building Educational building Institution Hotel Laundrette Professional office Place of instruction	Buildings and other uses not included in columns (3) and (4)

*1991-10-29				
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#### 5.4. Proposed Development Controls

##### Development Controls

F.A.R	:	1.0
Building Height	:	n/a
Coverage	:	n/a
Building Line	:	4m
Side/Rear Space	:	1.5m
Parking requirements :	Parking at least one covered car space for every dwelling unit and an additional one car space for every two dwelling units or part thereof	

#### 6.0 COMMENTS

##### 6.1 Technical Services:

###### Civils

From a Roads and Stormwater point of view, this department has no objection against the application. The entrance to the site must not be moved as a result of this development. All additional stormwater generated as a result of this development, the owner shall construct such facilities as are necessary for the control and disposal of stormwater from the property. All costs incurred as a result of these requirements shall be borne entirely by the owner.

##### 6.2 Electric Power Supply

The Electrical Department has no objection to the Rezoning for Erf 1427 from "Single Residential" to "General Residential" to establish a guest house.

The property has an existing 60A single phase connection, should the applicant require to upgrade the supply to accommodate the aforementioned guest house, costs & regulations shall be as per The Electricity Supply Bylaws and Tariff Structure.

##### 6.3 Water Services Authority:

- Infrastructure water and sewer services are available and will not be affected by the proposed development;
- The developer to install water saving system only, such as water basin taps with faucet aerator, water saving showers etc

##### 6.4 Spatial Planning

- From a Spatial Planning point of view the above application is supported. The proposed development will be compatible with the surrounding land uses of which are mainly residential. The proposed development will also improve densities for the area and optimise existing services in the area.



## **7. OBJECTION DISCOURSE**

### **7.1 Objections and responses**

#### **7.1.1 Summary of Objection**

- The erection of double story will invasive of privacy;
- Land Use Scheme stipulate that the applied zone the applicant must have a minimum site size of 2000sqm and the property is less than that;
- It will change character of the area by attracting unwanted land uses such as salon and attracting prostitution;
- Nuisance caused by traffic movement in the area, parties, loud music and consumption of alcohol;
- Parking requirements not met;
- Consumption of alcohol in the property;
- Nuisance

#### **7.1.2 Response to objections**

- The building plan have been revised from double story to single story dwelling;
- The Land use scheme permits for this property to be rezoned, the norm in planning field that an exemption below and above 10% threshold in any value or deviation is accepted and the adopted Land Use Scheme of 2016 require a minimum of 1500sqm;
- The development conforms to minimum requirements on parking and parking is provided at a ratio that is in line with the Newcastle Land Use Scheme;
- The servitude has always been used for the fitting p purpose and will continue being used as such, responsibly. the neighbour cannot unreasonably determine how use our property based on the servitude;
- The structure of towns and land use activity system are neither fixed nor static but are constantly in notion in response to ever-changing urban dynamics, it is capable of learning, towns are live and adapt to changing circumstances as societies change in their development cycle;
- The development will not contribute to the loss of public play area the area and play park is within 100m of the property;
- Some of the objections are based on the generalization, based on the similar establishment elsewhere and therefore their objections are speculative.

### 7.1.3 Town planning perspective

A meeting was held on the 23<sup>rd</sup> of March 2021 between the objectors and applicant. It is courtesy and required by the Newcastle Municipal Planning Tribunal that a meeting be held between interested and affected parties when there is an objection. At this meeting held, the objections were deliberated upon as indicated above.

At the meeting, the applicant also indicated that in light of the objections and the requirements of the Newcastle Land Use Scheme. The development was reduced from a 2 storey development to a 1 storey development. At the end of the meeting, the objection still stood from the side of the objectors. However, from a town planning point of view, the proposed development is supported for the planning rationale contained in the report.

## 8 COMPLIANCE WITH HIERERCHY OF LAWS

### 8.1 Chapter 1 of the Development Facilitation Act (Act. No. 67 of 1995), Section 3 (c):

- The proposed development aims to execute the notion of utilizing existing resources to their full potential, particularly the land resource. The property enjoys the availability of bulk infrastructure and roads that will effectively accommodate the proposed development.
- The proposed development aims to give effect to the principle of compaction; which encourages a diverse combination of land uses and increasing densities.

### 8.2 Newcastle Integrated Development Plan

- The IDP outlines the need for the municipality to encourage structural and spatial principles that call for higher densities and mixed-use settlements in order to increase the availability of residential units.
- The proposed rezoning and intended development will promote densification as it will contribute to the practice infill development and the principle of intensifying of space.
- The proposed development gives effect to the notion of providing multiple housing choice to achieve sustainable human settlement.

### 8.3 Spatial Development Framework

- The Newcastle SDF, places emphasis on efficient use of land in efforts to curb urban sprawl by implementing the precepts of densification, infill development and the optimal use of existing bulk infrastructure.
- The unlocking of unproductive and/or unused land is encouraged in order to efficiently use the land resource.

#### 8.4 Spatial Planning and Land Use Management Regulations, read with the Newcastle Spatial Planning and Land Use Management Bylaw's

The application done in terms of the Spatial Planning and Land Use Management Regulations read with the Newcastle Spatial Planning and Land Use Management Bylaw's which amongst other requires the following:

- The application was circulated to various internal and external departments for their comments, no adverse comments were received;
- A public notice was placed in the local newspaper inviting interested parties to comment/object to the application within a period of 30 days, seven objections have been received;
- Notices were served to property owners within a 100m radius of the subject site to attain their comments/objections to the application, seven objections were received.

All of the above have been compiled with.

#### 9. Growth Prospects

Newcastle has a very rich history in Newcastle West and on the town's tourism routes. The provision of short term to medium term accommodation is seen as a key aspect in ensuring that the tourism sector of Newcastle thrives. Business has already realised this need and hence the municipality has seen an increase in applications that seek to provide such accommodation. The proposed development does not only provide benefit to the applicant, but also to the town at large; guests also invest in local business through their spending.

Central is the upmarket suburb is quite suitable and desirable for the location of such a development as it is located in close proximity to the Ladysmith Road and Allen Street through Greaves Street and Sunderland Street respectively which makes the site very accessible to potential guests. The provision of short and medium term accommodation will provide a variety in the types of housing or accommodation for different sectors of the economy e.g. tourism, corporate, etc. The existing and supporting bulk infrastructure is readily available to accommodate such a development which will in-turn be utilized to reasonable capacity.

#### 10. Conclusion

In light of the above, the proposed development is supported. The proposed development aims to bring positive impact in the area by introducing a diversity in land uses. The proposed development will provide short to medium term accommodation to the market. The proposed development will be compatible to its surrounding and will complement the surrounding land uses. From a Town Planning view, the proposed amendment of the Newcastle Land Use Scheme by rezoning of Erf 1427 Newcastle from Detached Residential to Residential Only High Density to establish a Guest House, **is supported.**

#### 11. List of Annexures

Annexure A : Site Development Plan Original  
Revised Site Development Plan  
Locality Ariel Photo  
Zoning Map

1346

		Land Use Map
Annexure B	:	Advert placed in Newcastle Advertiser
Annexure C	:	Title Deed
Annexure D	:	Comment from Interested party
Annexure E	:	Response by an Applicant
Annexure F	:	Minutes of the meeting
Annexure G	:	Registered Planners Certificate



S.D. CINDI

**ACTING MANAGER: LAND USE MANAGEMENT**

Date: 3/06/2021

Author: B.C. Thusi

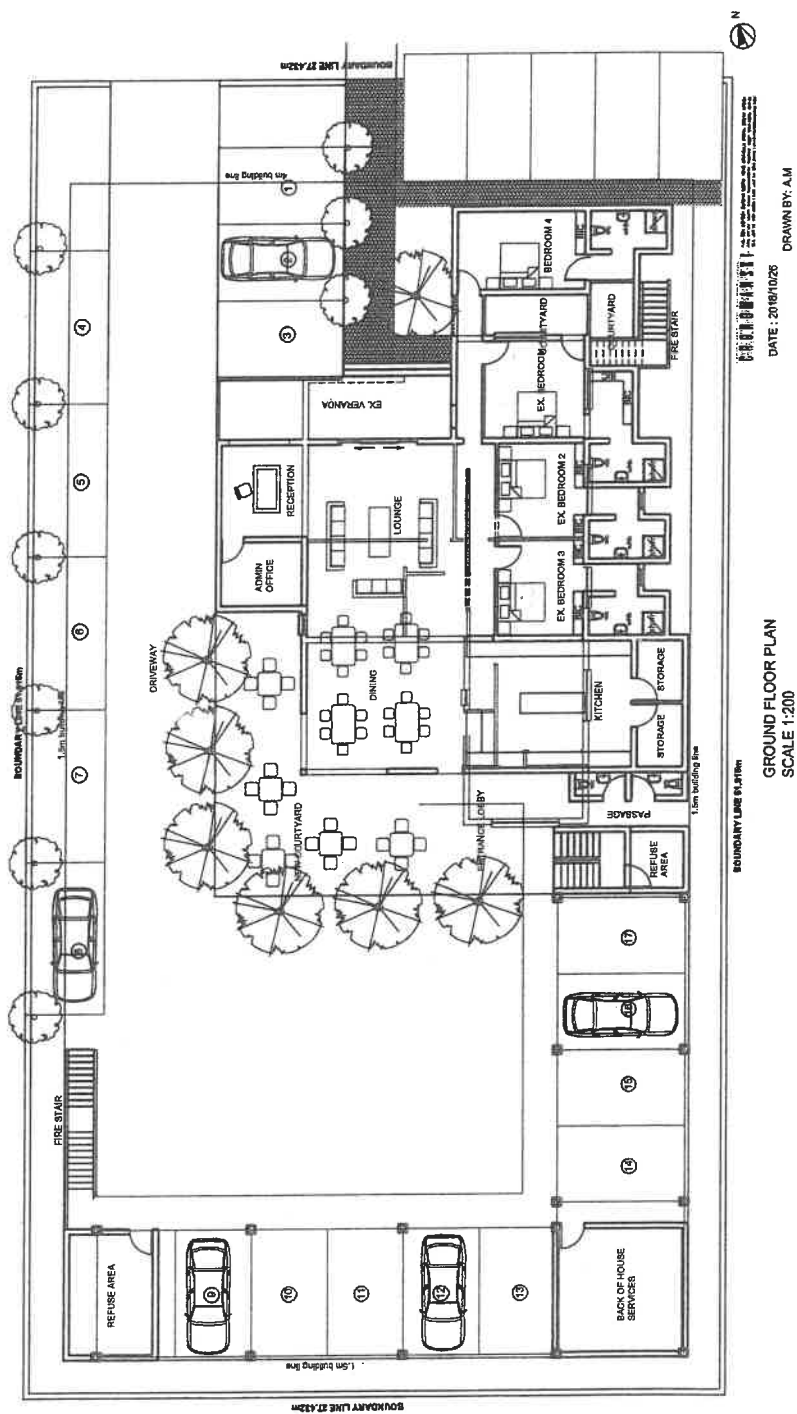
Designation: Technical Planner

Directorate: Town Planning

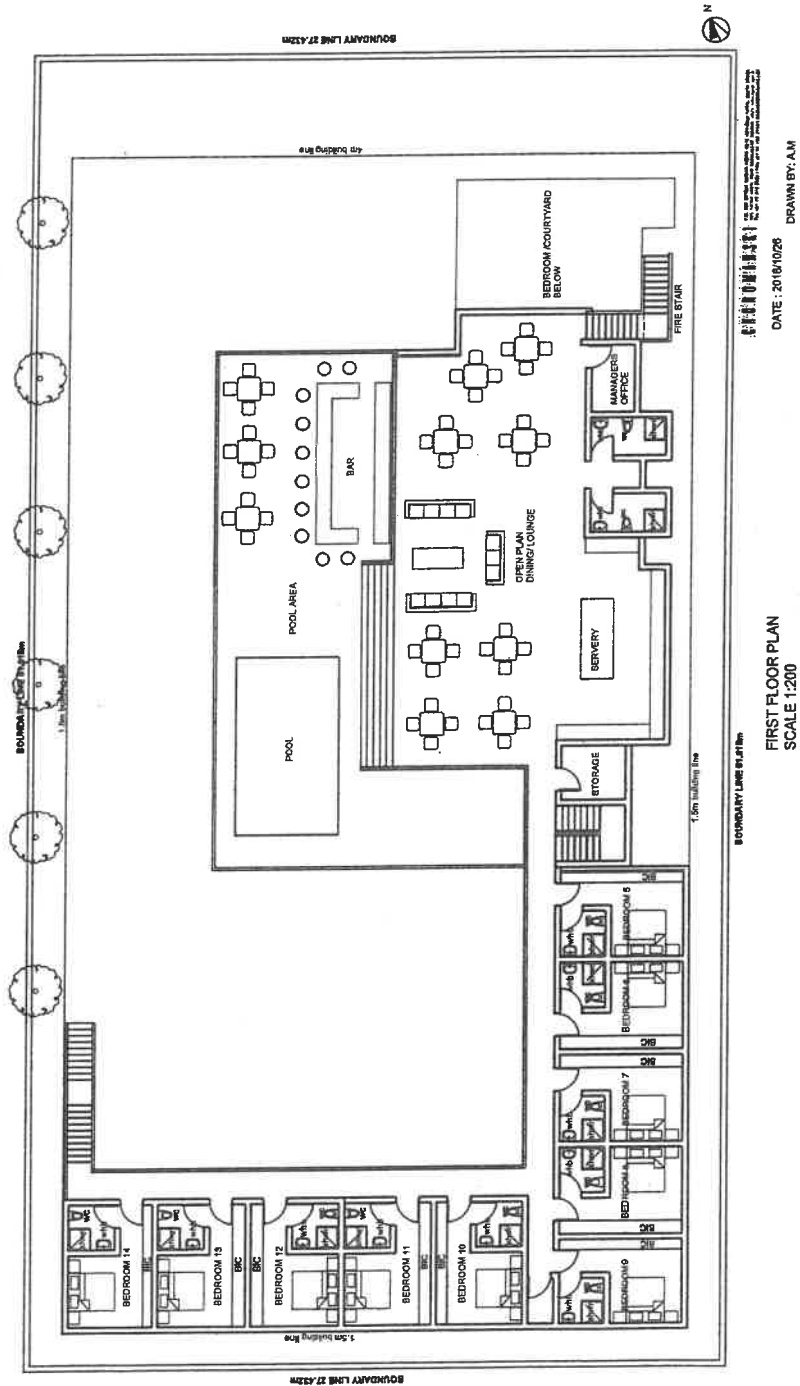
**Annexure A :**

**Site Development Plan Original  
Revised Site Development Plan  
Locality Ariel Photo Map  
Zoning Map  
Land Use Map**

**EARL STREET**

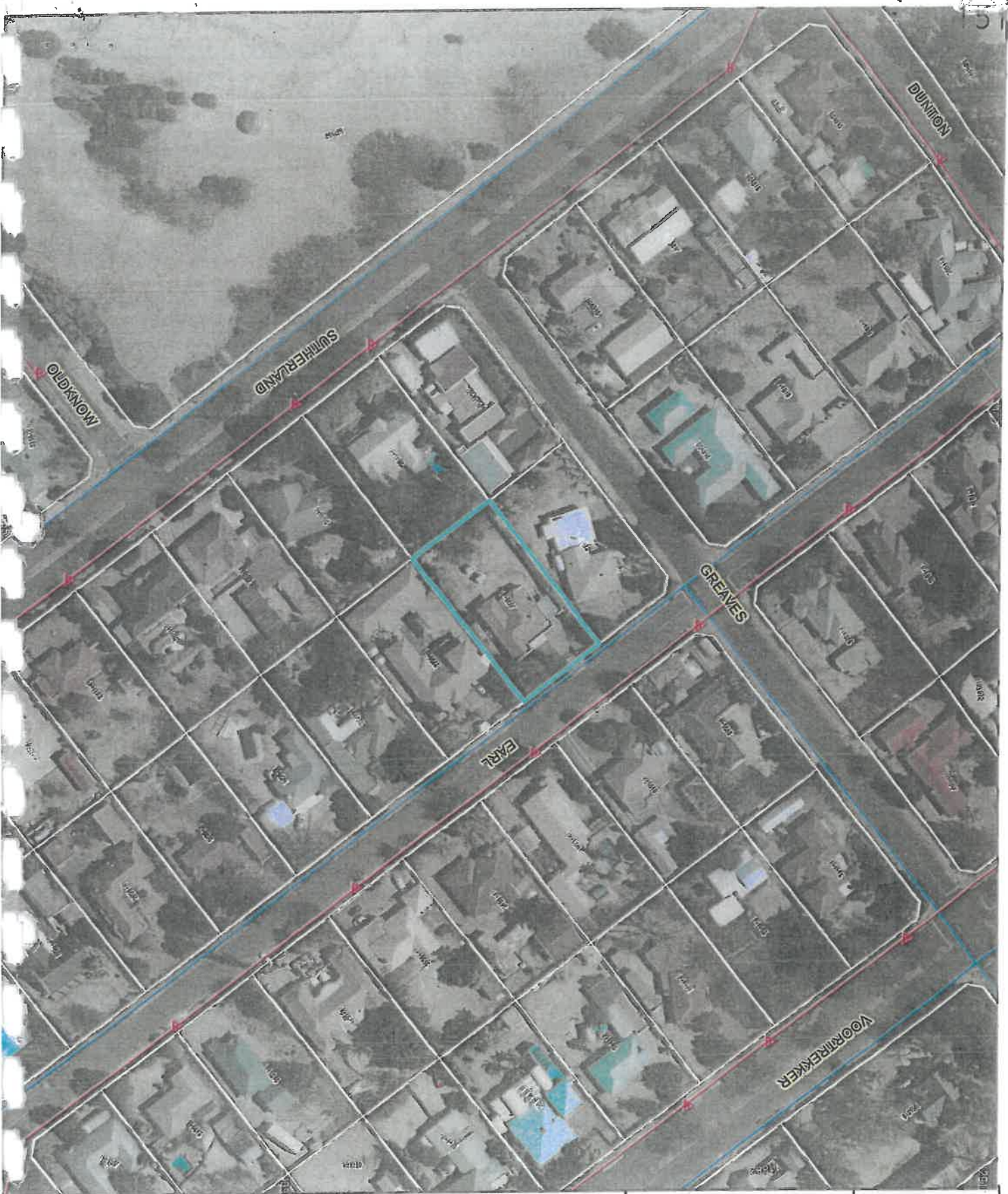


**EARL STREET**



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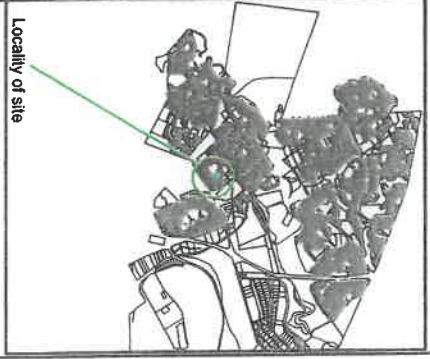




**Title:** Site & Locality Plan:  
**Newcastle Central**  
**Erf No:** 1427  
**Street Address :** 12 Earl Street  
**Area:** 1 479 sqm  
**Zoning:** Single Residential  
**Purpose:** Rezoning Application

**Legend**

- Newcastle Sewer
- Newcastle Water
- Cadastral



**Projection:** Cape 1960  
**Spouse:** WGS84  
**Datum:** Hartebeesthoek, 1994  
**Date:** 02 January 2019

**DIRECTORATE: TOWN PLANNING**



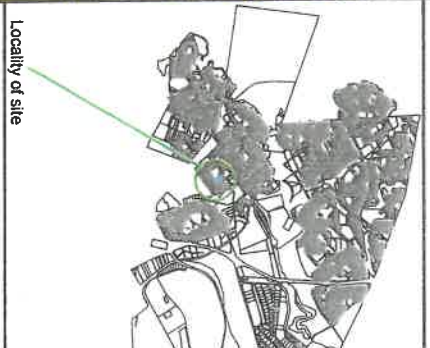


**Title:**  
Zoning Map:  
Newcastle  
Central  
Erf No: 1427  
Street Address : 12 Earl Street  
Area: 1 479 sqm  
Zoning: Single Residential  
Purpose: Rezoning Application

**Legend**

**ZONING**

- Public Open Space
- Single Residential
- Cadastral



Scale 1: 1500

25 12.5 0 25 Metre

**Project:**  
Client: 1427  
Software: WGS84

**Designed by:** Brendle Mathabisa  
GIS Intern

**Date:** 02 January 2019

**DRAWN:** 199

**DIRECTORATE:** TOWN PLANNING

**Signature:**

**NEWCASTLE LOCAL MUNICIPALITY**





Title: Newcastle  
 Land Use Map: Newcastle  
 Erf No: 1427  
 Street Address: 12 Earl Street  
 Area: 1 479 sqm  
 Zoning: Single Residential  
 Purpose: Rezoning Application

**Legend**

**LAND USE**

- Dwelling
- Park
- Vacant
- Cadastral



Locality of site

Scale 1: 1500

25 12.5 0 25 Metre

N

Prepared: 1427  
 Date: 1427  
 Designed by: Bantia Mahala  
 GIS Intern  
 Date: 02 January 2019

DIRECTORATE: TOWN PLANNING

**Annexure B :**  
**Advert placed in Newcastle Advertiser**

## LEGLALS / NOTICES



**LONGBOURNE**  
ESTATE AGENTS

**NOTICE**

In the estate of the late WILLEM ADRIAAN ENGELBRECHT, Identity Number: 440808 5072 085 married out of community of property, last known address, Non Desir, Number 4, Loefer Avenue 19, Avlary Hill, Newcastle, KwaZulu Natal.

Natal's reference number: 000028/2018.

Notice is hereby given that the FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT in the above estate will be for inspection at the Magistrate's Office, Newcastle and the Master of the High Court, Pietermaritzburg and for a period of 21 days as from date of publication hereof.

Dated at Pietermaritzburg this 25<sup>th</sup> day of September 2020.

LONGBOURNE (Pty) Ltd.

Agents for executor testamentary

P.O. Box 800, Pietermaritzburg

Reference: Michelle Brighthurst

e-CMD016452

**APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013 REGULATIONS AND BY-LAWS:**

**APPLICATION FOR CONSENT**

**NEWCASTLE TOWN PLANNING SCHEME:**

Notice is hereby given that an application has been lodged with the Newcastle Municipality for its consent to use:

Erf 6586 (NO. 18 Plat Rotten) Barry Hertzog Park

For the purpose of

Establishing a Residential Commune

Any person desiring to object to this application may do so not later than thirty (30) days from the date of the publication of this notice, by lodging in writing, setting out the grounds of objection, with the Municipal Manager or address below.

Plans and particulars relating to this application may be inspected at Newcastle Municipality Tower Block, Development Planning & Human Settlements (Town Planning, 4<sup>th</sup> Floor) no. 37 Murchison Street, Newcastle, 2040, between 07:30 and 16:00 weekdays.

Enquiries and correspondence can also be directed to NO. 144 Utrecht.

**Form JJJ**

**Lost or Destroyed Deed**

Notice is hereby given in terms of regulation 88 of the Deeds Registries Act, 1937, of the intention to apply for the issue of a certified copy of Deed of Transfer, Number 15281/1980 passed by ISCOR LIMITED in favour of STEPHANUS PETRUS BOSCH and HELENA JOHANNA BOSCH in respect of:

ERF 6003 NEWCASTLE EXTENSION 37

Registration Division H8

Province of KwaZulu-Natal

MEASURING 1020 SQUARE METRES

which has been lost or destroyed

All interested persons having objection to the issue of such copy are hereby required to lodge the same in writing with the Registrar of Deeds at PIETERMARITZBURG within two weeks from the date of the publication of this notice.

Dated at Pietermaritzburg this 19<sup>th</sup> DAY OF SEPTEMBER 2020.

Advertiser: ESTATE LATE SP BOSCH AND NJ BOSCH, C/O HOPANE ATTORNEYS,

PO BOX 109, PERSPECTOR PARK,

TEL: 081 467 2631 FAX: 088 683 6634,

EMAIL: denier@hopane.co.za

Attorneys for the Applicant

REF:MAT12240

e-CMD016452

**Form JJJ**

**Lost or Destroyed Deed**

Notice is hereby given in terms of regulation 88 of the Deeds Registries Act, 1937, of the intention to apply for the issue of a certified copy of Notarial Deed of Section of right to Exclusive Use Area SK744/2012S.

In favour of:

DHANABALAN NAICKER

Identity Number 720120 5132 084

In respect of

Garage G7, Casa Grande, Newcastle, Sectional Plan No. SS 51/1987.

which has been lost or destroyed.

All interested persons having objection to the issue of such copy are hereby required to lodge the same in writing with the Registrar of Deeds at PIETERMARITZBURG, High Court Building, 300 Pietermaritzburg Street, Pietermaritzburg within two weeks from the date of the publication of this notice.

Dated at NEWCASTLE on 21 September 2020.

CONVEYANCER: CECILIA SPIES

Cecilia Spies Attorneys

4th Greenbank Street, Mountmelba, 7041

**APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS**

Notice is hereby given that the Newcastle Local Municipality is considering an application for the following:

1. Proposed rezoning of Portion of Erf 1427 Newcastle from Detached Residential (Single Residential) to Residential Only of High Density (General Residential 3) to establish a Guest House.

This property is situated at 12 Earl Street, Central, Newcastle.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00 Monday to Friday at the Municipal Offices, Development Planning & Humans Settlements (Town Planning Directorate, 4<sup>th</sup> Floor) No. 37 Murchison Street, Newcastle, for a period not less than 30 days from 25<sup>th</sup> September 2020 to 28<sup>th</sup> October 2020.

Any person having sufficient interest herein may lodge written objections or representations relating hereto with the undersigned within 30 days commencing from 25<sup>th</sup> September 2020. Failure to do so will disqualify you to participate further in the application process.

Mr Bheki Thulsi Tel: 034 328 7800

Email: [bheki.thulsi@newcastle.gov.za](mailto:bheki.thulsi@newcastle.gov.za) or [townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)

Newcastle Local Municipality: Town Planning Directorate

Private Bag X 6621, Newcastle, 2040

e-CMD016232

**EMADLANGENI LOCAL MUNICIPALITY**

NOTICE IS HEREBY GIVEN IN TERMS OF SCHEDULE 5 (I) OF THE EMADLANGENI SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAWS 2016 THAT AN APPLICATION IS HEREBY LODGED IN TERMS OF SECTION 46(9) OF THE EMADLANGENI SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAWS 2016 AND THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013

Notice is hereby given that it is the intention of the emadlangeni Local Municipality to consider an application for the following:

Proposed SUBDIVISION of Erf 144 Utrecht to form Portion 1 and Remainder of Erf 144 Utrecht Reg Div HT.

The property is situated at 9 Hoog Street, Utrecht.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00 Monday-Friday at the Infrastructure & Planning Development Offices being on of Plain Street and Keerom Street, Utrecht for a period not less than 30 days from 25<sup>th</sup> September 2020 to 28<sup>th</sup> October 2020.

Any person having insufficient interest therein may lodge or post written objections or make representations relating thereto with Municipal Manager, 34 Voer Street, P.O. Box 11, Utrecht 2080 by

**Annexure C:  
Title Deeds**

# Southey Steyn & Voller Incorporated

with TJ MPHELA

Registration No 1999/024453/21 - VAT Registration No: 4510167182

ATTORNEYS, CONVEYANCERS, ADMINISTRATORS OF ESTATES & APPRAISERS  
V R H SOUTHEY (BL (HONS) LLB); P G STEYN (BALLB)

TJ MPHELA (B.Proc)

Assisted by: CECILIA SPIES (B.Proc)

80 HARDING STREET

P O BOX 3108

NEWCASTLE - 2940

SOUTH AFRICA

E-Mail Address: [southeysteyn@telkomsa.net](mailto:southeysteyn@telkomsa.net)

Telephone: (034) 3151241

Fax: (034) 3125715

DOCEX: 4 NEWCASTLE

OUR REF : CONV / ANNIE STRUMWG / Lizette Howard

YOUR REF : LOANS DEPARTMENT - SECURITIES

08 June 2007

STANDARD BANK  
HOME LOANS OFFICE  
4<sup>th</sup> FLOOR - GREYVILLE CENTRE  
96 FIRST AVENUE  
GREYVILLE - DURBAN

Dear Sir

MORTGAGE BOND: AK 5 JA Gerber

ACCOUNT NO: 361130686

ATTACHED hereto please find the following documents, namely:

DEED OF TRANSFER T 2474/07

MORTGAGE BOND B 2833/07

**KINDLY ACKNOWLEDGE RECEIPT !!**

YOURS FAITHFULLY

SOUTHEY STEYN & VOLLER INCORPORATED

per *Hende*

IN ASSOCIATION WITH - MARCO VOLLER ATTORNEYS

M VOLLER (BA LLB (Natal) Dip Insolvency Law & Practice (Pretoria)

1<sup>st</sup> Floor, 29 Timber Lane, P O Box 569, Pietermaritzburg, 3200

E-Mail: [vollerm@mailbox.co.za](mailto:vollerm@mailbox.co.za) Telephone: 033 342 6629 Fax: 033 394 3961 Cell: 083233 8535



# Southey Steyn & Voller Incorporated

with TJ MPHELA

Registration No 1898/024453/21 - VAT Registration No : 4510187182

ATTORNEYS, CONVEYANCERS, ADMINISTRATORS OF ESTATES & APPRAISERS  
V R H SOUTHEY (BL (HONS) LLB); P G STEYN (BALLB)

TJ MPHELA (B.Proc)

Assisted by : CECILIA SPIES (B.Proc)

80 HARDING STREET  
P O BOX 5108

NEWCASTLE - 2940  
SOUTH AFRICA

E-Mail Address: [southeysteyn@telkomsa.net](mailto:southeysteyn@telkomsa.net)

Telephone: (034) 3151 241  
Fax: (034) 3128 715

DOCEX: 4 NEWCASTLE

OUR REF : CONV / ANNIE STRUWIG / Lizelle Howard

YOUR REF : LOANS DEPARTMENT - SECURITIES

08 June 2007

STANDARD BANK  
HOME LOANS OFFICE  
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per *Mende*

IN ASSOCIATION WITH - MARCO VOLLER ATTORNEYS

M VOLLER (BA LLB (Natal) Dip Insolvency Law & Practice (Pretoria)

1<sup>st</sup> Floor, 29 Timber Lane, P O Box 588, Pietermaritzburg, 3200

E-Mail : [vollermm@mailbox.co.za](mailto:vollermm@mailbox.co.za) Telephone: 033 342 6929 Fax: 033 394 3961 Cell: 083233 6535



**SOUTHEY STEYN &  
VOLLER  
INCORPORATED**

Tel: 034 3151241

**DEED OF TRANSFER**

**SOUTHEY'S INCORPORATED**  
80 HARDING STREET  
PO BOX 3108  
NEWCASTLE

FEE	
Stamp Duty	R400-00
Stamp	
A/M Bond	

Prepared by me,

*[Signature]*

Conveyancer,  
SOUTHEY VRH

VERBIND		MORTGAGED	
VIR FOR R 910 000 - 00			
B	002833/07	<i>[Signature]</i> REGISTRAR/REGISTRAR	
2007-01-19			

2007-01-19

T	002474/07
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## DEED OF TRANSFER

BE IT HEREBY MADE KNOWN :

**JUSTIN ANSELM BROWNE**

THAT

appeared before me, REGISTRAR OF DEEDS at PIETERMARITZBURG the said Apparer  
being duly authorised thereto by a Power of Attorney signed at NEWCASTLE on  
6<sup>TH</sup> DECEMBER 2006 and granted by:

**MOHOMED SULIMAN SEEDAT**  
Identity Number 701218 5073 08 5  
Married according to ISLAMIC rites

SOUTHEY STEYN & VOLLER INCORPORATED  
ATTORNEYS  
NEWCASTLE

LEGALPERFECT Version 9.2.10  
TRFDOTN\_ALL.DOC - 28-10-2005

AND the Appearer declared that his/her said Principal had truly and legally sold the undermentioned property on 28 September 2006 and that, the said Appearer in his/her capacity aforesaid, do by these presents, cede and transfer, to and on behalf of:

**ALLAN KEVIN GERBER**  
Identity Number 670930 5212 08 6

and

**SANET IDEL GERBER**  
Identity Number 671022 0079 08 9  
Married in community of property to each other

their heirs, executors, administrators or assigns in full and free property

ERF 1427 NEWCASTLE (EXTENSION 3) REGISTRATION DIVISION H.S.,  
PROVINCE OF KWAZULU-NATAL;  
Measuring 1 474 (ONE THOUSAND FOUR HUNDRED AND SEVENTY  
FOUR) square metres;

First transferred by Deed of Transfer T2049/1951, with Diagram annexed thereto and held  
by Deed of Transfer T4620/2006

**THIS PROPERTY IS TRANSFERRED:**

- A. Subject to the conditions, in so far as still in force and applicable, contained in the original Government Grant No. 4702/1884.
- B. Subject to the reserving of Minerals in favour of the Town Council of the Borough of Newcastle, as contained in Certificate of Mineral Rights No. CMR 40/1947 which reads as follows :
- "The Town Council reserves to itself the right to all coal, iron and other minerals in and under the said land, with the right to the said Town Council or their assigns to work, win and carry away all such coal, iron and other minerals, provided that in so doing they shall not break or damage the surface of the said land or in any way interfere with the occupation thereof by the Purchaser".
- C. Subject to the terms as created at the instance of the Administrator of the Province of Natal in terms of Ordinance No. 10/1934 as created in said Deed of Transfer T2049/1951, namely :
1. The lot shall not be subdivided without the consent of the Administrator.
  2. Except with the consent of the Administrator, the lot shall not be used for other than residential purposes.

SOUTHEY STEYN & VOLLER INCORPORATED  
ATTORNEYS  
NEWCASTLE

LEGALPERFECT Version 9.2.10  
TRFDOTN\_ALL.DOC - 28-10-2005

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3. No row of tenement houses, boarding house, hotel or block of residential flats and not more than one dwelling house with the necessary outbuildings shall be erected on the lot without the consent of the Administrator.
4. No building of any kind shall be erected on the lot unless the walls thereof are constructed of burnt brick, stone or concrete or of other permanent and fireproof material approved by the local authority, provided that a building, structure or fence of iron or asbestos sheeting or similar material fixed to a framework of wood or metal shall not be permitted.
5. No building whatsoever, unless permitted under special circumstances and in writing by the local authority shall be erected on the lot nearer than 7,52 metres from any boundary abutting on a street, nor within a distance of 1,83 metres from any other boundary. On consolidation of any two or more lots, this condition shall apply to the consolidated area as a whole.
6. The local authority shall, without compensation, have the right to erect, lay and maintain electric wires and/or water supply piping over or under the lot along any boundary thereof other than a road frontage and within a distance of 1,83 metres from such boundary and shall have reasonable access thereto for the purpose of maintenance, removal or extension.  
The rights conferred by this condition shall be exercisable by any local authority or other body or person legally authorised to supply electric current or water for the benefit of the inhabitants of the Township.  
  
If the owner of the lot be aggrieved by the unreasonable exercise of these rights, he shall have the right of appeal to the Administrator whose decision shall be final.
7. The local authority shall, without compensation, have the right to construct and maintain sewers and drains over or under the lot along any boundary thereof other than a road frontage and within a distance of 1,83 metres from such boundary and shall have reasonable access thereto for the purpose of maintenance, removal or extension, and the owner of the lot shall, without compensation, be obliged to allow the sewerage and drainage of any other lot or street to be conveyed along such sewers and drains, provided that if the owner of the lot be aggrieved by the unreasonable exercise of these rights, he shall have the right of appeal to the Administrator whose decision shall be final.
8. The owner of the lot shall, without compensation, be obliged to permit such deposit of material or excavation on the lot as may, in connection with the formation of any street in the township and owing to differences in level between the lot, unless he shall elect, at his own cost, to build a retaining wall.

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

**MOHOMED SULIMAN SEEDAT**

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

**ALLAN KEVIN GERBER**

and

**SANET IDEL GERBER**

their heirs, executors, administrators or assigns, now are 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 R910 000,00 (NINE HUNDRED AND TEN THOUSAND RAND).

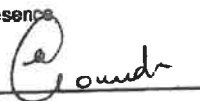
IN WITNESS WHEREOF I, the said Registrar, together with the Appearer, q.q. have subscribed to these presents and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the office of the REGISTRAR OF DEEDS at PIETERMARITZBURG on

2007-07-19

  
q.q.

In my presence

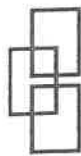
  
REGISTRAR OF DEEDS

**Annexure D:**  
**Comments from Interested Party**

DBM Office Park, Corner of Memel Rd  
& Allen Street, 4 Volksrust Road, Newcastle  
PO Box / Posbus 117, Newcastle  
Docex 5, Newcastle, 2940

BEE CONTRIBUTOR LEVEL 3: Certificate No. RS-12092-0620-C31-R1

Personal E-mail: tyronb@dbmlaw.com  
Tel. No: 034 328 1300  
Direct Tel. No: 034 328 1324  
Fax No: 034 328 1349



dbm attorneys  
prokureurs • abameli

ORIGINAL

Our Ref.:

Your Ref.:

MR BHEKI THUSI  
NEWCASTLE LOCAL MUNICIPALITY  
TOWN PLANNING DIRECTORATE  
NEWCASTLE

By Email: bheki.thusi@newcastle.gov.za  
townplanning@newcastle.gov.za

NEWCASTLE MUNICIPALITY  
S.E.D. - D.P. & H.S.

23 October, 2020

28 OCT 2020

UKUTHUTHUKISWA  
NOKUHELELWA KWEDOLOBHA  
P/BAG X6621, NEWCASTLE, 2940

"BY EMAIL"

RE: APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT  
ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS

PROPOSED REZONING OF PORTION OF ERF 1427 NEWCASTLE FROM DETACHED  
RESIDENTIAL (SINGLE RESIDENTIAL) TO RESIDENTIAL ONLY OF HIGH DENSITY  
(GENERAL RESIDENTIAL 3) TO ESTABLISH A GUEST HOUSE (12 EARL STREET, CENTRAL,  
NEWCASTLE)

## OBJECTION

OUR CLIENT: ISMAIL KHARWA

We act on instruction of our abovenamed client, owner and resident of the neighbouring property,  
being 14 Earl Street, Central, Newcastle.

is our client's instruction to object to the application as advertised in the Newcastle Advertiser on  
25 September 2020 (annexed hereto marked "A").

Our client objects to the application on the following grounds:

- 1) The building which the applicant intends on erecting on the property is a double story which  
will be invasive of her privacy;
- 2) The Scheme stipulates that Residential Only High Density must have a minimum erf size of  
2,000m<sup>2</sup>. The applicant's property is 1474m<sup>2</sup> less the servitude of encroachment registered  
in favour of 10 Earl Street, Central, Newcastle, leaving only 1374m<sup>2</sup>;

	A/I	NAME	DATE	SIGN
TOWN PLANNING	SED			
	DIR			
	PA/SECR			
	SP			
	GIS			
	ADM			

DBM Law Inc. Reg. No. 1994/001981/21  
Directors / Direkteure: G.C. Coetzee (B. Iuris. LL.B.); W.J.S. Jooste (B. Iuris. LL.B.);  
A. Peens (B.Proc); L. Grobler (B.Proc); C Walker (LL.B); N.E. Nxumalo (LL.B)  
Non-Executive Director: L. Mokgoro (LL.B. LL.M)  
Assisted by / Bygestaan deur: M.S. Gumbi (LL.B); K Maharaj (LL.B); E. Bezuidenhout (LL.B)  
Consultant / Konsultant: S.W. Saville (NLC); J.J. de Jager (B. Iuris)

VAT / BTW Reg. No. 4120144607

www.dbmlaw.com

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Associated Law Firms  
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independent firms, not practising in partnership  
and with separate liability.

member of  
phatshoanehenney  
GROUP OF ASSOCIATED LAW FIRMS



- 166
- 3) The Applicant intends on erecting a Guest House with 14 rooms, each room requiring a parking bay as well as one guest parking bay per every two rooms;
  - 4) The property does not have capacity for 14 to 21 vehicle parking bays, meaning that space will have to be allocated on the street for parking;
  - 5) 14 to 21 vehicles parking in the street will not only restrict the flow of traffic but will also cause a security risk in the area leading to an increase in crime;
  - 6) Consumption of alcohol on the property, increased traffic and noise in the area will also contribute to our client's use and enjoyment of her property being disturbed and infringed upon.

It is our client's further instructions to bring to your notice that there are about nine Guest Houses within a 1.5km radius of her property which have already lead to issues in the area insofar as traffic is concerned due to vehicles parking on the street.

You are kindly requested to acknowledge receipt hereof and to consider our client's objections to this application.

Yours Faithfully

  
**TYRON BOTHA**  
**CANDIDATE ATTORNEY**  
**DBM ATTORNEYS**

[www.dbmlaw.com](http://www.dbmlaw.com)

DBM Law Inc. Reg. No. 1994/001981/21

**Directors / Direkteure:** G.C. Coetzee (B. Iuris. LL.B.); W.J.S. Jooste (B. Iuris. LL.B);

A. Peens (B.Proc); L Mokgoro (LL.B. LL.M); L. Grobler (B.Proc); C Walker (LL.B)

**Assisted by / Bygestaan deur:** N Nkosi (LL.B)

**Consultant / Konsultant:** S.W. Saville (NLC.); J.J. de Jager (B.Iuris)

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Associated Law Firms**

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## LEGALS / NOTICES



**LONGBOURNE**  
SOLICITORS & ESTATE AGENTS

## NOTICE

In the estate of the late WILLEM ADRIAAN ENGELBRECHT, Identity Number: 440806 5072 085 married out of community of property, last known address, Mon Desir Number 4, Loefer Avenue 19, Aviary Hill, Newcastle, KwaZulu Natal.

Master's reference number: 000029/2019.

Notice is hereby given that the FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT in the above estate will lie for inspection at the Magistrate's Office, Newcastle and the Master of the High Court, Pietermaritzburg and for a period of 21 days as from date of publication hereof.

Dated at Pietermaritzburg this 25<sup>th</sup> day of September 2020.

LONGBOURNE (Pty) Ltd  
Agents for executor testamentary  
P O Box 600, Pietermaritzburg  
Reference: Michelle Bronkhurst

©-CM001942

## Form JJJ

## Lost or Destroyed Deed

Notice is hereby given in terms of regulation 68 of the Deeds Registries Act, 1937, of the intention to apply for the issue of a certified copy of Deed of Transfer Number T5261/1985 passed by ISCOR LIMITED in favour of STEPHANUS PETRUS BOSCH and HELENA JOHANNA BOSCH in respect of:

ERF 8093 NEWCASTLE EXTENSION 37  
Registration Division HS  
Province of KwaZulu-Natal

MEASURING 1020 SQUARE METRES  
which has been lost or destroyed

All interested persons having objection to the issue of such copy are hereby required to lodge the same in writing with the Registrar of Deeds at PIETERMARITZBURG within two weeks from the date of the publication of this notice.

Dated at Pretoria this 15<sup>th</sup> DAY OF SEPTEMBER 2020.

Advertiser: ESTATE LATE SP BOSCH AND HJ BOSCH, C/O HOPANE ATTORNEYS,  
PO BOX 108, PERSECUOR PARK  
• TEL 0861 467 263 • FAX 086 583 5834,  
EMAIL: denise@hopane.co.za  
Attorneys for the Applicant  
REF:MAT12248

©-CM001943E

## APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS

Notice is hereby given that the Newcastle Local Municipality is considering an application for the following:

1. Proposed rezoning of Portion of Erf 1427 Newcastle from Detached Residential (Single Residential) to Residential Only of High Density (General Residential 3) to establish a Guest House.

This property is situated at 12 Earl Street, Central, Newcastle.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00 Monday to Friday at the Municipal Offices, Development Planning & Humans Settlements (Town Planning Directorate, 4<sup>th</sup> Floor) No. 37 Murchison Street, Newcastle, for a period not less than 30 days from 25<sup>th</sup> September 2020 to 26<sup>th</sup> October 2020.

Any person having sufficient interest herein may lodge written objections or representations relating hereto with the undersigned within 30 days commencing from 25<sup>th</sup> September 2020. Failure to do so will disqualify you to participate further in the application process.

Mr Bheki Thusi Tel: 034 328 7600

Email: [bheki.thusi@newcastle.gov.za](mailto:bheki.thusi@newcastle.gov.za) or [townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)  
Newcastle Local Municipality: Town Planning Directorate  
Private Bag X 6621, Newcastle, 2940

©-CM001945E

## APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, NO. 16 OF 2013 REGULATIONS AND BY-LAWS:

APPLICATION FOR CONSENT  
NEWCASTLE TOWN PLANNING SCHEME:

Notice is hereby given that an application has been lodged with the Newcastle Municipality for consent to use:

1. 6556 (NO. 18 Piet Relief) Barry Hertzog Park

For the purpose of

Establishing a Residential Commune

Any person desiring to object to this application may do so not later than thirty (30) days from the date of the publication of this notice, by lodging in writing, setting out the grounds of objection, with the Municipal Manager or address below.

Plans and particulars relating to this application may be inspected at Newcastle Municipality Tower Block, Development Planning & Human Settlements (Town Planning, 4<sup>th</sup> Floor) no. 37 Murchison Street, Newcastle, 2940, between 07:30 and 16:00 weekdays.

Enquiries and correspondence can also be directed to I.O. Radebe at

034 328 7691 / [ouparadebe@newcastle.gov.za](mailto:ouparadebe@newcastle.gov.za)  
[townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)

Date of Publication: 25 SEPTEMBER 2020

Name of Newspaper: Newcastle Advertiser

©-CM001946E

## Form JJJ

## Lost or Destroyed Deed

Notice is hereby given in terms of regulation 68 of the Deeds Registries Act, 1937, of the intention to apply for the issue of a certified copy of Notarial Deed of Session of right to Exclusive Use Area SK744/2012S.

In favour of:

DHANABALAN NAICKER  
Identity Number: 720120 5132 084

In respect of

Garage G7, Casa Grande, Newcastle, Sectional Plan No. SS 51/1997,

which has been lost or destroyed.

All interested persons having objection to the issue of such copy are hereby required to lodge the same in writing with the Registrar of Deeds at PIETERMARITZBURG, High Court Building, 300 Pietermaritzburg Street, Pietermaritzburg within two weeks from the date of the publication of this notice.

Dated at NEWCASTLE on 21 September 2020.

CONVEYANCER: CECILIA SPIES  
Cecilia Spies Attorneys  
60 Gembok Street Newcastle 2940  
PO BOX 9456 Hutten Heights Newcastle 2956  
Tel No.: 034 - 312 3030, Fax No.: 086 546 5017  
[amelia@spieslaw.co.za](mailto:amelia@spieslaw.co.za)

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## EMADLANGENI LOCAL MUNICIPALITY

NOTICE IS HEREBY GIVEN IN TERMS OF SCHEDULE 5 (1) OF THE EMADLANGENI SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAWS 2016 THAT AN APPLICATION IS HEREBY LODGED IN TERMS OF SECTION 46(G) OF THE EMADLANGENI SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAWS 2016 AND THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013

Notice is hereby given that it is the intention of the eMadlangeni Local Municipality to consider an application for the following:

Proposed SUBDIVISION of Erf 144 Utrecht to form Portion 1 and Remainder of Erf 144 Utrecht Reg Div HT.

The property is situated at 9 Hoog Street, Utrecht.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00, Monday-Friday at the Infrastructure & Planning Development Offices being cnr of Plain Street and Keerom Street, Utrecht for a period not less than 30 days from 25<sup>th</sup> September 2020 to 26<sup>th</sup> October 2020.

Any person having insufficient interest therein may lodge or post written objections or make representations relating thereto with Municipal Manager, 34 Voor Street, P.O. Box 11, Utrecht 2980 by no later than 26<sup>th</sup> October 2020.

Any person who fails to respond to this notice by either submitting comments or representations during the advertising period as specified above will be disqualified to participate further in the application process. Enquiries and correspondence can also be directed to Sibusiso Hadebe at 034 331 3616 [HadebeS@emadlangeni.gov.za](mailto:HadebeS@emadlangeni.gov.za)

©-CM001948E

## ESTATE NOTICE

IN THE ESTATE OF THE LATE: VUSI SOLOMON DHLUDHLU

I.D. No: 500620 5761 085

DATE OF BIRTH: 1950-06-20

DATE OF DEATH: 2007-11-13

ESTATE NUMBER: 009187/2009/PMB

The First and Final Liquidation and Distribution account will lie for inspection at Madadeni Magistrate 1<sup>st</sup> and the office of the Master of the High Court, Pietermaritzburg for a period of 21 (Twenty one) days from date of publication

SEPTEMBER 2020.

DATED AT NEWCASTLE THIS 14<sup>TH</sup> DAY OF SEPTEMBER 2020.

D.S. GUMBI ATTORNEYS INC.  
79 HARDING STREET,  
UTHUKELA WATER BUILDING,  
BLOCK B, 1<sup>st</sup> FLOOR  
NEWCASTLE  
2940

TEL: 034 312 3227

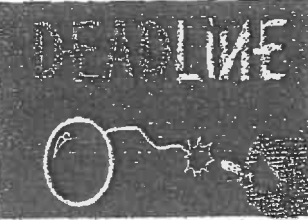
FAX: 034 312 3233

EMAIL: [gumbiattorneys@gmail.com](mailto:gumbiattorneys@gmail.com)

REF: GUMBI/VSO1/ELJNN/18

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Have you submitted your  
Classified for next week's  
paper?



MONDAYS 15:00

## APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS

Notice is hereby given that the Newcastle Municipality is considering an application for the following:

1. Proposed consolidation of Portions 20 and 21 of Erf 14657 Newcastle to form Portion 25 of Erf 14657 Newcastle.

The properties are situated at 32 / 34 Tagore Street, Paradise.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00 Monday to Friday at the Municipal Offices, Development Planning & Humans Settlements (Town Planning Directorate, 4<sup>th</sup> Floor) No. 37 Murchison Street, Newcastle, for a period not less than 30 days from 25<sup>th</sup> September 2020 to 26<sup>th</sup> October 2020.

Any person having sufficient interest herein may lodge written objections or representations relating hereto with the undersigned within 30 days commencing from 25<sup>th</sup> September 2020. Failure to do so will disqualify you from participating further in the application process.

Mr Phiwayinkosi Zwane - Tel : 034 328 7600

Email: [Phiwayinkosi.Zwane@newcastle.gov.za](mailto:Phiwayinkosi.Zwane@newcastle.gov.za) or  
[townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)

Newcastle Municipality: Town Planning Directorate  
Private Bag X 6621, Newcastle, 2940

©-CM001950E

## APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS

Notice is hereby given that the Newcastle Municipality is considering an application for the following:

1. Proposed subdivision of Portion 1 of Erf 712 Newcastle to form Portion 2 (of 1) of Erf 712 Newcastle and the Remainder of Portion 1 of Erf 712 Newcastle
2. Proposed rezoning of Portion 2 (of 1) of Erf 712 Newcastle from "Place of Public Assembly" to "Medium Impact Industry".

The property is situated at 2 Magnolia Avenue, Arbor Park.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00 Monday to Friday at the Municipal Offices, Development Planning & Humans Settlements (Town Planning Directorate, 4<sup>th</sup> Floor) No. 37 Murchison Street, Newcastle, for a period not less than 30 days from 25<sup>th</sup> September 2020 to 26<sup>th</sup> October 2020.

Any person having sufficient interest herein may lodge written objections or representations relating hereto with the undersigned within 30 days commencing from 25<sup>th</sup> September 2020. Failure to do so will disqualify you from participating further in the application process.

Ms Xoliswa Madela

Tel: 034 328 7600

Email: [Xoliswa.Madela@newcastle.gov.za](mailto:Xoliswa.Madela@newcastle.gov.za) or  
[townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)

Newcastle Municipality : Town Planning Directorate  
Private Bag X 6621, Newcastle, 2940

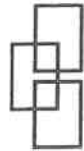
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DBM Office Park, Corner of Memel Rd  
& Allen Street, 4 Volksrust Road, Newcastle  
PO Box / Posbus 117, Newcastle  
Docex 5, Newcastle, 2940

BEE CONTRIBUTOR LEVEL 3: Certificate No. RS-12092-0620-C31-R1

Personal E-mail: tyronb@dbmlaw.com  
Tel. No: 034 328 1300  
Direct Tel. No: 034 328 1324  
Fax No: 034 328 1349



**dbm attorneys**  
prokureurs • abameli

**ORIGINAL**

Our Ref.:

Your Ref.:



**MR BHEKI THUSI**  
**NEWCASTLE LOCAL MUNICIPALITY**  
**TOWN PLANNING DIRECTORATE**  
**NEWCASTLE**

By Email: [bheki.thusi@newcastle.gov.za](mailto:bheki.thusi@newcastle.gov.za)  
[townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)

**"BY EMAIL"**

**RE: APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS**

**PROPOSED REZONING OF PORTION OF ERF 1427 NEWCASTLE FROM DETACHED RESIDENTIAL (SINGLE RESIDENTIAL) TO RESIDENTIAL ONLY OF HIGH DENSITY (GENERAL RESIDENTIAL 3) TO ESTABLISH A GUEST HOUSE (12 EARL STREET, CENTRAL, NEWCASTLE)**

## **OBJECTION**

**OUR CLIENT: ZAAHEDA NOORGET**

We act on instruction of our abovenamed client, owner and resident of the neighbouring property, being 10 Earl Street, Central, Newcastle (Erf 1428).

is our client's instruction to object to the application as advertised in the Newcastle Advertiser on 5 September 2020 (annexed hereto marked "A").

Our client objects to the application on the following grounds:

- 1) The building which the applicant intends on erecting on the property is a double story which will be invasive of her privacy;
- 2) A servitude of encroachment and a party wall was registered over the property in favour of our client as per the Title Deed annexed hereto marked "B";

OWN PLANNING	A/I	NAME	DATE	SIGN
	BED			
	DIR			
	PA/SECR			
	LUMS	A. BHEKI THUSI		
	SP			
	ADM			

DBM Law Inc. Reg. No. 1994/001981/21  
Directors / Direkteure: G.C. Coetzee (B. Iuris. LL.B.); W. ...  
A. Peens (B.Proc); L. Grobler (B.Proc); C Walker (LL.B); ...  
Non-Executive Director: L. Mokgoro (LL.B. LL.M)  
Assisted by / Bygestaan deur: M.S. Gumbi (LL.B); K Mah ...  
Consultant / Konsultant: S.W. Saville (NLC.); J.J. de Jager (B. Iuris)

[www.dbmlaw.com](http://www.dbmlaw.com)

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independent firms, not practising in partnership  
and with separate liability.

member of  
**phatshoanehenney**  
GROUP OF ASSOCIATED LAW FIRMS

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- 3) The Scheme stipulates that Residential Only High Density must have a minimum erf size of 2,000m<sup>2</sup>. The applicant's property is 1474m<sup>2</sup> less the servitude of encroachment, leaving only 1374m<sup>2</sup>;
  - 4) Our client, being the Dominant Owner, was never consulted in this matter, nor has she given any consent regarding the abovenamed application;
  - 5) The Applicant intends on erecting a Guest House with 14 rooms, each room requiring a parking bay as well as one guest parking bay per every two rooms;
  - 6) The property does not have capacity for 14 to 21 vehicle parking bays, meaning that space will have to be allocated on the street for parking;
  - 7) 14 to 21 vehicles parking in the street will not only restrict the flow of traffic but will also cause a security risk in the area leading to an increase in crime;
  - 8) Consumption of alcohol on the property, increased traffic and noise in the area will also contribute to our client's use and enjoyment of her property being disturbed and infringed upon.

It is our client's further instructions to bring to your notice that there are about nine Guest Houses within a 1.5km radius of her property which have already lead to issues in the area insofar as traffic is concerned due to vehicles parking on the street.

You are kindly requested to acknowledge receipt hereof and to consider our client's objections to this application.

Yours Faithfully

  
**TYRON BOTHA**  
**CANDIDATE ATTORNEY**  
**DBM ATTORNEYS**

[www.dbmlaw.com](http://www.dbmlaw.com)

DBM Law Inc. Reg. No. 1994/001981/21

Directors / Direkteure: G.C. Coetzee (B. Iuris. LL.B.); W.J.S. Jooste (B. Iuris. LL.B);

A. Peens (B.Proc); L. Mokgoro (LL.B. LL.M); L. Grobler (B.Proc); C Walker (LL.B)

Assisted by / Bygestaan deur: N Nkosi (LL.B)

Consultant / Konsultant: S.W. Saville (NLC.); J.J. de Jager (B.Iuris)

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Associated Law Firms

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independent firms, not practising in partnership  
and with separate liability.

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**phatshoanehenney**  
GROUP OF ASSOCIATED LAW FIRMS

## LEGALS / NOTICES



**LONGBOURNE**  
attorneys & notaries

## NOTICE

In the estate of the late WILLEM ADRIAAN ENGELBRECHT, Identity Number: 440806 5072 085 married out of community of property, last known address, Mon Desir Number 4, Loele Avenue 19, Avlary Hill, Newcastle, KwaZulu Natal.

Master's reference number: 000029/2019.

Notice is hereby given that the FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT in the above estate will lie for inspection at the Magistrate's Office, Newcastle and the Master of the High Court, Pietermaritzburg and for a period of 21 days as from date of publication hereof.

Dated at Pietermaritzburg this 25th day of September 2020.

**LONGBOURNE (Pty) Ltd**  
Agents for executor testamentary  
P O Box 600, Pietermaritzburg  
Reference: Michelle Bronkhurst

C-M0010482

## Form JJJ

## Lost or Destroyed Deed

Notice is hereby given in terms of regulation 68 of the Deeds Registries Act, 1937, of the intention to apply for the issue of a certified copy of Deed of Transfer Number T5281/1985 passed by ISCOR LIMITED in favour of STEPHANUS PETRUS BOSCH and HELENA JOHANNA BOSCH in respect of:

ERF 8093 NEWCASTLE EXTENSION 37  
Registration Division HS  
Province of KwaZulu-Natal

MEASURING 1020 SQUARE METRES  
which has been lost or destroyed

All interested persons having objection to the issue of such copy are hereby required to lodge the same in writing with the Registrar of Deeds at PIETERMARITZBURG within two weeks from the date of the publication of this notice.

Dated at Pretoria this 18th DAY OF SEPTEMBER 2020.

Advertiser: ESTATE LATE SP BOSCH AND HJ BOSCH, C/O HOPANE ATTORNEYS,  
PO BOX 108, PERSEQUOR PARK  
• TEL 0861 467 263 • FAX 086 683 5834,  
EMAIL: denise@hopane.co.za  
Attorneys for the Applicant  
REF.MAT12248

C-M0010485E

## APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS

Notice is hereby given that the Newcastle Local Municipality is considering an application for the following:

1. Proposed rezoning of Portion of Erf 1427 Newcastle from Detached Residential (Single Residential) to Residential Only of High Density (General Residential 3) to establish a Guest House.

This property is situated at 12 Earl Street, Central, Newcastle.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00 Monday to Friday at the Municipal Offices, Development Planning & Humans Settlements (Town Planning Directorate, 4th Floor) No. 37 Murchison Street, Newcastle, for a period not less than 30 days from 25th September 2020 to 26th October 2020.

Any person having sufficient interest herein may lodge written objections or representations relating hereto with the undersigned within 30 days commencing from 25th September 2020. Failure to do so will disqualify you to participate further in the application process.

Mr Bheki Thusi Tel: 034 328 7600

Email: [bheki.thusi@newcastle.gov.za](mailto:bheki.thusi@newcastle.gov.za) or [townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)  
Newcastle Local Municipality: Town Planning Directorate  
Private Bag X 6621, Newcastle, 2940

C-M0010525E

## APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, NO. 16 OF 2013 REGULATIONS AND BY-LAWS:

## APPLICATION FOR CONSENT

## NEWCASTLE TOWN PLANNING SCHEME:

Notice is hereby given that an application has been lodged with the Newcastle Municipality for its consent to use:

Erf 6596 (NO. 18 Plat Retief) Barry Hertzog Park  
For the purpose of

Establishing a Residential Commune

Any person desiring to object to this application may do so not later than thirty (30) days from the date of the publication of this notice, by lodging in writing, setting out the grounds of objection, with the Municipal Manager or address below.

Plans and particulars relating to this application may be inspected at Newcastle Municipality Tower Block, Development Planning & Human Settlements (Town Planning, 4th Floor) no. 37 Murchison Street, Newcastle, 2940, between 07:30 and 16:00 weekdays.

Enquiries and correspondence can also be directed to L.O. Radebe at

034 328 7891 / [ouparadebe@newcastle.gov.za](mailto:ouparadebe@newcastle.gov.za)  
[townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)

Date of Publication: 25 SEPTEMBER 2020  
Name of Newspaper: Newcastle Advertiser

C-M0010535E

## Form JJJ

## Lost or Destroyed Deed

Notice is hereby given in terms of regulation 68 of the Deeds Registries Act, 1937, of the intention to apply for the issue of a certified copy of Notarial Deed of Session of right to Exclusive Use Area SK744/2012S.

In favour of:

DHANABALAN NAICKER  
Identity Number 720120 5132 084

In respect of

Garage G7, Casa Grande, Newcastle, Sectional Plan No. SS 51/1987.

which has been lost or destroyed.

All interested persons having objection to the issue of such copy are hereby required to lodge the same in writing with the Registrar of Deeds at PIETERMARITZBURG, High Court Building, 300 Pietermaritzburg Street, Pietermaritzburg within two weeks from the date of the publication of this notice.

Dated at NEWCASTLE on 21 September 2020.

CONVEYANCER: CECILIA SPIES  
Cecilia Spies Attorneys  
60 Gernsbok Street Newcastle 2940  
PO BOX 9456 Hutten Heights Newcastle 2956  
Tel No.: 034 - 312 3030, Fax No.: 086 546 5017  
[emelia@spieslaw.co.za](mailto:emelia@spieslaw.co.za)

C-M0010535E

## EMADLANGENI LOCAL MUNICIPALITY

NOTICE IS HEREBY GIVEN IN TERMS OF SCHEDULE 5 (1) OF THE EMADLANGENI SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAWS 2016 THAT AN APPLICATION IS HEREBY LODGED IN TERMS OF SECTION 46(G) OF THE EMADLANGENI SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAWS 2016 AND THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013

Notice is hereby given that it is the intention of the eMadlangeni Local Municipality to consider an application for the following:

Proposed SUBDIVISION of Erf 144 Utrecht to form Portion 1 and Remainder of Erf 144 Utrecht Reg Div HT.

The property is situated at 9 Hoog Street, Utrecht.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00, Monday-Friday at the Infrastructure & Planning Development Offices being on of Plain Street and Keerom Street, Utrecht for a period not less than 30 days from 25th September 2020 to 26th October 2020.

Any person having insufficient interest therein may lodge or post written objections or make representations relating thereto with Municipal Manager, 34 Voor Street, P.O. Box 11, Utrecht 2980 by no later than 26th October 2020.

Any person who fails to respond to this notice by either submitting comments or representations during the advertising period as specified above will be disqualified to participate further in the application process. Enquiries and correspondence can also be directed to Sibusiso Hadebe at 034 331 3616 [hadebeS@emadlangeni.gov.za](mailto:hadebeS@emadlangeni.gov.za)

C-M0010535E

## ESTATE NOTICE

IN THE ESTATE OF THE LATE: VUSI SOLOMON DHLUDHLU

I.D. No: 500620 5761 085

DATE OF BIRTH: 1950-06-20

DATE OF DEATH: 2007-11-13

ESTATE NUMBER: 009187/2009/PMB

First and Final Liquidation and Distribution account will lie for inspection at Madadeni Magistrate Court and the office of the Master of the High Court, Pietermaritzburg for a period of 21 (Twenty one) days from date of publication

SEPTEMBER 2020.

DATED AT NEWCASTLE THIS 14th DAY OF SEPTEMBER 2020.

D.S. GUMBI ATTORNEYS INC.,  
79 HARDING STREET,  
UTHUKELA WATER BUILDING,  
BLOCK B, 1st FLOOR  
NEWCASTLE  
2940  
TEL: 034 312 3227  
FAX: 034 312 3233  
EMAIL: [gumbiattorneys@gmail.com](mailto:gumbiattorneys@gmail.com)  
REF: GUMBI/VSO1/EL/NN/18

C-M0010445E

Have you submitted your  
Classified for next week's  
paper?



MONDAYS 15:00

## APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS

Notice is hereby given that the Newcastle Municipality is considering an application for the following:

1. Proposed consolidation of Portions 20 and 21 of Erf 14657 Newcastle to form Portion 25 of Erf 14657 Newcastle.

The properties are situated at 32 / 34 Tagore Street, Paradise.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00 Monday to Friday at the Municipal Offices, Development Planning & Humans Settlements (Town Planning Directorate, 4th Floor) No. 37 Murchison Street, Newcastle, for a period not less than 30 days from 25th September 2020 to 26th October 2020.

Any person having sufficient interest herein may lodge written objections or representations relating hereto with the undersigned within 30 days commencing from 25th September 2020. Failure to do so will disqualify you from participating further in the application process.

Mr Phiyawinkosi Zwane • Tel : 034 328 7600

Email: [Phiyawinkosi.Zwane@newcastle.gov.za](mailto:Phiyawinkosi.Zwane@newcastle.gov.za) or  
[townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)  
Newcastle Municipality: Town Planning Directorate  
Private Bag X 6621, Newcastle, 2940

C-M0010555E

## APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS

Notice is hereby given that the Newcastle Municipality is considering an application for the following:

1. Proposed subdivision of Portion 1 of Erf 712 Newcastle to form Portion 2 (of 1) of Erf 712 Newcastle and the Remainder of Portion 1 of Erf 712 Newcastle
2. Proposed rezoning of Portion 2 (of 1) of Erf 712 Newcastle from "Place of Public Assembly" to "Medium Impact Industry".

The property is situated at 2 Magnolia Avenue, Arbor Park.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00 Monday to Friday at the Municipal Offices, Development Planning & Humans Settlements (Town Planning Directorate, 4th Floor) No. 37 Murchison Street, Newcastle, for a period not less than 30 days from 25th September 2020 to 26th October 2020.

Any person having sufficient interest herein may lodge written objections or representations relating hereto with the undersigned within 30 days commencing from 25th September 2020. Failure to do so will disqualify you from participating further in the application process.

Ms Xoliswa Madela

Tel: 034 328 7600

Email: [Xoliswa.Madela@newcastle.gov.za](mailto:Xoliswa.Madela@newcastle.gov.za) or  
[townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)

Newcastle Municipality : Town Planning Directorate  
Private Bag X 6621, Newcastle, 2940

C-M0010545E



King - Essack & Associates Incorporated  
Attorneys, Notaries & Conveyancers  
64 Kings Road  
Pinetown  
3610

Prepared by me

*Pugsley*  
CONVEYANCER  
EVELYN SARAH PUGSLEY

FEES  
Stamp Duty: R260,00  
Reg: R260,00  
Date: 2003-06-06  
D/M/G: 06-06-2003

VERBIND MORTGAGED  
VIR FOR R 125 000,00  
B 170 93 / 03  
2003-06-06  
REGISTRAR/REGISTRAR

BC 000024107/2014  
GEKANSLEER  
CANCELLED  
REGISTRAR/REGISTRAR  
2014-08-07

T 31118 / 03

## DEED OF TRANSFER

FOR FURTHER ENDORSEMENTS SEE  
VIR VERDERE ENDOSSAMENTE SIE

BE IT HEREBY MADE KNOWN THAT

**CHRISTOPHER GUY PHILLIPS**  
appeared before me, REGISTRAR OF DEEDS, at PIETERMARITZBURG, the  
said appearer being duly authorised thereto by a Power of Attorney which said  
Power of Attorney was signed at PINETOWN on **5 MARCH 2003** granted  
to him by

**MOHAMED AFZAL KHAN**  
Identity Number 681226 5129 08 2  
and  
**RASHIDA BIBI KHAN**  
Identity Number 710917 0560 08 2  
Married in community of property to each other

And the appearer declared that his said principal had, on 25 February 2003, truly and legally sold by Private Treaty, and that he; the said Appearer, in his capacity aforesaid, did, by these presents, cede and transfer to and on behalf of:

**ZAAHEDA NOORGET**  
Identity Number 750703 0037 08 6  
Unmarried

her Heirs, Executors, Administrators or Assigns, in full and free property

ERF 1428 NEWCASTLE (EXTENSION NO 3)  
REGISTRATION DIVISION HS,  
PROVINCE OF KWAZULU-NATAL;

IN EXTENT 1467 (ONE THOUSAND FOUR HUNDRED AND SIXTY SEVEN) SQUARE METRES

First transferred by Deed of Transfer 2049/1951 with diagram annexed thereto and held by Deed of Transfer T27644/99,

**THIS PROPERTY IS TRANSFERRED :-**

- A. SUBJECT to such of the terms and conditions as are still in force and applicable contained in the original Government Grant No. 4702/1884.
- B. SUBJECT to the reservation of Minerals in favour of the Town Council of the Borough of Newcastle, held under Certificate of Mineral Rights No. C.M.R. 40/1947, dated the 8<sup>TH</sup> August, 1947, which reads as follows :-

"The Town Council reserves to itself the right to all coal, iron and other minerals in and under the said land, with the right to the said Town Council or their assigns to work, win and carry away all such coal, iron and other minerals provided that in so doing they shall not break or damage the surface of the said land or in any way interfere with the occupation thereof by the Purchaser."

- C. SUBJECT to the following conditions imposed at the instance of the Administrator of the Province of Natal, in terms of Ordinance No. 10/1934, as created in Deed of Transfer 2049/1951, namely :-

1. The lot shall not be subdivided without the consent of the Administrator.
2. Except with the consent of the Administrator the lot shall not be used for other than residential purposes.
3. No row of tenement houses, boarding house, hotel or block of residential flats and not more than one dwelling house together with the necessary outbuildings shall be erected on the lot without the consent of the Administrator.
4. No building of any kind shall be erected on the lot unless the walls thereof are constructed of burnt brick, stone or concrete, or of other permanent and fireproof material approved by the local

AP



authority, provided that a building of iron or asbestos sheeting or similar material fixed to a framework of wood or metal shall not be permitted.

5. No building whatsoever, unless permitted under special circumstances and in writing by the local authority shall be erected on the lot nearer than 7,62 metres from any boundary abutting on a street, nor within a distance of 1,83 metres from any boundary. On consolidation of any two or more lots, this condition shall apply to the consolidated area as a whole.
6. The local authority shall, without compensation, have the right to erect, lay maintain electric wires and/or water supply piping over or under the lot along any boundary thereof other than a road frontage and within a distance of 1,83 metres from such boundary and shall have reasonable access thereto for the purpose of maintenance, removal or extension. The rights conferred by this condition shall be exercisable by any local authority or other body or person legally authorised to supply electric current or water for the benefit of the inhabitants of the township.

If the owner of the lot be aggrieved by the unreasonable exercise of these rights he shall have the right of appeal to the Administrator whose decision shall be final.

7. The local authority shall, without compensation, have the right to construct and maintain sewers and drains over or under the lot along any boundary thereof other than a road frontage and within a distance of 1,83 metres from such boundary and shall have reasonable access thereto for the purpose of maintenance, removal or extension, and the owner of the lot shall, without compensation, be obliged to allow the sewerage and drainage of any lot or street to be conveyed along such sewers and drains provided that if the owner of the lot be aggrieved by the unreasonable exercise of these rights he shall have the right of appeal to the Administrator whose decision shall be final.
8. The owner of the lot shall, without compensation, be obliged to permit such deposit of material or excavation on the lot as may, in connection with the formation of any streets in the township and owing to differences in level between the lot and the street, be deemed necessary by the local authority in order to provide a safe and proper slope to the cut and fill commencing from the boundary of the lot, unless he shall elect, at his own cost, to build a retaining wall.

D. SUBJECT to the following condition in favour of and enforceable by the Town Council of the Borough of Newcastle, as created in Deed of Transfer 2049/1951, namely:

Within eighteen (18) months from the date of sale (21 September 1950) the Purchaser shall erect buildings on the land to the value of TWO THOUSAND FIVE HUNDRED RAND (R2 500,00). Unless buildings of the said value are erected within the time specified the amount of Two Thousand Five Hundred Rand (R2 500,00) will for all intents and purposes of the general rate be added to the ordinary valuation, and such rates will be increased accordingly and from the time so appointed the value of the property shall for the purposes of such rates be deemed to increase from

and above the ordinary valuation by the sum of R2 500.00 and additional rates may be imposed on the increased value immediately on the expiry of the aforesaid year or proportion of the unexpired period of the Financial Year.

Such additional value, shall however, merge pro rata in the value of the buildings that may be subsequently erected, and in terms of the conditions of sale. The buildings proposed to be erected are to conform with the Borough Buildings By-Laws, and be constructed of brick or other approved substantial materials, and no thatch shall be used for roofing purposes.

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

**MOHAMED AFZAL KHAN and RASHIDA BIBI KHAN, Married as aforesaid**

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

**ZAAHEDA NOORGET, Unmarried**

her Heirs, Executors, Administrators 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 R185 000,00 (ONE HUNDRED AND EIGHTY FIVE THOUSAND RAND).

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 Pietermaritzburg on 2003-06-06

q.q.

In my presence

REGISTRAR OF DEEDS

P

ANNEXED TO T 31118/2003

PAGE 6

Kragtens Notariële Akte **00083** 15 gedateer  
 By Notarial Deed No. K **15** dated 14/07/2009  
 is die hierinvermelde eiendoms onderwerp **15**  
 the within-mentioned property is subject to **a 2.5 Metres Wide**  
**Encroachment Servitude and a 2.1 Metres Wide**  
**Party wall Servitude**  
 ten gunste van **Eur 1412 de Lintre (E-2)**  
**Zaaheda Noorget Identity No. 760703-0037**  
**000-Married according to Islamic Rites**  
 In favour of  
 soos meer volledig sal blyk uit gemelde Notariële Akte was  
 as will more fully appear on reference to the said Notarial Deed.  
 'n afskrif hiervan gegee is  
 a copy whereof is hereunto annexed.  
 2010-07-14  
 Datum/Date REGISTRAR/REGISTRAR

Schedule 5 Part 3 Item 3

KRAGTENS DIE BERMENGINGS VAN ARTIKEL VAN WET IS DIE BEMERKINGS-VERVALT IN VOORWAARDE OP BLADEN NIE MEER VAN TOEPASSING NIE.	BY VIRTUE OF THE PROVISIONS OF SECTION OF ACT 6/2008 THE RESTRICTIONS CONTAINED IN CONDITION C 1-4 ON PAGE 2 HAVE CEASED TO APPLY.
BC	
2011-01-14	REGISTRAR/REGISTRAR

0000002835 / 2014

**VA** 0000000838 / 2014

Certified a true copy of the duplicate/original  
 Gesertifiseer 'n ware afskrif van die duplikaat/  
 filed of record in this Registry, issued to serve in  
 oorspronklike in bewaring gegee op hierdie Regi-  
 place of the original thereof under the provisions  
 straslekantoor, uitgereik om te dien in die plek van  
 of Deeds Registries Regulation No. 68.  
 die oorspronklike daarvan onder die bepalings van  
 die Registrasie van Aktes-Regulasie No. 68.

2014-08-07  
 DATUM/DATE REGISTRAR/VAN AKTES  
 REGISTRAR OF DEEDS

AAVVAARBAAR  
ACCEPTED  
S. KANAIATHY



SHUTTLEWORTH & DAWJEE  
ATTORNEYS

Tel: 034 315 1505 - Fax: 034 315 3418 - 6 Greaves Street, Newcastle, 2940 -

P.O. Box 1530 - dawjee@newcastle.co.za

Our ref: ID/MH/SEEDAT

NEWCASTLE MUNICIPALITY  
TOWN PLANNING DEPARTMENT

PER EMAIL : [Bheki.thusi@newcastle.gov.za](mailto:Bheki.thusi@newcastle.gov.za) ; [Townplanning@newcastle.gov.za](mailto:Townplanning@newcastle.gov.za)

[Gilbert.gp1800@gmail.com](mailto:Gilbert.gp1800@gmail.com)



**RE: PROPOSED RE-ZONING OF PORTION OF ERF 1427 NEWCASTLE – 12 EARL STREET  
NEWCASTLE TO ESTABLISH A GUESTHOUSE**

Duly instructed by Dr. Bigli and Mr. Bigli of 10 GREAVES Street, Newcastle .

We hereby submit an objection on behalf of our client to the proposed RE-ZONING OF  
PORTION OF ERF 1427 NEWCASTLE to establish a guesthouse

The grounds of objection are as follows: -

1. This is a quiet residential area and having a bed and breakfast will create an increase in traffic and movement of people and will disturb the peace;
2. Guesthouses are notorious for people getting together having parties, consuming alcohol, playing music and the like ;

3. We have also noticed an escalation of parking that comes with a bed and breakfast as they have limited space and parking for guests ,visitors and suppliers, inevitably guests end up using the street parking, causing congestion;

4. With a low income bed and breakfast, prostitutes are attracted to the area without the owners being necessarily aware thereof or encouraging some (we do not suggest that the owner would encourage this) ;

5. The character of the area is being transformed from a quiet residential area to a bustling business area with Salons' and bed and breakfasts' mushrooming everywhere. We don't consider this in the best interests of the residents';

6. In a residential area , we expect children to be able to ride their bicycles and walk in the street freely without having to look out for the bustling traffic in the area ;

**Kindly acknowledge the objection.**

Yours Faithfully



Ismail Dawjee



17/9/1

7

280



# SHUTTLEWORTH & DAWJEE

## ATTORNEYS

Tel: 031 519 1505 Fax: 031 519 1510 6 Greaves Street, Newcastle, 2940 -

SEED Box 1530 - dawjee@newcastle.co.za



Our ref: ID/MH/SEEDAT

**NEWCASTLE MUNICIPALITY**

**TOWN PLANNING DEPARTMENT**

**PER EMAIL : [Bheki.thusi@newcastle.gov.za](mailto:Bheki.thusi@newcastle.gov.za) ; [Townplanning@newcastle.gov.za](mailto:Townplanning@newcastle.gov.za)**

**[Gilbert.gp1800@gmail.com](mailto:Gilbert.gp1800@gmail.com)**

**RE: PROPOSED RE-ZONING OF PORTION OF ERF 1427 NEWCASTLE – 12 EARL STREET**

**NEWCASTLE TO ESTABLISH A GUESTHOUSE**

Duly instructed by Mr E.Kaloo of Earl Street, Newcastle

	A/I	NAME	DATE	SIGN
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ADM				

We hereby submit an objection on behalf of our client to the proposed RE-ZONING OF

PORTION OF ERF 1427 NEWCASTLE to establish a guesthouse

The grounds of objection are as follows: -

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6. In a residential area , we expect children to be able to ride their bicycles and walk in the street freely without having to look out for the bustling traffic in the area ;

**Kindly acknowledge the objection.**

Yours Faithfully

P. P. H. S. S. S.

Ismail Dawjee



SHUTTLEWORTH & DAWJEE  
ATTORNEYS

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	A/I	NAME	DATE	SIGN
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Our ref: ID/MH/SEEDAT

NEWCASTLE MUNICIPALITY

TOWN PLANNING DEPARTMENT

PER EMAIL : [Bheki.thusi@newcastle.gov.za](mailto:Bheki.thusi@newcastle.gov.za) ; [Townplanning@newcastle.gov.za](mailto:Townplanning@newcastle.gov.za)

[Gilbert.gp1800@gmail.com](mailto:Gilbert.gp1800@gmail.com)

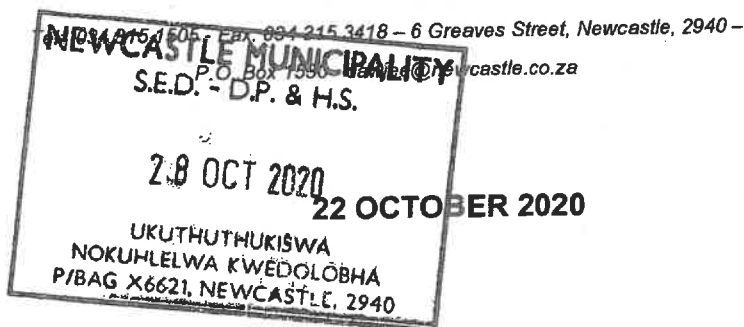
**RE: PROPOSED RE-ZONING OF PORTION OF ERF 1427 NEWCASTLE – 12 EARL STREET  
NEWCASTLE TO ESTABLISH A GUESTHOUSE**

Duly instructed by Mrs. S.VAWDA of 8 EARL Street, Newcastle .

We hereby submit an objection on behalf of our client to the proposed RE-ZONING OF  
PORTION OF ERF 1427 NEWCASTLE to establish a guesthouse

The grounds of objection are as follows: -

1. This is a quiet residential area and having a bed and breakfast will create an increase in traffic and movement of people and will disturb the peace;
2. Guesthouses are notorious for people getting together having parties, consuming alcohol, playing music and the like ;



3. We have also noticed an escalation of parking that comes with a bed and breakfast as they have limited space and parking for guests ,visitors and suppliers, inevitably guests end up using the street parking, causing congestion;

4. With a low income bed and breakfast, prostitutes are attracted to the area without the owners being necessarily aware thereof or encouraging some (we do not suggest that the owner would encourage this) ;

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6. In a residential area , we expect children to be able to ride their bicycles and walk in the street freely without having to look out for the bustling traffic in the area ;

**Kindly acknowledge the objection.**

Yours Faithfully

P P H E S S O G

Ismail Dawjee



SHUTTLEWORTH & DAWJEE  
ATTORNEYS

	A/I	NAME	DATE	SIGN
TOWN PLANNING	SED			
	DIR			
	PA/SECR			
	LUMS	A	SPHE	
	SP GIS			
	ADM			

Tel: 034 315 1505 - Fax: 034 315 3418 - 6 Greaves Street, Newcastle, 2940 -

P.O. Box 1530 - dawjee@newcastle.co.za



Our ref: ID/MH/SEEDAT

NEWCASTLE MUNICIPALITY  
TOWN PLANNING DEPARTMENT

PER EMAIL : [Bheki.thusi@newcastle.gov.za](mailto:Bheki.thusi@newcastle.gov.za) ; [Townplanning@newcastle.gov.za](mailto:Townplanning@newcastle.gov.za)

[Gilbert.gp1800@gmail.com](mailto:Gilbert.gp1800@gmail.com)

**RE: PROPOSED RE-ZONING OF PORTION OF ERF 1427 NEWCASTLE – 12 EARL STREET  
NEWCASTLE TO ESTABLISH A GUESTHOUSE**

Duly instructed by Mr. Seedat of 10 A Earl Street, Newcastle .

We hereby submit an objection on behalf of our client to the proposed RE-ZONING OF  
PORTION OF ERF 1427 NEWCASTLE to establish a guesthouse

The grounds of objection are as follows: -

1. This is a quiet residential area and having a bed and breakfast will create an increase in traffic and movement of people and will disturb the peace;
2. Guesthouses are notorious for people getting together having parties, consuming alcohol, playing music and the like ;

3. We have also noticed an escalation of parking that comes with a bed and breakfast as they have limited space and parking for guests ,visitors and suppliers, inevitably guests end up using the street parking, causing congestion;

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6. In a residential area , we expect children to be able to ride their bicycles and walk in the street freely without having to look out for the bustling traffic in the area ;

**Kindly acknowledge the objection.**

Yours Faithfully

Ismail Dawjee



# SHUTTLEWORTH & DAWJEE

## ATTORNEYS

NEWCASTLE MUNICIPALITY  
S.E.D. - D.P. & H.S.

105, 107, 109, 111, 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, 135, 137, 139, 141, 143, 145, 147, 149, 151, 153, 155, 157, 159, 161, 163, 165, 167, 169, 171, 173, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 201, 203, 205, 207, 209, 211, 213, 215, 217, 219, 221, 223, 225, 227, 229, 231, 233, 235, 237, 239, 241, 243, 245, 247, 249, 251, 253, 255, 257, 259, 261, 263, 265, 267, 269, 271, 273, 275, 277, 279, 281, 283, 285, 287, 289, 291, 293, 295, 297, 299, 301, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 323, 325, 327, 329, 331, 333, 335, 337, 339, 341, 343, 345, 347, 349, 351, 353, 355, 357, 359, 361, 363, 365, 367, 369, 371, 373, 375, 377, 379, 381, 383, 385, 387, 389, 391, 393, 395, 397, 399, 401, 403, 405, 407, 409, 411, 413, 415, 417, 419, 421, 423, 425, 427, 429, 431, 433, 435, 437, 439, 441, 443, 445, 447, 449, 451, 453, 455, 457, 459, 461, 463, 465, 467, 469, 471, 473, 475, 477, 479, 481, 483, 485, 487, 489, 491, 493, 495, 497, 499, 501, 503, 505, 507, 509, 511, 513, 515, 517, 519, 521, 523, 525, 527, 529, 531, 533, 535, 537, 539, 541, 543, 545, 547, 549, 551, 553, 555, 557, 559, 561, 563, 565, 567, 569, 571, 573, 575, 577, 579, 581, 583, 585, 587, 589, 591, 593, 595, 597, 599, 601, 603, 605, 607, 609, 611, 613, 615, 617, 619, 621, 623, 625, 627, 629, 631, 633, 635, 637, 639, 641, 643, 645, 647, 649, 651, 653, 655, 657, 659, 661, 663, 665, 667, 669, 671, 673, 675, 677, 679, 681, 683, 685, 687, 689, 691, 693, 695, 697, 699, 701, 703, 705, 707, 709, 711, 713, 715, 717, 719, 721, 723, 725, 727, 729, 731, 733, 735, 737, 739, 741, 743, 745, 747, 749, 751, 753, 755, 757, 759, 761, 763, 765, 767, 769, 771, 773, 775, 777, 779, 781, 783, 785, 787, 789, 791, 793, 795, 797, 799, 801, 803, 805, 807, 809, 811, 813, 815, 817, 819, 821, 823, 825, 827, 829, 831, 833, 835, 837, 839, 841, 843, 845, 847, 849, 851, 853, 855, 857, 859, 861, 863, 865, 867, 869, 871, 873, 875, 877, 879, 881, 883, 885, 887, 889, 891, 893, 895, 897, 899, 901, 903, 905, 907, 909, 911, 913, 915, 917, 919, 921, 923, 925, 927, 929, 931, 933, 935, 937, 939, 941, 943, 945, 947, 949, 951, 953, 955, 957, 959, 961, 963, 965, 967, 969, 971, 973, 975, 977, 979, 981, 983, 985, 987, 989, 991, 993, 995, 997, 999

Box 1530 - dawjee@newcastle.co.za

28 OCT 2020

22 OCTOBER 2020

UKUTHUTHUKISWA  
NOKUHLELWA KWEDOLOBHA  
P/BAG X6621, NEWCASTLE, 2940

Our ref: ID/MH/SEEDAT

NEWCASTLE MUNICIPALITY

TOWN PLANNING DEPARTMENT

PER EMAIL : [Bheki.thusi@newcastle.gov.za](mailto:Bheki.thusi@newcastle.gov.za) ; [Townplanning@newcastle.gov.za](mailto:Townplanning@newcastle.gov.za)

[Gilbert.gp1800@gmail.com](mailto:Gilbert.gp1800@gmail.com)

**RE: PROPOSED RE-ZONING OF PORTION OF ERF 1427 NEWCASTLE – 12 EARL STREET**

**NEWCASTLE TO ESTABLISH A GUESTHOUSE**

Duly instructed by Mr. H. PEER of 112 Montague Street

We hereby submit an objection on behalf of our client to the proposed RE ZONING OF  
PORTION OF ERF 1427 NEWCASTLE to establish a guesthouse

	A/I	NAME	DATE	SIGN
SED				
D.P. Newcastle				
PA/SECR				
LUMS	A	SRE		
SP				
GIS				
ADM				

The grounds of objection are as follows: -

1. This is a quiet residential area and having a bed and breakfast will create an increase in traffic and movement of people and will disturb the peace;
2. Guesthouses are notorious for people getting together having parties, consuming alcohol, playing music and the like ;



3. We have also noticed an escalation of parking that comes with a bed and breakfast as they have limited space and parking for guests ,visitors and suppliers, inevitably guests end up using the street parking, causing congestion;

4. With a low income bed and breakfast, prostitutes are attracted to the area without the owners being necessarily aware thereof or encouraging some (we do not suggest that the owner would encourage this) ;

5. The character of the area is being transformed from a quiet residential area to a bustling business area with Salons' and bed and breakfasts' mushrooming everywhere. We don't consider this in the best interests of the residents';

6. In a residential area , we expect children to be able to ride their bicycles and walk in the street freely without having to look out for the bustling traffic in the area ;

**Kindly acknowledge the objection.**

Yours Faithfully

P. P. H<sub>2</sub>soog..

Ismail Dawjee

E-mail: [devlin@southeys.co.za](mailto:devlin@southeys.co.za)

Fax-to-E-mail: 086 530 5866

Our Ref: DF/MAT13062

Your Ref:

May 12, 2021

**ATTENTION:**

**MR CINDI & MR THUSI**

**TOWNPLANNING**

**NEWCASTLE MUNICIPALITY**

Dear Sirs,

**RE: APPLICATION FOR REZONING OF PORTION ERF 1427 NEWCASTLE**

1. We thank you for the meeting held on 23 March 2021 at the municipal building wherein your office facilitated an open ending discussion as it relates to the subject matter.
2. We have been instructed by our client (Mrs Noorget, duly represented by Mohamed Seedat) to send this letter, to reiterate our objections to the proposed rezoning.
3. The thorough response filed by AK & S.I GERBER (hereafter referred to as "the response") has been read and noted. We will not necessarily respond to every point raised therein as most of the points made by the objector and the response thereto were not part of our client's initial objection. We do note that most of our client's objection was not responded to, however, we will comment on the responded to parts below:

3.1 In regards to our client's objection, paragraph 3.6 of the response has been noted.

3.2 Further at paragraph 3.10 of the response, we strongly reject this answer by the responder:

3.2.1 Firstly, it seems as if the responder has disregarded the whole purpose of people filing objections. How can an objector object without stating their considerations and opinions? It is unconceivable, unless the aforesaid interpretation was not intended by the responder, which we can accept as not intended, but rather, on the grounds that the responder intended to state that they reject as it relates to our client's "personal basis"-meaning, the rejection by the responder is based on the presumption that our client's view, as it related to coming with the nuisance, is subjective and not objective, the subjective opinion being rejected.

3.2.2 Furthermore, our client's objection was directed to the municipality, for the said authority to take the objection into account in performing their professional assessment. Similarly, as we addressed the objection of the double story, which, the responder noted as an "issue of invasion of neighbor's privacy" at paragraph 3.6 of the response. The point we are making is this, the issue of having a double story building and having noise generated by the nature of an establishment must not be seen as two elements artificially separated. Both elements have their own ways in which they will potentially encroach and interfere on neighbors' rights. The double story relates to encroachment by means of unauthorized vision, whilst nuisance relates to the encroachment by unauthorized noise (however not limited to noise).

**3.2.2.1** We advise that nuisance noise is not something to be disregarded as merely a subjective element without arguable value. Nuisance noise has been strongly prohibited by our courts when matters were ripe for hearing and where municipalities failed to act. Additionally, the test is not a subjective test whether nuisance has been made, but whether a reasonable person, in the specific circumstances, would be expected to deal with the nuisance.

**3.2.2.2** In our client's initial objection, our client stated that there was concern as to the number of rooms, and potential people, on the initial proposal. Our client, whilst accepting that the proposal is no longer for a double story, is still concerned as to the amount of 13 rooms, and the volume of noise that can reasonably be expected from 70%-100% capacity, depending on the person cap per room.

**3.2.2.3** Our client's mention of her ownership of a B&B is relevant as it relates to firsthand experience and management in the same field which forms part of the application and the matter of dispute. We do not understand why the responding party stated that it is invalid, it seems a purely materialistic stance is taken by the responding party, which we must caution against as it is wholly inaccurate despite its convincing allure. Ultimately, the bigger picture of neighbor tensions and the balancing of rights must be performed between our client and the applicant. Our client's point substantiates her ability to objectively set an objection based on the norms of the industry, even at the level of a BnB which is capped at three rooms, not to mention 13 rooms which very well may lead to the encroachment on our client's constitutional rights.

3.2.3 Our client has duly acted in good faith, this is evident in that what was raised by our client and which was not rebutted by the respondent, except that which we have referred to and addressed above.

4. We reiterate that the municipality must take into account the objections raised, despite the respondent's confusing response at times stating otherwise. For the municipality to rationally make a decision, it must take into account the opinion and comments of the neighbors, the weight attached thereto is for the municipality to decide, not the respondent.
5. We further motion that during the meeting it was stated that the presented drawing was inaccurate, as it did not meet the required minimum parking space, neither did the space provided for parking belong to the applicant. In this regard, what was presented to the municipality, was accepted as being incorrect.
6. Furthermore, the issue of the required minimum space for the sanctioning of the proposed development, rezoning, did not meet the prescribed limit as stated in the meeting. Whilst the minimum limit was changed to 1500m squared, this new limit has not been met and the proposed land measures less than required, regardless of whether mention is made to the servitude which runs on the property. In this regard, whether or not a norm exists for a 10% deviation, our client will be interested in perusing the reasons if the deviation is granted.
7. Our client also requests the recorded minutes of the said meeting, if same can be made available it would be greatly appreciated. Whereafter we will be in a place to supplement further comments as not recorded in the meeting..

Yours faithfully

**D H FENTON**



**Annexure E:**  
**Response by an applicant**

AK & S. I Gerber  
12 Earl Street  
Newcastle  
Central  
allankevingerber@gmail.com

The Newcastle Municipality  
The Town Planner  
Murchison Street

19 February 2021

**Attention: Mr B. Thusi**

Dear Sir

**RESPONSE TO OBJECTIONS TO THE PROPOSED REZONING OF PORTION OF  
ERF 1427 NEWCASTLE FROM DETACHED RESIDENTIAL (SINGLE  
RESIDENTIAL) TO RESIDENTIAL ONLY OF HIGH DENSITY (GENERAL  
RESIDENTIAL 3) TO ESTABLISH A GUEST HOUSE: 12 EARL STREET,  
CENTRAL, NEWCASTLE**

The application mentioned above refers.

**1. THE APPLICATION**

The application under consideration is for the Proposed Rezoning of Portion of Erf 1427 Newcastle from Detached Residential (Single Residential) to Residential Only of High Density (General Residential 3) to establish a Guest House.

**2. PURPOSE OF THE SUBMISSION**

The dual object of our submission is to present our response to the objections and to make the case for consideration for approval of our application by the Municipal Planning Tribunal. We attempt to demonstrate to the municipality that most of these objections are not material considerations towards making a planning decision and that they therefore, cannot affect the granting of planning permission to our application.

**3. SUMMARY OF OBJECTIONS AND RESPONSES**

For convenience, we have grouped the issues raised by the objectors to our application and provided our responses accordingly.

**3.1 *Objection:* The increase in traffic and movement of people will disturb the peace**

***Response:*** The scale of the proposed development is small and is not associated with high volumes of traffic as alleged hence it cannot be turned down on this ground. The facts are presented below.

- 194
- a) The scale of the proposed development is small and is not a generator of high volumes of traffic as implied. It is isolated and is not part of a busy complex. This is a predominantly residential area with normal low volumes of vehicular traffic. The proposed development does not have the capacity to generate large volumes of traffic to create traffic problems in the area as feared.
  - b) Residential areas are designed fundamentally, as living areas for people. Movement by people in a residential area is therefore naturally expected. It is inconceivable how people (including the objector and family) walking about on a street in an area reserved as their living space, can disturb the peace. This objection is therefore, not valid.
  - c) We are certain that Newcastle Municipality has the best interests of its residents and developers at heart and that it will view the proposal progressively as it has a by-law enforcement unit charged with land use management and enforcement in the town.
  - d) Furthermore, the application was circulated to the municipal traffic department and no objections nor adverse comments on any foreseeable adverse impacts were expressed by traffic management specialists.

**3.2 Objection: Guesthouses are notorious for people getting together having parties, consuming alcohol, playing music and the like**

**Response:** This is an invalid general statement which does not apply to this application which is in accordance with and will comply with the provisions of the applicable laws. We elaborate further, hereunder.

- a) We propose a facility with a well-defined organisational management structure within the established institutional arrangements for the operation and management of such facilities in terms of the applicable laws. Furthermore, the provision of our services will be subject the applicable by-laws, terms and conditions.
- b) A generalisation of this nature is dangerous and is in this case, baseless for a development which is at a proposal stage and has not been associated with this imaginary negative perception. There are many guest houses which offer decent accommodation in the town and elsewhere, are endeared by clients as comfortable living facilities and in some cases, in a manner even better than some normal family residences. This baseless generalisation is not grounded on foreseen impacts of this particular facility and must be dismissed.
- c) This development is specifically for decent accommodation and is not intended as a venue for rowdy undesirable social events in a residential area.
- d) Newcastle has an abundance of venues in appropriately designated zones for the activities mentioned above and we fail to see how the proposed establishment is intended for such undesirable activities. The objector seemingly has experience of the negative operation of similar establishments elsewhere. We therefore urge the municipality to consider the basis for objection as irrelevant to this application hence it is only appropriate that our application be considered on its own merits and not based on illusionary speculative assumptions.



- e) To allay the objector's negative perceptions we would like to indicate that we are lodging this application for planning permission as provided in and subject to provisions of the applicable laws. Furthermore, as far as we know, Newcastle municipality has the professional by-law enforcement capacity to regulate the proposed development in terms the relevant by-laws.

**3.3 Objection: Shortage of parking resulting in the negative impacts on traffic**

**Response:** This objection is irrelevant to this proposal as our proposed developed conforms to minimum requirements on parking. The facts are briefly stated below:

- a) The objector's fear of a possible shortage of parking and adverse traffic impacts is seemingly based on experience in similar establishments elsewhere and is once again, a generalisation, is not applicable to this proposal and cannot be used speculatively for a decision against our application.
- b) Parking will be provided at a ratio that is in line with the Newcastle Town Planning Scheme. The Newcastle Municipality will consider parking among other issues when considering this application. The Newcastle Town Planning Scheme has clear development controls per zone/erf. Applications submitted to the municipality are assessed for compliance with parking requirements and our proposal complies with the minimum parking standards in line with the municipal requirements. The application was assessed by professionals charged with the traffic management responsibility and they were not against our proposal.

**3.4 Objection: With a low income bed and breakfast, prostitutes are attracted to the area without the owners necessarily aware of or encouraging it.**

**Response:** The assertion above is unfortunately based on misdirected profiling. It is prejudiced, alarmingly derogatory and is not a valid objection. In fact, it casts aspersions on us and our prospective clients and exceeds the limits of decent comment. We elaborate further as follows:

- a) The assertion above is very unfortunate and insensitive. It is pregnant with prejudice and is alarmingly derogatory. This irresponsible utterance casts aspersions on us as prospective developers and is potentially damaging to our integrity and those clients who might use our facility should our application for planning permission be granted. To imply the possibility of our prospective clients to be prostitutes is not only a potential human rights violation, insensitive but disparagingly harmful to us and our prospective clients. This is not a material planning consideration in the assessment of this application...
- b) As well-meaning people, we are disappointed that the objector would harbour such hideous insinuations about our proposal. At the very best, instead of the senseless self-contradiction by the objector on the same line, they should have realised the potential implications of their opinion than to carelessly put it to paper. The objector's not well-thought out opinion is not worthy of any favourable consideration by the municipality.

- 3.5 Objection:** The changing character of the area from a quiet residential area to a bustling business area is not in the best interests of the local residents and children will not be able to play in the area anymore.

**Response:** The structure of towns and land use activity systems are neither fixed nor static but are constantly in motion in response to ever-changing urban dynamics. We elaborate of this assertion below:

- a) Towns and cities are neither static nor dead places, they have a life and 'we need approaches that reflect an understanding of the city as a living entity, as a constantly changing whole that is capable of learning' (C. Pearson, 2007). Indeed, towns are alive and adapt to changing circumstances as societies change in their developmental cycles and so is Central.
- b) Put differently, Newcastle was never what it is today since it was first established. It is flourishing today because it had to undergo change structurally and this is noticeable through spatial changes in land use zones and uses on even in response to development pressures. As this change happens over time, it does not just happen on its own but is driven by entrepreneurial initiatives under the guidance of development planning, other built-environment professionals and local communities (residents) themselves.
- c) The reality of trends in the development of urban or rural areas, including Newcastle and in Central in particular, is that there is invasion and succession by development waves triggering land use changes. The Central Area has been undergoing change for some time now and this happens within the framework of the Spatial Development Framework and Newcastle Town Planning Scheme and involvement of various stakeholders. The momentum influencing the changing character of Central is real and evident and is there for all to see. What is evident empirically is that people have attempted to resist land use change (planners included) but with great difficulty. Such is the nature of urban dynamics over time and for the municipality to resist the changing spatial structure and land use zones would amount to interference with the town's development cycle and that might have adverse implications for the town's development vision.
- d) In terms of the fear of the loss of play areas for children, we would like to indicate that the immediate vicinity of our proposal is characterised by hard building development and is therefore not contributing to the loss of public play areas in the locality. In fact, there is a play park within 100 metres of the property at the corner of Hospital Street and Sutherland Road. This objection is therefore invalid.

- 3.6. Objection:** The proposed extension of entails the construction of a double storey building which will be invasive of the privacy of the neighbouring property (Erf 1428 Newcastle).

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**Response:** The building plans have been changed from a double storey to a single storey building hence the issue of invasion of the neighbour's privacy does not arise. The plans are available for the objector's inspection.

**3.7 Objection:** The scheme stipulates a minimum size of 2000m<sup>2</sup> for residential high density.

**Response:** The proposed development erf size complies with the norm in the planning field that an exemption of below and above 10% threshold in any value or deviation is accepted. We explain further as follows:

- a) The property is less than 2000m<sup>2</sup> and measures 1474m<sup>2</sup> in extent: the Newcastle Town Planning Scheme after amendment and adoption in 2016, required a minimum of 1500m<sup>2</sup>. With that said, it has always been a norm in the planning field that an exemption of below and above 10% in any value or deviation is accepted. This is a technical matter which will be decided upon by the municipality.

**3.8 Objection:** There is an encroachment servitude and a party wall registered against our property (Erf 1428 Newcastle) and the party in question was not consulted:

**Response:** We are aware of the servitude but it is disingenuous for the objector (owner of Erf 1428 Newcastle) to now seem to have a problem with a servitude which for all along has been in existence. We do not expect the owner to unreasonably determine how we use our property on account of the servitude. It is also not the correct position to suggest that the objector was never consulted as all notices were delivered physically and signed for upon delivery under the prevailing Covid 19 environment. We provide further facts below.

- a) It is disingenuous for the objector to now have a problem with a servitude which for all along has been in existence and that they used to own our property and allowed the reservation for a party wall servitude at the time of disposal of the their property then.
- b) The servitude has always been used for the fitting purpose and will continue being used as such, responsibly. The neighbour cannot unreasonably determine how we use our property based on the said servitude.
- c) The delivery of notices of the application to owners within 100 metres of the property was done in a physical address mode under the difficult Covid-19 pandemic environment. Several systems and services were disrupted as a result of the Covid 19 regulations and protocols and physical address delivery remained as a reliable alternative. All notices were signed for upon delivery as per the consultation list.
- d) It is therefore, not the correct position and misleading to suggest that the owner of Erf 1428 Newcastle was never consulted as all notices were delivered physically to addresses and signed for upon delivery by owners or were received on behalf of owners. Besides, responses were obtained from other property owners whose notices were served in the same manner.

### 3.9 **Objection: Existence of other guest houses within 1, 5 km of the site**

**Response:** Establishments within 1,5km or more from the proposed establishment have no bearing, inconsequential and cannot be cited as grounds to object to our application. We provide a brief below.

- a) Our proposal does not have any relation with or impact in its immediate vicinity arising from the existence of other guest houses in the locality. There are many other establishments in the town and such establishments cannot be cited as grounds to object to our application.

### 3.10 **Reasonableness and coming with the nuisance as expressed by the owner of Erf 1428 Newcastle**

**Response:** This personal basis for objecting is misplaced and irrelevant as we are directing this application to the municipality's professional assessment and not for the objector's consideration. The objector even suggests their ownership of a B&B. This is an irrelevant and invalid objection and we will not accord it unwarranted attention.

## 4. **CONCLUSION**

In conclusion, we would like to highlight the following:

- We are not quite sure if the objectors visited the Municipality to view the application including the site development plans. We also wonder if the Newcastle Town Planning Scheme was perused by the objectors and whether the objectors ever requested any clarification regarding interpretation.
- The structure of towns and land use activity systems are neither fixed nor static but are constantly in motion, are living entities and constantly undergoing change in many fronts and facets.
- The Central Area has been undergoing change for some time and this happens within the framework of the Spatial Development Framework and Newcastle Town Planning Scheme
- Some of the objections are based on generalisations based on similar establishments elsewhere and therefore their objections are speculative.
- The perception of our proposal in disparagingly derogatory light does not only profile us negatively but our prospective clients as well and is unfortunate.
- Some of the comments are not made in good faith but are desperately intended to get our application not to be approved but as matters stand, the objections are generally weak and in most cases invalid.
- We propose a facility with a well-defined organisational management structure within the established institutional arrangements for the operation and management of such facilities in the town
- The proposed development is specifically for decent accommodation and not is intended as a venue for rowdy undesirable social events in a residential area
- We are lodging this application for planning permission within the confines of and subject to provisions of the applicable laws.

- The building plans are available for inspection and have been changed from a double storey to a single storey building hence the issue of invasion of the neighbour's privacy does not arise.
- Establishments within 1, 5 km or more from the proposed establishment have no bearing, inconsequential and cannot be cited as grounds to object to our application.
- Personal opinion as a basis for objecting is misplaced and irrelevant as we are directing this application to the municipality's professional assessment and not for the objector's consideration.

Having stated our case on the objections received, we trust that the Newcastle Municipality would consider our application favourably

Yours faithfully



A.K. & S.I. Gerber



## NEWCASTLE MUNICIPALITY DEVELOPMENT PLANNING & HUMAN SETTLEMENTS

<b>DATE</b>	<b>23 March 2021, Tuesday</b>
<b>TIME</b>	<b>14:00 – 15:15 p.m</b>
<b>VENUE</b>	<b>Small Boardroom</b>

### **PRESENT:**

<b>S.CINDI</b>	<b>ACTING MANGER:LUM</b>
<b>B.THUSI</b>	<b>TOWN PLANNER</b>
<b>M. SEEDAT</b>	<b>OBJECTOR</b>
<b>D. FENTON</b>	<b>REPRESATATIVE OF THE OBJECTOR</b>
<b>G. PHIRI</b>	<b>APPLICANTS REPESANTATIVE</b>
<b>M. ESSOP</b>	<b>REPESANTATIVE OF THE OBJECTOR</b>
<b>T. SIMELANE</b>	<b>STUDENT: TOWN PLANNING</b>

<b>NO.</b>	<b>AGENDA ITEMS</b>	<b>ACTION BY</b>
<b>1.</b>	<b>OPENING, WELCOME</b>	<b>NOTED</b>
<b>2.</b>	<b>APOLIGIES</b> <ul style="list-style-type: none"> <li>- M. Seedat will join the meeting late.</li> </ul>	<b>M. Essop</b>
<b>3.</b>	<b>PURPOSE OF THE MEETING</b> <ul style="list-style-type: none"> <li>- To determine the objections of the rezoning application for establishment of guest house Erf no.1/472 Newcastle</li> <li>- To come up with common goal on how to deal with the objections.</li> </ul>	<b>S. Cindi</b>
<b>4.</b>	<b>DISCUSSIONS</b> <ul style="list-style-type: none"> <li>- B. Thusi elaborated about the application that was submitted by Mr Phiri on behalf of his client.</li> <li>- The application was for double story of which the applicant has decided against doing double story to make it a single story.</li> </ul>	<b>B. Thusi</b>

	<ul style="list-style-type: none"> <li>- The application was advertised and then objections were received stating different issues why they are against the application.</li> <li>- M. Essop raised that they haven't looked at the Municipal by laws when drafting objections, the information that was gathered was hearsays.</li> <li>- M. Seedat brought some letters of appointment from some of the neighbours through emails.</li> <li>- M. Seedat also raised his concern about the property that when the property was bought by Mr Gerber in 2006 (he showed photos on how it was conducted) and that now the building is in a bad state.</li> <li>- G. Phiri added that they were uncomfortable about their neighbor being interrogated for matters that were not concerning the application.</li> <li>- Also indicated that photos M. Seedat provided run contrary with what they were planning to do, as for developing the place.</li> <li>- B. Thusi explained that it would not be fair for them to judge on the character of the building because the matter was never raised at first.</li> <li>- G. Phiri emphasized that even though the meeting was not legislated but a common goal must be reached so that there could be a way forward.</li> <li>- D. Fenton asked if the rezoning was to be granted, what prevents the person that applied from making the place more bigger, what was the procedure needed to be complied, what capacity was to be accepted.</li> <li>- S. Cindi explained that servitude does not necessary reduce the size of the property unless the application was for subdivision.</li> <li>- S. Cindi also added that if the application get approved in terms of Spluma it does not get blanket approval but it get a conditional approval which would be based on what was submitted.</li> </ul>	<b>M. Essop</b> <b>M. Seedat</b>  <b>G. Phiri</b>  <b>B. Thusi</b>  <b>G. Phiri</b> <b>D. Fenton</b>  <b>S. Cindi</b>
<b>5.</b>	<b>WAY FORWARD</b> <ul style="list-style-type: none"> <li>- G. Phiri resolved that the double story will be converted to a single story.</li> <li>- Resolved that all the objections that were raised will be taken to MPT.</li> </ul>	<b>G. Phiri</b> <b>S. Cindi</b>
<b>6.</b>	<b>CLOSURE</b> <ul style="list-style-type: none"> <li>- The meeting concluded at 15:15</li> </ul>	<b>Noted</b>

**Annexure G**  
**Registered Planners Certificate**



**REGISTERED PLANNER'S CERTIFICATE**

**APPLICATION IN TERMS SPATIAL PLANNING LAND USE MANAGEMENT ACT (ACT 16 OF 2013) REGULATIONS AND BYLAW S: APPLICATION FOR REZONING OF ERF 1427 NO. 12 EARL STREET NEWCASTLE WEST FROM DETACHED RESIDENTIAL TO RESIDENTIAL ONLY HIGH DENSITY FOR THE PURPOSE OF ESTABLISHING A GUEST HOUSE: TP (13/3/3-1427) (MAY 2021) - WARD 34**

I, S.D. Cindi, certify that the application for the rezoning of Erf 1427 Newcastle from Detached Residential to Residential Only High Density for the purpose of establishing a Guest House, has been evaluated by me in terms of the Spatial Planning and Land Use Management Regulations and Bylaw's and is supported for reasons stated in the report.

I understand that if it is subsequently discovered that the application was defective, I will be criminally liable and may be charged for misconduct in terms of Schedule 4, Section 16 of the Bylaw's.

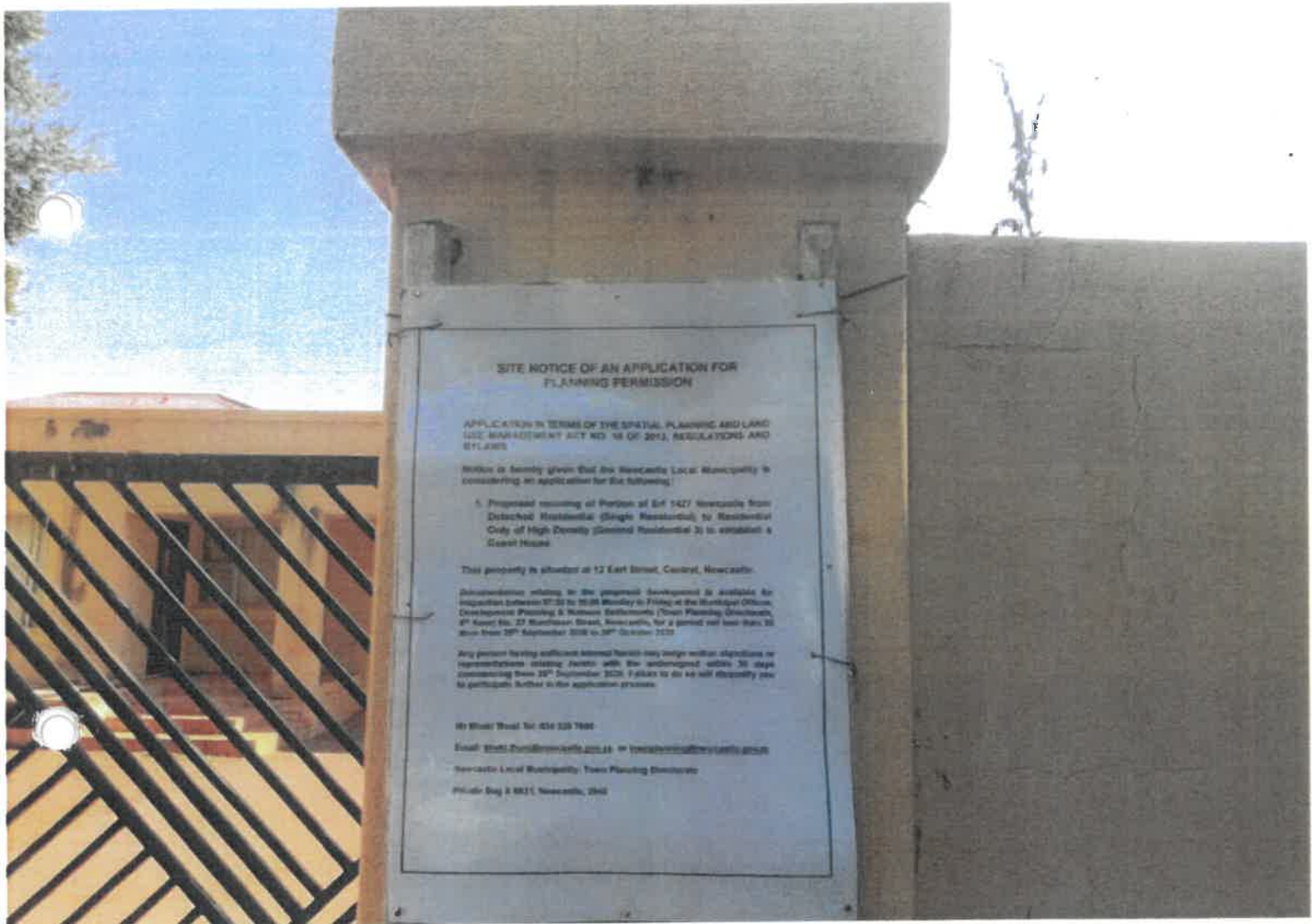


S.D. CINDI

**ACTING MANAGER: LAND USE MANAGEMENT**

SACPLAN Reg. Number: B/8187/2012 Date 3/06/2021

**Annexure E : Public Participation**



LEGALS / NOTICES



**LONGBOURNE**  
ESTATE & PROPERTY LTD

**NOTICE**

In the estate of the late **WILLEM ADRIAAN ENGELBRECHT**, Identity Number: 440806 5072 065, married out of community of property, last known address, Non Desk Number 4, Loerie Avenue 19, Avlary Hill, Newcastle, KwaZulu Natal.

Nestor's reference number: 000028/2018.

Notice is hereby given that the **FIRST AND FINAL LIQUIDATION AND DISTRIBUTION ACCOUNT** in the above estate will be for inspection at the Magistrate's Office, Newcastle and the Master of the High Court, Pietermaritzburg and for a period of 21 days as from date of publication hereof.

Dated at Pietermaritzburg this 25th day of September 2020.

**LONGBOURNE (Pty) Ltd**  
Agents for executor/estate  
P O Box 600, Pietermaritzburg  
Reference: Michelle Bronkhorst

e-CH001942

**Form JJJ**

**Lost or Destroyed Deed**

Notice is hereby given in terms of regulation 68 of the Deeds Registries Act, 1937, of the intention to apply for the issue of a certified copy of Deed of Transfer Number T52871985 passed by ISCOR LIMITED in favour of **STEPHANUS PETRUS BOSCH and HELENA JOHANNA BOSCH** in respect of:

**FRP 0093 NEWCASTLE EXTENSION 37**  
Registration Division HS  
Province of KwaZulu-Natal

**MEASURING 1020 SQUARE METRES**  
which has been lost or destroyed

All interested persons having objection to the issue of such copy are hereby required to lodge the same in writing with the Registrar of Deeds at **PIETERMARITZBURG** within two weeks from the date of the publication of this notice.

Dated at Pretoria this 19th day of SEPTEMBER 2020.

**Advertiser: ESTATE LATE SP BOSCH AND HJ BOSCH; C/O HOPANEATTORNEYS, PO BOX 100, TERSEKOUR PARK, TEL 081 447 203 - FAX 086 883 5934, EMAIL: danie@hopane.co.za**  
Attorneys for the Applicant  
REF:MAT12740

e-CH0018456

**Form JJJ**

**Lost or Destroyed Deed**

Notice is hereby given in terms of regulation 68 of the Deeds Registries Act, 1937, of the intention to apply for the issue of a certified copy of Notarial Deed of Session of right to Exclusive Use Area SK744/2012S.

In favour of:

**DHANABALAN NAICKER**

Identity Number: 720120 5132 084

In respect of

**Garage G7, Casa Granda, Newcastle, Sectional Plan No. SS 51/1907,**  
which has been lost or destroyed.

All interested persons having objection to the issue of such copy are hereby required to lodge the same in writing with the Registrar of Deeds at **PIETERMARITZBURG**, High Court Building, 300 Pietermaritzburg Street, Pietermaritzburg within two weeks from the date of the publication of this notice.  
Dated at **NEWCASTLE** on 21 September 2020.

**CONVEYANCER: CECILIA SPIES**  
Cecilia Spies Attorneys  
45 Cambridge Street, Newcastle, 3051

e-CH0018456

**APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, NO. 16 OF 2013: REGULATIONS AND BY-LAWS:**

**APPLICATION FOR CONSENT**

**NEWCASTLE TOWN PLANNING SCHEME:**  
Notice is hereby given that an application has been lodged with the Newcastle Municipality for its consent to use:

**Erf 6568 (NO. 18 Plat Relief) Barry Hertzog Park**

For the purpose of

**Establishing a Residential Commune.**

Any person desiring to object to this application may do so not later than thirty (30) days from the date of the publication of this notice, by lodging in writing, setting out the grounds of objection, with the Municipal Manager or address below.

Plans and particulars relating to this application may be inspected at Newcastle Municipality Tower Block, Development Planning & Human Settlements (Town Planning, 4th Floor) no. 37, Murchison Street, Newcastle, 2940, between 07:30 and 16:00 weekdays.

Enquiries and correspondence can also be directed to I.O. Redaba at

**APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013, REGULATIONS AND BYLAWS**

Notice is hereby given that the Newcastle Local Municipality is considering an application for the following:

1. Proposed rezoning of Portion of Erf 1427 Newcastle from Detached Residential (Single Residential) to Residential Only of High Density (General Residential 3) to establish a Guest House.

This property is situated at 12 Earl Street, Central, Newcastle.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00 Monday to Friday at the Municipal Offices, Development Planning & Human Settlements (Town Planning Directorate, 4th Floor) No. 37 Murchison Street, Newcastle, for a period not less than 30 days from 25th September 2020 to 26th October 2020.

Any person having sufficient interest herein may lodge written objections or representations relating hereto with the undersigned within 30 days commencing from 25th September 2020. Failure to do so will disqualify you to participate further in the application process.

Mr Bheki Thuli Tel: 034 328 7600

Email: [bbeki.thuli@newcastle.gov.za](mailto:bbeki.thuli@newcastle.gov.za) or [townplanning@newcastle.gov.za](mailto:townplanning@newcastle.gov.za)  
Newcastle Local Municipality: Town Planning Directorate  
Private Bag X 9621, Newcastle, 2940

e-CH00186285

**EMADLANGENI LOCAL MUNICIPALITY**

NOTICE IS HEREBY GIVEN IN TERMS OF SCHEDULE 5 (1) OF THE EMADLANGENI SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAWS 2016 THAT AN APPLICATION IS HEREBY LODGED IN TERMS OF SECTION 48(G) OF THE EMADLANGENI SPATIAL PLANNING AND LAND USE MANAGEMENT BY-LAWS 2016 AND THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013

Notice is hereby given that it is the intention of the eMadiangeni Local Municipality to consider an application for the following:

**Proposed SUBDIVISION of Erf 144 Utrecht to form Portion 1 and Remainder of Erf 144 Utrecht Reg Div HT.**

The property is situated at 9 Hoog Street, Utrecht.

Documentation relating to the proposed development is available for inspection between 07:30 to 16:00 Monday-Friday at the Infrastructure & Planning Development Offices being off of Plain Street and Keerom Street, Utrecht for a period not less than 30 days from 25th September 2020 to 26th October 2020.

Any person having insufficient interest therein may lodge or port written objections or make representations relating therewith with Municipal Manager, 34 Voors Street, P.O. Box 11, Utrecht 3040 by

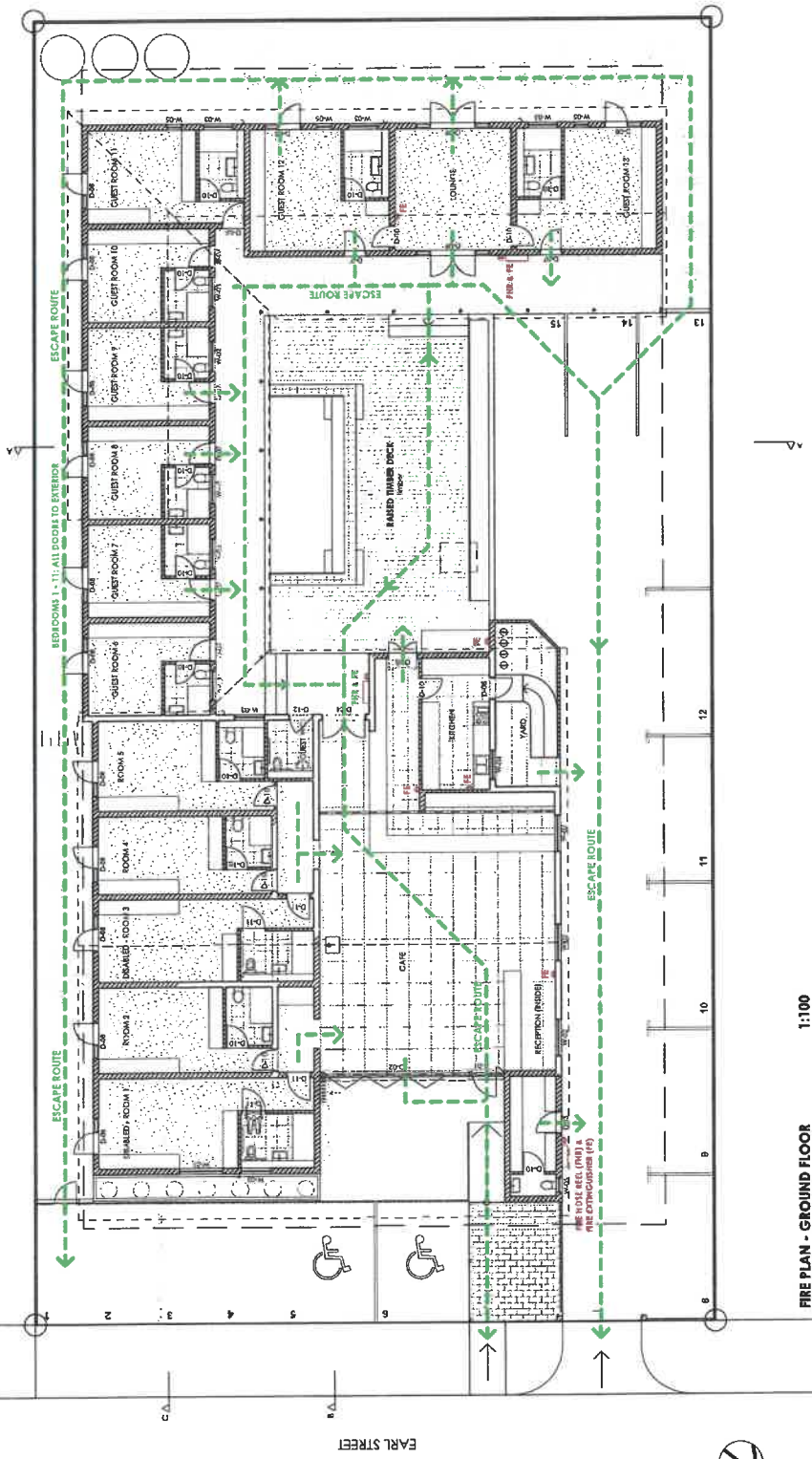


**Newcastle Municipality  
100m Radius of 1427 Newcastle**

Erf number/Street Address	Registered Owner	Signature
1424 (18 Earl Street)	Fatimoosa Investment cc	
1425 (16 Earl Street)	D. De Beer	
1426 (14 Earl Street)	I. Kharwa	
1428 (10 Earl Street)	Z. Noorget	
14 Greaves Street	R. Chetty	
1429 (12 Greaves Street)	R. Chetty	
1430 (11 Earl Street)	K. Moosa	
1431 (13 Earl Street)	J.B. Espach y Amod	
1432 (15 Earl Street)	E. Kaloo	
1433 (17 Earl Street)	F. Mohamed	
1446 (10 Greaves Street)	M&S Bijli	
1445 (86 Voortrekker Street)	M&S Bijli	
1444 (88 Voortrekker Street)	L. Lombard	
1400 (6 Earl Street)	Ark Investment Trust	
1398 (85 Southerland Str)	The Faramo Trust- Trustees	
1399 (8 Earl Street)	S. Vawda	
1397 (83 Southerland Str)	Z.Z. Lui	
1411 (87 Southerland Str)	A and P Holdings Pty Ltd	
1412 (89 Southerland Str)	B. Rafferty	
1413 ( 91 Southerland Str)	H.A. Kapp	
1414 (98 Southerland Str)	U.D Pillay	
1415 (95 Southerland Str)	U.D. Pillay	
Ward Councilor	Thabisile Mkhwanazi	

**Annexure F** : Proposed SDP

PROJECT NO:	BANK STREET
PROJECT NO:	A309
PROPERTY TYPE:	FREE SERVICES PLAN
DEVELOPER:	LA4681001
FOUR:	1:100
DATE:	2020/11/23
AUTHOR:	SW
PROJECT:	12 EARL STREET NEWCASTLE
OWNER:	A GERBER
PROJECT:	
OWNER SIGNATURE:	<i>Michael</i>
APPROVED SCAFFER	
ELDERSON	
DATE	
FOR OFFICE USE	



**FIRE PLAN - GROUND FLOOR**

NOTES:  
ALL GROUND WORK TO ENGINEER'S SPECIFICATION  
ALL STRUCTURAL WORK TO ENGINEER'S SPECIFICATION  
ALL STEEL WORK TO ENGINEER'S SPECIFICATION  
\*TUBER TRUSS STRUCTURE DESIGNED & CERTIFIED BY ENGINEER  
ALL NON STANDARD TUBER SIZES TO ENGINEER'S SPECIFICATION IN ACCORDANCE WITH SANS 10163

1. FIRE RISK CLASSIFICATION: H1
2. DOORS FOR THE PURPOSE OF FIRE FIGHTING SHALL BE INSTALLED IN ANY BUILDING OF TWO OR MORE STOREYS IN HEIGHT OR IN ANY SINGLE STOREY BUILDING MORE THAN 500 m<sup>2</sup> IN FLOOR AREA, AT A RATE OF ONE DOOR FOR EVERY 500 m<sup>2</sup> OR PART THEREOF. 1.4.4.1
3. WATER SUPPLY TO THE EQUIPMENT MUST COMPLY WITH 14.2 AND THE W-2 SECTION
4. FIRE FIGHTING EQUIPMENT SHALL BE INSTALLED IN ACCORDANCE WITH 14.2.5
5. FIRE FIGHTING EQUIPMENT TO BE WALL MOUNTED WITH THE HANDLE AT 1.5m ABOVE GROUND LEVEL IN AN EASILY ACCESSIBLE AND VISIBLE POSITION
6. MARKING AND RIGHT POSTING OF EMERGENCY ROUTES AND FIRE EQUIPMENT TO COMPLY WITH 14.2.7
7. ACCESS TO BUILDING FOR FIRE FIGHTING AND RESCUE PROCESSES TO COMPLY WITH 14.3 AND 14.3.1
8. BUILDING LESS THAN 4.5m IN WIDTH AND HEIGHT RESPECTIVELY P.A. CONTROLLED UNINTAKE, TO BE INSTALLED IN ACCORDANCE WITH 14.3.2
9. FITTED ROOF COVERINGS TO COMPLY WITH 14.12 AND COMBUSTIBLE WALL LININGS AND DECORATIVE FINISHES TO COMPLY WITH 14.15
10. FIRE ESCAPE DOORS MUST BE UNLOCKED AND OPEN IN DIRECTION OF TRAVEL
11. A MANUALLY ACTIVATED AUDIBLE ALARM SYSTEM IN ACCORDANCE WITH 10.19 TO BE PROVIDED. 14.3.1.3.1.4.1, 14.3.1.4.1, 14.3.1.4.1
12. THE SEATING ARRANGEMENTS TO COMPLY WITH 14.4.9
13. ANY FLAMMABLE LIQUID INSTALLATION SUCH AS FLAMMABLE LIQUID STORES, TANKS, SPRAY PAINTING EQUIPMENT, FLAMMABLE LIQUID DISPENSERS, FLAMMABLE LIQUID COOLING SYSTEMS, ETC. MUST BE PROTECTED FROM FIRE PROTECTION AND FLAMMABLE LIQUIDS AND SUBSTANCES, AND THE RESIDUAL SALES CODES, AND MUST BE REGISTERED WITH THE FIRE DEPARTMENT

**ALL WORK TO COMPLY WITH LOCAL FIRE OFFICERS' REQUIREMENT AND SANS**

- WATER RETICULATION - W 4.32  
ACCESS TO BUILDING - W 4.54  
ESCAPE ROUTES - W 4.21  
FIRE ESCAPE DOORS - W 4.19  
MARKING AND SIGN POSTING - W 4.29  
FIRE EQUIPMENT - W 4.32  
INTERNAL WALLS - W 4.29  
CEILINGS - W 4.13  
FLOOR FINISH - W 4.15  
FLOOR FINISHES - W 4.14  
PROTECTION OF OPENINGS - W 4.10