



19 OCTOBER 2026

REGISTERED MAIL

Dear Sir/Madam; *Geagte Meneer/Dame*

NOTICE OF LAND USE APPLICATION / KENNISGEWING VAN GRONDGEBRUIKSAANSOEK: PORTION 20 OF THE FARM JACOBS BAAY NO 108

APPLICANT A/APPLIKANT A: NETELEK (PTY) LTD.: - CONTACT DETAILS/KONTAK BESONDERHEDE: NETELEK (PTY) LTD. [072 587 1901/ RENALDO.MULLER@NETELEK.CO.ZA]

APPLICANT B/APPLIKANT B: SALDANHA BAY MUNICIPALITY: - CONTACT DETAILS/KONTAK BESONDERHEDE [CLIFF CARELSE 022 701 7118 & CLIFF.CARELSE@SBM.GOV.ZA]

Please take note that this notice relates to two separate applications:

Application A: Submitted by Netelek (Pty) Ltd. (Renaldo Muller); and

Application B: Submitted by Saldanha Bay Municipality (Cliff Carelse).

Notice is hereby given in terms of Sections 46 and 47 of the Saldanha Bay Municipal Land Use Planning By-law that Saldanha Bay Municipality is considering the following:

Application A: Submitted by Netelek (Pty) Ltd. (Renaldo Muller):

- a) Amendment, in terms of Section 15(2)(k) of the Saldanha Bay Municipality By-law on Land Use Planning, 2022, of the approved Subdivisional Plan (endorsed on 27 October 2023) for Portion 20 of the Farm Jacobs Baay No 108, as follows:

• Residential Zone I	-	26 erven
• Open Space Zone II	-	3 erven
• Transport Zone III	-	1 erf
• Open Space Zone I	-	1 erf
• Transport Zone II	-	1 erf

To be amended as follows:

• Residential Zone I	-	25 erven
• Open Space Zone II	-	3 erven
• Transport Zone III	-	2 erf
• Open Space Zone I	-	2 erf
• Transport Zone II	-	1 erf

Application B: Submitted by Saldanha Bay Municipality (Cliff Carelse):

- a) Amendment, in terms of Section 15(2)(h) of the Saldanha Bay Municipality By-law on Land Use Planning, 2022, of the following condition of approval:

Condition (r) of the decision letter dated 20 April 2015 which reads as follows:

(r) that the costs of the construction of the above road will be offset against Capital Contributions payable

To read as follows;

The development charges have been determined in terms of Council decision R104/4-10 dated 28 April 2010 by the Director. The obligation to pay development charges applies to the entire development and shall be determined as a monetary value in respect of the total development charge liability for the whole development. The liability shall not be determined, allocated, or fixed on a per-erf basis. Payment of development charges shall be triggered upon the submission of building plans or upon transfer of the property, whichever occurs first, unless the obligation for payment has been lawfully discharged through another approved mechanism. The provision, construction, transfer, and handover of external or bulk engineering infrastructure by the developer is recognized as a mechanism to discharge, in full or in part, the obligation to pay development charges, in line with the amended Municipal Fiscal Powers and Functions Act. This shall only apply where the Municipality has accepted the infrastructure and confirmed the value thereof for purposes of offsetting it against the development charge liability. Where the value of the transferred infrastructure is equal to or greater than the total development charge liability for the entire development, the development charge obligation shall be regarded as discharged, subject to confirmation by the Municipality. The Municipality will not have any obligation to refund the developer the amount over and above the calculated development charge liability. Where the value of the transferred bulk infrastructure does not fully cover the development charge liability for the entire development, the remaining balance shall continue to be payable. For any properties or portions of the development not covered by the value of the transferred asset, the applicable development charges shall continue to escalate annually in accordance with the applicable 2008:100 indices until such time as the payment trigger occurs or the obligation is lawfully discharged.

- b) Deletion, in terms of Section 15(2)(h) of the Saldanha Bay Municipality By-law on Land Use Planning, 2022, of condition (vv) of the decision letter dated 19 January 2023 which reads as follows:

(vv) That the development charges that corresponds with the 20 April 2015 development approval still applies to this application. The development charges escalate annually in July using the month as basis. The development charges are payable when the developer submits building plans for approval or applies for property transfer, whichever occurs first.

Details are available for scrutiny on the website of Saldanha Bay Municipality at the following link:
<https://sbm.gov.za/notices/>

The above application is available for inspection during weekdays between 08:30 and 16:30 at the Town Planning Department, 17 Main Street, Vredenburg. Any **written comments** may be addressed in accordance with Section 50 of the said legislation to the Municipal Manager, Private Bag X12 / 17 Main Street, Vredenburg, 7380 / Amanda.Meyer@sbm.gov.za on or **before 30 days from the date of registration of this notice**, quoting your, name, address, contact details, interest in the application and reasons for your comments. Enquiries can be made to Martin Botha at Tel: 022-701-7107 or Martin.Botha@sbm.gov.za The Municipality may refuse to accept any comments received after the closing date. Any person who cannot write will be assisted by a Municipal official by transcribing their comments. Comments/objections will be forwarded to the applicant for his/her response.

Neem asseblief kennis dat hierdie kennisgewing betrekking het op twee afsonderlike aansoeke:

Aansoek A: Ingedien deur Netelek (Edms.) Bpk. (Renaldo Muller); en

Aansoek B: Ingedien deur Saldanhaabaai Munisipaliteit (Cliff Carelse).

Kennis word hiermee gegee, ingevolge Artikels 46 en 47 van die Saldanhaabaai Munisipale Grondgebruik beplanningsverordening dat Saldanhaabaai Munisipaliteit die volgende oorweeg:

Aansoek A: Ingedien deur Netelek (Edms.) Bpk. (Renaldo Muller):

- a) Wysiging, ingevolge Artikel 15(2)(k) van die Saldanhaabaai Munisipale Verordening op Grondgebruikbeplanning, 2022, van die goedgekeurde onderverdelingsplan (geëndosseer op 27 Oktober 2023) vir Gedeelte 20 van die Plaas Jacobs Baay Nr 108, soos volg:

• Residensiële Sone I	-	26 erwe
• Oopruimtesone II	-	3 erwe
• Vervoersone III	-	1 erf
• Oopruimtesone I	-	1 erf
• Vervoersone II	-	1 erf

Om as volg gewysig te word:

• Residensiële Sone I	-	25 erwe
• Oopruimtesone II	-	3 erwe
• Vervoersone III	-	2 erwe
• Oopruimtesone I	-	2 erwe
• Vervoersone II	-	1 erf

Aansoek B: Ingedien deur Saldanhaabaai Munisipaliteit (Cliff Carelse):

- a) Wysiging, ingevolge Artikel 15(2)(h) van die Saldanhaabaai Munisipale Verordening op Grondgebruikbeplanning, 2022, van die volgende goedkeuringsvoorwaarde:

Voorwaarde (r) van die besluitbrief gedateer 20 April 2015, wat soos volg lui:

(r) that the costs of the construction of the above road will be offset against Capital Contributions payable

Om soos volg te lui:

The development charges have been determined in terms of Council decision R104/4-10 dated 28 April 2010 by the Director. The obligation to pay development charges applies to the entire development and shall be determined as a monetary value in respect of the total development charge liability for the whole development. The liability shall not be determined, allocated, or fixed on a per-erf basis. Payment of development charges shall be triggered upon the submission of building plans or upon transfer of the property, whichever occurs first, unless the obligation for payment has been lawfully discharged through another approved mechanism. The provision, construction, transfer, and handover of external or bulk engineering infrastructure by the developer is recognized as a mechanism to discharge, in full or in part, the obligation to pay development charges, in line with the amended Municipal Fiscal Powers and Functions Act. This shall only apply where the Municipality has accepted the infrastructure and confirmed the value thereof for purposes of offsetting it against the development charge liability. Where the value of the transferred infrastructure is equal to or greater than the total development charge liability for the entire development, the development charge obligation shall be regarded as discharged, subject to confirmation by the Municipality. The Municipality will not have any obligation to refund the developer the amount over and above the calculated development charge liability. Where the value of the transferred bulk infrastructure does not fully cover the development charge liability for the entire development, the remaining balance shall continue to be payable. For any properties or portions of

the development not covered by the value of the transferred asset, the applicable development charges shall continue to escalate annually in accordance with the applicable 2008:100 indices until such time as the payment trigger occurs or the obligation is lawfully discharged.

- b) *Skrapping, ingevolge Artikel 15(2)(h) van die Saldanhabaai Munisipale Verordening op Grondgebruikbeplanning, 2022, van voorwaarde (vv) van die besluitbrief gedateer 19 Januarie 2023, wat soos volg lui:*

(vv) That the development charges that corresponds with the 20 April 2015 development approval still applies to this application. The development charges escalate annually in July using the month as basis. The development charges are payable when the developer submits building plans for approval or applies for property transfer, whichever occurs first.

Nadere besonderhede lê ter insae op die webblad van Saldanhabaai Munisipaliteit by die volgende skakel:
<https://sbm.gov.za/notices/>

*Die bogenoemde aansoek is ter insae beskikbaar gedurende weeksdae tussen 08:30 and 16:30 by die Departement Stadsbeplanning, Hoofstraat 17, Vredenburg. Enige **skriftelike kommentaar** kan ooreenkomstig Artikel 50 van die genoemde wetgewing gerig word aan die Munisipale Bestuurder, Privaatsak x 12 / Hoofstraat 17, Vredenburg / Amanda.Meyer@sbm.gov.za op of **voor 30 dae vanaf die datum van registrasie van hierdie kennisgewing**, met vermelding van u naam, adres of kontakbesonderhede, belang in die aansoek en redes vir kommentaar. Navrae kan gerig word aan Martin Botha by Tel: 022-701-7107 of Martin.Botha@sbm.gov.za Die Munisipaliteit mag weier om kommentaar te aanvaar wat na die sluitingsdatum ontvang word. Enige persoon wat nie kan skryf nie, sal deur 'n Munisipale amptenaar bygestaan word deur hul kommentaar oor te skryf. Besware sal aan die applikant gestuur word vir sy/haar repliek.*

Regards / Die Uwe

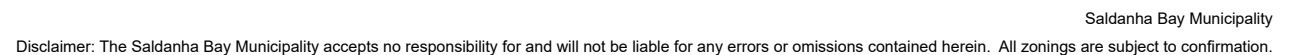


pp MUNICIPAL MANAGER / MUNISIPALE BESTUURDER

[illegible]

 SG Approved Properties

 Registered Properties





MUNISIPALITEIT • MUNICIPALITY • uMASSIPALA

MELD ASB ONS VERW NR:
PLEASE QUOTE OUR REF NO:
NGESICELO BONISA INOMBOLO:

20 April 2015

Creative Profile
PO Box 6590
WELGEMOED
7538

PI 108/18
PI 108/20

(022) 701 7000 (022) 715 1518

Mun@sbm.gov.za

www.sbm.gov.za

Navrae:

Enquiries:

iMibuzo: LG GAFFLEY

PER REGISTERED-MAIL

Dear Sir/Madam

**LAND USE PLANNING AND CONTROL : APPLICATION FOR
SUBDIVISION AND REZONING OF PORTION 20 OF FARM JACOBSBAAI
NO 108 AND SUBDIVISION AND REZONING OF PORTION 18 OF FARM
JACOBSBAAI NO 108**

The application in the above mentioned matter refers.

You are hereby informed that the item; (PFCE&P7/4-15), in the above-mentioned, was discussed at the Portfolio Committee Meeting held on 14 April 2015 and the following resolution was made:

- ii) that the application for Rezoning of Portion 20 of Farm Jacobsbaai No 108. from Agriculture Zone to Subdivisional Area to accommodate a Single Residential development BE APPROVED in terms of Section 16 of the Land Use Planning Ordinance, No 15 of 1985;
- iii) that the application for Subdivision Portion 20 of Farm Jacobsbaai No 108, to accommodate 30 portions, as indicated on the subdivisional plan, dated 16/07/14, BE APPROVED in terms of Section 25 of the Land Use Planning Ordinance, No 15 of 1985;

iv) that for the purposes of Section 22(3) the following zonings as defined in the Vredenburg-Saldanha Zoning Scheme be allocated to:

- Portions 1 to 26 – Single Residential Zone I
- Portion 9, 30 and 15 – Reserved for Public Open Space
- Portion 29 – Reserved for Public Road

v) that the application for Subdivision Portion 18 of Farm Jacobsbaai No 108, to accommodate 1 portion, as indicated on the subdivisional plan, dated 16/07/14, BE APPROVED in terms of Section 25 of the Land Use Planning Ordinance, No 15 of 1985;

vi) that for the purposes of Section 22(3) the following zonings as defined in the Vredenburg-Saldanha Zoning Scheme be allocated to:

- Portion 31 – Reserved for Public Road

vii) that the street names BE APPROVED in terms of the Saldanha Bay Municipality's Policy on Street Naming/Renaming and Numbering Policy, as follows;

Morkel Street
Tolbos Street
Connema Street
Babianna Street

(a) that this approval does not exempt the owner from conforming to any other relevant statutory requirements;

(b) that architectural guidelines be submitted for approval to the Manager: Land Use Planning and Development Control prior to the transfer of individual erven or the approval of building plans;

(c) that the development be subject to the approved architectural guidelines for all home owners;

(d) that a controlling architect be appointed for the approval of all building plans and development concepts and that the controlling architect administer and ensure compliance with the approved architectural guidelines (in accordance with Condition (e));

- (e) that the developer complies with the requirements and implementation methodology of the Street Name and Numbering Policy prior to clearance;
- (f) that all existing servitudes registered against the property as well as any new servitudes which may be required by the Municipality be registered against the property prior to Section 31 clearance being issued;
- (g) that the subject development be in accordance with the requirements and provisions of the environmental authorisation (M3/6/5, Dated: 5/12/2011);
- (h) that advertising and signage be in strict compliance with Council's by-law in this regard;
- (i) that, where necessary, the applicant, at his cost, moves and / or registers servitudes over existing services;
- (j) that sufficient dust control measures be implemented during construction phase;
- (k) that all services including Telkom be provided underground and that no above ground services be allowed;
- (l) that the development be in accordance with the standard conditions of the Municipality (version 2006-b). See Annexure "J" to the report;
- (m) that capital contributions for the bulk services be payable in accordance with the approved Interim Policy of Council, approved per Council's Resolution R104/4-10 of 28 April 2010 in terms of the Acknowledgement of Debt agreed to by the developer, see Annexure "I" to the report;
- (n) that the developer be responsible for the construction of a 20m road reserve from the existing intersection of OP 7647 up to the end of this development at the North-Western boundary;
- (o) that the alignment of the road reserve be co-ordinated with Saldanha Bay Municipality's Manager: Roads & Stormwater;
- (p) that the above road be constructed to a gravel road standard to the satisfaction of the Manager: Roads & Stormwater;
- (q) that the developer be responsible to cadastrally create a 20m road reserve across the newly consolidated portion (Portion of 108/18 and Portion 108/20) as one public road;

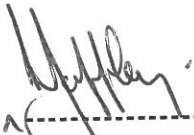
- (r) that the costs of the construction of the above road will be offset against Capital Contributions payable;
- (s) that the developer be responsible for the relocating of the refuse facility at his own cost, to the locality as agreed upon with the owner of Farm 108/18, to the satisfaction of Council;
- (t) that the development be in accordance with the standard conditions from the Manager: Electrotechnical Services See Annexure "H" to the report;
- (u) that all electrical services be designed according to Council's standards;
- (v) that detail of all electrical services required by the development be approved by the Manager: Electrotechnical Services in advance;
- (w) that the Manager: Electrotechnical Services or his delegate be invited to all site meetings;
- (x) that final and complete "As Built" detail of all electrical services be provided in both suitable transparent hardcopy, as well as Council's approved digital format;
- (y) that existing electrical services may not be adversely affected by the development;
- (z) that the property be valued according to supplementary / general valuation and, as per Council Policy, be taxed accordingly;
- (aa) that the applicant confirms in writing that all conditions of approval are accepted and, if not, that an appeal is lodged against such conditions according to the prescribed procedures;
- (bb) that the subdivided properties be re-evaluated and taxed in terms of Council's decision;
- (cc) that no clearance/occupation be allowed prior to the compliance of all requirements;

Note that you have the right to appeal to the Council in terms of Section 62 of the Municipal Systems Act, No 32 of, if an appeal is lodged this decision is suspended until the outcome of the appeal process.

Should you wish to exercise your right of appeal in terms of Section 62 of the Municipal Systems Act, the following procedures should be adhered to; failure to adhere thereto may render an appeal invalid:

- the appeal must be in writing,
- the appeal in terms of the Municipal Systems Act No 32 of 2000 must be addressed to : The Municipal Manager, Private Bag X12, Vredenburg, 7380, by registered post,
- the appeal must be accompanied by all relevant documentation,
- the appeal must set out the grounds on which it is based,
- the right of appeal must be lodged within 21 days of the date of registration of this letter. Council will regard your acting on the right of appeal to be the date on which your appeal is received by the administrative offices of Council.

Yours faithfully



MUNICIPAL MANAGER

/sdb



19 January 2023

FOR ATTENTION: Creative Profile

PO Box 70
Onrusrivier
7201

PER EMAIL: profile@netactive.co.za

Dear applicant

**APPLICATION FOR AN AMENDMENT OF THE APPROVED SUBDIVISION PLAN,
EXTENSION OF VALIDITY OF APPROVAL AND CONSENT USE IN RESPECT OF
PORTION 20 OF THE FARM 108, SWARTRIET, JACOBSBAAI**

Your application in the above property has reference.

This notice serves to inform you that the application, is **APPROVED** by virtue of the delegations afforded in terms of the Delegated Authority, **R85(a)/4-21**, on 19 January 2023 by the Senior Manager: Land Use Planning and Development Control as follows:

- i) That the amendment of the approved subdivision plan in respect of Portion 18 and 20 of the Farm 108, Jacobs Baai, **be approved** in terms of Section 60(a) of the Municipal Land Use Planning By-law, as depicted on the subdivisional plan, *prepared by Creative Profile Town Planning & Architecture, dated 5 August 2022*, and that the zonings be allocated as follows:
 - 26 Residential Zone I erven (dwelling house)
 - 3 Open Space Zone II erven (private open space)
 - 1 Transport Zone III erf (private street)
 - 2 Open Space Zone I erven (public open space)
 - 2 Transport Zone II erven (public street)
- ii) That a consent use contemplated in the zoning scheme, **be approved** in terms of Section 60(a) of the Municipal Land Use Planning By-law, to accommodate a utility service (sewer pump station) on the public open space (Portion 32);
- iii) That a further extension of the land use approval issued on 14 April 2015 (PFCE&P7/4-15), **be approved** to extend the validity for a further two years from 20 April 2023 to 20 April 2025;
- iv) That the approvals are subject to the following conditions imposed in terms of Section 60(b) of the By-law:

Senior Manager: Land Use and Development Control

- a) That all conditions contained in the municipality's notification letters dated 20 April 2015 and 23 April 2021, be adhered to and the development remains subject to compliance with these conditions;
- b) That the following be addressed prior to endorsement of the subdivision plan by the authorised employee:
 - the zoning descriptions of the newly created portions must be in accordance with the zoning descriptions as per the municipality's integrated zoning scheme;
 - Access arrangements to the services infrastructure by means of Right-of-way servitudes must be indicated
 - If the electrical substation is intended to be a municipal service it must be accommodated on its own property
 - The provision of a refuse bay in accordance with the requirements of condition (hh)
- c) That servitudes be registered across all services infrastructure within the residential development at the applicant/developer's expense in favour of and to the satisfaction of the municipality before clearance for erf transfer can be obtained;
- d) That public/pedestrian access remain uninterrupted over Portion 10 and 32;
- e) That development design rules (architectural guidelines) be submitted for approval by the Senior Manager Land Use Planning & Development Control, to the satisfaction of the municipality;
- f) That any amendment of or deviation from the design rules require the permission of the municipality;
- g) That in the event where the design rules allow for development parameters less restrictive than the municipal zoning scheme, the approval of such design rules constitutes the approval of a departure from the relevant development parameters of the zoning scheme;
- h) That perimeter walls are restricted to a height of 850mm (with the exclusion of service yards), may not consist of prefabricated panels and must be plastered and painted with finishing in accordance with the development design rules to be approved;
- i) That the aesthetical design of the development may not detract from and must complement the existing Jacobsbaai township character;

- j) That building plans for the development must be evaluated by the owners' association before submission to the municipality and the owners association must indicate their support or lack thereof with reasons to the municipality. The municipality can, at their discretion, accept building plans without the endorsement of the owners' association;
- k) That undisrupted/unlimited access shall be permitted for emergency services, law enforcement agencies and municipal service staff;
- l) That an owners' association must be established by the developer/landowner in accordance with Section 29 of the Municipal Land Use Planning By-law, and shall come into being before the municipality will certify in terms of Section 28 of said By-law, that any condition on which the amendment was granted, has been complied with;
- m) That an owners' association that comes into being by virtue of subsection (1) is a juristic person and must have a constitution;
- n) That the constitution of an owners' association must be approved by the Municipality before the transfer of the first land unit and must make provision for, but not limited to:
 - i. the owners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
 - ii. control over and maintenance of buildings, services or amenities arising from this approval;
 - iii. the regulation of at least one annual meeting with its members;
 - iv. control over the design guidelines of the buildings and erven arising from the subdivision;
 - v. the ownership by the owners' association of all common property arising from the subdivision, including— (i) private open spaces; private roads; and land required for services provided by the owners' association;
 - vi. enforcement of conditions of approval or management plans;
 - vii. procedures to obtain the consent of the members of the owners' association to transfer an erf in the event that the owners' association ceases to function; and
 - viii. the implementation and enforcement by the owners' association of the provisions of the constitution.

- ~~o) The constitution of an owners' association may have other objectives as set by the association but may not contain provisions that are in conflict with any law;~~
- p) That the constitution of the owners' association takes effect on the registration of the first land unit;
- q) That an owners' association may amend its constitution when necessary, but if an amendment affects the Municipality or a provision referred to in subsection (3) of said By-law, the amendment must also be approved by the Municipality;
- r) That an owners' association that comes into being by virtue of subsection (1) of said By-law:
 - i. has as its members all the owners of the land units arising from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and
 - ii. is upon registration of the first land unit automatically established.
- s) That the design guidelines contemplated in subsection (3)(d) of said By-law, may introduce more restrictive development rules than the rules provided for in the zoning scheme.
- t) That this approval does not exempt the landowner/applicant from any other applicable statutory legislation;

Manager Electrotechnical Services

- u) Capital contributions are payable for electricity.
- v) The developer is responsible for all direct costs for the supply of all internal, external and bulk electrical services as well as any upgrades that are required. The developer must appoint an Electrical Consulting Engineer to do the electrical design for the proposed development.
- w) Where necessary, the applicant must move existing services and own costs (especially the overhead 11KV line that runs through the development must be on ring feed) and/or register servitudes.
- x) The Department Electrotechnical Services must be informed before any work or construction commences, so that services can be pointed out.
- y) All electrical services must be designed in accordance with council standards.
- z) Detail of all electrical services required by the development must be approved by the Manager: Electrotechnical Services before tenders are requested.

- aa) The Manager: Electrotechnical Services or his delegate must be invited to all site meetings.
- bb) Final and complete 'As Built' detail of all electrical services must be provided to council in both Sepia hard copy and council's accepted digital format (dwg).
- cc) Single Line Diagrams must be submitted with 'As Build' drawings and must include inter alia the projected Fault Levels for phase and earth faults at the transformers, kiosks and consumer points.
- dd) Existing service must not be adversely affected by this development.
- ee) All road crossings must be in a 110mm sleeve.
- ff) Only Prepaid connections will be permitted.

Manager Roads and Stormwater

- gg) Due to the geometry of the 20m municipal road reserve, it is recommended that the speed restriction on this road be 40km/h and the road be designed and constructed accordingly.
- hh) A minimum of 6m surfaced roadway (3.0 to 3.5m lanes) with barrier kerbing with suitably discharge of stormwater/surface run-off.
- ii) The minimum control at the intersection (Minor Road 7647/Main Road) is to be a three way stop.

Manager Solid Waste (Cleansing)

- jj) A refuse bay of 15 m long and 2,5m wide must be provided for the collection vehicle to park while emptying bins from the refuse room.

Engineering Surveyor

- ii) The services must be approved by the Municipality before development start.
- jj) The service plans must clearly state what services will be private and public.
- kk) If servitude is required during the services plans approval, that are not part of this document then no clearance can be given until the servitude's are created.

Manager Support Services

- ll) That all civil engineering conditions as stated in the land use approval dated 20 April 2015 applies to this application;
- mm) That all the land use approvals and the environmental approvals must be submitted by the developer when construction drawings are submitted to the municipality;
- nn) That the developer will be responsible for all cost associated with this development application and the implementation thereof;
- oo) That the development be according to the attached Standard Conditions for Civil Engineering (2006-b);
- pp) That the developer will be responsible to upgrade any water, sewer, stormwater or road infrastructure that might be required because of this development;
- qq) That the developer is responsible for the provision of all internal and external civil services as well as any amendments to any service which may be required because of this development;
- rr) That the developer must ensure that all development conditions are met before the municipality will issue the clearance certificates;
- ss) That the detail and design of the civil infrastructure be approved by the Director: Engineering and Planning Services before the developer asks for tenders;
- tt) That the Director: Engineering and Planning Services be invited to all site meetings;
- uu) That the developer must ensure that all conditions have been met before the municipality will accept ownership of the roads;
- vv) That the development charges that corresponds with the 20 April 2015 development approval still applies to this application. The development charges escalate annually in July using the month as basis. The development charges are payable when the developer submits building plans for approval or applies for property transfer, whichever occurs first;
- ww) That the developer must ensure that all the conditions have been met before the zoning and or clearance certificate is issued.

You are hereby informed of your right to appeal to the Appeal Authority in terms of section 79 of the Saldanha Bay Land Use Planning By-law. The attached appeal form must be completed and should be directed to the Municipal Manager, Saldanha Bay Municipality, Private Bag X12, Vredenburg, 7380 and received by the municipality within 21 days of notification of this decision together with the information set out in section 80 of the By-law.

Please note that you must simultaneously serve notice of the appeal on any person who commented on the application and any other persons as the Municipality may determine (see attached list). Proof of serving the notification must be submitted to the Municipality, within 14 days of serving the notification. The notice must be served in accordance with section 35 of the said legislation and in accordance with the additional requirements as may be determined by the Municipality.

The notice must invite persons to comment on the appeal within 21 days from date of notification of the appeal. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.

Yours faithfully

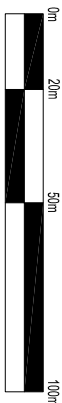


For Municipal Manager

/dm



SCALE 1:2000 (A4)
OUTERESG (OORREHO)
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IMPORTANT NOTES:
ALL RESIDENTIAL ACCESS FROM
INTERNAL PRIVATE ROAD ONLY
RESIDENTIAL BUILDING LINES:
3m STREET
2.5m SIDE
3m BACK
ALL AREAS, DIMENSIONS ETC. SUBJECT TO
SG APPROVED GENERAL PLAN

PORTION 20 OF FARM 108

PTIN NR.	USE	NO.	AREA (ha)	%
5, 18, 26	RESIDENTIAL Zone I	26	1.57	63.41
24	PRIVATE OPEN SPACE	3	0.04	1.67
10	PRIVATE ROAD	1	0.30	12.50
33	PUBLIC OPEN SPACE	1	0.17	7.08
33	PUBLIC STREET	1	0.32	13.34
TOTAL		32	2.40	100

* PORTION 24 EXCLUDED FROM ABOVE LAND USE TABLE

* AVERAGE ERF SIZE: ±800m²

* GROSS RESIDENTIAL DENSITY: ±10.8 units/ha

A PORTION OF PORTION 18 OF FARM 108

24
A PORTION OF PORTION 18 OF FARM 108
±0.14 HECTARES ROAD AS PER
AGREEMENT WITH NEIGHBOURING
LAND OWNERS TO BE CONSOLIDATED
WITH PTIN 33

THE SERVITUDE AREAS AS INDICATED ON THE
PLAN ARE TO BE REGISTERED IN FAVOUR OF
THE HOME OWNERS ASSOCIATION

A PORTION OF FARM 299
JACOBS BAY

PEDESTRIAN LINK WITH FUTURE
RESIDENTIAL DEVELOPMENT ON
PORTION OF FARM 299, JACOBS BAY

POSSIBLE POSITION OF
FUTURE TURNING CIRCLE

MAIN ROAD TO
VREDENBURG

373

372

Subdivision approved as per municipal Appeal Outcome letter,
dated 15 October 2023.
Subdivision exemption granted for registration of private services
servitudes as indicated for underground stormwater tank +
sewerage line & pump for the HOA.

Signed by Mr L.G. Gaffley
27 Oct 2023

SUBDIVISIONAL PLAN

JACOBSBAAI: ERF 108/20
INTERNAL AMENDMENT OF
APPROVED SUBDIVISIONAL PLAN



16/10/2023



SCALE 1:1500 (A3)
OUTEURSREG VOORBEHOUD
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IMPORTANT NOTES:

ALL RESIDENTIAL ACCESS FROM
INTERNAL PRIVATE ROAD ONLY

RESIDENTIAL BUILDING LINES:

3m STREET
2.5m SIDE
3m BACK

ALL AREAS, DIMENSIONS ETC, SUBJECT TO
SG APPROVED GENERAL PLAN

NEW PROPOSED POSITION
OF REFUSE ROOM ON
SUBDIVISIONAL PORTION 1 (SG ERF 717)
ACCESS VIA MORKEL DR.

LINK TO
VREDENBURG

PORTION 20 OF FARM 108

	USE	NO.	AREA (ha)	%
	RESIDENTIAL ZONE 1	25	1.52	63.0
5, 18, 26	PRIVATE OPEN SPACE	3	0.04	1.6
1, 24	PRIVATE ROAD	2	0.35	14.5
10, 32	PUBLIC OPEN SPACE	2	0.14	5.8
33	PUBLIC STREET (INCL. PARKING) TO BE CONSOLIDATED WITH PTN 34	1	0.35	14.7
	TOTAL	33	2.40	100

Portion 34 excluded from above land use table.
Average erf size: $\pm 603m^2$
GROSS RES. DENSITY: ± 10.8 u/ha

A PORTION OF PORTION 18 OF FARM 108



± 0.14 HECTARES ROAD AS PER
AGREEMENT WITH NEIGHBOURING
LAND OWNER (TO BE CONSOLIDATED
WITH PTN 33)



SERVITUDE AREAS AS INDICATED ON THE
PLAN ARE TO BE REGISTERED IN FAVOUR
OF THE HOME OWNERS ASSOCIATION

A PORTION OF FARM 299
JACOBS BAY

REFUSE ROOMS

PEDESTRIAN LINK WITH FUTURE
RESIDENTIAL DEVELOPMENT ON
PORTION OF FARM 299, JACOBS BAY

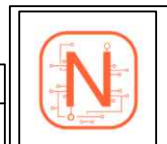
12m WIDE PEDESTRIAN
WALKWAY / CORRIDOR

SUBDIVISIONAL PLAN

JACOBSBAAI: ERF 108/20 AMENDMENT OF APPROVED SUBDIVISIONAL PLAN

REVISION HISTORY
ORIGINAL APPROVED (27 OCTOBER 2023) AMENDED SUBDIVISION PLAN
SUBDIVISIONAL PLAN AMENDMENT 15 JULY 2026 REFUSE ROOM
SUBDIVISIONAL PLAN AMENDMENT 06 AUGUST 2026 REFUSE ROOM R1
AMENDMENT OF APPROVED SUBDIVISIONAL PLAN 16 OCTOBER 2026 R2

16/10/2026

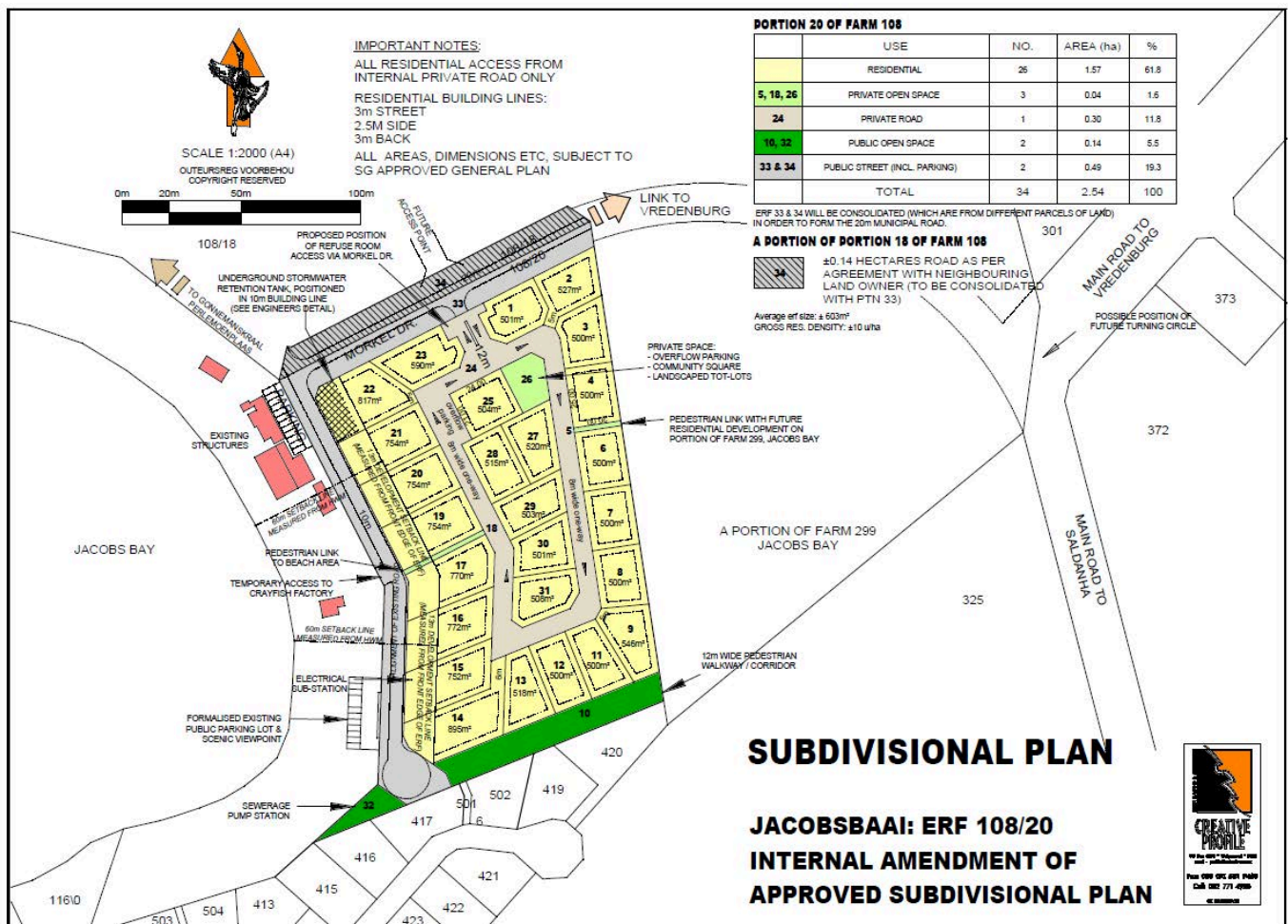


NETELEK

5 Zeederberg Square,
Hoog-en-droog,
Paarl, Western Cape,
7646

Contact Person:
Renaldo Muller
Cell: 072 587 1901

APPLICATION FOR THE AMENDMENT OF THE APPROVED SUBDIVISION PLAN AND ASSOCIATED LAND USE RIGHTS TO ACCOMMODATE REFUSE FACILITIES ON (SG ERF 717) (SUBDIVISIONAL PORTION 1) ON: PORTION 20 OF FARM 108 (JACOBS BAAY)



SUBMITTED TO: SALDANHA BAY MUNICIPALITY
PREPARED AND SUBMITTED BY: RENALDO MULLER
SUBMITTED ON: 24 JULY 2026

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ANNEXURE A:	Application form
ANNEXURE B & C:	Power of attorney & Resolution
ANNEXURE D:	Proof of registered ownership (Title Deed)
ANNEXURE E:	Written motivation (This Document)
ANNEXURE F:	Approved Site Development Plan (27 October 2023)
ANNEXURE G:	Original Approval (20 April 2015)
ANNEXURE H:	Approved Amendment Of Plan (19 January 2023)
ANNEXURE I:	New Proposed Site Development Plan
ANNEXURE J:	New Refuse Room Design and Layout

1. INTRODUCTION

1.1 Planning Brief

This report accompanies an application to amend the approved subdivision plan and associated land use approval applicable to Portion 20 of Farm 108, Jacobsbaai. The purpose of the amendment is to allow Subdivisional Portion 1 (SG Erf 717) to function as a dedicated service stand serving the approved residential development.

The application is submitted in terms of Section 15(2)(k) of the Saldanha Bay Municipal Land Use Planning By-law and seeks to amend the approved subdivision plan by rezoning Subdivisional Portion 1 (SG Erf 717) from Residential Zone I to Transport Zone III.

The proposed amendment will accommodate the following:

- 2 Refuse rooms and associated waste management facilities on Transport Zone III;
- Ancillary engineering service infrastructure directly related to the functioning of the development of Transport Zone III.

No increase in the approved development rights, residential yield, density, road network, or public open space system is proposed.

1.2 Ownership

The table below is a summary of the ownership and characteristics of the application site. Please refer to the attached copy of the Title Deeds **Annexure D**.

Property Details	Ownership	Farm Size	Title Deed	Restrictive Title Deed Conditions
Portion 20 of Farm 108	Living Waters Properties (Pty) Ltd	2,39 Ha	T6390/2022	N/A

Table 1: *Property Details*

Please refer to the attached Power of Attorney **Annexure B** and Resolution, **Annexure C**.

1.3 Background Information

The subdivision and rezoning of Portion 20 of Farm 108 was originally approved by Saldanha Bay Municipality on 20 April 2015 (PI 108/20). The approval authorised the subdivision of the property for

residential development and associated public roads and open spaces.

The validity period of the approval was subsequently extended on 23 April 2021.

A further amendment was approved on 19 January 2023, whereby the approved subdivision layout was amended and the validity period further extended. The approval authorised:

- 26 Residential Zone I erven;
- 3 Open Space Zone II erven (private open space);
- 2 Open Space Zone III erven (public open space);
- 1 Transport Zone III erf (private road);
- 2 Transport Zone II erven (public roads).

The approved plan also identifies a proposed refuse room serving the development.

1.4 Purpose of the amendment

The approved development requires ongoing management and maintenance of common property, services and infrastructure and easy access to services and infrastructure. To facilitate the effective operation of the development, it is proposed that Subdivisional Portion 1 (SG Erf 717) be utilised as a dedicated service erf accommodating:

- 2 Refuse storage and collection facilities;
- Ancillary service-related structures required for the functioning of the development.

The proposal provides a permanent and practical location for facilities that are required for the day-to-day operation of the development and its common property. The location was specifically selected to allow for access by the Gonemanskraal residents (that will use one refuse room) and the Municipality to access the refuse room from the outside of the development as well as providing access to the residents of the development to the refuse room from within the development.

1.5 Why an Amendment Application

The approved Site Development Plan (27 October 2023) identifies a refuse room serving the Gonnemanskraal Development at the south-western corner of the entrance to the Portion 20 of Farm 108 Development.

During the detailed design phase it became evident that relocating the refuse facilities to Subdivisional Portion 1 (SG Erf 717) would provide a more practical and efficient solution serving both developments. The

proposed location improves accessibility for municipal refuse collection vehicles, provides improved access for residents and consolidates refuse management infrastructure onto a single erf.

As the proposed use is not permitted within the existing Residential Zone I zoning, the amendment includes the rezoning of Subdivisional Portion 1 (SG Erf 717) to Transport Zone III through an application in terms of Section 15(2)(k) of the Saldanha Bay Municipal Land Use Planning By-law.

2. PLANNING MERITS

2.1 Development Rights and Zoning Permissions

The proposal does not introduce additional residential opportunities and does not increase the approved number of residential erven. The overall residential density and development footprint remain unchanged or are reduced.

Erf 1 is zoned Residential Zone 1, which as stipulated in the Saldanha Bay Municipality Integrated Zoning Scheme Bylaw (hereafter referred to as the Zoning Scheme). The purpose of Residential Zone I is to make provision for :

- The use of land for the purposes of low density, single residential development where the neighbourhood is characterised by single dwelling houses spaced apart from each other through the imposition of building lines that is generally more extensive than in other residential zones.
- Limited allowance of uses that can be implemented ancillary to the primary residential use without detracting from the residential character on the provision that the prominent use remains residential.

The proposed refuse rooms and associated service infrastructure are ancillary to and serve the approved residential development. The proposed facilities do not create additional residential opportunities and remain subordinate to the primary residential character of the development. However, based on the zoning scheme extract below, “refuse rooms” are not clearly allowed in the residential zone.

Zone	PURPOSE FOR THE USE OF LAND:
RESIDENTIAL ZONE I	Low density single residential development
PRIMARY USE	CONSENT USES
• Dwelling house • Additional dwelling unit • Occupational practice • Home childcare	• Day care facility • Engineering services • Residential building • House shop • Place of assembly • Place of education • Place of worship

	• Semi-detached dwelling • Special use • Tourism accommodation • Telecommunication infrastructure
--	--

Table 2: Residential Zone I

The zoning for Transport Zone III does allow for Utility service. The purpose of Transport Zone III is to make provision for Private street, Private parking and Utility services, with the definition of Utility services being defined as:

“Utility services” means a use or infrastructure that is required to provide engineering and associated services for the proper functioning of urban development and

- (a) includes a water reservoir and purification works, electricity substation, storm water retention facilities, and a waste-water pump station and treatment works, rooftop base telecommunication station and freestanding base telecommunication station; and
- (b) does not include renewable energy structures or transport use; and
- (c) provided that a road is not regarded as a utility service.

Although the definition does not clearly include refuse facilities, refuse facilities clearly fall within the explanation of "infrastructure that is required to provide engineering and associated services for the proper functioning of urban development" and therefore refuse facilities can be classified as Utility services.

Zone	PURPOSE FOR THE USE OF LAND:
TRANSPORT ZONE III	Private street
PRIMARY USE	CONSENT USES
• Private street • Private parking • Utility services	• Special use • Telecommunication infrastructure

Table 3: Transport Zone III

2.2 Compliance with Existing Approval Conditions

The original approval issued 20 April 2015 under condition (s) states that the developer will be responsible for the relocating of the refuse facility, to the locality as agreed upon with the owner of Farm 108/18, to the satisfaction of Council.

The amended approval issued on 19 January 2023 specifically requires provision for refuse collection infrastructure under condition (jj) A refuse bay of 15 m long and 2,5m wide must be provided for the collection vehicle to park while emptying bins from the refuse room. The requirement was met by identifying

a position to install the proposed refuse room on the SDP, as a snippet of the current position is included in Figure 1 below.

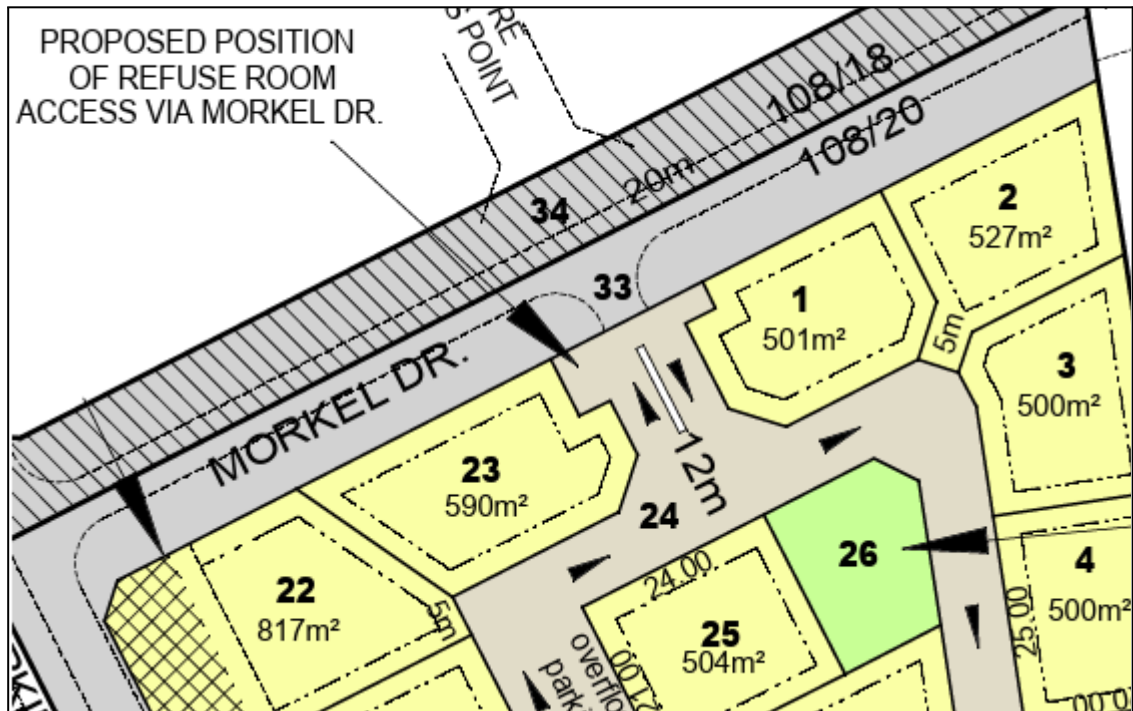


Figure 1: Current Position of Refuse Room

The current proposed position allows for the required refuse room as indicated in the conditions above. The refuse room indicated in the conditions however only facilitates the refuse requirements for the Gonnemanskraal development. The proposed amendment consolidates the refuse facilities serving both developments, Gonnemanskraal and Portion 20 of Farm 108 onto a single service erf, improving operational efficiency and simplifying municipal collection arrangements.

Therefore the proposed new refuse room site complies with the original requirements while also allowing for ease of access to the residents of Portion 20 of Farm 108 Development as well as consolidating the pick up location for municipal waste management.

The proposed amendment therefore enhances the implementation of the original approval by improving the functionality and accessibility of the approved refuse management infrastructure without altering the intent of the original conditions of approval.



Figure 2: Proposed New Position of Refuse Room

2.3 Desirability

The proposal represents a rational and efficient utilisation of land by consolidating service infrastructure required by two adjoining developments onto a single erf. The amendment reduces duplication of facilities, improves operational efficiency and contributes to improved estate management without increasing development rights or impacting surrounding properties. The proposal further promotes orderly and efficient land use planning by rationalising municipal service infrastructure onto an appropriately located erf while maintaining the approved urban form and development pattern.

Benefit to Portion 20 of Farm 108 Development

The new location will improve refuse management and servicing operations by allowing access to the refuse room from within and outside the development, as well as ensuring no refuse disposal activities interfere with the main entrance gate.

Benefit to Gonnemanskraal Development

The new location will improve access and move the disposal point from in front of the access of the Portion 20 of Farm 108 Development to a location that will be out of the way of potential traffic with ample parking to

allow for safe and non rushed disposal.

Benefit to Saldanha Bay Municipality

The amendment does not increase the approved number of residential units and therefore will not result in any material increase in demand for municipal services, traffic generation or public infrastructure. The proposal combines the refuse facilities of two developments allowing the municipality to only collect refuse from one site. The new proposed refuse room also increases the accessibility of the refuse rooms from the street allowing the municipality to access the refuse rooms from outside of the development while providing ample space for any municipal refuse collection vehicles.

Erf 1 is uniquely positioned adjacent to Morkel Drive and the entrance to the development, allowing refuse collection vehicles to access the facility without entering the internal road network. The erf further provides direct accessibility to both the Portion 20 development and the neighbouring Gonnemanskraal development, making it the most practical and efficient location for the proposed shared refuse facilities

3. DEVELOPMENT PROPOSAL

3.1 Design

Refer to figure 3 below for the layout of Erf 1. As can be seen the design allows for one refuse room (Room A) to be accessed from both inside the development and from Morkel street, this refuse room will serve the Portion 20 Farm 108 Development. (Room B) can only be accessed from Morkel street and will serve as the Gonnemanskraal refuse room.

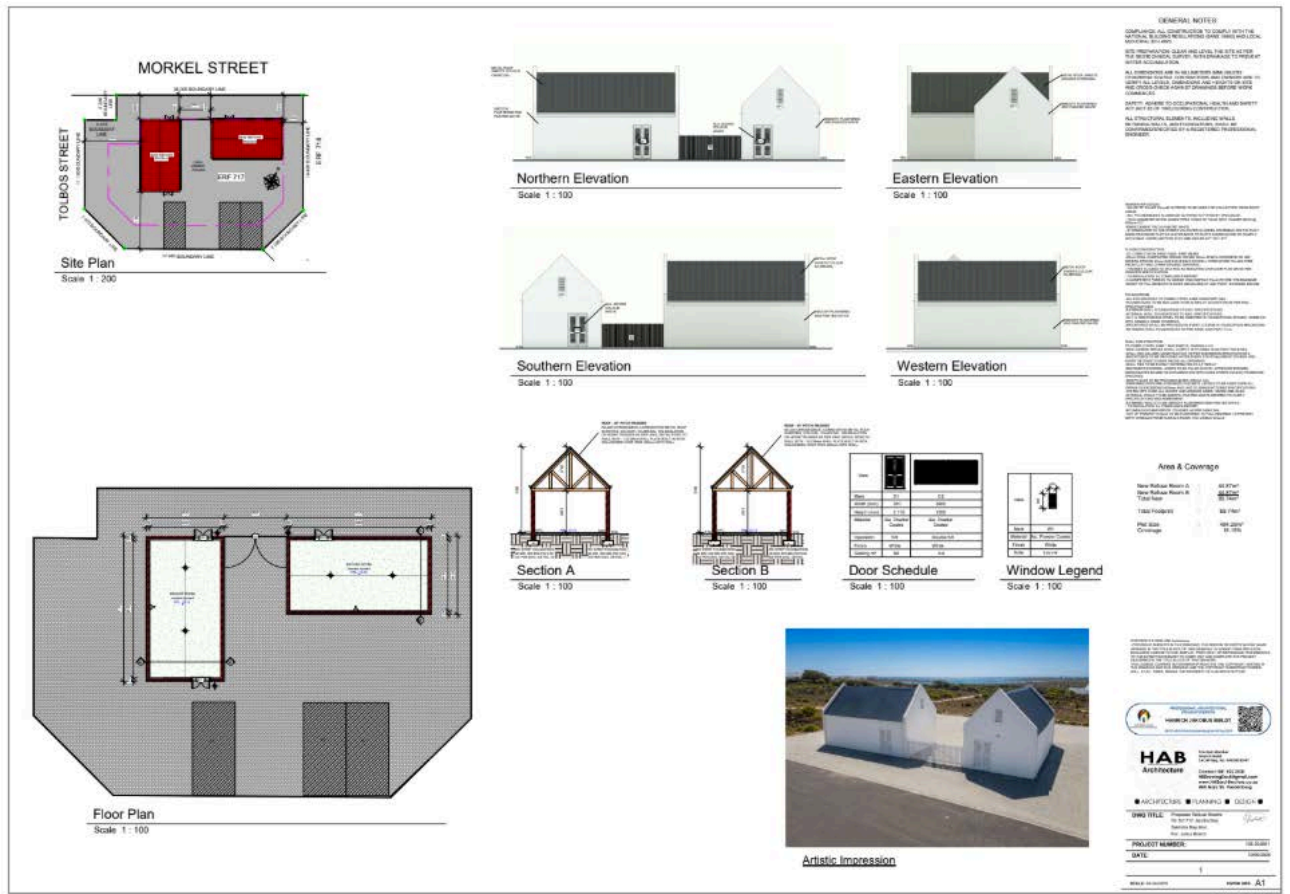


Figure 3: Proposed New Refuse Room Design & Erf 1 Layout

Refer to figure 4 below for a snippet of the proposed amendments to the SDP the SDP now shows the previous initial position of the refuse room as well as the new proposed position of the refuse room on Erf 1.

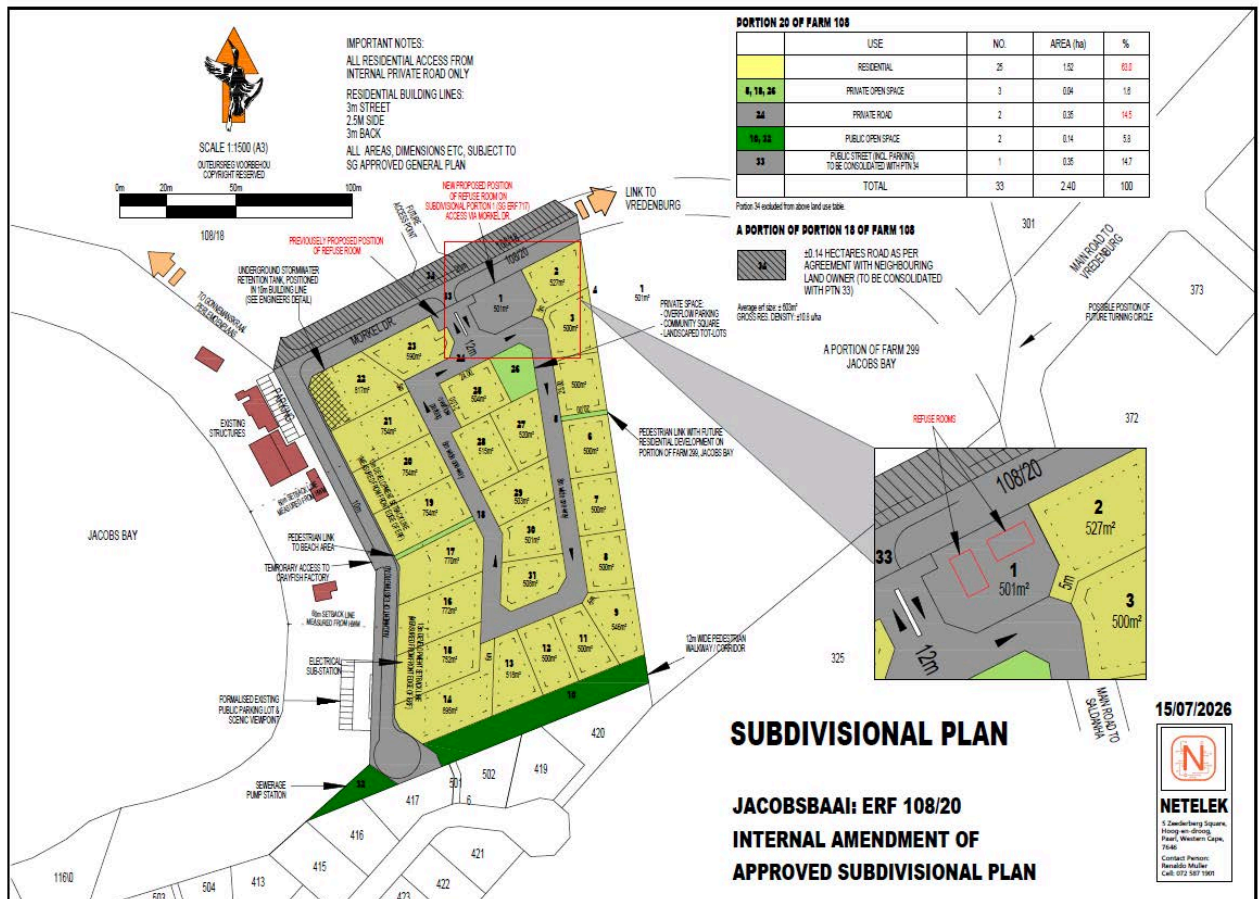


Figure 4: Proposed amendment to SDP

4. CONCLUSION

The proposed amendment represents a minor refinement to the approved development and is primarily intended to improve the long-term operation, management and servicing of the development.

The amendment seeks to utilise Erf 1 as a dedicated service erf accommodating refuse storage facilities and ancillary service infrastructure required for the effective management of the development. The proposal further provides an opportunity to consolidate the refuse facilities serving both the Portion 20 of Farm 108 Development and the neighbouring Gonnemanskraal Development on a single erf, thereby improving operational efficiency and simplifying municipal refuse collection.

The proposed location of the refuse facilities is considered appropriate as it allows convenient access for residents, municipal service vehicles and maintenance personnel without impacting the internal circulation network or entrance arrangements of the development. Importantly, the proposal:

- Does not increase the number of approved residential erven;
- Does not increase residential density or development rights;

- Does not alter the approved road network or public open space system;
- Supports compliance with existing approval conditions relating to refuse management infrastructure;
- Improves estate management and operational efficiency;
- Provides a shared service solution benefiting both adjoining developments; and
- Will not result in any material impact on municipal services, surrounding properties or the character of the area.

The amendment is therefore considered both desirable and appropriate from a land use planning perspective and represents a practical and efficient enhancement to the approved development. It is therefore respectfully requested that the Municipality approve the application in terms of **Section 15(2)(k)** of the Saldanha Bay Municipal Land Use Planning By-law for the amendment of the approved subdivision plan and the associated rezoning of Subdivisional Portion 1 (SG Erf 717) from Residential Zone I to Transport Zone III to accommodate shared refuse management facilities and associated utility services.

Report compiled by: Renaldo Muller

Reviewed by: Julius Bosch

The purpose of the application is

1. To align the approved development conditions with the Municipal Fiscal Powers and Functions Amendment Act of 2024, Section 49 of the Spatial Planning and Land Use Management Act of 2013 and a legal opinion obtained from Senior Council
2. Correct an error that was made with the initial development charges calculation with the 20 April 2015 conditions of land approval.

This application is lodged in terms of the Land Use Planning Bylaw of Saldanha bay Municipality, Section 66 - Conditions of Approval, subsection 12:

(12) The Municipality may, on its own initiative in terms of section 15(6) or on application in terms of section 15(2), amend, delete or impose additional conditions after having given due notice to the owner and any persons whose rights may be affected

1. Amendment of Conditions:

The conditions of approval for land development on portion 20 of Farm 108 Jacobs Bay reads that development charges are payable with the submission of building plans or the transfer of properties whichever occurs first. This is prevalent in the 20 April 2015 and 23 April 2021 conditions for land development.

The approval of 20 April 2015 indicates through condition

n "that the developer be responsible for the construction of a 20m road reserve from the existing intersection of OP 7647 up to the end of this development at the North-Western Boundary"

and condition

r "that the cost of the construction of the above road will be offset against capital contributions payable"

The Municipal Fiscal Powers and Functions Amendment Act of 2024, section 9A (5) states that

(5) Unless otherwise provided for in the conditions of approval of a land development, an applicant must pay the full amount of a development charge before developing or utilising the land following an approval by:

(a) a Municipal Planning Tribunal in terms of section 35(1) of the Spatial Planning and Land Use Management Act; or

(b) an official authorised in terms of section 35(2) of the Spatial Planning and Land Use Management Act in respect of that land development

Section 49 (4) of the Spatial Planning and Land Use Management Act of 2013 states that

(4) "An applicant may, in agreement with the municipality or service provide, install any external engineering service instead of payment of the applicable development charges, and the fair and reasonable cost of such external services may be set off against development charges payable"

The legal opinion obtained by council confirmed the following:

- (i) *development charges are approval conditions under LUPA and the Municipal Planning By law and cannot be varied unilaterally;*
- (ii) *any change must follow the formal condition amendment route (application, determining factors, competent authority decision, and procedural fairness);*
- (iii) *once a contribution is paid and the development completed, the obligation is extinguished and cannot be reopened save for fraud; and*
- (iv) *Council's policy powers operate only prospectively and cannot override existing conditions, together providing clear legal parameters and operational guidance for Planning, Finance and Legal. Should Council wish to proceed with prospective policy revisions, a formal report can be submitted with a compliant process plan.*

Motivation:

The effect of the conditions dated 20 April 2015 is that the developer was required to construct external or bulk road infrastructure, and that the fair and reasonable cost of such infrastructure was intended to be offset against the development charges payable by the development. However, the treatment of the offset currently is by allocating or treating the liability on a per-erf basis, instead of determining the total development charge liability for the development as a whole.

The Municipality's position is that the development charge liability must be determined as a monetary value in respect of the total development charge liability for the entire development. The liability should not be determined, allocated, fixed, or frozen on a per-erf basis unless this is expressly authorised by the applicable conditions of approval, policy framework, or a lawful decision of the competent authority.

Development charges for this development were determined in terms of Council decision R104/4-10 dated 28 April 2010 by the Director. The obligation to pay development charges therefore applies to the entire development and remains linked to the development impact generated by the approved land development. The payment obligation is triggered upon submission of building plans or transfer of the relevant property, whichever occurs first, unless the obligation has been lawfully discharged through another approved mechanism.

The Municipal Fiscal Powers and Functions Amendment Act, 2024, confirms the principle that development charges are payable before land is developed or utilised, unless otherwise provided for in the conditions of approval. Section 9A(5) provides that, unless the conditions of approval provide otherwise, an applicant must pay the full amount of a development charge before developing or utilising land following approval by a Municipal Planning Tribunal or authorised official.

In this matter, the existing approval conditions provide only for a specific payment trigger, namely the submission of building plans or the transfer of properties, whichever occurs first. The conditions do not expressly provide that the development charge obligation may be discharged, whether in whole or in part, through the provision, construction, transfer, or handover of bulk engineering infrastructure.

Accordingly, although the conditions refer to the cost of the road being offset against capital contributions payable, they do not create a clear or complete mechanism for

determining, valuing, accepting, or applying such infrastructure as a lawful discharge of the development charge liability. The amended statutory framework therefore supports the need for the Municipality to clarify, through the proper condition amendment process, how the development charge obligation is to be determined, triggered, offset, and, where applicable, lawfully discharged.

Section 49(4) of SPLUMA further provides that an applicant may, in agreement with the Municipality or service provider, install external engineering services instead of paying the applicable development charges, and that the fair and reasonable cost of such external services may be set off against the development charges payable. This provision is directly relevant because the 20 April 2015 approval required the developer to construct the road infrastructure and allowed the cost of that road to be offset against the capital contributions payable.

Accordingly, the provision, construction, transfer, and handover of the external or bulk road infrastructure contemplated in condition r may constitute a lawful mechanism to discharge, either in full or in part, the development charge liability of the development. However, such discharge can only occur once the Municipality has accepted the infrastructure and confirmed the fair and reasonable value thereof for purposes of offsetting it against the total development charge liability.

Where the value of the transferred infrastructure is equal to or greater than the total development charge liability for the entire development, the development charge obligation may be regarded as discharged, subject to written confirmation by the Municipality. However, the Municipality will not be obliged to refund the developer for any amount by which the value of the transferred infrastructure exceeds the calculated development charge liability, unless such refund is expressly authorised by law, policy, or a separate lawful agreement.

Where the value of the transferred bulk infrastructure does not fully cover the total development charge liability, the remaining balance shall remain payable. In such circumstances, any portion of the development charge liability not discharged by the accepted infrastructure shall continue to be payable upon the applicable trigger date, being the submission of building plans or transfer of the property, whichever occurs first.

For any properties or portions of the development not covered by the confirmed value of the transferred asset, the applicable development charges shall continue to escalate annually in accordance with the applicable 2008:100 indices until such time as the payment trigger occurs or the obligation is otherwise lawfully discharged.

The legal opinion obtained from Senior Counsel confirms the legal parameters within which the Municipality must act. The opinion confirms that development charges imposed through conditions of approval are approval conditions under LUPA and the Municipal Planning By-law and cannot be varied unilaterally. Any amendment to such conditions must follow the formal statutory condition amendment process, including a proper application, consideration of relevant determining factors, a decision by the competent authority, and procedural fairness.

The legal opinion further confirms that once a contribution has been paid and the development has been completed, the obligation is extinguished and cannot be

reopened, except in circumstances such as fraud. It also confirms that Council's policy powers operate prospectively and cannot override existing approval conditions.

The present application is therefore necessary to regularise and clarify the existing position through the appropriate statutory process. It does not seek to vary the conditions informally or retrospectively outside the statutory framework. Instead, it seeks to align the conditions with the applicable legislation, the legal opinion, and the Municipality's development charge framework, while correcting the error in the previous treatment of the development charge liability.

The proposed approach is fair and reasonable because it recognises the developer's obligation and contribution in constructing the external or bulk road infrastructure, while also ensuring that the Municipality does not unlawfully forgo development charge revenue beyond the value of infrastructure actually accepted and credited. It also ensures that any remaining liability is dealt with consistently, transparently, and in accordance with the applicable escalation methodology and payment triggers.

The amendment will therefore provide legal and administrative certainty by confirming that:

1. the development charge liability applies to the development as a whole;
2. the liability is to be determined as a total monetary value and not fixed per erf;
3. the accepted value of the bulk road infrastructure may be offset against the total development charge liability;
4. no refund is payable where the value of the infrastructure exceeds the total liability, unless lawfully authorised;
5. any remaining liability remains payable upon the applicable payment trigger; and
6. any undischarged liability continues to escalate annually until paid or lawfully discharged.

For these reasons, the amendment of the relevant conditions is required to ensure that the conditions are legally correct, administratively enforceable, aligned with the current statutory framework, and consistent with the legal opinion obtained by the Municipality.

The application is therefor to amend condition *r* of the approved land use conditions dated 20 April 2015 and condition *vv* of the approved land use conditions dated 19 January 2023.

The development charges have been determined in terms of Council decision R104/4-10 dated 28 April 2010 by the Director. The obligation to pay development charges applies to the entire development and shall be determined as a monetary value in respect of the total development charge liability for the whole development. The liability shall not be determined, allocated, or fixed on a per-erf basis. Payment of development charges shall be triggered upon the submission of building plans or upon transfer of the property, whichever occurs first, unless the obligation for payment has been lawfully discharged through another approved mechanism. The provision, construction, transfer, and handover of external or bulk engineering infrastructure by the developer is recognized as a mechanism to discharge, in full or in part, the obligation to pay development charges, in line with the amended Municipal Fiscal Powers and Functions Act. This shall only apply

where the Municipality has accepted the infrastructure and confirmed the value thereof for purposes of offsetting it against the development charge liability. Where the value of the transferred infrastructure is equal to or greater than the total development charge liability for the entire development, the development charge obligation shall be regarded as discharged, subject to confirmation by the Municipality. The Municipality will not have any obligation to refund the developer the amount over and above the calculated development charge liability. Where the value of the transferred bulk infrastructure does not fully cover the development charge liability for the entire development, the remaining balance shall continue to be payable. For any properties or portions of the development not covered by the value of the transferred asset, the applicable development charges shall continue to escalate annually in accordance with the applicable 2008:100 indices until such time as the payment trigger occurs or the obligation is lawfully discharged.

2. The second part of the application relates to the correction of an error in the development charge calculation. The existing calculation incorrectly reflects all erven as larger than 500.001 m².

At the time of the original calculation, Council's development charge methodology distinguished between properties ranging from 0 m² to 500 m² and properties larger than 500.001 m². However, the development charge calculation classified all properties as being larger than 500.001 m², despite some of the properties on the approved subdivision plan being smaller than 500.001 m².

This error must therefore be corrected by means of an amended development charge calculation.

Motivation:

The correction is required to ensure that the development charge liability is calculated on the correct factual basis and in accordance with Council's approved development charge methodology. The calculation incorrectly applies the rate applicable to erven larger than 500.001m² to all erven within the development, despite Council's methodology distinguishing between erven from 0m² to 500m² and erven larger than 500.001m².

If the error is not corrected, the development charge liability will remain based on an incorrect classification of the erven, which may result in an inaccurate and potentially unfair charge being imposed. Development charges must be rational, proportionate, and linked to the actual impact of the approved development. A calculation based on incorrect erf sizes does not properly reflect the development's actual demand on municipal engineering infrastructure.

The amendment is therefore necessary to ensure administrative accuracy, legal defensibility, and fairness to both the Municipality and the developer. It will also ensure that the Municipality's records and the applicable conditions of approval are aligned with the correct development charge calculation and the actual approved subdivision layout.

Correcting the calculation through the formal amendment process further ensures that the Municipality acts transparently and procedurally fairly. It avoids any informal or

unilateral adjustment to the existing approval framework and ensures that the corrected liability is properly considered, approved, and recorded by the competent authority.