

BACKGROUND INFORMATION DOCUMENT

BASIC ASSESSMENT PROCESS FOR THE PROPOSED DEVELOPMENT OF RESIDENTIAL AND RECREATIONAL FACILITIES ON ERVEN 242 AND 212, BISHOPSCOURT FOR THE PROTEA VILLAGE COMMUNAL PROPERTY ASSOCIATION LAND CLAIM

CHAND REFERENCE NO: 03013

DEA&DP PRE-APPLICATION REFERENCE NO:
16/3/3/6/7/1/A6/7/2223/17

1. PURPOSE OF THIS DOCUMENT AND PROJECT HISTORY

Notice is hereby given of a Public Participation Process (PPP) in terms of the Environmental Impact Assessment (EIA) Regulations contained in section 24(5) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), as amended, the National Heritage Resources Act, 1999 (Act No. 25 of 1999) (NHRA), as well as the National Water Act (No. 36 of 1998) (NWA).

The development opportunities currently being considered and investigated include residential opportunities and public open space areas on Erven 242 and 212 in Bishopscourt.

The Applicant is the Protea Village Claimant community who are formally constituted as the Protea Village Communal Property Association (CPA). A claim for restitution of land rights has been awarded by the Land Claims Commission in terms of the Restitution of Lands Act, 1994 (Act No. 22 of 1994). The claim was lodged on 04 February 1995 on behalf of 86 former resident families, who resided in the original Protea Village Area and were forcibly removed during the 1960s, in terms of the Group Areas Act, 1950 (Act No. 41 of 1950). The City of Cape Town and the State have agreed to release the properties to the CPA. An agreement in this regard was entered into in September 2006.

In 2007, an application was lodged at the Land Claims Court to review decisions regarding the approval of the land claim. In June 2011 the Land Claims Court ruled in favour of land restitution on Erven 212 and 242 in Bishopscourt. The Protea Village Community lost over 4-years due to this legal action.

An area of approximately 28.4 hectares of land was claimed in terms of the Claim relating to the property that was lost by the Protea Village Community when forced removals took place. Not all of the disposed land can be restored to the Claimants (as third-party properties have now been developed on part of the land post the forced removals), however the area which can be restored to the Protea Village is approximately 8.13 hectares (which is 28.6% of the area of land that was disposed).

Refer to the locality map included as **Figure 1**.

Chand Environmental Consultants has been appointed to undertake the necessary environmental processes to investigate the proposed development. This document forms part of the public participation process for this proposal and it describes the following:

- Information about the site and the proposed development;
- An overview of the statutory environmental and related Public Participation Processes;
- Your invitation to the Open House Event; and
- How you can participate in the process.

Note that the legislated process has only just commenced, and will continue for approximately 6 to 9 months. As such, **this initial contact with you is aimed at introducing the proposal, the specialist team and the processes of investigation**. At this early stage, the team is gathering comment and may not necessarily have answers to queries raised right away.

2. DESCRIPTION AND ZONING OF THE SITE

The abovementioned proposed development is intended for Erven 212 and 242, Bishopscourt, situated on Kirstenbosch Drive and on Winchester Avenue – please refer to **Figure 1** for their exact location.

Erf 212 currently comprises the Boschenheuvel Arboretum which is used by the public for recreational activities, as well as some filming. Although this area is known as the Boschenheuvel "Arboretum", it is not an arboretum in the technical sense, where "trees are cultivated for their scientific or educational interest." The Arboretum was established by the City of Cape Town in the mid-1990s, in spite of a request by the CPA that it be reconsidered,

given that their land claim had been submitted for the property. The erf houses two streams, namely Window Stream and Protea Stream, which converge into the Liesbeek River. A natural spring (surrounded by a built structure containing a small pool) can be found on the site and it is associated with three man-made pools below it which have been excavated with the intention of draining the surrounding land. There are a number of wetlands scattered throughout the site which range from artificial and non-functional to sensitive and high in conservation value. The sustainability of this system has been carefully considered and maximised in the proposed development. There are also a number of large, predominantly non-indigenous, mature trees on the site.

Erf 242 is more transformed than Erf 212 and it largely comprises of grasses scattered with some large, mature trees. There is a marshy area along the northern boundary and in the eastern portion of the site, which is a result of stormwater drainage. There are a number of footpaths throughout the site and a portion is used as a parking facility for the Kirstenbosch Market.

3. WHAT IS PROPOSED AND WHY

Research commissioned by the Land Claims Commission indicated that the majority of the Claimants (i.e. the Protea Village community) resided on Erf 242, and that Erf 212 was primarily a social and recreational area which formed an integral part in the day-to-day lives of the community. Note, however that there was a small community school on Erf 212 and that two families resided on Erf 212. The Protea Village community also had access to and use of water from the Liesbeek River (which runs along the boundary of Erf 212) and the natural spring.

It is the intention of the Protea Village community to resettle on Erf 242. It is envisaged that the development of the residential opportunities on Erf 212 will create the financial resources necessary for the servicing of the proposed 86 stands and the construction of 86 proposed houses for the Protea Village families. The Community has a common goal, namely they want to see the sustainable and responsible restoration of their Community, their property, their homes, their wealth and their legacy.

At this stage in the planning process, the proposed development is intended to comprise of the following:

- Green Public Open Space Area;
- Residential Area for the 86 families of the Protea Village Community; and
- A combination of Freehold and Leasehold Residential Opportunities.

A summary of each component of the proposal is provided below. Please refer to the draft Proposed Development Layout included as **Figure 2**.

3.1 Green Public Open Space Area (Erf 212):

The link between the Kirstenbosch Botanical Gardens and the Liesbeek River on Erf 212 has been investigated in detail, by both independent environmental specialists and the development professional team, in order to assess how much of this area may be maintained as a green public open space area. The development professional team and the appointed specialists have considered, in detail, the various factors involved in incorporating public open space on Erf 212 into the development proposal.

Consideration is given to a green public open space area that encompasses the streams on the site and takes cognisance of the existing footpaths and trees in this area. A public parking area situated in the north-east corner of the property is also envisaged.

The provision of recreational space for continued public use within this green public open space area has been an important consideration in the proposal. The Open Space would be managed by the City of Cape Town, as per the current situation.

A memorial remembering the past and celebrating the future of the Protea Village community is being proposed and considered in the vicinity of the spring. It has further been recommended, through the Heritage Impact Assessment (HIA), that the riverine areas including the remaining wetlands and spring on Erf 212 be considered to be of Grade 2 or Provincial Heritage Site significance. This would serve to provide protection to these areas in perpetuity by limiting future development and encroachment into those areas.

3.2 Residential Area for the Members of the Protea Village Community (Erf 242):

A residential area for the members of the Protea Village community is proposed for development on Erf 242. Careful consideration has been given to the development and accommodation of 86 residential stands on this portion of the site. On behalf of the members of the Protea Village community, the intention is to build as large a house as possible on each of the stands in order to return and secure their lost legacy. The final size of the houses will be determined by the financial resources that the proposed development of Erf 212 produces.

It is envisaged that these properties would be accessible via an internal road network and green public open spaces have been proposed within this area. The development professional team and appointed specialists have given careful consideration to retaining mature trees where possible, such that the open spaces and road network takes this into account in a number of areas.

The architectural design of the homes would respond to the "look-and-feel" of the surrounding area and neighbourhood. An Architectural Design manual would be developed in order to maintain architectural integrity, as well as to prevent the establishment of illegal structures. Refer to **Figure 3** for an architectural rendering of the design precedent proposed for these homes.

A detailed Transport Impact Assessment (TIA) has been undertaken to inform the details of access and egress for the development and it proposed that the main access for Erf 242 would be off Kirstenbosch Drive.

Mechanisms to support the re-entry of the families of the Protea Village community into the existing local community will be investigated and established, as far as possible. However, the 86 families of the Protea Village Community are awarded a 10-year holiday on property rates and taxes (from time of transfer) in terms of Section 17(1)(g) of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004). In terms of the awarded restitution, the members of the Protea Village Community are not permitted to sell their property for a period of 10-years from the first transfer to the CPA. They may, however, elect to rent their properties to the market. At present, indications are that the majority of the families intend to move back to their properties that they were forcibly removed from over 50 years ago.

3.3 Freehold and Leasehold Residential Opportunities (Erf 212):

Erf 212 has been investigated and assessed for the development of residential opportunities on portions thereof. It is proposed that these stands be serviced by private internal roads.

Up to 15 residential stands are proposed for private sale and would have access off Winchester Avenue, as proposed by the TIA. It is proposed that these residential opportunities would be developed in two pockets, with up to 5 stands proposed closer to Kirstenbosch Drive and up to 10 stands to be developed in the south-western corner of the property. Refer to **Figure 4** for an architectural rendering of the design precedent proposed for these homes, noting that the homes would be similar to those already existing in the greater Bishopscourt area.

A residential estate comprising up to 50 opportunities, to be sold on a leasehold basis, is also proposed. Access to this estate would be provided off Kirstenbosch Drive, as informed by the TIA. It is proposed that the estate would comprise of up to 22 row house opportunities to be developed in the north-eastern corner of the property, alongside up to 28 residential stands located between Kirstenbosch Drive and the tributaries of the Liesbeek River. Refer to **Figure 5** and **Figure 6** for an architectural rendering of the design precedent proposed for these homes for these residences.

As per the design of the proposed Protea Village community residences, the architecture of both the freehold and leasehold homes on Erf 212 would need to be in synergy with the context of the neighbourhood. Therefore, an Architectural Design manual would be developed in order to maintain architectural integrity. Consideration would be given to maintaining mature trees as far as possible on this portion of the site.

3.4 Design Considerations:

An Architectural Design Manual governing colours and textures of buildings would reduce visual impact, with darker, muted tones being less visually conspicuous than bright, reflective colours, and as the new trees mature, the proposed buildings would become increasingly settled and anchored. Thus the proposed development would become woven into the existing cultural landscape patterns and contribute to the local character.

The Manual will provide guidance regarding the internal and external spatial design requirements for each development parcel. Emphasis would also be placed on energy efficient design principles in order to comply with South African National Standards (SANS) legislation. Internal and external finishes would be suggested in order to regulate the aesthetic of each new building and by doing so ensuring that it adds value to the design language of the development as a whole.

This process would enforce a standard for construction and design that would contribute to the value of the surrounding community while establishing a community of its own.

3.5 Landscaping Considerations:

The intended landscaping for the proposed development is indicated in **Figure 7**.

The planning and design would respond to the surrounding context. It is intended that the landscaping would maintain a rural quality on the site and be used to 'dissolve' buildings into landscape.

To maintain a sense of rural quality along Kirstenbosch drive and along the riparian corridor, as well as to provide some screening for the proposed residences, as much existing vegetation would be retained as possible. Furthermore, a landscape buffer-strip along Kirstenbosch Drive edge would be planted to remain in synergy with the existing character.

Mature trees would be retained as far as possible, particularly beyond the development footprint for hard structures. Trees within the roadway would be retained as far as possible provided that they do not interfere with the installation of services.

4. LEGISLATIVE REQUIREMENTS

4.1 Environmental:

The proposed project requires environmental authorisation from the relevant authority in terms of section 24 (5) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), as amended. The relevant authority in this case is the Western Cape Department of Environmental Affairs and Development Planning (D:EA&DP).

Activities that may have an impact on the environment are listed in various Government Notices published under NEMA. The listed activities that pertain to the proposed project will be finally determined when the official

application is lodged with the D:EA&DP, however at the moment, it is understood that it will, as a minimum, trigger the following listed activities:

GN R327 Listing Notice 1, Activity 19

The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock or more than 10 cubic metres from—

- (i) a watercourse;*
- (ii) the sea;*
- (iii) the seashore; or*
- (iv) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater*

but excluding where such infilling, depositing, dredging, excavation, removal or moving;

- (a) will occur behind a development setback line adopted in the prescribed manner; or*
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan.*
- (c) falls within the ambit of activity 21 of this Notice, in which case that activity applies;*
- (d) occurs within existing ports of harbours that will not increase the development footprint of the port or harbour; or*
- (e) where such development is related to the development of a port of harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.*

GN R324 Listing Notice 3, Activity 12

The clearance of an area of 300 square metres or more of indigenous vegetation...

(f) Western Cape

- (i) Within any critically endangered ecosystem or endangered ecosystem listed in terms of section 52 of NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004*

A **Basic Assessment process** will be required to obtain the necessary environmental authorisation.

The proposal will also require authorisation in terms of the National Water Act, 1998 (Act No. 36 of 1998). The relevant authority in this case is the Department of Water and Sanitation (DWS).

This process is being undertaken as part of the environmental process and an application for a Water Use Licence (WUL) has been submitted to DWS for activities related to Erf 212 and a registration for a General Authorisation (GA) has been submitted to DWS for activities on Erf 242. Public participation activities undertaken during the Basic Assessment process also apply to the WULA.

Furthermore, there is a significant heritage component to this process. An HIA has been conducted in terms of the National Heritage

Resources Act, 1999 (Act No. 25 of 1999) and Heritage Western Cape (HWC) has been provided with the draft HIA for their review and comment to run in parallel with this initial public registration and Background Information Document (BID) review process. This and associated public participation is also incorporated into the Basic Assessment process. The HIA will be appended to the draft Basic Assessment Report (BAR) for public review.

4.2 Planning:

The statutory planning process will involve rezoning of the land to Sub-divisional Area and then internal subdivision with a deemed zoning in accordance with the final Proposed Development Plan.

These statutory planning applications will only be submitted once the environmental studies and assessments have been completed. A public notification process will be followed in accordance with the City of Cape Town Municipal Planning By-Law and opportunity will be provided for public comment and objections. The planning applications will be determined by the Municipal Planning Tribunal.

5. BASIC ASSESSMENT PROCESS

It is a statutory requirement for this process to be undertaken by independent consultants. Chand Environmental Consultants have been appointed as the independent Environmental Assessment Practitioners (EAP) to undertake the environmental process.

The aim of the process is to identify feasible and reasonable alternatives as well as to ascertain whether there are issues, concerns, benefits and/or opportunities associated with the proposed development. Once the best alternative is established and the anticipated impacts have been identified, mitigation measures to reduce the significance of the adverse impacts are established. These mitigation measures will be included in the conditions of authorisation (if the application is approved) and will be binding upon the Applicant.

The desired outcome of the process is achieved by involving environmental specialists as required, based on the biophysical and social sensitivities on and around the site, as well as obtaining the inputs and comments from Interested and Affected Parties (I&APs)/ stakeholders and relevant organs of state. The

findings of the environmental process will be recorded in a BAR. **Organs of state and registered I&APs will have the opportunity to comment on the Draft BAR (as well as the full specialist reports which will be appended thereto).**

The BAR, accompanied by an Environmental Management Programme (EMPr), the various specialist reports and a record of the public participation process will ultimately be submitted to the D:EA&DP to inform their decision on the application. Environmental Authorisation, which may be granted subject to conditions (i.e. mitigation measures suggested by specialists), will only be considered once the process has been completed. Details of the specialist input obtained and the public participation process that will be undertaken are provided below.

5.1 Specialist Input:

Independent environmental experts (as shown in the box below) have been appointed to undertake the necessary studies to inform the environmental process and outcomes thereof.

SPECIALIST INPUT	
• Freshwater:	Dr. Elizabeth Day of Freshwater Consulting Group
• Heritage:	Prof. Timothy Hart of ACO Associates
• Visual:	Mr. David Gibbs
• Transport:	Ms. Lynne Pretorius of ITS
• Arboriculture:	Mr. Paul Britton

These specialists have informed and assessed the draft proposed development layout (refer to **Figure 2**) (and will assess alternatives that emerge from this public engagement process, if any) in order to determine the specific environmental impacts, rate their impacts and, where appropriate, provide mitigation measures to avoid and / or minimise negative impacts and enhance positive impacts.

The impact assessment process remains underway and the impacts which will be assessed as part of the basic assessment process include impacts on:

- Freshwater resources;
- Heritage (including cultural and social);
- Visual;
- Transport; and
- Trees.

The detailed outcome of the environmental assessment, as well as the full specialist reports, will be recorded in the draft and final BARs (noting that the final BAR is the report which would be submitted to the DEA&DP).

The specialist findings, impact assessments and recommendations will be displayed at the Open House Event described below (invitations to follow in due course) to be held during the public review period for this BID. The specialists themselves (or a suitable representative) will also be available for technical questions at this event.

It is important to note that, given the listed activity triggered, the freshwater resources on the site are important. Therefore, the proposed development, along with mitigation measures suggested by the freshwater ecologist have given significant consideration to the sustainability of the freshwater system on the site, particularly that on Erf 212.

Legal requirements in terms of NEMA as well as environmental best-practice have been and will continue to be observed in undertaking the basic assessment process.

Other aspects of the proposal have received due professional consideration as follows:

- Civil & Electrical Services: Mr. Mario Filippi of **Lyners & Associates (RF) (Pty) Ltd**
- Landscaping: Mr Jaco Jordaan of **Planning Partners**
- Architecture/Design: Mr. Rohan Nothnagel of **Boogertman & Partners**
- Town Planning: Mr. Geoff Underwood of **Planning Partners**

5.2 Public Participation:

When compared to the previous regulations governing Environmental Impact Assessments, the latest (2017) Regulations are less prescriptive in terms of public participation requirements. In light of the nature of the proposal, the team and Applicant have opted for a more comprehensive public participation strategy to allow maximum opportunities for I&APs to comment.

As such, a number of public participation activities are planned for the proposed

development. These include the distribution of this BID for public comment, Focus Group Meetings with key I&APs as well as two public Open House Events. Focus Group Meetings will be hosted throughout the process, with most of them to take place during the next month or two.

The first **Open House Event** will be hosted during the public review period of this BID on **21 November 2018 from 16:00 to 20:00 at the Manor House, Fernwood Parliamentary Sports Grounds**. You are welcome to attend and are free to arrive any time between 16:00 and 20:00 to peruse the project information that will be on display and speak to the relevant specialists. Please refer to your invitation to the Open House in

Figure 8.

The second Open House will be held during the public review period for the Draft BAR, which would occur early in 2019. Registered I&APs will be timeously notified of these events via email.

The following legislated public participation process (PPP) will also be undertaken:

- Identification of potential and legislated I&APs;
- Written notification via a mail-out, email and/or a knock-and-drop exercise to landowners and residents adjacent to the boundary of the site;
- Compilation and Placement of an advertisement in a local newspaper;
- Placement of a notice board on the site where the proposed activity is to be undertaken;
- A 30-day public review of the Draft Basic Assessment Report (BAR) (to commence early in 2019) during which all I&APs will be provided with the opportunity to comment on the BAR before it is submitted to the relevant authorities for decision-making.

Refer to **Figure 9** for a flow diagram depicting the Basic Assessment process.

6. HOW TO GET INVOLVED

Should you wish to provide comment on this BID, or you wish to register another I&AP, please do so within 36 days (i.e. by **30 November 2018**).

The following contact details can be used:

Marielle Penwarden

Chand Environmental Consultants
PO Box 238, Plumstead, Cape Town, 7801
Tel: (021) 762 3050
Fax: 086 665 7430
Email: info@chand.co.za

Kindly note that I&APs must provide their name, contact details (postal address, telephone, fax numbers and email address) and an indication of any direct business, financial, personal, or other interest they may have in the approval or refusal of this application in order to register.

There is a comment sheet attached to this document for any initial thoughts you would like the project team/environmental team to be aware of.

YOUR OPPORTUNITY TO BE INVOLVED

Your active participation will contribute to ensuring responsible development of the site, as well as responsible decision making by the authorities.

The first step in the process is for any members of the public who feel they are affected by or have an interest in the proposed project, to register as I&APs. All registered I&APs will receive continuous communication regarding the proposed project and will be notified of the availability of reports for comment. As a registered I&AP you would have a legal right in terms of NEMA to comment on the Draft BAR and any other reports related to the Basic Assessment Process.

Should you wish to provide written comments on this BID, please do so by **30 November 2018**.

Note that this is a public process and your name and comments submitted through this process would be made public as part of the draft BAR.

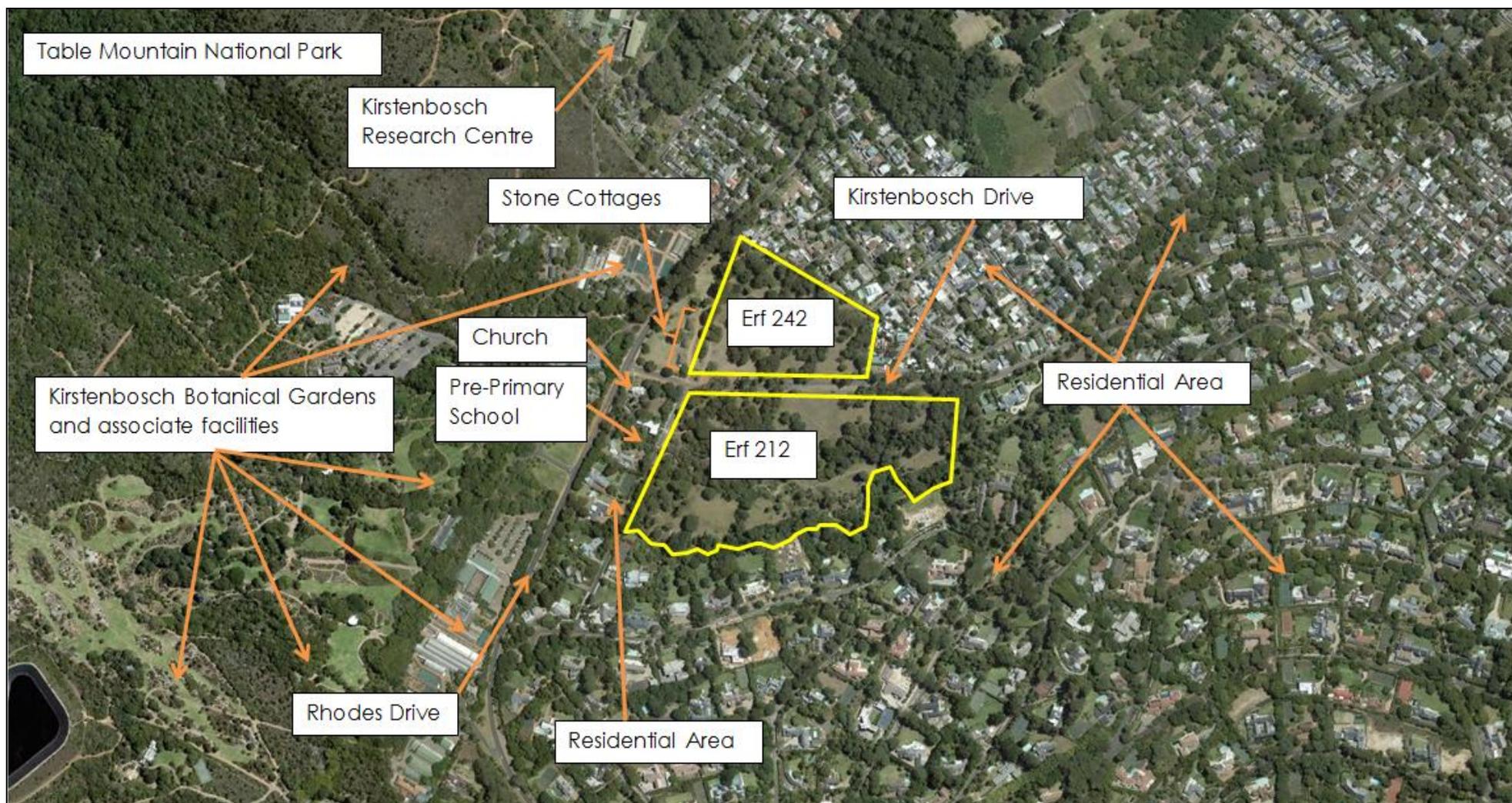


Figure 1: Locality Map



Figure 2: Draft Proposed Development Layout



Figure 3: Design Precedent for Homes for the Protea Village Community proposed on Erf 242



Figure 4: Design Precedent for Private Dwellings Proposed on Erf 212 (note that the homes would be similar to those already existing in the greater Bishopscourt area)



Figure 5: Design Precedent for Larger Estate Homes Proposed on Erf 212



Figure 6: Design Precedent for Row Housing Proposed on Erf 212



Figure 7: Draft Landscaping Intent

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YOUR INVITATION TO THE PUBLIC OPEN HOUSE

**PLEASE JOIN US TO PERUSE PROJECT
INFORMATION AND SPEAK TO THE
PROJECT TEAM!**

VENUE:

Manor House
Fernwood Parliamentary Sports Grounds
27 Rhodes Avenue, Newlands

DATE: 21 November 2018

TIME: Any time between 16h00 and 20h00

**Please RSVP to info@chand.co.za or (021) 762 3050 by
16 November 2018**



Figure 8: Your Invitation to the Public Open House Event

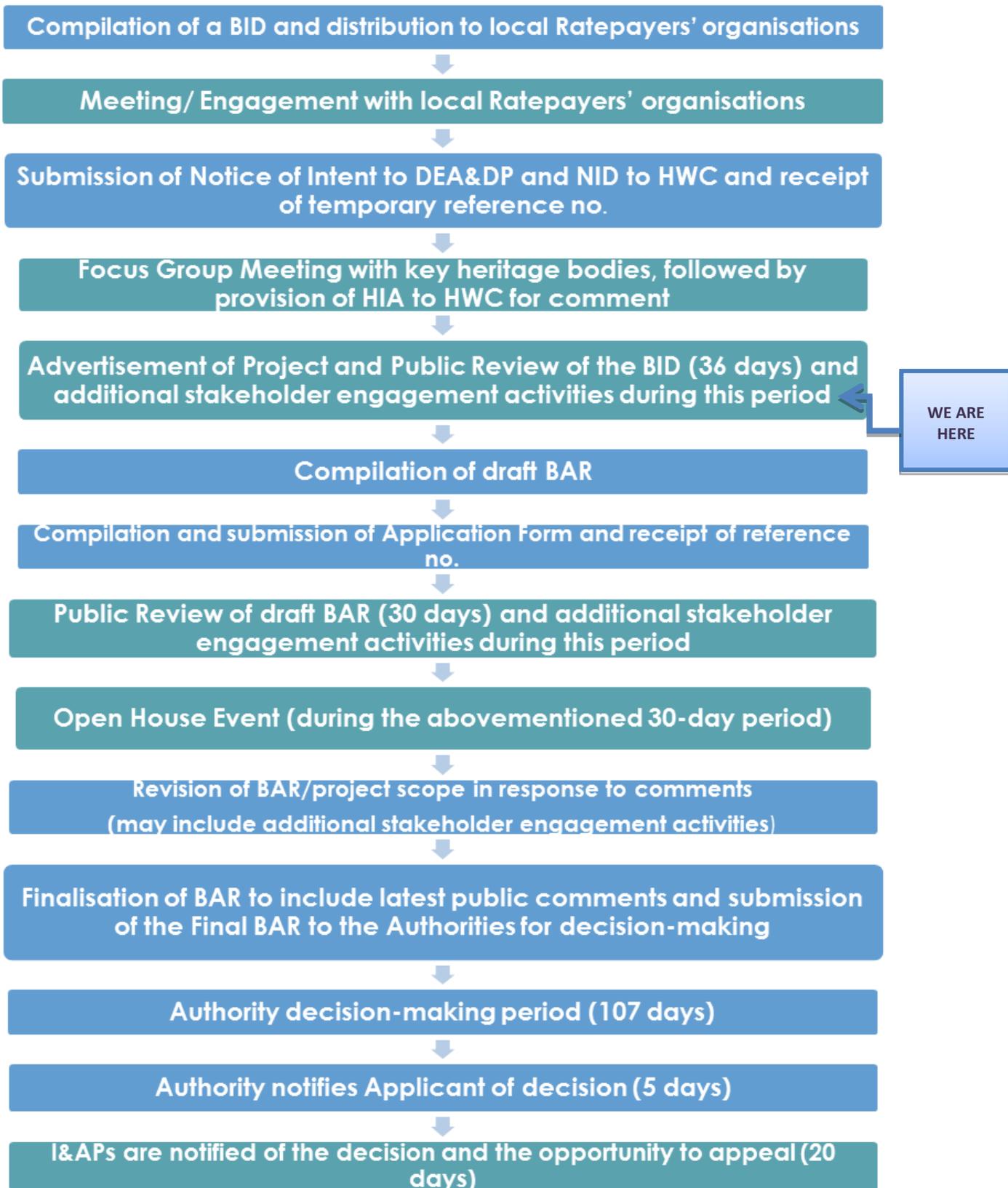


Figure 9: Basic Assessment Process

**BASIC ASSESSMENT PROCESS FOR THE PROPOSED DEVELOPMENT OF RESIDENTIAL AND RECREATIONAL FACILITIES ON ERVEN 242 AND 212, BISHOPSCOURT FOR THE PROTEA VILLAGE COMMUNAL PROPERTY ASSOCIATION LAND CLAIM
CHAND REFERENCE NO: 03013
DEA&DP PRE-APP REFERENCE NO: 16/3/3/6/7/1/A6/7/2223/17**

We appreciate your interest and participation in this process. If you have any issues, questions or concerns regarding this proposed project specifically, please ensure to have your comments returned to us by **30 November 2018**.

Marielle Penwarden

Chand Environmental Consultants
PO Box 238, Plumstead, Cape Town, 7801
Tel: (021) 762 3050 Fax: 086 665 7430
Email: info@chand.co.za

Kindly note that we require the full name, contact details and address for registration as an I&AP. It is also the registered I&APs responsibility to keep the Environmental Assessment Practitioner (EAP) informed of any changes to the above. Note also that this is a public process and your name and comments submitted through this process would be made public as part of the draft BAR.

ENSURE TO WRITE CLEARLY AND LEGIBLY AND TO USE EXTRA PAPER IF NEEDED.

NAME:

ORGANISATION:

POSTAL ADDRESS:

TELEPHONE NUMBER:

FAX NUMBER:

E-MAIL ADDRESS:

SUGGESTIONS / COMMENTS: