

## ATTACHMENT 2

### Reference to Draft Bitou Zoning Scheme By-Law Chapter 3: Overlay Zones

#### MOTIVATION FOR THE ADOPTION OF AN OVERLAY ZONE FOR NATURE'S VALLEY

##### 1. NATURE'S VALLEY IN CONTEXT

Nature's Valley incorporates the area known as Nature's Valley Township, measuring approximately 93ha in extent.

- 1.1 **Unique Natural Environment:** Nature's Valley which lies at the foot of the coastal escarpment and is accessible only from the historic Groot River Pass (R102), is bordered by the protected lagoon and estuary, the sea and the indigenous rain forests of the Tsitsikamma Section of the Garden Route National Park (GRNP). Nature's Valley is one of only a few villages in South Africa that are surrounded by a proclaimed national park. As a result, the village cannot reasonably expand into a sprawling conglomeration of housing and ancillary land uses.

Afro-temperate forest occurring in Natures Valley is one of the 26 Natural Forest Types declared as natural forest in terms of Section 7(3)(a) of the National Forest Act, 1998, Government Notice No 762 of 18 July 2008. The vegetation found in the area falls within the eastern section of the Cape Floristic Region which is one of the six floral kingdoms of the world and has the highest species diversity per unit area in the world.

- 1.2 **Single Residential Character:** The almost exclusively "Residential Zone 1" erven of the township have been retained virtually unchanged since the proclamation of the village in 1953. The well-wooded and largely unfenced properties together with forested open spaces play an integral part in maintaining and augmenting the environmental integrity of the unique natural surroundings within which the township falls.

Most of the 397 residences are unpretentious and of simplified design and blend into the natural environment. The provision of engineering services such as electricity cables have been laid underground which, together with the absence of street lights help preserve the natural ambience. Although home to an increasing number of retirees, Nature's Valley serves primarily as a holiday destination but without the hotels, shopping malls, cinemas and night clubs often associated with many other popular holiday destinations. It therefore provides a much sought-after break from city life.

- 1.3 **Geographical Constraints:** The township only comprises 406 erven and, as its boundaries are the Groot River Lagoon, the ocean and the Tsitsikamma Section of the GRNP, no further development outside the residential area is possible. These same constraints impose severe restrictions on any further development of existing infrastructure with particular reference to sewage management and availability of water.

- 1.4 **Owners:** An exceptionally large percentage of owners respect and appreciate the unique natural environment of Nature's Valley and are actively involved in community efforts to protect and retain this invaluable asset for future generations. The Nature's Valley's Trust (NVT) which was established in 2000, is a strong community-based conservation body that has as its main focus to maintain the long term environmental integrity of Nature's Valley and surrounding areas, by becoming proactively involved in issues that impact on the future of the area. including increasing the environmental awareness of the children who visit NV as well as the children in less privileged areas of

Bitou. The Trust has been responsible for the successful rehabilitation of the Fynbos Reserve (Erf 460), once home to the Brenton Blue butterfly, which together with the Phyl Martin Park (Erf 429) are used as important environmental education classrooms for learners and students.

In 2006 the Nature's Valley Urban Conservancy was established through Cape Nature to encourage its members in the residential area to implement and observe best conservation practices-

The Nature's Valley Ratepayers' Association (NVRA) is a longstanding and strong association that preceded the Nature's Valley Local Council. The association aims to serve the best interest of ratepayers and to protect and retain the single residential character of the township and the environmental integrity of its natural surroundings. In 1994 the NVRA was responsible for the establishment of the 30 year Contractual Park Area Agreement with South Africa National Parks and the municipality to protect and manage the front coastal dune (Erf 444) and a large tract of lagoon frontage and flood plain (Erf 434 and 382). A special NVRA sub-committee manages the Phyl Martin Park, a small botanical garden, the wetland (Erf 380) and forest reserve (Erf 381) and the eradication of invasive alien plant species. In the 2018/2019 financial year 62% of all homeowners actively contributed to the NVRA.

## 2. OBJECTIVES

**The intended outcomes of implementing an overlay zone for Natures Valley are:**

- To uphold the **praedial servitudes** registered against the title deeds that regulate the development of erven in the township, in particular those pertaining to density;
- To prevent overburdening of geographically limited **services infrastructure** particularly sewerage and water supply.
- To protect and enhance the **unique character** of Nature's Valley;
- To protect and enhance **land values**;
- To **protect the environment** and enhance nature conservation within the village;
- To **promote a pedestrian friendly environment** and to curtail unnecessary vehicle movement.
- To promote Natures Valley and surrounds as an **eco-tourist destination**.

## 3. NEED AND DESIRABILITY

### 3.1 Development Prospects

Nature's Valley has no viable expansion prospects due to the Tsitsikamma National Park that surrounds the village of Nature's Valley. The only possibility of new development is residential densification which is undesirable due to the surrounding Tsitsikamma National Park and the inferior services infrastructure which arguably cannot accommodate ~~the~~ a greater demand without the possibility of more regular outages, water shortages, pollution and a greater health threat due to potential contamination of the Groot River estuary as well as ground and stormwater.

### 3.2 Land Uses

- With the exception of the single business erf, four park/open space erven, one Telkom erf, the church erf and one guest house all other properties in Nature's Valley are zoned for single residential purposes (Residential Zone 1). The Nature's Valley community has also resisted the rezoning of land by objecting to rezoning applications. Due to the limited extent of development, Nature's Valley's isolation and the seasonal occupation patterns, the sustainability of other types of land uses

such as retail and other types of residential uses other than holiday orientated uses, are questionable.

- A strong expectation exists amongst residents and owners that the unique pristine character of Nature's Valley should be maintained and protected at all cost.
- Although Nature's Valley possesses eco-tourism potential, there is and has historically been strong opposition to any form of rezoning that would impact on the established single residential character of the village. The single residential properties do provide the opportunity for accommodating tourists who are attuned to the ambience of Natures Valley and this presents a sustainable option for the development of eco-tourism.

### 3.3 Services Infrastructure

- Nature's Valley's demand for electricity has shown a steady increase over the past two decades however the infrastructure appears adequate for the foreseeable future provided subdivision and densification are avoided.
- Civil services infrastructure, especially sewerage infrastructure (or the lack thereof) requires urgent attention and an innovative approach to cope even with the present volumes and to avoid the contamination of natural water resources which could pose a health threat to residents and visitors.
- The potable water supply relies solely on water from the Groot River which, combined with limited reservoir storage is already constrained during periods of high occupancy in Natures Valley.
- The stormwater drainage system is inadequate and flooding causes damage to a number of low-lying properties during heavy rains.

### 3.4 Movement and Roads

- Nature's Valley has limited accessibility due to its location. As far as linkages with Plettenberg Bay and other areas are concerned, the only access is via the R102, the old Groot River pass road. Nature's Valley is situated approximately 30 kilometers from the nearest shopping centres and work opportunities. For this reason, Nature's Valley cannot function as a "dormitory town" from which employees commute on a daily basis.
- The roads within the township of Natures Valley are narrow and not suitable for heavy or high volumes of traffic. Large sections are in urgent need of maintenance to prevent irreversible deterioration.

### 3.5 Natural environment

- Based on the current environmental legal framework in South Africa, should application be made today for the establishment of Nature's Valley, the town would most probably never come into being. This is due to the stringent requirements surrounding sensitive habitats and the requirement for appropriate buffer zones as a mitigation measure around such habitats. In Nature's Valley, the following habitats occur; Coastal Forest, Ridges, Wetlands, Coastal Dune Fynbos and Estuarine habitat.

- The village impacts on its surrounding sensitive environment in many ways, including impacts on water quality and edge effects on the surrounding indigenous forest. Although all possible steps are taken by the NVRA, NVT and residents to curtail these impacts, development or encroachment on existing functional habitat can be regarded as a risk to the environment.
- It must be deduced that Nature's Valley is absolutely unique and vastly different to most other coastal towns or villages in South Africa. Planning and development in Nature's Valley must therefore be closely scrutinised, so as to ensure responsible and sustainable co-existence with the environment.
- Apart from the indigenous flora in the township and surrounds, the animal and birdlife is prolific. Bushbuck, baboons, monkeys, bush-pig, grey mongoose, caracul, cape otter and fish eagles are regularly observed. There is recently recorded evidence that Leopard still inhabit the nearby mountains and forest. This type of environment, in an urban setting, is truly unique but would not survive the impact of densification.

#### **4. REMAINING HABITATS UNDER DEVELOPMENT PRESSURE**

- **Parks/Open Spaces**

Each of the four park erven have a specific use or function and represent a different type of habitat namely wetland reserve (Erf 380), afro-montane indigenous forest (Erf 381), coastal dune fynbos reserve (Erf 460), botanical garden (Erf 429) and front coastal dune (Erf 444). The loss of any one of the parks would result in a loss of environmentally sensitive areas and consequent negative impacts on the ambience and sense of place of Nature's Valley. Open spaces are also used by the Nature's Valley Trust for the purpose of syllabus approved Environmental Education of school children.

- **Wetland**

Wetland is defined by the National Water Act, 1998 (Act No. 36 of 1998) as:  
*"Land which is transitional between terrestrial and aquatic ecosystems where the water table is usually at or near the surface, or the land is periodically covered by shallow water, that naturally supports vegetation typically adapted to life in saturated soil."*

In 2003, the Department Water Affairs and Forestry published: "'A practical field procedure for identification and delineation of wetlands and riparian areas", according to which wetlands can be delineated and then protected. The foundation of the method is based on the fact that wetlands have several distinguishing features including the following:

- The presence of water at or near the ground surface
- Distinctive hydromorphic (wet) soils
- Vegetation adapted to saturated soils
- The presence of alluvial soils in stream systems

These conditions exist on Erf 380 and must therefore be protected in terms of the National Water Act and National Environmental Management Act, 1998 (Act 107 of 1998) (NEMA).

- **Indigenous Forest Habitat (Afro-montane)**

Erf 381 hosts indigenous forest trees and habitat believed to be 60 years or older. The National Heritage Act refers to “landscapes and natural features of cultural significance”, and especially those older than 60 years. In terms of the Act, these trees have natural heritage value based on their age, let alone their value and therefore enjoy protection in terms of the National Forest Act, 1998 read with the National Environmental Management Act, 1998 (Act 107 of 1998) (NEMA).

- **Botanical Garden**

The Phyl Martin Park was established as a park during 1955, and developed as a botanical garden a few years later. It currently incorporates an indigenous park landscape, botanical garden and nursery. The nursery fulfils an important role with the rehabilitation of the ecology of Nature's Valley from exogenous to an indigenous flora environment. The park was established by members of the Natures Valley community and property owners have taken an active role in its maintenance since inception.

- **Fynbos Reserve**

Erf 460 in Natures Valley contains a rare remaining example of coastal dune Fynbos habitat within its boundaries and as mentioned, once home to the Brenton Blue Butterfly. The Fynbos Reserve now serves as an important park and facility for environmental education. The NV Trust organises environmentally focussed classes for children from NV and surrounding communities in this unique natural park.

Fynbos as a vegetation type is under severe pressure, and any opportunity to preserve even small areas should be taken within the context of South Africa's responsibility as the only custodian of this vegetation type in the world.

- **Estuarine Habitat**

Erven 382 and 434 fall outside the proposed “urban edge” of the village. Some sections form part of the estuarine system and are occasionally flooded (i.e. a wetland). The remaining area adjacent to Lagoon Drive acts as a buffer between the built-up area, and the Groot River Lagoon / Estuary System. This buffer (although not sufficient – it would be 200m or more in terms of current legislation) is critical as an interface between human activity and the lagoon itself.

These erven, which form part of the estuary environment, are protected by the National Environmental Management Act, and the Integrated Coastal Management Act, 2008 (Act 24 of 2008). They are managed by SANParks in terms of the Contractual National Park Agreement between SANParks, Bitou and the Nature's Valley Ratepayers' Association (signed in January 1994) in terms of which they are maintained and protected for conservation purposes.

The “island erven” within the Grootrivier estuary, which originally formed part of the NV Development plan are contrary to responsible environmental management and for this reason were never developed. In 1988 all the erven on the island were expropriated in the name of the Republic of South Africa and included in the then Tsitsikamma National Park.

- **Front Coastal Dune**

Erf 444 is a scarce remaining example of a pristine undeveloped front coastal dune and is managed by SANParks according to the Contractual Park Agreement of which it forms part. Erf 444 is protected by the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008) as well as the Municipal Systems Act, 2003 (Act 32 of 2000).

#### **4. OVERLAY ZONE DEVELOPMENT GUIDELINES**

**The following development guidelines are proposed for the overlay zone applicable to Natures Valley.**

##### **4.1 Building Restrictions**

Maintain the existing restrictive conditions of title applicable to "Residential Zone 1" erven in Natures Valley.

- No subdivision.
- Single dwelling with normal outbuildings (Subject to clearer definition in line with Bitou Zoning Scheme definitions)
- Maximum coverage: 50%
- Street boundary building line: 6,3m
- Lateral and rear boundary building line: 3,15m
- Maximum building height: 12,5m (The more stringent Bitou Zoning Scheme restriction of 8,5m above NGL, to apply)

The aforementioned restrictive conditions of title are regarded as reciprocal praedial servitudes, as confirmed in various court judgments and legal opinions, inter alia:

- *Camps Bay Ratepayers and Residents Association and Others v Minister of Planning, Culture and Administration, Western Cape and Others 2001.*
- *Van Rensburg and Another NNO v Naidoo and Others NNO, 2011.*
- *Van Rensburg Supreme Court of Appeal decision 2011.*
- *Opinion for the Natures Valley Ratepayers Association regarding the nature of Restrictive Conditions attached to properties in Natures Valley by David Borgstrum SC, 20 June 2018.*

##### **4.2 Open Spaces**

Maintain parks and open spaces as indicated on the Map of Natures Valley included as part of the Bitou Draft Zoning Scheme By-Law.

##### **4.3 Natures Valley Local Spatial Development Framework (NV LSDF)**

To ensure that the aims and development guidelines as set out in the NV LSDF dated 24<sup>th</sup> October 2018 are adhered to in the long term interest of the community. The LSDF has been prepared in consultation with and approval of Bitou Municipality and has undergone two public participation processes in 2014 and again, in revised form, in 2018. All comments by interested and effected parties have been incorporated. The document fairly reflects the wishes of the owners of property in Natures Valley.

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