

**MOTIVATIONAL MEMORANDUM:****Consent Use application****for****Ptn 5 of Re/Roodekans 183-IQ****(Walter Sisulu Botanical Gardens)****on behalf of****The City of Johannesburg**

<b>Date</b>	05 August 2021
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## INTRODUCTION

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The purpose of this memorandum is to introduce, elaborate upon and motivate the application for consent use in respect of Ptn 5 of Re/Roodekans 183-IQ

The full extent of the application is set out in this memorandum, which comprises of the following:

- ❖ Chapter 1: General Information
- ❖ Chapter 2: The Application
- ❖ Chapter 3: Policy Environment
- ❖ Chapter 4: Motivation
- ❖ Chapter 5: Conclusion

## 1. GENERAL INFORMATION

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KiPD (Pty) Ltd, the authorised agent, has been appointed by The City of Johannesburg, the registered owner of the property, to lodge an application for consent use of Ptn 5 of Re/Roodekans 183-IQ to allow for the additional use of a restaurant. The property will be referred to as “the site”, “the subject properties” and/or “the proposed development” in this memorandum.

### 1.1. THE APPLICATION

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Application is hereby made in terms of Section 19 of the City of Johannesburg (CoJ) Municipal Planning By-Law, 2016, hereinafter referred to as the “By-Law”, read together with Section 24 of the City of Johannesburg Land Use Scheme, 2018 and the provisions of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), for the consent use on the property.

### 1.2. AGENT AND CLIENT

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#### 1.2.1. Agent

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The authorised town planning agent acting on behalf of the client is:

Name	KiPD (Pty) Ltd
Responsible Persons	Raeesa Soomar Cassim
Postal Address	47 Third Street, Linden, 2195
Contact Number	011 888 8685 / 084 440 5957
Email	<a href="mailto:raeesa@kipd.co.za">raeesa@kipd.co.za</a>

1.2.2. Client

The client's details are as follows:

Name	Althea Peacock
Contact Number	082 558 6859
Email	althea@lemonpebble.co.za

1.3. LAND DEVELOPMENT AREA

1.3.1. Site Locality

(Annexure A: Plan 1 and 2)

The Walter Sisulu National Botanical Gardens is located north of Roodepoort, east of Krugersdorp, west of Ruimsig and south of Featherbrooke Estate.

1.4. LEGAL ASPECTS

1.4.1. Ownership

(Annexure B – Windeed and title deed)

The ownership details of the property is reflected in the table below:

Property Description	Registered Owner	Size	Title Deed Nr
Ptn of Re/5 Roodekran 183 - IQ	City of Johannesburg	8.5596 Ha	T16261/1979

1.4.2. Resolution

The members of the City Council have provided a resolution authorising the nominated individual to provide a power of attorney to enable KiPD to submit a formal application as per the requirements of the CoJ Municipal Planning By-Law, 2016.

1.4.3. Power of Attorney

The authorised individual has in turn provided a signed power of attorneys to enable KiPD to submit a formal application as per the requirements of the CoJ Municipal Planning By-Law, 2016.

1.4.4. Restrictive Title Conditions

There are no restrictive title conditions contained in the title deed T16261/1979 relating to the consent use of the subject property.

1.4.5. Registered Mortgage Bonds

There is no mortgage bond registered against the property.

### 1.5. EXISTING LAND USE

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The property is part of the Walter Sisulu National Botanical Gardens, and includes a tea garden/restaurant.



### 1.6. SURROUNDING LAND USE

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(Annexure C: Land use plan)

The site is immediately surrounded by rural residential uses and further outwards more urban residential uses.

### 1.7. EXISTING ZONING AND DEVELOPMENT CONTROLS

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(Annexure D: Zoning Certificate)

In terms of the City of Johannesburg Land Use Scheme, , the property is currently zoned as follows:

Zoning	Undetermined
Primary rights	Agricultural purposes, dwelling house, urban agriculture
Secondary rights	Clause 24
Floor Area	As per scheme
Density	N/A
Coverage	As per scheme
Height zone	As per scheme
Building Lines	As per scheme

### 1.8. SURROUNDING ZONING

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(Annexure E : Surrounding zoning plan)

In terms of the City of Johannesburg Land Use Scheme, 2018, most of the erven immediately north, east are zoned "Agricultural" and south, "Residential 1".

## 2. THE APPLICATION

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### 2.1. PROPOSED CONSENT USE

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Application is hereby made for consent use to allow for a tea garden/restaurant with seating for 80 patrons, as per clause 24 of the city of Johannesburg Land Use Scheme, 2018.

The restaurant located within the Walter Sisulu Botanical Gardens is already in operation, however, contrary to the scheme. Application is hereby made to legalise the use to ensure it conforms to the scheme.

## 3. SPATIAL PLANNING ENVIRONMENT

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In terms of Section 5(2) of the City of Johannesburg Municipal Planning By-Law, 2016 – “any land development application in terms of said By-Law shall be guided and informed by the City’s Integrated Development Plan and Municipal Spatial Development Framework as adopted and approved in terms of Section 20 of SPLUMA and Section 10 of said By-Law.”

This section therefore reviews all relevant spatial planning documents and plans, to determine the suitability and compliance to the spatial plans of the City.

The following spatial planning documents have been reviewed :

- City of Johannesburg Land Use Scheme, 2018; and
- City of Johannesburg Spatial Development Plan, 2040 (2016).

### 3.1. COJ LAND USE SCHEME, 2018

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The City of Johannesburg Land Use Scheme, 2018, allows for properties classified as Agricultural Holdings or Farms , zoned “Agricultural” (or “Undetermined”) to obtain a consent use (as opposed to a rezoning/ township establishment) for one of various uses.

The Walter Sisulu National Botanical Gardens property is classified as a farm and zoned “Undetermined”. SANParks would like to renovate the restaurant located within the gardens. As per section 24 (6)(c.), a tea garden and restaurant with a seating of 80 patrons is allowed with the consent of the municipality.

This clause has thus necessitated this consent use application.

### 3.2. SPATIAL DEVELOPMENT FRAMEWORK 2040

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The Spatial Development Framework 2040 (SDF) is a city wide spatial policy document that identifies the main challenges and opportunities for the City, sets a spatial vision for the future city and outlines a set of strategies to achieve that vision.

Along with providing a spatial vision, the SDF defines the strategic spatial areas to be used in the City's capital investment prioritisation model. This will ensure that infrastructure investment is directed to areas with the highest potential to positively impact on the development trajectory of the City as defined in the SDF.

In terms of the SDF, the subject property falls within the "Peri Urban Zone". This zone aims at conserving the natural landscape and rural nature of the area. The application is made to allow for a restaurant within the existing National Botanical Gardens. This will enhance the usage of the Botanical Gardens as a conservation space and reiterate its importance as a Green Hub within the City. The policy is being adhered to as the Botanical Gardens is being supported with the restaurant.

## 4. MOTIVATION

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### 4.1. NEED AND DESIRABILITY

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The proposed additional use of a restaurant / tea garden limited to 80 patrons is a support use to the existing open space function played by the Walter Sisulu National Botanical Gardens.

The restaurant is a feature within the gardens that is an environmentally protected and conserved space. The Garden and nature reserve is home to an abundance of wildlife with about 240 bird species recorded on site. A breeding pair of Verreaux's Eagles nest on the cliffs near the waterfall. A surprising number of mammal species have been sighted recently, using camera trap technology. The presence of these rather secretive animals is a sign that the ecosystem of the estate remains viable, despite being surrounded by development.

The natural vegetation of the area is a mosaic of three main vegetation types; Egoli Granite Grassland, Gold Reef Mountain Bushveld and Northern Afrotemperate Forest. This variety of habitats accommodates over 600 naturally occurring plant species.

This Botanical Garden was founded in 1982, but has been a popular venue for outings since the 1800's. The Garden has been voted the best place to get back to nature in Gauteng for several years in a row.

Based on the above, it is clear that the restaurant is an asset to this space and is a much needed facility to have on the property.

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## 5. SPLUMA DEVELOPMENT PRINCIPLES

In terms of the Spatial Planning and Land Use Management Act (Act 16 of 2013) (SPLUMA), the following principles apply to spatial planning, land development and land use management and are hereby applied to this application:

SPLUMA Referral		Proposed Development Compliance
7 (a)	Spatial Justice	The development addresses the principle of spatial justice as it answers to the rectification of previous injustices by making the existing facility multi -functional.
7 (b)	Spatial Sustainability	The principle of spatial sustainability is addressed in the fact that the development is being implemented in an area that is considered viable for the development to occur within and addresses the immediate need to the amenity.
7 ©	Efficiency	The land development optimises the use of existing engineering infrastructure.
7 (d)	Spatial Resilience	By providing a restaurant within the gardens, the principle of spatial resilience applies in that the Spatial Development framework supports the type of development, therefore adhering to the vision of the City.
7 (e)	Good Administration	The development answers to the broader scope and the microscope of all spheres of government, in that it answers the need of the intention to increase accessibility to necessary social needs within South Africa.

## 6. RECOMMENDATION

The application is in line with the City of Johannesburg’s vision for this area and supports the policy; the proposed development would align with the surrounding area.

We therefore recommend that the application be approved.