



24G Application: 14/2/4/2/3/D6/29/0037/21

ENVIRONMENTAL AUTHORISATION

The Municipal Manager
Mossel Bay Municipality
Private Bag X29
MOSSSEL BAY
6500

Email: lmngxekeza@mosselbay.gov.za

Tel: (044) 606 5013

Attention: Lindilizwi Mngxekeza

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: THE UNLAWFUL UPGRADING OF THE INFORMAL SETTLEMENT BRANDWACHT UISP, PORTION 5 OF FARM 165, MOSSSEL BAY

With reference to your application dated 21 July 2022 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with the agreed alternative as described in the application and environmental assessment dated 21 July 2022.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance

with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Mossel Bay Municipality
c/o Mr/Ms Lindilizwi Mngxekeza
Private Bag X29
MOSEL BAY
6500

Tel: (044) 606 5013

Email: lmngxekeza@mosselbay.gov.za

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "the holder".

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Government Notice No. R386 of 2006 – Activity Number: 1(m) Activity Description: The construction of facilities or infrastructure, including associated structures or infrastructure, for – (m) any purpose in the one in ten-year flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown.	Portion 5 of Farm 165 – Informal houses and structures constructed within 32m of minor drainage features on the site.
Government Notice No. R386 of 2006 – Activity Number: 12	Portion 5 of Farm 165 –

<p>Activity Description: The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the <i>National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004)</i>.</p>	<p>Informal houses constructed on area where vegetation is listed as endangered on a national level.</p>
<p>Government Notice No. R544 of 18 June 2010 –</p> <p>Activity Number: 11</p> <p>Activity Description: The construction of:</p> <p>(x) buildings exceeding 50 square metres in size;</p> <p>(xi) infrastructure or structures covering 50 square metres or more –</p> <p>where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	<p>Portion 5 of Farm 165 – Informal houses and structures with a footprint exceeding 50m² constructed within 32m of minor drainage features on the site.</p>
<p>Government Notice No. R546 of 18 June 2010 –</p> <p>Activity Number: 12</p> <p>Activity Description: <i>The construction of:</i></p> <p><i>(x) buildings exceeding 50 square metres in size;</i></p> <p><i>(xi) infrastructure or structures covering 50 square metres or more –</i></p> <p><i>where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</i></p>	<p>Portion 5 of Farm 165 – Informal houses constructed on area where vegetation comprised of more than 75% indigenous and is listed as endangered on a national level and in an area identified as a CBA.</p>
<p>Government Notice No. R546 of 18 June 2010 –</p> <p>Activity Number: 16 (iii)(ii)(14)</p> <p>Activity Description: <i>The construction of:</i></p> <p><i>(iii) buildings with a footprint exceeding 10 square metres in size –</i></p>	<p>Portion 5 of Farm 165 – Informal houses with a footprint exceeding 10m² constructed within 32m of minor drainage features on the site and within an area identified as a CBA.</p>

<p>where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p> <p>(d) In Western Cape:</p> <p>ii. Outside urban areas –</p> <p>(ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans.</p>	
<p>Government Notice No. R546 of 18 June 2010 –</p> <p>Activity Number: 11</p> <p>Activity Description: The construction of:</p> <p>(x) buildings exceeding 50 square metres in size;</p> <p>(xi) infrastructure or structures covering 50 square metres or more –</p> <p>where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	<p>Portion 5 of Farm 165 – Informal houses and structures with a footprint exceeding 50m² constructed within 32m of minor drainage features on the site.</p>
<p>Government Notice No. R. 327 of 7 April 2017</p> <p>Activity Number: 12(ii)(c)</p> <p>Activity Description: The development of –</p> <p>(ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs –</p> <p>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse</p>	<p>Portion 5 of Farm 165 – Informal houses with a footprint exceeding 100m² constructed within 32m of minor drainage features on the site.</p>
<p>Government Notice No. 984 of 4 December 2014 -</p> <p>Activity Number: 27</p> <p>Activity Description: The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation.</p>	<p>Portion 5 of Farm 165 – Informal houses with a footprint exceeding 100m² constructed within 32m of minor drainage features on the site.</p>

<p>Government Notice No. 985 of 4 December 2014 -</p> <p>Activity Number: 28 (ii)</p> <p>Activity Description: <i>Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development: (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare.</i></p>	<p>Portion 5 of Farm 165 – Construction of informal houses comprises an area larger than 1ha on land that is zoned and used for agriculture.</p>
<p>Government Notice No. R. 324 of 7 April 2017</p> <p>Activity Number: 12(i)(i)&(ii)</p> <p>Activity Description: <i>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p><i>(i) Western Cape</i></p> <p><i>(i) Within any critically endangered or endangered ecosystem listed in terms of section 52 of the 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; &</i></p> <p><i>(ii) Within critical biodiversity areas identified in bioregional plans.</i></p>	<p>Portion 5 of Farm 165 – Informal houses constructed on area where vegetation is listed as endangered on a national level and in area identified as CBA.</p>
<p>Government Notice No. R. 324 of 7 April 2017</p> <p>Activity Number: 14 (ii)(c) (i)(i): (ff)</p> <p>Activity Description: <i>The development of – (ii) infrastructure or structures with a physical footprint of 10 square metres or more;</i></p> <p><i>Where such development occurs – (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse.</i></p>	<p>Portion 5 of Farm 165 – Informal houses with a footprint exceeding 10m² constructed within 32m of minor drainage features on the site within an area identified as CBA.</p>

<p>(i) Western Cape (i) Outside Urban Areas (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans.</p>	
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The abovementioned list is hereinafter referred to as “the activities”.

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Portion 5 of Farm 165, Mossel Bay.

The SG digit code is: C05100000000016400005

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 03' 24.69" South	22° 03' 24.69" East
2	34° 02' 31.04" South	22° 03' 38.55" East
3	34° 02' 17.59" South	22° 04' 28.08" East
4	34° 02' 57.36" South	22° 03' 35.63" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 03' 04.26" South	22° 03' 29.44" East
2	34° 02' 50.08" South	22° 03' 30.55" East
3	34° 03' 04.26" South	22° 03' 29.44" East
4	34° 03' 01.14" South	22° 03' 32.56" East

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.

Herein-after referred to as “the site”.

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (“EAP”)

Zutari (Pty) Ltd
c/o Mr Wynand Loftus
65 York St
2nd Floor Bloemhof Building
GEORGE

Tel: (044) 805 5458
Fax: (044) 805 5454
Email: Wynand.Loftus@Zutari.com

F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN

The overarching purpose of this project is to give effect to the National Upgrading Support Programme (NUSP) which acts as a support vehicle to the National Department of Human Settlements in its implementation of the Upgrading of Informal Settlements Programme (UISP).

The construction of informal dwellings (i.e. squatting) on a portion of land east of the existing Brandwacht settlement have triggered listed activities in terms of the *NEMA 2014 EIA Regulations* (as amended). Through the UISP the existing informal settlement will be upgraded to form part of the Brandwacht formal residential area.

Population growth projections have indicated that the existing brownfield area (disturbed footprint) will be insufficient to cater for increase in families and also be insufficient for installation of services. A proposed site development plan comprising of a brownfield and greenfield (undeveloped land where no squatting has taken place) has thus been developed. It is the intention of the Applicant to develop both the brownfield and greenfield areas. The Illegal activities at the site are therefore connected to the informal housing expansion.

The upgraded brownfield erven, and erven on the expanded greenfield sites, will consist of a small, enhanced stand (erf) with a wet core (water point and toilet) and electrical supply linked to municipal service infrastructure. The informal dwellers will be temporarily relocated from their existing informal dwellings (brownfields) to a decanting/relocation site whilst the currently

occupied site (from where they were initially relocated) is being upgraded. Upon completion of upgrades families will be moved back to the formalised erven. The holder has committed that the decanting area does not require environmental authorisation.

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to the preferred alternative described in the application and assessment report dated 21 July 2022 on the site as described in Section D above.
2. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
3. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

PART II

Written notice to the competent authority

4. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of the development activities.
 - 4.1 The notice must make clear reference to the site details and 24G Reference number given above.

- 4.2 The notice must also include proof of compliance with the following condition:
Condition 5

PART III

Notification and administration of an appeal

5. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
- 5.1 notify all registered Interested and Affected Parties (“I&APs”) of –
- 5.1.1 the outcome of the application;
 - 5.1.2 the reasons for the decision as included in Annexure 3;
 - 5.1.3 the date of the decision; and
 - 5.1.4 the date when the decision was issued.
- 5.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* detailed in Section I below.
- 5.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
- 5.4 provide the registered I&APs with:
- 5.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 5.4.2 name of the responsible person for this Environmental Authorisation;
 - 5.4.3 postal address of the holder;
 - 5.4.4 telephonic and fax details of the holder;
 - 5.4.5 e-mail address, if any, of the holder; and
 - 5.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.
6. The listed activities, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

PART IV

Management of the activity/development

7. The draft Environmental Management Programme ("EMPr") dated 26 May 2022 compiled by Zutari (Pty) Ltd and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.
8. The EMPr must be included in all contract documentation for all phases of implementation.

PART V

Monitoring

9. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") or site agent where appropriate, before continuation of commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
10. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request, including a publicly accessible website.
11. Access to the site referred to in Section D must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

PART VI

Auditing

12. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and submit Environmental Audit Reports to the competent upon receiving such request in writing from the competent authority.
13. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014 (as amended)*.

14. The holder must, within 7 (seven) days of the submission of the report to the competent authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

PART VII

Activity/ Development Specific Conditions

15. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

16. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
17. The Temporary Relocation Area (TRA) must not trigger any listed activities of the *NEMA EIA Regulations, 2014 (as amended 2017)*.
18. Ground and Surface water in close proximity to the construction site must be protected against any form of contamination due to the construction activities.
19. Potable water must be provided to the development for drinking purposes.
20. Waste generated must be stored on site until it is removed to a registered facility.

H. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.

4. The manner and frequency for updating the EMPr is as follows:
Amendments to the EMPr must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –
 - 1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.
2. An appellant (if NOT the holder) must –
 - 2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20

(twenty) calendar days from the date the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and Organ of State must submit their responding statements, if any, to the Appeal Authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.

4. This appeal and responding statement must be submitted to the address listed below -

By post: Attention: Marius Venter
Western Cape Ministry of Local Government, Environmental Affairs &
Development Planning
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)
Room 809, 8th floor Utilitas Building
1 Dorp Street, Cape Town, 8000; or

By e-mail: DEADP.Appeals@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, appointed in terms of the conditions of this Environmental Authorisation, shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Yours faithfully

MRS Z TOEFY
ACTING DIRECTOR: ENVIRONMENTAL GOVERNANCE

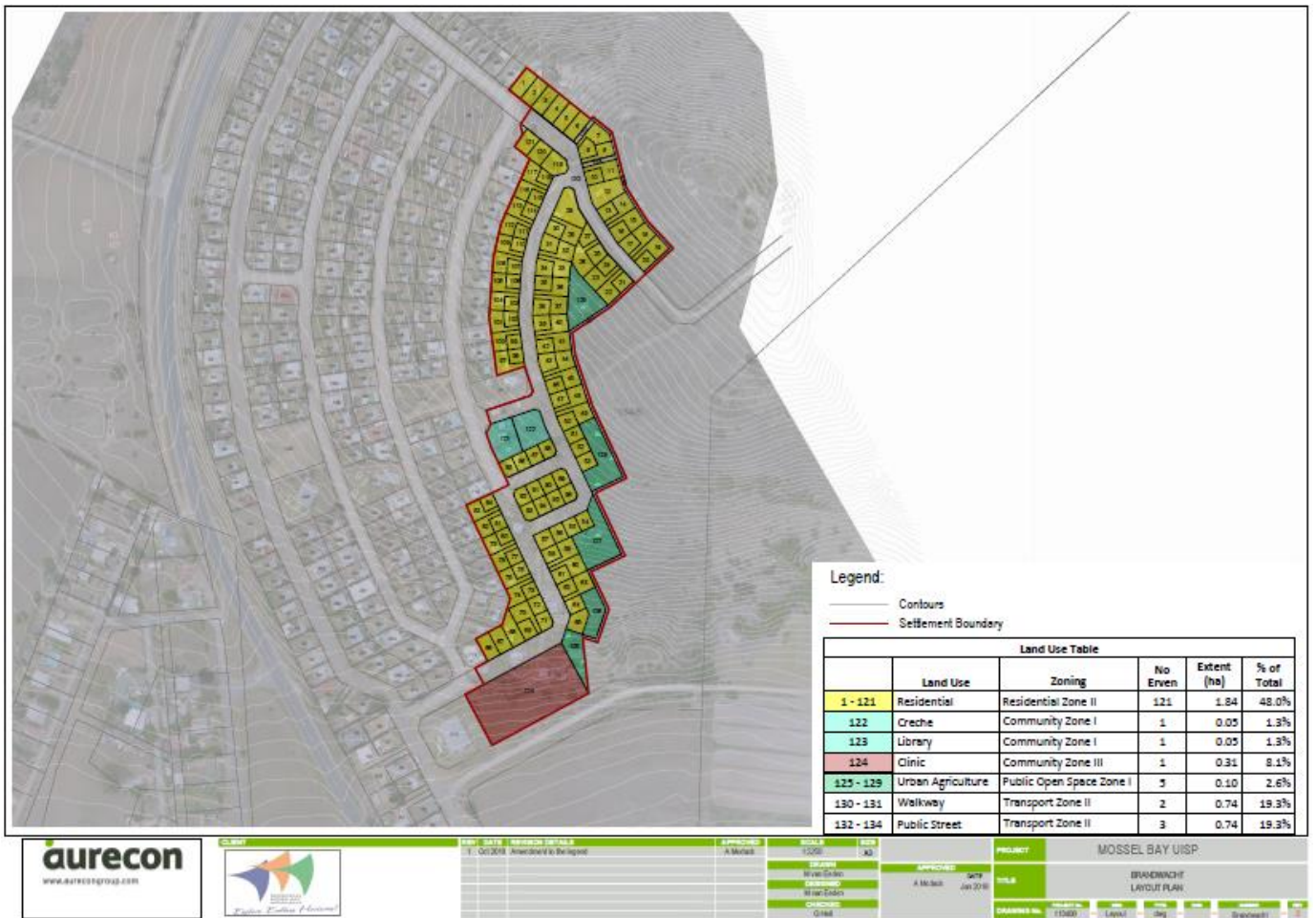
Copied to: (1) Wynand Loftus (EAP)

Email: Wynand.loftus@zutari.com

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



FOR OFFICIAL USE ONLY:

S24G REFERENCE:

14/2/4/2/3/D6/29/0037/21

ANNEXURE 3: REASONS FOR THE DECISION

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R50 000 (Fifty thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 21 July 2022.
- b) The Environmental Management Programme ("EMPr") dated 26 May 2022 submitted together with the application form.
- c) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- d) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- e) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- f) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- g) The site visit conducted on 08 September 2022
Attended by: Officials of the Directorate: Environmental Governance
- h) The appeal decision on the 24G administrative fine dated 15 March 2023.

All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- identification of and engagement with I&APs.
- fixing a notice board at the site where the listed activities unlawfully commenced.
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities were undertaken, and any alternative site, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 20 September 2017.
- the placing of a newspaper advertisement in the **Mossel Bay Advertiser** on 3 May 2019.

Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- This Department's Directorate: Pollution and Chemical Management (PCM)
- This Department's Directorate: Development Management Region 3 (DM)
- Breede Gouritz Catchment Management Agency (BGCMA)
- Department of Health: Garden Route and Central Karoo District (DoH)
- CapeNature: Conservation Intelligence Management Unit (CN)
- Western Cape Department of Agriculture (DoA)

DM questioned if the municipal services such as electrical, sewage and water supply caters for the unallocated capacity. The Environmental Assessment Practitioner (EAP) indicated that there is sufficient capacity as confirmed by the municipality. The temporary relocated areas (TRAs) should furthermore not trigger any listed activities.

DM had no objection to the formalisation of the Brandwacht informal settlement provided that the recommendations made by the specialists and are taken into account and strictly

implemented. Furthermore, the Environmental Management Programme must be strictly implemented.

The BGCMA acknowledges that the development has already taken place on a degraded area including the small drainage features on the site and that the minor seep area is no longer in existence. Therefore, the commencement of the development deprived the BGCMA of the opportunity to exercise its mandate to protect aquatic and associated ecosystems and their biological diversity, preventing degradation of water resources.

As per the addendum of the freshwater specialist, the water use authorisation may no longer serve the purpose considering the status of the drainage features in the area. The application may therefore be referred to Compliance Monitoring and Enforcement section if further investigation is necessary. The EAP indicated that, based on the freshwater specialist recommendations, a water use authorisation (General Authorisation or Water Use Licence) is not required for the development. However, the EAP and applicant remain available for further consultation if the BGCMA does not agree with this conclusion to ensure that due processes are followed.

General comments submitted by the BGCMA:

- No water must be taken from a water resource for any purpose without authorisation from the *National Water Act, 1998 (Act 36 of 1998)* ("NWA").
- No waste or water containing waste may be disposed of without authorisation in terms of the NWA.
- All relevant sections and regulations of the NWA regarding water use must be adhered to.
- Stormwater management must be addressed both in terms of flooding, erosion and pollution potential. No stormwater runoff from any premises containing waste, or water containing waste emanating from premises may be discharged into a water resource. Polluted stormwater must be contained.

The DoH stated that, subject to the following conditions, they had no objections to the proposed activity:

- Effective measures must be implemented to reduce air quality impacts from dust emissions (scrapping road surfaces, excavations etc.), and emission from construction vehicles.
- Effective measures must be implemented to reduce noise effects from construction vehicles and construction.
- A plan should be in place for the management of construction site waste.

- Ground and surface water in close proximity to the construction site must be protected against any form of contamination due to the construction activities. Potable water must be provided to the development for drinking purposes.
- The Mossel Bay Municipality should monitor water usage relating to construction activity to address quantity issues.
- All refuse emanating from the construction site must be incorporated into the Mossel Bay Municipality's solid waste stream.
- Mossel Bay Municipality must provide all sewerage services to the development.

CN highlighted the fact that the property is within a climate adaptation corridor. These climate corridors are elements of ecological infrastructure, and these areas should remain in a functional structure and composition for biodiversity. These areas play an important role in landscape connectivity, as well as supporting the functioning of Protected Areas or Critical Biodiversity Areas. These corridors represent the best option for promoting resilience to climate change and the persistence of biodiversity as they provide pathways for the movement of plants and animals in response to environmental change. They also support the natural movement of species between populations to ensure population viability (Pool-Stanvliet et.al. 2017).

The vegetation on site is sensitive due to it being mapped as Endangered and CBA. Therefore, the Western Cape Biodiversity Spatial Plan (Pool-Stanvliet et.al. 2017) has specific guidelines regarding CBA loss and their sensitivity and conservation objectives. Thus, the proposed activities must be guided by those objectives to conserve and protect the CBAs (Pool-Stanvliet et al. 2017).

The proposed development will result in the loss of sensitive near-pristine CBA which is worrying. Although the botanical specialist concluded this proposed development will not result in serious negative impact on any important ecological processes. It is important to note that the proposed development must be in line with the WCSBP Land Use Guidelines Handbook (Pool-Stanvliet et al. 2017) to ensure the underlying biodiversity objectives and ecological functioning of CBAs are not compromised.

Control methods for the eradication of alien invasive species must be implemented in such a way that it prevents harm to the surrounding environment.

Waste generated must be stored on site until it is removed to a registered facility. The applicant must implement the integrated waste management approach that addresses waste avoidance, reduction, re-use, recycling, recovery, treatment, and safe disposal as a last resort.

DoA indicated that they have no objection towards the NEMA s24G process on condition that the construction and operational phase of the project does not negatively impact on the surrounding agricultural activity. The mitigation measures and relevant management plans as presented in the EMPr must be implemented and monitored as part of the compliance process.

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

2.1 Design/ Layout alternative

Alternative 1 (Herewith authorized, as per Annexure 2: Site Plan)

During the community based participatory planning process it was identified that the need for housing opportunities in the Brandwacht need to factor in future growth of the community. The proposed layout takes that into account and the footprint of the layout is less than that of the existing brownfields as in some cases informal housing can occupy larger footprint associated with agricultural activities or if there are vegetable gardens or similar.

The conceptual layout plans were informed by community priorities (e.g. supporting land uses to better the standard of living for residents). The following site characteristics were also taken into account:

- Slope analysis
- Flood line analysis (1:100-year);
- Character of the area;
- Potential of the sites;
- Access; and
- Infrastructure and services planning.

The layout plan presented as part of this 24G Application and Environmental Impact Report (EIR) (Appendix B) was derived based on the conceptual layout plans and refined

to meet the needs of the community and purposes to fit into the existing residential area. No other layout alternatives have been assessed as the current proposed layout takes into account various factors as well as the anticipated environmental impacts.

2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

This entails the uncontrolled continuation of the status quo i.e. further expansion of informal housing, resulting in illegal activities in terms of NEMA continuing (incl. clearance of veg and construction with 32m of a watercourse). The "no-go" is therefore deemed an unreasonable and unfeasible alternative and would result in further degradation of the environment.

3. Environmental Impact Assessment (EIA) and Mitigation Measures

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

3.1. Activity Need and Desirability

The Mossel Bay Municipality has a responsibility to provide housing opportunities to its communities and this 24G application process links into the greater housing development initiative planned for the area. The Upgrading of Informal Settlements Program (UISP), of which this application is part of, will provide formalised services to erven which will include roads and a wet core for each erf. This will ultimately result in a positive impact for the beneficiaries and for the communities as a whole by improving living conditions and creating the basis for further formal development initiatives.

3.2. Biodiversity Impacts

The main impact of the proposed development is the loss of sensitive near-pristine CBA vegetation that has a threatened status on the national and regional level. The recent erection of informal housing within the proposed development area indicates an urgent need for additional housing at the Brandwacht township. There seems to be no logical alternative site for such development in the immediate surrounding of this township as the rest of the area consists of a similar vegetation type, in an equally healthy ecological condition and with almost all of the area mapped as a CBA.

There are no aquatic Critical Biodiversity Areas (CBAs) or Ecological Support Areas (ESAs) within the site. The closest aquatic CBAs/ESAs are associated with the Brandwag River

and its tributaries some distance away from the site. The proposed activity is also not located within a river Freshwater Ecosystem Priority Area (FEPA) sub-catchment with the nearby Brandwag River being mapped as a FEPA wetland. It is unlikely that the proposed activities will impact the integrity of the river. The downstream Klein Brak Wetland and associated floodplain wetland areas are also mapped as FEPA wetlands and wetland clusters. Any potential aquatic ecosystem impact would thus only be of concern where they are likely to relate to the Brandwag River.

3.3. Heritage and sense of place

the activity borders the existing Brandwacht development and, as the formalizing of the settlement will occur on the area where unlawful expansion has already occurred, it is considered the preferred location as the area has already been disturbed. Additionally, after the submission of the Notice of Intent to Develop (NID) to the provincial heritage authority, Heritage Western Cape, no further heritage studies were required.

3.4. Socio-economic Impacts

The informal establishment of squatter settlements with the residents living in squalor has limited negative socio-economic implications. However, the growth of these areas is ongoing due to people coming into the area in search of work and other opportunities. While a formal socio-economic impact assessment has not been undertaken, the project town planners have undertaken various surveys and analyses of the informal settlements, including Community Based Participatory Planning and Sustainable Livelihoods Assessments, which have provided detail on the socio-economic status of the residents and identified suitable mitigatory interventions.

4. **NEMA Principles**

The National Environmental Management Principles (set out in section 2 of the NEMA), which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;

- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the competent authority is satisfied that the listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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