



REFERENCE: 14/3/1/E2/14/0274/17

Mr J Raimondo
Saddle Path Properties 79 (Pty) Ltd
P.O. Box 53279
KENILWORTH
7745

Tel: (021) 465 6023
Fax: (021) 465 6089

Dear Mr Raimondo

APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE ENVIRONMENTAL AUTHORISATION ISSUED FOR THE ESTABLISHMENT OF AN ECO-ESTATE ON THE REMAINDER OF FARM HOEK VAN DIE BERG NO. 572, HAWSTON

1. The appeal lodged against the Environmental Authorisation ("EA") granted on 12 June 2017 for the abovementioned development, refers
2. After considering all the relevant facts and supportive information, and in terms of regulation 60 of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") Environmental Impact Assessment ("EIA") Amendment Regulations (Government Notice ("GN") No. R. 543 of 18 June 2010, I have decided to **dismiss the appeal** and confirm the decision issued by the delegated competent authority on 12 June 2017 by the Director: Development Management (Region 2) of the Department of Environmental Affairs and Development Planning in terms of section 43(6) of the NEMA.
3. **EMPOWERING PROVISIONS IN THE APPLICABLE LEGISLATION:**
In terms of section 43(6) of the NEMA:
"The ... MEC may, after considering such an appeal, confirm, set aside or vary the decision, provision, condition or directive or make any other appropriate decision, including a decision that the prescribed fee paid by the appellant, or any part thereof, be refunded."
4. **GENERAL AMENDMENTS/EXCLUSIONS TO THE ENVIRONMENTAL AUTHORISATION:**
The abovementioned EA must be complied with and the following exclusions/amendments must be implemented:
 - 4.1. Condition E2 and section F are excluded from this authorisation:
 - 4.2. The following are substituted and must be complied with:

Section E: Conditions of Authorisation

Condition E1:

"This EA is granted for–

- 1.1. A period of five (5) years, from the date of this Appeal decision, during which period the holder must commence with the authorised listed activity; and*
- 1.2. A period of ten (10), from the date the holder commenced with the authorised listed activity, during which period the authorised listed activity for the development phase, must be concluded."*

Condition E3:

"The holder of the authorisation must in writing, within 14 (fourteen) days of the date of the appeal decision notify all registered interested and affected parties ("I&AP's")–

- 3.1. The outcome of the appeal;*
- 3.2. The reasons for the appeal decision; and*
- 3.3. The date of the decision."*

5. REASONS FOR MY DECISION

The reasons outlined in the original Environmental Authorisation are applicable to the appeal decision and the following are additional reasons:

5.1. Biodiversity

A botanical impact assessment ("BIA") was undertaken by Nick Helme Botanical Surveys in 2012 and was subsequently revised based on the amended alternatives in 2015. Additional botanical input was received in March 2016. The BIA describes the site as a coastal plain with a non-functional and large headland bypass dune system, which is now fully vegetated by alien and indigenous vegetation species. At least thirteen species of conservation concern were identified on site with the possibility that more may be uncovered during alien clearing and construction. The site is mapped as mostly Overberg Dune Strandveld with a narrow band of Hangklip Sand Fynbos immediately below the R43, which is categorised as Endangered in terms of section 52 of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004). Sensitive habitats identified on site include limestone outcrops that support a high diversity of habitat restricted plant species and coastal strandveld, including milkwoods.

CapeNature was satisfied that through clustering of the two nodes of development, a viable coast-mountain corridor shall be maintained. In addition, a suitable coastal development setback has been allowed, with the eastern portion in line with the current Vermont setback at the eastern boundary and then retreating further at the edge of the coast-mountain corridor. The western setback similarly follows a retreating gradient towards the corridor. The property currently carries the status of a Private Nature Reserve, which is deemed to be a nature reserve under the *National Environmental Protected Areas Act (No. 57 of 2003)*. The applicant intends to retain the conservation status of the site, at the request of CapeNature, the development proposal was revised down to the preferred alternative to align with the guiding principles supplied by CapeNature to the applicant. Site E of the authorised alternative, which accounts for approximately 75% of the site, will be retained for nature reserve status. Sites A – D will be excluded from the nature reserve. It is recommended that Sites C and D are managed as part of the conservation area

until their intended end-use is finalised in future. This is included as a condition of this environmental authorisation.

Extensive consultation during the environmental application process was undertaken with respect to the pending adoption of the draft Overberg Coastal Management Line, which was delineated based on the physical process line and resulted in the line extending across the central portion of the site. It was established during consultation between the Overstrand Municipality and the Department's Directorate: Biodiversity and Coastal Management, that the authorised alternative is acceptable given that the clustering of the two development nodes, which partially fell seaward of the draft Coastal Management Line. Thus, the vast majority of the undeveloped portion of the property will be conserved as a nature reserve and preclude development elsewhere on site or seaward of the Coastal Management Line. In addition to the above, the development proposal was informed by specialist input in the form of a coastal setback line study compiled by Geoff Toms and Pieter Badenhorst as well as a dune and ecology study by Coastal and Environmental Services.

An investigation of the wetlands on site was undertaken by the Freshwater Consulting Group. The first study was compiled in 2012 and subsequently revised in line with the amended development alternatives. The initial wetland investigation, in combination with a geohydrologist, identified sub-catchments on the site. The back-dune corridor south of the R43 is associated with the dispersal of the surface and subsurface flow along the length of the valley floor to Paddavlei in Hawston or towards the Vermont pan. The entire area has been identified as sensitive in terms of wetland functioning for the broader area. The north eastern corner of the site supports the upper portion of an extensive *Juncus cf. Krausii* valley bottom wetland which extends toward the Vermont pan. The pan is highly impacted by alien vegetation. In terms of the authorised alternative, the reduction in the development footprint and significant setback results that the potential of impacts on aquatic ecosystems are low, and due to the development setbacks, there are no direct impacts on the wetlands on the site. Furthermore, the implementation of the "on-grid" service option removes the wastewater treatment plant or effluent disposal component which further reduces potential impacts on water resources on site. The proposed alien vegetation clearing and wetland restoration project for the wetland corridor to the Vermont Pan, particularly the *Juncus seep* on the north eastern corner of the site, increases the potential of positive impacts resulting from the development. Therefore, the potential impacts on the wetland seeps on site can be readily mitigated to a low significance, and in some cases, have been removed altogether by connecting to municipal services.

Correspondence, dated 10 February 2017, from the delegated water authority, the Breede Gouritz Catchment Management Agency, confirms that activities, notably the upgrade and realignment of the access road and installation of storm water management measures within 500m of the wetland on site, fall within the ambit of the General Authorisation, Government Gazette No. 40229, Notice No. 509, dated 26 August 2016.

Additional specialist input was obtained from a faunal specialist, JAH Environmental Consultancy (updated final version dated August 2015), geohydrological input from SRK Consulting, updated August 2015, and a report on dunes and plant ecology,

updated August 2015, compiled by Professor Roy Lubke. These studies shared consensus with the biophysical findings in their support for the smaller development proposal of Alternative 4 and noted the significantly reduced potential impact on the receiving environment. A number of mitigation measures have been proposed, which are included as requirements and site instructions within the construction and operational phase Environmental Management Plan.

Thus, the authorised development will be confined to the areas identified as part of the constraints mapping exercise undertaken, and the recommendations, by the relevant specialists.

5.2. Alternatives

Layout Alternative 4 (authorised) comprise:

Development remains confined to the areas identified as part of the constraints mapping exercise undertaken, and the recommendations, by the relevant specialists. The number of units and scale of development is significantly reduced. Furthermore, development is restricted to the remainder of Farm no. 572, located seawards of the R43. The site is broken into five development areas, as follows:

Portion A:

This development pocket comprises a combination of 195 single dwelling units and 61 group housing units with a central mixed use area that would include a community centre. The "village" is located on the eastern portion of the site, between 85m and 145m from the Vermont boundary, and is designed to take advantage of the mid slopes between the dune crests and the dune slack areas. The node falls largely outside of any identified sensitive areas, although there will be minimal encroachment into the dune field area.

Portion B:

This pocket retains the original hotel site, of approximately 0.9ha, surrounded by an area of Private Open Space and 11 single dwelling sites, situated on the north western portion of the site.

Portion C:

An area of approximately 12ha will be subdivided off the main property and will be retained as either agriculturally zoned land or Private Open Space and set aside for possible future development. This portion of land is situated on the northern corner of the site, adjacent to the R43 and site boundary with Hawston to the north. This area will not form part of the Nature Reserve.

Portion D:

This portion of land is to be subdivided off the main property and will be retained as either agriculturally zoned land or Private Open Space and set aside for possible future development. This tract of land is situated along the northern site boundary, south of Portion C. This area will also not form part of the Nature Reserve.

Portion E:

This portion of land will be declared a Private Nature Reserve and will be rezoned to accommodate this status. It will be managed in accordance with the agreement reached between the landowner and CapeNature. Portion E constitutes the

remainder of the property not set aside for potential development, as per Portions A – D.

In terms of development on site, the following approximate percentages apply:

- 15% development areas, including private gardens, internal access roads, landscape areas and private open space, totaling approximately 66.42ha;
- 0.6% roads for the main access road, covering approximately 2.45ha;
- 8.3% agricultural zoned portions/Private Open Space (Portions C and D); and
- 75.6% private nature reserve, an area of approximately 362ha.

No development will occur seaward of the Coastal Management Line, and no access to the coast will either be denied, impeded or restricted by the proposed development.

The proposed Hawston Mall (shopping centre with a Gross Lettable Area of 30 000m² and associated infrastructure) will be located adjacent to Portion B (Comprising of the hotel site, of approximately 0.9ha, surrounded by an area of Private Open Space and 11 single dwelling sites, situated on the north western portion of the site) of the proposed Hoek van die Berg development. This will allow the business/commercial areas to be located within close proximity of the each other and also to the Hawston community maximising the employment potential to the community.

I am satisfied that the approved development as per Alternative 4, is cognisant of the biodiversity (flora, wetlands, dunes, coastal areas) on the site. The authorised development will be confined to the areas identified as part of the constraints mapping exercise undertaken, and the recommendations, by the relevant specialists.

5.3. Socio-Economics

A socio-economic impact assessment, compiled by Multipurpose Business Solutions, and subsequently updated in August 2015, identified that, in terms of the preferred alternative, a smaller number of residential units and the presence of a boutique hotel could represent an exclusive development within a natural setting. This would enhance the sense of place for its residents and potentially increase the real estate values within the development. The Private Nature Reserve and open spaces also present more opportunities for education and eco-tourism. The reduced development size would also result in reduced monetary contributions to local authorities, economic income and employment but could also lead to a more manageable development area. From a cumulative impact perspective, development will contribute positively and may act as a catalyst for further development in the Hawston/Vermont areas thereby providing new business and employment opportunities and stimulating growth. Many potential socio-economic impacts can be mitigated through implementation of the various specialists' recommendations, particularly those measures related to sense of place, infrastructure, traffic as well as requirements for local procurement, as included within the construction and operational phase Environmental Management Plan.

I am satisfied that the development will be economically viable in conjunction with the proposed Hawston Mall and other developments in the area and that the socio-economic impacts were sufficiently addressed.

5.4. Resource Availability (water and electricity)

The reference to the level 4 water restrictions in the Western Cape is erroneous. The level of water restrictions referred is only applicable to the City of Cape Town Metropole. The Overstrand Municipality confirmed in writing, on 15 December 2015, that "Water for the development can be supplied from the existing municipal sources." Currently, the Overstrand Municipality is on Level 1 Water Restrictions in the greater Hermanus area as of 1 November 2017, which entails:

- No watering of gardens, flower beds, sports fields, parks, lawns and other open spaces is allowed with municipal drinking water, except for:
 - One hour per day, before 09:00 or after 17:00, two days per week.
 - Even numbered street addresses ONLY on Wednesdays and Sundays.
 - Uneven numbered street addresses ONLY on Tuesdays and Saturdays.
- Washing of vehicles and watercraft with hosepipes is only allowed if fitted with automatic self-closing devices.
- No washing or hosing down of hard-surfaced or paved areas with municipal drinking water is allowed.

Automatic exemptions

Watering of plants in nurseries, etc., for commercial purposes, is exempted from the water restrictions. If alternative water sources are utilized, consumers must ensure that they display the appropriate signage to this effect, clearly visible from a public thoroughfare.

Eskom stated, on 1 March 2016, Eskom is prepared to make the required electricity supply available to the proposed development subject to the upgrade of the of the existing feeder cable, at the cost of the developer.

I am satisfied that the water and electricity requirements for the proposed development was sufficiently considered and addressed.

5.5. Public Consultation (Comments and Response Report)

The comment submitted by the appellant dated 9 November 2015 was included in the Comments and Response Report which formed part of the Final Environmental Impact Assessment Report dated November 2015.

In their comment the appellant stated that the new proposal, preferred alternative, is an improvement to the initial development proposal and that a large area has been set aside for conservation; that the access road to Plankhuis will remain the same; and that the Plankhuis property will not be rezoned.

The issues raised by the appellant related to:

- Management of the access road to the Plankhuis property during alien clearing and construction activities;
- Awareness of how big the proposal still is;
- The sensitive and threatened nature of the dune bypass system;
- The development is required to fund the conservation of the property;
- The main access road to the development;
- Development on the high conservation value duneveld; and
- Archaeological remains hidden under the dunes.

A review of the Comments and Response Report confirms that each issue raised by appellant was captured and responded to by the Environmental Assessment Practitioner ("EAP").

I am satisfied that the public participation process for the proposed development complied with the relevant EIA regulations and that all issues were sufficiently responded to. Specific conditions related to the issues have been included in section E of the EA, as follow:

"Condition 8-

A Maintenance Management Plan ("MMP") must be compiled for future maintenance and rehabilitation work related to wetlands on site. The draft MMP must be submitted to the competent authority for approval prior to the end of the construction phase or within one (1) year from the date of issue of this environmental authorisation, whichever occurs first.

Condition 13-

The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, for the construction phase of implementation before commencement of any land clearing or construction activities to ensure compliance with the EMP and the conditions contained herein.

Condition 17-

Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). 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: archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings; shipwrecks; and graves or unmarked human burials.

A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.

Condition 18-

No-go areas must be clearly demarcated prior to any site preparation, clearing or construction work.

Condition 19-

The seep area in the north-east corner of the site must be demarcated and fenced off with temporary fencing prior to commencement of construction or site preparation work.

Condition 20-

All bulk service corridors and roads must be surveyed and clearly demarcated prior to site development to ensure impacts are restricted to these demarcated areas.

Condition 21-

A phased approach to alien vegetation clearing on the dune system must be implemented to prevent exposure and remobilisation of sand.

Condition 25-

The remainder of the subject property, which has not been approved for development, must be conserved through CapeNature's stewardship programme. The identified areas must be incorporated into the stewardship programme within one year of the commencement of activities on site. A signed Memorandum of Understanding with CapeNature's stewardship programme must be submitted to the Directorate: Development Management (Region 2) of the Department of Environmental Affairs and Development Planning ("DEA&DP") within 18 months of the commencement of activities on site.

Condition 26-

Portions C and D must be managed as part of the conservation area until their intended use is finalised.

Condition 27-

No storm water is to be disposed into the nature reserve (Site E) portion of the site."

The National Environmental Management Act 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 the actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

I am satisfied that the negative impacts of significance will be addressed by the conditions contained in the EA and the mitigation measures contained in the EMP, and that:

- the delegated competent authority adhered to the legislated requirements and the principles of procedurally fair administrative actions;
- the public participation process undertaken and confirmed that the public participation process complied with the minimum requirements of the EIA Amendment Regulations, 2010 and the EIA Regulations, 2014;
- the developer provided sufficient opportunities to the interested and affected parties to access and review the information that was submitted to the Department in support of the application; and
- The EA was informed by the information included with the application form and based in its own merits, within the legislative framework.

I conclude that the proposed establishment of the eco-estate on the Remainder of Farm Hoek van die Berg No. 572, Hawston and subject to compliance with the conditions contained in the EA, the development will not conflict with the general objectives of integrated environmental management, as stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels.

Yours faithfully,



ANTON BREDELL
PROVINCIAL MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 19/6/2020

Copied to

- (1) Mr. P. Slabbert (PHS Consulting)
- (2) Ms. P. Apton (Overstrand Municipality)
- (3) Mr. R. Smart (CapeNature)
- (4) Ms. I. Bekko (DEA&DP: Directorate Biodiversity and Coastal Management)

Email: paul@phsconsulting.co.za

Fax: (028) 316 4953

Fax: (086) 529 4992

Email: leptieshaam.bekko@westerncape.gov.za



REFERENCE: 14/3/1/E2/14/0274/17

Ms S. Wegener
The Plankhuis Trust
19 Riviera Road
CLAREMONT
7708

Tel: (021) 671 8956
Email: wegs@worldonline.co.za

Dear Ms Wegener

APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE ENVIRONMENTAL AUTHORISATION ISSUED FOR THE ESTABLISHMENT OF AN ECO-ESTATE ON THE REMAINDER OF FARM HOEK VAN DIE BERG NO. 572, HAWSTON

1. Your appeal lodged against the Environmental Authorisation ("EA") granted on 08 June 2017 for the abovementioned development, refers
2. After considering all the relevant facts and supportive information, and in terms of regulation 60 of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") Environmental Impact Assessment ("EIA") Amendment Regulations (Government Notice ("GN") No. R. 543 of 18 June 2010, I have decided to **dismiss the appeal** and confirm the decision issued by the delegated competent authority on 08 June 2017 by the Director: Development Management (Region 2) of the Department of Environmental Affairs and Development Planning in terms of section 43(6) of the NEMA.
3. **EMPOWERING PROVISIONS IN THE APPLICABLE LEGISLATION:**
In terms of section 43(6) of the NEMA:
"The ... MEC may, after considering such an appeal, confirm, set aside or vary the decision, provision, condition or directive or make any other appropriate decision, including a decision that the prescribed fee paid by the appellant, or any part thereof, be refunded."
4. **REASONS FOR MY DECISION:**
The reasons outlined in the original Environmental Authorisation are applicable to the appeal decision and the following are additional reasons:
 - 4.1. Biodiversity:
A botanical impact assessment ("BIA") was undertaken by Nick Helme Botanical Surveys in 2012 and was subsequently revised based on the amended alternatives in

2015. Additional botanical input was received in March 2016. The BIA describes the site as a coastal plain with a non-functional and large headland bypass dune system, which is now fully vegetated by alien and indigenous vegetation species. At least thirteen species of conservation concern were identified on site with the possibility that more may be uncovered during alien clearing and construction. The site is mapped as mostly Overberg Dune Strandveld with a narrow band of Hangklip Sand Fynbos immediately below the R43, which is categorised as Endangered in terms of section 52 of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004). Sensitive habitats identified on site include limestone outcrops that support a high diversity of habitat restricted plant species and coastal strandveld, including milkwoods.

CapeNature was satisfied that through clustering of the two nodes of development, a viable coast-mountain corridor shall be maintained. In addition, a suitable coastal development setback has been allowed, with the eastern portion in line with the current Vermont setback at the eastern boundary and then retreating further at the edge of the coast-mountain corridor. The western setback similarly follows a retreating gradient towards the corridor. The property currently carries the status of a Private Nature Reserve, which is deemed to be a nature reserve under the *National Environmental Protected Areas Act (No. 57 of 2003)*. The applicant intends to retain the conservation status of the site, at the request of CapeNature, the development proposal was revised down to the preferred alternative to align with the guiding principles supplied by CapeNature to the applicant. Site E of the authorised alternative, which accounts for approximately 75% of the site, will be retained for nature reserve status. Sites A – D will be excluded from the nature reserve. It is recommended that Sites C and D are managed as part of the conservation area until their intended end-use is finalised in future. This is included as a condition of this environmental authorisation.

Extensive consultation during the environmental application process was undertaken with respect to the pending adoption of the draft Overberg Coastal Management Line, which was delineated based on the physical process line and resulted in the line extending across the central portion of the site. It was established during consultation between the Overstrand Municipality and the Department's Directorate: Biodiversity and Coastal Management, that the authorised alternative is acceptable given that the clustering of the two development nodes, which partially fell seaward of the draft Coastal Management Line. Thus, the vast majority of the undeveloped portion of the property will be conserved as a nature reserve and preclude development elsewhere on site or seaward of the Coastal Management Line. In addition to the above, the development proposal was informed by specialist input in the form of a coastal setback line study compiled by Geoff Toms and Pieter Badenhorst as well as a dune and ecology study by Coastal and Environmental Services.

An investigation of the wetlands on site was undertaken by the Freshwater Consulting Group. The first study was compiled in 2012 and subsequently revised in line with the amended development alternatives. The initial wetland investigation, in combination with a geohydrologist, identified sub-catchments on the site. The back-dune corridor south of the R43 is associated with the dispersal of the surface and subsurface flow along the length of the valley floor to Paddavlei in Hawston or towards the Vermont pan. The entire area has been identified as sensitive in terms of wetland functioning

for the broader area. The north eastern corner of the site supports the upper portion of an extensive *Juncus cf. Krausii* valley bottom wetland which extends toward the Vermont pan. The pan is highly impacted by alien vegetation. In terms of the authorised alternative, the reduction in the development footprint and significant setback results that the potential of impacts on the aquatic ecosystems are low, and due to the development setbacks, there are no direct impacts on the wetlands on the site. Furthermore, the implementation of the "on-grid" service option removes the wastewater treatment plant or effluent disposal component which further reduces potential impacts on water resources on site. The proposed alien vegetation clearing and wetland restoration project for the wetland corridor to the Vermont Pan, particularly the *Juncus seep* on the north eastern corner of the site, increases the potential of positive impacts resulting from the development. Therefore, the potential impacts on the wetland seeps on site can be readily mitigated to a low significance, and in some cases, have been removed altogether by connecting to municipal services.

Correspondence, dated 10 February 2017, from the delegated water authority, the Breede Gouritz Catchment Management Agency, confirms that activities, notably the upgrade and realignment of the access road and installation of storm water management measures within 500m of the wetland on site, fall within the ambit of the General Authorisation, Government Gazette No. 40229, Notice No. 509, dated 26 August 2016.

Additional specialist input was obtained from a faunal specialist, JAH Environmental Consultancy (updated final version dated August 2015), geohydrological input from SRK Consulting, updated August 2015, and a report on dunes and plant ecology, updated August 2015, compiled by Professor Roy Lubke. These studies shared consensus with the biophysical findings in their support for the smaller development proposal of Alternative 4 and noted the significantly reduced potential impact on the receiving environment. A number of mitigation measures have been proposed, which are included as requirements and site instructions within the construction and operational phase Environmental Management Plan.

Thus, the authorised development will be confined to the areas identified as part of the constraints mapping exercise undertaken, and the recommendations, by the relevant specialists.

4.2. Alternatives

Layout Alternative 4 (authorised) comprise:

Development remains confined to the areas identified as part of the constraints mapping exercise undertaken, and the recommendations, by the relevant specialists. The number of units and scale of development is significantly reduced. Furthermore, development is restricted to the remainder of Farm no. 572, located seawards of the R43. The site is broken into five development areas, as follows:

Portion A:

This development pocket comprises a combination of 195 single dwelling units and 61 group housing units with a central mixed use area that would include a community centre. The "village" is located on the eastern portion of the site, between 85m and 145m from the Vermont boundary, and is designed to take advantage of the mid slopes between the dune crests and the dune slack areas. The node falls largely

outside of any identified sensitive areas, although there will be minimal encroachment into the dune field area.

Portion B:

This pocket retains the original hotel site, of approximately 0.9ha, surrounded by an area of Private Open Space and 11 single dwelling sites, situated on the north western portion of the site.

Portion C:

An area of approximately 12ha will be subdivided off the main property and will be retained as either agriculturally zoned land or Private Open Space and set aside for possible future development. This portion of land is situated on the northern corner of the site, adjacent to the R43 and site boundary with Hawston to the north. This area will not form part of the Nature Reserve.

Portion D:

This portion of land is to be subdivided off the main property and will be retained as either agriculturally zoned land or Private Open Space and set aside for possible future development. This tract of land is situated along the northern site boundary, south of Portion C. This area will also not form part of the Nature Reserve.

Portion E:

This portion of land will be declared a Private Nature Reserve and will be rezoned to accommodate this status. It will be managed in accordance with the agreement reached between the landowner and CapeNature. Portion E constitutes the remainder of the property not set aside for potential development, as per Portions A – D.

In terms of development on site, the following approximate percentages apply:

- 15% development areas, including private gardens, internal access roads, landscape areas and private open space, totaling approximately 66.42ha;
- 0.6% roads for the main access road, covering approximately 2.45ha;
- 8.3% agricultural zoned portions/Private Open Space (Portions C and D); and
- 75.6% private nature reserve, an area of approximately 362ha.

No development will occur seaward of the Coastal Management Line, and no access to the coast will either be denied, impeded or restricted by the proposed development.

The proposed Hawston Mall (shopping centre with a Gross Lettable Area of 30 000m² and associated infrastructure) will be located adjacent to Portion B (Comprising of the hotel site, of approximately 0.9ha, surrounded by an area of Private Open Space and 11 single dwelling sites, situated on the north western portion of the site) of the proposed Hoek van die Berg development. This will allow the business/commercial areas to be located within close proximity of the each other and also to the Hawston community maximising the employment potential to the community.

I am satisfied that the approved development as per Alternative 4, is cognisant of the biodiversity (flora, wetlands, dunes, coastal areas) on the site. The authorised development will be confined to the areas identified as part of the constraints

mapping exercise undertaken, and the recommendations, by the relevant specialists.

4.3. Socio-Economics

A socio-economic impact assessment, compiled by Multipurpose Business Solutions, and subsequently updated in August 2015, identified that, in terms of the preferred alternative, a smaller number of residential units and the presence of a boutique hotel could represent an exclusive development within a natural setting. This would enhance the sense of place for its residents and potentially increase the real estate values within the development. The Private Nature Reserve and open spaces also present more opportunities for education and eco-tourism. The reduced development size would also result in reduced monetary contributions to local authorities, economic income and employment but could also lead to a more manageable development area. From a cumulative impact perspective, development will contribute positively and may act as a catalyst for further development in the Hawston/Vermont areas thereby providing new business and employment opportunities and stimulating growth. Many potential socio-economic impacts can be mitigated through implementation of the various specialists' recommendations, particularly those measures related to sense of place, infrastructure, traffic as well as requirements for local procurement, as included within the construction and operational phase Environmental Management Plan.

I am satisfied that the development will be economically viable in conjunction with the proposed Hawston Mall and other developments in the area and that the socio-economic impacts were sufficiently addressed.

4.4. Resource Availability (water and electricity)

The reference to the level 4 water restrictions in the Western Cape is erroneous. The level of water restrictions referred is only applicable to the City of Cape Town Metropole. The Overstrand Municipality confirmed in writing, on 15 December 2015, that "*Water for the development can be supplied from the existing municipal sources.*" Currently, the Overstrand Municipality is on Level 1 Water Restrictions in the greater Hermanus area as of 1 November 2017, which entails:

- No watering of gardens, flower beds, sports fields, parks, lawns and other open spaces is allowed with municipal drinking water, except for:
 - One hour per day, before 09:00 or after 17:00, two days per week.
 - Even numbered street addresses ONLY on Wednesdays and Sundays.
 - Uneven numbered street addresses ONLY on Tuesdays and Saturdays.
- Washing of vehicles and watercraft with hosepipes is only allowed if fitted with automatic self-closing devices.
- No washing or hosing down of hard-surfaced or paved areas with municipal drinking water is allowed.

Automatic exemptions

Watering of plants in nurseries, etc., for commercial purposes, is exempted from the water restrictions. If alternative water sources are utilized, consumers must ensure that they display the appropriate signage to this effect, clearly visible from a public thoroughfare.

Eskom stated, on 1 March 2016, Eskom is prepared to make the required electricity supply available to the proposed development subject to the upgrade of the of the existing feeder cable, at the cost of the developer.

I am satisfied that the water and electricity requirements for the proposed development was sufficiently considered and addressed.

4.5. Public Consultation (Comments and Response Report)

The comment submitted by the appellant dated 9 November 2015 was included in the Comments and Response Report which formed part of the Final Environmental Impact Assessment Report dated November 2015.

In their comment the appellant stated that the new proposal, preferred alternative, is an improvement to the initial development proposal and that a large area has been set aside for conservation; that the access road to Plankhuis will remain the same; and that the Plankhuis property will not be rezoned.

The issues raised by the appellant related to:

- Management of the access road to the Plankhuis property during alien clearing and construction activities;
- Awareness of how big the proposal still is;
- The sensitive and threatened nature of the dune bypass system;
- The development is required to fund the conservation of the property;
- The main access road to the development;
- Development on the high conservation value duneveld; and
- Archaeological remains hidden under the dunes.

A review of the Comments and Response Report confirms that each issue raised by appellant was captured and responded to by the Environmental Assessment Practitioner ("EAP").

I am satisfied that the public participation process for the proposed development complied with the relevant EIA regulations and that all issues were sufficiently responded to. Specific conditions related to the issues have been included in section E of the EA, as follow:

"Condition 8-

A Maintenance Management Plan ("MMP") must be compiled for future maintenance and rehabilitation work related to wetlands on site. The draft MMP must be submitted to the competent authority for approval prior to the end of the construction phase or within one (1) year from the date of issue of this environmental authorisation, whichever occurs first.

Condition 13-

The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, for the construction phase of implementation before commencement of any land clearing or construction activities to ensure compliance with the EMP and the conditions contained herein.

Condition 17-

Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). 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: archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings; shipwrecks; and graves or unmarked human burials.

A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.

Condition 18-

No-go areas must be clearly demarcated prior to any site preparation, clearing or construction work.

Condition 19-

The seep area in the north-east corner of the site must be demarcated and fenced off with temporary fencing prior to commencement of construction or site preparation work.

Condition 20-

All bulk service corridors and roads must be surveyed and clearly demarcated prior to site development to ensure impacts are restricted to these demarcated areas.

Condition 21-

A phased approach to alien vegetation clearing on the dune system must be implemented to prevent exposure and remobilisation of sand.

Condition 25-

The remainder of the subject property, which has not been approved for development, must be conserved through CapeNature's stewardship programme. The identified areas must be incorporated into the stewardship programme within one year of the commencement of activities on site. A signed Memorandum of Understanding with CapeNature's stewardship programme must be submitted to the Directorate: Development Management (Region 2) of the Department of Environmental Affairs and Development Planning ("DEA&DP") within 18 months of the commencement of activities on site.

Condition 26-

Portions C and D must be managed as part of the conservation area until their intended use is finalised.

Condition 27-

No storm water is to be disposed into the nature reserve (Site E) portion of the site."

The National Environmental Management Act 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:

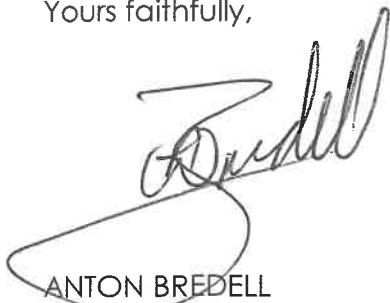
- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and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

I am satisfied that the negative impacts of significance will be addressed by the conditions contained in the EA and the mitigation measures contained in the EMP, and that:

- the delegated competent authority adhered to the legislated requirements and the principles of procedurally fair administrative actions;
- the public participation process undertaken and confirmed that the public participation process complied with the minimum requirements of the EIA Amendment Regulations, 2010 and the EIA Regulations, 2014;
- the developer provided sufficient opportunities to the interested and affected parties to access and review the information that was submitted to the Department in support of the application; and
- The EA was informed by the information included with the application form and based in its own merits, within the legislative framework.

I conclude that the proposed establishment of the eco-estate on the Remainder of Farm Hoek van die Berg No. 572, Hawston and subject to compliance with the conditions contained in the EA, the development will not conflict with the general objectives of integrated environmental management, as stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels.

Yours faithfully,



ANTON BREDELL
PROVINCIAL MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE: 19/6/2020