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Dear Mr Muller

**APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE ENVIRONMENTAL AUTHORISATION GRANTED FOR THE RETIREMENT VILLAGE DEVELOPMENT ON PORTIONS 31, 41 AND 53 OF THE FARM 136, PORTION 52 OF THE FARM 137, PORTIONS 121 AND 122 OF THE FARM 129, FARM 309 AND ERF NO. 2842, GREAT BRAK RIVER**

The appeal lodged on your behalf against the Environmental Authorisation ("EA") granted on 26 January 2015 for the above proposed development, refers.

After careful consideration of the appeal, as well as supporting documentation received, I have decided in terms of section 43 (6) of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA"), to vary the abovementioned decision of the competent authority as follows:

**List of activities authorised**

The description of the development under the "Departmental Approved Alternative" section (page 6 of the EA) is varied as follows:

*"This alternative entails the consolidation, subdivision and rezoning of Portions 31, 41 and 53 of the Farm 136, Portion 52 of the Farm 137, Portions 121 and 122 of the Farm 129, Farm 309 and a Portion of Erf No. 2842 from Agriculture and Industrial to Residential Zone II in order to establish a retirement village in accordance with the attached Amended Preferred Layout Alternative submitted in the additional information dated November 2017. However, Erven 171, 173, 174, 175, 176, 180, 181 and*

182 of the Amended Preferred Layout Alternative submitted in the additional information of November 2017) as a whole as illustrated in the Vegetation Sensitivity Assessment ("VSA") of July - August 2013 done by Ken Coetzee of Conservation Management Services is not authorised for development.

Condition E2 and section F of the original EA are excluded from this authorisation. Conditions E1, E3, E5 and E6 are substituted and Condition 21 is included in this appeal EA to read as follows:-

**Condition E1**

*"This environmental authorisation is valid for a period of five years from the date of this appeal decision. The holder must commence with all the listed activities within the said period or this environmental authorisation lapses and a new application for environmental authorisation must be submitted to the competent authority, unless the holder has lodged a valid application for the amendment of the validity period of this environmental authorisation, before the expiry of this environmental authorisation. In such instances, the validity period will be automatically extended ("the period of the administrative extension") from the day before this environmental authorisation would otherwise have lapsed, until the amendment application for the extension of the validity period is decided. The listed activities, including site preparation, may not commence during the period of administrative extension."*

**Condition E3:**

*"The holder of the authorisation must in writing, within 14 (fourteen) calendar days of the date of the appeal decision notify all registered I&AP's and submit proof of compliance thereof to the appeal authority within 30 days from the date of the appeal decision-*

- 3.1.1 *the outcome of the appeal;*
- 3.1.2 *the reasons for the appeal decision; and*
- 3.1.3 *the date of the decision."*

**Condition E5:**

*"This authorisation is only for the consolidation, subdivision and rezoning of Portions 31, 41 and 53 of the Farm 136, Portion 52 of the Farm 137, Portions 121 and 122 of the Farm 129, Farm 309 and a Portion of Erf No. 2842 from Agriculture and Industrial to Residential Zone II in order to establish a retirement village in accordance with the Amended Preferred Layout Alternative submitted in the additional information dated November 2017. However, Erven 171, 173, 174, 175, 176, 180, 181 and 182 of the Amended Preferred Layout Alternative submitted in the additional information of November 2017) as a whole as illustrated in the VSA of July - August 2013 done by Ken Coetzee of Conservation Management Services is not authorised for development."*

**Condition E6:**

*"The holder of the authorisation must submit a revised layout plan in accordance with the approved development as contained in this appeal decision and the revised exclusions contained in Condition E5 of this appeal decision for acceptance by the appeal authority, prior to the commencement of the activities."*

**Condition E21**

*"A licence for the destruction of the natural forest must be obtained in terms of the National Forest Act, 1998 ("NFA") prior to the commencement of the activities."*

**1. REASONS FOR THIS APPEAL DECISION**

The reasons for varying the aforementioned decision of the competent authority are contained in the aforementioned EA granted on 26 January 2015 and below find further reasons for varying the decision of the competent authority:

**Applicable planning framework**

- 1.1 The Department considered the fact that certain areas on the property are severely degraded as a result of previous industrial activities on the property. The Basic Assessment Report ("BAR") states that Portions 31, 41 and 53 of the Farm 136, Portions 121 and 122 of the Farm 129 and Farm 309 consists of land that was previously used by the Outeniqua Pale Timber Treatment Facility which has since been closed and decommissioned a number of years ago. As a result, a Waste Management License ("WML") and EA were issued on 13 October 2010 for the closure and decommissioning of the Outeniqua Pale Treatment Facility, including the remediation of any contaminated land. However, there are still two areas where contamination is present. It is therefore stated that no development will take place on these two areas until the successful remediation of the contaminated land has been resolved.
- 1.2 Section D of the BAR provides a comprehensive consideration of the need and desirability of the activities. The BAR indicates that the development site is located within the urban edge of the Mossel Bay Spatial Development Framework ("SDF") which was adopted by the Mossel Bay Municipality as part of the Mossel Bay Integrated Development Plan ("IDP"). The Department provided comments when it was consulted during the drafting process of the IDP. The development is also in line with the IDP which states that the population of the aged has increased in Mossel Bay and that there should be an initiative of looking into reasonable accommodation for the aged. The activities also comply with the principles of the Provincial SDF.
- 1.3 Although the site is located within an approved urban edge, the site is required to comply with other legislative requirements such as the NEMA. The consideration of the site in terms of the NEMA

is based on its own merit in terms of the applicable requirements outlined in the NEMA and its EIA Regulations. The fact that the site is located within an approved urban edge does not imply an automatic authorisation in terms of the NEMA.

- 1.4 Thus the Department did not impose the exclusion contained in Condition E5 in an arbitrary manner and not the entire site is in a substantially degraded state.

#### **Condition E5 of the EA**

- 1.5 The national environmental management principles contained in the NEMA (as amended) states that:

- i. The principles shall guide the interpretation, administration and implementation of the NEMA, and any other law concerned with the protection or management of the environment;
- ii. Development must be environmentally, socially and economically sustainable;
- iii. The disturbance of ecosystems and loss of biological diversity must be avoided, or, where they cannot be altogether avoided, must be minimized and remedied;
- iv. A risk-averse and cautious approach must be applied, which takes into account the limits of current knowledge about the consequences of decisions and actions; and
- v. Sensitive, vulnerable, highly dynamic and stressed ecosystems such as coastal shores, estuaries, wetlands and similar systems requires specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure.

- 1.6 The findings of the additional VSA of February 2017, are not disputed although the specialist VSA failed to adequately address the concerns of CapeNature. CapeNature is the custodian of biodiversity in the Western Cape as required by the *Western Cape Nature Conservation Board Act, 1998 (Act No. 15 of 1998)*. The original VSA of July – August 2013 did not consider the moderately sensitive vegetation areas namely Blocks 5 and 6 in terms of providing an ecological corridor and linkage from north to south, linking Erf No 2842 with Farm Wolwedans No. 129 Portions 117 in the north and south towards Erf No. 2841 and Farm No. 136. CapeNature required a consideration of an off-set agreement if development should be pursued on Farm Rensburg Estate No. 137 Portion 52 and Erf No. 2842, to conserve Western Cape Milkwood Forest, Groot Brak Dune Strandveld and Canca Limestone Fynbos, and threatened plant taxa such as *Erica Dispar* (Near Threatened) and *Euchaetis albertiniana* (Endangered). However, such a biodiversity offset suggestion was not considered since no endangered vegetation will be impacted by the proposed development.

- 1.7 In light of the failure to address the cumulative impact of the development in terms of the provision of ecological corridors from north to south and the fact that the biodiversity offset was not considered, development is refused from the moderately sensitive areas on Block 6 identified in the VSA. Therefore, although the preferred layout alternative 3 is claimed to be a product of a

strict implementation of the recommendations of the VSA, CapeNature's concerns and the comments of the Department of Agriculture, Forestry and Fisheries were not adequately addressed hence development on Block 6 is refused.

- 1.8 Section 24 of the NEMA, read with the NEMA principles and EIA Regulations requires the identification and assessment of the impacts, including the cumulative impacts of the listed activities. Therefore, the exclusion contained in Condition E5 of the EA is varied to grant authorisation on Block 5 identified in the VSA. Put differently, it was incumbent on the Environmental Assessment Practitioner and the specialist VSA, whether a basic assessment process in terms of Listing Notice 3 triggers (or not triggers) parts of critically endangered ecosystems where national habitat remains, to assess and consider the cumulative impacts of the proposed development in terms of providing adequate ecological corridors and linkages from north to south as per the revised exclusions contained in Condition E5 of the appeal EA. The decision-maker has a discretionary power of authorising the whole or part of the development. In this instance, only part of the activities is authorised as per the revised exclusions contained in Condition E5 of the Appeal EA.
  - 1.9 The Department was under the impression that the recommendations contained in the VSA did inform the final layout plan of the preferred layout alternative 3 as it is acknowledged in the reasons for the EA contained in Annexure 1 of layout alternative 3 that culminated from the VSA. The exclusion of the very sensitive vegetation on Erf No. 244 in order to ensure a well-functioning ecological system is not considered adequate hence a further revised exclusion as contained in Condition E5 of the Appeal EA must be implemented.
  - 1.10 It is not correct to state that the exclusion in Condition E5 is an indication that the EA is not rationally connected to the information that was placed before the Department. The original exclusions contained in Condition E5 of the EA being appealed are based inter alia on CapeNature's comment which was not adequately addressed in the VSA. Both the VSA and CapeNature's comments were placed before the decision-maker and are rationally connected to the information that was before the Department during the decision-making process.
  - 1.11 More than half of the property is designated in the 2010 Biodiversity Sector Plan for the Hessequa and Mossel Bay Municipalities as a Critical Biodiversity Area ("CBA") in a mostly natural to near-natural condition and is a critical area for maintaining corridors, linkages and ecological processes for threatened plant communities. The overarching management aim for the CBAs/ESAs is to maintain natural land, rehabilitate degraded land to a natural or near-natural condition and managed to ensure no further degradation. Albeit the CBA map is inaccurate in that it classifies the residence garden in Block 1 as a CBA and also parts of Block 2 are incorrectly shown to be CBAs and whereas ground-truthing revealed that the areas are completely transformed areas, the CBA map is not inaccurate in terms of the ecological corridors that are required in terms of Condition E5 of the appeal EA.
  - 1.12 The Department was not obliged by the applicable legislation to notify I&AP's and the applicant, prior to the decision, of the exclusions required in terms of Condition E5 of the EA as the appeal
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process, as a last resort form of public participation process, provides such an opportunity for the I&AP's to comment or raise issues if aggrieved by the decision.

- 1.13 Despite the fact that much of the site has been transformed and it is completely surrounded by some form of development (i.e. roads, businesses and residential areas) the site is considered to be of significant importance for ecological processes in terms of the 2010 Biodiversity Sector Plan for the Hessequa and Mossel Bay Municipalities.
- 1.14 The following response in terms of the need to assess the social and economic impact of the proposal as contained in the Comments and Responses Report is noted:
  - a. It is argued that extra 18 erven which should be considered for approval as per the current amended layout alternative represents about 2 million rand in total cost which be roughly broken down as follows:
    - i. The cost of materials per house and installation of services per erf/ house is approximately R 900,000;
    - ii. The cost of labour per house is approximately R 800,000; and
    - iii. The potential profit/ agent and attorney's fees are approximately R 300,000.
  - b. The impact therefore of the 18 houses on the building industry is approximately R 16 million while the impact of the 18 houses on local salaries is approximately R 14 million. The potential profit, agents and attorney's fees are approximately R 6 million. These figures are obviously not 100% accurate but give an idea of the economic and social benefit that will occur if the approval for the amendment is granted.
- 1.15 It is not comprehended how the internal roads network will not be feasible from an engineering perspective with the imposition of exclusions contained in Condition E5 of the Appeal EA. However, Condition G6 has been imposed in order for a revised layout plan in light of Condition E5 to be submitted for acceptance prior to the commencement of the activities.
- 1.16 Thus the development is considered to be sustainable from a socio-economic perspective in light of protecting the environment as the majority of the proposed units (i.e. Blocks 1, 2, 3 and 5 in terms of layout alternative 3) are authorised in the Appeal EA.

#### **Land claim**

- 1.17 The land claim issue was previously raised in the public participation process during the basic assessment process.
- 1.18 On 28 August 2014, a meeting was held with the claimants' committee where it was decided that any application for development on the property should be considered as the claimants opted for financial compensation.

1.19 Even if the claimants did not opt for financial compensation, the consideration of an EIA application on the property is not prohibited by the *Restitution of Land Rights Act, 1994 (Act No. 22 of 1994)*. Fortunately, the additional information received during this appeal process contains a letter received from the Commission on the Restitution of Land Rights dated 20 September 2016 which states that the development properties have been released from the restitution process as all claimants have elected to receive financial compensation in terms of the *Restitution of Land Rights Act, 1994 (Act No. 22 of 1994)*.

1.20 Thus the land claim issue has been adequately dealt with.

#### **Additional information**

On 5 May 2016, the following additional information was requested from the applicant:

1.21 An additional Vegetation Sensitivity Assessment ("VSA") as:

- a. The VSA of July – August 2013 as conducted by Ken Coetzee concluded (on page 19) that "**Block 6** ... should be cleared of alien tree infestation before any identification of proposed no-go areas and developable areas are made. Following clearing, it can be determined which areas can be developed and which should be retained for the conservation of thicket habitat."
- b. The executive summary (on pages 5 and 6) of the Final BAR compiled by Sharples Environmental Services states that "... the proposed erf boundaries of Erf 184 to 208 are subject to change. Depending on sensitive vegetation present within this area (Block 6)."

1.22 An amended preferred layout alternative plan which takes into account the following mitigation measures that were proposed in the original VSA of July – August 2013 which concluded (on page 17) that:

- I. In terms of mitigating the loss of vegetation on Block 5, "[d]evelop only the transformed & disturbed parts of the block- retain the most undisturbed parts as Open Space."
- II. In terms of mitigating the loss of vegetation on Block 5, "[d]evelop only the areas that are completely degraded by alien trees and retain the rest as Open Space."

1.23 Comments from CapeNature must be submitted which are based on the Final BAR and the additional information.

1.24 An amended EMP that complies with section 24N of the NEMA, regulation 33 of the 2010 EIA Amendment Regulations and that is based on the abovementioned information.

1.25 Proof that the above information was made available to the registered I&AP's (including the Gourikwa-Huis, Khoisan who submitted an invalid appeal) and the relevant organs of state for a commenting period of 21 days. In addition, a comments and responses report must be submitted together with the abovementioned information for consideration.

1.26 On 16 November 2017, the abovementioned additional information was received stating *inter alia* the following:

- a. Based on the additional VSA of February 2017, conducted by Conservation Management Services where the clearing away of the myrtle trees has just enabled a higher degree of confidence where an amended preferred layout alternative was generated.
- b. This amended preferred layout alternative will enable the establishment of a retirement village consisting of:
  - i. Erven 1 to 219 retirement village units which will vary from 148 m<sup>2</sup> to 789 m<sup>2</sup>.
  - ii. Erven 220 and 221 – erven for community facilities e.g. administrative offices, frail care, etc.
  - iii. Erven 222 to 226 – private open space erven.
- c. An amended EMP which accommodates the abovementioned information.
- d. A public participation process which included the following:
  - i. On 15 September 2017 to 9 October 2017, the abovementioned additional information was made available for comment to the I&AP's.
  - ii. On 6 November 2017 the comments and responses report was circulated to the I&AP's for a 21-day period in order to allow them to see how their comments were addressed and responded to.
  - iii. The additional information and supporting information were made available for a 21 day period at the environmental assessment practitioner's website: <http://www.sescc.net/index.php?comp=article&op=view&id=416>.
- e. The following comments *inter alia* were received during the public participation process:
  - i. CapeNature in their comments dated September 2017 objected to the amended preferred layout alternative stating the following reasons:

*"CapeNature would like to remind the landowner and botanical specialist that in terms of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983) landowners must prevent the spread of alien invasive plants on the property. The level of alien infestation is therefore not seen as reducing the sensitivity of the site, nor is the subsequent removal of alien vegetation from a property regarded as a mitigation measure. Infestation by alien plants does not necessarily mean that an area is not important for biodiversity as some vegetation types are particularly prone to invasive alien infestation but may recover when cleared of alien vegetation. This was not considered by the botanist in either of the reports compiled, either within the Final BAR or the follow-up vegetation assessment. The botanist considers the loss of alien vegetation infestation as lowering the vegetation sensitivity rating. CapeNature objects to such sensitivity rating classification systems. The botanist also did not consider the loss of ecosystem corridor linkages (as highlighted in the previous CapeNature CBA layers) within his report appended to the BAR.*



In addition to the Conservation of the Agricultural Resources Act, 1983 (Act No. 43 of 1983), in terms of the Alien and Invasive Species Regulations, 2014, specific alien plant species (e.g. *Acacia mearnsii*) are either prohibited or listed as requiring a permit; aside from restricted activities concerning, inter alia, their spread and should be removed. This once again links to CapeNature's stance regarding the level of alien vegetation on the properties.

Ground-truthing of CBA layers is always appreciated by CapeNature and it is evident that the botanical specialist found sensitive habitat outside the extent of delineated CBA layers within the extent of Other Natural Areas ("ONA"). The competent authority when issuing the EA adhered to the botanical findings and restricted the development outside the extent of identified sensitive regions, while concurrently taking CapeNature's objections into consideration and approved the modified version of the layout. Regarding the revised facility layout CapeNature has the following comments:

- It is understood that the WCBSP (2017) has only recently become available and it is recommended that the Minister consider the WCBSP (2017) data as well as the Land Use Advice (LUA) Handbook (Pool-Stanvliet et al. 2017), where required to inform decision making regarding the revised layout. The development of Block 6 is in contravention of the Ecological Support Areas ("ESA") objectives. The ONA areas are identified as sensitive and ground-truthed as such, so the development within the identified sensitive portions is also not advised. The EA also compromises ecological linkages and connectivity with the approved layout.
- Given the recent Knysna fires, CapeNature has always maintained that the Cape Floristic Region is largely a fire-dependent system and nature fire regimes must be maintained and managed in the landscape. The exclusion of fire from certain habitats will be considered unacceptable as this may ultimately cause the loss of species. Where appropriate, the location of fire-breaks should be indicated and these fire-breaks may be considered part of the development footprint. Firebreaks must be brush-cut and vegetation must not be completely removed. Brush-cutting under powerlines must occur as infrequent as possible as brush-cutting will lead to loss of species diversity over time. Any development within Block 6 will be subject to significant fire risk given the proposed open spaces which are proposed to be located in-between units.
- The botanist recommends a 3m wide buffer on all thicket clumps, [but] this will not provide fauna with any form of refuge or ecological connectivity/linkages within Block 6.

The landowner has complied with relevant legislation to clear the aliens off the property. From the botanist description (listed in his follow-up vegetation sensitivity

assessment), of the vegetation present on the site, vegetation structure is classified as "These plants together with the resprouting shrubs (resprouting after clearing operations) from a ground cover over the sandy soil open areas in-between the thicket clumps...". This description of vegetation structure, when considered in combination with the thicket and ground-cover species list presented, is typical of the Endangered Groot-Brak Dune Strandveld and correlates well with the Mucina and Rutherford (2006) description of the unit and species list. Block 6 should therefore not be developed and converted rather to Private Open Space.

CapeNature is currently undergoing a verification of CBA layers exercise. This entails the confirmation of layers which may have been classified incorrectly such as the ONA within this development. All Private Open Space areas in the interim, should be managed as if they are indeed CBA in line with Land Use Advice (LUA) Handbook (Pool-Stanvleit et al. 2017). CapeNature will not support the establishment of any gardens or alien vegetation within the extent of the delineated Private Open Space regions. CapeNature also recommends that the botanical specialist liaise with CapeNature at [cba@capenature.co.za](mailto:cba@capenature.co.za) regarding the CBA and ONA delineations on the site, which will allow CapeNature to reclassify the ONA regions as CBA. This should be captured within CapeNature's changelog and illustrated when the CBA regions are recalculated.

It is also recommended that the botanist contact the CapeNature Stewardship Review committee should the Private Open Space areas be considered worthy of a conservation stewardship status.

The contaminated sites should be considered for development within the current application process. The units removed from Block 6 could be accommodated on these sites. This will ensure that the application prioritises the rehabilitation of such sites over the construction units on green fields.

CapeNature indicates that it objects to the development of Block 6 as they are of the opinion that the site can be classified as endangered vegetation and CBA due to the species list given and similarities in vegetation structure. The conversion of this site to Private Open Space could potentially also be seen as a form of a set-aside for the development of CBA to the north of the site (which unfortunately has already been approved). Development in the manner proposed with Block 6 will also have a significant fire risk.

CapeNature concluded that they object to the revised layout plan and the applicant's subsequent appeal to the Minister."

- ii The Department of Agriculture, Forestry and Fisheries ("DAFF") commented that the VSA (2017) indicates that Block 4, part of Block 5 and Block 6 consist of Thicket patches where 40% of the species are protected trees under the *National Forestry Act, 1998 (Act No. 84 of 1998) ("NFA")*. The VSA dated 2017 describes Block 4 as very sensitive in terms of species composition and parts of Block 5 to Block 6 as moderately sensitive. Furthermore, the area has been declared as a CBA. Thus the DAFF does not support any development within the thicket patches consisting of protected trees under the NFA; the DAFF does not support any development within Block 4, part of Block 5 and Block 6. These areas should be kept intact as no-go areas.
  - iii The Directorate: Development Management (Region 3), which issued the EA currently subject to appeal, stated that the moderately sensitive areas (Blocks 5 and 6) that have been identified by the vegetation specialist must be excluded from development. The rationale behind the exclusion of the aforementioned blocks areas is to allow for the natural vegetation to recover and to retain certain areas for the conservation of thicket habitat, as noted by the vegetation specialist in the VSA. The fact that more than half of the property is a designated CBA as pointed out in the comment by CapeNature, indicates that there is merit in the concern raised that the site forms/ plays a critical part in maintaining corridor linkages and ecological processes for threatened plant communities. This Department also agrees with CapeNature that the units excluded in these areas could be accommodated elsewhere in the development layout.
  - iv The Eden District Municipality states that it is proposed with the additional information report that Thicket patches are set aside to exclude such areas from development, with a 3m buffer as a protective measure around it. In order to make an informed decision, more information was requested on:
    - a. The impact of this proposed development on the connectivity between the Thicket patches.
    - b. Its impact on the successional potential of the disturbed patches in Block 6 set aside for development, and the ability of these to return to its natural undisturbed state/ CBA.
- f. The environmental assessment practitioner responded as follows:
- 1. CapeNature's comments are noted. CapeNature's mandate is to protect and conserve as much of the natural environment as possible and it is understandable and correct that they object to the development. In fact, the only areas where they can support development are on completely transformed and degraded even. In order to fulfil this mandate CapeNature relies on various mapping programmes to understand the vegetation on a local and regional scale as well as to understand the various targets of protection which are set for various vegetation types.
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2. In order to more accurately assess a particular site it is relied on specialists such as Ken Coetzee of Conservation Management Services to ground-truth the mapping programmes and to give a professional opinion of the impact of the development. It is relied on these specialists and their opinion and unless their opinions are proven to be untrue their opinions are regarded as fact.
  3. The botanist considered the ecological process and landscape connectivity in the original VSA of July- August 2013. In the said report (page 18) it is stated "*due to the very small extent of the study area, as well as the fact that much of it has been transformed and it is completely surrounded by some form of development (i.e. very busy roads, businesses, residential areas, etc.) it is highly unlikely that the area is of significant importance for ecological process or as an important landscape connection (corridor). It further states that in terms of connectivity, the remaining Fynbos and Thicket areas are connected only for the avifauna and probably also some of the flying invertebrates. The busy roads that bound the study area are known to be severe boundaries for the movement of other non-flying wildlife*". The botanist concludes that the study area is unlikely to be important as either corridor, or part of a corridor, and that it is highly improbable that it is important for supporting any ecological processes or any smaller component of those processes.
  4. Unlike fynbos, thicket is not fire dependant and generally does not burn. Alien vegetation interspersed in the thicket mostly causes fires within the thicket areas. Therefore, the less alien vegetation there is, the lower the risk of fires within the thicket areas. Each house should have a defendable space around it. The Homeowners Association can, from time to time, seek advice from the local fire chief on how best to maintain this defendable space. The botanist reviewed the vegetation and proposed that the area (Block 6) be sensitively developed by developing only the degraded areas i.e. open areas between thicket patches. The developer's current proposal has taken the findings of the botanist into account by pacing the units within the degraded areas.
  5. It is unlikely that there will be large fauna such as bushbuck unless they are tame since the area has already been fragmented as a result of developments in the area and the road. However, smaller fauna will be able to use the thicket as ecological habitats. The area in-between the thicket will be replaced by permanent housing and will therefore limit migration of large fauna such as bushbuck.
  6. It is noted that the DAFF does not support the development of Block 4, part of Block 5 as well as Block 6 and that these areas should be kept intact as no-go areas. It must be noted that Block 4 has been excluded in its totality and will therefore not be developed.
  7. It must be noted that the majority of the proposed development is currently designated as ONA and not CBA as stated in CapeNature's letter dated 8 September 2017. The botanist, in the original VSA, concluded that the study area is unlikely to be important as either corridor or part of a corridor and that is highly improbable that it is important for
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supporting any ecological processes or any smaller component of those processes due to the very small extent of the study area, as well as the fact that much of it has been transformed and it is completely surrounded by some form of development (i.e. very busy roads, businesses, residential areas, etc.).

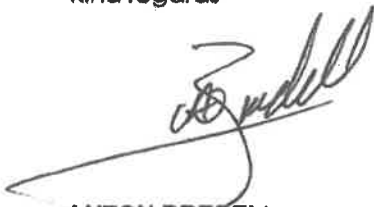
**CONCLUSION:**

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Appeal EA, and compliance with the Amended EMP approved in the conditions of the decision, the appellate authority is satisfied that the proposed 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.

**DISCLAIMER:**

The Western Cape Government, the Local Authority, committees or any other public authority or organisation 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.

Kind regards



**ANTON BREDELL**  
**WESTERN CAPE MINISTER OF LOCAL GOVERNMENT,**  
**ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 23/5/2018

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