



REFERENCE: 16/3/3/1/D6/35/0003/21
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 22 March 2022

The Director
IDEAL TRADING 301 CC
P.O BOX 89
HARTENBOS
6520

Attention: Messrs. C Spies/D. F. Swanich

Cell: 076 635 1997

Email: christo@cobrafuel.co.za

dicky@cobratransport.co.za

Dear Sirs

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): PROPOSED ZANDHOOGTE ESTATE ON REMAINDER OF THE FARM ZANDHOOGTE NO. 139, MOSSEL BAY (TERGNIET)

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to **the Preferred Alternative**, described in the revised Final Basic Assessment Report ("FBAR"), received by the Directorate: Development Management (Region 3)

hereinafter referred to as "this Directorate" on 21 October 2021 as prepared and submitted by Cape EAPrac, the appointed environmental assessment practitioner ("EAP").

The applicant for this Environmental Authorisation is required to comply with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Director
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 % Messrs. C Spies/D. F. Swanich
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 6520

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 dicky@cobratransport.co.za

The abovementioned applicant is the holder of this Environmental Authorisation (hereinafter referred to as "**the Holder**").

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p><i>Environmental Impact Assessment Regulations Listing Notice 1 of 2014, Government Notice No. 983 of 4 December 2014</i></p>	
<p><i>Activity Number: 27</i></p> <p><i>Activity Description:</i></p> <p><i>The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i></p> <p><i>(i) the undertaking of a linear activity; or</i></p>	<p>The site has not been ploughed for many years and natural vegetation (some pioneer species) has established itself on the old lands. The clearance of an area of more than 1 ha</p>

<p>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p>	<p>(approximately 10,2 ha) of indigenous vegetation for the establishment of the residential development.</p>
<p>Activity Number: 28</p> <p>Activity Description:</p> <p>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:</p> <p>(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or</p> <p>(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;</p> <p>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>The property is zoned Agriculture I and was used for grazing purposes for many years. The proposed development is situated within the urban area and will result in the transformation of more than approximately 10,2 hectares of agricultural land to residential land use.</p>

The abovementioned list is hereinafter referred to as "**the listed activities**".

The Holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development and development footprint area.

The proposal entails the development of a residential development on a portion of Remainder of Farm Zandhoogte 138 south of the R102 to enable the development consisting of:

- Approximately 160 x General Residential Zone I erven (group housing)
- Approximately 3 x General Residential Zone III erven (flats)
- Approximately 4 x Private Open Space erven
- 1x Public Street (Transport Zone II)
- 4 x Private Street (Transport Zone III)
- Link services infrastructure, namely water, sewage reticulation, stormwater drainage,
- Provision for two (2) on-site conservancy/holding tanks for each phase of the development should occupation happen before June 2023.
- 11kVA overhead line, will link up with the existing municipal services.

- Upgrade of Impala Avenue (also referred to as Blesbok Road) by expanding the road with a dedicated right turn lane to access the southern portion of the development.

The proposed development requires the clearance of more than 1-hectare (but less than 20-hectares) of indigenous vegetation and also the transformation of more than 5 hectares of agricultural land to develop a residential development with its associated infrastructure.

The proposed development will be implemented in two (2) phases with Phase 1 being north of Impala Way and Phase 2 south of Impala Way, approximate to the site development plan attached to this Environmental Authorisation as Annexure 2.

C. SITE DESCRIPTION AND LOCATION

The development is proposed on a portion of the Remainder of the Farm Zandhoogte 138, which borders the Provincial Road (R102) on the north and the railway line in the south. Impala Road (municipal road) bisects the property, dividing it into a northern and southern phase. The National Road (N2) is situated to the north of the site. The proposed development area is surrounded by residential areas, with the northern boundary consisting of highly transformed vegetation.

The coordinates of the centre of the proposed development footprint site:

Latitude (S)	Longitude (E)
34° 04' 04" South	22° 11' 27" East

SG digit code: C05100000000013900000

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

The above is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Cape EAPrac (Pty) Ltd)

% Ms Louise-Marie van Zyl

P.O. Box 2070

GEORGE

6530

Tel: 044 874 0365

E-mail: louise@cape-eaprac.co.za

Website: www.cape-eaprac.co.za

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **30 March 2032**, the date on which all the listed activities, including post construction rehabilitation and monitoring requirements, will be deemed to be concluded at the site. The holder must:

1.1. Start with the physical implementation of the authorised listed activities and exceed the threshold of all the authorised listed activities on the site by 30 March 2027; and

1.2. Conclude the authorised listed activities on the site and post construction rehabilitation and monitoring requirements by no later than 30 September 2031;

Note: Failure to complete the post construction rehabilitation and monitoring requirements at least six-months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.

failing which, this Environmental Authorisation shall lapse, unless the environmental authorisation is amended in accordance with the relevant process contemplated in the Environmental Impact Assessment Regulations promulgated under the National Environmental Management Act, 1998 (Act no. 107 of 1998).

2. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with a part of the Preferred Alternative described in the revised FBAR received by this Directorate on 21 October 2021 on the site as described in Section C above.

The proposal entails the development of a residential development on a portion of Remainder of Farm Zandhoogte 138 south of the R102 (MR344) to enable the development consisting of:

- Approximately 160 x General Residential Zone I erven (group housing)
- Approximately 3 x General Residential Zone III erven (flats)
- Approximately 4 x Private Open Space erven
- 1 x Public Street (Transport Zone II)

- 4 x Private Street (Transport Zone III)
- Link services infrastructure, namely water, sewage reticulation, stormwater drainage
- Provision for two (2) on-site conservancy/holding tanks for each phase of the development should occupation happen before June 2023.
- 11kVA overhead line, will link up with the existing municipal services.
- Upgrade of Impala Road (also referred to as Blesbok Road) by providing a dedicated right turn lane to access the southern portion of the development.

This will require the clearance of more than 1-hectare (but less than 20-hectares) of indigenous vegetation and also the transformation of more than 5 hectares of agricultural land to develop a residential development with its associated service infrastructure.

The proposal will be implemented in two (2) phases with Phase 1 being north of Impala Road and Phase 2 south of Impala Road, approximate to the site development plan attached to this Environmental Authorisation as Annexure 2.

3. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
4. 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.
5. Any changes to, or deviations from the scope of the alternative described in section B 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 in order 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.

Notification and administration of appeal

6. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1. the decision reached on the application;

- 6.1.2. the reasons for the decision as included in Annexure 3;
 - 6.1.3. the date of the decision; and
 - 6.1.4. the date when the decision was issued.
- 6.2. 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 Appeal Regulations, 2014 (as amended) detailed in Section G below;
- 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
- 6.4. provide the registered I&APs with the:
- 6.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 6.4.2. name of the responsible person for this Environmental Authorisation,
 - 6.4.3. postal address of the Holder,
 - 6.4.4. telephonic and fax details of the Holder,
 - 6.4.5. e-mail address, if any, of the Holder,
 - 6.4.6. 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 2014 National Appeals Regulations (as amended).
- 6.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
- 6.6. 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 (i.e. the listed activities, including site preparation, must not commence until the appeal is decided).

Written notice to the Competent Authority

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
- 7.1. The notice must make clear reference to the site details and EIA Reference number given above.
- 7.2. The notice must also include proof of compliance with the following conditions described herein:

Conditions no.: 6, 9, and 11

8. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities of the—
 - 8.1. bulk internal service infrastructure (i.e. internal roads; water-, sewer-, electricity reticulation and bulk storm water); and
 - 8.2. final phase of the proposed development.

Management of activity

9. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended and submitted for approval, subject to the following requirements:
 - 9.1. The EMPr must be amended to incorporate the following —
 - 9.1.1. Environmental Control Officer compliance reports must be submitted monthly to this Directorate.
 - 9.1.2. Incorporate all the conditions contained in this Environmental Authorisation; The section dealing with the management and demarcation of the No-Go area's (including the open space areas) must clearly state how the areas will be demarcated prior to any earthworks / commencement of construction;
 - 9.1.3. The final Site Development Plan must be included in the EMPr;
 - 9.1.4. Details regarding the search and rescue to be undertaken,
 - 9.1.5. Details regarding the prospective implementation of phase 1 including the prospective date of occupation,
Note: The revised EMPr should be submitted to the Competent Authority at least 90-days prior to the construction activities commencing on site to ensure the competent authority is able to process / review the revised EMPr prior to the intended date of commencement.
10. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

11. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
12. The ECO must—

- 12.1. be appointed prior to commencement of any works (i.e. removal and movement of soil and / or rubble or construction activities commencing;
 - 12.2. ensure compliance with the EMPr and the conditions contained herein;
 - 12.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
 - 12.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
13. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.
14. Access to the site referred to in Section C 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.

Auditing

15. The Holder must, for the period during which the environmental authorisation and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.
16. The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, must adhere to the following programme:
- 16.1. During the period which the activities have been commenced with on site until the construction of the bulk internal service infrastructure (i.e. internal roads; water-, sewer-, electricity reticulation and bulk storm water) has been completed on site, the Holder must undertake annual environmental audit(s) and submit the Environmental Audit Report(s) to the Competent Authority.

The last of the annual Environmental Audit Reports must be submitted to the Competent Authority within **three (3)** months of completion of the construction of bulk internal services and the post construction rehabilitation and monitoring requirements thereof.

16.2. During the period the development of the residential development (i.e. construction of top structures) is undertaken, the Holder must ensure that environmental audit(s) are performed regularly and submit these Environmental Audit Report(s) to the Competent Authority.

During this phase of the development, the frequency of auditing compliance with the conditions of the environmental authorisation and provisions of the EMPr **may not exceed intervals of 5-years.**

A final Environmental Audit Report must be submitted to the Competent Authority within **three (3)** months of completion of the mixed/residential development and the post construction rehabilitation and monitoring requirements thereof, but by no later than 31 December 2031;

Note: The final auditing requirements should be completed at least three months prior to expiry of the validity period of the environmental authorisation to ensure the Holder is able to comply with all the environmental auditing and reporting requirements and for the competent authority to be able to process it timeously.

17. The Environmental Audit Report(s), must –

- 17.1. be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;
- 17.2. provide verifiable findings, in a structured and systematic manner, on–
 - 17.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 17.2.2. the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
- 17.3. identify and assess any new impacts and risks as a result of undertaking the activity;
- 17.4. evaluate the effectiveness of the EMPr;
- 17.5. identify shortcomings in the EMPr;
- 17.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
- 17.7. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;

- 17.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
 - 17.9. include a photographic record of the site applicable to the audit; and
 - 17.10. be informed by the ECO reports.
18. The Holder must, within 7 calendar days of the submission of the audit 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).

Specific Conditions

19. The development may start prior to June 2023 on condition that is scheduled post June 2023. If occupation is scheduled pre-June 2023 the interim option of providing conservancy tanks for the respective phases must be implemented.

20. The upgrade of Impala Road with a dedicated right turning lane into the southern portion of the development must be completed prior to occupation of any of the units in the southern portion.

All the recommendations of the Traffic Impact Assessment must be adhered to and incorporated into the final design of the development proposal to be submitted along with the amended EMP

21. The following Resource Conservation Measures must be implemented and included in all sales agreements:

- 21.1. All group housing units must be fitted with a rainwater tank with a minimum capacity of 5000 litres for the collection and storage of rainwater from roofs.
- 21.2. Rainwater collected from roofs must receive preferential use in the irrigation of gardens or other outdoor requirements.
- 21.3. All units must be fitted with and use low flow showerheads, tap aerators and dual-flush toilets.
- 21.4. All units must be fitted with and use energy-efficient lighting and heating designs.

22. All solid waste generated by the authorised development during the construction phase must be disposed of at a landfill site licensed in terms of the relevant legislation.

23. 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 may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

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; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.

F. 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.

Amendment of Environmental Authorisation and EMPr

2. If the Holder does not start with all listed activities and exceed the threshold of each listed activity within the period referred to in Section G, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

Where a validity period has been specified for operational aspects, such as for the development and related operation of the facilities or infrastructure for the storage and handling of a dangerous good, the onus is on the Holder to ensure the facility is operating at all times in terms of a valid environmental authorisation.

If the Holder wishes to extend a validity period specified in the Environmental Authorisation, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of such a period.

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.
 - (b) It is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity if the competent authority has not granted an Environmental Authorisation for the undertaking of the activity.
 - (c) An environmental authorisation may be amended where it relates to a change of ownership or transfer of rights and obligations.
 - (d) On application, if the competent authority decides to grant environmental authorisation, the competent authority may issue a single environmental authorisation or multiple environmental authorisations in the name of the same or different applicants covering all aspects for which authorisation is granted.
3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, 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.

The onus is on the Holder to verify whether such changes to the environmental authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note: An environmental authorisation may be amended or replaced without following a procedural requirement contained in the Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially

4. The manner and frequency for updating the EMPr is as follows:
- (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
 - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMPr has been approved by the competent authority.

The onus is however on the Holder to confirm the legislative process requirements for the above scenarios at that time.

5. Where an amendment to the impact management outcomes of an EMPr is required before an environmental audit is required in terms of the environmental authorisation, an EMPr may be amended on application by the Holder of the environmental authorisation.

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is granted for a set period from date of issue, during which period all the listed activities must be commenced with and concluded, including the post-construction rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

The validity period and conditions of the environmental authorisation has been structured to promote the effective administration of the environmental authorisation and guidance has been provided to ensure the compliance thereof within the validity period, for example:

- ❖ Failure to submit the revised EMPr to the Competent Authority at least 90-days prior to the construction activities commencing on site, may result in the competent authority not being able to process / review the revised EMPr prior to the intended date of commencement.
- ❖ Failure to complete the post construction rehabilitation and monitoring requirements at least six months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.
- ❖ Failure to complete the auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements and may result in the competent authority not being able to process the audit timeously.

8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e. conditions 6, 7, 9 and 11). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
9. In the event that the Environmental Authorisation should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.
10. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the 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. The appeal and the responding statement must be submitted to the Appeal Administrator at the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and
Development Planning

Private Bag X9186

CAPE TOWN

8000

By facsimile: (021) 483 4174; or

By hand: Appeal Administrator

Attention: Mr Marius Venter (Tel: 021 483 3721)

Room 809

8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority 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 Appeal Administrator at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. 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.

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. GAVIN BENJAMIN

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION3)

DATE OF DECISION: **22 MARCH 2022**

COPIED TO:

Mr J. Roux

Mossel Bay Municipality

Email: jroux@mosselbay.gov.za

Ms. L. van Zyl

CapeEAPrac (EAP)

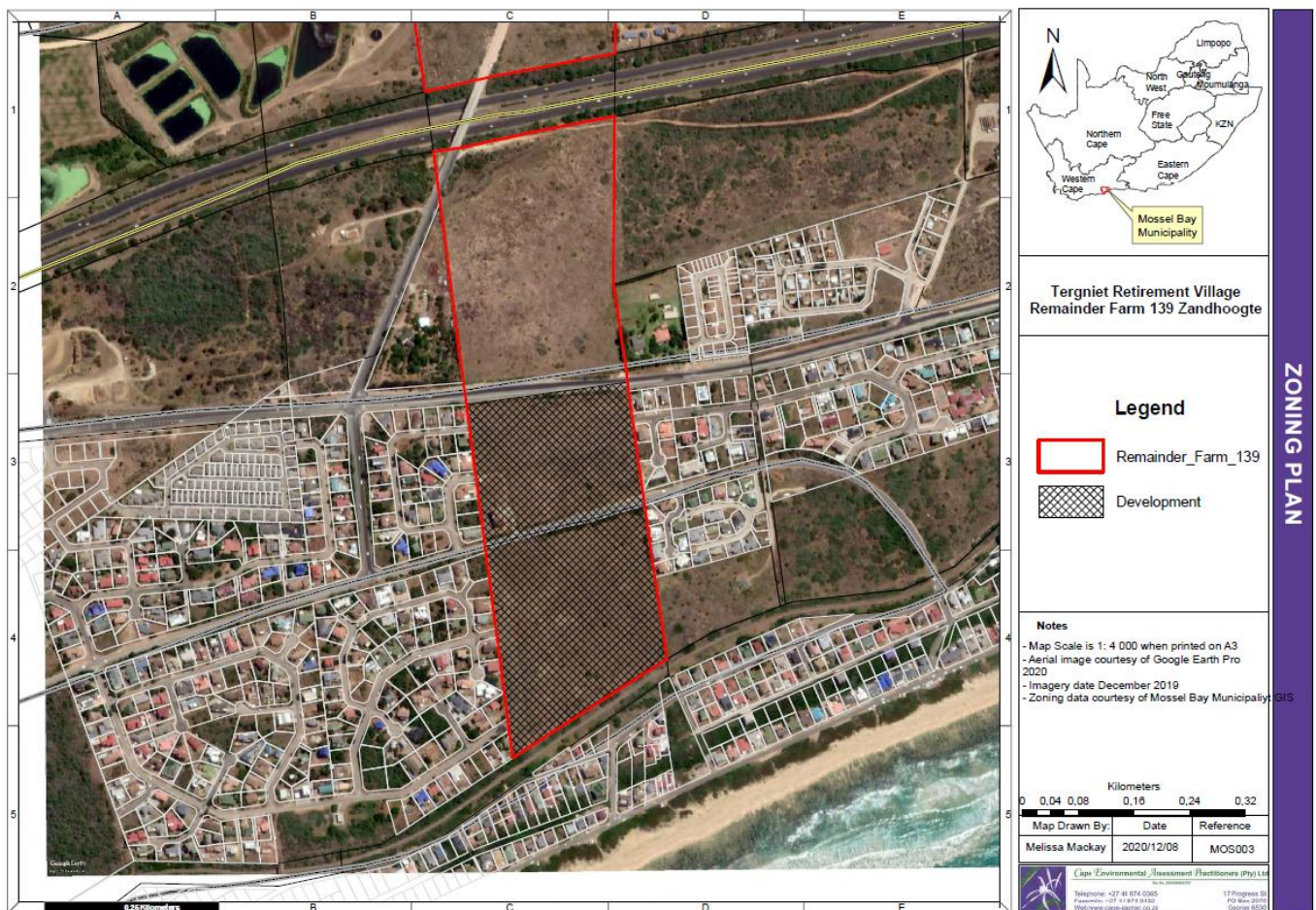
Email: louise@cape-eaprac.co.za

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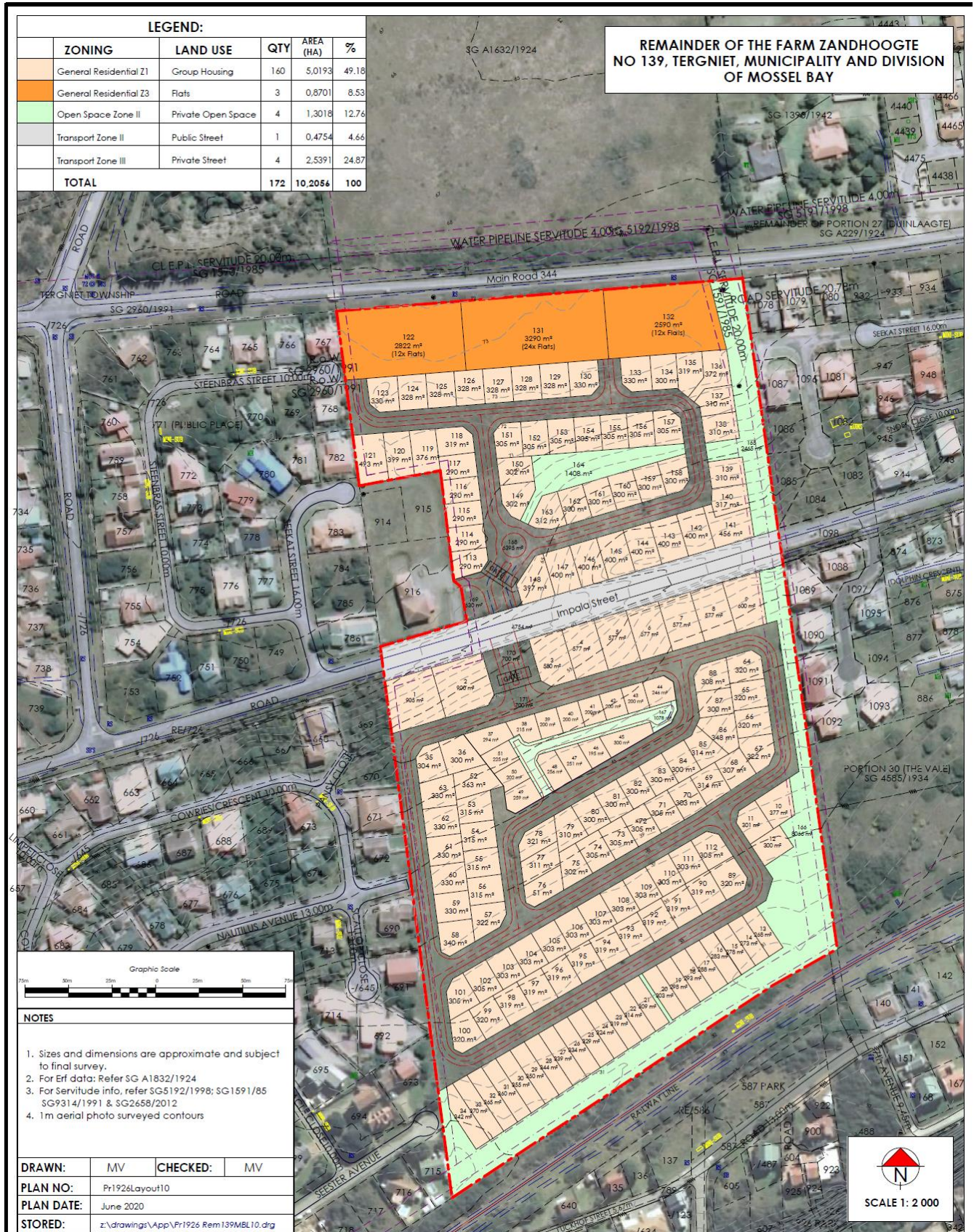
EIA REFERENCE NUMBER: 16/3/3/1/D6/35/0003/21

NEAS REFERENCE: WCP/EIA/0000904/2021

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE DEVELOPMENT PLAN (BY MARIKE VREKEN TOWNPLANNERS)



ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, *inter alia*, the following:

- a) The information contained in the Application Form received on 10 May 2021, the amended Final Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 21 October 2021;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the revised FBAR submitted to this Directorate on 21 October 2021;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) Appropriate information was made available in the report to understand the environmental and spatial context and the case officer is familiar with the area.

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 that were considered to be the most significant for the decision is set out below.

1. Public Participation

A sufficient public participation process was undertaken, and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulation 2014 for public involvement. The public participation process included:

- identification of and engagement with interested and affected parties (I&APs) including organs of state which have jurisdiction in respect of the activity to which the application. An initial 30-day period for registration was undertaken from 8 November 2020 – 28 January 2021.
- fixing a notice board at the site in January 2020;
- giving written notice to the owners and occupiers of land adjacent to the site and any alternative site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities;
- A pre-application process was undertaken and the pre-application Basic Assessment Report (pre-app BAR) was made available for 30 days from 11 December 2020 – 1 February 2021,
- The draft BAR was made available for 30 days from 21 May 2021 until 20 June 2021,

- Due to the additional requirements by Mossel Bay Municipality regarding services, a revised draft BAR was circulated for a further 30-day commenting period from 15 September 2021 until 16 October 2021.
 - The revised BAR was made available from 17 September 2021- 21 October 2021.
 - the placing of a newspaper advertisement in the 'Mossel Bay Advertiser' on 04 December 2020.
- The following Organs of State provided comment on the proposal:
- ❖ Department of Health
 - ❖ Department of Transport
 - ❖ Department of Water Affairs (via Breede-Gouritz Catchment Management Agency (BGCMA))
 - ❖ Mossel Bay Municipality
 - ❖ CapeNature
 - ❖ Department of Agriculture
 - ❖ South African Civil Aviation Authority (SACAA)
 - ❖ Department of Environmental Affairs & Development Planning
 - ❖ Heritage Western Cape
 - ❖ Garden Route District Municipality
 - ❖ South African National Roads Authority Limited (SANRAL)
 - ❖ Transnet
 - ❖ PetroSA
 - ❖ Department of Forestry

The Department of Agriculture confirmed that despite the zoning being Agriculture, the site is within the urban edge and designated for township development, thus Act 70 of 70 does not apply. No further soil studies or agriculture potential studies were required.

Heritage Western Cape confirmed that the site is not deemed sensitive, and they issued their approval without the need for any further investigations/assessments.

The SACAA indicated that the site is situated far from the closest airport and poses no threat to civil aviation operations. An obstacle application has been submitted to the SACAA and their provisional approval has been obtained.

The BGCMA has confirmed that no approvals are required i.t.o the National Water Act and Confluent Consulting confirmed the same as part of their compliance statement.

Concerns were raised regarding the proposed flats component of the proposal and that the character of the area will change from low density to high density. However, according to the BAR the proposed

site is already surrounded by residential development, the development proposal will fit into the surrounding area. Another concern regarding safety and the security wall/fence around the proposed development. The EAP responded that “the development is proposed as a security development with controlled access (only from Impala Avenue). The issue of the availability of water for the development was also raised. However, the proposal includes the upgrade of existing Municipal water line that runs from Tergniet township to the existing Municipal reservoir. The Mossel Bay Municipality has confirmed the availability of services.

This Department is satisfied that all comments and issues raised by the respective *Organs of State and I&APs* that were captured in the revised Basic Assessment Report were responded to by the EAP.

2. Alternatives

No property of site alternatives was considered as part of the assessment of the proposed development.

Water provision Alternative

Only one water provision alternative was considered. The proposed development will receive water from an existing municipal 300mm (fluid conveyance) FC line close to the north-western corner of Rem/139 Zandhoogte. The existing 150mm FC line currently servicing the development area, will be upgraded to a 200mm (High-density polyethylene) HDPE line via pipe-bursting methodology. Other than the access points (to insert the bursting tool machine and feed the new pipeline) to the existing pipeline underground, no excavations, trenching or vegetation removal is required. Water to the proposed development will be obtained from this upgraded line on the north-western corner of the proposed development footprint on the R102(MR344). The necessary wayleaves will be applied for by the Engineers, from Provincial Roads and SANRAL, in instances where the pipeline traverse road reserves.

Access Alternatives

Access Alternative 1

Two access positioning alternatives were considered. Firstly, a development proposal was compiled for group housing and apartments with access proposed in the centre of the development portions (off Impala Avenue). The gradient of the site and minimum requirements for safe distances between intersections (minimum 80m) were considered. This alternative was regarded not feasible because of access restrictions and no upgrade to Impala Avenue would have resulted in unacceptable traffic conditions.

Access Alternative 2

This access alternative entails moving the entrances to the west and consolidating it with the existing farmhouse entrance, and providing for a dedicated right turn lane on Impala Avenue into the southern portion to ensure that traffic and mobility is not affected for vehicles traveling in an easterly direction (towards Tergniet/Rheebok). This is the applicant's preferred alternative and is therefore approved.

Sewage Services Alternatives

On-site Packaging Plant

The development of an on-site packaging plant was considered to service the development in the interim, should occupation be required prior to June 2023. Due to cost and maintenance the interim option of on-site package plant is not considered feasible and has therefore not been considered

Conservancy tank

The second option is the option of developing two conservancy tanks to service phase 1 of the proposed development. This is the applicant's preferred alternative as it can be converted and incorporated into the sewage system linking to the MidBrak Sewer System with ease.

Municipal Connection

This alternative entails connecting the proposed development to the upgraded MidBrak Sewer system should occupation only be taken after June 2023. Should occupation be taken prior to June 2023, use will be made of the two conservancy tanks after June 2023 this system will be converted and incorporated into the sewage system linking to the MidBrak Sewer System. This is the applicant's preferred alternative.

Lay-out Alternative

The initial alternative entailed the development of only group housing units without the apartments. This alternative would consist of 46 semi-detached duplex units, 134 group housing units, private roads and limited private open spaces. This was not the applicant's preferred alternative.

Preferred Alternative

This alternative is a combination of combination of the water provision alternative, preferred access alternative, preferred sewage services alternative and the preferred lay-out alternative.

This entails the development of a residential development on a portion of the Remainder of Farm Zandhoogte 138 south of the R102 (MR344) to enable a development consisting of:

- Approximately 160x General Residential Zone I erven (group housing)
- Approximately 3x General Residential Zone III erven (flats)
- Approximately 4x Private Open Space erven

- 1x Public Street (Transport Zone II)
- 4x Private Street (Transport Zone III)
- Link services infrastructure, namely water, sewage reticulation, stormwater drainage,
- 11kVA overhead line, will link up with the existing municipal services.
- Upgrade of Impala Avenue (also referred to as Blesbok Road) by expanding with road with a dedicated right turn lane to access the southern portion of the development.

This will require the clearance of more than 1-hectare (but less than 20-hectares) of indigenous vegetation and also the transformation of more than 5 hectares of agricultural land to develop a residential development with its 'associated infrastructure.

The proposed development will be implemented approximate to the site development plan attached to this Environmental Authorisation as Annexure 2).

"No-Go" Alternative

The option of not implementing the activity means that development will be established and none of the impacts, positive or negative, associated with the construction and operation of the development will be experienced.

3. Impact Assessment and Mitigation Measures

3.1 Gradient of the site

A slope analysis was done by Element Engineers, therefore the preferred alternative is proposed at the least steep portion of the study site. According to Element Engineers there is no slope instability on the site. Access off Impala Avenue has been positioned outside of the steepest portion to avoid too much infill for the access to the southern portion. The presence of a protected tree within the road reserve, at the point of new access (to the south) has been noted and a forestry permit will be obtained, should it be required for its removal.

3.2 Activity need and desirability

There is a huge market demand for more affordable, middle-income housing in the Tergniet area. It is the opinion of this Department that the approval of this development will not compromise the integrity of the existing approved and credible municipal IDP and SDF. Furthermore, this Department is also of the notion that the approved alternative is the best practicable environmental solution, taking into

account that it caused the least damage to the environment, at a cost acceptable to society in general.

The proposal is in line with all the major Planning frameworks (Western Cape Spatial Development Framework (PSDF), the Eden District Spatial Development Framework (EDSDF), Mossel Bay Spatial Development Framework (MSDF) and the Mossel Bay Integrated Development Plan (Mossel Bay IDP). The proposal will provide much needed additional housing opportunities in the Little Brak/Reebok and Tergniet area, allowing people to live in close proximity of various tourist attractions in the surrounding area.

3.3 Biophysical Impacts

Impacts on the biophysical environment of the preferred location or property are anticipated. The expected impact on the biophysical environment through the lifecycle of the proposed development is considered to fall within acceptable levels as the establishment of housing on the property could be seen as inevitable. Further to this, the construction phase of the proposed development will require earthworks for the installations of services, construction of internal roads and residential units. The required vegetation clearing will expose soil to wind and erosion, which could potentially result in soil erosion. These activities will increase storm water runoff and potential sedimentation in the watercourse. The risks and impacts associated with the construction can be mitigated to acceptable levels through the implementation of the EMPr construction phase management requirements.

3.4 Biodiversity

The site is transformed and not deemed sensitive from a biodiversity perspective as confirmed by the independent ecologist, botanist and aquatic specialists, who inspected the property as part of this application. Cape Nature has confirmed these findings and, in their comment, stated that the impact of development is expected to be low.

Protected trees that do occur within the western and eastern service servitudes (within the building lines) may be affected with services/fencing through trimming. Detail engineering design will be done to avoid the removal of these two trees which will be incorporated into the open space/landscaped areas. Department of Forestry has been given the opportunity to comment previously. A formal Forestry Permit application will be submitted to the Department in the event that trimming of trees may be required.

The protected tree that occurs within the Impala Road road reserve may be affected with services and expansion of Impala Avenue to create a dedicated right turn lane into the southern portion of the development. Department of Forestry has been given the opportunity to comment previously. A formal

Forestry Permit application will be submitted to the Department in the event that trimming/removal of this tree may be required.

Rare/Endangered species (*Euchaetes albertiniana* approx. 10 plants) occur within the Impala road reserve and may require prior permission from CapeNature for relocation/removal for installation of services/road upgrade. Necessary permit/license to be confirmed by botanist prior to earthworks within the road reserve. Cape Nature has affirmed these findings and, in their comment, stated that the impact of development is expected to be low. In light thereof, this Department is of the opinion that the proposed development will not result in any significant negative impact on the aquatic environment.

3.5 Botanical Impact

The botanical assessment confirmed that the vegetation on the site set aside for development is highly transformed and of little conservation value. The proposed development area does not contain sensitive habitat types (e.g. wetlands) or act as an important ecological corridor. The proposed development area is surrounded by residential areas, with the northern boundary consisting of highly transformed vegetation that is divided by two major road systems.

The only large Milkwood tree present on site grows along the eastern boundary fence and will not be affected by the proposed development. The only threatened plant that may be affected by the proposed development, is *Euchaetes albertiniana* which has a conservation status of Endangered. This population consists of about 10 plants which are located along the road verge of Impala street. According to the specialist, it is unlikely that this population will survive for an extended period, due to the small size of the population, the limited habitat in which it can survive and the rate at which alien species are invading this road verge.

The specialist elaborates that the development of the entire proposed development area will not result in the loss of vegetation of significance to conservation, a significant loss of biodiversity or threaten any important ecological process that sustains the biodiversity of the area. In light thereof, this Department is of the opinion that the proposed development will not result in any significantly negative impact on the botanical environment.

3.6 Faunal Impact

The screening tool highlighted the presence of *Sensitive Species 5*, which is particularly tied to a specific habitat of increasingly diminished dune thicket and coastal forest habitat along the southern and eastern coast of Southern Africa. As mentioned in par. 3.5 above, the development site is entirely transformed and does not contain any thicket vegetation, except for one Milkwood tree that grows along the eastern boundary fence of the site. The only remaining area containing some significant

habitat for Sensitive Species 5 is a small strip along the road bi-secting the proposed site of thicket shrubs - all situated on a relatively steep slope. This small strip is too minor to function as a habitat patch for Sensitive Species 5. After a site inspection, no trace of Sensitive Species 5 was found. This Department is therefore of the opinion that the development proposal will not result in any significantly negative impacts on the faunal environment.

3.7 Aquatic Impact

A site inspection on 3 March 2020 and a specialist compliance statement by Dr James Dabrowski confirmed that the proposed development area does not contain sensitive wetland habitat. The statement further conformed that there are no clear areas of natural drainage on the property and no hydro-geomorphological landscape features indicating the presence of a watercourse (i.e. stream, river or wetland). No hydrophilic wetland plant species were present on site. It can therefore be concluded, with a high degree of confidence, that no freshwater features occur within the footprint of the property.

3.8 Traffic Impact

The Traffic Impact Assessment "TIA" concluded that the proposed can be authorised from a traffic and transportation point of view, subject to the implementation of the following:

a) Right Turn Lane

That a dedicated right turn lane be constructed on the Western Approach to the proposed development. This right turn lane will exclusively serve the motorist wanting to turn right into the Southern Portion of the development. The purpose of the right turn lane to provide access to the Southern Portion, without negatively impacting on the mobility along Impala Street. The right turn lane should be 15m long to allow for at least 3 vehicles to stack within the lane without impacting through movement. Since the current road width at the point of the access is only 6m wide, the right turn should also be approximately 3.4m wide, to compensate for the fact that the overall road width is not optimum. This was incorporated into the preferred alternative and is hereby authorised.

b) Intersection Alignment

The TIA pointed out that access to the Northern and Southern development portions on the initial site development plan looked like they are situated at a slight off-set from each other. It further pointed out that Off-set intersections like these tend to cause confusion among motorists as drivers are not always sure who has the right of way at an off-set intersection. It was therefore recommended that the off-set configuration be changed in order to align both driveways. Since there are sufficient sight distances in both directions, it does not matter whether the Northern Driveway aligns with the

Southern Driveway, or vice versa. These changes were incorporated into the preferred alternative hereby authorised.

c) Intersection of DR1578 and Impala Street

The status Quo analyses of the intersection of DR1578 and Impala Street indicated that the intersection is currently operating above capacity and that the Level of Service (LOS) along the Impala Street Western approach to the intersection is unacceptably poor, which could possibly be attributed to the current MR344 upgrade and its associated traffic accommodation.

The TIA therefore recommended that updated traffic counts be taken at this specific intersection once the MR344 upgrade has been completed and traffic accommodation measures have been removed. The updated traffic counts should be used to analyse the intersection with SIDRA software to ascertain whether the current poor LOS is still prevalent. If the LOS is still unactable, the intersection should undergo the necessary geometric upgrade to improve the Level of Service. Since the poor Status Quo LOS is not as a result of the proposed development, some sort of agreement should be made between the developer of Zandhoogte No. 139 and the local Mossel Bay Municipality, with regards to the cost implications of the possible upgrade. This was incorporated as a condition of approval for this development.

3.9 Heritage / Archaeological Aspects

Heritage Western Cape confirmed that the site is not deemed sensitive and they issued their approval without the need for any further investigations/assessments.

In considering the above, the view is held that the applicant has adequately considered the heritage and archaeological aspects and that the proposed development will not result in significant negative impact on the on these. The competent authority is satisfied that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of the National Heritage Resources Act, 1999 and the comments and recommendations of the relevant heritage resources authority with regard to the proposed development have been taken into account.

3.10 Services

Water

Bulk supply has been reserved for this development since 2007 (prior approvals). Existing municipal water lines run along the MR334 as well as Impala Way. Connecting pipes will vary between 75mm and 110mm diameter. Bulk annual daily demand for the development has been calculated at 149kl/day. Water saving measures such as rainwater tanks (group housing units only), dual flush toilets, low flow shower heads must be installed for all units. The Municipality has confirmed sufficient spare bulk water availability for this development. The existing water supply line feeding Tergniet township from the

existing Municipal reservoir north of the site, must be upgraded to prevent unnecessary pressure/supply constraints.

Sewage

The Municipal MidBrak Sewer upgrades are currently underway. The 250mm main sewer line running through the southern portion of the study site was finalised by May 2021. Household connection lines will be 110mm diameter and main lines will be 160mm diameter. Average daily flow for the proposed development is calculated at 138kl/day. The municipal system pumps sewage to the Great Brak Wastewater Treatment Works (WWTW). The WWTW is due for upgrade as part of the MidBrak Sewer upgrade and works will be finished by June 2023. The development can link to Municipal infrastructure by this time. Should occupation of phase 1 be earlier than June 2023 (not planned as such) the Municipality has advised that on-site conservancy/holding tanks be provided similar to the remainder of Tergniet.

Solid Waste

On-site collection points are provided as part of the proposal for each portion. Waste will be collected by the Municipality as part of the greater Tergniet collection. Construction waste will be handled at the designated Great Brak site. The Municipality has confirmed sufficient landfill space at these licensed facilities. Waste management must comply with Directorate Community Services requirements.

Electricity

The estimated capacity load for the development is 630kVA. According to Element Engineers (2019) there is sufficient capacity on the existing 11kV reticulation line to accommodate this load. Nonetheless use will be made of energy saving streetlights, LED in all units, heat/solar pumps or similar to conserve energy. The existing overhead line that runs along the length of the eastern boundary of the study site will be removed and replaced with a 70mm underground cable within the same servitude, along the same alignment. A new 630kVA mini-sub will be installed on the Impala Avenue pavement that will connect to the existing ring main mini-sub that already feeds into the 11kVA line. Connection will be underground within Impala Avenue reserve. The Municipality has confirmed sufficient capacity.

Stormwater

Due to the moderate gradient of the site (especially the southern portion) it is likely that lateral movement of stormwater will be fast and this can liquify silty soils and transport topsoil. A formal system

will be developed consisting of street kerbing, lined channels, stormwater pipes, catchpits and a retention pond in the south-eastern corner of the property. All pipe outlets will be fitted with headwalls and gabion/reno mattresses and energy dissipaters to prevent unwanted erosion. All outlets will be fitted with litter traps which will be the responsibility of the managing agent (body corporate / homeowners association) to clean out to prevent blockages. Each group housing unit must be fitted with rainwater tanks to reduce runoff.

3.11 Other Impacts

No other impacts of significance are anticipated.

Scope and Validity Period of authorisation

The applicant has indicated that the construction activities should be completed within a period of 10 years. The environmental authorisation's validity period has been granted for a period of ten years (10) years, during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring, and submission of the final environmental audit. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase. The Holder is required to substantially implement the proposal within a period of 5-years after the environmental authorisation is issued. Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years.

National Environmental Management Act 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.

Conclusion

After consideration of the information and factors listed above, the Department made the following findings:

- (a) The identification and assessment of impacts are detailed in the amended FBAR received by this Department on 21 October 2021 and sufficient assessment of the key identified issues and impacts have been completed.
- (b) The procedure followed for the impact assessment is adequate for the decision-making process.
- (c) The proposed mitigation of impacts identified and assessed, curtails the identified negative impacts.
- (d) The EMPr proposed mitigation measures for the pre-construction, construction and rehabilitation phases of the development and were included in the FBAR. The mitigation measures will be implemented to manage the identified environmental impact during the construction phase.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with an approved EMPr, the Competent 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 National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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