



**REFERENCE NUMBER:** 16/3/3/5/B4/12/1019/23  
**NEAS REFERENCE NUMBER:** WCP/EIA/AMEND/0000715/2023  
**DATE OF ISSUE:** 8 JUNE 2023

The Board of Directors  
Minprop Property Developers (Pty) Ltd  
276 Main Road

**PAARL**  
7646

**Attention: J. Basson**

Cell: 082 255 3854  
Email: manager@mountaincrest.co

Dear Sir

**APPLICATION FOR AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 25 NOVEMBER 2014 (REFERENCE NO.: E12/2/4/1-B4/11-1035/10), THE APPEAL DECISION ISSUED ON 15 APRIL 2016 (REFERENCE NO.: M3/6/5) AND THE AMENDED APPEAL DECISION DATED 20 APRIL 2021 (REFERENCE NO.: 14/3/1/1/B4/12/0507/21) SUBMITTED IN TERMS OF PART 1 OF CHAPTER 5 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED RETIREMENT VILLAGE ON PORTION 9 OF THE FARM LA TERRA DE LUCQUE NO. 1075 AND FARM LA TERRA DE LUC NO. 1070, FRANSCHHOEK**

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** an amendment of the Environmental Authorisation issued on 25 November 2014 (reference no.: E12/2/4/1-B411-1035/10), the Appeal Decision issued on 15 April 2016 (reference no.: M3/6/5) and the Amended Appeal Decision dated 20 April 2021 (reference no.: 14/3/1/1/B4/12/0507/21), attached herewith, together with the reasons for the decision.
2. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

Digitally signed by  
**Mare-Liez**  
Oosthuizen  
Date: 2023.06.08  
16:07:14 +02'00'

**MS MARE-LIEZ OOSTHUIZEN**

**ACTING DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) S. van der Merwe (Stellenbosch Municipality)

Email: Schalk.vandermerwe@stellenbosch.gov.za

(2) B. Ditcham (Sharples Environmental Consulting cc)

Email: betsy@sescc.net

**REFERENCE NUMBER:** 16/3/3/5/B4/12/1019/23  
**NEAS REFERENCE NUMBER:** WCP/EIA/AMEND/0000715/2023  
**DATE OF ISSUE:** 8 JUNE 2023

## ENVIRONMENTAL AUTHORISATION

**APPLICATION FOR AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 25 NOVEMBER 2014 (REFERENCE NO.: E12/2/4/1-B4/11-1035/10), THE APPEAL DECISION ISSUED ON 15 APRIL 2016 (REFERENCE NO.: M3/6/5) AND THE AMENDED APPEAL DECISION DATED 20 APRIL 2021 (REFERENCE NO.: 14/3/1/1/B4/12/0507/21) SUBMITTED IN TERMS OF PART 1 OF CHAPTER 5 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED RETIREMENT VILLAGE ON PORTION 9 OF THE FARM LA TERRA DE LUCQUE NO. 1075 AND FARM LA TERRA DE LUC NO. 1070, FRANSCHHOEK**

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

### A. DECISION

By virtue of the powers conferred on me by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), I herewith **grant** the amendment of the Environmental Authorisation ("EA") issued on 25 November 2014 (reference no.: E12/2/4/1-B411-1035/10), the Appeal Decision issued on 15 April 2016 (reference no.: M3/6/5) and the Amended Appeal Decision dated 20 April 2021 (reference no.: 14/3/1/1/B4/12/0507/21) in terms of Part 1 of Chapter 5 of the EIA Regulations, 2014 (as amended).

The EA is amended as set out below:

- 1. Title of the cover letter as well as the EA, the Appeal Decision and the amendment Appeal Decision:**  
THE PROPOSED RETIREMENT VILLAGE ON PORTION 9 OF THE FARM LA TERRA DE LUCQUE NO. 1075 AND FARM LA TERRA DE LUC NO. 1070, FRANSCHHOEK

is amended to read:

THE PROPOSED RETIREMENT VILLAGE ON A PORTION OF PORTION 9 OF THE FARM LA TERRA DE LUCQUE NO. 1075 AND A PORTION OF THE REMAINDER OF THE FARM LA TERRA DE LUC NO. 1070, FRANSCHHOEK

- 2. Section A: DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION**

La Luc (Pty) Ltd  
c/o Mr. C. Muller  
P.O. Box 2073  
GEORGE  
6530

Tel: (044) 874 7674  
Fax: (044) 874 0282

The abovementioned applicant is the holder of this environmental authorisation and is hereinafter referred to as "the applicant".

is amended to read:

Minprop Property Developers (Pty) Ltd  
% JJ Basson  
276 Main Road  
PAARL  
7646

Cell: 082 255 3854  
Email: [manager@mountaincrest.co](mailto:manager@mountaincrest.co)

The abovementioned applicant is the holder of this environmental authorisation and is hereinafter referred to as "the applicant".

### **3. Section B: LIST OF ACTIVITIES AUTHORISED**

The first bullet of the project description on page 5 of the EA issued on 25 November 2014 that reads:

The construction of 129 units, of which 91 will be free standing residential units ranging between 80m<sup>2</sup> and 100m<sup>2</sup>, 22 are reserved for row housing ranging between 40m<sup>2</sup> and 70m<sup>2</sup> and 16 will be apartments that are included as part of the administration building and clinic (approximately 2890m<sup>2</sup>), a guard house and refuse facilities.

is amended to read:

The construction of a total of 129 units. Out of these, 91 will be free-standing residential units, ranging in size from 100m<sup>2</sup> to 180m<sup>2</sup>. Additionally, there will be 22 units designated for row housing, with sizes ranging between 40m<sup>2</sup> and 70m<sup>2</sup>. Sixteen (16) units will be integrated into the administration building and clinic, which has an approximate area of 2890m<sup>2</sup>. The project will also include the construction of a guard house and refuse facilities.

### **4. Section C: PROPERTY DESCRIPTION AND LOCATION**

4.1. The listed activities will be undertaken on Portion 9 of the Farm La Terra De Lucque No. 1075 and Farm La Terra De Luc No. 1070, Franschhoek.

is amended to read:

The listed activities will be undertaken on a portion of Portion 9 of the Farm La Terra De Lucque No. 1075 and a portion of the Remainder of Farm La Terra De Luc No. 1070, Franschhoek.

4.2. The following is added to this section:

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

## 5. Section E: CONDITIONS OF AUTHORISATION

### 5.1. Condition 4:

Seven calendar days' notice, in writing, must be given to the competent authority before commencement of construction activities.

- 4.1. The notice must make clear reference to the site details and EIA Reference number given above.
- 4.2. The notice must also include proof of compliance with the following conditions described herein:  
Conditions 2, 3, 13, 19, 20 and 21

is amended to read:

Seven calendar days' notice, in writing, must be given to the competent authority before commencement of construction activities.

- 4.1. The notice must make clear reference to the site details and EIA Reference number given above.
- 4.2. The notice must also include proof of compliance with the following conditions described herein:  
Conditions 8, 13, 19, 20 and 21

### 5.2. Condition 8:

The draft Environmental Management Programme ("EMP") submitted as part of the application for environmental authorisation is hereby approved on condition that the following amendments are made to the EMP, and must be re-submitted to the competent authority prior to the end of the construction phase or within one (1) year from the date of issue of this environmental authorisation, whichever occurs first:

- 8.1. The section of Table 4 of the EMP titled "Impacts to biological aspects-Freshwater Impacts" must be amended to include a Maintenance Management Plan ("MMP"), which specifically applies to Activity 18 of GN No. R. 544. It must address maintenance issues such as the removal of sediment and other causes of blockages such as reeds and other debris, as well as alien clearing and work related to the maintenance of the culverts and other infrastructure, for the water bodies affected by this development.

An application for amendment to the EMP must be submitted to the competent authority if any amendments are to be made to the EMP, other than those mentioned above, and this may only be implemented once the amended EMP has been authorised by the competent authority.

The EMP must be included in all contract documentation for all phases of implementation.

is amended to read:

The draft Environmental Management Programme ("EMP") submitted as part of the application for environmental authorisation must be amended as set out below, and must be re-submitted to the competent authority within 3 months from the date of issue of this amended environmental authorisation:

- 8.1 The section of Table 4 of the EMP titled "Impacts to biological aspects-Freshwater Impacts" must be amended to include a Maintenance Management Plan ("MMP"), which specifically applies to Activity 19 of GN No. R. 327. It must address maintenance issues such as the removal of sediment and other causes of blockages such as reeds and other debris, as well as alien clearing and work related to the maintenance of the culverts and other infrastructure, for the water bodies affected by this development.
- 8.2 The EMP must include the correct property and project description.



An application for amendment to the EMP, other than those mentioned above, must be done in accordance with Regulations 35 to 37 of the EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.

6. The following annexures are added to the EA issued on 25 November 2014:

**6.1. ANNEXURE 1: LOCALITY MAP**

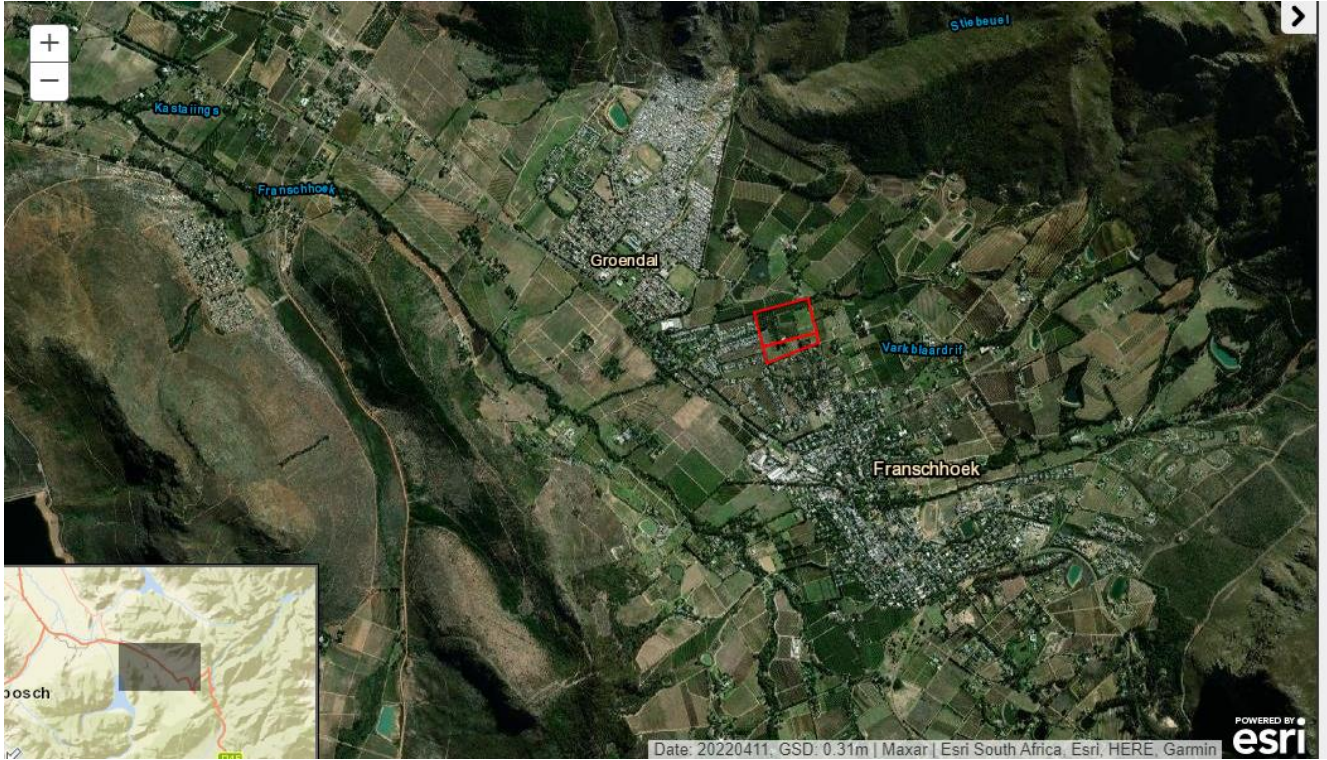


Figure 1: Location of the proposed development indicated by the red outlines.

**6.2. ANNEXURE 2: SITE DEVELOPMENT PLAN:**

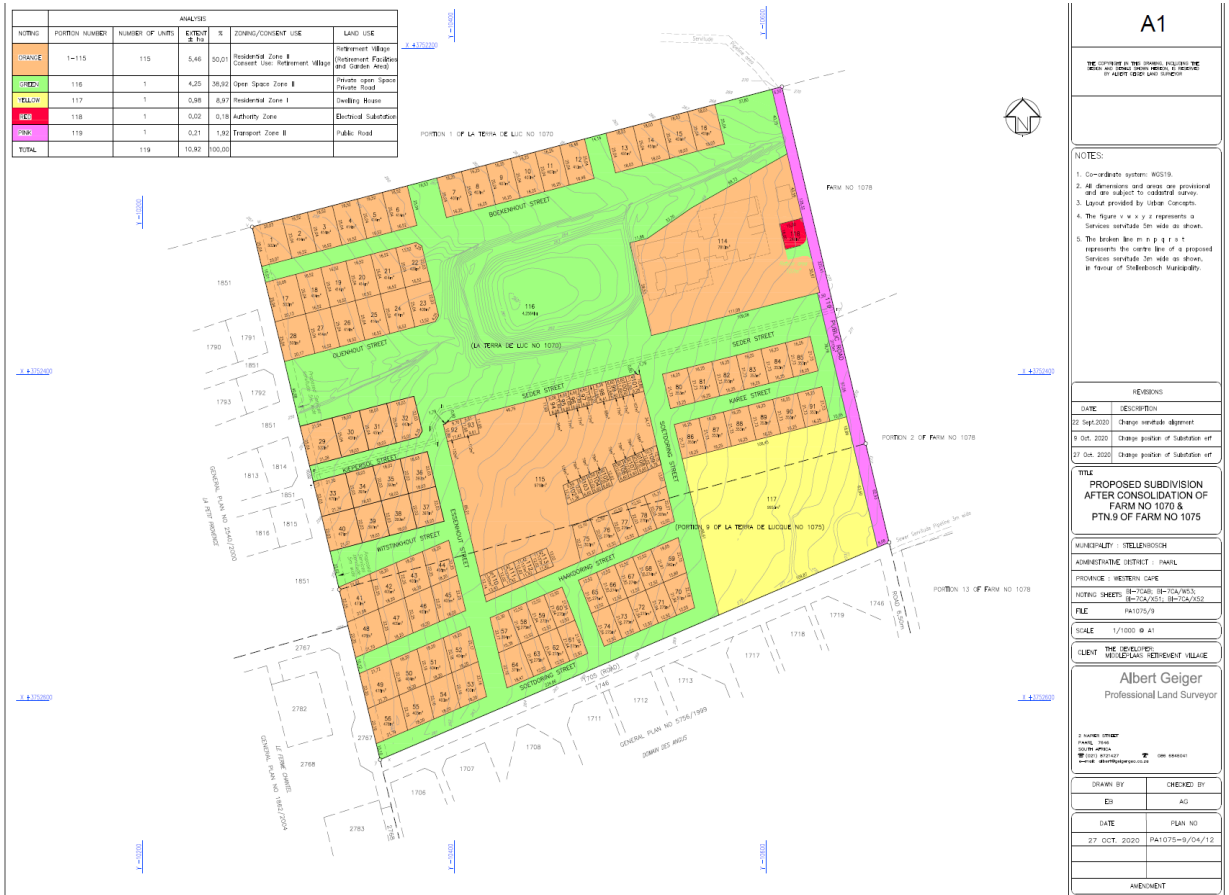


Figure 2: Site Development Plan indicating the area where the retirement village is proposed on a portion of Portion 9 of the Farm La Terra De Lucque No. 1075 and a portion of the Remainder of Farm La Terra De Luc No. 1070, Franschhoek. The yellow block referred to as Erf No. 117 is excluded from the development area.

**7. The following amendments are made to ANNEXURE 1: REASONS FOR THE DECISION**

**7.1 ANNEXURE 1: REASONS FOR THE DECISION**

is amended to read:

ANNEXURE 3: REASON FOR THE DECISION

**7.2 The first bullet in Alternative D (Herewith Authorised) under Point 3. Alternatives:**

The construction of 129 units, of which 91 will be free standing residential units ranging between 80m<sup>2</sup> and 100m<sup>2</sup>, 22 are reserved for row housing ranging between 40m<sup>2</sup> and 70m<sup>2</sup> and 16 will be apartments that are included as part of the administration building and clinic (approximately 2890m<sup>2</sup>), a guard house and refuse facilities.

is amended to read:

The construction of a total of 129 units. Out of these, 91 will be free-standing residential units, ranging in size from 100m<sup>2</sup> to 180m<sup>2</sup>. Additionally, there will be 22 units designated for row housing, with sizes ranging between 40m<sup>2</sup> and 70m<sup>2</sup>. Sixteen (16) units will be integrated into the administration building and clinic, which has an approximate area of 2890m<sup>2</sup>. The project will also include the construction of a guard house and refuse facilities.

7.3 The reference in Points 4.2, 4.3, 4.4 and 4.5 under point 4. Impact Assessment and mitigation measures, which refer to:

the EMP (accepted in Section E, Condition 8)

is amended to read:

the EMP (to be amended as per Condition 8)

## **B. REASONS FOR THE DECISION**

In reaching its decision, the Department took, inter alia, the following into consideration:

1. The amendment applied for is in terms of Part 1 of Chapter 5 of the NEMA EIA Regulations, 2014 (as amended) and will not change the scope of the EA issued on 25 November 2014 (reference no.: E12/2/4/1-B411-1035/10), the Appeal Decision issued on 15 April 2016 (reference no.: M3/6/5) and the Amended Appeal Decision dated 20 April 2021 (reference no.: 14/3/1/1/B4/12/0507/21).
2. The amendment does not trigger any new listed activities in terms of the NEMA EIA Regulations, 2014 (as amended) (Listing Notices 1, 2 and 3 in Government Gazette No. 40772 of 7 April 2017) promulgated in terms of the NEMA.
3. The amendment will not result in an increased level or nature of the impacts that were considered and assessed during the initial application for EA.
4. The erf sizes were incorrectly indicated in the EA issued on 25 November 2014. The typographical error in the relevant sections of the EA issued on 25 November 2014 is rectified as part of this amendment application.
5. A portion of Portion 9 of the Farm La Terra de Luc No. 1075 and a portion of the Remainder of the Farm La Terra de Luc No. 1070 have been sold by the owner to Minprop Property Developers (Pty) Ltd., who will implement the approved development on the aforementioned properties.
6. The environment and the rights and interests of interested and affected parties ("I&APs") will not be adversely affected by the decision to amend the EA.

## **C. CONDITIONS**

1. All other conditions contained in the EA issued on 25 November 2014 (reference no.: E12/2/4/1-B411-1035/10), the Appeal Decision issued on 15 April 2016 (reference no.: M3/6/5) and the Amended Appeal Decision dated 20 April 2021 (reference no.: 14/3/1/1/B4/12/0507/21) (Attached as Annexure A), remain unchanged and in force.

## D. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

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 address listed below:

By post:                      Western Cape Ministry of Local Government, Environmental Affairs and  
Development Planning  
Private Bag X9186  
CAPE TOWN  
8000; or

By facsimile:              (021) 483 4174; or

By hand:                      Attention: Mr Marius Venter (Tel: 021 483 2659)  
Room 809  
8<sup>th</sup> 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 DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 2659, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

## E. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this EA 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

**Mare-Liez**  
**Oosthuizen**

Digitally signed by  
Mare-Liez  
Oosthuizen  
Date: 2023.06.08  
16:08:15 +02'00'

**MS MARE-LIEZ OOSTHUIZEN**

**ACTING DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE OF DECISION: 8 JUNE 2023

CC: (1) S. van der Merwe (Stellenbosch Municipality)  
(2) B. Ditcham (Sharples Environmental Consulting cc)

Email: Schalk.vandermerwe@stellenbosch.gov.za  
Email: betsy@sesc.net

## **ANNEXURE A**

**ENVIRONMENTAL AUTHORISATION ISSUED ON 25 NOVEMBER 2014  
(REFERENCE NO.: E12/2/4/1-B4/11-1035/10), THE APPEAL DECISION ISSUED  
ON 15 APRIL 2016 (REFERENCE NO.: M3/6/5) AND THE AMENDED APPEAL  
DECISION DATED 20 APRIL 2021 (REFERENCE NO.: 14/3/1/1/B4/12/0507/21)**





**EIA REFERENCE NUMBER** : E12/2/4/1-B4/11-1035/10  
**EXEMPTION REFERENCE NUMBER** : E12/2/4/5-B4/11-1010/10  
**ENQUIRIES** : D'mitri Matthews  
**DATE OF ISSUE:** 2014 -11- 2 5

The Board of Directors  
La Luc (Pty) Ltd  
PO Box 2073  
**GEORGE**  
6530

**Attention: Mr. C. Muller**

Tel: (044) 874 7674  
Fax: (044) 874 0282

Dear Sir

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION AND EXEMPTION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT AMENDMENT REGULATIONS, 2010: THE PROPOSED RETIREMENT VILLAGE ON PORTION 9 OF THE FARM LA TERRA DE LUCQUE NO. 1075 AND FARM LA TERRA DE LUC NO. 1070, FRANSCHHOEK**

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

### **ENVIRONMENTAL AUTHORISATION AND EXEMPTION**

#### **DECISION**

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Amendment Regulations, 2010, ("NEMA EIA Regulations") the competent authority herewith **grants environmental authorisation and exemption** to the applicant to undertake the list of activities specified in section B below with respect to Alternative D described in the Basic Assessment Report ("BAR") dated 25 August 2014.

The applicant is herewith exempted from the following provisions of the NEMA EIA Regulations:

Regulation 10(2)(d) of Government Notice No. R.543, which reads as follows:

10(2) *The applicant must, in writing, within 12 days of the date of the decision of the application*

*(d) publish a notice –*

*(i) informing interested and affected parties of the decision;*

*(ii) informing interested and affected parties where the decision can be accessed; and*

*(iii) drawing the attention of interested and affected parties to the fact that an appeal may be lodged against the decision in terms of Chapter 7 of these Regulations, if such appeal is available under the circumstances of the decision,*

*in the newspapers contemplated in regulation 54(2)(c) and (d) and which newspaper was used for the placing of advertisements as part of the public participation process.*

The granting of this environmental authorisation and exemption (hereinafter referred to as the Environmental Authorisation ("EA")) is subject to compliance with the conditions set out in section E below.

#### **A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION**

La Luc (Pty) Ltd  
c/o Mr. C. Muller  
P. O. Box 2073  
**GEORGE**  
6530

Tel: (044) 874 7674

Fax: (044) 874 0282

The abovementioned applicant is the holder of this environmental authorisation and is hereinafter referred to as "the applicant".

#### **B. LIST OF ACTIVITIES AUTHORISED**

Government Notice No. R544 of 18 June 2010 –

Activity Number: 11

The construction of:

*(i) canals;*

*(ii) channels;*

*(iii) bridges;*

*(iv) dams;*

*(v) weirs;*

*(vi) bulk storm water outlet structures;*

*(vii) marinas;*

*(viii) jetties exceeding 50 square metres in size;*



- (ix) slipways exceeding 50 square metres in size;
- (x) buildings exceeding 50 square metres in size; or
- (xi) infrastructure or structures covering 50 square metres or more

where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.

Activity Number: 18

The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from:

- (i) a watercourse;
- (ii) the sea;
- (iii) the seashore;
- (iv) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever distance is the greater

but excluding where such infilling, depositing, dredging, excavation, removal or moving;

- (a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or
- (b) occurs behind the development setback line.

Activity Number: 23

The transformation of undeveloped, vacant or derelict land to –

- (i) residential, retail, commercial, recreational, industrial or institutional use, inside an urban area, and where the total area to be transformed is 5 hectares or more, but less than 20 hectares, or
- (ii) residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares; -

except where such transformation takes place –

- (i) for linear activities; or
- (ii) for purposes of agriculture or afforestation, in which case Activity 16 of Notice No. R. 545 applies.

Activity Number: 39

The expansion of

- (i) canals;
- (ii) channels;
- (iii) bridges;
- (iv) weirs;
- (v) bulk storm water outlet structures;
- (vi) marinas;

within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, where such expansion will result in an increased development footprint but excluding where such expansion will occur behind the development setback line.

In terms of GN No. R. 546 of 18 June 2010 –

Activity Number: 16

The construction of:

- (i) jetties exceeding 10 square metres in size;
- (ii) slipways exceeding 10 square metres in size;
- (iii) buildings with a footprint exceeding 10 square metres in size; or
- (iv) infrastructure covering 10 square metres or more

where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.

**(d) In Western Cape:**

- i. In an estuary;
- ii. Outside urban areas, in:
  - (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
  - (bb) National Protected Area Expansion Strategy Focus areas;
  - (cc) World Heritage Sites;
  - (dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;
  - (ee) Sites or areas identified in terms of an International Convention;
  - (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;
  - (gg) Core areas in biosphere reserves;
  - (hh) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;
- (ii) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined.
- iii. Inside urban areas:
  - (aa) Areas zoned for use as public open space;
  - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;
  - (cc) Areas seawards of the development setback line or within 100 metres of the high water mark where no setback line.

Activity Number: 24

The expansion of

- (a) jetties where the jetty will be expanded by 10 square metres in size or more;
- (b) slipways where the slipway will be expanded by 10 square metres or more;
- (c) buildings where the buildings will be expanded by 10 square metres or more in size; or
- (d) infrastructure where the infrastructure will be expanded by 10 square metres or more

where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.

**(d) In Western Cape**

- i. In an estuary;
- ii. Outside urban areas, in:
  - (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
  - (bb) National Protected Area Expansion Strategy Focus areas;
  - (cc) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;
  - (dd) Sites or areas identified in terms of an International Convention;
  - (ee) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;
  - (ff) Core areas in biosphere reserves;
  - (gg) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;
  - (hh) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined.

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

The applicant is herein authorised to undertake the following alternative related to the listed activities:

This alternative entails establishing a retirement village, which will include:

- The construction of 129 units, of which 91 will be free standing residential units ranging between 80m<sup>2</sup> and 100m<sup>2</sup>, 22 are reserved for row housing ranging between 40m<sup>2</sup> and 70m<sup>2</sup> and 16 will be apartments that are included as part of the administration building and clinic (approximately 2890m<sup>2</sup>), a guard house and refuse facilities.
- The existing dam will be retained and restored. The spillway of the dam will be lowered by 2m, and this will cause the spillway to shift from the south eastern corner of the dam to the south western corner of the dam.
- The stream will be widened to 8m in width to align with the existing stream width at La Petite Provence. The stream bank and dam will be vegetated with indigenous riparian vegetation and the stream bed with indigenous aquatic vegetation. Armoflex and Armoflex blocks will be used to line the spillway channel (downstream of the spillway) to help stabilise the slopes and act as an energy dissipater to help mitigate against erosion.
- A bridge will be constructed upstream of the dam to gain vehicular access to the northern portion of the site. A pedestrian bridge will be constructed downstream of the dam.
- The removal of the culvert under the Dirkie Uys river crossing and the replacement thereof with seven 1,8m x 1,8m culverts.
- The removal of the 900mm pipe culverts (pedestrian crossing) at the boundary of the site and La Petite Provence and replacing this crossing with a galvanized steel walkway bridge with a handrail that is approximately 1,5m high.

- In certain places it proposed to construct permeable pavements and infiltration trenches. Runoff from the roofs of the houses will be diverted to soakaways.
- The 5m buffer between La Petite Provence and the development will be planted with trees and shrubs. The formal open spaces will include a treed entrance that will be defined by low "werf" walls, a main formal space at the historical homestead and the north western corner of the site that will consist of agricultural remnants. All large trees associated with the homestead will be retained, as well as the treed wind breaks located along the northern and southern boundaries.

### C. PROPERTY DESCRIPTION AND LOCATION

The listed activities will take place on Portion 9 of the Farm La Terra de Lucque No. 1075 and Farm La Terra de Luc No. 1070, Franschhoek.

The SG 21 digit codes are: C05500000000107500009  
C05500000000107000000

Co-ordinates:                      33°    53'    54.49" South  
   19°    06'    46.69" East

hereinafter referred to as, "the site".

### D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Sharples Environmental Services cc  
c/o Ms. Lauren Jansen  
P. O. Box 443

#### **MILNERTON**

7435

Tel: (021) 554 5195

Fax: (086) 575 2869

### E. CONDITIONS OF AUTHORISATION

1. This environmental authorisation is valid for a period of **five years** from the date of issue. 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 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.
2. The listed activities, including site preparation, may not commence within 20 (twenty) calendar days of the date of issue of this environmental authorisation. In the event that an appeal notice and subsequent appeal is

lodged with the competent authority, the effect of this environmental authorisation is suspended until such time as the appeal is decided.

3. The applicant must in writing, within 12 (twelve) calendar days of the date of this decision and in accordance with regulation 10(2)–
  - 3.1 notify all registered interested and affected parties of –
    - 3.1.1 the outcome of the application;
    - 3.1.2 the reasons for the decision as included in Annexure 1;
    - 3.1.3 the date of the decision; and
    - 3.1.4 the date of issue of the decision;
  - 3.2 draw the attention of all registered interested and affected parties to the fact that an appeal may be lodged against the decision in terms of Chapter 7 of the Environmental Impact Assessment Amendment Regulations, 2010 detailed in section F below;
  - 3.3 draw the attention of all registered interested and affected parties to the manner in which they may access the decision, and
  - 3.4 Provide the registered Interested and Affected Parties with:
    - 3.4.1 The name of the holder (entity) of this Environmental Authorisation,
    - 3.4.2 name of the responsible person for this Environmental Authorisation,
    - 3.4.3 postal address of the holder,
    - 3.4.4 telephonic and fax details of the holder,
    - 3.4.5 e-mail address if any.
4. Seven calendar days notice, in writing, must be given to the competent authority before commencement of construction activities.
  - 4.1. The notice must make clear reference to the site details and EIA Reference number given above.
  - 4.2. The notice must also include proof of compliance with the following conditions described herein:

Conditions: 2, 3, 13, 19, 20 and 21
5. The holder is 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.
6. Any changes to, or deviations from the scope of the description set out 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 such information as it deems necessary 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.



7. The applicant must notify the competent authority in writing, within 24 hours thereof if any condition herein stipulated is not being complied with.
8. The draft Environmental Management Programme ("EMP") submitted as part of the application for environmental authorisation is hereby approved on condition that the following amendments are made to the EMP, and must be re-submitted to the competent authority prior to the end of the construction phase or within one (1) year from the date of issue of this environmental authorisation, whichever occurs first:
  - 8.1. The section of Table 4 of the EMP "titled "Impacts to biological aspects-Freshwater Impacts" must be amended to include a Maintenance Management Plan ("MMP"), which specifically applies to Activity 18 of GN No. R. 544. It must address maintenance issues such as the removal of sediment and other causes of blockages such as reeds and other debris, as well as alien clearing and work related to the maintenance of the culverts and other infrastructure, for the water bodies affected by this development.

An application for amendment to the EMP must be submitted to the competent authority if any amendments are to be made to the EMP, other than those mentioned above, and this may only be implemented once the amended EMP has been authorised by the competent authority.

The EMP must be included in all contract documentation for all phases of implementation.

9. A copy of the environmental authorisation, the EMP and the MMP must be kept at the site where the listed activities will be undertaken. Access to the site referred to in section C above must be granted and, the environmental authorisation, EMP and MMP 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. The environmental authorisation, EMP and MMP must also be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.
10. The applicant must submit an application for amendment of the environmental authorisation to the competent authority where any detail with respect to the environmental authorisation must be amended, added, substituted, corrected, removed or updated, save that such application for amendment shall not include the personal details of the holder of the environmental authorization. Where any of the applicant's contact details change, the physical or postal address and/ or telephonic details, the applicant must notify the competent authority in writing as soon as the new details become known to the applicant as follows:
  - 10.1. The applicant must submit an originally signed notification to the competent authority stating that he/she wishes the rights and obligations contained herein to be transferred, and including (a) confirmation that the environmental authorisation is still in force (i.e. that the validity period has not yet expired or the activity/ies was/were lawfully commenced with); (b) the contact details of the person who will be the new holder; (c) the reasons for the transfer; (d) an originally

signed letter from the proposed new holder acknowledging the rights and obligations contained in the environmental authorisation and indicating that he/she has the ability to implement the mitigation and management measures and to comply with the stipulated conditions.

- 10.2. The competent authority will issue a written confirmation to confirm the transfer if the transfer is found to be appropriate.
11. Non-compliance with a condition of this environmental authorisation or EMP may result in suspension of this environmental authorisation and may render the holder liable for criminal prosecution.
12. Notwithstanding this environmental authorisation, the holder must comply with any other statutory requirements that may be applicable to the undertaking of the listed activities.
13. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, for the construction phase of implementation before commencement of any land clearing or construction activities to ensure compliance with the EMP and the conditions contained herein.
14. An integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a landfill licensed in terms of the applicable legislation.
15. No surface or ground water may be polluted due to any actions on the site. The applicable requirements with respect to relevant legislation pertaining to water must be met.
16. The applicable requirements with respect to relevant legislation pertaining to occupational health and safety must be adhered to.
17. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains include: archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings; shipwrecks; and graves or unmarked human burials.  
  
A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.
18. Effluent discharge from the site can only take place after the upgrade of the Wemmershoek Wastewater Treatment Works ("WWTW") is completed and upon written confirmation from the Municipality that the WWTW is ready to

accept effluent. A copy of the written confirmation must be submitted to the Department before operation.

19. A landscaping plan must be submitted to the local municipality for approval, prior to the start of construction activities.
20. A detailed architectural design report that incorporates the Design Proposal (section 4) in the Heritage Statement and Design Framework must be submitted to the local municipality and to Heritage Western Cape for approval prior to the start of construction activities.
21. The older buildings that are to be retained and restored in accordance with a Section 34 permit application process must be submitted to Heritage Western Cape for approval prior to the start of construction activities.

## **F. APPEALS**

Appeals must comply with the provisions contained in Chapter 7 of the NEMA EIA Regulations.

1. An appellant must –

- 1.1. submit a notice of intention to appeal to the Minister, within 20 (twenty) calendar days of the date of the decision;
  - 1.1.1 If the appellant is an applicant, the appellant must provide each person and organ of state which was a registered interested and affected party in relation to the applicant's application, within 10 days of having submitted the notice with the Minister, with—
    - (a) a copy of the notice lodged with the Minister; and
    - (b) a notice indicating that the appeal submission will be made available on the day of lodging it with the Minister and where and for what period the appeal submission will be available for inspection by such person or organ of state.
  - 1.1.2 If the appellant is a person other than an applicant, the appellant must provide the applicant, within 10 days of having lodged the notice with the Minister, with—
    - (a) a copy of the notice lodged with the Minister and
    - (b) a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
- 1.2. submit the appeal within 30 (thirty) calendar days after the lapsing of the 20 (twenty) calendar days contemplated in regulation 60(1), for the submission of the notice of intention to appeal; and
- 1.3 that a responding statement may be made on the appeal within 30 (thirty) calendar days from the date the appeal submission was lodged with the Minister and
- 1.4 if a respondent introduces any new information not dealt with in the appeal submission of the appellant, the appellant is entitled to submit an answering



statement to such new information to the Minister within 30 days of receipt of the responding statement.

2. A person, organ of state or applicant who submits a responding or answering statement in terms of regulation 63 must within 10 (ten) calendar days of having submitted the responding or answering statement, serve a copy of the statement on the other party.
3. All notice of intention to appeal and appeal forms must be submitted in hard copy by means of one of the following methods:

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: Attention: Mr Jaap de Villiers (Tel: 021-483 3721)  
Room 809  
8<sup>th</sup> Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

**PLEASE NOTE: NO** appeal, responding and answering statement may be lodged by e-mail.

4. A prescribed notice of intention to appeal form and appeal form as well as assistance regarding the appeal processes is obtainable from the office of the Minister at: Tel. (021) 483 3721, E-mail [Jaap.DeVilliers@westerncape.gov.za](mailto:Jaap.DeVilliers@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.

#### **G. 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. HENRI FORTUIN**  
**DIRECTOR: LAND MANAGEMENT (REGION 1)**

DATE OF DECISION: 25-11-14

Copied to: (1) Ms. L. Jansen (Sharpley Environmental Services cc)  
(2) Mr. B. de la Bat (Stellenbosch Municipality)

Fax: (086) 575 2869  
Fax: (021) 883 9874

EIA REFERENCE NUMBER: E12/2/4/1-B4/11-1035/10

Page 11 of 20

EXEMPTION REFERENCE NUMBER: E12/2/4/5-B4/11-1010/10

**FOR OFFICIAL USE ONLY:**

<b>EIA REFERENCE NUMBER:</b>	<b>E12/2/4/1-B4/11-1035/10</b>
<b>NEAS EIA REFERENCE NUMBER:</b>	<b>WCP/EIA/0000416/2011</b>
<b>EXEMPTION REFERENCE NUMBER:</b>	<b>E12/2/4/5-B4/11-1010/10</b>
<b>NEAS EIA REFERENCE NUMBER:</b>	<b>WCP/EIA/EX/0000025/2012</b>

**ANNEXURE 1: REASONS FOR THE DECISION**

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

- a) The information contained in the application form dated 6 October 2010 and the EMP submitted together with the amended Final Basic Assessment Report dated 25 August 2014;
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation, Alternatives and Exemption (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 interested and affected parties and the responses provided thereon, as included in the amended Final Basic Assessment Report dated 25 August 2014;
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.

No site visits were conducted. The competent authority had sufficient information before it to make an informed decision without conducting a site visit.

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

**1. Exemption**

Exemption from regulation 10(2)(d) was granted since the registered interested and affected parties will be notified of the decision on the application. All I&AP's were notified of the exemption application, as required. No significant concerns were raised by I&AP's in this regard.

As such, the exemption application was regarded as appropriate by the competent authority in this instance based on the adequate public participation process and since no objection was submitted with respect to the exemption application.

**2. Public Participation**

An EIA Process for this proposed retirement village was previously submitted to the Department in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), however, this application was withdrawn in 2005. The second application process

commenced in June 2010 under the National Environmental Management Act ("NEMA"), 1998, as amended and the Environmental Impact Assessment ("EIA") Regulations, 2006. The Notice of Intent to submit an application for basic assessment was submitted to the Department, but was subsequently withdrawn when the NEMA EIA Regulations, 2010 came into effect. Deviation from the public participation process steps that were undertaken during the initial basic assessment process was therefore granted when the new application in terms of the NEMA EIA Regulations, 2010 was received.

The public participation process for the current application included the following:

- A public open day was held with the representatives of Franschoek Valley Conservation on 3 June 2010.
- An advertisement was placed in the "Eikestadnuus", newspaper on 18 June 2010, in the "Franschoek Tatler" and in the "Franschoek Valley Month" newspapers on 1 July 2010.
- Placement of site notices on 19 June 2010.
- The draft BAR was made available for comment for a period of 40 days from 24 February 2011.
- The final BAR was made available to registered I&AP's for comment for a period of 21 days on 7 September 2012.
- The amended final BAR was made available for comment to registered I&AP's for a period of 21 days on 12 September 2013.
- The second amended final BAR was made available to registered I&AP's for comment for a period of 21 days on 25 August 2014.

The following issues were raised during the PPP and addressed by the Environmental Assessment Practitioner.

Comments	Responses
<b>Traffic</b>	
A Traffic Impact Assessment is required.	A Traffic Impact Assessment was undertaken by ITS Consulting Engineers, who provided design proposals conforming to required standards.
Access through Dirkie Uys Street is currently 6.5m, and needs to be upgraded to be at least class 5A with a 13m road reserve.	Access through Dirkie Uys Street will be at least 13m wide, which will include a pedestrian sidewalk. Only a 90m section of the road in front of the school and the historic building will have an 8,5m road reserve. An assessment was undertaken to ascertain if the 90m portion can accommodate the expected traffic flows. The report concluded that subject to the implementation of certain recommendations, the additional traffic during construction and operation can be accommodated. These recommendations have been included in the EMP.
Safety issues regarding the pedestrians from the primary school that will result from the increase in traffic during the construction and operational phases.	The aforementioned assessment took into account the risk to pedestrians and scholars. All the recommendations of the assessment will be put in place by the developer to reduce the safety risk to the

	<p>pedestrians and scholars E.g. the developer will upgrade the 90m section of the road from the school gate to the historic building. Appropriate warning signs will be erected, reduced speed restrictions will be implemented, a sidewalk on the western section of Dirkie Uys street will be provided and there will be pedestrian crossings and a raised platform at the start and end of the 90m section to further reduce the operating speed within that vicinity. The recommendations have been included in the Environmental Management Programme ("EMP") and will be implemented.</p>
<b>Environmental</b>	
<p>Vegetation and landscaping concepts should make use of naturally occurring indigenous vegetation. Tree lanes are suggested as part of the landscaping.</p>	<p>Landscaping on site will consist of naturally occurring indigenous vegetation and fynbos. The beefwood trees currently on site will however be retained to buffer the development and reduce the visual impact.</p>
<p>CapeNature indicated that the stream on site has ecological value. It was recommended that all development must be set back at least 30m from the stream. Riparian areas are to be rehabilitated and may need to involve a freshwater specialist.</p>	<p>Freshwater specialists were involved in the previous assessment for a similar proposal on the property. Recommendations were provided regarding stormwater management as well as the proximity of structures to the stream, these recommendations have been considered in the current proposal. A Floodline Analysis Report was also undertaken with respect to the potential for on site flooding and the recommendations provided in the Floodline Analysis Report concluded that in order to contain the 50 year floodline it is necessary to manipulate the stream's current functioning by increasing the flow capacity of the stream. Furthermore, buffer areas along the stream ranges from 5 to 10m in certain places.</p>
<p>Possible increase in downstream flooding at the La Petite Provence Estate.</p>	<p>The river on the development side will be widened to the width of the river on La Petite Provence. The proposed development includes several flood risk mitigation measures which will reduce the existing risk on the site and at the La Petite Provence Estate.</p>
<b>Land-Use and Planning</b>	
<p>Stellenbosch Municipality indicated that the layout proposal looks busy and the density should be less than 10 units per hectare.</p>	<p>The layout has been amended and the density is in line with the Franschhoek Spatial Development Plan. The proposed density is 13 units per hectare, which is half</p>

	the density for urban development within the urban edge (25 units/ha).
<b>Architecture and Design</b>	
Development includes double storey units instead of single storey. It is recommended that the houses must have a unified style, not plot and plan.	Homes are single storey. Only clinics and apartments are double storey. An Architectural design report will be submitted to Heritage Western Cape and the municipality for approval before construction commences, to ensure that the development conforms to the surroundings.
No plans have been included for the erven on the southern side of development where the farm house is situated.	The farm house will be sub-divided from the rest of the property and will be retained. No development will take place on this area.
Any future building along the southern boundary is discouraged.	No future building plans along the southern boundary are proposed.
A 7.50m servitude road on the southern boundary of the proposed development was once the historic Wagon Wheels Road. The immediate area is rich in history.	A Heritage Impact Assessment was undertaken and has indicated that the wagon route bisected subdivisions of Portion 6 and those of Portion 9, which included the distillery on Portion 13. This places the road in the vicinity of the present Main Road, which is located a distance from any boundary of the proposed development.
Dirkie Uys Street has a natural restriction at No. 59, which is a historical house of heritage value.	A survey of the Dirkie Uys Street road surface confirms that it is in excess of 4.5 metres wide. The present road width is sufficient for the requirements of this proposal and thus no additional land will need to be acquired for the access route. The historical house will therefore not be impacted.
Heritage Western Cape ("HWC") requested a Heritage Impact Assessment including a Visual Impact Assessment and a study detailing the impacts on the built environment.	An Integrated Heritage Impact Assessment, Visual Impact Assessment and a Heritage Statement and Urban Design Framework was conducted and submitted to HWC and has since been approved by HWC.
<b>Visual Impact and Privacy</b>	
The 5m buffer zone against La Petite Provence is inadequate in view of storm water as well as privacy for properties bordering the fence. There is no screening between the two estates to provide privacy and noise reduction for residents on both sides of the development.	Trees and shrubbery within the buffer area are envisaged for the western boundary to serve as a visual and noise barrier between the development and La Petite Provence. A 5m building line has been accepted by Heritage Western Cape and is the required building line for urban development in an urban area.
<b>Services</b>	
Insufficient capacity for sanitation and sewerage services.	The proposed development will not be allowed to discharge sewage until the



	planned upgrades to the Wemmershoek regional waste water treatment works have been completed. The upgraded WWTW at Wemmershoek does not have the capacity available for the proposed development. The upgrading of the WWTW at Wemmershoek has been authorised and the upgrading has commenced.
Lack of bulk water supply.	The bulk water supply to the proposed development will be from the Wemmershoek water supply line to the existing reservoir. The GLS Report however determined that the existing Franschoek water system has insufficient reservoir storage capacity. It is therefore recommended that the new upper central reservoir will be used in the meantime. The municipality confirmed that the temporary supply option from the existing reservoir will be negotiated with the developer.

Specific management and mitigation measures were taken into consideration in this environmental authorisation and in the EMP, to adequately address the concerns raised.

The Department concurs with the environmental assessment practitioner's responses to the issues raised during the public participation process and has included appropriate conditions in this environmental authorisation.

### 3. Alternatives

During the environmental impact assessment ("EIA") process, various alternatives were considered in terms of housing density, the site layout plan and the type of development. The original proposal was to construct a residential development, however, this option was considered to have more of an impact in terms of vehicular movement and other activities associated with households of working adults with children that attend school. The alternatives described below are the two most feasible alternatives that were assessed during the EIA process.

#### Alternative C

The proposal entails the establishment of a retirement village that will include the following:

- The construction of residential units, which includes 101 houses, 18 apartments that will be linked to the administration building and frail care facility, a guard house and a refuse facility.
- The removal of the in-stream dam and canalising of the unnamed stream (15m wide) that runs across the site and the addition of wetland features on either side of the channel.
- A park and recreational area around the canalized stream.
- The upgrading of the culvert under the Dirkie Uys river crossing to seven box culvert sections of 1,8m x 1,8m each.

- The removal of the two 900mm pipe culverts at the boundary of the site and La Petite Provence.

This alternative is not preferred for the following reasons:

- The stream that traverses the site will be canalised and the dam will be removed, which will have a negative impact on the aquatic features on site and increase the flood risk.
- No provision is made for landscaping within the development, which will increase the visual impact and detract from the sense of place.
- Riparian zones will be negatively impacted.

#### Alternative D ( Herewith Authorised)

This alternative entails establishing a retirement village which will include:

- The construction of 129 units, of which 91 will be free standing residential units ranging between 80m<sup>2</sup> and 100m<sup>2</sup>, 22 are reserved for row housing ranging between 40m<sup>2</sup> and 70m<sup>2</sup> and 16 will be apartments that are included as part of the administration building and clinic (approximately 2890m<sup>2</sup>), a guard house and refuse facilities.
- The existing dam will be retained and restored. The spillway of the dam will be lowered by 2m, and this will cause the spillway to shift from the south eastern corner of the dam to the south western corner of the dam.
- The stream will be widened to 8m in width to align with the existing stream width at La Petite Provence. The stream bank and dam will be vegetated with indigenous riparian vegetation and the stream bed with indigenous aquatic vegetation. Armoflex and Armoflex blocks will be used to line the spillway channel (downstream of the spillway) to help stabilise the slopes and act as an energy dissipater to help mitigate against erosion.
- A bridge will be constructed upstream of the dam to gain vehicular access to the northern portion of the site. A pedestrian bridge will be constructed downstream of the dam.
- The removal of the culvert under the Dirkie Uys river crossing and the replacement thereof with seven 1,8m x 1,8m culverts.
- The removal of the 900mm pipe culverts (pedestrian crossing) at the boundary of the site and La Petite Provence and replacing this crossing with a galvanized steel walkway bridge with a handrail that is approximately 1,5m high.
- In certain places it proposed to construct permeable pavements and infiltration trenches. Runoff from the roofs of the houses will be diverted to soakaways.
- The 5m buffer between La Petite Provence and the development will be planted with trees and shrubs. The formal open spaces will include a treed entrance that will be defined by low "werf" walls, a main formal space at the historical homestead and the north western corner of the site that will consist of agricultural remnants. All large trees associated with the homestead will be retained, as well as the treed wind breaks located along the northern and southern boundaries.

This alternative is preferred for the following reasons:

- The dam will be retained and the stream will not be canalised, which will lower the impact on the riparian zone and reduces the flood risks to the site and adjacent properties.
- Vineyards will be planted in the north eastern corner and in a central portion of the site to maintain the agricultural urban interface.
- Provision is made for landscaping within the development that will decrease the visual impact and contribute to the aesthetics.
- Provision for a significant greenbelt along the river is incorporated into this alternative.
- The heritage resources on the site will be protected.

#### "No-Go" Alternative

The "no-go" option was considered. It is not preferred because it will not allow for the integration between the Groendal and Franschhoek interface and the full potential of the site will not be realised.

### **4. Impacts, assessment and mitigation measures**

#### 4.1. Activity Need and Desirability

The proposed site is currently used for small agricultural purposes, such as fruit orchards and vineyards, which currently have a low yield. According to the Franschhoek Spatial Development Plan ("SDP"), November 2000, the site is located within the urban edge of Franschhoek and is earmarked for urban development. The property is located between the town of Franschhoek and Groendal and the proposed development is therefore intended to link Franschhoek and Groendal. The density of the proposed development is 13 units/ha, considered to be appropriate in terms of the forward planning for the area. The proposed development provides a sustainable land use option on agricultural land within the urban edge. It will create temporary job opportunities during the construction phase and permanent job opportunities during the operational phase. The development is therefore in line with the Franschhoek SDP, November 2000.

#### 4.2. Biophysical Impacts

According to the Freshwater Impact Assessment dated August 2014, compiled by Kate Snaddon of the Freshwater Consulting Group, the unnamed stream and dam are largely modified. However, the stream still fulfils its function as an ecological corridor between the mountain slopes and river reaches further downstream. Regardless of the level of modification of the corridor, the unnamed stream still allows for the movement of water, fauna and flora. Furthermore, through the implementation of the recommendations of the specialist and the EMP (accepted in Section E, Condition 8), the impacts on aquatic features are rated as being of low significance.

#### 4.3. Traffic Impacts

According to the Traffic Impact Study dated 9 November 2010, compiled by ITS Engineers (Pty) Ltd and the Traffic Planning Report dated April 2013, compiled by SMEC Holdings Limited, the intersections are operating at acceptable levels-of-service during both weekday peak hours. Furthermore, with the recommended upgrades along Dirkie Uys Street and at the various intersections and with the implementation of the EMP (accepted in Section E, Condition 8), the impacts on traffic volumes and road user safety are rated as being of low significance.

#### 4.4. Visual Impacts

According to the Visual Impact Assessment dated 20 June 2014, compiled by Gerhard Erasmus of Urban Concepts (Pty) Ltd, the proposed site is located in the buffer zone between Franschhoek and Groendal. The location also forms the interface between urban development and the agricultural landscape in the valley. However, since the site is located in an area of existing development characterised by treed breaks, hedges and very large trees used for screening, the visual absorption capacity of the development is regarded as being relatively high. Furthermore, with the implementation of the recommendations of the specialists and with the implementation of the EMP (accepted in Section E, Condition 8), the visual impact of the site on the surrounding area is considered to be of moderate significance.



#### 4.5. Heritage Impacts

According to the Heritage Impact Assessment dated July 2014, compiled by Peter Büttgens Architects and Heritage Consultants, the proposed design has integrated the heritage resources on the site and is assessed as being positive. Furthermore, with the implementation of the recommendations of the specialist and the EMP (accepted in Section E, Condition 8), the impact of the proposed development on the landscape is regarded as being of low significance.

In summary, the proposed development is predicted to have both negative and positive impacts.

##### Negative Impacts:

- The proposed retirement village will result in increased noise and dust levels during the construction phase.
- The proposal will have a visual impact.
- There will be a loss of agricultural land.
- The proposal will have an impact on the watercourse on site.

##### Positive impacts:

- The proposed development will result in infill development within the urban edge, thus creating the link between Franschoek and Groendal.
- The landscaping within the development will reduce the visual impact and contribute to the aesthetics and biodiversity on site.
- The roads within the area will be upgraded, thereby improving traffic impacts and decreasing the safety risk for road users.
- The retirement village will provide vital day to day care for elderly people.
- The proposal will provide employment opportunities during the construction phase of the development.

The EMP approved as part of this environmental authorisation addresses these impacts adequately.

## 5. National Environmental Management Act Principles

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

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;

- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

## **6. Conclusion**

In view of the above, the NEMA principles, compliance with the conditions stipulated in this environmental authorisation, and compliance with the EMP, 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.

- Adherence to the NEMA principles,
- Compliance with the conditions stipulated in this environmental authorisation, and
- Compliance with the mitigation measures in the EMP.

**-END-**



M 3/6/5

Mr R S de la Bat  
Van der Spuy and Partners Attorneys  
PO Box 218  
**PAARL**  
7620

Dear Mr de la Bat

**APPEALS LODGED IN TERMS OF SECTION 43 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE DEVELOPMENT OF A RETIREMENT VILLAGE ON PORTION 9 OF THE FARM TERRA DE LUCQUE NO 1070, FRANSCHHOEK**

The appeals against the Environmental Authorisation ("EA") for the above proposed development and your responding statement on behalf of your client, La Luc (Pty) Ltd, refer.

After careful consideration of the appeals, as well as supporting documentation received, I have, in terms of section 43 of the National Environmental Management Act, 1998 ("NEMA") and the 2010 Environmental Impact Assessment ("EIA") Amendment Regulations, decided to dismiss the appeals and confirm the decision of the competent authority granted on 25 November 2014. The abovementioned decision and the conditions under which the authorisation was granted, are still valid and must be complied with. However, Conditions 2 and 3 and section F of the original decision are excluded from this authorisation because it is no longer applicable. Condition 1 is amended to read as follows:-

**Condition 1:**

The activity must commence within a period of five years (5) from the date of this appeal decision. If commencement of the activity does not occur within this period, the Environmental Authorisation lapses and a new application for Environmental Authorisation must be made in order for the activity to be undertaken, unless the holder of the

Environmental Authorisation has lodged a valid application for the amendment of the duration of expiry of this appeal decision before the expiry of this appeal decision, in which case, the validity of this appeal decision is automatically extended from the day before this appeal decision would otherwise have expired until the amendment application for extension is decided (the period of automatic extension). The activities including site preparation, may not commence during the period of automatic extension.

1. The reasons for the confirmation of the aforementioned decision of the delegated officer are listed below and includes responses to the appeal issues:

(i) *The Director erred in accepting that no site visit was required.*

Site photographs were submitted as part of the EIA application and were deemed sufficient in order to make a determination in the matter. Officials from the Department conducted a site inspection on 1 September 2015 and confirmed that the photographs submitted as part of the application were a true reflection of conditions on the site.

(ii) *The pick-up and drop-off of children at the West End Primary School's new parking area with its entrance/exit off Dirkie Uys Street has significantly increased traffic and was not included in the Traffic Statement.*

Future traffic conditions were taken into consideration as the traffic study conducted by ITS Engineers (Pty) Ltd in November 2010 calculated total traffic conditions by escalating the existing traffic volumes, which were deemed acceptable during peak weekday traffic hours with traffic volumes along Dirkie Uys, De Villiers and Uitkyk Streets relatively low during peak hours with no excessive delays and/or queues observed, with a growth rate of 4 percent per annum over a 5 year period. Based on the results of the 2015 background traffic conditions it was determined that traffic conditions would continue to operate acceptably during weekday a.m and p.m peak hours.

(iii) *Erf 1078/2 has been purchased and the new owner intends to establish a dog shelter, whilst Erf 1078/1 has been granted the right to build four additional residential properties on the farm, which will generate unforeseen traffic.*

The intention of the new owner of Erf 1078/2 to establish a dog shelter will have to be considered when application is made for the necessary authorisation(s). The impact of the proposed activity on the surrounding area will be considered before issuing the requisite authorisation(s).

This Department cannot comment on the factors considered by the Municipality in granting authorisation for the construction of four residential properties on E0rf 1078/1.

- (iv) *The widening of Dirkie Uys Street to 13m for approximately 210 metres will require the owners of Erven 1078/1 and 1078/2 to "sacrifice" a 7m verge inside their existing western boundaries for incorporation into the planned 13m road reserve. The owners of the properties have not been consulted in this regard.*

The requirement for the applicant to undertake the widening of the road is a condition of a subdivisional approval by the Municipality. These conditions were also imposed on erven 1078/1 and 1078/2 as conditions of subdivision. All concerns in this regard have to be addressed by the Municipality.

- (v) *The rezoning and subdivision application was not provided.*

The rezoning / subdivision application are separate from the EIA application and was therefore not provided as part of the EIA process.

- (vi) *Failure to include the widening of a portion of Dirkie Uys Street as a condition for granting the EA is an oversight.*

The widening of the road is a condition imposed by the Municipality in terms of a subdivisional approval and the applicant must comply with the condition.

- (vii) *Traffic from the proposed retirement village will diminish the tranquillity and serenity of the environment.*

As indicated in the traffic report, the expected impact of additional vehicles trips from the proposed development on the surrounding road network would be relatively insignificant.

- (viii) *The 120m of Dirkie Uys Street which is proposed to be widened is a private road.*

The status of Dirkie Uys Street and the impact thereof on the proposed widening of the road has to be dealt with by the Municipality.

- (ix) *The proposed retirement village and traffic will negatively affect the saleability of my house.*

Statistical evidence to support this contention is not available; the statement is therefore not based on empirical evidence.

- (x) *Heavy construction vehicles will use Dirkie Uys Street during the construction phase and will cause congestion as vehicles will not be able to pass them on the narrow road.*

The above impact will be limited to the construction phase and will only pose a problem in the short term.

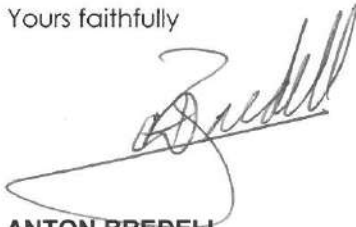
- (xi) *Nuisance caused by noise and fumes from construction vehicles will cause disturbance to residents.*

Any nuisance caused by construction vehicles will be limited to the construction phase and will only pose a problem in the short term.

- (xii) *There are too many units; a reduction in units will reduce the traffic impacts.*

The utilisation of the site as a retirement village ensures that there will be a lower occupancy of residents when compared with other residential developments. In addition, the residents do not need to drive during peak traffic hours and are not required to undertake school runs which would contribute to a greater traffic impact.

Yours faithfully



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

DATE: 15/4/2016

Cc: (1) Sharples Environmental Services  
(2) Directorate: Development Management (Region 1)

Fax: (021)086 575  
Fax: (021) 483 3633





REFERENCE NO: 14/3/1/1/B4/12/0507/21

La Luc (Pty) Ltd  
c/o Ritz de la Bat  
PO Box 218  
**PAARL**  
7620

Tel: (021) 860 1240  
Email: ritz@vdslegal.co.za

Dear Mr de la Bat

**AMENDMENT APPLICATION FOR THE AMENDMENT OF THE APPEAL ENVIRONMENTAL AUTHORIZATION: FOR THE PROPOSED RETIREMENT VILLAGE ON PORTION 9 OF THE FARM LA TERRA DE LUCQUE NO 1075 AND FARM LA TERRA DE LUCQUE NO 1070, FRANSCHHOEK**

1. The Environmental Authorisation ("EA") granted on 25 November 2014, the Appeal EA granted on 15 April 2016, and a compliance monitoring site inspection conducted by officials of the Department of Environmental Affairs & Development Planning on 14 June 2019 and the application for the amendment of the validity period of the Appeal EA dated 17 February 2021, refer.
2. **EMPOWERING PROVISIONS:**  
*Sub-regulation 27(1) of the National Environmental Management Act, 1998 ("NEMA") 2014 Environmental Impact Assessment ("EIA") Regulations (GN R. 326 of 7 April 2017) states that "The competent authority that issued an environmental authorisation has jurisdiction in all matters pertaining to the amendment of that environmental authorisation as long as the environmental authorisation is still valid, provided that the competent authority that issued such environmental authorisation still has jurisdiction in terms of the Act."*
3. **DECISION**  
By virtue of the powers conferred on myself by the NEMA EIA Regulations (GN R. 326 of 7 April 2017), I have decided to grant the amendment/extension of the validity period of the Environmental Authorisation as contained in the decision issued on 15 April 2016 as follows:

**CONDITION E1:**

*"The activity must commence within a period of 5 years from the date of this appeal decision. If commencement of the activity does not occur within this period, the Environmental Authorisation lapses and a new application for Environmental Authorisation must be made in order for the activity to be undertaken, unless the holder of the Environmental Authorisation has lodged a valid application for the amendment of the duration of expiry of this appeal decision*

*before the expiry of this appeal decision, in which case, the validity of this appeal decision is automatically extended from the day before this appeal decision would otherwise have expired until the amendment application for the extension is decided (the period of administrative extension). The activities including site preparation, may not commence during this period of administrative extension."*

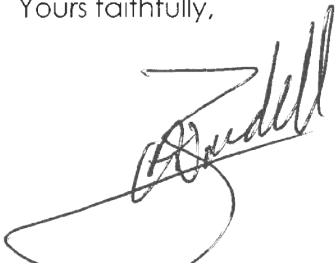
is amended to read as follows:

"This Environmental Authorisation is valid until 14 April 2026. The holder must commence with the listed activities within the said period or the Environmental Authorisation lapses and a new application for Environmental Authorisation must be submitted to the competent authority."

**4. REASONS FOR THE DECISION:**

- 4.1. The proposed amendment is sought as approvals required from the National Department of Agriculture are still being awaited, there is therefore uncertainty as to when the proposed development will be able to proceed. It is unlikely that the approval to be issued prior to the 15 April 2021 expiry of the EA.
- 4.2. The proposed amendment will not change the scope of the valid EA nor increase the level or nature of the impact, which was initially assessed and considered when application was made for the original authorisation.
- 4.3. The proposed amendment will thus not adversely affect the environment and the rights and interest of the other parties, as the amendment only relates to the change in the validity period of the EA for the currently authorised site.
- 4.4. No new negative impacts will result due to this amendment being granted.

Yours faithfully,



ANTON BREDELL

**PROVINCIAL MINISTER OF LOCAL GOVERNMENT,  
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 20/4/2021

Copy to:

Mr L. Barnes (Sharples Environmental Services cc)  
Mr K. Munro (Director: Development Management)

Email: lloyd@sescs.net  
Email: Kobus.Munro@westerncape.gov.za