



**EIA REFERENCE:** 16/3/3/5/B3/28/1055/22  
**NEAS REFERENCE:** WCP/EIA/AMEND/0000655/2022  
**DATE OF ISSUE:** 08 March 2023

The Board of Directors  
Val de Vie Investments (Pty) Ltd  
P. O. Box 6332  
**PAARL**  
7620

**Attention: Mr JD Labuschagne**

Tel.: (021) 863 6100  
Email: jd.labuschagne@valdevie.co.za

Dear Sir

**APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND PART 2 OF THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE AMENDMENT OF THE AMENDED APPEAL ENVIRONMENTAL AUTHORISATION ISSUED ON 6 OCTOBER 2022 (DEA&DP: 16/3/3/5/B3/28/1021/22) FOR THE PEARL VALLEY II DEVELOPMENT ON FARM 1693 AND PORTION 3 OF FARM NO. 826 AND ERVEN 549 AND 550, PAARL (PREVIOUSLY KNOWN AS PORTIONS 3, 6, 8, 9 AND 11 OF FARM NO. 826, PAARL)**

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** the amendment of the amended Appeal Environmental Authorisation issued on 6 October 2022 (DEA&DP Ref: 16/3/3/5/B3/28/1021/22) attached herewith, together with the reasons for the decision in terms of Part 2 of the Environmental Impact Assessment Regulations, 2014 (as amended).
2. In terms of Regulation 4 of the EIA Regulations, 2014, you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. 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

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Cc: (1) Ms E Visagie (GNEC)  
(2) Ms C Winter (Drakenstein Municipality)

Email: eg@gnec.co.za  
Email: Cindy.Winter@drakenstein.gov.za



**EIA REFERENCE:** 16/3/3/5/B3/28/1055/22  
**NEAS REFERENCE:** WCP/EIA/AMEND/0000655/2022  
**DATE OF ISSUE:** 08 March 2023

## ENVIRONMENTAL AUTHORISATION

**APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND PART 2 OF THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE AMENDMENT OF THE AMENDED APPEAL ENVIRONMENTAL AUTHORISATION ISSUED ON 6 OCTOBER 2022 (DEA&DP: 16/3/3/5/B3/28/1021/22) FOR THE PEARL VALLEY II DEVELOPMENT ON FARM 1693 AND PORTION 3 OF FARM NO. 826 AND ERVEN 549 AND 550, PAARL (PREVIOUSLY KNOWN AS PORTIONS 3, 6, 8, 9 AND 11 OF FARM NO. 826, PAARL)**

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 it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Department herewith **grants** the amendment of the amended Appeal Environmental Authorisation issued on 6 October 2022 (DEA&DP: 16/3/3/5/B3/28/1021/22) in terms of Part 2 of the EIA Regulations, 2014 (as amended).

The amended Appeal Environmental Authorisation is amended as set out below:

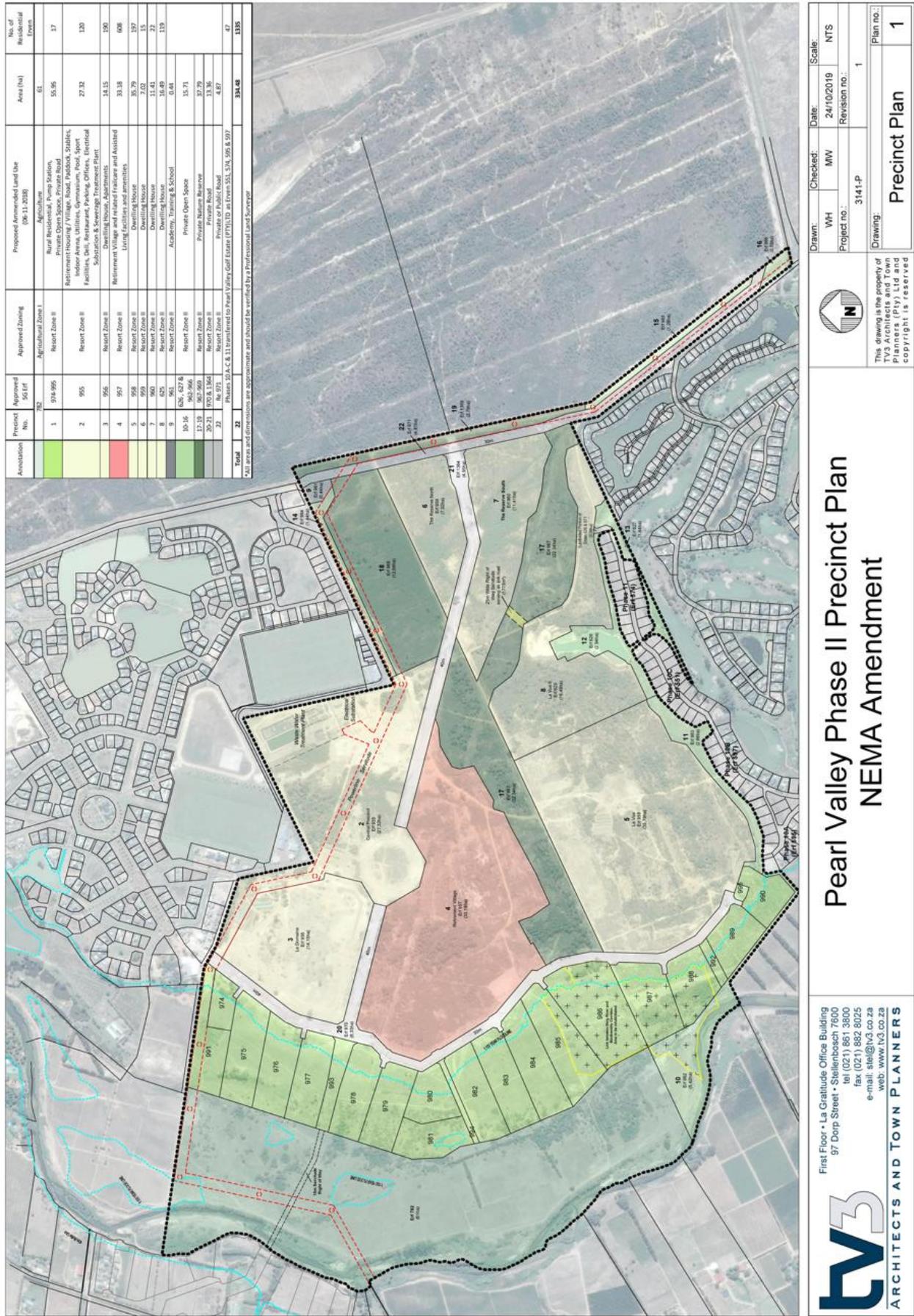
#### 1. Description of the activity:

*"Precinct No. 2 (approximately 13.49ha) containing: Dwelling houses, Road, paddock, stables, nursery, indoor area, chapel, utilities, gymnasium, pool, sport facilities, garages & storage, deli, parking, electrical substation, sewerage treatment plant (Approximately 27.32 ha) "*

#### **is amended to read:**

*Precinct No. 2: containing: Dwelling houses, road, paddock, stables, nursery, indoor area, chapel, utilities, gymnasium, pool, sport facilities, garages & storage, deli, parking, electrical substation, sewerage treatment plant and a Solar Power Plant for renewable energy generation (Approximately 27.32 ha).*

2. The land uses in Precinct No 2. on Erf No. 955, as contained in the following layout plan which informed the 2017 Amended Appeal EA:



**tv3**  
ARCHITECTS AND TOWN PLANNERS

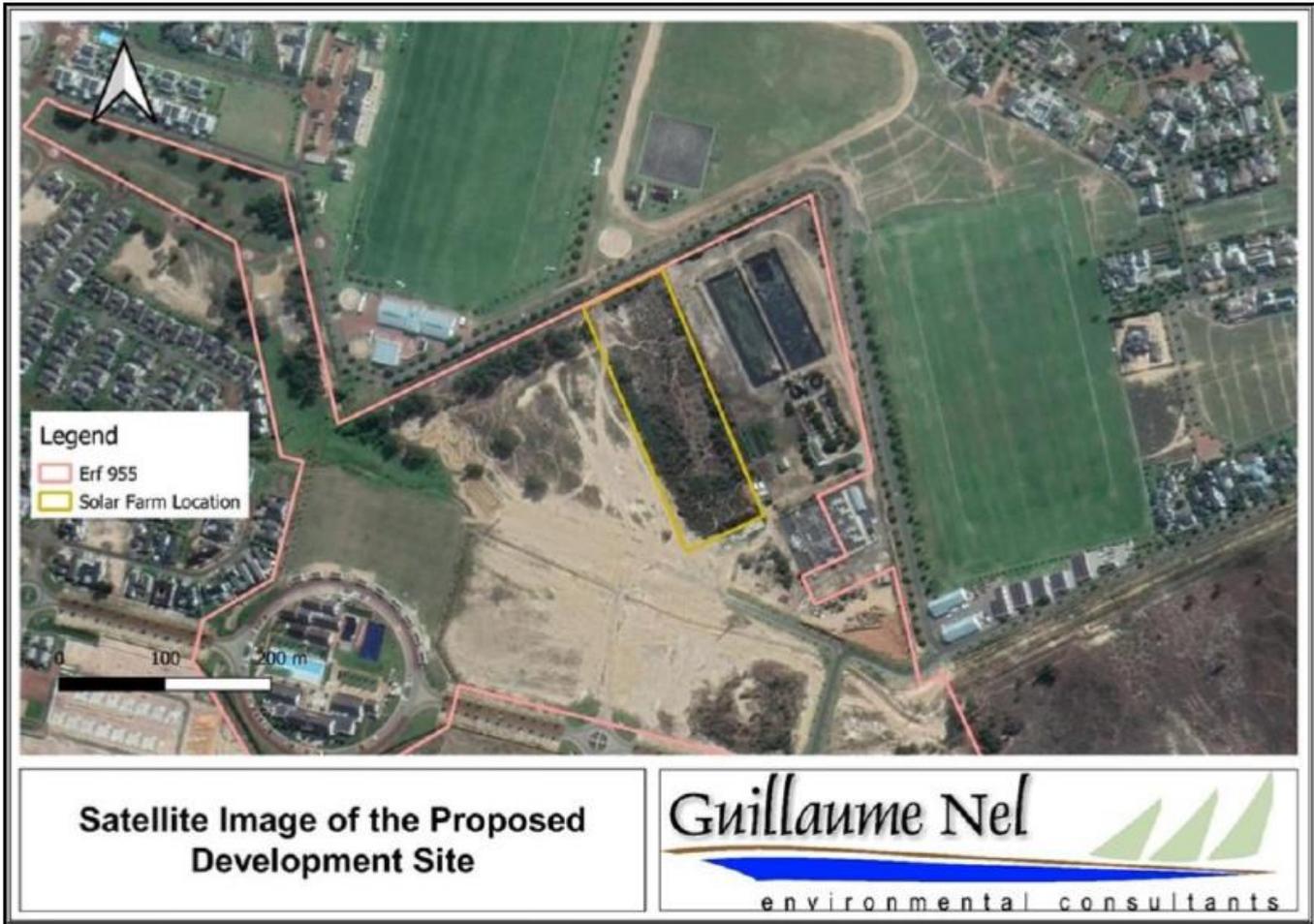
First Floor • La Gratitude Office Building  
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web: www.tv3.co.za

# Pearl Valley Phase II Precinct Plan NEMA Amendment

Drawn: WH  
Checked: MW  
Date: 24/10/2019  
Project no.: 3141-P  
Scale: NTS  
Revision no.: 1  
Drawing: Precinct Plan  
Plan no.: 1

This drawing is the property of TV3 Architects and Town Planners. All rights reserved. Copyright is reserved.

is amended to include a Solar Power Plant for renewable energy generation, as indicated in the below Site Plans:



**3. "Section G: Conditions of Authorisation" is amended to include the following additional condition:**

*Condition 22*

*The Environmental Management Programme for the proposed development of the Solar Power Plant on a portion of Erf No. 955, Val De Vie, Paarl, dated 1 November 2022 is accepted and must be implemented during the construction and operation of the Solar Power Plant.*

**B. REASONS FOR THE DECISION**

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

1. The amended Appeal Environmental Authorisation issued on 6 October 2022 (attached as Appendix A) included Erf No. 955, Val de Vie, which is included in the larger Pearl Valley II Estate (now the "Val de Vie II Estate").
2. The proposed development of a Solar Power Plant is a new development component and is in line with the intended use of the site. The area in which it is proposed is set out for utility infrastructure of the Estate. The remainder of the site will continue to be used in line with the authorised land uses. The new Solar Power Plant does not, however, trigger any new listed activities.
3. The engineering input provided during the EIA Amendment process and input obtained during the public participation process informed the layout of the proposed development to avoid and mitigate potential impacts and provide the best practicable environmental option.
4. Due to the disturbed nature of the site, no significant additional impacts are expected due to the implementation of the new proposed layout.
5. 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 amended Appeal Environmental Authorisation. In addition, no objections were raised by the I&AP's during the public participation process.
6. A public participation process was conducted for the amendment application. The following State Departments were consulted and did not object against the proposed amendments:
  - Heritage Western Cape;
  - CapeNature; and
  - Drakenstein Municipality

At the end of the commenting period, a number of comments, none of which were objections, were received. This Department is satisfied that the public participation process that was followed met the minimum legal requirements and the comments raised and responses thereto were included in the comments and response report.

**C. CONDITIONS**

1. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision—
  - 1.1. notify all registered I&APs of –
    - 1.1.1. the outcome of the application;
    - 1.1.2. the reasons for the decision as included in Section B;
    - 1.1.3. the date of the decision; and

1.1.4. the date when the decision was issued.

1.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of National Appeals Regulations, 2014 detailed in Section D below;

1.3. draw the attention of all registered I&APs to the manner in which they may access the decision; and

1.4. provide the registered I&APs with:

1.4.1. the name of the holder (entity) of this Environmental Authorisation;

1.4.2. name of the responsible person for this Environmental Authorisation;

1.4.3. postal address of the holder;

1.4.4. telephonic and fax details of the holder;

1.4.5. e-mail address, if any, of the holder; and

1.4.6. the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations.

2. All conditions contained in the amended Appeal Environmental Authorisation issued on 6 October 2022 (attached as Appendix A) still remain in force as it relates to this amended application.

## **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 on which 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 on which 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 Organs 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 Organs 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

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 e-mail to 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

**ZAAHIR TOEFY**  
**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**  
**DATE OF DECISION: 08 MARCH 2023**

Cc: (1) Ms E Visagie (GNEC)  
(2) Ms C Winter (Drakenstein Municipality)

Email: [eg@gnec.co.za](mailto:eg@gnec.co.za)  
Email: [Cindy.Winter@drakenstein.gov.za](mailto:Cindy.Winter@drakenstein.gov.za)

## Annexure A





**EIA REFERENCE:** 16/3/3/5/B3/28/1021/22  
**NEAS REFERENCE:** WCP/EIA/AMEND/0000613/2022  
**DATE OF ISSUE:** 06 October 2022

The Board of Directors  
Val de Vie Investments (Pty) Ltd  
P. O. Box 6223  
**PAARL**  
7646

**Attention: Mr. JD Labuschagne**

Tel: (021) 863 6100  
Email: jd.labuschagne@valdevie.co.za

Dear Sir

**APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND PART 2 OF THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE AMENDMENT OF THE AMENDED APPEAL ENVIRONMENTAL AUTHORISATION ISSUED ON 6 AUGUST 2020 (DEA&DP: 14/3/1/1/B3/28/0395/19) FOR THE PEARL VALLEY II DEVELOPMENT ON FARM 1693 AND PORTION 3 OF FARM NO. 826 AND ERVEN 549 AND 550, PAARL (PREVIOUSLY KNOWN AS PORTIONS 3, 6, 8, 9 AND 11 OF FARM NO. 826, PAARL)**

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** the amendment of the amended Appeal Environmental Authorisation issued on 6 August 2020 (DEA&DP Ref: 14/3/1/1/B3/28/0395/19) attached herewith, together with the reasons for the decision in terms of Part 2 of the Environmental Impact Assessment Regulations, 2014 (as amended).
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

**Zaahir Toefy** Digitally signed by Zaahir Toefy  
Date: 2022.10.06 16:28:25  
+02'00'

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Cc: (1) Mr B Bosman (GNEC)  
(2) Mr M Lamour (Drakenstein Municipality)

Email: nardus@gnec.co.za  
Email: Malcolm.Lamour@drakenstein.gov.za



**EIA REFERENCE:** 16/3/3/5/B3/28/1021/22  
**NEAS REFERENCE:** WCP/EIA/AMEND/0000613/2022  
**DATE OF ISSUE:** 06 October 2022

## ENVIRONMENTAL AUTHORISATION

**APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND PART 2 OF THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE AMENDMENT OF THE AMENDED APPEAL ENVIRONMENTAL AUTHORISATION ISSUED ON 6 AUGUST 2020 (DEA&DP: 14/3/1/1/B3/28/0395/19) FOR THE PEARL VALLEY II DEVELOPMENT ON FARM 1693 AND PORTION 3 OF FARM NO. 826 AND ERVEN 549 AND 550, PAARL (PREVIOUSLY KNOWN AS PORTIONS 3, 6, 8, 9 AND 11 OF FARM NO. 826, PAARL)**

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 it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Department herewith **grants** the amendment of the amended Appeal Environmental Authorisation issued on 6 August 2020 (DEA&DP: 14/3/1/1/B3/28/0395/19) in terms of Part 2 of the EIA Regulations, 2014 (as amended).

The amended Appeal Environmental Authorisation is amended as set out below:

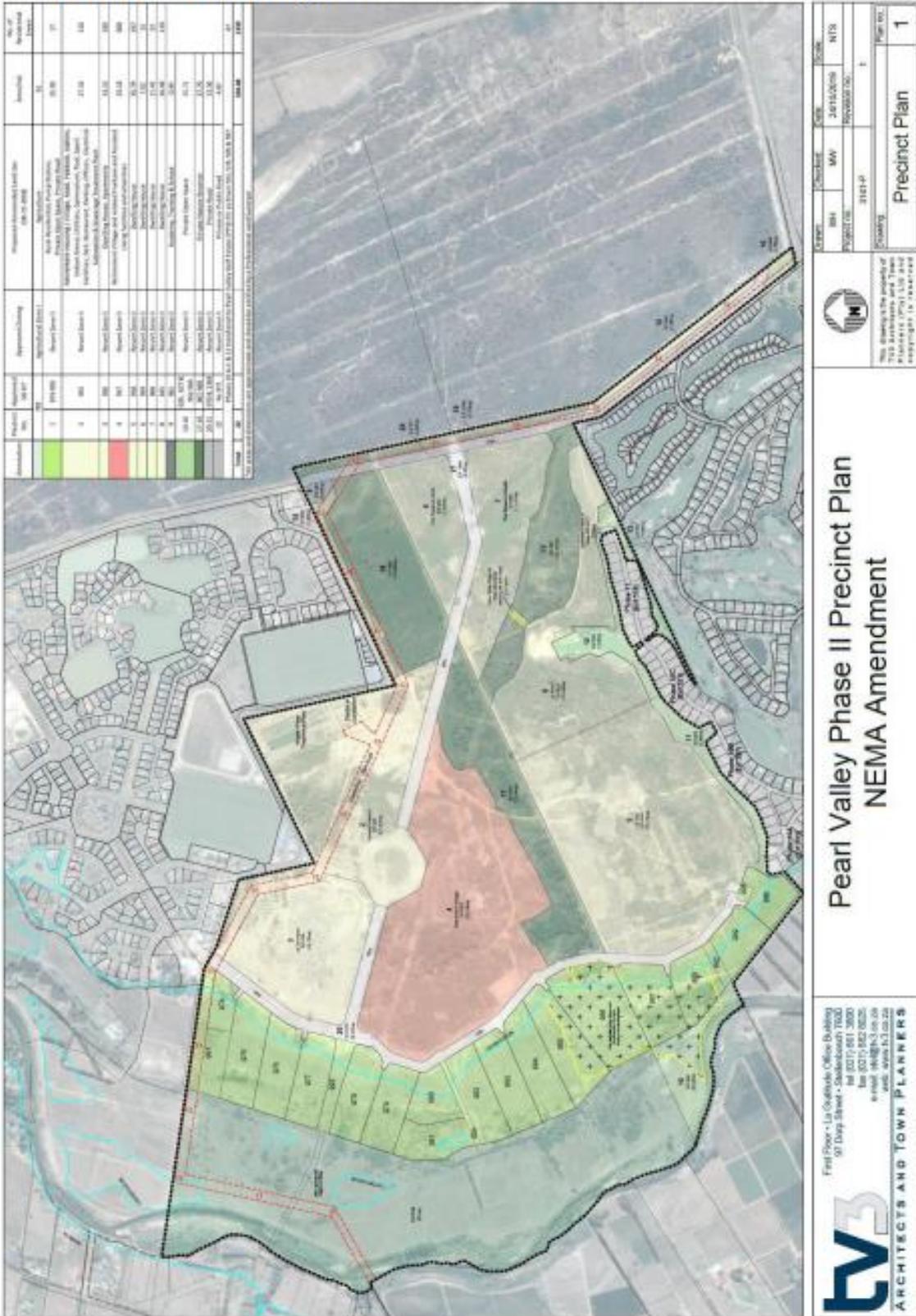
#### 1. Description of the activity:

*"Precinct No. /Erf No. 782: Agriculture Zone 1 for agriculture use (approximately 61ha)"*

#### is amended to read:

- *Precinct No. /Erf No. 782: Agriculture Zone 1 for agriculture use (approximately 60ha) and the development of a farmhouse, outbuildings and associated infrastructure, approximately 1.3ha in extent on the southern portion of Erf No. 782. Access to the proposed development will be from the roundabout on the existing boulevard, which connects the residential areas of Val de Vie to the R45 access gate.*

2. The agricultural land use on Precinct No. /Erf No. 782, as contained in the following layout plan which informed the 2017 Amended Appeal EA:



is amended to include a dwelling, outbuildings and associated infrastructure, as indicated in the below Site Plan:



# VAL DE VIE FARM

THE VALLEY OF LIFE



## B. REASONS FOR THE DECISION

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

1. The amended Appeal Environmental Authorisation issued on 6 August 2020 (attached as Appendix A) included Erf No. 782, Val de Vie, which is included in the larger Pearl Valley II Environmental Authorisation. The erf is described in that Environmental Authorisation as only containing agricultural uses. No further specifications are provided in the authorisation for any other uses on the property.
2. The proposed development is located along the eastern bank of the Berg River within the Val de Vie Lifestyle and Polo Estate, approximately 2km south-east of the R301 in Southern Paarl. The proposed development entails a farmhouse and associated outbuildings to support the agricultural activities on the site, which is in line with the agricultural zoning of the site. The remainder of the site will continue to be used for agricultural activities. The specialist studies conducted during the EIA Amendment process and input obtained during the public participation process informed the layout of the proposed development to avoid and mitigate potential impacts and provide the best practicable environmental option.
3. Based on the findings of the Freshwater Ecological Assessment dated February 2021, compiled by FEN Consulting, the proposed development will have a low risk significance on the Berg River and its associated 1:100 year floodline and the channelled valley bottom wetland ("CVBW"), subject to the implementation of the recommended mitigation measures. This is based on the fact that the proposed development will be located above the 1:100 year floodline and no infrastructure will encroach into the Berg River or the CVBW. An application for a Water Use License in terms of the National Water Act, 1998 (Act 38 of 1998) has been submitted to the Department of Water and Sanitation, which will further investigate the watercourse related impacts.
4. 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 amended Appeal Environmental Authorisation. In addition, no objections were raised by the I&AP's during the public participation process.
5. A public participation process was conducted for the amendment application. The following State Departments were consulted and did not object against the proposed amendments:
  - Department of Agriculture, Forestry and Fisheries;
  - Department of Agriculture;
  - Department of Water and Sanitation;
  - CapeNature; and
  - Drakenstein Municipality

At the end of the commenting period, a number of comments, but no objections were received. This Department is satisfied that the public participation process that was followed met the minimum legal requirements and the comments raised and responses thereto were included in the comments and response report.

## C. CONDITIONS

1. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
  - 1.1. notify all registered I&APs of -

- 1.1.1. the outcome of the application;
  - 1.1.2. the reasons for the decision as included in Section B;
  - 1.1.3. the date of the decision; and
  - 1.1.4. the date when the decision was issued.
- 1.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of National Appeals Regulations, 2014 detailed in Section D below;
- 1.3. draw the attention of all registered I&APs to the manner in which they may access the decision; and
- 1.4. provide the registered I&APs with:
- 1.4.1. the name of the holder (entity) of this Environmental Authorisation;
  - 1.4.2. name of the responsible person for this Environmental Authorisation;
  - 1.4.3. postal address of the holder;
  - 1.4.4. telephonic and fax details of the holder;
  - 1.4.5. e-mail address, if any, of the holder; and
  - 1.4.6. the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations.
2. All conditions contained in the amended Appeal Environmental Authorisation issued on 6 August 2020 (attached as Appendix A) still remain in force as it relates to this amended application.

#### **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 on which 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 on which 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 Organs 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 Organs 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

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 e-mail to 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

Zaahir  
Toefy

Digitally signed by  
Zaahir Toefy  
Date: 2022.10.06  
16:29:24 +02'00'

**ZAAHIR TOEFY**  
**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**  
**DATE OF DECISION: 06 OCTOBER 2022**

Cc: [1] Mr B Bosman (GNEC)  
[2] Mr M Lamour (Drakenstein Municipality)

Email: [nardus@gnec.co.za](mailto:nardus@gnec.co.za)  
Email: [Malcolm.Lamour@drakenstein.gov.za](mailto:Malcolm.Lamour@drakenstein.gov.za)



REFERENCE: 14/3/1/1/B3/28/0395/19

Mr Mame Bosch  
The Board of Directors  
Val de Vie Investments (Pty) Ltd  
P.O. Box 6223  
**PAARL**  
7646

Tel: (021) 863 6100

Fax: (021) 863 2741

Email: Mame.Bosch@valdevie.co.za

Dear Mr Bosch

**APPLICATION FOR THE FURTHER AMENDMENT OF THE AMENDED APPEAL ENVIRONMENTAL AUTHORISATION GRANTED FOR THE PEARL VALLEY II DEVELOPMENT ON FARM 1693 AND PORTION 3 OF FARM NO. 826 AND ERVEN 549 AND 550, PAARL (PREVIOUSLY KNOWN AS PORTIONS 3, 6, 8, 9 AND 11 OF FARM NO. 826, PAARL)**

1. Your Application for the Amendment of the Appeal Environmental Authorisation ("EA") granted on 19 July 2010, subsequently amended on 26 March 2012, 26 January 2015, 23 November 2015 and 7 August 2017; the Final Amendment Application Report received on 13 December 2020 and the Site Inspection conducted on 12 March 2020, refer.
2. **EMPOWERING PROVISIONS IN TERMS OF THE APPLICABLE LEGISLATION:**
  - 2.1. Sub-regulation 27(1) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") Environmental Impact Assessment ("EIA") Regulations, 2014 [Government Notice No. R. 982 of 4 December 2014] 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 me by the NEMA and EIA Regulations, 2014 (Government Notice No. R. 982 of 4 December 2014 as amended by Government Notice No. R. 326 of 7 April 2017), I further amend the Amended Appeal EA as follows:

  - 3.1. **Description of the activity and the layout plan:**

The layout plan which was contained in Appendix C of the amendment application dated 10 April 2017 (which informed the 2017 Amended Appeal EA) is amended:



**Amendment 1: Spatial refinement and optimisation of approved land uses between Pearl Valley Phase II and Levendal developments**

- 3.1.1. To exclude the 120 Resort Zone II erven (on Precinct No. 2 (Erf No. 955)) for dwelling house, gap, social and staff housing).
- 3.1.2. To authorise Precinct No. 2 (Erf No. 955) (the portion which was previously authorised for the 120 Resort Zone II erven) for the dwelling house, road, paddock, gymnasium, deli, etc.

**Amendment 2: Densification of approved land uses**

- 3.1.3. To authorise the densification of approved land uses within Precincts No. 3 (Erf No. 956), 4 (Erf No. 957) and 6 (Erf No. 959) within the Pearl Valley Phase II development as follows:
  - 3.1.3.1. The density for Precinct 3 (referred to as "La Domaine") which was approved for 140 group housing units is increased to 190 group housing units. This increases the density from 9.89 du/ ha to 13.43 du/ha.
  - 3.1.3.2. The density for Precinct 4 (referred to as "Evergreen") which was approved for 418 units, in addition to other related facilities, is increased to 608 life right units (inclusive of 80 assisted living/ frail care units). This is an increase in density of 45.5%, from 12.6 du/ ha to 18.32 du/ ha.
  - 3.1.3.3. The density for Precinct 6 (referred to as "Reserve North") which was approved for 14 dwelling units is increased to 15 dwelling units. This is a slight increase in density from 1.99 du/ ha to 2.14 du/ ha.

**Amendment 3: Spatial refinement and optimisation of road linkages and widths within Precincts 7 (Erf No. 960), 8 (Erf No. 625), 17 (Erf No. 967) and 22 (Private or public road)**

- 3.1.4. To authorise the spatial refinement and optimisation of road linkages and widths within Precincts 7 (Erf No. 960), 8 (Erf No. 625), 17 (Erf No. 967) and 22 (Private or public road) as follows:
  - 3.1.4.1. The internal road linkage (one minor additional crossing) is authorised through the biodiversity corridor at Precincts 7 and 8 between the estates forming part of the Val de Vie Super Estate.
  - 3.1.4.2. The Val de Vie service road from Kliprug to all Val de Vie access gates south of the main gate, which is located in Precinct 22 must be upgraded to municipal standards i.e. it must be widened from 20m to 30m to accommodate a safe and best practice passage along this portion of the estate.

**3.2. Amendment of the condition of the Appeal EA**

The following Condition G11 is excluded of the Amended Appeal EA:

**Condition G11:**

*"The applicant is required to revise the residential component of the proposed development to incorporate a development typology that includes social, gap and staff housing opportunities in order to meet the Densification and Integrated Settlement Objectives of the Western Cape Provincial Spatial Development Framework (2005). The revised plan must be developed in consultation with the Department of Environmental Affairs and Development Planning and approved by the relevant planning authority."*

4. **REASONS FOR THE DECISION:**  
Find below the reasons to amend the Amended Appeal EA:
- Need and desirability**
- 4.1. There are practical challenges regarding the implementation of the 120 social/gap/staff housing opportunities on Erf No. 955 within the Precinct 2. These challenges, which have been assessed by the Socio-economic Impacts Specialist i.e. Dr Jonathan Bloom, include, *inter alia*, the following:
- 4.1.1. The site is too small for the inclusion of shops and public amenities together with the housing units on the designated site.
- 4.1.2. No access to public transport is possible due to the location of Precinct 2 within the Val de Vie Estate.
- 4.1.3. A steep price cliff is prevalent given the surrounding property values, all homeowners would be liable for municipal taxes and estate levies due to a requirement for membership of the Val de Vie II Homeowners Association.
- 4.2. Considering the challenges, a more practical, contemporary and logical implementation of the inclusionary housing component on other land units that are also owned by the Applicant and which form part of the Val de Vie Super Estate was considered. The specific land parcels which the Applicant has proposed to move these units to lie within the Levendal Development (EA Reference No: E12/2/3/6/B3/28/0013/09 (as amended)), specifically Precincts 1 (Levendal Village), 7b and 15. This adjustment will logically situate these units at a closer distance to transport systems, shops, amenities and other community facilities. These land parcels within the Levendal development also offer residential infrastructure, mobility and access to opportunities that would support productive activities.
- 4.3. From a socio-economic perspective, the proposed densifications support and fit with the spatial planning principles of the Drakenstein Municipality. The provision of housing, social integration of different income groups, densification, training and economic development are included as priorities in the local and provisional integrated Development Plans and Spatial Development Frameworks ("SDFs"). The proposed densities of 25 duplexes per hectare are compliant with the Western Cape Provincial SDF and the Drakenstein Municipality's SDF.
- 4.4. The internal refinement of the approved land uses necessitates the proposed refinement and optimisation of road linkages and widths within Precincts 7, 8, 17 and 22.
- 4.5. Access to the site is currently provided through four authorised crossings through Precinct 17, the "Biodiversity Corridor". The biodiversity corridor was authorised as part of the original EA in 2008 to conserve the remaining flora on Kilprug Farm.
- 4.6. To provide internal linkage between the estates forming part of the Val de Vie Super Estate, an additional crossing through the biodiversity corridor at Precincts 7 and 8 is proposed. The proposed additional crossing will also provide an opportunity for Pearl Valley II to share other external accesses (e.g. Pearl Valley can also use the bridge across the Berg River to gain access to the R45) in the Val de Vie Super Estate to allow distribution of traffic to all possible accesses.
- 4.7. In terms of the findings of the Traffic Impact Assessment undertaken in 2014 and updated in 2018, the Val de Vie service road from Kilprug to all Val de Vie access gates south of the main gate which is located in Precinct 22, is to be upgraded to municipal standards. This will entail the adjustment of the current road width from 20m to 30m to accommodate a safe and best practice passage along this portion of the estate.

- 4.8. In terms of the Drakenstein Municipality's SDF, the following is stated/ required in terms of the Paarl South (area south of N1 and to the east of the Berg River):
- 4.8.1. Paarl South is currently under considerable pressure for development, most notably for low density upmarket gated community type residential development.
- 4.8.2. Further development in this area is regarded as appropriate given the critical mass of development in this area. However, the nature of such development will require careful consideration to ensure an appropriate return on investment (bulk services) for the municipality and the creation of an urban structure.
- 4.8.3. The creation of a variety of development opportunities, including small commercial nodes, different housing typologies and community facilities in a well-connected area.
- 4.8.4. There is a mix of typologies in new residential developments to increase the gross density in the area and create a balanced community- new development must cater for a range of income groups and typologies.
- 4.8.5. Developments must be planned for integrated development of land available for development.
- 4.8.6. The SDF does not confine a site to a specific option of urban form, however the typology indicated is an indication of the preferred predominant typology for the development of that site and that at least 50% of the site should be covered with this typology.
- 4.9. The proposed site is earmarked for future urban expansion within the adopted Drakenstein Municipality's SDF. Based on the available information, there is a housing shortage within the Drakenstein Municipality, which the proposed project will alleviate. The proposed development adheres to many of the Drakenstein Municipality's SDF principles which have been set out to guide future development in the Drakenstein area. The proposed development complies with the following principles:
- 4.9.1. Establish well defined and designed development- open space interfaces: The interface between the green space and the development must be well designed so that open space is overlooked and not edged by blank edges.
- 4.9.2. Protect and enhance the rural character: The interventions in rural areas must be of an appropriate scale and nature to support rural livelihoods, whilst at the same time protecting the sense of place and the agricultural resource base.
- 4.9.3. Enable strategic densification: The residential development must be densified to ensure the efficient use of infrastructure and available land.
- 4.9.4. Enable and promote mixed use: A mix of uses must be promoted around nodes and along corridors within the accessibility grid.
- 4.9.5. Promote spatial integration: Integration must be facilitated through well-located new development and infill to reduce barriers between communities and enable more efficient access to facilities and opportunities.
- 4.10. As the lack of job opportunities is a national crisis, the project will benefit the surrounding community by creating temporary job opportunities during the construction phase of the development and long-term job opportunities during the operational phase of the development.
- 4.11. The site initially earmarked for inclusionary housing in Pearl Valley II's Precinct 2 does not provide space for a shop, public amenities such as the community hall, crèche and sports facilities, and there is no public transport system within the estate.
- 4.12. The high property taxes (based on land value) and levies will make it unaffordable to lower medium-income families to live in the estate. In 2018, the levy contribution

was R 3,566 per month per unit, which will be unaffordable to lower income residents. The amendment proposal is therefore to transfer the units to Levendal Village and Levendal Precinct 15, which will provide an appropriate location in terms of social and economic benefits to the residents, easier access to work and close to the public infrastructure, economic centres and access to public transport.

- 4.13. There are limited minibus taxi services to Val de Vie, especially after hours and over weekends, and no public transport vehicles are permitted on the estate. Access to the amenities and shops would therefore be out of reach for residents that are dependent on public transport, with the Paarl Mall 9.3 km away and the train station and taxi rank more than 12 km away. These services are offered by Levendal Village, which will include a superette or shop and a public transport interchange, sports facilities, community hall, creche place of worship. Being close to Simondium, the Val de Vie staff that would occupy the houses in Precinct 15 would have access to similar amenities and transport, as well as being within a few hundred metres from their place of work.
- 4.14. The Specialist Socio-Economic Impact Assessment which informed the Final Amendment Report states that:
- 4.14.1. The 2005 Western Cape Provincial SDF was intended to redress the apartheid legacy of the distorted structure and dysfunctional nature of human settlements in the Western Cape Province. The 2005 Western Cape Provincial SDF introduced a range of policies, one of which required that all development applications include a social and subsidy housing component to facilitate integration of communities and redress the imbalances in spatial, economic and social structures prevalent in the Western Cape Province. Its inclusionary housing requirement as a guideline stated that: *"All high and middle income residential, non-polluting industrial and commercial projects located on privately owned land should provide for 10% social housing and 10% subsidy housing, either on site or if the site is too small, nearby."* In order to implement the inclusionary recommendations stated in the 2005 Western Cape Provincial SDF, the Department of Environmental Affairs and Development Planning ("DEA&DP") began prescribing an inclusionary housing requirement when it issued Record of Decisions on EIA development applications in terms of the *Environment Conservation Act, 1989 (Act No. 73 of 1989)*. The legality of this inclusionary housing condition was successfully challenged in October 2007 in the Longlands Court Judgement (Case No: 5542/2007), where the High Court ruled that the inclusionary housing conditions imposed by the DEA&DP in the Record of Decision did not relate to the impacts of the proposed development on the environment, and thus their imposition in terms of the *Environment Conservation Act, 1989 (Act No. 73 of 1989)* was *ultra vires*.
- 4.14.2. The objective of the 2009 Western Cape Provincial SDF stated that all residential developments undertaken by the private sector (irrespective of it being on public or private land) above a certain threshold, should provide 20% or more inclusionary housing opportunities.
- 4.14.3. The Western Cape Provincial SDF's Explanatory Manual and Policy on Inclusionary Housing offers an indication if subsidy housing and social housing cannot be provided on site. In terms hereof, the Explanatory Manual stated that although it is desirable, it may in some case not be possible to locate subsidy and/or social housing on-site. There are several reasons why it may not be possible to locate the mix of housing on the site:

- 4.14.3.1. Size of the site: they may be too small.
  - 4.14.3.2. Financial feasibility.
  - 4.14.3.3. Lack of public transport and access to amenities.
  - 4.14.4. The 2014 Western Cape Provincial SDF states that there must be a development of integrated and sustainable settlements. The Final Amendment Report states that the mix of social, gap and other housing units will contribute towards social integration, whilst densification is achieved through the increase in the number of units in the Pearl Valley II. Granting the applicant permission to transfer the requirement to provide 120 social, gap and staff houses in Pearl Valley II to another location the same nature and scope of houses will be provided. However, the preferred integration of housing types within the Pearl Valley II precinct will not be achieved by transferring this scope of housing.
  - 4.14.5. In March 2007, the National Department of Human Settlements released their draft national inclusionary housing policy framework for comment and commissioned a Regulatory Impact Assessment of the draft policy. Based on comments received and outcomes of the Regulatory Impact Assessment, the 2008 National Inclusionary Housing Policy introduced two inclusionary delivery strategies, namely:
    - 4.14.5.1. A Voluntary Pro-Active inclusionary housing delivery approach.
    - 4.14.5.2. Government applying a mandatory, but incentive-linked, inclusionary prescription when approving enhanced residential use rights on private land.
  - 4.14.6. The 2008 National Inclusionary Housing Policy further permits municipalities to set different inclusionary requirements for different areas within their jurisdiction, ranging from 10% to 30% of the total number of units in a project.
  - 4.14.7. The Socio-Economic Impact Assessment concludes that:
    - 4.14.7.1. Val de Vie Investments subscribes to participation in the gap housing market by adopting an integrated approach of providing staff (social), other social and gap houses to assist the Drakenstein Municipality to expand its housing delivery programme. Adherence to the policy requirement with the provision of 40 staff, 40 social and 40 gap houses, represents 11% of the total number of units proposed for Pearl Valley II.
    - 4.14.7.2. Although the ideal scenario would be to provide the inclusionary housing on-site, the developer considers the site too small for the inclusion of shops and public amenities, and there is no public transport to provide access to such amenities. Given the nature and scope of the designated land portion, provision for only the top structures is possible. Furthermore, there will be very steep price cliff given the surrounding property values; all homeowners (including those of inclusionary houses) would be liable to municipal taxes on land with a high market value as well as estate levies due to the home owners association.
  - 4.14.8. Given the nature and scope of the Val de Vie Estate, the proposed relocation of the inclusionary housing to Levendal will ensure access to transport, amenities and community facilities.
- Botanical context**
- 4.15. Dr Charlie Boucher (the specialist botanist) compiled a botanical statement for the proposed amendments. The original Appeal EA required that the remaining flora on Kliprug Farm must be conserved. This has resulted in the conservation of

the biodiversity corridor. The Applicant now wishes to establish a road that extends across a narrow section of the biodiversity corridor (Portion of Erf No. 967).

- 4.16. The botanist noted that:
- 4.16.1. The alternative to the proposed road crossing the biodiversity to link Precinct 7 and 8, was a road which links Pearl Valley I, La Vue II and reserves south on the eastern boundary of the estate.
- 4.16.2. The originally proposed road (crossing linking Pearl Valley I and II on the far eastern boundary of Pearl Valley II) intrudes on a wetland and an area of the wetland's 10m buffer. The removal of this crossing will allow for the reinstatement of the wetland and the 10m wide wetland buffer. Furthermore, the removal of this section allows for the widening of the biodiversity corridor at this point.
- 4.17. The newly proposed biodiversity crossing, linking Precinct 7 and 8, offers a crossing which is a short distance. This crossing, therefore, has a lower impact on the functioning of the corridor. However, according to Dr Boucher, this crossing is through an area which has experienced little disturbance and invasive species, and therefore is considered in a more natural state in contrast to the other proposed sites.

#### **Engineering services**

- 4.18. Bigen Africa was appointed to undertake the Engineering Assessment for the proposed amendments for the Pearl Valley Phase II development where the following was concluded:

##### **Water supply**

- 4.18.1. The existing 400 mm diameter bulk pipeline which supplies the Pearl Valley reservoirs with water has enough capacity to accommodate the water demands required by this densified development.
- 4.18.2. To accommodate the proposed amendments in the existing water system, minimum upgrades are still required.
- 4.18.3. It is envisaged that a new imminent development adjacent to Pearl Valley will include the construction of the 6 million litres reservoir.

##### **Sewage**

- 4.18.4. The amended master plan states that there is enough capacity at the Pearl Valley Wastewater Treatment Plant to accommodate the entire Val de Vie Phase 2 development. The existing Pearl Valley Wastewater Treatment Plant only has a treatment capacity of 2 million litres per day and a permit to increase the capacity to 3 million litres per day. The excess flow above 3 million litres per day must be diverted to the Paarl Wastewater Treatment Plant.

##### **Electrical**

- 4.18.5. The developer entered into a service level agreement with the Drakenstein Municipality for Val de Vie Phase 1 and Val de Vie Phase 2, which allowed for the densified erven in Val de Vie Phase 2.
- 4.19. The Drakenstein Municipality did not object to the proposed amendments and commented *inter alia* as follows with regards to the availability of services infrastructure to accommodate the proposed amendments:
  - 4.19.1. The Drakenstein Municipality has bulk infrastructure for water in the area to accommodate the proposed amendments although the installation of the certain services, as per the engineering services GLS report, can be done by the developer,
  - 4.19.2. The Drakenstein Municipality has bulk infrastructure for wastewater treatment in the area to accommodate the proposed amendments although certain

requirements in terms of the engineering services GLS report will be done based on the availability of the municipal budget.

- 4.19.3. The Drakenstein Municipality has enough capacity at its landfill to accommodate the proposed development in terms of solid waste management.

#### **Socio-economic context**

- 4.20. Multi-Purpose Solutions was appointed to undertake the Socio-economic Impact Assessment for the proposed amendments which concluded *inter alia* as follows:  
**Impacts of amendment 1: Spatial refinement and optimisation of approved land uses between Pearl Valley Phase II and Levendal developments**

- 4.20.1. The Appeal EA for Pearl Valley Phase II indicated that 120 social, gap and staff units (40 social, 40 gap and 40 staff units) will be provided as part of the project's contribution to inclusionary housing on Erf No. 23 (renamed as Precinct 6). In the 2017 Amended Appeal EA, Erf No. 23 was earmarked for residential development (known as Reserve North), whilst the inclusionary housing was moved to Precinct 2, a triangular land parcel flanked by the polo fields, the existing Waste Water Treatment Plant and electrical substation.
- 4.20.2. The 2017 Amended Appeal EA for the Pearl Valley Phase II development area included 120 inclusionary housing units, i.e. 40 social, 40 gap and 40 staff erven with a minimum erf size of 100 m<sup>2</sup>, 150 m<sup>2</sup> and 200 m<sup>2</sup>, respectively and approved for Precinct 2. The 2018 amendment application entails the transfer of these units to other land portions owned by Val de Vie Investments, i.e. Levendal Village (40 social, 40 gap and 21 staff units), Levendal precinct 15 (5 staff units) and Levendal Precinct 7b (14 staff units). This would allow the consolidation of many units earmarked for the lower-income group, with better access to services, amenities and transport at Levendal Village.
- 4.20.3. The proposed transfer of the inclusionary housing units should be seen in the context of existing policy regarding the provision of inclusionary housing, as well as the location of such housing. The Drakenstein Housing Policy (2016) states that as part of its housing delivery strategies, there must be a promotion of the concept of inclusionary housing such as residential developments undertaken by the private sector. This is aligned to the 2014 Provincial SDF that requires local government to promote integrated neighbourhoods and upgrade the built environment together with integrated services planning and provision. Furthermore, the private sector should design and produce settlement solutions that address resource scarcity and quality living. As a result, the provision of 120 social, gap and staff housing units within the Pearl Valley Phase II development was approved.
- 4.20.4. Ideally, the holder of the Amended Appeal EA confirmed that they would like to provide the inclusionary housing within the Pearl Valley Phase II, but the designated land parcel is too small for the inclusion of shops and public amenities, and there is no public transport to provide access to such amenities. These are offered by Levendal Village, which will include a superette or shop and a public transport interchange, sports facilities, community hall, creche and a place of worship.
- 4.20.5. Given that Precinct 2 is not suitable for the 120 inclusionary housing units, the proposed transfer of the units to other Val de Vie properties represents an acceptable mitigation measure, without reneging on its responsibility to deliver the 120 Inclusionary housing units.

#### **Amendment 2: Increasing density of Precinct 3 and 4**

- 4.21. The 2017 Amended Appeal EA for the Pearl Valley Phase II development made provision for 140 units in Precinct 3, known as Le Domaine (14.15 ha). The current amendment application proposes 190 units (i.e. increase the density from 9.89 to 13.43 du/ha). Although this falls short of the 25 du/ha stated in the Provincial SDF and the Drakenstein Municipality's SDF, it is an increase of 35.7% from the 2017 Amended Appeal EA.
- 4.22. The 2017 Amended Appeal EA also included a Retirement Village comprising 418 units and other supplementary facilities on 33.18 ha in Precinct 4. The current amendment application proposes an Evergreen Retirement Village with 608 life right units and 80 assisted living/ frail care units. This implies an increase in densification from 12.6 to 18.3 du / ha, i.e. an increase of 45.4% relative to the 2017 Amended Appeal EA.
- 4.23. The proposed densifications are compliant with the policy guidelines to develop projects that strive to achieve the 25 du/ ha threshold adopted in spatial planning policy. The proposed densification of Precincts 3 and 4 entails 320 additional units, which will result in a significant additional demand for services and amenities, including specialised services for the elderly residing in the Evergreen Retirement Village.
- 4.24. The 2018 Transport Impact Statement for the amendment application concluded that the proposed amendments in Pearl Valley Phase II and Levendal development will increase the number of dwelling units in Val de Vie Phase 2 and the gross leasable area for the businesses developed in the Levendal Development Phase 3. The changes in land use, however, will not increase the overall number of generated trips on the road network and the number of trips expected for the proposed development will decrease along the R45 and increase marginally along R301.
- 4.25. The recommendations made in the 2014 Transport Impact Statement for the proposed developments of Levendal Phase 1 to 3 and Pearl Valley Phase II will remain valid for the proposed amendments, except for the upgrades already implemented or that are warranted for the existing traffic conditions. The upgrades recommended for the existing traffic conditions include the signalisation of northern and southern terminals of the R45 and R301 interchanges with the N1 as well as the R45/Main Street (MR189) intersection.
- 4.26. The potential negative impacts would be compounded if additional developments were introduced in the immediate and surrounding areas. These impacts would typically relate to the sense of place, traffic, infrastructure requirements, crime and nuisance factors.
- 4.27. The employment and economic benefits of many developments in the greater Drakenstein valley area could also be compounded, especially about the provision of housing and social development of communities in the area.

#### **Traffic impacts**

- 4.28. ITS Engineers was appointed to undertake the Traffic Impact Assessment for the proposed amendments where the following conclusions were made:
- 4.28.1. The developers propose to construct a link road between Pearl Valley and Val de Vie across the biodiversity corridor. This will provide an internal link between the two estates and the opportunity to share external accesses (i.e. Pearl Valley can also use the bridge across the Berg River to gain access to the R45) to distribute traffic to all possible accesses.



- 4.28.2. The bridge across the Berg River has been opened in May 2018 which provides a link between the Val de Vie Phase 2 Estate and the R45. This was one of the recommendations in the 2014 Transport Impact Statement. No other external road upgrade recommendations have been implemented for the proposed development Val die Vie Phase 2 development except for the single lane roundabout at Kliprug/R301 intersection.

**Trip generation**

- 4.28.3. The same peak hour trip rates as used in the 2014 Transport Impact Statement were assumed for the amended land parcel precincts of Val de Vie/ Pearl Valley Phase II:
- 4.28.3.1. Retirement Village: 0.3 trips/ dwelling unit in the morning and 0.36 trips/ dwelling unit in the afternoon.
- 4.28.3.2. Residential dwelling: 0.6 trips / dwelling unit.
- 4.28.4. Based on these trip rates an increase of 240 dwelling units will result in an increase of 87 peak hour trips.
- 4.28.5. It can be concluded that the proposed changes in land use will result in a nett reduction of 86 trips for the proposed amendments on Pearl Valley Phase II and Levendal developments.
- 4.28.6. From the distribution of traffic of the nett difference in traffic between the 2014 and the 2018 proposed land uses, the greatest impact will be on MR201 northwards where a new land use proposal will generate 389 additional trips (29 trips in the peak direction). This increase in traffic can be regarded as marginal and that no additional road upgrades, other than what was previously recommended, will be necessary.

**Cumulative impacts**

- 4.29. The potential negative impacts would be compounded if additional developments were introduced in the immediate and surrounding areas. These impacts would typically relate to sense of place, traffic, infrastructure requirements, crime and nuisance factors.
- 4.30. The employment and economic income benefits of several developments in the greater Drakenstein valley area could also be compounded, especially regarding the provision of housing and social development of communities in the area.
- 4.31. Many of the negative socio-economic impacts that were identified could be mitigated by introducing the measures proposed by various specialists that must be considered as requirements for the approval of the Amendment Applications. Monitoring and evaluation of socio-economic impacts and assessing the outcomes on a continuous basis would further enhance the social and economic fabric and surrounding communities.

**Public participation process**

- 4.32. The following public participation process was conducted to inform the Interested and Affected Parties about the proposed amendments:
- Pre-application (30-day public participation process from 14 November 2018 to 13 December 2018)**
- 4.32.1. The potential Interested and Affected Parties were afforded a 30 days period within which to register as an Interested and Affected Party and issue comments on this amendment application.

- 4.32.2. An electronic copy of the Amendment Application Report and supporting documents were issued to the Municipal Councillor, relevant municipality, relevant Organs of State and Competent Authority.
- 4.32.3. The directly adjacent landowners of the site were notified of the proposed amendments through the estate home owners association.
- 4.32.4. Hard copies of the Amendment Application Report were placed in the Paarl Public Library to allow all Interested and Affected Parties to register and comment on the proposed amendments.
- 4.32.5. On 8 November 2018, advertisements were published in the "Paarl Post" newspaper.
- 4.32.6. On 14 November 2018, four notices were placed on the boundary of the site.

**After submission of the Application (30-day public participation process for the Draft Amendment Application Report)**

- 4.32.7. Between 29 March 2019 and 30 April 2019, the Interested and Affected Parties were requested to provide comments on the Draft Amendment Application Report.
- 4.32.8. An electronic copy of the Draft Amendment Application Report and supporting documents were issued to the Municipal Councillor, relevant municipality, relevant Organs of state and Competent Authority.
- 4.32.9. The directly adjacent landowners of the site were notified of the proposed amendments through the estate home owners association.
- 4.32.10. Hard copies of the Draft Amendment Application Report were placed in the Paarl Public Library to allow all Interested and Affected Parties to register and comment on the proposed amendments.

**30-day public participation process for the Revised Draft Amendment Application Report**

- 4.32.11. Between 21 June 2019 and 22 July 2019, the registered Interested and Affected Parties were requested to provide comments on the Revised Draft Amendment Application Report.
- 4.32.12. An electronic copy of the Draft Amendment Application Report and supporting documents were issued to the municipal councillor, relevant municipality, relevant Organs of State and Competent Authority.
- 4.32.13. The directly adjacent landowners of the site were notified of the proposed amendments through the estate home owners association.
- 4.32.14. Hard copies of the Draft Amendment Application Report were placed in the Paarl Public Library to allow all Interested and Affected Parties to register and comment on the proposed amendments.

**30-day public participation process for the Final Amendment Application Report dated November 2019**

- 4.32.15. Between 5 November 2019 and 5 December 2019, the registered Interested and Affected Parties were requested to provide comments on the Final Amendment Application Report.
- 4.32.16. An electronic copy of the Final Amendment Application Report and supporting documents were issued to the municipal councillor, relevant municipality, relevant Organs of State and Competent Authority.
- 4.32.17. The directly adjacent landowners of the site were notified of the proposed amendments through the estate home owners association.

- 4.32.18. Hard copies of the Final Amendment Application Report were placed in the Paarl Public Library to allow all Interested and Affected Parties to register and comment on the proposed amendments.
- 4.33. At the end of the public participation process, the following comments *inter alia* were received:
- 4.33.1. The 120 housing opportunities on Pearl Valley Phase II are allocated to specific persons or beneficiaries and there is a net loss of housing opportunities from Pearl Valley Phase II.
- 4.33.2. There is a net loss of housing opportunities from Levendal Village. Clarity must be provided with regards to the figures in relation to the adjustments for the Levendal development to incorporate the 120 social/gap/staff housing opportunities from Pearl Valley Phase II.
- 4.33.3. The Interested and Affected Party i.e. Leftbreak (Pty) Ltd, the owner of the Remainder of the Farm No. 893 and Remainder of Portion No. 1 of the Farm No. 838, Paarl, situated adjacent to the proposed Pearl Valley Phase II estate development was, without any explanation, not notified about the proposed amendments.
- 4.33.4. A new listed activity 12 of Government Notice R. 985 of 4 December 2014 (as amended) is not considered similarly listed with the authorised listed activities and is triggered by the proposed amendments.
- 4.33.5. The EAP has failed to grasp that our law requires that Interested and Affected Parties must be put in possession of information as it will render the right to make representations. To enjoy a proper opportunity to be heard, those persons must be properly apprised of all the information on which the Department may rely for purposes of decision-making, including additional information.
- 4.33.6. If the case officer should be of the view that the approach adopted in this matter (e.g. meeting with and conducting on-site inspections with the Applicant's representatives in the absence of their clients' representatives, etc.) complies with administrative law requirements, the Department would be advised to obtain an independent legal opinion in this matter.
- 4.33.7. The proposal for Pearl Valley II will not contribute towards the spatial integration of socio-economic groups or end the apartheid structure of urban settlements but will perpetuate it.
- 4.33.8. The EIA Reports and specialist studies all failed to engage in a meaningful manner with the consideration that the impact of the proposed amendments have not been considered and were not properly articulated.
- 4.33.9. No attempt was made to assess the potential negative impact/loss of opportunity to obtain social integration that will be brought about if the social housing component should be removed (i.e. from an integration perspective) on the Pearl Valley II development.
- 4.33.10. The Pearl Valley II authorisation was obtained on the back of the promised social housing component that was going to be part and parcel of the Pearl Valley II development.
- 4.33.11. They remain of the opinion that if it was known at the time of approval that arguments would later be put up to motivate why the social housing component cannot be implemented and is a bad idea, the EA in respect of Pearl Valley II probably would not have been granted in the first place. In their view, it would be an extremely sad day if the Applicant and their successor-in-title would be permitted to obtain an EA on the back of promises made and to take the benefits of an EA decision, whilst being freed from the obligations flowing from it.

- 4.33.12. The assessment of the resettlement impact appears to have no alternatives. The resettlement impact is not restricted to the Levendal development but will also impact negatively on the Pearl Valley II development (loss of promised social integration).
- 4.33.13. The need and desirability of the social housing component of the Pearl Valley II development have been assessed and found to exist. Pearl Valley 2 was found to be the right place for locating the 120 social housing units.
- 4.33.14. If the provision of community facilities was such an important consideration (as the Applicant is trying to suggest at this late stage), why not (as an alternative) scale down the social housing component of 120 units to say 100 such units in Pearl Valley II?
- 4.33.15. Often developers come up with utopian development proposals that, as a last phase of the development, proposals relating to facilities that will be provided for the community concerned or the public at large (e.g. the construction of a community hall or sports fields). The Department knows from experience that it is not uncommon for developers not to reach or implement such a final phase of a development due to financial or other reasons. To avoid this from happening the Department has in earlier years imposed appropriate conditions to ensure that promised benefits will materialise.
- 4.33.16. They re-iterate that the amendment applied for should not be granted but, in the event of it being granted, that appropriate conditions of approval should be imposed in terms of which the residential rights are linked to progress with the implementation of the agricultural plan (e.g. that only say 20% of the approved number of residential rights may be constructed once 20% of the agricultural proposal has been fully implemented).
- 4.33.17. In the event of the Pearl Valley II amendment being granted, it should be linked to progress with implementation with the provision of the 120 social housing units in Levendal (not elsewhere).
- 4.33.18. They have requested the EAP on 9 January 2020 to let them have a copy of their communication to Dr Elena Broughton concerning Dr Bloom's ownership of land in Val De Vie.
- 4.34. The abovementioned issues were addressed *inter alia* as follows:

**The 120 housing opportunities on Pearl Valley Phase II are allocated to specific persons or beneficiaries and there is a net loss of housing opportunities from Pearl Valley Phase II**

- 4.34.1. There is no evidence to suggest that the 120 housing opportunities on Pearl Valley Phase II were allocated to any specific persons or beneficiaries and based on the available information, it appears that this number of 120 units was also arbitrary and allocated with the intention to provide accommodation for casual and/or permanent labour associated with the original golf course development. The current proposal has reallocated these opportunities, as suggested by the Social Impacts Specialist, that are better suited to support this community with associated amenities required, on the neighbouring Levendal development, which is also owned by the same owner as Pearl Valley Phase II, which forms part of the Greater Val de Vie Super Estate. Precinct 2 of Pearl Valley Phase II would then be filled with housing types that are in line with the current spatial designs and typologies.

- 4.34.2. There will be no net loss of 120 staff/gap/social houses as these have been spatially reallocated in line with the specialist recommendations and the Applicant's requirements for housing types.

**There will a net loss of housing opportunities from Levendal Village and clarity with regards to the figures in relation to the adjustments for Levendal development to incorporate the 120 social/gap/staff housing opportunities from Pearl Valley Phase II**

- 4.34.3. Levendal Village, illustrated on the Site Development Plan as Precinct 1 and consisting of Portion 5 of Farm No. 833, forms part of the greater Levendal Development which in turn forms part of the Greater Val de Vie Super Estate.
- 4.34.4. Precinct 1 of the Levendal has an approved density of 188 residential units as per the 2017 Amended Appeal EA.
- 4.34.5. During the initial 2007 Levendal Master Plan process, 98 farm worker households were identified as beneficiaries of units within the Levendal Agri-Village, now referred to as Precinct 1/ Levendal Village.
- 4.34.6. The origin and motive behind the "associated" 188 residential units appears arbitrary, as the Applicant's obligation was to provide 98 residential opportunities. The residual 90 residential opportunities appear to have acted as a buffer should the need arise through stimulated economic conditions.
- 4.34.7. The independent Social Impacts Specialist recently conducted a revised census that identified that there had been 11 beneficiaries (originally included in the 98 beneficiaries) that have left the Levendal area or have passed away (10 individuals from McMillan Bricks and 1 beneficiary from Berg River Resort). This has left the number of beneficiaries (qualifying for first option for a unit in the Levendal Village) at 87 families, as opposed to the original 98 families.
- 4.34.8. This results in a current surplus of 101 approved opportunities/ residential units (188 units – 87 units = 101 units) which are currently unassigned and to which there is no apparent obligation for the holder of the Amended Appeal EA to build.
- 4.34.9. Because of these remaining unassigned opportunities/ excess units available within Levendal Village, the Amended Appeal EA holder wishes to relocate a portion of the approved 120 units social/ gap / staff housing from Pearl Valley Phase II to Levendal Village.
- 4.34.10. The accommodation of a portion of the 120 social/ gap/ staff units into the remaining 101 units in Levendal Village results in an overflow of 19 units of the 120 units (120 units – 101 units = 19 units) that are allocated as follows:
- 4.34.10.1.5 Staff housing units to be included in Precinct 15 of Levendal development.
- 4.34.10.2.12 Staff housing units to be included in Precinct 7B of Levendal development.
- 4.34.11. The Amended Appeal EA holder acknowledges the responsibility bestowed on them with regards to the provision of housing to families/ individuals that are to be displaced by the development of the relevant land parcels included in the Levendal development. As such, the Applicant confirmed that no beneficiary will be without an adequate unit because of the relocation process.
- 4.34.12. The Levendal development was approved with 188 units. In accordance with the terms of the original Levendal Agri-Village agreements, the Applicant is only obliged to accommodate 87 original farmworker households in Levendal. Originally there were 98 farmworker households that were beneficiaries to units in Levendal Village. However, a recent census conducted by the independent

Socio-economic Impact Specialist demonstrates that the number of beneficiaries has decreased by 11 due to households moving away from the area or death of beneficiaries. Therefore, there are currently only 87 beneficiaries to which the Amended Appeal EA holder is obliged to provide units to. As such, the remaining approved 101 housing units in Levendal are now earmarked to accommodate a portion of the 120 gap/social/staff units from Pearl Valley Phase II. The remaining units from Pearl Valley Phase II (19 units i.e.  $101 - 120 = -19$ ) will similarly be accommodated in Precincts 7b and 15 in Levendal.

**Notification of the interested and affected party i.e. Leftbreak (Pty) Ltd, the owner of the Remainder of the Farm No. 893 and Remainder of Portion No. 1 of the Farm No. 838, Paarl, situated adjacent to the proposed Pearl Valley Phase II estate development**

- 4.34.13. At the time of the pre-application public participation process, the adjacent landowner was unable to be contacted. However, prior to the commencement of the public participation process after the Application was submitted to the Competent Authority, the EAP contacted the representative of the landowner Leftbreak (Pty) Ltd.
- 4.34.14. Even if this adjacent landowner did not register as an Interested and Affected Party during the pre-application public participation process, Left Break (South Africa) (Pty) Ltd was registered as an Interested and Affected Party for the statutory Application process and was included in the subsequent multiple (4x) rounds of public participation. Therefore, the adjacent land owner had ample opportunities to comment on this Amendment Application in terms of EIA Regulations 2014 (as amended).
- 4.34.15. As such, Leftbreak (Pty) Ltd was included in the notification of the statutory public participation process in accordance with the requirement of the NEMA EIA Regulations, 2014.

**A new listed activity 12 of Government Notice R. 985 of 4 December 2014 (as amended) is not considered similarly listed with the authorised listed activities and is triggered by the proposed amendments**

- 4.34.16. The project and layout were approved in 2009 in terms of the *Environment Conservation Act, 1989 (Act No. 73 of 1989)* EIA listed activities where there was no specific reference to the removal of indigenous vegetation. This approved layout included several roads across the biodiversity corridor (where indigenous vegetation occurs). This amendment application is merely a relocation of one of these approved roads across the corridor.
- 4.34.17. The Pearl Valley II layout was approved by the Minister of Local Government, Environment and Development Planning on 19 July 2010 in terms of Schedule 1 of Government Notice No. R. 1182 of 5 September 1997 (as amended). This approved Pearl Valley II layout included several roads across the section where vegetation occurs (which in the current Application is referred to as the "biodiversity corridor"). This Application is merely a relocation of one of these approved roads across this corridor.
- 4.34.18. In terms of the potential applicability of Activity 12 of Listing Notice 3, the proposed link road will entail the upgrade of an **existing sand jeep track** (current dimensions of **3m x 35m = 105m<sup>2</sup> of sand road**) already running across the corridor. The proposed link road (which includes the jeep track surface area) will have a total footprint of **8 m width X 35 m length = 280 m<sup>2</sup>**, as confirmed in the Pearl Valley II

Biodiversity Rehabilitation Plan dated 21 May 2019. The total potential vegetation area to be transformed is therefore the difference between the proposed link road and sand jeep track surface areas ( $280 \text{ m}^2 - 105 \text{ m}^2 = 175 \text{ m}^2$ ). Therefore, the total potential vegetation area to be transformed of  $175 \text{ m}^2$  falls below the  $300 \text{ m}^2$  threshold as specified in Activity 12 of Listing Notice 3 and therefore no Listed Activity will be triggered. This finding is further supported by CapeNature letter's (dated July 2019) which confirms no new listed activity is triggered within the biodiversity corridor.

- 4.34.19. The Botanical Specialist (Dr. Charlie Boucher) also assessed the proposed link road crossing as a low impact (refer to Section 7.2.1.1.1 of the Final Amendment Report dated December 2019).
- 4.34.20. A recent on-site inspection (2019) by the Val De Vie Environmental Officer (Simon Allen) and Terramanzi Environmental Control Officer (Tilly Watermeyer) has confirmed that the site has previously been disturbed and that the current vegetation directly east of the existing jeep track (proposed for the link road) consists of a cluster of exotic pine trees. Port Jackson Willow is also prevalent within this section of the corridor where the jeep track occurs. This can also be verified by current Google Earth imagery of the site location in question.
- 4.34.21. The location for the proposed link road (which is an upgrade of an existing sand jeep track) has been previously transformed as the exotic Port Jackson willow and a cluster of pine trees occurs within the section of the corridor where the jeep track is situated.

**The EAP has failed to grasp that our law requires that interested and Affected Parties must be put in possession of information as it will render the right to make representations. To enjoy a proper opportunity to be heard, those persons must be properly apprised of all the information on which the Department may rely for purposes of decision-making, including Additional Information.**

- 4.34.22. The additional information requested by the Department during the August-October 2019 was provided to the registered Interested and Affected Parties for an additional round of public participation.

**If the case officer should be of the view that the approach adopted in this matter (e.g. meeting with and conducting on-site inspections with the Applicant's representatives in the absence of their clients' representatives, etc.) complies with administrative law requirements, the Department would be advised to obtain an independent legal opinion in this matter**

- 4.34.23. When the Department held meetings with the Applicant and requested additional information, it was acknowledged that the information which was required will be new and have an influence on the decision-making process. As a result, the Applicant was requested to conduct an additional Public Participation Process from 5 November 2019 to 5 December 2019 to put the additional information in possession of the registered interested and Affected Parties to ensure a reasonable and procedurally fair process.

**The proposal for Pearl Valley II will not contribute towards the spatial integration of socio-economic groups or end the apartheid structure of urban settlements but will perpetuate it.**

- 4.34.24. The Applicant was informed through the professional input from independent specialists who have concluded in their reports that the accommodation of the

120 units is better suited at Levendal Village than in the Pearl Valley Precinct 2. The outcome of the specialist investigations also relates to where it will be unwise not to offer residents of the 120 units access to sports and other community facilities. The lack of such amenities and facilities which serve as community support mechanisms is likely to create destruction in the social structure and dynamics of a community and consequently the sense of community created by inclusive provision of housing and facilities.

**The EIA Reports and specialist studies all failed to engage in a meaningful manner with the consideration that the impact of the proposed amendments have not been considered and were not properly articulated.**

- 4.34.25. The EAP has confirmed that the potential impacts (i.e. biophysical and social) which the proposed development may have on the receiving environment were adequately assessed in accordance with the requirements of the 2014 EIA Regulations. The Socio-Economic Impact Assessment addressed the social impacts and offered enough context to ensure an adequate understanding of social sensitivities and proposed a workable solution for mixed-use housing coupled to community facilities as part of the Levendal Village.

**No attempt was made to assess the potential negative impact/loss of opportunity to obtain social integration that will be brought about if the social housing component should be removed (i.e. from an integration perspective) on the Pearl Valley II development.**

- 4.34.26. It is not only the provision of low cost and gap housing but also activities that will create and enhance a sense of community. The potential impacts of the proposed amendments were adequately assessed in Dr Bloom's Socio-Economic Impact Assessment attached to the Final Amendment Application Report (dated December 2019).

**The Pearl Valley II authorisation was obtained on the back of the promised social housing component that was going to be part and parcel of the Pearl Valley II development.**

- 4.34.27. The social housing component and the provision of community facilities and amenities are not mutually exclusive. It is not the one or the other that is applicable, but a combination of the two components that result in social-cohesion and community upliftment. The proposed inclusionary housing component at Levendal Village would ensure access to transport, shops, amenities and community facilities. The Agriculture Plan, coupled to housing and amenities at Levendal Village, will provide households with the residential infrastructure, mobility and access to opportunities that would support productive activities. Furthermore, there will be an investment in community and social facilities (e.g. a superette or shop, public transport interchange, creche, sport facilities, community centre and a place of worship) and public open spaces, rather than an exclusive focus on housing as premised in the Western Cape Provincial SDF.

**They remain of the opinion that if it was known at the time of approval that arguments would later be put up to motivate why the social housing component cannot be implemented and is a bad idea, the EA in respect of Pearl Valley II probably would not have been granted in the first place.**



- 4.34.28. The alignment between what was originally approved and the development rights the Applicant currently holds resulted in a significant change to the original development scope. The developer has not negated on their obligation to provide social, staff and gap housing, the primary change would be to create a more inclusive community environment with facilities and amenities.

**The assessment of the resettlement impact appears to have no alternatives. The resettlement impact is not restricted to the Levendal development but will also impact negatively on the Pearl Valley II development (loss of promised social integration).**

- 4.34.29. A resettlement plan makes provision for what the developer is to do in terms of the resettlement of the impacted / affected persons. The fundamental issue is not alternatives, but whether what is provided as part of the resettlement addresses the issues of the resettled persons, i.e. they are not worse off and are placed in a better position than what they were. This was confirmed through the process and engagement with the families that were to be resettled from the Nursery Site, while alternatives were also provided, which entails the beneficiaries returning to Levendal Village once constructed.

**The need and desirability of the social housing component of the Pearl Valley II development have been assessed and found to exist. Pearl Valley II was found to be the right place for locating the 120 social housing units.**

- 4.34.30. The social housing component and the provision of community facilities and amenities are not mutually exclusive, it is not the one or the other that is applicable, but a combination of the two components that resulted in social-cohesion and community upliftment. The proposed 120 inclusionary housing components at Levendal Village would ensure access to transport, shops, amenities and community facilities. The Agriculture Plan, coupled to housing and amenities at Levendal Village, will provide households with the residential infrastructure, mobility and access to opportunities that would support productive activities. Furthermore, there will be an investment in community and social facilities (e.g. a superette or shop, public transport interchange, creche, sport facilities, community centre and a place of worship) and public open spaces, rather than an exclusive focus on housing as premised in the Western Cape SDF.

**If the provision of community facilities was such an important consideration (as the Applicant is trying to suggest at this late stage), why not (as an alternative) scale down the social housing component of 120 units to say 100 such units in Pearl Valley II?**

- 4.34.31. Whether the proposed inclusionary housing component is 120 or 100, Levendal Village is better suited for the social housing units as it would ensure access to transport, shops, amenities and community facilities. The overriding motivation is to accommodate the 120 social/ staff/ gap housing in a better suited area (namely Levendal Village) which will have better social benefits and access to transport, shops, amenities and community facilities.

**Often developers come up with utopian development proposals that, as a last phase of the development, proposals relating to facilities that will be provided for the community concerned or the public at large (e.g. the construction of a community hall or sports fields). The Department knows from experience that is not**

uncommon for developers not to reach or implement such a final phase of a development due to financial or other reasons. To avoid this from happening the Department has in earlier years imposed appropriate conditions to ensure that promised benefits will materialise.

- 4.34.32. The Honourable Minister will consider the development proposal within their discretion and decide on what conditions need to be included in the EA.

**They re-iterate that the amendment applied for should not be granted but, in the event of it being granted, that appropriate conditions of approval should be imposed in terms of which the residential rights are linked to progress with the implementation of the agricultural plan (e.g. that only say 20% of the approved number of residential rights may be constructed once 20% of the agricultural proposal has been fully implemented).**

- 4.34.33. The Honourable Minister will decide on what conditions need to be included in the EA.

**In the event of the Pearl Valley II amendment being granted, it should be linked to progress with implementation with the provision of the 120 social housing units in Levendal (not elsewhere).**

- 4.34.34. The Honourable Minister will decide on what conditions need to be included in the EA.

**They have requested the EAP on 9 January 2020 to let them have a copy of their communication to Dr Elena Broughton concerning Dr Bloom's ownership of land in Val De Vie.**

- 4.34.35. Dr Elena Broughton (the Socio-economic Impacts Specialist) was requested by the EAP to complete a Peer Review of Dr Bloom's Socio-economic Impact Assessment Report (which was completed in June 2019 and attached in Appendix C of the Final Amendment Application Report dated December 2019) due to the potential conflict of interest. The Peer Reviewer found the assessment to be comprehensive, objective and not reflecting bias by Dr Bloom.

- 4.35. No new activities are triggered by the proposed amendments in terms of the EIA Regulations, 2014 (Government Notices No. R. 983, R. 984 and R. 985 of 4 December 2014) promulgated in terms of the NEMA.

#### **Site inspections and a meeting**

- 4.36. On 26 April 2019 a site inspection was conducted at the Pearl Valley II and Levendal Development sites by officials from this Department's Chief Directorate: Environmental Governance, Policy Coordination and Enforcement, the Directorate: Development Management and the Drakenstein Municipality.
- 4.37. On 3 October 2019 a site inspection was conducted at the Pearl Valley II and Levendal Development sites by officials from the Chief Directorate: Environmental Governance, Policy Coordination and Enforcement and the Directorate: Development Management.
- 4.38. On 9 October 2019, the EAP and officials from this Department had a meeting to discuss the Pearl Valley II and Levendal Development amendment applications.
- 4.39. On 12 March 2020, a site inspection was conducted by the Honourable; Ms Andrea Thomas from the Directorate: Development Planning; Mr Ayub Mohamed from the Chief Directorate: Environmental Governance, Policy Coordination and

Enforcement; and Ms Jaqueta Keef and Mr Luxolo Kula from the Sub-directorate: Environmental Appeals Management.

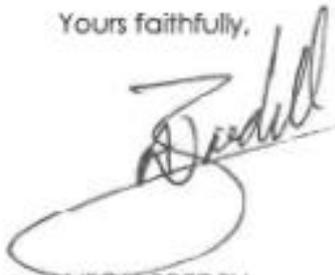
5. **CONDITIONS**

All the conditions contained in the Appeal EA granted on 19 July 2010 and subsequently amended on 26 March 2012, 26 January 2015, 23 November 2015, 7 August 2017 and in this Amended Appeal EA must be implemented and complied with.

6. **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.

Yours faithfully,



ANTON BREDELL

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

DATE: 6/8/2020

Copied to:

Mr R. Jonas/ F. Venturi (Terramanzi Group (Pty) Ltd)  
Ms Cindy Winter (Drakenstein Municipality)

Email: [environmental@terramanzi.co.za](mailto:environmental@terramanzi.co.za)  
Email: [Cindy.Winter@drakenstein.gov.za](mailto:Cindy.Winter@drakenstein.gov.za)



14/3/11/83/28/0243/17

Mr M Bosch  
Val de Vie Investments (Pty) Ltd  
PO Box 6223  
**PAARL**  
7646

Tel: (021) 863 6120  
Fax: (021) 863 2741

Dear Mr Bosch

**APPLICATION FOR THE AMENDMENT OF THE AMENDED APPEAL ENVIRONMENTAL AUTHORISATION GRANTED FOR THE PEARL VALLEY II DEVELOPMENT ON FARM 1693 AND PORTION 3 OF FARM NO. 826 AND ERVEN 549 AND 550, PAARL (PREVIOUSLY KNOWN AS PORTIONS 3, 6, 8, 9 AND 11 OF FARM NO. 826, PAARL)**

Your application for the amendment of the amended Appeal Environmental Authorisation ("EA") in the above regard refers.

By virtue of the powers conferred on me by the EIA Regulations, 2014 (Government Notice No. R, 326 in Government Gazette No. 40772 of 7 April 2017), I have decided to amend the description of the activity of the abovementioned Amended Appeal EA and the Environmental Management Programme to read as follows and as reflected in the attached layout plan which is contained in Appendix C of the Amendment Application dated 10 April 2017:

**Description of the activity;-**

- *"Precinct No. /Erf No. 782: Agriculture Zone I for agricultural use (approximately 61ha);*
- *Precinct No. 1: 17 Resort Zone II erven for a rural residential, pump station, private open space and private road (approximately 55.95ha);*
- *Precinct No. 2: 120 Resort Zone II erven for dwelling house, gap, social and staff housing, road, paddock, stables, nursery, indoor arena, chapel, utilities, gymnasium, pool, sport facilities, garages & storage, dell, parking, electrical substation and sewerage treatment plant (approximately 27.32ha);*
- *Precinct No. 3: 140 Resort Zone II erven for a dwelling house and group housing (approximately 14.15ha);*

- Precinct No. 4: 418 Resort Zone II erven for a retirement village and related facilities and amenities (approximately 33.18ha);
- Precinct No. 5: 197 Resort Zone II erven for dwelling houses (approximately 35.79ha);
- Precinct No. 6: 14 Resort Zone II erven for dwelling houses (approximately 7.02ha);
- Precinct No. 7: 22 Resort Zone II erven for dwelling houses (approximately 11.41ha);
- Precinct No. 8: 119 Resort Zone II erven for dwelling houses (approximately 16.49ha);
- Precinct No. 9: Academy, training and school (approximately 0.44ha);
- Precinct No. 10 - 16: Private open space (approximately 16.40ha);
- Precinct No. 17 - 19: Private Nature Reserve (approximately 38.70ha);
- Precinct No. 20 - 21: A private road (approximately 13.36ha);
- Precinct No. 22: Private or public road (approximately 3.27ha); and
- Phases 10-A-C and 11 transferred to Pearl Valley Golf Estate (Pty) Ltd as erven 551, 574, 595 and 597."

1. **REASONS FOR THE DECISION:**

- Since the commencement of the construction phase of the activities, the applicant has found the need to refine the internal layout slightly based on market demands.
- The proposed amendments will take place within the approved development footprint (authorised on 26 January 2015) and will not have an impact on the approved density or approved land use zoning.
- The granting of the proposed amendments is not likely to adversely affect the environment or the rights or interests of other parties. Therefore, no public participation process is required for the proposed amendment.
- The proposed amendments will not change the scope of a valid environmental authorisation nor increase the level or nature of the impact, which impact was initially assessed and considered when application was made for the original authorisation.
- No new activities are triggered by the proposed amendments in terms of the 2014 EIA Regulations (Government Notice No. R. 324, R. 325 and R. 327 in Government Gazette No. 40772 of 7 April 2017) promulgated in terms of the NEMA.

Yours faithfully



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

DATE: 7/8/2017

Cc: Mr F Venturi (Terramanz Group (Pty) Ltd)

Fax: 086 558 1213



M 3/6/15

Mr Alexander Robert Roriston  
Novelway Investments (Pty) Ltd  
1 Pearl Valley Estate  
**PAARL**  
7646

Tel: (021) 867 8000  
Fax: 086 385 0055

Dear Mr Roriston

**AMENDMENT APPLICATION FOR PEARL VALLEY II DEVELOPMENT ON FARM 1693 AND PORTION 3 OF FARM NO. 826 AND ERVEN 549 AND 550, PAARL (PREVIOUSLY KNOWN AS PORTIONS 3, 6, 8, 9 AND 11 OF FARM NO. 826, PAARL)**

Your application for the amendment of the amended appeal Environmental Authorisation ("EA") for the above-mentioned development refers.

By virtue of the powers conferred on myself by the National Environmental Management Act, 1998 ("NEMA") Environmental Impact Assessment ("EIA") Regulations (18 June 2010), I have decided to amend the amended appeal decision issued on 26 March 2012 as follows:

1.1 Validity period of the EA:

The validity period of the EA which read as follows:

**"J. DURATION AND DATE OF EXPIRY:**

*The listed activities must commence within a period of three years from the date of issue of this authorisation. If commencement of the listed activities does not occur within that period, the environmental authorisation lapses and a new application for environmental authorisation must be made in order for the listed activities to be undertaken, unless the holder of the environmental authorisation has lodged a valid application for the amendment of the duration of expiry of the environmental authorisation before the expiry of the environmental authorisation. In this case, the validity of the environmental authorisation will be automatically extended from the day before the environmental authorisation would otherwise have expired.*

**is amended as follows:**

*"This environmental authorisation is valid for a period of **two (2) years** from the date of this amended appeal decision. The holder must commence with all the listed activities within the said period or this environmental authorisation lapses and a new application for environmental authorisation must be submitted to the competent authority."*

### **1.2 Land Parcel consolidation:**

The location of the development which read as follows:

#### **"B. LOCATION:**

The site where the development will be developed which was referred to as Farm Kiprug No. 826, Portions 3, 6, 8, 9 and 11",

**is amended to the current, consolidated Land Parcels described below and reflected in Appendix A of the Amendment Application:**

- "Farm No. 826/3;
- Remainder of Erf No. 549;
- Remainder of Erf No. 550; and
- Farm No. 1693."

### **1.3 Amendment of the description of the activity:**

The description of the activity which read as follows:

"The development entails the change of land use on Portions 3, 6, 8, 9 and 11 of Farm Kiprug No. 826 in Paarl for the purpose of establishing approximately 1094 residential erven, including 120 social gap and staff erven (40 social, 40 gap and 40 staff erven with a minimum area of 100m<sup>2</sup>, 150m<sup>2</sup> and 200m<sup>2</sup>, respectively):

- A 180 room hotel;
- A conference facility;
- A restaurant;
- A frail care centre;
- A golf academy;
- A convenience store of 2000m<sup>2</sup>;
- A clubhouse;
- A sport centre;
- A 18 hole golf course; and
- Maintenance buildings, as indicated in Revised Layout 6",

**is amended as reflected in Appendix A of the Amendment Application:**

- "Agriculture Zone I for agricultural use (approximately 61ha);
- 17 Resort Zone II erven for a rural residential development (approximately 58.81ha);
- Resort Zone II for residential use, road, paddock, stables, nursery, indoor area chapel, utilities, dell, etc. (approximately 27.32ha);
- 140 Resort Zone II erven for a dwelling house and group housing (approximately 14.15ha);
- 480 Resort Zone II erven for a retirement village and related facilities and amenities (approximately 33.57ha);
- 100 Resort Zone II erven for dwelling houses (approximately 36.73ha);
- 122 Resort Zone II erven for gap, social, staff and other residential houses (approximately 7.02ha);
- 38 Resort Zone II erven for dwelling houses (approximately 11.37ha);
- 150 Resort Zone II erven for dwelling houses (approximately 14.68ha);
- Academy, training and school (approximately 0.44ha);
- Undetermined area (approximately 0.65ha);
- Pump station (approximately 0.11ha);
- Private open space (approximately 11.47ha);
- Private Nature Reserve (approximately 39.41ha); and
- A private road."

### **1.4 Conditions of the authorisation:**

The following conditions G.1 and G.12 of the original authorisation are amended:

• **Condition G. 1:**

One week's notice, in writing, must be given to the Ministry of Local Government, Environmental Affairs and Development Planning before the commencement of the activities.

- 1.1 Such notice shall make clear reference to the site location details and reference number given above.
- 1.2 The said notice must also include proof of compliance with the following conditions described herein:  
Condition: 13

• **Condition G. 12:**

An Environmental Management Programme which is based on the proposed amendments to the authorisation, requirements of the amended authorisation and which meets the requirements of section 24N of the NEMA and regulation 33 of the 2010 EIA Amendment Regulations must be compiled and submitted for approval at least 3 months prior to the commencement of the activities.

- 12.1 The demarcation of the site, erection of a camp site for the construction teams, establishments of working and storage areas, environmental awareness training of employees, protection of flora, fauna, natural features, rehabilitation of alien infested areas within the site, rehabilitation of the riparian areas within the site, any archaeological material of significance that may be discovered, cultural issues (e.g. protection of archaeological artefacts), landscaping and re-vegetation with indigenous plants and trees, erosion prevention, refuse and waste management, water demand and conservation management, energy demand, dust and noise control, effluent and storm water management, materials used, the safety, handling storage, disposal and transport of fertilizers or other hazardous materials, site rehabilitation and/or re-vegetation, fencing, fire prevention measures, the removal of alien invasive plants, pollution control measures, application of sustainable development principles in the final location, design and construction of the golf course and constructed units, monitoring and reporting, penalties, claims and damages.
- 12.2 Incorporate the conditions of the authorisation.
- 12.3 Describe the level and type of competency required of the Environmental Control Officer.
- 12.4 Define and allocate the roles and responsibilities of the Environmental Control Officer referred to above, and the Environmental Site Agent.
- 12.5 Determine the frequency of site visits; and
- 12.6 Be approved by the Minister before the commencement of any construction activities.

The following additional conditions must be implemented and complied with:

• **Condition 16:**

A copy of the environmental authorisation must be kept at the site where the listed activity has been undertaken. Access to the site referred to in section C above must be granted and, the environmental authorization 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 must also be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.

• **Condition 17:**

The holder must submit an application for amendment of the environmental authorisation to the competent authority where any detail with respect to the environmental authorisation must be amended, added, substituted, corrected, removed or updated. Further, the rights granted by this environmental authorisation are personal rights (i.e. not attached to a property, but granted to a natural or juristic person). As such, only



the holder may undertake the activity authorised by the competent authority. Permission to transfer the rights and obligations contained herein must be applied for in the following manner:

- 17.1 The holder must submit an originally signed and dated application for amendment of the environmental authorisation to the competent authority stating that he wishes the rights and obligations contained herein to be transferred, and including (a) confirmation that the environmental authorisation is still in force; (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 has the ability to implement the mitigation and management measures and to comply with the stipulated conditions.
- 17.2 The competent authority will issue an amendment to the new holder either by way of a new environmental authorisation or an addendum to the existing environmental authorisation if the transfer is found to be appropriate.

**Condition 18:**

Notwithstanding this environmental authorisation, the holder must comply with any other statutory requirements that may be applicable to the undertaking of the listed activity.

**Condition 19:**

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.

**Condition 20:**

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.

**Condition 21:**

The applicable requirements with respect to relevant legislation pertaining to occupational health and safety must be adhered to.

**2. REASONS FOR THE DECISION:**

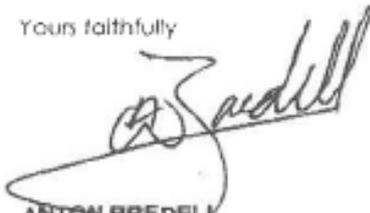
- 2.1 The EA must be extended for the applicant to ensure that:
  - 2.1.1 There is compliance with the competent authority's suggestion to extend the EA validity period as discussed and agreed at a meeting with the competent authority held on 9 June 2014 and as confirmed in writing by the environmental assessment practitioner on 12 June 2014;
  - 2.1.2 There is an adequate time to obtain the permissions from the Department of Water Affairs as required in terms of the National Water Act, 1998; and
  - 2.1.3 The fine-scale specifications for the revised layout, which include town planning, engineering, landscaping, rehabilitation and other specifications are in place prior to implementation of the project.
- 2.2 The applicant has consolidated the land parcels to ensure a simplified, manageable and accountable register of land parcels on the advice of the professional team. The land parcels are consolidated and already in place and this amendment application seeks to register these new, consolidated land parcels with the competent authority.
- 2.3 The proposed amendment is not likely to adversely affect the environment or affect the rights or interests of other parties due to the following:

- 2.3.1 The internal layout is refined to ensure that the Pearl Valley II Development is implementable from a commercial perspective and this is supported by the professional team as well as various commenting authorities and relevant stakeholders.
- 2.3.2 The following supporting documentation was requested by the competent authority to accompany the Application for Amendment and is hereby provided, as discussed and agreed at a meeting with the competent authority held on 9 June 2014 and as confirmed in writing by the Environmental Assessment Practitioner on 12 June 2014:
  - 2.3.2.1 The Val de Vie Home Owners Association has provided a letter supporting the revised layout plan.
  - 2.3.2.2 The Pearl Valley I Home Owners Association has also provided a letter of their support for the revised layout plan.
  - 2.3.2.3 The Provincial Department of Agriculture has no objection to the proposed amendments.
  - 2.3.2.4 The Drakenstein Municipality has confirmed that sufficient bulk services exist to service the proposed revised development. BIGEN Africa Services (Pty) Ltd, who compiled an Engineering Services Report, confirmed that there are sufficient bulk services to accommodate the proposed amendments. It was also indicated in the report that between the original layout plan and the currently revised layout plan there will be considerable saving of electricity and water.
  - 2.3.2.5 Eskom has confirmed that the preferred powerline servitude and substation for the site.
  - 2.3.2.6 The independent botanical impact specialist, Mr Charlie Boucher, together with a land surveyor have ground-truthed the historical and roughly delineated biodiversity corridor, which is now slightly larger and also includes Critically Endangered Vegetation (previously authorised for development) that will be conserved.
  - 2.3.2.7 The independent traffic impact specialist, Dr Christoff Krogscheepers of ITS Traffic Engineers, confirmed in a traffic impact statement that the historical traffic impact assessment is still valid under the existing traffic conditions.
- 2.3.3 The biodiversity corridor, riparian rehabilitation and general positive environmental benefits of the development will not be realised if the amendment application is not authorised. The identified and larger biodiversity corridor will be rehabilitated although its part was going to be ploughed as part of the originally authorised development.
- 2.3.4 Improved social and economic benefits would be realised as a result of the improved layout (such as the nursery, stables and retail centre and school).
- 2.3.5 The proposed amendments will result in an overall positive ecological impact on the site when compared to the historical layout (which included a golf course and a smaller biodiversity corridor).
- 2.3.6 The proposed revised layout remains within:
  - 2.3.6.1 The currently authorised spatial/geographic boundaries i.e. the land parcels currently authorised, which have now been consolidated, fully contain the extent of the reorganised internal layout.
  - 2.3.6.2 The authorised densities (i.e. not more than 1094 dwelling units) of the current layout.
- 2.3.7 The proposed revised layout will be contributing approximately R70 million to bulk services for the Drakenstein Municipality which will also benefit the broader region i.e. the developer is advancing strategic and planned infrastructure development for the Drakenstein Municipality.

- 2.4 The proposed amended layout does not enhance existing and approved development rights and would, accordingly, not compromise the integrity of existing spatial development policies or plans for the area. The amended layout has been approved by the Drakenstein Municipality on 3 November 2014 in terms of the Land Use Planning Ordinance, 1985, further supporting the above statements. There is no reason to suggest that the establishment of the amended layout of Pearl Valley II should not be authorised at this point in time as the original development has already been authorised and the proposed layout is completely within the spatial and density parameters of that previously authorised.
- 2.5 Temporary impacts such as noise, visual, dust and vibration are anticipated with the construction phase. However, the above impacts are anticipated to be less than the current layout given that a golf course will no longer be established, the latter of which will involve significantly more earth moving and associated dust and noise impacts than the revised layout.
- 2.6 The heritage aspects of the proposed layout are not significantly different to the existing layout as a residential estate is still proposed, although without a golf course and with improved biodiversity corridors and social amenities.
- 2.7 No newly listed activities are triggered by the proposed amendments in terms of the 2014 Environmental Impact Assessment ("EIA") Regulations ((Government Notice ("GN") No. R. 982, R. 983, R. 984 and R. 985 in Government Gazette No. 38282 of 4 December 2014) promulgated in terms of the National Environmental Management Act, 1998 ("NEMA").
- 2.8 The Environmental Management Programme ("EMP") will be submitted 3 months prior to the commencement of the activities due to the fact that there are several programmes that must be included into the EMP and that would take some considerable time to complete (such as a fire management programme and energy management programme and the fact that the correct Berg River Rehabilitation best practices will be included into the EMP, once consultation has taken place with the competent authority's Berg River Management Project members.

Your interest in the future of our environment is appreciated.

Yours faithfully



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

DATE: 26/1/2015

CC: Mr F Venturi (Teramanz Environmental Consulting)

Fax: 086 558 1213



Western Cape  
Government

MINISTRY OF LOCAL GOVERNMENT,  
ENVIRONMENTAL AFFAIRS AND  
DEVELOPMENT PLANNING

M3/6/5

DATE OF ISSUE: 26 MAR 2012

Mr Jean Nortier  
The Board of Directors  
Novelway Investments (Pty) Limited  
1 Pearl Valley Estate  
PAARL  
7646

Dear Mr Nortier:

**AMENDMENT APPLICATION FOR AMENDED APPEAL ENVIRONMENTAL AUTHORISATION :  
PROPOSED PEARL VALLEY STAGE TWO GOLF ESTATE ON PORTION 3, 6, 8, 9 AND 11 OF FARM NO.  
826, PAARL.**

The application for amendment of the amended Environmental Authorisation issued on 19 July 2010,  
relates:

After considering all relevant facts and supportive documents, I have decided, in terms of Regulations  
39 and 43 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA")  
Environmental Impact Assessment ("EIA") Regulations, 2010 (Government Notice No. R. 543 in  
Government Gazette No. 33306 of 18 June 2010, to approve the application for amendment of the  
validity period of the authorisation and amend Section J of the amended Environmental Authorisation  
issued on 19 July 2010 as follows:-

**J. DURATION AND DATE OF EXPIRY:**

The listed activities must commence within a period of three years from the date of issue of this  
authorisation. If commencement of the listed activities does not occur within that period, the  
environmental authorisation lapses and a new application for environmental authorisation  
must be made in order for the listed activities to be undertaken, unless the holder of the  
environmental authorisation has lodged a valid application for the amendment of the  
duration of expiry of the environmental authorisation before the expiry of the environmental  
authorisation. In this case, the validity of the environmental authorisation will be automatically  
extended from the day before the environmental authorisation would otherwise have expired.

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Date: 2012/06/23  
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COMMISSIONER OF OATHS  
Chartered Accountant (SA)  
Membership no: 06246442  
444 Botolphs Crescent, Val de Vie Estate  
Paarl 7620

until the amendment application for the extension of the validity period is decided ("the period of administrative extension"). The listed activities including site preparation may not commence during the period of administrative extension.

The conditions under which the amended Environmental Authorisation was granted on 19 July 2010 are still valid.

Yours faithfully



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

DATE: 26/3/2012

Copies to: A. S. Doring-Terblanche (SA) NS TERBLANCHE & GENOTE/ASSOCIATES

(021)887 0497

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Ministry of Local Government, Environmental Affairs and Development Planning  
Ministerie van Plaaslike Regering, Omgewingsake en Ontwikkelingsbeplanning  
AbaPhathiswa bakaRhulumente womMandla, bemiCimbi esiNgqongileyo noCwangciso loPhuhliso

M 316/5

Date of Issue : 19 JUL 2010

Mr Jean Nortier  
The Board of Directors  
Novelway Investments (Pty) Ltd  
1 Pearl Valley Estate  
PAARL  
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Paarl 7620

Fax: (021) 867 0767

Dear Mr Nortier

**APPLICATION FOR AMENDMENT OF ENVIRONMENTAL AUTHORISATION: PROPOSED PEARL VALLEY STAGE TWO GOLF ESTATE ON PORTION 3, 6, 8, 9 AND 11 OF FARM NO. 826, PAARL.**

The application for amendment of the Environmental Authorisation issued on 30 July 2009, refers.

After considering all relevant facts and supportive documents, I have decided, in terms of Regulations 39 and 43 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") Environmental Impact Assessment ("EIA") Regulations as defined in GN No. R. 385 of 26 April 2006 to approve the application for amendment to extend the validity period of the authorisation issued on 30 July 2009.

The Environmental Authorisation below reflects the amendment (paragraph J).

**ENVIRONMENTAL AUTHORISATION**

**A. DESCRIPTION OF ACTIVITY:**

The development entails the change of land use on Portions 3, 6, 8, 9 and 11 of Farm Kliprug No. 826 in Paarl for the purpose of establishing:

Approximately 1094 residential erven, including 120 social, 'gap' and staff erven (40 social, 40 'gap' and 40 staff erven with a minimum area of 100m<sup>2</sup>, 150 m<sup>2</sup> and 200 m<sup>2</sup> respectively);

- A 180 room hotel;
- A conference facility;
- A restaurant;
- A frail care centre;
- A golf academy;
- A convenience store of 2 000m<sup>2</sup>;
- A clubhouse;
- A sport centre;
- A 18 hole golf course, and
- Maintenance buildings, as indicated in Revised Layout 6.

These are activities identified in Schedule 1 of Government Notice No. R. 1182 of 5 September 1987, as amended, being:

Item 1(a) The construction, erection or upgrading of facilities for commercial electricity generation with an output of at least 10 megawatts and infrastructure for bulk supply;

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- Item 1(f) The construction, erection or upgrading of canals and channels, including diversions of the normal flow of water in a river bed and water transfer schemes between water catchments and impoundments;
- Item 1(k) The construction, erection or upgrading of reservoirs for public water supply;
- Item 1(l) The construction, erection or upgrading of schemes for the abstraction or utilisation of ground or surface water for bulk supply purposes;
- Item 1(m) The construction, erection or upgrading of public and private resorts and associated infrastructure;
- Item 1(n) The construction, erection or upgrading of sewerage treatment plants and associated infrastructure; and
- Item 2 (c) The change of land use from agricultural or zoned undetermined use or an equivalent zoning to any other use,
- hereinafter referred to as "the activities".

**B. LOCATION:**

The development will be situated next to the Pearl Valley Signature Golf Estate and Spa (Pearl Valley Stage 1) approximately 10km south of Paarl on the Wemmershoek Road (R301) towards Franschhoek. The site comprises of the Farm Kliprug, No. 826, Portions 3, 6, 8, 9 and 11

Co-ordinates:  
Latitude: 33° 49' 00" S  
Longitude: 18° 58' 00" E,

hereinafter referred to as "the site".

**C. APPLICANT:**

% Mr Johan van Vuuren  
The Board of Directors  
Novelway Investments (Pty) Ltd  
PAARL  
7848  
Tel: (021) 887 8000  
Fax: (021) 887 0767

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--

**D. CONSULTANT:**

Anneke de Kock Environmental Consultants  
% Ms A de Kock  
PO Box 6151  
UNIEDAL  
7612  
Tel/Fax: (021) 866 1524

**E. SITE VISIT(S):**

Date: 15 August 2006  
Present: Ayub Mohamed, Mare-Liez Oosthuizen and Andrea Thomas from the Department of Environmental Affairs and Development Planning ("DEA&DP"); Anneke de Kock from Anneke de Kock Environmental Consultants; Annonch Terblanche from N S Terblanche & Associates and representatives from Eskom.

Date: 15 July 2008

Present: Minister T Essop (Minister for Environment, Planning and Economic Development); Mr R Ellis (Acting Head of Department: DEA&DP); and Ms T de Weal and Messrs A Mohamed and J Benjamin of the DEA&DP.

**F. DECISION:**

In terms of the amendment application dated 28 April 2010 and the information at my disposal I, the Western Cape Minister of Local Government, Environmental Affairs and Development Planning have decided in terms of Regulations 39 and 43 of the NEMA EIA Regulations as defined in Government Notice No. R. 385 of 21 April 2006, to extend the duration and date of expiry of the amendment decision issued on 30 July 2010 with a further three (3) years.

The granting of this environmental authorisation is subject to the conditions set out in the Environmental Authorisation dated 23 July 2008:

**G. CONDITIONS:**

1. One week's notice, in writing, must be given to the Department of Environmental Affairs and Development Planning - Directorate: Integrated Environmental Management (Region A), (hereinafter referred to as "the Directorate"), before commencement of operation activities.
  - 1.1 Such notice shall make clear reference to the site location details and reference number given above.
  - 1.2 The said notice must also include proof of compliance with the following conditions described herein:  
Conditions: 7 & 1.
2. An integrated waste management approach must be used that is based on waste minimization and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill in terms of Section 20 of the Environment Conservation Act, 1989 (Act No. 73 of 1989).
3. The recommendations of the Department of Agriculture as stipulated in their letter dated 10/10/2005 (reference 20/9/2/5/4/88) must be adhered to and implemented.
4. The requirements of the Department of Water Affairs and Forestry (DWAF) as stipulated in the letter, Reference 16/2/7/G100/A/8, as submitted to the DEA&DP on 05/12/2005 by Anneke de Kock Environmental Consultants must be implemented.
5. The recommendations as stipulated by CapeNature in their letter dated 5 November 2004 (reference SSD14/2/6/1/9/3 826-11\_Golf\_PearlValley) must be adopted and implemented in the Environmental Management Plan.
6. The recommendations as stipulated by the Department of Transport and Public Works (Reference PR22/28/87) in their letter dated 23 July 2004 must be adopted and adhered to.
7. The mitigation/rehabilitation measures and recommendations as detailed in the Final Scoping Report, and the Addenda attached thereto, dated June 2005 compiled by Anneke de Kock Environmental Consultants, must be adopted and implemented.
8. Water saving devices and technologies (e.g. dual flush toilets, low-flow shower heads and taps, etc) must be used and a water demand management and water conservation plan must be prepared and implemented for the proposed golf estate and included in the Environmental Management Plan. This water demand management and conservation plan must include, but not be limited to: the capture and use of rainwater from gutters and roofs; use of locally indigenous vegetation during landscaping; recycling of backwash water from swimming pools; and the training of staff to implement good housekeeping techniques.
9. Energy saving devices and technologies must be used and an energy management plan must be prepared and included in the Environmental Management Plan and implemented for the proposed golf estate. The energy saving devices and technologies must include, but not be limited to:
  - 9.1 Air-conditioning: ~~the use of solar glazing, energy~~ efficient windows and insulation to reduce the need for air-conditioning.

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20/10/2010

Signature: \_\_\_\_\_  
SAREL DANIEL S DITLIEB ROSSDUW  
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Chartered Accountant (SA)  
Membership no: 08246442  
444 Batonage Crescent, Val de Vie Estate  
Paarl 7620

page 3 of 7



- 9.2 Lighting: the use of natural light wherever possible during the day in preference to artificial light; the use of low voltage or compact fluorescent lights instead of incandescent globes;
- 9.3 Heating: maximise the use of solar heating; use multiple boilers to permit the minimum amount of water being heated to supply to the golf estate's residents; and
- 9.4 Use of photo-voltaic electricity generators.
10. Should any heritage remains be exposed during excavations, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in terms of the National Heritage Resources Act, 1999 (Act No. 26 of 1999)). Heritage remains uncovered or disturbed during earthworks must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape.
- 10.1 If any archaeological remains (including but not limited to fossil bones and fossil shells, 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, rock art and rock engravings) are discovered during construction they must immediately be reported to Heritage Western Cape and must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape.
- 10.2 If any graves or unmarked human burials are discovered, they must be treated with respect and South African Heritage Resources Agency ("SAHRA") must be notified immediately and must not be disturbed further until the necessary approval has been obtained from SAHRA. An archaeologist must be contracted to remove the remains at the expense of the developer.
11. The applicant is required to revise the residential component of the proposed development to incorporate a development typology that includes social, 'gap' and staff housing opportunities in order to meet the Densification and Integrated Settlement Objectives of Western Cape Provincial Spatial Development Framework (2005). The revised plan must be developed in consultation with the Department of Environmental Affairs and Development Planning and approved by the relevant planning authority.

12. An Environmental Management Plan ("EMP") which fulfils the requirements of this authorisation must be compiled and submitted to the Directorate for approval at least three weeks prior to construction activities commencing. The EMP must address *inter alia* –

- i) the demarcation of the site, the erection of camp site for construction teams, establishments of working and storage areas, environmental awareness training of employees, protection of flora, fauna, natural features and any archaeological material of significance that may be discovered, cultural issues (e.g. protection of archaeological artefacts), landscaping and revegetation with indigenous plants and trees, erosion prevention methods, refuse and waste management, water demand and conservation management, energy demand, dust and noise control, effluent and storm water management, materials used, the safety, handling, storage, disposal and transport of fertilizers or other hazardous materials, site rehabilitation and/or revegetation, fencing, fire prevention measures, the removal of all alien invasive plants, pollution control measures, application of sustainable development principles in the final location, design and construction of the golf course and constructed units, monitoring and reporting, penalties, claims and damages;

- ii) incorporate the conditions of authorisation of this authorisation;
- iii) describe the level and type of competency required of the Environmental Control Officer, ("ECO");
- iv) define and allocate the roles and responsibilities of the ECO referred to above, and the Environmental Site Agent where applicable;
- v) Determine the frequency of site visits; and
- vi) be approved by the Department before the commencement of any construction activities.

13. The holder of the authorisation must appoint a suitably experienced Environment Control Officer (or Site Agent where appropriate) for the construction phase of the development before commencement of any land clearing or construction activities to ensure that the mitigation/rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMP.

page 4 of 7

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Date: 2014/06/23  
Signature: [Signature]  
SAREL DANIEL GOTTLIEB ROSSOUW  
COMMISSIONER OF OATHS  
Chartered Accountant (SA)  
Membership no: 08246442  
444 Battalion Crescent, Val de Vie Estate,  
Pearl 7620

14. The applicant shall be responsible for ensuring compliance with the conditions contained in the Record of Decision by any person acting on his behalf, including but not limited to, an agent, servant, employee or any person rendering a service to the applicant in respect of the activity, including but not limited to contractors and consultants. The applicant, owner and/or developer must notify this Department and any other relevant authority, in writing, within 24 hours thereof if any condition of this authorisation is not adhered to.
15. Departmental officials shall be given access to the property referred to in B above for the purpose of assessing and/or monitoring compliance with the conditions contained in this Record of Decision, at all reasonable times.

**H. RECOMMENDATIONS**

Upon completion of the rehabilitation of the natural vegetation, the applicant enters into negotiations with CapeNature for inclusion in CapeNature's Stewardship Programme.

**I. REASONS FOR THE DECISION TO GRANT THE AMENDMENT**

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

- Application Form and Scoping Checklist received during 2004,
- The negative RoD of the Director: Integrated Environmental Management in respect of the activities on 21 January 2008,
- The appeal lodged by the applicant on 18 February 2008 and the appeal of 1 July 2008,
- The amendment application received on 26 November 2008.
- The amended Environmental Authorisation issued on 30 July 2009.
- The second amendment application received on 28 April 2010.

A summary of the issues which, were of the most significance, is set out below.

**Social and Economic Considerations**

The assessment undertaken indicates that the development will result in both permanent and temporary jobs, as well as the creation of social housing opportunities in line with the requirements of the Western Cape Spatial Development Framework (2005).

**Alternatives**

An assessment of alternatives was undertaken which considered the no-development option, an agricultural or housing or golf course-only type of development and a development that includes a combination of the above which includes biodiversity considerations. The latter was deemed to have most potential benefits considering NEMA principles.

Regarding the density and layout, the proposed development proposes the creation of approximately 1094 residential opportunities in a combined format of single and group residential erven at density of 2,8 units per hectare, which is in line with the surrounding developments. In terms of the Western Cape Provincial Spatial Development Framework (2005), densification and integrated settlement objectives have been set. The Revised Layout Plan 6 is in line with these objectives and makes provision for social, 'gap' and staff housing opportunities on the site.

Regarding agriculture, the Western Cape Department of Agriculture has not objected to the proposed development and the applicant has through negotiations with the Department of Agriculture reserved approximately 61 hectares of land classified as medium to low agricultural potential land along the banks of the Berg River for agricultural purposes.

**Biodiversity**

The development is located on disturbed land with very little indigenous vegetation and primarily low potential agricultural land. Patches of indigenous vegetation has nonetheless been identified and of significance is the Swartland Alluvium Fynbos of which very little remains due to the transformation of

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lowlands. In order to conserve this vegetation type and other indigenous vegetation and associated fauna, a system of biodiversity corridors is proposed which will also link the eastern mountains to the Berg River on the western side of the property. The proposed layout has accordingly been informed and adapted by these corridors. The implementation of an environmental management plan and the proposed mitigation measures related to threatened flora on the property will ensure the rehabilitation and conservation of this flora and fauna in the future.

#### Bulk services

The assessments have indicated that together with the mitigation measures proposed sufficient bulk services capacity, including that of water exists to support the proposed development.

#### Public Participation

The public participation process yielded no objections.

It terms of consultation with other relevant organs of state, comment and input was provided into the EIA process by the Department of Water Affairs and Forestry (DWAF), CapeNature, Department of Agriculture, Department of Transport and Public Works and Heritage Western Cape, of which none have objected to the proposed development or indicated that the proposed development is inappropriate in context with the surrounding environment.

#### Reasons for the Amendment

The amendments are required to increase the number of social, 'gap' and staff housing units initially recommended and to approve the Revised Layout Plan 6 that conforms to the requirements of the Western Cape Provincial Spatial Development Framework (2005)

#### Reasons for this amendment application:

- The Planning Section of Department of Environmental Affairs and Development Planning have yet to approve the rezoning application after the Drakenstein Municipality has supported it.
- The final tender processes for basic terrain works could not be finalized since the rezoning applications have not been approved.
- The position and upgrade of the Eskom line is still to be finalized between Eskom and Val-De-Vie.
- Pearl Valley is still awaiting the mining closure permit from the Department of Minerals and Energy in regards to the mining activities.
- The contract workers mining living on the premises of the mine are still to be relocated from the site.
- The lending criteria of the banks have changed drastically and the worldwide recession had a major impact on developments and financial markets since the issuing of the Environmental Authorisation, including the Stage Two Planning.

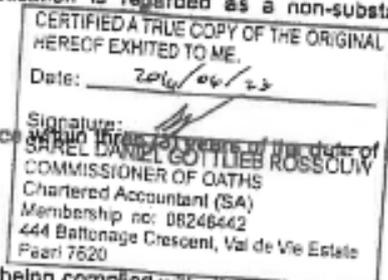
The above motivation is deemed acceptable. The application is regarded as a non-substantive amendment and is accordingly granted.

#### J. DURATION AND DATE OF EXPIRY:

The authorisation shall lapse if the activity does not commence within three years of the date of issue of this amended Environmental Authorisation.

#### K. GENERAL:

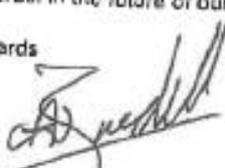
If any condition imposed in terms of this authorisation is not being complied with, the authorisation may be withdrawn after 30 days written notice to the applicant in terms of Section 22(4). Failure to comply with any of these conditions is also an offence and may be dealt with in terms of Sections 29, 30 and 31 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) as well as any other appropriate legal mechanisms.



Provincial Government, Local Authority or committees appointed in terms of the conditions of the application or any other public authority or organisation shall not be held responsible for any damages or losses suffered by the developer or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the developer with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Your interest in the future of our environment is greatly appreciated.

Kind regards



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

DATE OF DECISION: 19/7/2010

- Copies to: 1. Mr David Delaney (Drakenstein Municipality)
- 2. Ms A de Kock (Anneke de Kock Environmental Consultants)

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