

REFERENCE: 16/3/3/1/D6/18/0009/20
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: **06 APRIL 2021**

The Director
Banah Investments (Pty) Ltd
PO Box 1695
MOSSEL BAY
6500

Attention: Mr Frederik Jonck Wagenaar

Tel: (044) 690 5721
E-mail: frik@mere.co.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION (EA) IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: PROPOSED CHANGE OF LAND USE AND DEVELOPMENT OF A RETIREMENT VILLAGE ON ERF 2893, HARTENBOS HEUWELS, HARTENBOS

ENVIRONMENTAL AUTHORISATION

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

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to the preferred alternative, described in the Basic Assessment Report ("BAR") received by this Department on 23 November 2020.

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

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Director
Banah Investments (Pty) Ltd
% Mr Frederik Jonck Wagenaar

PO Box 1695
MOSSEL BAY
 6500

Tel: (044) 690 5721
 E-mail: frik@mere.co.za

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Listing Notice 1</p> <p><i>Activity Number: 27</i> <i>Activity Description</i> The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation.</p> <p>Listing Notice 3</p> <p><i>Activity Number: 12</i> <i>Activity Description</i> The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p> <p>a. Western Cape</p> <ul style="list-style-type: none"> i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004; ii. Within critical biodiversity areas identified in bioregional plans; iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the 	<p>The proposed site contains indigenous vegetation and the proposal will result in the removal of more than 1 hectare of this indigenous vegetation.</p> <p>The site contains critically endangered and endangered vegetation and the proposal will result in the clearance of more than 300m² of a critically endangered or endangered ecosystem.</p>

<p>greater, excluding where such removal will occur behind the development setback line on even in urban areas;</p> <p>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or</p> <p>v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister</p>	
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The abovementioned list is hereinafter referred to as “**the listed activities**”.

The holder is herein authorised to undertake the following alternative that includes the listed activity as it relates to the development and the development footprint area:

The proposal entails the clearance of approximately 1,3 hectares of indigenous vegetation including more than 300m² of endangered or critically endangered vegetation in order to establish a retirement village and associated infrastructure on Erf 2893, Hartenbos. The proposal will result in the transformation of the entire site and will entail the following:

- 21 x One (1) bedroom apartment s of approximately (74 m² each) amounting to approximately 1 554m²
- 16 x Two (2) bedroom apartment (107 m² each) amounting to approximately 1 712m²
- 23 x One (1) bedroom assisted living units (52 m² each) amounting to approximately 1 196m²
- 1 x Health care (frail care facility) of approximately 1 498m²
- 1 x Guard house of 18m²

This EA will be implemented in accordance with the Site Development Plans attached to this EA as Annexures 2.1 & 2.2.

C. SITE DESCRIPTION AND LOCATION

The site is vacant and located next to a residential development. It is characterised by a mixture of moderately sensitive vegetation and alien vegetation species as determined by the botanical specialist. The listed activities will be undertaken on Erf 2893 (44 Kameeldoring Avenue, hereafter referred to as 'the property'), which is situated at Hartenbos Heuwels, west of the N2 highway. Access to the property is via Boekenhout Avenue off Louise Fourie Road, Geelhout and Kameeldoring Avenue, south-east of the property.

Coordinates:

Description / Point	Latitude (S)	Longitude (E)
Site	34° 7' 39.97" South	22° 5' 41.66" East

The SG digit code
C05100040000289300000

Refer to Annexure 1: Locality Plan and Annexures 2.1 & 2.2: Site Development Plans.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

The Director
HillLand Environmental
% Ms. C. Avierinos
PO Box 590
GEORGE
6530

Tel: 044 889 0229
Email: cathy@hilland.co.za

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **30 March 2031**, the date on which all the listed activities, including post construction rehabilitation and monitoring requirements, will be deemed to be concluded at the site.

Further to the above, the Environmental Authorisation is subject to the following:

- 1.1. The Holder must start with the physical implementation and exceed the threshold of all the authorised listed activities on the site by 30 March 2026.
- 1.2. The post construction rehabilitation and monitoring requirements must be finalised at the site within a period of 6-months from the date the construction activities (construction phase) are concluded; but by no later than 30 September 2030.

Note: The post-construction rehabilitation and monitoring requirements should be completed at least six (6) months prior to expiry of the validity period of an environmental authorisation to ensure the Holder is able to comply with the environmental auditing requirements in time.

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

2. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with the Preferred Alternative described in the FBAR received by this Department on the site as described in Section C above in accordance with the development footprint depicted in Annexure 2 of this Environmental Authorisation.
3. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the preferred Alternative described in the BAR received by this Department on 23 November 2020 on the site as described in Section C above.

The preferred alternative entails the clearance of approximately 1,3 hectares of indigenous vegetation including more than 300m² of endangered or critically endangered vegetation in order to establish a retirement village and associated infrastructure on Erf 2893, Hartenbos. The proposal will result in the transformation of the entire site and will entail the following:

- 21 x One (1) bedroom apartment of approximately (74m² each) amounting to approximately 1 554m²
- 16 x Two (2) bedroom apartment (107 m² each) amounting to approximately 1 712m²
- 23 x One (1) bedroom assisted living units (52 m² each) amounting to approximately 1196m²
- 1 x Health care (frail care facility) of approximately 1 498m²
- 1 x Guard house 18m²

This EA will be implemented in accordance with the Site Development Plans attached to this EA as Annexures 2.1 & 2.2.

4. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
5. The Holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the Holder.
6. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority, before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be

necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

Notification and administration of appeal

7. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision—
 - 7.1. notify all registered Interested and Affected Parties (“I&APs”) of –
 - (a) the decision reached on the application;
 - (b) the reasons for the decision as included in Annexure 3;
 - (c) the date of the decision; and
 - (d) the date when the decision was issued.
 - 7.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;
 - 7.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 7.4. provide the registered I&APs with the:
 - (a) name of the Holder (entity) of this Environmental Authorisation,
 - (b) name of the responsible person for this Environmental Authorisation,
 - (c) postal address of the Holder,
 - (d) telephonic and fax details of the Holder,
 - (e) e-mail address, if any, of the Holder,
 - (f) contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
 - 7.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
 - 7.6. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Written notice to the Competent Authority

8. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
 - 8.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 8.2. The notice must also include proof of compliance with the following conditions described herein: **Conditions: 4, 7, 10, 12 and 21.**
9. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities of the—

- 9.1. bulk internal service infrastructure (i.e. internal roads; water-, sewer-, electricity reticulation and bulk storm water); and
- 9.2. final phase of the residential development.

Management of activity

10. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended and submitted for approval, subject to the following requirements:
 - 10.1. The EMPr must be amended to incorporate the following —
 - (a) Environmental Control Officer ("ECO") compliance reports must be submitted monthly to this Department's Regional Office for attention the Directorate Development Management (Region 3).
 - (b) Incorporate all the conditions contained in this Environmental Authorisation; The section dealing with the management and demarcation of the No-Go area's (including the open space areas) must clearly state how the areas will be demarcated, prior to any earthworks / commencement of construction;
 - (c) Incorporate an alien invasive vegetation clearing plan detailing timelines for the phased clearing and follow-up schedule for the property.
 - 10.2. The amended EMPr must be submitted to the Competent Authority and be approved, prior to construction activities commencing on the site.

Note: The revised EMPr should be submitted to the Competent Authority at least 90-days, prior to the construction activities commencing on site to ensure the competent authority is able to process / review the revised EMPr, prior to the intended date of commencement.
11. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

12. The Holder must appoint a suitably experienced ECO for the duration of the construction and rehabilitation phases.
13. The ECO must—
 - 13.1. be appointed prior to commencement of any works (i.e. site clearance; removal and movement of soil and / or rubble or construction activities commencing);
 - 13.2. ensure compliance with the EMPr and the conditions contained herein;
 - 13.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
 - 13.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.

14. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has a website, such documents must be made available on such platform where it is publicly accessible.
15. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

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

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

- 17.2. During the period when the development of the retirement units is undertaken, the Holder must ensure that environmental audit(s) are performed regularly and submit the Environmental Audit Report(s) to the Competent Authority.

During this phase of the development, the frequency of the auditing of compliance with the conditions of the environmental authorisation and provisions of the EMPr **may not exceed intervals of three (3) years.**

A final Environmental Audit Report must be submitted to the Competent Authority within **three (3)** months of completion of the final phase of the residential development and the post construction rehabilitation and monitoring requirements thereof.

Note: The final auditing requirements should be completed at least three months prior to the expiry of the validity period of the environmental authorisation (i.e. by no later than 30 December 2030) to ensure that the Holder is able to comply with all the environmental auditing and reporting requirements and for the competent authority to be able to process it timeously.

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

- 18.1. be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;
- 18.2. provide verifiable findings, in a structured and systematic manner, on–
 - (a) the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - (b) the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
- 18.3. identify and assess any new impacts and risks as a result of undertaking the activity;
- 18.4. evaluate the effectiveness of the EMPr;
- 18.5. identify shortcomings in the EMPr;
- 18.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
- 18.7. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
- 18.8. indicate the date when the WWTW was upgraded;
- 18.9. indicate the date when the sewage connections were made;
- 18.10. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
- 18.11. include a photographic record of the site applicable to the audit; and
- 18.12. be informed by the ECO reports.

19. The Holder must, within 7 calendar days of the submission of the audit report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

20. No storm water may be discharged from the development directly into the nearby watercourse.
21. A search and rescue mission for species of conservation concern must be undertaken by a qualified botanical specialist prior to commencement of construction activities.

22. No structures or infrastructures may be constructed within the delineated riparian zone or the 1 in 100 year flood line of the watercourse.
23. The following Resource Conservation Measures must be implemented and included in all sales agreements:
 - 23.1. All units must be fitted with a rainwater tank with a minimum capacity of 5000 litres for the collection and storage of rainwater from roofs.
 - 23.2. Rainwater collected from roofs must receive preferential use in the irrigation of gardens or other outdoor requirements.
 - 23.3. All units must be fitted with and use low flow showerheads, tap aerators and dual-flush toilets.
 - 23.4. All units must be fitted with and use energy-efficient lighting and heating designs, geyser insulator "blankets" and solar water heaters.
24. 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.
25. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the Holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

Amendment of Environmental Authorisation and EMPr

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

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

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.
 - (b) It is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity if the competent authority has not granted an Environmental Authorisation for the undertaking of the activity.
3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, the Competent Authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

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

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

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

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

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

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).

7. This Environmental Authorisation is granted for a set period from date of issue, during which period all the listed activities must be commenced with and concluded, including the post-construction rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

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

- ❖ Failure to submit the revised EMPr to the Competent Authority at least 90-days prior to the construction activities commencing on site, may result in the competent authority not being able to process / review the revised EMPr prior to the intended date of commencement.
 - ❖ Failure to complete the post construction rehabilitation and monitoring requirements at least six months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.
 - ❖ Failure to complete the auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements and may result in the competent authority not being able to process the audit timeously.
8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e. 4, 7, 10, 12 and 21). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
 9. In the event that the Environmental Authorisation should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.
 10. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and

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

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

Private Bag X9186

CAPE TOWN

8000

By facsimile: (021) 483 4174; or

By hand: Appeal Administrator

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

Room 809

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

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Administrator at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the Holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. GAVIN BENJAMIN

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION3)

DATE OF DECISION: **06 APRIL 2021**

CC:

Ms. Cathy Avierinos

Mr. Warren Manuel

Ms. Inge Delpont

EAP (HilLand Environmental)

Mossel Bay Municipality

HilLand Environmental

Email: cathy@hilland.co.za

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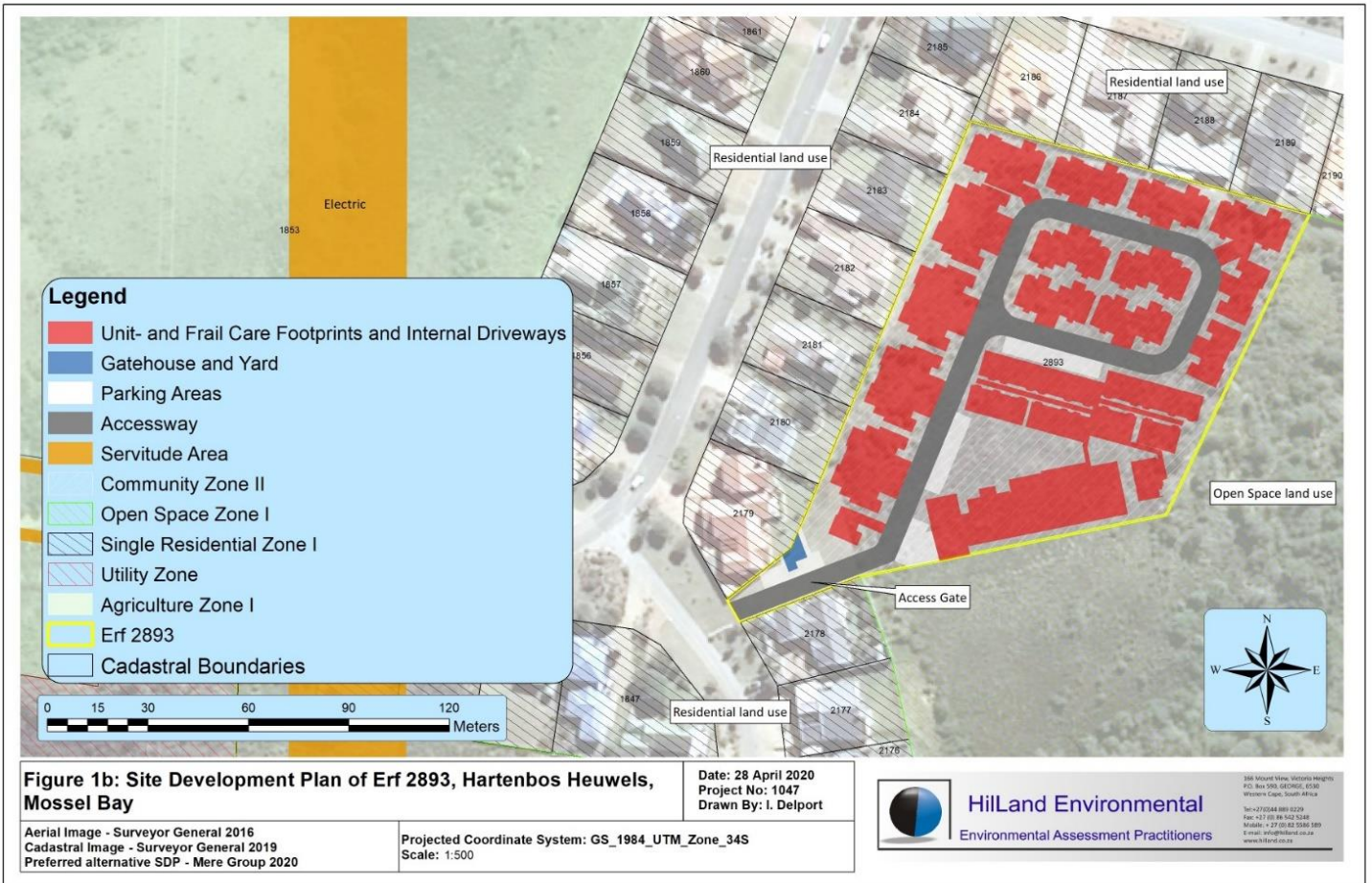
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EIA REFERENCE NUMBER: 16/3/3/1/D6/18/0009/20

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2.1: SITE DEVELOPMENT PLAN



ANNEXURE 2.2: DETAILED SITE DEVELOPMENT PLAN



ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form received on 1 September 2020, the Final Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 23 November 2020;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from interested and affected parties (I&APs) and responses to these, included in the FBAR received by this department on 23 November 2020; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

In addition to the above, the Department had sufficient information at its disposal to understand the environmental and spatial context and the case officer is also familiar with the site and surrounding area. All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

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

- Identification of and engagement with I&APs including organs of state which have jurisdiction in respect of the activity to which the application relates;
- Fixing a notice board at the entrance of Erf 2893 site on 9 July 2020;
- Giving written notice to the owners and occupiers of land adjacent to the site and any alternative site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 9 July 2020;
- The placing of a newspaper advertisement in the 'Mossel Bay Advertiser' in 10 July 2020;
- The pre-application BAR was made available from 10 July 2020 - 11 August 2020; and
- The draft BAR was made available from 08 October 2020 - 09 November 2020.

The following Organs of State provided comment on the proposal:

- ❖ *Breede Gouritz Catchment Management Agency (BGCMA)*
- ❖ *CapeNature*
- ❖ *Heritage Western Cape*
- ❖ *Mossel Bay Municipality*
- ❖ *The Department of Health*
- ❖ *Department of Forestry and Fisheries- Fire advisor*

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Department of Environmental Affairs and Development Planning

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❖ Garden Route District Municipality

CapeNature indicated in their comment that they do not object to the proposed development application, as it will not result in a significant impact on biodiversity. The Department of Health also indicated in their comment that they do not object to the development proposal provided that there are services available to support the development. The Mossel Bay Municipality confirmed the availability of services to support the proposed development.

The BGCMA also confirmed that they do not have any objection to the proposed development and Heritage Western Cape stated that there is no reason to believe that the proposed subdivision of Erf 2893, will impact on heritage resources, and that no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required. Numerous comments in support of the proposed development were received from the public.

No major concerns were identified during the PPP and all the comments and issues raised by I&APs and respective Organs of State that were captured in the Basic Assessment Report were responded to by the EAP.

2. Alternatives

Preferred Alternative

This proposal entails the clearance of approximately 1,3 hectares of indigenous vegetation including more than 300m² of endangered or critically endangered vegetation in order to establish a retirement village and associated infrastructure on Erf 2893, Hartenbos. The proposal will result in the transformation of the entire site and will entail the following:

- 21 x One (1) bedroom apartment s of approximately (74m² each) amounting to approximately 1 554m²
- 16 x Two (2) bedroom apartment (107 m² each) amounting to approximately 1 712m²
- 23 x One (1) bedroom assisted living units (52 m² each) amounting to approximately 1196m²
- 1 x Health care (frail care facility) of approximately 1 498m²
- 1 x Guard house 18m²

Lay-out Alternative 2

This proposal entails the clearance of approximately 1,3 hectares of indigenous vegetation including more than 300m² of endangered or critically endangered vegetation in order to establish a retirement village and associated infrastructure on Erf 2893, Hartenbos. The proposal will result in the transformation of the entire site and will entail the following:

- 20 x One (1) bedroom apartment (74 m² each) 1 480m²
- 19 x Two (2) bedroom apartment (107 m² each) 2 033m²
- 10 x One (1) bedroom assisted living units (52 m² each) 520m²
- 1 x Guard house 6m²
- Health care (frail care facility with 7 frail care beds), parking, internal driveways/roads, 8959.30m²

The two alternatives that were considered only represents a difference in the number of one-two- bedroom apartments, assisted living units and frail care beds. The preferred alternative caters to what is needed in the area and provides enough of each of the different accommodation possibilities. Essentially both of the layouts will require the clearance of vegetation on the 1.3 ha property. The preferred alternative caters for the exact need and therefore alternative 2 is not preferred.

"No-Go" Alternative

The no-go alternative entails the implementation of the existing rights on the property, being to construct a church. However, the construction of the church does not cater for the needs of the area, as there are already four (4) churches in the area. It is therefore not the applicant's preferred alternative.

3. Impact Assessment and Mitigation Measures

3.1 Planning

The proposed site is located within the urban edge in accordance with the Mossel Bay Spatial Development Framework (SDF). The proposal includes rezoning the property from "place of worship" to general residential. The development proposal will provide additional accommodation and investment opportunities to retirees. The site is currently vacant with the zoning of "place of worship". It can therefore be said that the development of Erf 2893 is infill development of underutilised vacant erf.

3.2 Activity need and desirability

According to the BAR there is currently a need for development of this kind, as there is not lot of high-quality specialist accommodation for retirees which caters for older and frail people in the area. The proposed development will provide safe and secure accommodation for retirees with ancillary caring facilities, protected by security gates and 24/7 security guards.

The BAR further submits that Badisa (Hartenbos Elderly Care Service Manager - Johan Jacobs) confirmed that there is a need for retirement accommodation as they accommodate 85 elderly people in Hartenbos Nursing Home and serve approximately 300 seniors in the surrounding areas of the Service Centre. He also indicated that the waiting period for the elderly to be accommodated by Badisa is approximately 5 years and can therefore be agreed that there is a huge demand for affordable housing for the elderly in the area, which is a well-known and popular retirement destination.

Based on the assessment findings that there will be no significant negative impacts that will result from the proposed development this Department is satisfied with the motivation to satisfy the need for retirement units on the proposed site.

In light of the above, this Department is satisfied and convinced that the proposed development will respond to the current demand in terms of this type of accommodation and as such address both the need and desirability aspect, both in terms of the time and place/location component.

3.3 Services

The Mossel Bay Municipality has confirmed in writing that they have sufficient water and sewage capacity available to service the proposed development. Mossel Bay Municipality also confirmed that there is sufficient air space at the Petro SA landfill site for the disposal of solid waste that will be generated resulting from the proposed development. Mossel Bay Municipality has confirmed that they have the available capacity to accommodate the proposed development and all instalments will be made in accordance with NRS 034 and Mossel Bay Municipal standard specifications. As such, this Department is satisfied that there will be sufficient capacity in terms of municipal services to support the proposed development.

3.4 Stormwater

According to the BAR, Erf 2893 is currently not connected to any formal or official stormwater network. However, an old surface catchment dam is located on the property (south-eastern boundary, outside of the development footprint), with two (2) overflow / retention dams on the adjacent Municipal Open Space, (Erf 2193).

The BAR further states that there is a 7.6% gradient over the site, which will allow storm water to gravitate via sheet flow towards the natural valley below the old catchment dams. During construction this natural sheet flow will be disrupted and has the potential to carry pollutants. Erosion sediment controls will be put in place to reduce the transportation of any sediment during the construction phase. This will be done by installing earth berms that will guide surface flow towards the existing catchment dams or into mitre drains with silt traps. Ithemba compiled a detailed stormwater management plan, which is incorporated in the Environmental Management Programme (EMPr) to adequately manage stormwater on the property. This Department is satisfied that the measures proposed in the aforementioned plan will ensure that stormwater generated by the proposed development will not negatively impact on the receiving environment (e.g. surface erosion or pollution of nearby watercourses).

3.5 Biodiversity

The BAR gives an account of the biodiversity issues and risks that were identified during the environmental impact assessment process, as well as an assessment of the significance of each issue and risk, cumulative impacts of the proposed development and levels of acceptable change which have been considered.

The BAR further notes that according to the regional conservation plan, the majority of the proposed development will fall within an area mapped as an Ecological Support Area (ESA 1 - Terrestrial; which represents 1.19 ha of the property) and a small section of Critical Biodiversity Area (CBA 1 - Natural, wetland; which represents 0.045 ha of the property). It was, however, confirmed by the botanical specialist as well as the Freshwater specialist that the CBA 1 area is mapped incorrectly, as the affected area does not form part of a wetland. CapeNature agreed with the aforementioned finding. As such, the Department is satisfied that this finding can be accepted and that the mapping of the property is incorrect.

Terrestrial

The botanical specialist confirmed that the mapping of CBA 1 is incorrect. The findings of the botanical specialist also state that the vegetation on the erf could be regarded as moderately sensitive, especially since it is still relatively rich in species of a critically endangered vegetation type and earmarked as an ecological support area. The botanical assessment recorded 103 species, with a high richness in *Hermannia* spp. The specialist indicated that no rare or threatened species were found on site and also do not suspect

that there are any of these species due to the fact that the site is heavily disturbed by alien species, which cover 10-15% of the site.

According to the botanical specialist, regardless of the disturbed nature of the site, the high species richness indicates some level of sensitivity. The findings of the botanical specialist states that the vegetation on the erf could be regarded as moderately sensitive, especially since it is still relatively rich in species, of a critically endangered vegetation type and earmarked as an ecological support area. This is in agreement with the WCBSP mapping, which classifies the entire site as Ecological Support Area (ESA). CapeNature agreed with the findings of the botanical assessment and indicated that the proposed development should not have any negative impacts on the important ecological corridor located on the adjacent property zoned as open space. CapeNature also indicated that they have no objection to the proposed development.

Aquatic

According to the BAR the National Freshwater Ecological Priority Area (NFEPA) mapping displays the incorrect mapping of wetland areas. As such, a wetland verification was conducted by Confluent Environmental. A site visit confirmed the presence of a watercourse located adjacent to Erf 2893, but that this cannot be classified as a wetland as it does not meet any of the attributes in terms of the definition of a wetland as specified in the National Water Act. CapeNature also agrees with the findings of the specialist, however, recommended that the proposed development be located outside of this boundary given for the CBA1: aquatic, as it has an important hydrological function. Both the aquatic specialist, as well as CapeNature recommended that no development should be undertaken below the 1:100-year flood line of the nearby watercourse and no storm water should be discharged directly into the watercourse, but directed to the existing dams. These were incorporated in the conditions of this environmental authorisation. BGCMA submitted that they have no objection to the proposal.

Considering the above, this Department is satisfied that the impacts on the terrestrial and aquatic biodiversity can be mitigated sufficiently by the implementation of the aforementioned recommendations, conditions of the EA and mitigation measures contained in the EMPr.

3.6 Biophysical Impacts

According to the BAR impacts are anticipated from the preferred alternative on the biophysical environment. The BAR however states that the expected impact is considered to fall within the acceptable levels. Further to this, the construction phase of the proposed development will involve earthworks for the installation of services, construction of internal roads, retirement units and the frail care centre. The BAR further submits that vegetation clearing will expose the soil, which could potentially result in soil erosion. According to the BAR these activities will increase storm water runoff and potential sedimentation. The BAR submits that the potential risks and impacts associated with the construction can be mitigated to acceptable levels through the effective implementation of the EMPr and strict compliance with the conditions of this authorisation.

3.7 Heritage

Heritage Western Cape indicated that there is no reason to believe that the proposed development on Erf 2893, will impact on any heritage resources and therefore no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required.

3.8 Traffic Impact

The Traffic Impact Assessment found that the proposed development will have a fairly low trip generation potential (33 IN+OUT trips during the worst-case scenario). The largest trip generation occurs during the PM peak hour period, which does not coincide with the general AM and PM Peak Hour periods of the surrounding areas.

The traffic impact assessment recommended that the sight triangle created between the proposed egress point and Kameeldoring Street, should be cleared of all vegetation and physical obstructions that may have an impact on the sight distance. It also recommended that the proposed classification of Kameeldoring Street as a Class 4 Collector (on the Mossel Bay Roads Master Plan) from Boekenhout up to Geelhout Street be reconsidered. The undulating topography results in a lack of adequate decision sight distance (measured along the road centerline). It also states that any possible future signage leading towards the development, should guide people along the two Collector Roads (Boekenhout- and Geelhout Street) and not along Kameeldoring Street.

This Department is therefore satisfied that the proposed development will not have a negative impact on traffic in the surrounding area.

4. Scope and Validity Period of Authorisation

This environmental authorisation does not define specific operational aspects. The applicant has indicated that the construction activities (non-operational aspects) should be completed within a period of 10 years. The environmental authorisation's validity period has been granted for a period of ten years (10) years, during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring, and submission of the final environmental audit. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase. The Holder is required to substantially implement the proposal within a period of 5-years after the environmental authorisation is issued. Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years.

5. National Environmental Management Act Principles

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

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

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

6. Conclusion

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

- (a) The identification and assessment of impacts were sufficiently described in the FBAR dated 17 August 2020 and the key identified issues and impacts have been addressed and assessed adequately.
- (b) The procedure that was followed to conduct the environmental impact assessment was considered to be adequate to inform the decision-making process.
- (c) The mitigation measures proposed in the EMPr for the pre-construction, construction and rehabilitation phase of the proposed development are deemed to be sufficient to avoid and mitigate any potential negative impacts on the receiving environment during the construction phase.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with an approved EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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