



REFERENCE: 16/3/3/1/D6/18/0029/22
NEAS REFERENCE: WCP/EIA/0001191/2022
DATE OF ISSUE: 13 June 2023

ENVIRONMENTAL AUTHORISATION

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 (AS AMENDED): THE PROPOSED DEVELOPMENT OF A RESIDENTIAL ESTATE (DIAZ VILLAGE) ON ERF 3991, HARTENBOS, MOSSEL BAY MUNICIPALITY

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 (Alternative 5)**, described in the Final Basic Assessment Report ("FBAR"), 20 February 2023 as prepared and submitted by Cape Environmental Assessment Practitioners, the appointed environmental assessment practitioner ("EAP").

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

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Neotrend Properties (Pty) Ltd
c/o Mr. Gustav Gouws
33 York Street
George
6529

Cell: 082 820 7805
Email: Gustav.gouws10@gmail.com

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Environmental Impact Assessment Regulations Listing Notice 1 (Government Notice No. 326 of 7 April 2017)	
<p>Activity Number: 27 Activity Description:</p> <p>The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for-</p> <p>(i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p>	<p>The clearance of an area of approximately 8.9ha of indigenous vegetation for the housing development and associated infrastructure.</p>
Environmental Impact Assessment Regulations Listing Notice 3 (Government Notice No. 324 of 7 April 2017)	
<p>Activity Number: 12 Activity Description:</p> <p>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>i. Western Cape</p> <p>(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;</p> <p>(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 greater, excluding where such removal will occur behind the development setback line on even in urban areas; (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 (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>	<p>The proposal will require the clearance of more than 300m² of Endangered Hartenbos Dune Thicket.</p>

The abovementioned list is hereinafter referred to as “**the listed activity**”.

The Holder is herein authorised to undertake the following alternative (Alternative 5 – Preferred Alternative) that includes the listed activities as it relates to the development and development footprint area:

The development of housing and associated infrastructure, which includes the following:

- 57 Group Housing erven/stands (approximately 320m² in size), double storey;
- 54 Duplex Town Housing stands, double storey;
- 182 Apartments with consent for Convenience/Retail Shops at ground level, 4-7 storey height;
- 55 Apartments, 3-5 storey height;
- Children’s Care Facility & Home Owners Office spaces; and
- Private Open Space areas.

Services

- Connection to existing municipal water lines;
- Connection to existing municipal sewer lines;
- Connection to existing municipal electrical network;
- On-site stormwater infiltration facility in the North-Eastern corner of the site;

Roads & Access

- Main entrance to the development off Beach Boulevard must be re-aligned and upgraded with dedicated turning lanes;

Refuse and service area near the entrance gate which is being combined with that of the neighbouring Bardolino Retirement Village since their services/contractor access is affected by the realignment of Beach Boulevard;

Gatehouse & boundary wall/fence for controlled access;

On-site retention facility allowing all stormwater from the development to slowly infiltrate in support of the Sustainable Urban Drainage System (SUDS) stormwater principles for urban areas.

This EA will be implemented in accordance with the Site Development Plan attached to this EA as Annexure 2.

C. SITE DESCRIPTION AND LOCATION

The site, Erf 3991 is located near Diaz Strand, Hartenbos, Mossel Bay and comprises of indigenous and endangered vegetation that will be cleared for the construction of a residential development. The site is bounded by Bardolino Retirement Village to the north, Diaz Industrial to the west, and a mixture of single residential homes, as well as the holiday resort of Diaz Beach to the south and east. A Transnet railway line forms the western boundary of the site. Access to the property is directly off Beach Boulevard in the far northern corner of the site.

Site Coordinates:

Position:	Latitude (South)	Longitude (East)
Centre Point	34° 09' 23.20"	22° 06' 16.87"

SG digit code: C05100040000399100000

Refer to Annexure 1: Locality Plan of this Environmental Authorisation.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Cape Environmental Assessment Practitioners (Cape EAPrac)
% Ms. Louise-Mari van Zyl
P.O. Box 2070
George
6530

Tel: (044) 874 0365

Email: louise@cape-eaprac.co.za

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from the date of issue until **30 April 2033** and all six (6) phases must be implemented, including post construction rehabilitation and monitoring requirements must be concluded by this date.

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 activity specified in Section B above in accordance with the Preferred Alternative (Alternative 5) described in the FBAR dated 21 February 2023 at the site as described in Section C above. Clearance may only take place on the area identified and depicted on the Site Layout Map (Annexure 2) of this Environmental Authorisation.
3. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
4. The Holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the Holder.
5. Any changes to, or deviations from the scope of the preferred alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

Notification and administration of appeal

6. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–

- 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1. the decision reached on the application;
 - 6.1.2. the reasons for the decision as included in Annexure 3;
 - 6.1.3. the date of the decision; and
 - 6.1.4. the date when the decision was issued.
- 6.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;
- 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
- 6.4. provide the registered I&APs with the:
 - 6.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 6.4.2. name of the responsible person for this Environmental Authorisation,
 - 6.4.3. postal address of the Holder,
 - 6.4.4. telephonic and fax details of the Holder,
 - 6.4.5. e-mail address, if any, of the Holder,
 - 6.4.6. contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
- 6.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
- 6.6. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided (i.e. the listed activities, including site preparation, must not commence until the appeal is decided).

Written notice to the Competent Authority

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
 - 7.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 7.2. The notice must also include proof of compliance with the following conditions described herein:
Conditions: 6, 9, 12 and 20
8. Seven calendar days' written notice must be given to the Competent Authority on completion of the construction activities of the following:
 - 8.1. final phase of the residential development.

Management of activity

9. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended to include the following aspects and resubmitted for approval, prior to the commencement of the activities:
 - 9.1. The EMPr must be amended to incorporate the following —
 - 9.1.1. The conditions of this environmental authorisation and the following submitted to this Directorate, before commencement of clearance activities;
 - 9.1.2. All Environmental Control Officer ("ECO") monthly compliance monitoring reports must be submitted to this Directorate on a monthly basis;

- 9.1.3. The section dealing with the management and demarcation of the No-Go areas's (including open space areas) must clearly state how the areas will be demarcated, prior to any earthworks/commencement of construction activities.
 - 9.1.4. A map which clearly indicates the demarcated no-go areas.
 - 9.1.5. Alien Invasive Management Plan to control alien invasion on the neighbouring areas outside the site development plan, which must be approved by this Directorate, prior to the commencement of the construction activities.
 - 9.1.6. Auditing schedule detailing when environmental audits will be undertaken for the duration that the Environmental Authorisation is valid.
10. The amended EMPr must be submitted to the Competent Authority for approval, prior to the clearance activities commencing on site.
 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, prior to commencement of any works (i.e., removal and movement of soil) and for the duration of the clearance and rehabilitation phases of the implementation contained herein.
13. The ECO must–
 - 13.1. be appointed prior to commencement of any works (i.e. removal and movement of soil);
 - 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 30 April 2033, or when all development activities are concluded and the post development/implementation 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 publicly accessible website.
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 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 when the development of the residential phases (i.e. construction of structures) is undertaken, the Holder must ensure that environmental audits (s) are performed regularly and submit these 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 compliance with 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 requirement should be completed at least three months prior to the expiry of the validity period of the environmental authorisation (i.e., but no later than 31 January 2033) to ensure the Holder is able to comply with all the environmental auditing and reporting requirements and for the competent authority to be able to process it timeously.

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–
- 18.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 18.2.2. the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
- 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 on which the maintenance/ rehabilitation was commenced with and the progress of the rehabilitation;
- 18.9. include a photographic record of the site applicable to the audit; and
- 18.10. 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. The western boundary (along railway track) that consists of a strip / band of Milkwood trees (along the boundary) and towards the northern part of the property along the eastern boundary that consists of Coastal Forest with protected trees must be demarcated as no-go areas and be protected/retained.
21. The No-Go areas must be physically and clearly demarcated, prior to any earthworks or clearance activities commencing. This area may not be used to store any materials. All construction related activities, such as material storage and site camp establishment must occur within an identified area approved by the ECO.
22. The three protected trees in the development footprint must be clearly demarcated and fenced, prior to any site clearing/construction activities taking place.
23. The entire band of *Sideroxylon inerme* (Protected Milkwood trees) Milkwood thicket along the railway line and closest to the entrance must be protected. Should any of the Milkwood trees need to be pruned, disturbed or remove, a permit must be obtained from the Department Forestry, Fisheries and the Environment.
24. 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.

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 conclude the activities within the period stated in Condition 1 above, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.
3. 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.
4. 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.

5. 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.

6. 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

7. 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).
8. 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-development rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.
9. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e., 6, 9, 12 and 20). 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.

10. 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.
11. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

F. 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 including any Organ of State with interest in the matter; and
 - 1.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Zaahir.Toefy@westerncape.gov.za and copied to
DEADPEIAdmin.George@westerncape.gov.za
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 and any registered I&AP including any Organ of State with an interest in the matter; and
 - 2.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Zaahir.Toefy@westerncape.gov.za and copied to
DEADPEIAdmin.George@westerncape.gov.za
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>.

G. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT

WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 13 JUNE 2023

Copies to: Ms. L. van Zyl

Cape EAPrac

Email: louise@cape-eaprac.co.za

FOR OFFICIAL USE ONLY:

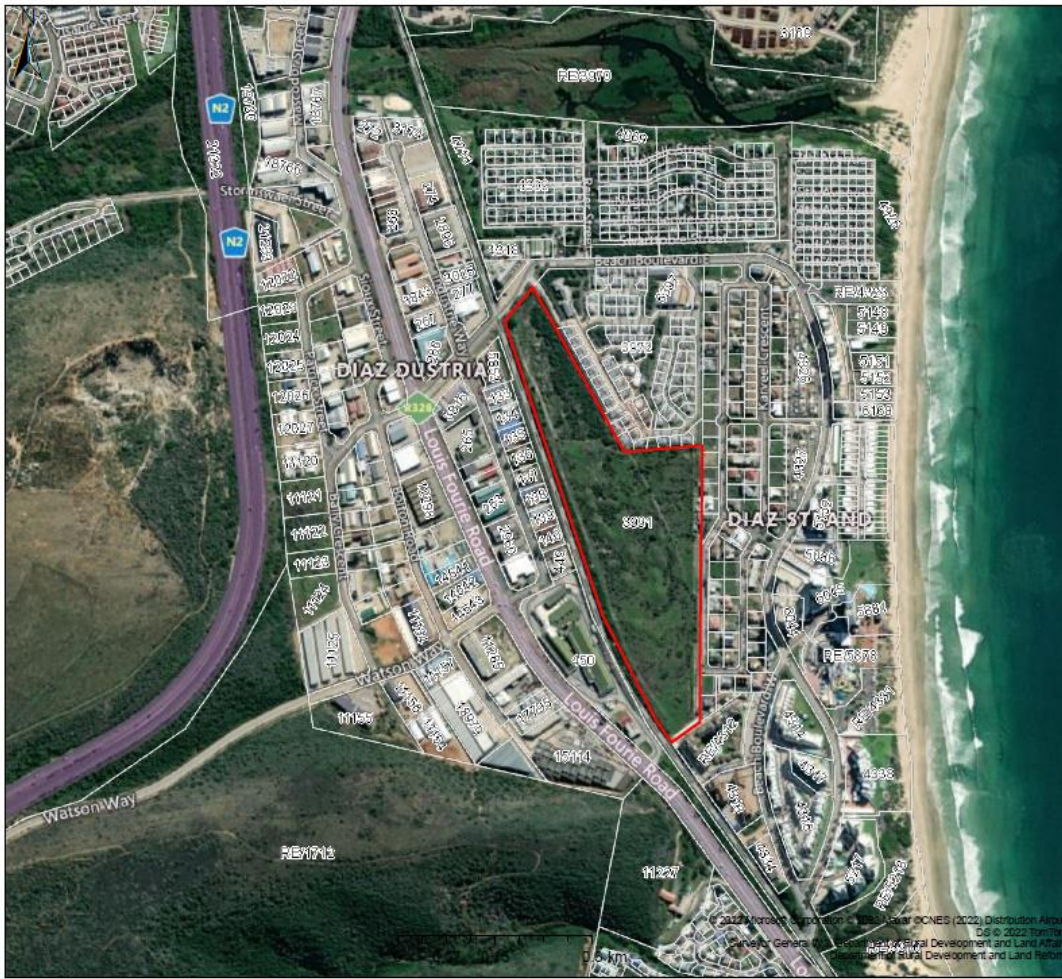
EIA REFERENCE NUMBER:

16/3/3/1/D6/18/0029/22

NEAS REFERENCE:

WCP/EIA/0001191/2022

ANNEXURE 1: LOCALITY MAP



Erf 3991 Locality Map

Legend

Erf

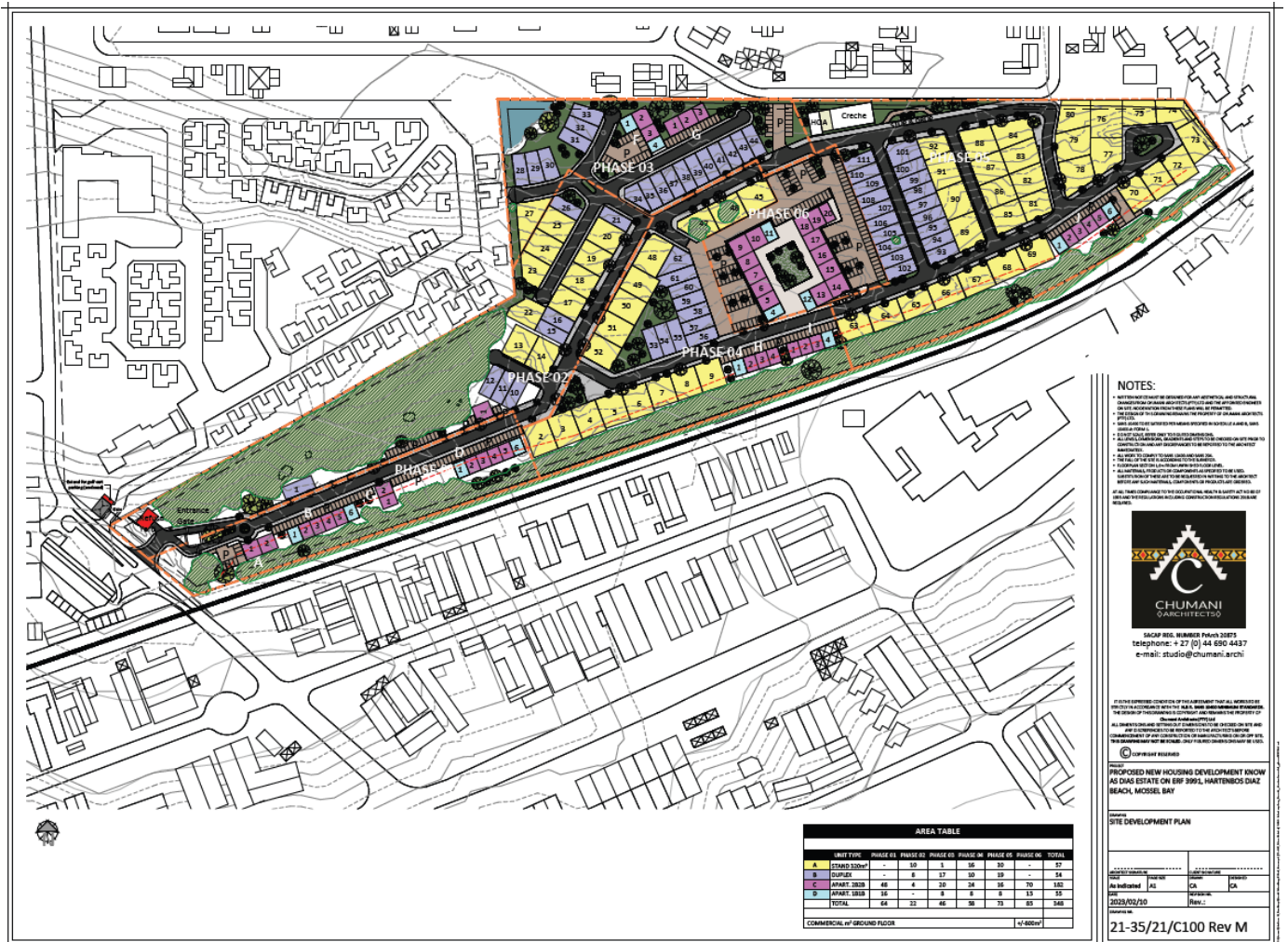
Map Center: Lon: 22°6'15.7"E
Lat: 34°9'25.5"S

Scale: 1:9 028
Date created: August 24, 2022



Western Cape
Government
FOR YOU Agriculture

ANNEXURE 2: SITE DEVELOPMENT PLAN (ALTERNATIVE 5 – PREFERRED ALTERNATIVE)



NOTES:

1. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS FROM THE LOCAL AUTHORITY AND THE NATIONAL DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND FORESTRY.
2. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS FROM THE LOCAL AUTHORITY AND THE NATIONAL DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND FORESTRY.
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10. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY APPROVALS AND PERMITS FROM THE LOCAL AUTHORITY AND THE NATIONAL DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND FORESTRY.

CHUMANI ARCHITECTS
 SACAP REG. NUMBER: 20071
 telephone: +27 (0) 44 690 4437
 e-mail: studio@chumani.archi

UNIT TYPE	PHASE 01	PHASE 02	PHASE 03	PHASE 04	PHASE 05	PHASE 06	TOTAL
A STAFF QUARTERS	-	10	1	16	20	-	47
B DUPLEX	-	8	17	10	10	-	45
C APART. 100sq	48	4	20	24	36	70	182
D APART. 150sq	16	-	8	8	8	13	53
TOTAL	64	22	46	38	74	83	347

COMMERCIAL m² GROUND FLOOR: v.400m²

IF YOU WISH TO PURCHASE A COPY OF THIS DOCUMENT, PLEASE CONTACT THE ARCHITECT AT THE ADDRESS BELOW. THE ARCHITECT'S OFFICE IS NOT RESPONSIBLE FOR THE DESIGN OF THE DEVELOPMENT. THE ARCHITECT'S OFFICE IS NOT RESPONSIBLE FOR THE DESIGN OF THE DEVELOPMENT. THE ARCHITECT'S OFFICE IS NOT RESPONSIBLE FOR THE DESIGN OF THE DEVELOPMENT.

PROPOSED NEW HOUSING DEVELOPMENT KNOWN AS DUNE ESTATE ON 656 0000, HARTENBOESDAAL BEACH, MOSSEL BAY

DATE: 2023/02/20
 DRAWN BY: [Name]
 CHECKED BY: [Name]

21-35/21/C100 Rev M

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 31 October 2022, the Final Basic Assessment Report (FBAR) and EMPr dated 20 February 2023;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the FBAR dated 20 February 2023;
- e) The balancing of negative and positive impacts and proposed mitigation measures.

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:

- a) identification of and engagement with interested and affected parties (I&APs) including organs of state which have jurisdiction in respect of the activity to which the application relates;
- b) fixing a notice board at the sites on 28 October 2022;
- c) 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 01 November 2022;
- d) the draft BAR was made available for comment from 03 November 2022 until 02 December 2022;
- e) the placing of a newspaper advertisement in the 'Mossel Bay Advertiser' on 28 October 2022.

The following Organs of State provided comment on the proposal:

- a) Breede Gouritz Catchment Management Agency (BGCMA)
- b) CapeNature
- c) Department of Agriculture
- d) Department of Forestry
- e) Heritage Western Cape
- f) Mossel Bay Municipality
- g) Transnet

Breede Gouritz Catchment Management Agency (BGCMA)

BGCMA stated that they have reviewed the stormwater management plan and confirm that Section 21 (c) & (i) water uses will not be affected and no further authorisation will be required in terms of the National Water Act.

Cape Nature

Cape Nature stated that; *"Protected tree species on the site may not be removed, damaged, disturbed without a license i.t.o. the National Forest Act"* and *"Prior to construction demarcate indigenous trees to ensure that they are not disturbed during construction. Milkwood trees must be demarcated no-go area."*

Department of Forestry

The Department of Forestry requested that the western boundary (along the railway track) and the north-eastern part of the property consisting of forest with protected trees be demarcated as a No-Go area. They also requested that the protected trees and indigenous forest must be GPSd with their exact position and be indicated as No-Go areas to ensure the protection of the milkwood trees, as well as the forest. The Department of Forestry also requested that the development proposal remains within the disturbed more central area and not encroach on the boundaries containing protected Milkwood Trees, as well as coastal forest.

Mossel Bay Municipality

The Mossel Bay Municipality requested that the Main Access must be off Beach Boulevard East and the re-alignment of the intersection as Beach Boulevard East must be considered with exclusive turning lanes.

Transnet

Transnet stated that they have no objections if there is no interference with the railway reserve boundaries and the contractor must ensure that buildings adjacent to the railway line be 3m away from the Transnet railway reserve boundaries.

All the comments and issues raised by the respective Organs of State that were captured in the Basic Assessment Report were responded to by the EAP. The Competent Authority is satisfied with the responses of the EAP to the comments and concerns received from I&APs.

2. Alternatives

According to the BAR Erf 3991, Hartenbos has not been utilised for any particular land use since the municipal holiday chalet/caravan camp closed down some years back. The site subsequently became derelict and has been used as a dumping ground over the years. Mossel Bay municipality put out a tender for the specific purpose of developing a lifestyle residential village with 55 affordable housing units to enable integrated development in an area that would otherwise not be accessible to families in the low middle income class. Neotrend Properties (Pty) Ltd won the bid for the development and at this point the development proposal was aimed at maximising the entire site with development opportunities. This initial proposal was abandoned due to the aim of maximizing the entire site with development opportunities and not taking into account any environmental sensitivities.

Alternative 2

This alternative provided for 134 single residential, full title property and 328 sectional title units, in total 462 housing opportunities. This option would result in a total loss of sensitive environmental features, since the remaining milkwood pockets are not accommodated in this option. This alternative option requires lengthy negotiations and designs for the proposed railway infrastructure that has the potential to delay and complicate an application. Furthermore, a secondary access via Kerveel Street would require costly upgrades to the said road, which is believed to not have the capacity to accommodate additional

traffic. This alternative also did not include any upgrade of the Beach Boulevard East intersection/access point. This option was subsequently abandoned and not considered any further since it was not deemed feasible from an environmental and traffic perspective.

Alternative 3

This alternative was developed based on more detailed pre-planning and design, taking into account aerial imagery and due cognisance was given to the partial retaining of milkwood trees/clumps. This option allows for 267 residential opportunities along with commercial/retail. This option provided for three main access points, one from Beach Boulevard East, another from Kerveel Street and a third across the railway line to the south link with the industry. Further, the practical implication of incorporating remnant natural features into individual properties is not ideal as it causes fragmentation and the likelihood is that individual homeowners may in future apply for permits to remove/replace the milkwood clumps/trees with ornamental landscaping within their gardens. Lengthy negotiations and designs associated with the proposed third access over the railway line, as well as the sub-standard status of Kerveel Road and the challenges with managing remnant natural features on individual properties, resulted in this option not being deemed feasible from both an environmental and traffic perspective. As such, this option was also not assessed further.

Alternative 4

This Alternative was subsequently developed with 350 residential opportunities along with commercial/retail once preliminary specialist input were obtained during the environmental application process from a botanical/biodiversity perspective and it became apparent that fragmenting the remaining sensitive natural vegetation (within proposed erven) will result in unacceptable environmental impacts and necessitate the need for substantial Forestry Permits, which were most likely going to be rejected alongside the high likelihood that the outcome of the environmental assessment would find such fragmentation unacceptable. This alternative took a pedestrian crossing over the railway line instead of vehicle access, as with alternative 3. Lengthy negotiations and design requirements for a formalised pedestrian access across the railway line was deemed potentially problematic, whilst traffic leading into Kerveel Street will require upgrade of Kerveel Street, which is a costly exercise and impacts on the financial feasibility of the project. This alternative was abandoned and not further assessed.

Alternative 5 (Preferred Alternative)

This Alternative 5 (Preferred Alternative), was subsequently developed as the preferred development option with 348 residential and commercial/retail opportunities, following the detailed traffic impact assessment. This allowed for a single point of access from Beach Boulevard East, subject to it being slightly re-aligned and that a portion of Beach Boulevard East at the intersection/access be upgraded to accommodate dedicating turning lanes to improve traffic safety.

Further, Alternative 5 was slightly modified based on the inputs from the public participation process to accommodate an open corridor along the shared boundary with Bardolino retirement village, as well as the portion of Beach Boulevard East to accommodate dedicating turning lanes. The total development footprint with certain omissions will be approximately 8.9 hectares and include the following:

- 57 Group Housing erven/stands (approximately 320m² in size), double storey;
- 54 Duplex Town Housing stands, double storey;
- 182 Apartments with consent for Convenience/Retail Shops at ground level, 4-7 storey height;
- 55 Apartments, 3-5 storey height;

- Children's Care Facility & Home Owners Office spaces; and
- Private Open Space areas.

Services

- Connection to existing municipal water lines;
- Connection to existing municipal sewer lines;
- Connection to existing municipal electrical network; and
- On-site stormwater infiltration facility in the North-Eastern corner of the site;

Roads & Access

- Main entrance to the development of Beach Boulevard will be re-aligned and upgraded with dedicated turning lanes.

Refuse and service area near the entrance gate which is being combined with that of the neighbouring Bardolino Retirement Village since their services/contractor access is affected by the realignment of Beach Boulevard;

Gatehouse & boundary wall/fence for controlled access;

On-site stormwater retention facility allowing all stormwater from the development to slowly infiltrate in support of the SUDS stormwater principles for urban areas.

"No-Go" Alternative 1

The "no-go" alternative implies that the "status quo" would remain. According to the final Basic Assessment Report (FBAR) the area will remain vacant/undeveloped and not be managed or maintained. The EAP further submits that due to the location of the site within the urban edge and its proximity to the beaches, as well as its relatively low environmental sensitivity, the "no-go" alternative is not considered to be a feasible alternative.

3. Impact Assessment and Mitigation Measures

3.1. Activity Need and Desirability

According to the FBAR the need for the proposed development is in line with all the provincial, district and local development policies. This Directorate agrees that the timing is correct for the development as it will create employment opportunities. There will also be a contribution towards economic growth in the area. The development will also assist lower-middle income families in providing 55 affordable housing units and land values will also increase.

3.2. Integrated Development Plan (IDP)

According to the BAR, Diaz Industria/Voorbaai is considered to be the centre of gravity for business and employment opportunities (Mossel Bay IDP, 2022 – 2027) in the Hartenbos area. The BAR further states that the areas along the coastline in Hartenbos, consist of a mixture of housing and holiday accommodation. This is one of the higher-medium end income areas. The area is not representative of integrated housing with no provision for low and/or middle-income housing opportunities in this area. The site is designated for Restructuring to Medium to High Density Residential, Retirement, Business, Transport Infrastructure.

3.3. Spatial Development Framework (SDF)

According to the results of the growth potential study that was conducted by the provincial authority, growth and development strategies must be focussed on towns that has relatively growth potential towards other towns, the Mossel Bay area being one of the areas with high growth potential. The Mossel Bay SDF highlights the following objective that are compatible with the proposed development: Containment of urban sprawl and ensuring compact urban settlement by means of urban densification, while accommodating population growth within the existing urban areas and not permitting development outside the proposed urban edges. According to the SDF, the property falls within Area 38 "Diaz Beach Infill area". It is earmarked for medium to high density residential, retirement, business & transport. The site is also inside the demarcated urban edge of Mossel Bay and the proposed development is therefore consistent with the Mosel Bay SDF.

3.4. Terrestrial Biodiversity Impacts

According to the FBAR most of the site does consist of secondary and degraded areas, including alien invasive shrubs. On the site there is a band of milkwood thicket trees growing along the western side of the site and a wider band of dune thicket in the north-eastern part of the site. The greater part of the site is within an Ecological Support area and within this area there was no plant species of concern that were found on site and based on the habitat, it is considered unlikely that any flagged plant species would occur there, therefore the rating is "low plant species sensitivity". Milkwood thicket is the only suitable habitat for flagged animal species. No development would occur within the Milkwood thicket and therefore the Animal Species Theme is regarded as low. This Directorate is in agreement that the proposed development is entirely within areas mapped as degraded/secondary and is rated as "low biodiversity value".

3.5. Archaeology

The FBAR submits that the significance of potentially buried archaeological resources is unknown and therefore this Directorate is in agreement that the indications are that they should be treated as of "low significance" rating.

3.6. Palaeontology

Based on the nature of the project, surface activities may impact upon the fossil heritage if preserved in the development footprint. The geological structures suggest that the surface sands and spoils are too young and disturbed to contain fossils.

3.7. Aquatic findings

According to the findings in the Aquatic Biodiversity Compliance Statement the site is considered to be of "Low" significance. The development will have no impact on any watercourses or aquatic Critical Biodiversity Areas (CBA). The development does occur within 500m of a wetland, its impact is expected to be negligible and the risk of the Present Ecological State (PES) of the wetland is Low. The development can therefore be generally authorised.

3.8. Cultural landscape

The FBAR submits that the proposal would not impact visually on Louis Fourie Road (R102). The site is located within the urban edge and is earmarked for "high density development" in the Mossel Bay SDF (2018), it is argued that the value of this property from a broader cultural landscape context has already been compromised and that, from this perspective as such, its cultural significance may be considered of low local (site-specific) cultural significance only and this Directorate does agree with the said rating.

3.9. Other Impacts

No other impacts of significance are anticipated for the area that has been authorised in this Environmental Authorisation.

Considering the findings of the impact assessment and proposed mitigation measures to address the aforementioned impacts, this Directorate is satisfied that the activity will not negatively impact on the receiving environment, subject to the strict implementation of the conditions of this EA and the mitigation measures contained in the EMPr.

4. **Scope and Validity Period of authorisation**

The applicant indicated that the construction activities (non-operational aspects) should be completed within 10 years of the date of issue of the environmental authorisation. The environmental authorisation's validity period has been granted for a period of ten (10) years, during which period the six (6) phases proposed must be concluded, including rehabilitation and monitoring and submission of the final environmental audit. 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:

- a) the effects of decisions on all aspects of the environment to be taken into account;
- b) 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;
- c) the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- d) the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- e) the selection of the best practicable environmental option.

6. **Conclusion**

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

- (a) The identification and assessment of impacts that are detailed in the FBAR dated 20 February 2023 can be regarded as a sufficient assessment of the key identified issues and impacts.
- (b) The procedure followed for the impact assessment is considered adequate for the decision-making process.
- (c) The proposed mitigation of impacts identified and assessed, curtails the identified negative impacts.
- (d) The EMPr proposed mitigation measures for the pre-construction, construction and rehabilitation phases of the development and these were included in the FBAR. The mitigation measures will be implemented to manage the identified environmental impacts 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 EMP, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

----- **END** -----