



EIA REFERENCE: 16/3/3/1/A6/58/2007/23
NEAS REFERENCE: WCP/EIA/0001246/2023
DATE OF ISSUE: 22 AUGUST 2023

The Board of Directors
Contemporary Investments (Pty) Ltd.
14 High Constantia
2 Groot Constantia Road
CONSTANTIA
7806

For Attention: Mr. Farrell Bernberg

Cell: 082 449 6604
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Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED): THE PROPOSED NEW ACCESS ROAD AND ASSOCIATED INFRASTRUCTURE ON PORTION 1 OF ERF 5142, OCEAN VIEW AND THE CHANGES REQUIRED TO THE PHASE 2 RESIDENTIAL DEVELOPMENT ON ERF 5144, OCEAN VIEW

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the EIA Regulations, 2014 (as amended), you are instructed to ensure, within 14 days of the date of the decision on the application, that all registered Interested and Affected Parties ("I&APs") are provided with access to the decision and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarised in the Environmental Authorisation below.

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

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
WESTERN CAPE GOVERNMENT: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Copied to:
(1) Ms. Ingrid Eggert (Ecosense Consulting Environmentalists)
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EIA REFERENCE: 16/3/3/1/A6/58/2007/23
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ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED): THE PROPOSED NEW ACCESS ROAD AND ASSOCIATED INFRASTRUCTURE ON PORTION 1 OF ERF 5142, OCEAN VIEW AND THE CHANGES REQUIRED TO THE PHASE 2 RESIDENTIAL DEVELOPMENT ON ERF 5144, OCEAN VIEW

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 NEMA and the EIA Regulations, 2014 (as amended), 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 Activity Alternative, described in the final Basic Assessment Report ("BAR"), dated 8 June 2023.

In terms of Regulation 25(4) of the EIA Regulations, 2014 (as amended), the Competent Authority herewith replaces the Environmental Authorisation issued on 25 July 2013 (Reference No.: E12/2/4/1-A5/268-2011/12), the amended Environmental Authorisation issued on 11 June 2018 (Reference No.: 16/3/3/5/A6/45/2030/18) and the amended Environmental Authorisation issued on 8 July 2022 (Reference No.: 16/3/3/5/A6/45/2034/22), and includes herewith the proposed development of a new private access road and associated infrastructure on Portion 1 of Erf 5142, Ocean View.

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

A. DETAILS OF THE HOLDER FOR THIS ENVIRONMENTAL AUTHORISATION

Contemporary Investments (Pty) Ltd.
C/O Mr. Farrell Bernberg
14 High Constantia
2 Groot Constantia Road
CONSTANTIA
7806

Cell: 082 449 6604
E-mail: farrell@amberry.co.za

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

B. LISTED ACTIVITY AUTHORISED

The following Listed Activities were authorised in the Environmental Authorisation issued on 25 July 2013 (Reference No.: E12/2/4/1-A5/268-2011/12).

Listed Activity	Activity/Project Description
<p>Listing Notice 1 of the EIA Regulations, 2010 –</p> <p>Activity Number: 23 Activity Description: <i>“The transformation of undeveloped, vacant or derelict land to –</i></p> <p>(i) <i>residential, retail, commercial, recreational, industrial or institutional use, inside an urban area, and where the total area to be transformed is 5 hectares or more, but less than 20 hectares, or</i></p> <p>(ii) <i>residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares; -</i></p> <p><i>except where such transformation takes place –</i></p> <p>(i) <i>for linear activities; or</i></p> <p>(ii) <i>for purposes of agriculture or afforestation, in which case Activity 16 of Notice No. R. 545 applies”.</i></p>	<p>The residential development entails the transformation of undeveloped and vacant land with a footprint, which exceeds 5 hectares but is less than 20 hectares in extent.</p>
<p>Listing Notice 1 of the EIA Regulations, 2010 –</p> <p>Activity Number: 4 Activity Description: <i>“The construction of a road wider than 4 metres with a reserve less than 13,5 metres.</i></p> <p>(d) <i>In Western Cape:</i></p> <p>i. <i>In an estuary;</i></p> <p>ii. <i>All areas outside urban areas;</i></p> <p>iii. <i>In urban areas:</i></p> <p>(aa) <i>Areas zoned for use as public open space within urban areas; and</i></p> <p>(bb) <i>Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.”</i></p>	<p>Roads wider than 4 metres with a reserve less than 13.5 metres will be established in an urban area on a site zoned for use, as Public Open Space.</p>

The following Listed Activities are similarly listed to the Listed Activities originally authorised in the Environmental Authorisation issued on 25 July 2013 (Reference No.: E12/2/4/1-A5/268-2011/12) and are therefore authorised in terms of the EIA Regulations, 2014 (as amended), as part of this Environmental Authorisation.

Listed Activity	Activity/Project Description
<p>Listing Notice 3 of the EIA Regulations, 2014 (as amended) –</p> <p>Activity Number: 15 Activity Description: <i>“The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, such land was zoned open space, conservation or had an equivalent zoning, on or after 02 August 2010.</i></p> <p>f. Western Cape</p> <ul style="list-style-type: none"> i. Outside urban areas, or ii. Inside urban areas: <ul style="list-style-type: none"> (aa) Areas zoned for conservation use or equivalent zoning, on or after 02 August 2010; (bb) A protected area identified in terms of NEMPAA, excluding conservancies; or (cc) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act as adopted by the competent authority”. 	<p>The proposal entails the transformation of land located inside an urban area zoned for conservation use to residential development exceeding 1000 square metres in size.</p>
<p>Listing Notice 1 of the EIA Regulations, 2014 (as amended) –</p> <p>Activity Number: 4 Activity Description: <i>“The development of a road wider than 4 metres with a reserve less than 13,5 metres.</i></p> <p>i. Western Cape</p> <ul style="list-style-type: none"> i. Areas zoned for use as public open space or equivalent zoning; ii. Areas outside urban areas: <ul style="list-style-type: none"> (aa) Areas containing indigenous vegetation; (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or iii. Inside urban areas: <ul style="list-style-type: none"> (aa) Areas zoned for conservation use; or (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority”. 	<p>Roads wider than 4 metres with a reserve less than 13,5 metres will be established in an urban area on a site zoned for use, as Public Open Space.</p>

The following Listed Activities are authorised for the proposed development of a new access road and associated infrastructure on Portion 1 of Erf 5142, Ocean View.

Listed Activity	Activity/Project Description
<p>Listing Notice 1 of the EIA Regulations, 2014 (as amended) –</p> <p>Activity Number: 19 Activity Description: <i>“The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <p><i>(a) will occur behind a development setback;</i> <i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i> <i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i> <i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i> <i>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies”.</i></p>	<p>The establishment of the new private access road will result in the moving of more than 10 cubic metres from and into the local wetland and associated stream.</p>
<p>Listing Notice 3 of the EIA Regulations, 2014 (as amended) –</p> <p>Activity Number: 15 Activity Description: <i>“The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, such land was zoned open space, conservation or had an equivalent zoning, on or after 02 August 2010.</i></p> <p>f. Western Cape</p> <p><i>i. Outside urban areas, or</i> <i>ii. Inside urban areas:</i></p> <p>(aa) Areas zoned for conservation use or equivalent zoning, on or after 02 August 2010;</p> <p><i>(bb) A protected area identified in terms of NEMPAA, excluding conservancies; or</i> <i>(cc) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act as adopted by the competent authority”.</i></p>	<p>The new private access road will result in the transformation of land bigger than 1000 square metres zoned as Open Space (for conservation use).</p>

The abovementioned lists are hereinafter referred to as “**the Listed Activities**”.

The new private access road will provide access to the Phase 2 residential development and aid the densification of the Phase 2 residential development on Erf 5144, Ocean View. The changes to the approved description of the authorised development contained in the original Environmental Authorisation issued on 25 July 2013 (Reference No.: E12/2/4/1-A5/268-2011/12), and the new private access road, are herewith authorised, as follows:

The establishment of a residential development of approximately 210 Single Residential Erven catering for the 'gap market' on Erf 5144, Kommetjie. The residential development will not extend above the 100m contour line on the site and will remain more than 32m from the Rooikrans River bordering the site in the north and from the smaller stream traversing the central portion of the site.

A road will be established on the eastern border of the development to serve as an interface between the development and the abutting Table Mountain National Park.

A suitable fence will be erected between the streets and Erven of the residential development abutting the Table Mountain National Park.

The stormwater management system of the residential development will be in line with the relevant guidelines of the City of Cape Town ("CoCT").

The CoCT will supply the residential development with potable water as well as refuse- and wastewater disposal services.

The holder is herein also authorised to undertake the following Preferred Activity Alternative that includes the Listed Activities relating to the proposed establishment of a new private access road on Portion 1 of Erf 5142, Ocean View:

A new private access road will be established along the north-eastern boundary of the Ocean View suburb and directly off Kommetjie Main Road. This new private access road will provide access to the residential development located on Erf 5144, Ocean View.

The new private access road will measure approximately 495m in length with an approximately 20m wide road reserve. Road access to the residential development will be limited to a left-in-left-out ("LILLO") intersection at Kommetjie Main Road and will include a approximately 1.8m wide sidewalk on one side.

The north-eastern boundary of the road reserve will comprise a new wall with appropriate gaps to allow for the movement of small fauna and stormwater drainage.

Additional requirements regarding the road network of the residential development will include, *inter alia*, the following:

- The construction of a connecting point to the new private access road;
- The widening of the northern loop from to an approximate width of 10m; and
- The provision of appropriate road spacing at Buffalo and Matthews Roads.

The abovementioned residential development will therefore have three (3) access points, *namely*;

- The LILLO access taken from Kommetjie Main Road;
- The access taken from the existing township of Oceanview via Matthews Road; and
- The access taken from the existing township of Oceanview via Buffalo Road.

The total development footprint of the residential development and associated infrastructure, inclusive of the new private access road will measure approximately 16ha in extent.

C. SITE DESCRIPTION AND LOCATION

The Listed Activities will be undertaken on Portion 1 of Erf 5142 (i.e., new private access road) and Erf 5144, Ocean View (i.e., residential development), which are located adjacent to the existing Ocean View township.

The SG 21-digit codes are given below:

Portion 1 of Erf 5142, Ocean View	C01600280000514200001
Erf 5144, Ocean View	C01600280000514400000

The co-ordinates are given below:

Portion 1 of Erf 5142, Ocean View	Latitude (S)	Longitude (E)
Starting point of the new private access road	34° 08' 29.80" South	18° 21' 17.65" East
Middle point of the new private access road	34° 08' 32.87" South	18° 21' 26.07" East
End point of the new private access road	34° 08' 36.04" South	18° 21' 35.34" East
Erf 5144, Ocean View	Latitude (S)	Longitude (E)
	34° 08' 44" South	18° 21' 40" East

Refer to **Annexure 1**: Locality Map. Refer to **Annexure 2**: Site Layout Plan.

The above properties are hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Ecosense CC
C/O Ms. Ingrid Eggert
P. O. Box 3420
TYGERVALLEY
7536

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E. CONDITIONS OF AUTHORISATION

Scope of Authorisation

1. The holder is authorised to undertake the Listed Activities specified in Section B above in accordance with and restricted to the authorised description as well as the Preferred Activity Alternative described in Section B above.
2. The holder must commence with, and conclude, the Listed Activities within the stipulated validity period, which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the Competent Authority.

This Environmental Authorisation is granted for –

- (a) A period of five (**5**) years, from the date of issue, during which period the holder must commence with the authorised Listed Activities.
- (b) A period of ten (**10**) years, from the date the holder commenced with the authorised Listed Activities, during which period the authorised Listed Activities must be concluded.

3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his behalf, including an implementing agent, sub-contractor, employee or any person rendering a service to the holder.
4. Any changes to, or deviations from the scope of the authorised description as well as the Preferred Activity Alternative described in section B above must be approved in writing by the Competent Authority before such changes or deviations may be implemented. In assessing whether or not to grant such approval, 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.

Written Notice to the Competent Authority

5. A written notice of seven (7) calendar days must be given to the Competent Authority before construction work can be commenced with.
 - 5.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 5.2. The notice must include proof of compliance with the following conditions described herein:

Conditions: 6, 7 and 11.

Notification of Environmental Authorisation and Administration of Appeal

6. The holder must in writing, within fourteen (14) 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; and
 - 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 National Appeals Regulations, 2014 (as amended).

Commencement

7. The Listed Activities, including site preparation, must not be commenced with within twenty (20) calendar days from the date the applicant notifies the registered I&APs of this decision.

8. 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.

Management of Activity

9. The draft Environmental Management Programme ("EMPr") (dated May 2023), is hereby approved and must be implemented.
10. The Environmental Authorisation and EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

11. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") before the Listed Activities can be commenced with, to ensure compliance with the EMPr and the conditions contained herein. The ECO must submit ECO reports on a quarterly basis for the duration of the construction phase.
12. A copy of the Environmental Authorisation, EMPr, ECO reports, audit reports and compliance monitoring reports must be kept at the contractor's site office during the construction phase and thereafter the said documents must be kept at the office of the holder and must be made available to any authorised official of the Competent Authority on request.
13. Access to the sites 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 the reports for the purposes of assessing and/or auditing compliance with the conditions contained herein.

Auditing

14. In terms of Regulation 34 of the EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation and the EMPr. Environmental audit reports must be compiled and be submitted to the Competent Authority. Environmental audit reports must be prepared by an independent person and must contain all the information required in Appendix 7 of the EIA Regulations, 2014 (as amended).
15. The audit reports must be compiled and subsequently submitted to the Competent Authority in the following manner:
 - 15.1. An audit report must be submitted to the Competent Authority within **six (6) months** of the commencement of the construction phase; and
 - 15.2. A final audit report must be submitted within **three (3) months** of the proposed development being completed.
 - 15.3. The holder must submit an environmental audit report **every five (5) years** while the Environmental Authorisation remains valid.
16. The audit report must indicate compliance status with the conditions of this Environmental Authorisation, and the EMPr and make recommendations for improved environmental management.
17. The holder must, within **seven (7) calendar days** of the submission of the audit report to the Competent Authority, notify all registered I&APs of the submission and make the audit report available to any registered I&AP on request and, where the holder has such a facility, place on a publicly accessible website.

Specific Conditions

18. Should any heritage remains be exposed during excavations or any other actions on the site, this 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 disturbed further until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include, *inter alia*, 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 artifacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

19. A qualified archaeologist and/or paleontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
20. An integrated waste management approach must be used that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste that cannot be recycled, re-use shall be disposed of at a licensed waste disposal facility.
21. The Wetland Offset, Rehabilitation and Management Plan (dated February 2023 and compiled by Mr. Joshua Gericke and Ms. Olivia Brunings of Delta Ecology), must be implemented. Any changes or deviations from the abovementioned Wetland Offset, Rehabilitation and Management Plan must be brought to the attention of Competent Authority and the way forward be obtained, in writing, prior to any changes or deviations being implemented.
22. The applicant must comply with the following requirements stipulated in the correspondence from Heritage Western Cape (dated 9 May 2012):
 - 22.1. Double storey residential development on slopes steeper than 1:4 must not be constructed.
 - 22.2. Building platforms must be created by cutting into the slopes rather than being created through fill method. A maximum ratio of 50/50 between the usage of the cut method of creating building platforms and the fill method must be maintained in cases where the fill method is the only technically feasible solution.
 - 22.3. The development must not consist of residential units that are uniform, particularly in terms of colour and massing.
 - 22.4. Plinths must not be used to raise the buildings located higher up the slope and effectively create additional views above the houses located lower down the slopes.
 - 22.5. A management plan to be implemented for the interface between the Table Mountain National Park and the residential development must be compiled and submitted to Competent Authority for consideration, before the operational phase of the development can be commenced with. The management plan must be submitted with a letter of comment from the Table Mountain National Park.
23. The applicant must ensure that the Stormwater Management Plan of the residential development complies with the relevant policies of the CoCT.

24. The applicant must compile a Landscaping Plan for the residential development and ensure that the CoCT is satisfied with the Landscaping Plan.
25. The applicant must erect a suitable fence to serve as a barrier between the Table Mountain National Park and all the residential Erven and streets of the development that abut the Table Mountain National Park. The fence must meet the following requirements:
 - 25.1. The fence must be in line with the specifications of South African National Parks.
 - 25.2. The fence must be visually permeable and must allow for the free movement of small animals.
26. The applicant must comply with the requirements stipulated in the correspondence from the Directorate: Transport and Development Control of the Department of Public Works, City of Cape Town (dated 1 November 2012). These requirements have been appended to this Environmental Authorisation, as Appendix A.
27. The applicant must ensure that the residential development, including construction activities and machinery, is kept a minimum distance of 32m from the Rooikrans River and from the drainage line traversing the central point of the site.
28. The applicant must ensure that the residential development incorporates electricity saving measures that include, *inter alia*, the following:
 - 28.1. The roof and ceiling of each residential dwelling must be insulated.
 - 28.2. Geysers must be covered with geysers 'blankets' to improve energy efficiency.
29. The holder of this Environmental Authorisation must, at all times, ensure that the activities comply with the Noise Regulations in terms of the relevant legislation.

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.
2. Non-compliance with any Condition of this Environmental Authorisation or EMPr may render the holder liable for criminal prosecution.
3. If the holder does not commence with the Listed Activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be lodged with the Competent Authority.
4. An application for amendment of the Environmental Authorisation must be submitted to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.
5. Please note that an amendment of the Environmental Authorisation is not required for a change in the contact details of the holder. In such a case, the Competent Authority must only be notified of such changes.
6. The manner and frequency for updating the EMPr must be as follows:
 - 6.1. Amendments to the EMPr must be made in accordance with Regulations 35 to 37 of GN No. R.982 (as amended) or any relevant legislation that may be applicable at the time.

G. RECOMMENDATION

The Competent Authority recommends that the holder protect the remaining wetland on Erf 5142, Kommetjie by means of a conservation servitude, in consultation with relevant authorities and together with the relevant stakeholders.

H. APPEALS

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

1. An appellant (if the holder of the decision) must, within twenty (20) 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 twenty (20) 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 twenty (20) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:

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

By facsimile: (021) 483 4174; or
By hand: Attention: Mr Marius Venter (Tel.: 021 483 2659)
Room 809
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 at 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 Authority at: Tel.: (021) 483 3721, E-mail: DEADP.Appeals@westerncape.gov.za or URL: <http://www.westerncape.gov.za/eadp>.

I. 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 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 greatly appreciated.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
WESTERN CAPE GOVERNMENT: ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 22 AUGUST 2023

Copied to:

(1) Ms. Ingrid Eggert (Ecosense Consulting Environmentalists)
(2) Mr. Andrew Greenwood (City of Cape Town)

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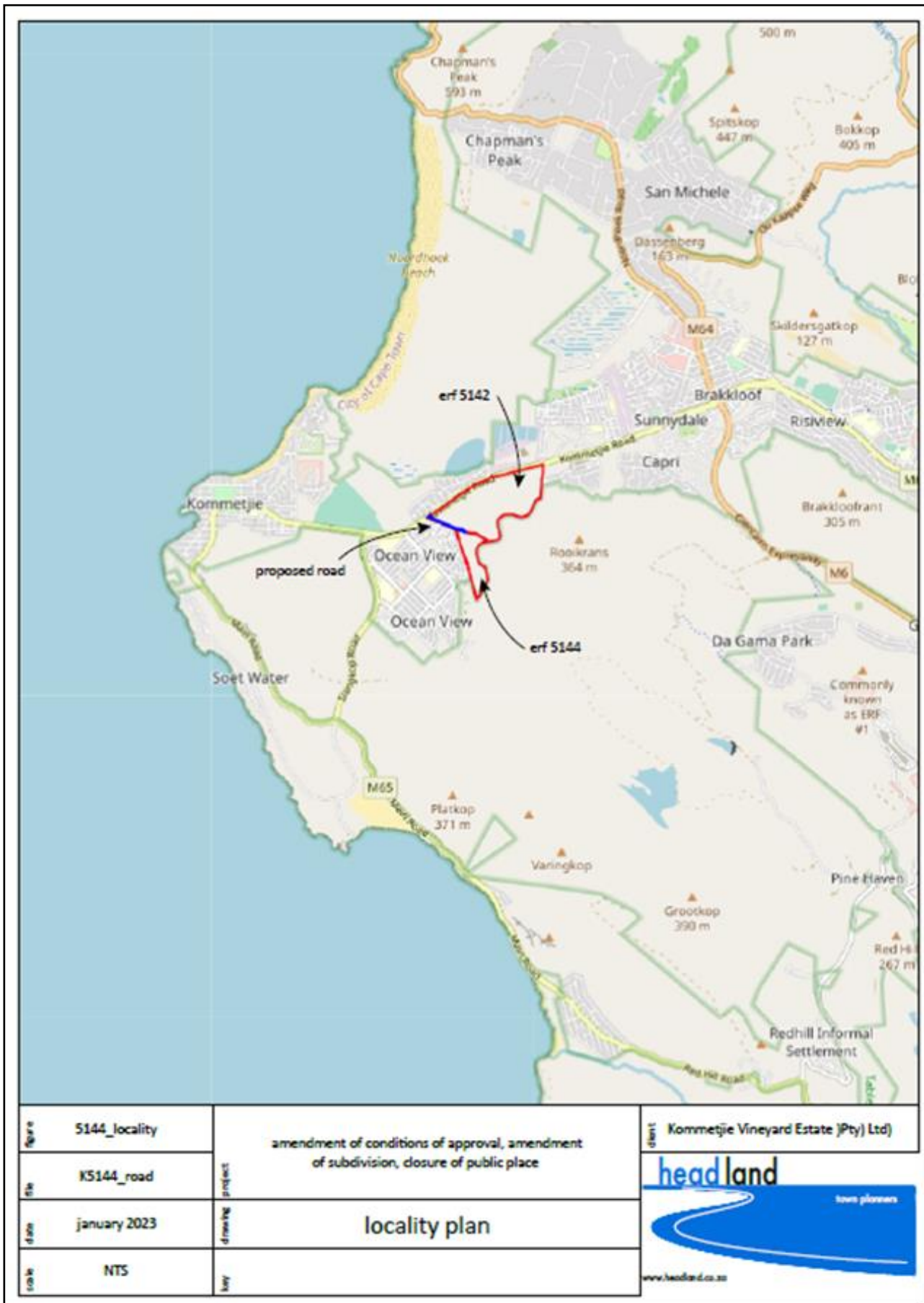
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EIA REFERENCE: 16/3/3/1/A6/58/2007/23

NEAS REFERENCE: WCP/EIA/0001246/2023

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: THE SITE LAYOUT 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 (dated 7 March 2023), the final BAR (dated 8 June 2023), the EMPr (dated May 2023), and the additional information received on 10 August 2023 and 14 August 2023, respectively;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Need and Desirability and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA;
- d) The comments received from I&APs and the responses thereto, included in the final BAR; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

No site visit was conducted. The Competent Authority had sufficient information before it to make an informed decision without conducting a site visit.

All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

The Public Participation Process ("PPP") included the following:

- Notification letters were sent to all relevant I&APs and stakeholders on 9 March 2023;
- A 'knock-and-drop' via a pamphlet distribution was undertaken on 9 March 2023 in the Ocean View community, neighbouring the site;
- An information pamphlet was uploaded to the various community-based Facebook pages, including the Ocean View Civic Association, Ocean View/Slangkop Notices and Advertising, and Ocean View Community Group;
- An advert was placed in the 'False Bay Echo' Newspaper on 9 March 2023;
- Notices were placed on the site on 9 March 2023;
- Additional laminated posters regarding the Basic Assessment application were put up in identified public places;
- The draft BAR was made available for a comment from 10 March 2023 to 15 May 2023, a period exceeding thirty (30) calendar days;
- Copies of the draft BAR were placed at the Ocean View Public Library,
- State Departments, Organs of State and I&APs received a reminder on 12 May 2023 regarding comments on the draft BAR, ending on 15 May 2023; and
- State Departments, Organs of State and registered I&APs were notified of the submission of the final BAR to the Competent Authority.

The Department is satisfied that the PPP that was followed met the minimum legal requirements. All the comments raised, and responses thereto were included in the Comments and Responses Report.

Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address any significant concerns raised.

2. Alternatives

The following site alternatives were investigated for the proposed new private access road on Portion 1 of Erf 5142, Ocean View:

Site Alternative (Authorised together with the Preferred Alternative)

The Preferred Site Alternative entails the establishment of the new access road on Portion 1 of Erf 5142, Ocean View, as the said property was specifically acquired for the purposes of providing a means of access to the residential development on Erf 5144, Ocean View. Portion

1 of Erf 5142, Ocean View will bypass the built-up town of Ocean View, and in so doing, avoid creating additional vehicular traffic through Ocean View.

Preferred Activity Alternative (Preferred and Herewith Authorised)

The Preferred Activity Alternative entails the establishment of a new private access road along the north-eastern boundary of the Ocean View suburb and directly off Kommetjie Main Road on Portion 1 of Erf 5142, Ocean View. This new private access road will provide access to the authorised residential development located on Erf 5144, Ocean View.

The new private access road will measure approximately 495m in length, with an approximately 20m wide road reserve.

Road access to the residential development will be limited to a LLO intersection at Kommetjie Main Road.

The new private access road will include an approximately 1.8m wide sidewalk on one side of the road.

The establishment of the new private access road and road network design is the preferred activity alternative, as it will provide the required infrastructure to accommodate the residential development on Erf 5144, Ocean View from an accessibility perspective.

Preferred Layout/Design Alternative (Authorised together with the Preferred Alternative)

The Preferred Layout/Design Alternative incorporates the following specified elements for the new private access road and associated infrastructure:

- The new private access road to be limited to a LLO intersection;
- Wall/fencing options that will allow for gaps for small faunal movement and stormwater drainage;
- Establishment of a connecting point to the new private access road off Kommetjie Main Road;
- Widening of the northern loop to a width of approximately 10m; and
- The provision of the required road spacing at Buffalo and Matthews Roads.

This Preferred Layout/Design Alternative ensures that the abovementioned elements are appropriate to meet the traffic and road upgrade requirements associated with the densification of the residential development on Erf 5144, Ocean View.

A Layout/Design Alternative to realign the new road to avoid the loss of wetland was considered and deemed not feasible, as the road would have to be located on a portion of land that is not owned by the proponent/applicant.

'No-go' Alternative

The 'No-Go' Alternative entails maintaining the *status quo*, i.e., no development of the new private access road to the authorised residential development on Erf 5144, Ocean View. The 'No-Go' Alternative was considered and subsequently rejected, as it would leave the authorised residential development with only two (2) access points that would limit the maximisation of residential opportunities through densification on Erf 5144, Ocean View.

3. Impact Assessment and Mitigation measures

3.1 Need and Desirability

The residential development on Erf 5144, Ocean View is deemed to be suitable, as the existing township of Ocean View abuts the site. The residential development on Erf 5144, Ocean View will therefore appear to be a natural extension of the township of Ocean View. In addition, the construction phase of the development will yield socio-economic

benefits in the form of employment opportunities during the construction phase of the development and the operational phase of the development will help to address the increasing need for housing opportunities for the gap market in the City of Cape Town. The proposed densification of the residential development on Erf 5144, Ocean View is set to increase the number of residential opportunities that the site can provide. In view of these advantages, the establishment of the residential development is deemed to be desirable.

The new private access road is required due to the increase in density and total number of residential opportunities of the residential development located on Erf 5144, Ocean View. The new private access road will thus unlock the full potential for densification on the development site originally approved, as part of the Environmental Authorisation issued on 25 July 2013 (Reference No.: E12/2/4/1-A5/268-2011/12), read together with the amended Environmental Authorisation issued on 11 June 2018 (Reference No.: 16/3/3/5/A6/45/2030/18) and the amended Environmental Authorisation issued on 8 July 2022 (Reference No.: 16/3/3/5/A6/45/2034/22).

Portion 1 of Erf 5142, Ocean View was specifically acquired for the establishment of a private access road, as per the amended Environmental Authorisation issued on 17 June 2023 (Referenced: 16/3/3/5/A6/58/2023/22.). The said amended Environmental Authorisation excluded Portion 1 of Erf 5142, Ocean View from the Environmental Authorisations issued on 24 November 2006 (Referenced: E12/2/1-363-FARM 948/10 (Prtn of Prtn 2), Kommetjie Estates, Kommetjie), 26 August 2009 (Referenced: 3/6/3) and 3 September 2018 (Referenced: 14/3/1/1/A6/45/0334/18), respectively, and thereby transferred the said portion of land, i.e., Portion 1 of Erf 5142, Ocean View to the holder of this Environmental Authorisation in order to establish the new private access road to Erf 5144, Ocean View.

3.2 Regional and Local Planning Context

In order to permit the residential development as well as the new private access road, certain landuse planning applications are required and must be submitted to the local authority.

The new private access road is not deemed to be inconsistent with the applicable forward planning context, as the road will aid the opportunity to densify the existing residential development earmarked on Erf 5144, Ocean View. Hence, the new private access road will contribute towards optimising the site for residential purposes on a designated site earmarked for urban development in terms of the forward planning and strategic context.

3.3 Aquatic Impacts

A small non-perennial watercourse, which includes a valley-bottom wetland measuring approximately 1.72ha in extent, runs adjacent to the site and traverses the south-western portion of the proposed new private access road. According to the Freshwater Risk and Impact Assessment Report (dated February 2023 and compiled by Mr. Joshua Gericke and Ms. Olivia Brunings of Delta Ecology), the wetland is in poor condition with the hydrology, geomorphology, water quality and vegetation associated with the wetlands having all been altered over time due to alien invasive vegetation and anthropogenic impacts, including infilling.

It is estimated that an approximately 555m² of the footprint of the new private access road will traverse the south-western corner of the delineated valley-bottom wetland as well as two points upstream thereof. This will ultimately result in an approximate 3% loss of the valley-bottom wetland. It was determined, as part of the Wetland Offset Feasibility Study Report (dated February 2023 and compiled by Mr. Joshua Gericke and Ms. Olivia Brunings of Delta Ecology) that onsite rehabilitation activities must be implemented to compensate for the loss of valley-bottom wetland, as it is not possible to avoid traversing the wetland due to technical requirements and engineering constraints of the new

private access road. These onsite rehabilitation activities will include removing foreign fill material, repairing existing erosion, eradicating alien invasive vegetation and revegetation with appropriate indigenous species. The rehabilitation will ensure continued function (and improvement) of the remnant aquatic resources in the immediate landscape. These mitigate measures will help to achieve a medium negative significance rating for freshwater impacts on the valley-bottom wetland. These mitigate measures have been included as conditions of this Environmental Authorisation (refer to condition 21).

Other potential freshwater related impacts resulting from the establishment of the new private access road include increased runoff into the onsite wetland, increased sediment input into the valley-bottom wetland and water quality impairment. These impacts, largely caused by uncontrolled construction activities, can be avoided if the measures are implemented. The EMPr includes standard provisions to ensure that construction activities on freshwater elements are avoided or minimised.

During the operational phase (i.e., when the new private access road has been established), the freshwater related impacts include decreased runoff due to stormwater infrastructure diversion and water quality impairment resulting from stormwater, which may contain harmful substances. Indirectly, these impacts could likely cause alteration of wetland hydrology and wetland functionality. With the implementation of appropriate stormwater management maintenance activities and other interventions contained in the EMPr, these impacts can be reduced to a very low negative significance rating.

The local area is underlain by a minor fractured aquifer with a medium to high susceptibility and vulnerability to contamination from anthropogenic activities. The establishment of the new private access road is less likely to have any impacts on the underlain aquifer.

Comments from the National Department of Water and Sanitation (dated 11 April 2023), confirmed that a Water Use Authorisation application is required. Proof of having initiated the process to submit an application to obtain a Water Use Authorisation was submitted together with the final BAR on 8 June 2023 as well as on 10 August 2023.

3.4 Geotechnical Aspects

According to the information contained in the final BAR, no significant geotechnical impacts were identified, as the new private access road will be establishment on similar founding conditions, as existing roads in the immediate surrounds.

3.5 Biophysical Impacts

According to the Botanical Assessment Report (dated 24 March 2011 and compiled by Nick Helme), the indigenous vegetation that exist of Erf 5144, Ocean View is best described as Peninsula Sandstone Fynbos. Correspondence from the South African National Parks (dated 18 June 2012)), confirmed their support for a residential development and stipulated some requirements to be met by the holder. These requirements have been made conditional to the original- and this replacement Environmental Authorisation. In light of the above, the botanical impacts of the residential development are not likely to be significant.

The applicant is required to keep construction activities from taking place within 32m of the Rooikrans River that forms the northern boundary of Erf 5144, Ocean View and also from taking place within 32m of the small drainage line that traverses the central portion of the said property (see condition 27 of this Environmental Authorisation). Compliance with Condition 27 will help to prevent the establishment of the residential development from significantly impacting these freshwater systems.

It is noteworthy that in accordance with Condition 11 of this Environmental Authorisation, the applicant must appoint an ECO to ensure that all construction work is undertaken in

line with the approved EMP as well as the conditions of this Environmental Authorisation. Given the above, it is unlikely that establishing the residential development will result in any significant ecological impacts.

The route on which the new private access road is proposed would have historically supported three vegetation types, *i.e.*, Hangklip Sand Fynbos, Peninsula Granite Fynbos and Peninsula Sandstone Fynbos. Portion 1 of Erf 5142, Ocean View has been degraded due to the invasion of alien vegetation species, soil erosion and other anthropogenic impacts. Erf 5144, Ocean View and its immediate surrounds have been entirely transformed from its original state and consequently no indigenous vegetation remains on the site.

According to the Faunal Compliance Statement (dated November 2022 and compiled by Mr. Jonathan Colville of Terrestrial Ecologist & Faunal Surveys), the site is not likely to represent any important feeding or breeding habitat for bird species. This is attributed to the disturbed nature of the site.

According to the Site Sensitivity Verification Report and Compliance Statement for the Cape Platanna and Western Leopard Toad (dated February 2023 and compiled by Mr. Joshua Gericke of Delta Ecology), neither the Cape Platanna nor the Western Leopard Toad occurs within the zone where the new private access road is to be established. The site is deemed to be of low sensitivity for these species, as none were observed during the site investigation undertaken. Portion 1 of Erf 5142, Ocean View lacks suitable shelter/food and habitat for Cape Platanna's and non-breeding toads.

The proposed new private access road and residential development is therefore suitable from a botanical perspective.

3.6 Agriculture Aspects

According to the Agricultural Compliance Statement (dated 28 July 2022 and compiled by Mr. Johann Lanz), Portion 1 of Erf 5142, Ocean View has no agricultural production potential given its surrounding non-agricultural context and size.

According to the correspondence from the Western Cape Government: Agriculture (dated 25 April 2023), there is no objection to the establishment of the proposed new private access road.

3.7 Traffic Aspects

The new private access road will support the operational phase of the residential development on Erf 5144, Ocean View by providing direct access to the site. This will alleviate traffic pressure and traffic congestion on existing roads in the local area.

The Transport Impact Assessment Report (dated 30 January 2023 and compiled by Ms. Karin Liebenberg and Ms. Carmel Clark of GIBB (Pty) Ltd) indicated that the densified residential development will provide approximately 487AM weekday vehicular trips and 486PM weekday vehicular trips. It was determined that the majority of the local intersections will continue to operate well. This estimate accounted for the densification of the residential development on Erf 5144, Ocean View as well as the other residential developments approved in the Kommetjie, Ocean View and Imhoff's areas. As such, minimal road upgrades will be required. These upgrades relate largely to the provision of additional access points to the residential development, as provided for by the proposed new private access road off Kommetjie Main Road.

According to the last correspondence from the then Western Cape Government: Transport and Public Works (dated 3 April 2023), there is no objection to the establishment of the new private access road on Portion 1 of Erf 5142, Ocean View.

3.8 Heritage Impacts

Heritage Western Cape in their correspondence (dated 9 May 2012), indicated that the residential development on Erf 5144, Ocean View will be supported if the recommendations stipulated in the Heritage Impact Assessment Report (dated February 2012 and compiled by Lize Malan), are implemented. These recommendations were originally taken into account in the conditions of the Environmental Authorisation issued on 25 July 2013 (Reference No.: E12/2/4/1-A5/268-2011/12) and accordingly forms part of this Environmental Authorisation (refer to conditions 22.1. to 22. 5).

According to the information contained in the Annexure to the Notification of Intent to Develop (dated 3 February 2023 and compiled by Ms. Cindy Postlethwayt), Portion 1 of Erf 5142, Ocean View does not have any important cultural heritage, archaeology or palaeontology resources that will be negatively impacted upon. According to the correspondence from Heritage Western Cape (dated 21 February 2023), there is no reason to believe that the proposed establishment of the new private access road will impact on heritage resources. No further action under section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) is required, as reconfirmed by HWC in subsequent correspondence (dated 4 April 2023).

3.9 Visual Impacts

The proposed residential development will effectively extend the existing township of Ocean View eastwards and will be visible to onlookers from various locations. It has been concluded in the Visual Impact Statement (compiled by Albert van der Stok), that when the residential development has been established and the mitigation measures endorsed by Heritage Western Cape have been fully put into effect, the visual impact will not be significant. The densification of the residential development is not expected to increase the level of impacts, as the development footprint will largely remain unchanged (it is only the number of residential opportunities that is set to increase).

The proposed road and rehabilitation actions of the wetland will improve the visual aspects of the immediate area, which otherwise would have remained a wasted and unkept open space area subjected to on-going anthropogenic impacts, such as littering and alien vegetation infestation. The conversion of the land to establish a new private access road will therefore not be a significant negative impact in the local area.

3.10 Noise Impacts

The construction activities associated with the new private access road will be audible at a close range from the site, but not to a point where it will be a noise nuisance or a disturbing noise to neighbours. The significance of noise impacts during the construction phase will be low negative if standard provisions, as per the EMPr, are implemented, this includes adhering to standard construction working hours.

During the operational phase noise will be caused by vehicular traffic on the new private access road. According to the Noise Impact Assessment ("NIA") Report (dated 24 November 2022 and compiled by Mr. T. E. Mackenzie-Hoy of Mackenzie Hoy Consulting Engineers), the noise impacts during the operational phase will be of low negative significance rating, if standard mitigation measures are implemented. These measures, which form part of the EMPr, includes the need to adhere the prescribed speed control and noise regulations.

3.11 Service Requirements

The City of Cape Town's correspondences (dated 13 June 2011 and 15 June 2011, respectively), confirmed that adequate refuse disposal and wastewater disposal services will be provided to the residential development. No additional service requirements with respect to the densified residential development on Erf 5144, Ocean View are required.

3.12 Socio-economic Impacts

Employment opportunities are expected to be generated during the construction phase. Further positive socio-economic impacts expected after the construction period has concluded, largely relate to addressing the need to provide residential opportunities for the 'gap' market in Cape Town.

The new private access road is expected to provide direct positive socio-economic impacts to the local area such as providing a means of extra surveillance in the area by users of the road and otherwise improving the use of an otherwise wasted and unkept space.

The development proposal will result in both negative and positive impacts.

Negative Impacts include:

- Potential temporary nuisance related impacts during the construction phase.
- Partial loss of Open Space to accommodate the new private access road.
- Partial loss of a valley-bottom wetland.

Positive Impacts include:

- Maximised residential opportunities for the 'gap' market.
- Adequate means of access to and from the residential development.
- Temporary employment opportunities during the construction phase.
- Local procurement of goods and services.

4. National Environmental Management Act, 1998 (Act No. 107 of 1998) 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 activity (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.

5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the authorised Listed Activities will not conflict with the general objectives of Integrated Environmental Management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the undertaking of the Listed Activities can be mitigated to acceptable levels.

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Appendix A: Requirements stipulated in the correspondence from the Directorate: Transport and Development Control of the Department of Public Works, City of Cape Town (dated 1 November 2012)

- i. The Flamingo Road / Buffalo Road two-way stop control must be formalised by introducing painted stop controls and signs.
- ii. The Adonis Way / Solomon's Link two-way stop control must be formalised by introducing painted stop controls and signs.
- iii. The Kommetjie Road / Slangkop Road intersection must be upgraded by providing an exclusive right turning lane along the eastbound Kommetjie Road approach. This should be paid from the development levies.
- iv. The proposed public transport route which includes two public transport facilities must be provided for the proposed development.
- v. The Buffalo Road pedestrian facilities must be upgraded to a surfaced sidewalk along one side of the road at the cost of the developer.
- vi. The Adonis Way pedestrian facility between Matthews Road and Milky Way must be upgraded to a surfaced sidewalk along one side of the road at the cost of the developer.
- vii. The Keating Way pedestrian facility between Adonis Way and Milky Way must be upgraded to a surfaced sidewalk along one side of the road at the cost of the developer.
- viii. The internal geometry of the proposed development must be constructed in accordance with the Guidelines for the Provision of Engineering Services and Amenities in the Residential Township Manual.
- ix. The bulk contribution development levy is determined according to the terms of the Greater Kommetjie / Sun Valley Region Bulk Infrastructure Study