



PER E-MAIL

EIA REFERENCE NUMBER: 16/3/3/1/D2/29/0008/20
NEAS REFERENCE: WCP/EIA/0000776/2020
ENQUIRIES: Ms Jessica Christie
DATE OF ISSUE: 2021/04/07

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Dear Sir

NOTICE OF DECISION: APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: PROPOSED DEVELOPMENT OF HEROLD'S BAY COUNTRY ESTATE ON A PORTION OF PORTION 7 OF THE FARM BUFFELSFONTEIN NO. 204, HEROLD'S BAY, GEORGE

1. With reference to the aforementioned application, the Department hereby notifies you of its decision to **grant Environmental Authorisation in respect of part of activity applied for**, attached herewith together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014, you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarized in the attached refusal of Environmental Authorisation.

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copied to: Ms Betsy Ditcham

(EAP)

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ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: PROPOSED DEVELOPMENT OF HEROLD'S BAY COUNTRY ESTATE ON A PORTION OF PORTION 7 OF THE FARM BUFFELSFONTEIN NO. 204, HEROLD'S BAY, GEORGE

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—

- (a) **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to **a part of the Preferred Alternative**, described in the Final Basic Assessment Report ("FBAR"), dated November 2020 as prepared and submitted by *Sharples Environmental Services*, the appointed environmental assessment practitioner ("EAP"); and
- (b) **defines a development setback**, represented by the line described in the Freshwater Habitat Impact Assessment (compiled by Ms Debbie Fordham from *Sharples Environmental Services* dated 19 March 2019) as an aquatic buffer and which is depicted on the plan in Annexure 2 of this Environmental Authorisation, and no development may take place on the watercourse side of this line.

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

Long Island Trading 44 (Pty) Ltd.
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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
<p>Environmental Impact Assessment Regulations Listing Notice 1 of 2014, Government Notice No. 983 of 4 December 2014</p>	
<p>Activity Number: 19 Activity Description:</p> <p>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;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <ul style="list-style-type: none"> (a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies; (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; (e) or 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. 	<p>The development of a minor stream which is proposed to join the internal detention pond will require excavation and removal of soil of more than 10 cubic metres from a watercourse.</p>
<p>Activity Number: 24 Activity Description:</p> <p>The development of a road—</p> <ul style="list-style-type: none"> (i) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010; or (ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres; <p>but excluding a road—</p> <ul style="list-style-type: none"> (a) which is identified and included in activity 27 in Listing Notice 2 of 2014; (b) where the entire road falls within an urban area; or <p>which is 1 kilometre or shorter.</p>	<p>The construction of internal roads within the development of between 10 and 26 metres wide.</p>

<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> <ul style="list-style-type: none"> (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan. 	<p>The clearance of an area of approximately 18.04 ha of indigenous vegetation for the establishment of the residential development.</p>
<p>Activity Number: 28 Activity Description:</p> <p>Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</p> <ul style="list-style-type: none"> (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare; <p>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>The development of a residential and mixed development consisting of land developed for use as residential, business and open space areas. The total area of the development is approximately 19.37 ha, single residential even, group housing units, a filling station, convenience centre, a restaurant and an office block. A total of approximately 30 ha of agricultural land will be irrigated with treated effluent.</p>
<p>Environmental Impact Assessment Regulations Listing Notice 3 of 2014, Government Notice No. 985 of 4 December 2014</p>	
<p>Activity Number: 4 Activity Description:</p> <p>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p>i. Western Cape</p> <ul style="list-style-type: none"> (a) Areas zoned for use as public open space or equivalent zoning; (b) 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 (c) 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>The construction of roads for the proposed development will be between 10 and 26 metres wide.</p>
<p>Activity Number: 10 Activity Description:</p> <p>The development and related operation of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic metres.</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. All areas outside urban areas; or iii. Inside urban areas: <ul style="list-style-type: none"> (aa) Areas seawards of the development setback line or within 200 metres from the high-water mark of the sea if no such development setback line is determined; 	<p>The construction and related operation of a filling station with combined storage tank size of 69 cubic metres.</p>

<p>(bb) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined; or</p> <p>(cc) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.</p>	
<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> <ol style="list-style-type: none"> i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004; ii. Within critical biodiversity areas identified in bioregional plans; iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven 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>The clearance of more than 300m² of Endangered Garden Route Granite Fynbos (approximately 18.04 ha).</p>

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

The Holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development and development footprint area behind the defined development setback line along the non-perennial stream as depicted in the plan in Annexure 2 of this Environmental Authorisation:

The proposal entails the development of a residential estate and business zone on a portion of Portion 7 of the Farm Buffelsfontein 204, Herold's Bay, George. The area where the development will take place is approximately 19 370 square metres in extent and the development will comprise of the following:

- ❖ A residential area consisting of 102 single residential erven (Single Residential Zone I) and 68 general residential erven (General Residential Zone II);
- ❖ A commercial area comprising of two erven for:
 - a filling station for the storage and handling of a dangerous good (Business Zone II);
 - a convenience centre (Business Zone II);
 - a restaurant (Business Zone II); and
 - office block (Business Zone IV).
- ❖ One open space area (Open Space Zone II) which includes the aquatic buffer;
- ❖ An erf for private road(s) (Transport Zone III);
- ❖ An erf for public streets (Transport Zone II);

- ❖ Servitudes registered for the sewerage package plants.

This will require the clearance of more than 1-hectare (but less than 20-hectares) of indigenous vegetation. Also, more than 300 square metres of an area mapped as Endangered Garden Route Granite Fynbos will be cleared of indigenous vegetation for this purpose but approximately 18.04 ha.

In addition, hereto the following associated infrastructure will be constructed:

- ❖ An internal road network with roads of 10 to 26 metres wide.
- ❖ Installation of 3 gravity fed package plants for the treatment of sewage and will be situated in three (3) drainage zones.
- ❖ The internal sewer network will consist of 160mm pipes with a 110mm connection to each erf.
- ❖ The internal water reticulation system will consist of pipes varying in size between 63 mm and 90 mm diameter with the necessary provision made for isolating valves, pressure reducing valves, fire hydrants, as required and erf connections;
- ❖ Electricity reticulation, substations and street lighting, and
- ❖ Stormwater drainage structures and stormwater pipelines.

The development will be implemented behind the defined development setback line along the non-perennial stream as depicted in the plan in Annexure 2 of this Environmental Authorisation.

C. SITE DESCRIPTION AND LOCATION

The proposed mixed development will be located on a portion of Portion 7 of the Farm Buffelsfontein No. 024, Herold's Bay. The site is located directly north-east of the existing Herold's Bay township and directly west of the existing Oubaai Golf Estate. The site is situated on the southern portion of the Farm Buffelsfontein No. 204 and is bounded to the north and west by farmland.

The coordinates of the centre of the proposed development footprint site:

Latitude (S)	Longitude (E)
34° 02' 42.66" South	22° 24' 19.94" East

A development setback has been defined along the non-perennial unnamed tributary / stream referred to as stream A which flows into the existing dam. The development setback provides a 32-metre buffer from the edge of the watercourse as depicted in the plan in Annexure 2 of this Environmental Authorisation.

The proposed filling station is envisioned to be positioned in the south western corner of the development footprint area, adjacent to the Oubaai Main Road.

The proposed package plants will be located approximate to the positions indicated in the drawing number 1701561/C/003 drawn by Element Consulting Engineers and appended to the Final basic Assessment Report as Appendix B2, except the proposed package plant in the south eastern corner that must be positioned outside of the aquatic buffer.

The area envisioned to be used as irrigation area with the treated effluent is indicated as Annexure 2 of this environmental authorisation.

SG digit code: Erf 2839: C0270000000020400007

Refer to Annexure 1: Locality Plan, Annexure 2: Development Setback line and Annexure 3: Irrigation area of this Environmental Authorisation.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

SHARPLES ENVIRONMENTAL SERVICES CC
% Ms Betsy Ditcham
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MILNERTON
7441

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E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **30 April 2041**, the date on which all the listed activities, including post construction rehabilitation and monitoring requirements and operation aspects, will be deemed to be concluded at the site.

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

- 1.1. The non-operational component (i.e. installation of bulk services and top structures and construction of the filling station) is subject to the following:
 - 1.1.1. The holder must start with the physical implementation and exceed the threshold of all the authorised listed activities on the site by 30 April 2026.
 - 1.1.2. The development of the facility for the storage and handling of dangerous goods (filling station) must commence by the 30 April 2026 and be concluded by 30 April 2028; and
 - 1.1.3. Rehabilitation and monitoring must be finalised at the site within a period of 3-months from the date the construction activities (construction phase) are concluded; but by no later than 31 January 2031.
- 1.2. The operational aspects of this Environmental Authorisation are granted until 30 April 2041, during which period all operational aspects, rehabilitation and monitoring requirements as well as the final environmental auditing and reporting must be finalised.

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

2. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with a part of the Preferred Alternative described in the FBAR dated November 2020 on the site as described in Section C above.

The development is limited to the area *behind the defined development setback line along the non-perennial stream as depicted in the plan in Annexure 2 of this Environmental Authorisation*:

The proposal entails the development of a residential estate and business zone on a portion of Portion 7 of the Farm Buffelsfontein 204, Herold's Bay, George. The area where the development will take place is approximately 19 370 square metres in extent and the development will comprise of the following:

- ❖ A residential area consisting of 102 single residential erven (Single Residential Zone I) and 68 general residential erven (General Residential Zone II);
- ❖ A commercial area comprising of two erven for:
 - a filling station for the storage and handling of a dangerous good (Business Zone II);
 - a convenience centre (Business Zone II);
 - a restaurant (Business Zone II); and
 - office block (Business Zone IV).
- ❖ One open space area (Open Space Zone II) which includes the aquatic buffer;
- ❖ An erf for private road(s) (Transport Zone III);
- ❖ An erf for public streets (Transport Zone II);
- ❖ Servitudes registered for the sewerage package plants.

This will require the clearance of more than 1-hectare (but less than 20-hectares) of indigenous vegetation. Also, more than 300 square metres of an area mapped as Endangered Garden Route Granite Fynbos will be cleared of indigenous vegetation for this purpose but approximately 18.04 ha.

In addition, hereto the following associated infrastructure will be constructed:

- ❖ An internal road network with roads of 10 to 26 metres wide.
- ❖ Installation of 3 gravity fed package plants for the treatment of sewage and will be situated in three (3) drainage zones.
- ❖ The internal sewer network will consist of 160mm pipes with a 110mm connection to each erf.
- ❖ The internal water reticulation system will consist of pipes varying in size between 63 mm and 90 mm diameter with the necessary provision made for isolating valves, pressure reducing valves, fire hydrants, as required and erf connections;
- ❖ Electricity reticulation, substations and street lighting, and
- ❖ Stormwater drainage structures and stormwater pipelines.

The development will be implemented behind the defined development setback line along the non-perennial stream as depicted in the plan in Annexure 2 of this Environmental Authorisation.

3. The holder must adopt and implement the following development restrictions and measures to the proposed development:
 - 3.1. No development may take place on the watercourse side of the development setback which has been defined by the competent authority;
 - 3.2. The erf boundaries of all erven (i.e. residential; business; and transport zones) must be setback above the development setback;
 - 3.3. All service infrastructure including servitudes, must be set back above the development setback;
 - 3.4. The area on the watercourse side of the development setback must form part of the opens space system; and

- 3.5. A revised proposal and layout plan reflecting the above restrictions must be submitted to the competent authority for approval prior to site preparation or construction activities commencing on site. The proposed development layout plan must be amended to address the following:
 - 3.5.1. The retreat of the erven in the aquatic buffer.
 - 3.5.2. The retreat of the service station footprint in the aquatic buffer.
 - 3.5.3. All services must be installed directly adjacent to erf boundaries and not encroach the aquatic buffer.
4. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
5. The Holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the Holder.
6. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

Notification and administration of appeal

7. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 7.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 7.1.1. the decision reached on the application;
 - 7.1.2. the reasons for the decision as included in Annexure 3;
 - 7.1.3. the date of the decision; and
 - 7.1.4. the date when the decision was issued.
 - 7.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;
 - 7.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 7.4. provide the registered I&APs with the:
 - 7.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 7.4.2. name of the responsible person for this Environmental Authorisation,
 - 7.4.3. postal address of the Holder,
 - 7.4.4. telephonic and fax details of the Holder,
 - 7.4.5. e-mail address, if any, of the Holder,
 - 7.4.6. 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).
 - 7.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.

7.6. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Written notice to the Competent Authority

8. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.

8.1. The notice must make clear reference to the site details and EIA Reference number given above.

8.2. The notice must also include proof of compliance with the following conditions described herein:
Conditions no.: 3, 7, 10 and 12.

9. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities of the—

9.1. bulk internal service infrastructure (i.e. internal roads; water-, sewer-, electricity reticulation and bulk storm water); and

9.2. final phase of the mixed/residential development.

Management of activity

10. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended and submitted for approval, subject to the following requirements:

10.1. The EMPr must be amended to incorporate the following —

10.1.1. Environmental Control Officer compliance reports must be submitted monthly to this Directorate.

10.1.2. Incorporate all the conditions contained in this Environmental Authorisation; The section dealing with the management and demarcation of the No-Go area's (including the open space areas) must clearly state how the areas will be demarcated prior to any earthworks / commencement of construction;

10.1.3. Incorporate a map showing the fire breaks as required and an implementation plan for effective fire management.

10.1.4. The revised Site Development Plan must be included in the EMPr;

10.1.5. A detailed Site Development Plan for the filling station, which also depicts *inter alia*:

(a) tank installations and auxiliary infrastructure for the handling of the dangerous goods;

(b) a site-specific stormwater management / drainage system and separation and or treatment devices;

(c) monitoring points including monitoring boreholes;

10.1.6. Incorporate an Operational Phase Environmental Management Plan that will deal with the operational aspects including the filling station and must include:

(a) Include the implementation plan with clear impact management outcomes;

(b) An indication of the persons who will be responsible for the implementation of the impact management actions.

- (c) Include all the conditions and monitoring aspects associated with the groundwater monitoring activities and requirements of the Fuel Retailers Association;
- (d) Include all the mitigation measures as described in the Geotechnical Impact Assessment that deals with the filling station and the design measures that were recommended
- (e) Include the requirements in the comments provided by WCG: Department of Environmental Affairs and Development Planning – Pollution and Chemicals Management
- (f) Include emergency procedures and actions to be undertaken for emergency spills or malfunctioning of tanks.
- (g) Detail the environmental auditing programme.

10.2. The amended EMPr must be submitted to the Competent Authority and be approved, prior to the construction activities commencing on site.

Note: The revised EMPr should be submitted to the Competent Authority at least 90-days prior to the construction activities commencing on site to ensure the competent authority is able to process / review the revised EMPr prior to the intended date of commencement.

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

Monitoring

12. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.

13. The ECO must–

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

14. A monitoring programme for the filling station must be developed and implemented which must include the following:

- a) The development of the facility and infrastructure for the storage and handling of a dangerous good (i.e., construction of the filling station) and must detail the requirements of the fuel containment area, forecourt area, the installation of the underground storage tanks, pipelines;
- b) Leak detection and monitoring thereof;
- c) The location of the monitoring boreholes
- d) Detail the Recordkeeping and Reporting protocol.

15. A monitoring programme for the treatment of sewage and disposal of effluent must be developed and implemented which must include the following:

- a) The sampling frequency of groundwater to detect possible contamination;

- b) Location of sampling areas;
 - c) Standards that water samples are measured against; and
 - d) Detail the Recordkeeping and Reporting protocol.
16. 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 website, such documents must be made available on such publicly accessible website.
17. 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

18. The Holder must, for the period during which the environmental authorisation and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited;
19. 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:

- 19.1. During the period which the activities have been commenced with on site until the construction of the bulk internal service infrastructure (i.e. internal roads; water-, sewer-, electricity reticulation and bulk storm water) has been completed on site, the Holder must undertake annual environmental audit(s) and submit the Environmental Audit Report(s) to the Competent Authority.

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

- 19.2. During the period the development of the mixed/residential phases (i.e. construction of top structures) is undertaken, the Holder must ensure that environmental audit(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 of compliance with the EMPr **may not exceed intervals of 5-years.**

A final Environmental Audit Report must be submitted to the Competent Authority within **three (3)** months of completion of the mixed/residential development and the post construction rehabilitation and monitoring requirements thereof, but by no later than 31 January 2031;

Note: The final auditing requirements should be completed at least three months prior to expiry of the validity period of the environmental authorisation 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.

- 19.3. During the period the development of the facility or infrastructure for the storage and handling of a dangerous good (i.e. construction of the filling station) is undertaken, the Holder must undertake annual environmental audit(s) and submit the Environmental Audit Report(s) to the Competent Authority.

A final Environmental Audit Report must be submitted to the Competent Authority within **three (3)** months of completion of the construction of the filling station component of the development and the post construction rehabilitation requirements thereof, but by no later than 30 July 2028.

During related operation of the facility or infrastructure for the storage and handling of a dangerous good at the filling station, the frequency of the auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr **may not exceed intervals of 5-years.**

Note: The compilation and submission of the environmental audits can be coordinated so that they can be compiled and submitted simultaneously to the Competent Authority.

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

- 20.1. 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;
- 20.2. provide verifiable findings, in a structured and systematic manner, on–
- 20.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
- 20.2.2. 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.
- 20.3. identify and assess any new impacts and risks as a result of undertaking the activity;
- 20.4. evaluate the effectiveness of the EMPr;
- 20.5. identify shortcomings in the EMPr;
- 20.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
- 20.7. 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;
- 20.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
- 20.9. include a photographic record of the site applicable to the audit; and
- 20.10. be informed by the ECO reports.
21. 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

22. Three (3) groundwater monitoring boreholes must be established downgradient of the filling station in order to detect any potential contamination. The positions of the monitoring boreholes must be indicated on the layout plan, once the final design has been confirmed. The monitoring borehole must be established at least 3 months, prior to the installation of the tanks and baseline data must be collected and recorded during this period.
23. A Site-Specific Stormwater Management Plan must be developed for the filling station site and must detail effective pollution and erosion control measures, as well as stormwater management. This must be submitted and approved by this Department as part of the EMPr, prior to commencement of construction activities.
24. The area on the watercourse side of the development setback must be demarcated as a no-go area and managed for a conservation use.
25. The area where treated effluent will be irrigated may only occur on existing and currently used fields as indicated in Annexure 2.
26. The security fencing must be aligned to the perimeter of the development footprint area. The security fencing may not be installed within or around the conservation area, unless approved by the Competent Authority.
27. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

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

F. GENERAL MATTERS

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

Amendment of Environmental Authorisation and EMPr

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

Where a validity period has been specified for operational aspects, such as for the development and related operation of the facilities or infrastructure for the storage and handling of a dangerous good,

the onus is on the Holder to ensure the facility is operating at all times in terms of a valid environmental authorisation.

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.
 - (c) An environmental authorisation may be amended where it relates to a change of ownership or transfer of rights and obligations.
 - (d) On application, if the competent authority decides to grant environmental authorisation, the competent authority may issue a single environmental authorisation or multiple environmental authorisations in the name of the same or different applicants covering all aspects for which authorisation is granted.
3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

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

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

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

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

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

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

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is granted for a set period from date of issue, during which period all the listed activities must be commenced with and concluded, including the post-construction rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

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

- ❖ Failure to submit the revised EMPr to the Competent Authority at least 90-days prior to the construction activities commencing on site, may result in the competent authority not being able to process / review the revised EMPr prior to the intended date of commencement.
 - ❖ Failure to complete the post construction rehabilitation and monitoring requirements at least six months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.
 - ❖ Failure to complete the auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements and may result in the competent authority not being able to process the audit timeously.
8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e. 3; 7, 8; 10 and 12). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
 9. In the event that the Environmental Authorisation should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.
 10. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.

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

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

By facsimile: (021) 483 4174; or

By hand: Appeal Administrator
Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

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

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

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully



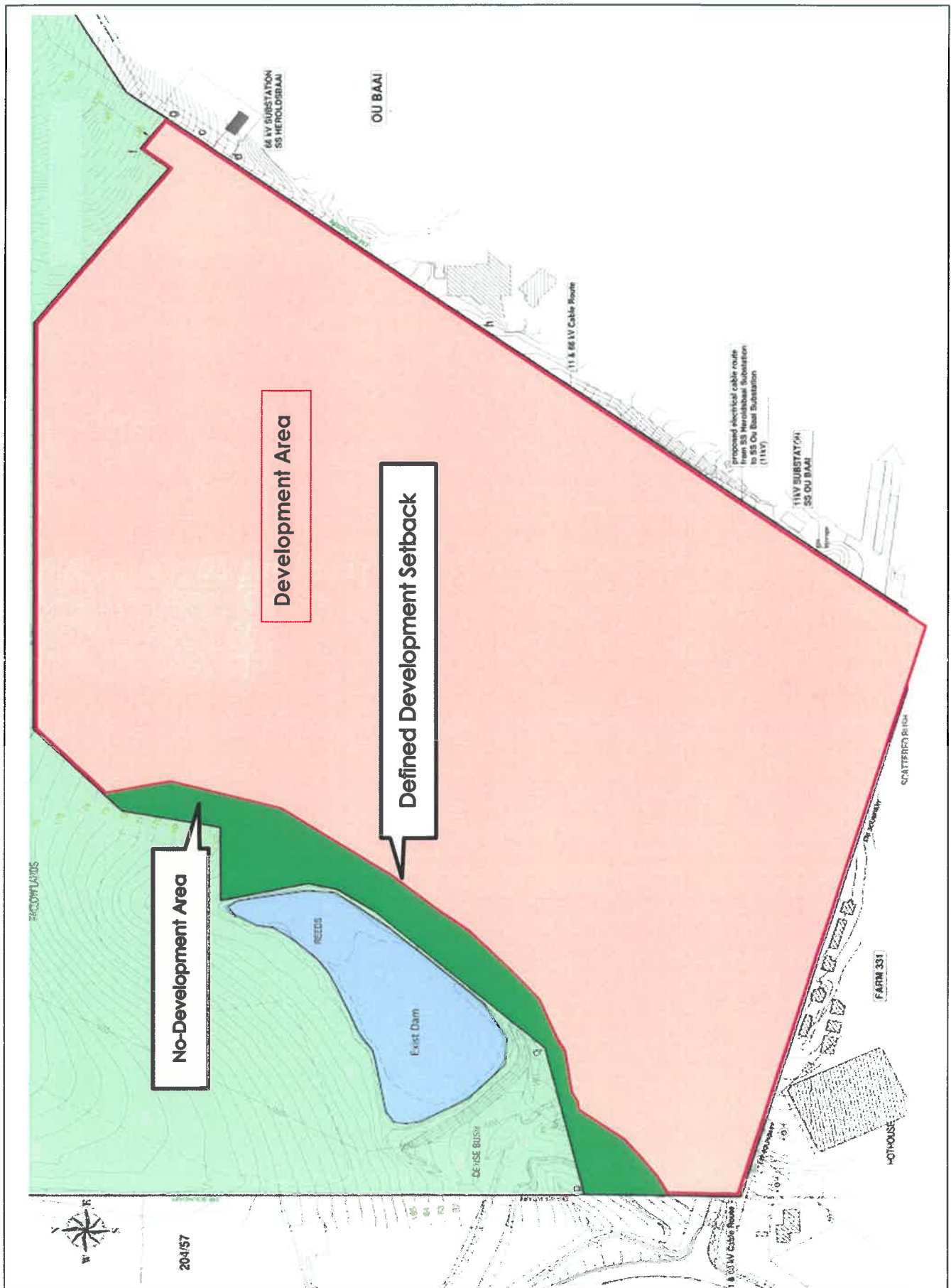
MR. GAVIN BENJAMIN
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION3)

DATE OF DECISION: 06/04/2021

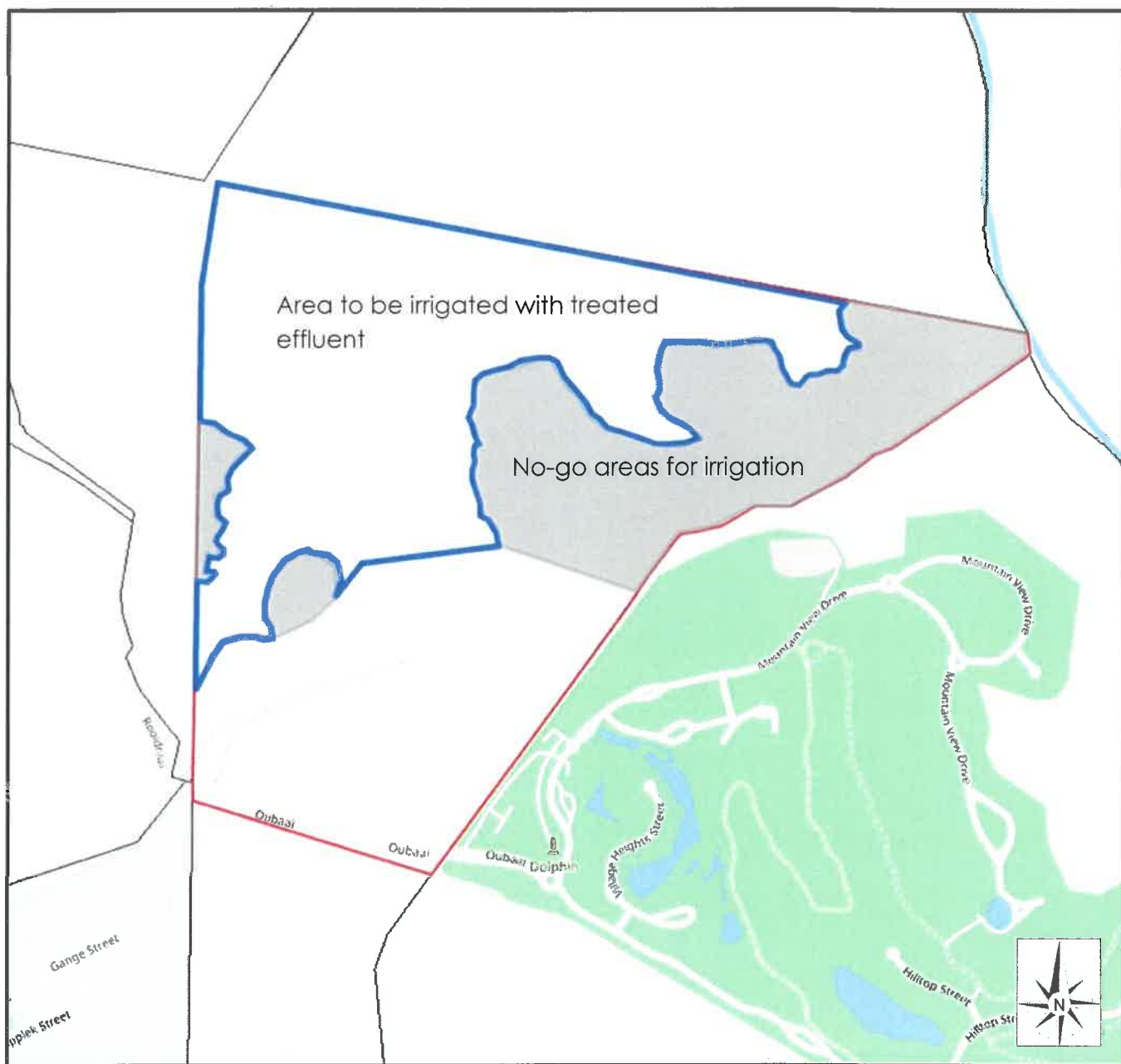
FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/1/D2/29/0008/20
NEAS REFERENCE: WCP/EIA/0000776/2020

ANNEXURE 2: DEVELOPMENT SETBACK LINE



ANNEXURE 3: AREA WHERE TREATED EFFLUENT MAY BE IRRIGATED



ANNEXURE 4: 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 24 August 2020, the Final Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 23 November 2020;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the FBAR dated November 2020;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) Appropriate information was made available in the report to understand the environmental and spatial context and the case officer is familiar with the 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. Legislative Requirements

Activity 12 of Listing Notice 1 (GN No. R983 of 4 December 2014, as amended) was included in the application for Environmental Authorisation, however, this activity is not approved as a development setback line has been defined by this Department and as such, no infrastructure or structures will be constructed within a watercourse or within 32 metres from the edge of a watercourse.

2. Public Participation

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

- identification of and engagement with interested and affected parties (I&APs) including organs of state which have jurisdiction in respect of the activity to which the application relates;
- fixing a notice board at the site in January 2020;
- giving written notice to the owners and occupiers of land adjacent to the site and any alternative site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 17 October 2019;
- the placing of a newspaper advertisement in the 'George Herald' on 16 January 2020; and
- making the draft Basic Assessment Report available to I&APs for public review from 17 January 2020 till 17 February 2020.

The following Organs of State provided comment on the proposal:

- ❖ Breede Gouritz Catchment Management Agency
- ❖ CapeNature
- ❖ George Municipality
- ❖ Department of Environment, Forestry and Fisheries – Forestry Division
- ❖ WCG: Department of Transport and Public Works – Road Network Management
- ❖ Heritage Western Cape

❖ *General Public / Interested & Affected Parties (I&APs) included:*

- *Rate Payers Association of Herold's Bay*
- *Denneseerus (Pty) Ltd.*
- *Oubaai Home Owners Association*

Further consultation was instituted with the BGCMA in terms of the Water Use Licence application for clarification and clarification was received.

All other comments and issues raised by the respective *Organs of State and I & APs* that were captured in the Basic Assessment Report were responded to by the EAP.

3. Alternatives

Layout Alternatives:

Part of the Preferred Layout Alternative (Herewith Approved):

The proposal entails the development of a residential estate and business zone on a portion of Portion 7 of the Farm Buffelsfontein 204, Herold's Bay, George. The area where the development will take place is approximately 19 370 square metres in extent and the development will comprise of the following:

- ❖ A residential area consisting of 102 single residential erven (Single Residential Zone I) and 68 general residential erven (General Residential Zone II);
- ❖ A commercial area comprising of two erven for:
 - a filling station for the storage and handling of a dangerous good (Business Zone II);
 - a convenience centre (Business Zone II);
 - a restaurant (Business Zone II); and
 - office block (Business Zone IV).
- ❖ One open space area (Open Space Zone II) which includes the aquatic buffer
- ❖ An erf for private road(s) (Transport Zone III);
- ❖ An erf for public streets (Transport Zone II);
- ❖ Servitudes registered for the sewerage package plants.

This will require the clearance of more than 1-hectare (but less than 20-hectares) of indigenous vegetation. Also, more than 300 square metres of an area mapped as Endangered Garden Route Granite Fynbos will be cleared of indigenous vegetation for this purpose but approximately 18.04 ha.

In addition, hereto the following associated infrastructure will be constructed:

- ❖ An internal road network with roads of 10 to 26 metres wide.
- ❖ Installation of 3 gravity fed package plants for the treatment of sewage and will be situated in three (3) drainage zones.
- ❖ The internal sewer network will consist of 160mm pipes with a 110mm connection to each erf.
- ❖ The internal water reticulation system will consist of pipes varying in size between 63 mm and 90 mm diameter with the necessary provision made for isolating valves, pressure reducing valves, fire hydrants, as required and erf connections;
- ❖ Electricity reticulation, substations and street lighting, and
- ❖ Stormwater drainage structures and stormwater pipelines.

The development will be implemented behind the defined development setback line along the non-perennial stream as depicted in the plan in Annexure 2 of this Environmental Authorisation.

The need for an adequate aquatic buffer has been emphasised in the Freshwater Habitat Impact Assessment Report and this Department has encouraged the applicant to investigate a new alternative; however, the final proposals submitted in the application have failed to adequately address/describe this aspect in an appropriate alternative. The competent authority has defined a development setback to address this aspect and conditions in support thereof have been included in this environmental authorisation.

Layout Alternative A

The proposal entails the development of a residential estate on a portion of Portion 7 of the Farm Buffelsfontein 204, Herold's Bay, George. The development site is 12 200 square metres in extent and will comprise the following:

- ❖ 65 Single Residential Erven
- ❖ 32 General Residential Zone II erven;
- ❖ Business Zone of 0.495 ha.
- ❖ No open space

Layout Alternative B

The proposal entails the development of a residential estate on a portion of Portion 7 of the Farm Buffelsfontein 204, Herold's Bay, George. The development site is 25 755 square metres in extent and will comprise the following:

- ❖ 151 Single Residential Erven
- ❖ More than 32 General Residential Zone II erven;
- ❖ Business Zone of 0.823 ha.
- ❖ Open Space erf of 3.391 ha

Alternative A was not deemed preferred as less erven could be developed and the number of group housing units would be considerably less than the preferred alternative (Alternative C). Alternative B was not considered feasible as it would encroach onto the agricultural land to the north of the dam and in turn resulting in the loss of even more viable agricultural land as opposed to Alternative C.

Layout Alternative C (Applicant's Preferred Alternative)

The proposal entails the development of a residential estate on a portion of Portion 7 of the Farm Buffelsfontein 204, Herold's Bay, George. The development site is 19 370 square metres in extent and will comprise the following:

- ❖ 102 Single Residential Erven
- ❖ 68 General Residential Zone II erven;
- ❖ 1 Business Zone II and IV erf comprising a filling station, a convenience centre, a restaurant and an office block.
- ❖ 1 Open Space Zone II erf
- ❖ 1 Transport Zone III erf
- ❖ 1 Transport Zone II erf
- ❖ Servitudes registered for the sewerage package plants

This will require the clearance of more than 1-hectare (but less than 20-hectares) of indigenous vegetation. Also, more than 300 square metres of an area mapped as Endangered Garden Route Granite Fynbos will be cleared of indigenous vegetation for this purpose.

In addition, hereto the following associated infrastructure will be constructed:

- ❖ An internal road network with roads of 10 to 26 metres wide.
- ❖ Installation of 3 gravity fed package plants in three (3) drainage zones.
- ❖ The internal sewerage network will consist of 160mm pipes with a 110mm connection to each erf.
- ❖ The internal water reticulation system will consist of pipes varying in size between 63 mm and 90 mm diameter with the necessary provision made for isolating valves, pressure reducing valves, fire hydrants, as required and erf connections;
- ❖ Electricity reticulation, substations and street lighting, and
- ❖ Stormwater drainage structures and stormwater pipelines.

Technological Alternatives:

Three technological alternatives were investigated:

Element Consulting Engineers conducted various site visits and meetings with the Oubaai Estate and the George Municipality to determine the feasibility of the sewage treatment options.

1. Alternative connection point (east of development):

The proposed development is located directly adjacent to the Oubaai Golf Estate. Discussions have been ongoing with Oubaai Golf Estate to accept the sewage generated from this development into their Oubaai WWTW. The Oubaai WWTW is located to the north-east of this proposed development, adjacent to the common boundary with this development. A new bulk outfall line could be constructed from the north-eastern extremity of the proposed development, following the contour, to the Oubaai WWTW. A letter confirming the desirousness of the Oubaai Golf Estate Homeowners Association to receive this effluent was received. The design of the Oubaai WWTW was studied. It had been determined that this WWTW has sufficient surplus capacity to accommodate the additional flow generated from this proposed development. Officials from Oubaai have also confirmed that this WWTW has sufficient spare capacity to accommodate the additional flow.

The developers of the Herold's Bay Estate are desirous to obtain the treated effluent as irrigation water and the Oubaai WWTW alternative is hence not a desirous one for the developer as discussed on the report. Notwithstanding the above, in this scenario, wastewater from the development will have to be pumped over two watersheds to the eastern drainage zone, which will constitute the risk of two wastewater pump stations on the proposed development.

2. Alternative connection point (west of development)

The western portion of the development drains towards Herold's Bay. A 160mm diameter uPVC gravity sewer line is available on the northern extreme of the existing Herold's Bay township. Preliminary discussions with municipal officials indicated that this existing 160mm diameter sewer gravity line and subsequent network does not have surplus capacity to accommodate the flow from the development.

This network drains into the Herold's Bay wastewater treatment works (WWTW) which also does not have any surplus capacity as indicated by the municipality. A letter confirming the lack of capacity in the network and WWTW, has been obtained from the George Municipality.

The option of connecting into the municipal sewer network is not viable from a technical and cost perspective. Notwithstanding the above, in this scenario, wastewater from the development will have to be pumped over two watersheds to the western drainage zone, which will constitute the risk of two wastewater pumpstations on the proposed development.

3. Development of a new WWTW:

The development of a new WWTW is not captured on the George Municipality's services development plan for Herold's Bay. A new WWTW will have a 500m development exclusion zone. A 500m exclusion zone will render most of the developable land undevelopable and is not a viable option for the purposes of this application.

Notwithstanding the above, in this scenario, wastewater from the development will have to be pumped over several watersheds to the relevant developed drainage zone, which will constitute the risk of a number of wastewater pump stations on the proposed development.

Based on the assessment of these alternatives, the three (3) package plants were considered feasible. Furthermore, the George Municipality is aware that in terms of Section 152 the Constitution and Section 73 of the Local Government: Municipal Systems Act, 2000 (Act no. 32 of 2000), the general duties and functions of local government are described, which require *inter alia* that the local government must provide basic services. The Local Government: Municipal Systems Act, 2000 does however allow for the provision of such a municipal service in its area or part of its area, through an external mechanism by entering into a *service delivery agreement* with an entity or person legally competent to operate a business activity. As such the George Municipality must enter into a Service Level Agreement with the developer / Home Owners Association.

"No-Go" Alternative

The option of not implementing the activity means that development will be established and none of the impacts, positive or negative, associated with the construction and operation of the development will be experienced.

4. Impact Assessment and Mitigation Measures

4.1 Activity need and desirability

The Applicant has motivated that from an engineering bulk services perspective, the proposed development is classified as an infill development with infill taking place between the existing Herold's Bay township and Oubaai Golf Estate. Furthermore, that infill-development is desirous from a bulk engineering services perspective as all or most bulk municipal services are normally already available and in place. Such infill development will improve the holistic financial sustainability of the local municipality due to additional rates and taxes being generated without the burden of additional capital outlay. The Department does not necessarily agree that this constitutes infill development, especially in light of the sewage being treated and disposed of on site. It is however expected that the development will connect to the municipal bulk sewage network as soon as this becomes available in future so as to prevent and mitigate any potential pollution of surface and groundwater sources.

The proposed development will subsequently not trigger unaffordable capital cost burdens to the local municipality but will in fact strengthen the financial sustainability of the municipality in both the short- and longer term.

In terms on environmental sensitivities, as confirmed by the Botanical Assessment, due to the transformed state of the site (for both proposed development footprints), there will be no direct impact on biodiversity. A buffer area has been allocated around the freshwater feature on site, and, as such, impacts on this would be manageable.

The location of the proposed development is one that is described by the Socio-Economic Impact Assessment completed by Urban Econ (2018) as a scenic sea-side town with a high demand for units that are affordable. Therefore, the low agricultural potential and lack of environmentally protected

areas, coupled by the need for affordable units which may attract foreign investment and drive the local economy, further indicates that this location favours the land use proposed.

4.2 Biophysical Impacts

Impacts on the biophysical environment of the preferred location or property are anticipated. The expected impact on the biophysical environment through the lifecycle of the proposed development is considered to fall within acceptable levels as the establishment of housing on the property could be seen as inevitable. Further to this, the construction phase of the proposed development will require earthworks for the installations of services, construction of internal roads and residential units. The required vegetation clearing will expose soil to wind and erosion, which could potentially result in soil erosion. These activities will increase storm water runoff and potential sedimentation in the watercourse. The risks and impacts associated with the construction can be mitigated to acceptable levels through the implementation of the EMP construction phase management requirements as well as adhering to the aquatic buffer as indicated by the Freshwater Specialist.

4.3 Biodiversity

Due to the transformed state of the majority of the site, the direct impacts on biodiversity from the proposed development are limited. No significant fynbos or forest elements remain on site and although the proposed development encroaches onto an area mapped as CBA II (aka ###), it is not expected to significantly impact on the CBA network.

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

4.4 Defining a development setback:

According to the Freshwater habitat Impact Assessment Report, aquatic buffers zones are designed to act as barriers between human activities and sensitive water resources to protect them from negative adverse impacts. The freshwater specialist developed an aquatic buffer for this development to achieve the abovementioned outcome. The specialist report also emphasises that an important component of these buffers is that they represent minimum setbacks from the riparian zone and infrastructure such as storm water attenuation, sewage infrastructure, water pipelines and roads, etc. must lie outside of this setback area.

Furthermore, this specialist indicated that the preferred alternative, prior to the buffer being developed, recommended that the footprint be set further back from the dam and the watercourse. Once the buffer was developed, the layout was not adapted to reflect the buffer and recommendation of the specialist to set back the development.

This is a key factor in the decision to adopt a development setback line on this portion of the property.

4.5 Heritage / Archaeological Aspects

An existing Heritage ROD (record of decision) was issued in 2007 whereby Heritage Western Cape agreed that development can proceed under the following conditions:

- A professional archaeologist must monitor earthmoving activities;
- In the event that human burials or archaeological resources are uncovered or exposed during earthworks or excavations, it must be reported to the South African Heritage Resources Agency and Heritage Western Cape.

In considering the above, the view is held that the applicant has adequately considered the heritage and archaeological aspects and that the proposed development will not result in significant negative impact on the on these. The competent authority is satisfied that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of the National Heritage Resources Act, 1999 and the comments and recommendations of the relevant heritage resources authority with regard to the proposed development have been taken into account.

4.6 Other Impacts

No other impacts of significance are anticipated.

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

This environmental authorisation defines specific operational aspects. The applicant has indicated that the construction activities (non-operational aspects) should be completed within a period of 10 years. The environmental authorisation's validity period has been granted for a period of ten years (10) years, (which excludes the operation of the filling station) during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring, and submission of the final environmental audit. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase. The Holder is required to substantially implement the proposal within a period of 5-years after the environmental authorisation is issued. Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years. the operational aspects (operation of filling station) of this Environmental Authorisation are granted until 31 April 2041 and during which period the operation, all rehabilitation and monitoring requirements and final environmental auditing and reporting must be finalised.

6. **National Environmental Management Act Principles**

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

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

7. **Conclusion**

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

- (a) The identification and assessment of impacts are detailed in the FBAR dated 6 July 2020 and sufficient assessment of the key identified issued and impacts have been completed.
- (b) The procedure followed for the impact assessment is 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 were included in the FBAR. The mitigation measures will be implemented to manage the identified environmental impact during the construction phase.

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

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