



**Western Cape
Government**

Environmental Affairs and
Development Planning

Directorate: Development Management
(Region 1)

EIA REFERENCE NUMBER: 16/3/3/1/A8/23/3035/18
NEAS REFERENCE: WCP/EIA/0000520/2018
ENQUIRIES: Ms. M. Schippers
DATE OF ISSUE: 2019 -04- 25

The Municipal Manager
City of Cape Town
Private Bag X9181
CAPE TOWN
8000

Attention: Mr. G. Basson

Tel: (021) 444 6300
Email: grobler.basson@capetown.gov.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): THE PROPOSED HOUSING DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE ON THE REMAINDER OF ERF 128992, BONTEHEUWEL.

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 Environmental Impact Assessment 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 Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

ZAHIR TOEFY

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

Copies to: (1) Ms. T. Solomon (Infinity Environmental Consulting)
(2) Mr. R. Samaai (City of Cape Town)
(3) Mr. A. Oosthuizen (DEA&DP: DDF)

Fax: (086) 591 8616
Fax: (021) 444 3802
Fax: (021) 483 8311



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ENVIRONMENTAL AUTHORISATION

ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED HOUSING DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE ON THE REMAINDER OF ERF 128992, BONTEHEUWEL.

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 and the Environmental Impact Assessment Regulations, 2014 as amended on 07 April 2017 ("NEMA EIA Regulations, 2014") the competent authority herewith **grants environmental authorisation** to the applicant to undertake the listed activity specified in section B below with respect to the preferred alternative described in the Final Basic Assessment Report ("BAR") dated January 2019.

The granting of this environmental authorisation is subject to compliance with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

City of Cape Town
c/o Mr. G. Basson
Private Bag X9181
CAPE TOWN
8000

Tel: (021) 444 6300
Email: grobler.basson@capetown.gov.za

The abovementioned juristic person is the holder of this environmental authorisation and is hereinafter referred to as "the applicant".

B. LISTED ACTIVITY AUTHORISED

The listed activity in terms of the NEMA EIA Regulations as amended on 07 April 2017.

Listed activity	Activity/Project description
<p>Listing Notice 3 of the NEMA EIA Regulations, 2014 (as amended):</p> <p>Activity Number: 15 Activity Description:</p> <p>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.</p> <p>f. Western Cape</p> <p>i. Outside urban areas, or ii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use or equivalent zoning, on or after 02 August 2010;</p> <p>(bb) A protected area identified in terms of NEMPAA, excluding conservancies; or</p> <p>(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>	<p>The proposed development will entail the transformation of land (zoned public open space) bigger than 1000m² to residential use.</p>

The abovementioned is hereinafter referred to as "the listed activity".

The applicant is herein authorised to undertake the following alternative related to the listed activity:

The proposed development entails the transformation of land zoned Public Open Space ("POS") to establish a residential development and associated infrastructure on the Remainder or Erf 128992, Bonteheuwel.

The proposed development will utilise the following existing municipal services:

solid waste management;
treatment and disposal of sewage and effluent;
water supply; and
electricity.

The proposed development and associated infrastructure will have a footprint of approximately 1.45ha. Access to the site will be gained from existing roads.

C. PROPERTY DESCRIPTION AND LOCATION

The listed activity will take place on the Remainder Erf 128992, Bonteheuwel.

The SG 21 digit code is: C01600070012899200000

Co-ordinates of the site:

33° 56' 39.99" South
18° 33' 38.40" East

Refer to Annexure 1: Locality Map and Annexure 2: Site Plan

hereinafter referred to as "the site".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Infinity Environmental Consulting
c/o Ms. T. Solomon
Suite 17
Private Bag X11
MOWBRAY
7705

Tel: (021) 834 1602
Fax: (086) 591 8616

E. CONDITIONS OF AUTHORISATION

Scope of Authorisation

1. The holder is authorised to undertake the listed activity specified in Section B above in accordance with and restricted to the preferred Alternative described in the BAR dated January 2019 on the site as described in Section C above.
2. The holder must commence with the listed activity 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.
3. This Environmental Authorisation is granted for a period of five (5) years, from the date of issue, during which period the holder must commence with the authorised listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
5. Any changes to, or deviations from the scope of the preferred alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Written notice to the Competent Authority

6. A minimum of seven calendar days notice, in writing, must be given to the competent authority before commencement of the development phase.
 - 6.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 6.2. The notice must also include proof of compliance with the following condition described herein:

Condition: 7

Notification and administration of appeal

7. The applicant must in writing, within 14 (fourteen) calendar days of the date of this decision and in accordance with Regulation 4 (2) –
 - 7.1. Notify all registered interested and affected parties of –
 - 7.1.1. the outcome of 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 of issue of the decision;
 - 7.2. Draw the attention of all registered interested and affected parties to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 detailed in section F below;
 - 7.3. Draw the attention of all registered interested and affected parties to the manner in which they may access the decision;
 - 7.4. Provide the registered Interested and Affected Parties with-
 - 7.4.1. the name of the holder (entity) of this environmental authorisation;
 - 7.4.2. the name of the responsible person for this environmental authorisation;
 - 7.4.3. the postal address of the holder;
 - 7.4.4. the telephonic and fax details of the holder;
 - 7.4.5. the e-mail address if any; and
 - 7.4.6. the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations.

Commencement

8. The listed activity, including site preparation, must not be commenced with within twenty (20) calendar days from the date the applicant notified the registered I&APs of this decision.
9. 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

10. The draft Environmental Management Programme ("EMPr") submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

11. An application for amendment to the EMPr must be submitted to the competent authority if any amendments are to be made to the EMPr other than those required by this environmental authorisation, and this may only be implemented once the amended EMPr has been authorised by the competent authority.
12. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

13. A copy of the environmental authorisation and the EMPr, audit reports and compliance monitoring reports must be kept at the site and must be made available to anyone on request.
14. Access to the site referred to in section C above must be granted and, the environmental authorisation and EMPr must be produced to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein. The environmental authorisation and EMPr must also be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.

Auditing

15. In terms of Regulation 34 of the NEMA EIA Regulations, 2014, the holder must conduct environmental audits to determine compliance with the conditions of the environmental authorisation and the EMPr and submit Environmental Audit Reports to the Competent Authority.
 - 15.1. The audit reports must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended);
 - 15.2. A first audit report must be submitted to the Competent Authority within three (3) months of commencement of the proposed development;
 - 15.3. A final audit report must be submitted to the competent authority within 6 months of completion of the proposed development;
 - 15.4. The audit reports must indicate compliance status with the conditions of this environmental authorisation, and the EMPr and make recommendations for improved environmental management;
 - 15.5. The holder must, within 7 days of the submission of an audit report to the Competent Authority, notify potential and registered I&APs of the submission and make the report available to anyone on request; and
 - 15.6. If the audit reports are not submitted, the competent authority may give 30 days written notice and may have such an audit undertaken at the expense of the applicant and may authorise any person to take such measures necessary for this purpose.

Specific conditions

16. An integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a landfill licensed in terms of the applicable legislation.

17. All noise and sounds generated during the proposed development must comply with the relevant SANS codes and standards and the relevant noise regulations.
18. Dust suppression methods must be used to mitigate dust during the development phase. No potable water must be used for dust suppression. Alternative dust suppression methods (such as shade netting screens and/or straw stabilisation, etc.) must be implemented instead.
19. The use of all generators on site must include the use of drip trays.
20. The following conditions regarding the temporary storage of fuel on site during construction must be complied with:
 - 20.1. The combined capacity of the temporary fuel storage tanks must not exceed 30m³;
 - 20.2. Temporary fuel storage tanks must be bunded (110% of the proposed tank's capacity) to contain any possible spills and to prevent any infiltration of fuel into the ground; and
 - 20.3. Temporary fuel storage tanks must be designed and installed in accordance with relevant SANS codes. The tanks must be constructed to conform to the requirements of all relevant legislation.

F. GENERAL MATTERS

1. The holder is 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.
2. Any changes to, or deviations from the scope of the description set out 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 such information as it deems necessary 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.
3. The applicant must notify the competent authority in writing, within 24 hours thereof if any condition herein stipulated is not being complied with.
4. The applicant must submit an application for amendment in terms of Chapter 5 of the NEMA EIA Regulations, 2014 (as amended) of the environmental authorisation to the competent authority where any detail or scope with respect to the environmental authorisation must be amended, added, substituted, corrected, removed or updated.
5. Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.
6. Non-compliance with a condition of this environmental authorisation or EMPr may result in suspension of this environmental authorisation and may render the holder liable for criminal prosecution.

G. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014.

1. An appellant (if the holder) must –
 - 1.1. Submit an appeal in accordance with Regulation 4 to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the Competent Authority of this decision:
2. An appellant (if NOT the holder) must –
 - 2.1. Submit an appeal in accordance with Regulation 4 to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&AP, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of the decision.
3. The holder (if not the appellant), the decision-maker, I&AP and 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. This appeal and 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 Jaap de Villiers (Tel: 021 483 3721)
Room 809, 8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to Jaap.DeVilliers@westerncape.gov.za.
5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the office of the Minister at: Tel. (021) 483 3721, E-mail Jaap.DeVilliers@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 development or operation subsequent to development is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully



MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 25/04/2019

Copies to: (1) Ms. T. Solomon (Infinity Environmental Consulting)
(2) Mr. R. Samaai (City of Cape Town)
(3) Mr. A. Oosthuizen (DEA&DP: DDF)

Fax: (086) 591 8616
Fax: (021) 444 3802
Fax: (021) 483 8311

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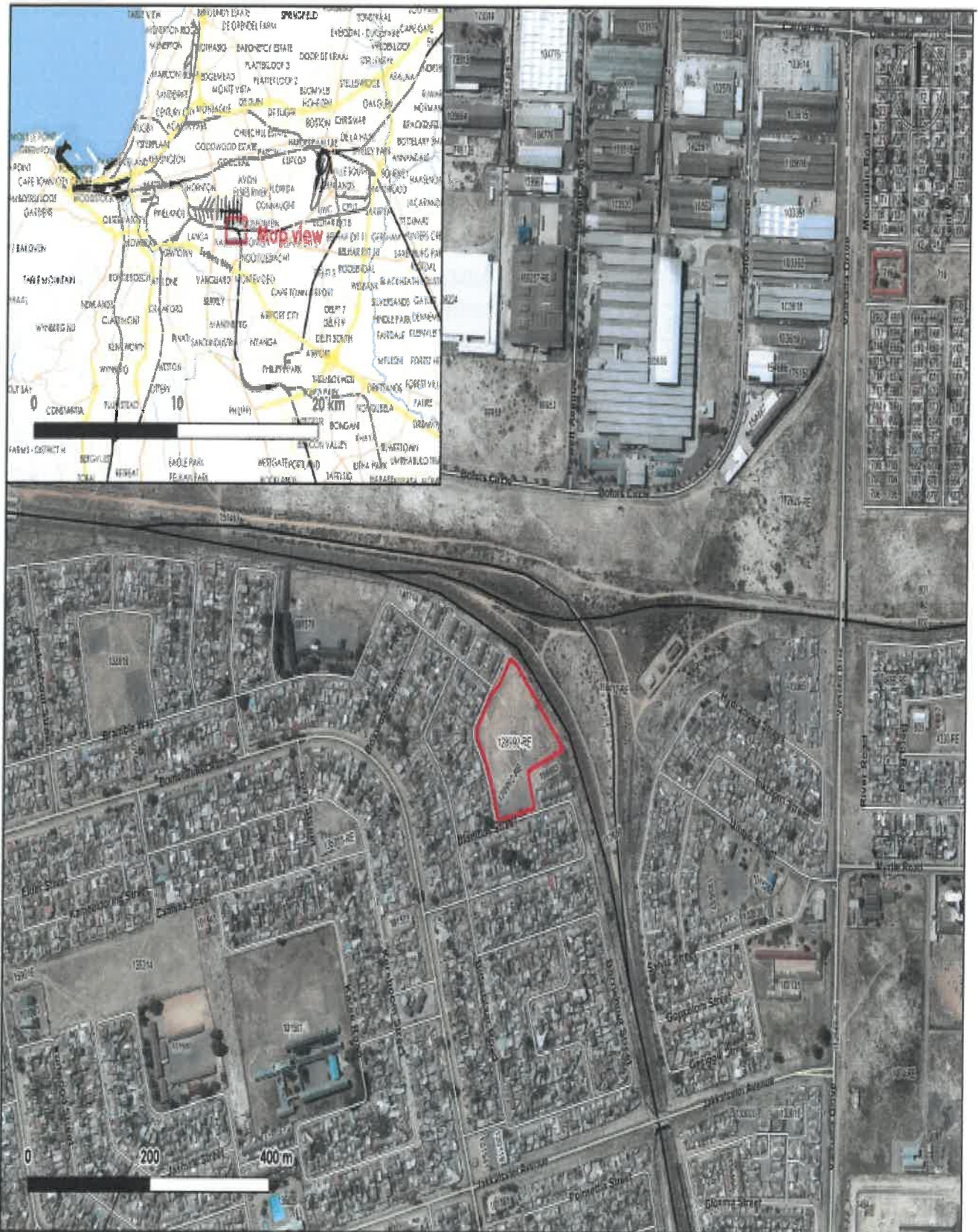
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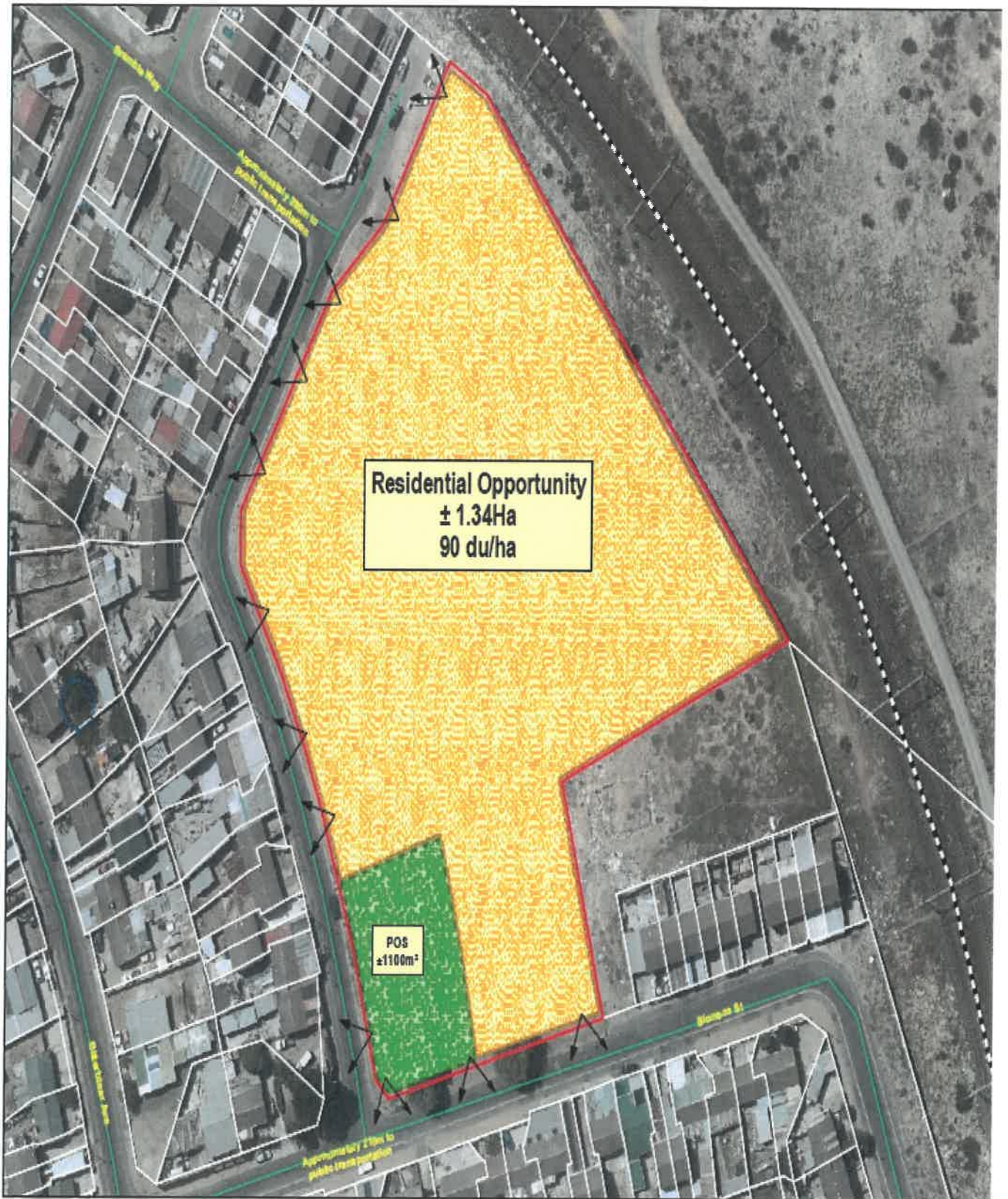
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ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The listed activity applicable in terms of the NEMA EIA Regulations as amended on 07 April 2017.
- b) The information contained in the application form dated and received by the competent authority on 02 October 2018, the BAR received by the competent authority on 21 January 2019 and the EMPr submitted together with the BAR;
- c) The assessment of the activity in the BAR received by the competent authority on 21 January 2019;
- d) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation, Alternatives and Exemptions (dated March 2013);
- e) 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);
- f) The comments received from interested and affected parties and the responses provided thereon, as included in the BAR received by the Department on 21 January 2019; and
- g) No site visits were 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 which, according to the competent authority, were the most significant reasons for the decision, is set out below.

1. Public Participation

The public participation process ("PPP") included, *inter alia*, the following:

- identification of and engagement with interested and affected parties;
- fixing a notice board at the site where the listed activity is to be undertaken;
- giving written notice to the owners of the land and owners and occupiers of land adjacent to the site where the listed activity is to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activity; and
- the placing of a newspaper advertisement in the 'Athlone News' on 01 August 2018.

The Department is satisfied that the PPP that was followed met the minimum legal requirements and all the comments raised and responses thereto were included in the comments and response report.

Specific management and mitigation measures have been considered in this environmental authorisation and in the EMPr to adequately address significant concerns raised.

2. Alternatives

The City of Cape Town has considered all vacant and state owned erven in the Bonteheuwel area for the provision of housing opportunities. The preferred site was chosen as it is unused state land, is large in size and is owned by the applicant.

Preferred Alternative (herewith authorised)

The proposed development entails the transformation of land zoned POS to establish a residential development and associated infrastructure on the Remainder or Erf 128992, Bonteheuwel.

The proposed development will utilise the following existing municipal services:

solid waste management;
treatment and disposal of sewage and effluent;
water supply; and
electricity.

The proposed development and associated infrastructure will have a footprint of approximately 1.45ha. Access to the site will be gained from existing roads.

"No-Go" Alternative

The "no-go" alternative was not considered appropriate as there is a great need for housing opportunities in the area. The potential impacts associated with the proposed development are regarded as acceptable and with the implementation of the environmental authorisation and the EMP, will be managed to acceptable levels.

3. Impacts, assessment and mitigation measures

3.1. Activity Need and Desirability

The provision of housing and services to communities is considered a priority, and is an ongoing issue of national importance. The proposed housing development will assist in alleviating the housing shortage in this area by providing new housing opportunities.

The proposed development is located inside the urban edge of the City of Cape Town and the local municipality has confirmed that the necessary services are available to accommodate the proposed development.

3.2. Biophysical Environment

The proposed site has been transformed and no indigenous vegetation remains on the site. No watercourses are located on or adjacent to the site.

3.3. Loss of POS

The proposed development will result in the loss of some POS area. However, a smaller, more formal and safer portion of the site will remain as POS.

3.4. Noise Impacts

All noise and sounds generated during the development and operational phase of the proposed development will comply with the relevant SANS codes and standards and the municipal by-laws. Furthermore, noise impacts will be mitigated by the implementation of the conditions in this environmental authorisation and the EMPr.

3.5. Dust Impacts

Potential dust generated during the development phase will be mitigated by the implementation of the conditions of this environmental authorisation and the mitigation measures included in the EMPr. No potable water will be used to mitigate dust nuisance as far as is practically possible. Alternative dust suppression methods (such as shade netting screens and/or straw stabilisation) will be implemented instead.

3.6. Impact Assessment and significance rating

3.6.1. The loss of POS has been identified in the BAR as being of low positive significance after mitigation as a smaller portion of the site will remain as POS.

3.6.2. Potential noise impacts during development has been identified in the BAR as being of very low negative significance after mitigation. Potential impacts will be mitigated by the implementation of the EMPr and conditions of this environmental authorisation.

3.6.3. The generation of dust as a result of the proposed development has been identified in the BAR as being of low negative significance as appropriate dust suppression methods will be implemented. Potential impacts will be mitigated by the implementation of the EMPr and conditions of this environmental authorisation.

National Environmental Management Act Principles

The National Environmental Management Act 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.

The development will result in both negative and positive impacts.

Negative Impacts Include:

- Loss of POS; and
- Potential noise and dust impacts.

Positive impacts Include:

- Additional housing opportunities in the area;
- Some employment opportunities during development;
- Optimal use of available land in the area; and
- Improving the living conditions of the community.

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 proposed listed activity 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 activity can be mitigated to acceptable levels.

You are reminded of the general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: *"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."*

-END-