



**REFERENCE:** 16/3/3/1/D6/28/0013/18  
**NEAS REFERENCE:** WCP/EIA/0000470/2018  
**ENQUIRIES:** Ms Jessica Christie  
**DATE OF ISSUE:** **15 APR 2019**

The Director  
Satinsky 169(Pty) Ltd  
PO Box 2810  
**MOSEL BAY**  
6500

**Attention: Mr. Herbie Oosthuizen**

Tel: (044) 601 8700  
Fax: (044) 690 4803  
E-mail: herbie@holaw.co.za

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 MOSEL BAY RETIREMENT AND FRAIL CARE FACILITY ON PORTION A OF ERF 13100, ERVEN 13104, 13105, 13106, 13109 AND 13110 AND RE/2001, MOSEL BAY**

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, 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 Environmental Authorisation.

Yours faithfully

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

Copied to:

|  |                   |                                  |
|--|-------------------|----------------------------------|
| (1) Siân Holder (EAP)                      | Fax: 044 874 0432 | E-mail: sian@cape-eaprac.co.za   |
| (2) Carel Venter (Mossel Bay Municipality) | Fax: 044 606 5062 | E-mail: cventer@mosselbay.gov.za |



**EIA REFERENCE NUMBER:** 16/3/3/1/D6/28/0013/18  
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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: MOSSEL BAY RETIREMENT AND FRAIL CARE FACILITY ON PORTION A OF ERF 13100; ERVEN 13104, 13105, 13106; 13109, 13110 AND RE/2001, MOSSEL BAY**

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

### DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to **the Preferred Alternative (Alternative 2)**, described in the Final Basic Assessment Report ("FBAR"), dated 30 November 2018 as prepared and submitted by the environmental assessment practitioner, *Cape Environmental Assessment Practitioners (Pty) Ltd.*

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

### A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Director  
SATINSKY 169 (PTY) LTD.  
% Mr. Herbie Oosthuizen  
PO Box 2810  
MOSSEL BAY  
6500

Tel: (044) 601 8700  
Fax: (044) 690 4803  
E-mail: herbie@holaw.co.za  
Website: None

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  |
|---|---|
| <b>Government Notice No. 985 of 4 December 2014 -Listing Notice 3</b>   |   |
| <p>Activity Number: 12<br/>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><b>i. Western Cape</b></p> <ul style="list-style-type: none"> <li>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;</li> <li>ii. Within critical biodiversity areas identified in bioregional plans;</li> <li>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;</li> <li>iv. <u>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</u></li> <li>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.</li> </ul> | <p>Approximately 2430m<sup>2</sup> to be cleared for construction of buildings and hard surfaces, while ±2320 square metres will be rehabilitated and landscaped as indigenous gardens. ±222 square metres of vegetation currently zone POS will need to be cleared for installation of a fence line along the perimeter of the western boundary of Portion A of Erf 13100.</p> <p>Installation of approx. 85m of storm water pipe, small retention pond and 30 square metres gabion dissipation structure. A corridor of approx. 10m wide (Approximately 880 square metres) will need to be cleared of vegetation in order to install the storm water system across RE/2001.</p> |
| <p>Activity Number: 12<br/>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>Portion A of Erf 13100 (approximately 6834 square metres) currently zoned as Public Open Space. Approximately 2430 square metres to be cleared for construction of buildings and hard surfaces, while approximately 2320 square metres will be rehabilitated and landscaped as indigenous gardens i.e. ±4750 square metres of current open space to be transformed.</p> <p>Small retention pond and ±30 square metres gabion structure on RE/2001 associated with underground storm water system.</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:

The clearance of indigenous vegetation and the transformation of open space to develop a retirement and frail care facility on Portion A of Erf 13100, Erven 13104 – 13106, 13109 and 13110, RE/2001 Mossel Bay. The Retirement and Frail Care facility is to comprise the following:

- ❖ Fifty-four (54) Units within three x 3-storey building blocks (Basement, Ground Floor and First Floor – restricted to 10.3m in height above natural ground level), with Communal recreation/admin. Facilities (gym, lounge and administration buildings). These buildings will be arranged in two rows, parallel to Alhof Drive, be built on the low-lying, flat and disturbed portion of the combined site, and be painted and cladded with natural colours / materials to integrate with the natural environment.
- ❖ Sixty-Eight (68) off-street parking bays;
- ❖ Vehicular internal road network (unbuilt loop of Malva Lane and Deale Street to be closed);
- ❖ Access to and egress from Alhof Drive (along northern property boundary);
- ❖ Associated internal service infrastructure to be connected to existing municipal service networks.

### C. SITE DESCRIPTION AND LOCATION

The development property is situated approximately 1.6km west of the Mossel Bay historic town centre, ±650 metres southwest of the Santos and ±980 metres south of the De Bakke public beach areas. Accessed from Alhof Drive via Louis Fourie Drive or Marsh Street, the development property / site is located at the eastern end of a narrow strip of undeveloped public open space located between the historic low-income Tarka settlement (to the north) and modern- to high-income De Nova residential suburb (to the south). This strip of land, formerly part of Erf 2001 (original town commonage), forms a rocky, generally steep, north-facing slope overlooking the Mossel Bay area.

The centre point of the development site where the listed activities will be undertaken is:  
Portion A of Erf 13100: 34° 10' 49.75" South 22° 07' 53.73" East

SG digit codes:

|              |                       |
|--------------|-----------------------|
| Erf 13100:   | C05100070001310000000 |
| Erf 13104:   | C05100070001310400000 |
| Erf 13105:   | C05100070001310500000 |
| Erf 13106:   | C05100070001310600000 |
| Erf 13109:   | C05100070001310900000 |
| Erf 13110:   | C05100070001311000000 |
| RE/Erf 2001: | C05100070000200100000 |

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan of this Environmental Authorisation.

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

### D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

CAPE ENVIRONMENTAL ASSESSMENT PRACTITIONERS (PTY) LTD.

% Ms. Louise-Mari van Zyl

P. O. Box 2070

GEORGE

6530

Tel: (044) 874 0365

Fax: (044) 874 0432

E-mail: [louise@cape-eaprac.co.za](mailto:louise@cape-eaprac.co.za)

Website: [www.cape-eaprac.co.za](http://www.cape-eaprac.co.za)

## E. CONDITIONS OF AUTHORISATION

### **Scope of authorisation**

1. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the Preferred Alternative described in the FBAR dated 30 November 2018 on the site as described in Section C above.

This Environmental Authorisation is only for the implementation of the Preferred Alternative for the site which entails:

The clearance of indigenous vegetation and the transformation of open space to develop a retirement and frail care facility on Portion A of Erf 13100, Erven 13104 – 13106, 13109 and 13110, RE/2001 Mossel Bay. The Retirement and Frail Care facility is to comprise the following:

- ❖ Fifty-four (54) units within three x 3-storey building blocks (Basement, Ground Floor and First Floor – restricted to 10.3m in height above natural ground level), with Communal recreation/admin. Facilities (gym, lounge and administration buildings). These buildings will be arranged in two rows, parallel to Alhof Drive, be built on the low-lying, flat and disturbed portion of the combined site, and be painted and clad with natural colours / materials to integrate with the natural environment.
  - ❖ Sixty-eight (68) off-street parking bays;
  - ❖ Vehicular internal road network (unbuilt loop of Malva Lane and Deale Street to be closed);
  - ❖ Access and egress to and from Alhof Drive (along northern property boundary);
  - ❖ Associated internal service infrastructure to be connected to existing municipal service networks.
2. This Environmental Authorisation is granted for the period from date of issue until **30 April 2029**, the date on which the activities will be deemed to be concluded.

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

- ❖ The Holder must start with the physical implementation of all the authorised listed activities prior to 30 April 2024 and exceed at least the described threshold of each listed activity by this specified date.
- ❖ The post construction rehabilitation and monitoring requirements must be finalised within a period of 12-months from the date the development activities (construction phase) are concluded; but by no later than 30 April 2029.

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).

3. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").

4. The Holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the Holder.
5. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

#### **Notification and administration of appeal**

6. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
  - ❖ notify all registered Interested and Affected Parties ("I&APs") of –
    - (a) the decision reached on the application;
    - (b) the reasons for the decision as included in Annexure 4;
    - (c) the date of the decision; and
    - (d) the date when the decision was issued.
  - ❖ 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;
  - ❖ draw the attention of all registered I&APs to the manner in which they may access the decision;
  - ❖ provide the registered I&APs with the:
    - (a) name of the Holder (entity) of this Environmental Authorisation,
    - (b) name of the responsible person for this Environmental Authorisation,
    - (c) postal address of the Holder,
    - (d) telephonic and fax details of the Holder,
    - (e) e-mail address, if any, of the Holder,
    - (f) contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
  - ❖ 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.
  - ❖ In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

#### **Written notice to the Competent Authority**

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of site clearance activities.
  - ❖ The notice must make clear reference to the site details and EIA Reference number given above.
  - ❖ The notice must also include proof of compliance with the following conditions described herein: **Condition no.: 6, 8 and 10.**

### **Management of activity**

8. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended to address the following aspects, and must then be re-submitted to the Competent Authority and approved prior to commencement of construction.
  - ❖ Incorporate all the conditions given in this Environmental Authorisation;
  - ❖ Must include architectural guidelines;
  - ❖ Amend the frequency of ECO site visits during the construction phase to:
    - (a) Weekly during the construction of roads and installation of civil services; and
    - (b) Bi-monthly once the construction of top-structures / buildings commences.
  - ❖ Include the detailed final designs of the services on the site in terms of the sewer pipelines, water supply and electrical infrastructure as well as the erven.
9. The EMPr must be included in all contract documentation for all phases of implementation.

### **Monitoring**

10. The Holder must appoint a suitably experienced environmental control officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
11. The ECO must—
  - ❖ be appointed prior to commencement of any vegetation clearing or construction activities commencing;
  - ❖ ensure compliance with the EMPr and the conditions contained herein;
  - ❖ keep record of all activities on site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
  - ❖ remain employed until all development activities are concluded and the post construction rehabilitation and monitoring requirements are finalised.
12. 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.
13. 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**

14. 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;

- ❖ undertake annual environmental audit(s) during the construction phase, and the Holder must submit these Environmental Audit Report(s) to the Competent Authority.

The final construction phase Environmental Audit Report(s) must be submitted to the Competent Authority within three (3) months of completion of construction of the development;

15. The Environmental Audit Report, must –

- ❖ be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise;
- ❖ provide verifiable findings, in a structured and systematic manner, on–
  - (a) the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
  - (b) the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
- ❖ identify and assess any new impacts and risks as a result of undertaking the activity;
- ❖ evaluate the effectiveness of the EMPr;
- ❖ identify shortcomings in the EMPr;
- ❖ identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
- ❖ 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;
- ❖ indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
- ❖ include a photographic record of the site applicable to the audit; and
- ❖ be informed by the ECO reports.

16. 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**

17. The architectural guidelines must include design parameters which address the following Resource Conservation Measures:
- ❖ Rain water harvesting;
  - ❖ Dual flush toilets;
  - ❖ Low flow taps and shower heads;
  - ❖ Re-use of grey-water (i.e. for landscaping purposes and rehabilitation of the open space areas; and
  - ❖ Energy saving devices such as energy efficient lighting and geysers (i.e. solar).
18. The newly created and linked area of a public open space between the proposed development and the Tarka community must be rezoned to public open space, as an extension of the existing green belt.



19. The design of the perimeter fence along the western boundary of the development must allow for connectivity to the remaining open space area of RE/Erf 13100.

Note: To promote connectivity between public and private open space, the perimeter fence may also be positioned to the east of the property boundary.

20. 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 EMP***

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.

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

Note:

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

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

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

Note:

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

4. The manner and frequency for updating the EMPr is as follows:
  - (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
  - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMP 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. Failure to comply with all the peremptory conditions (i.e. 6, 7, 8 or 10) prior to the physical implementation of the activities (including site preparation) is an offence. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and may be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
8. 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.
9. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

#### **G. APPEALS**

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

1. An appellant (if the Holder of the decision) must, within 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 as well as the decision-maker (i.e. the Competent Authority that issued the decision, namely the Director: Development Management (Region3). -
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, namely the Director: Development Management (Region3).
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 address listed below:  

|               |   |
|---------------|---|
| By post:      | Western Cape Ministry of Local Government, Environmental Affairs and<br>Development Planning<br>Private Bag X9186<br>CAPE TOWN<br>8000    |
| By facsimile: | (021) 483 4174; or  |
| By hand:      | Attention: Mr Jaap de Villiers (Tel: 021 483 3721)<br>Room 809<br>8 <sup>th</sup> 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 [Jaap.DeVilliers@westerncape.gov.za](mailto:Jaap.DeVilliers@westerncape.gov.za).


5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail [Jaap.DeVilliers@westerncape.gov.za](mailto: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 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)**

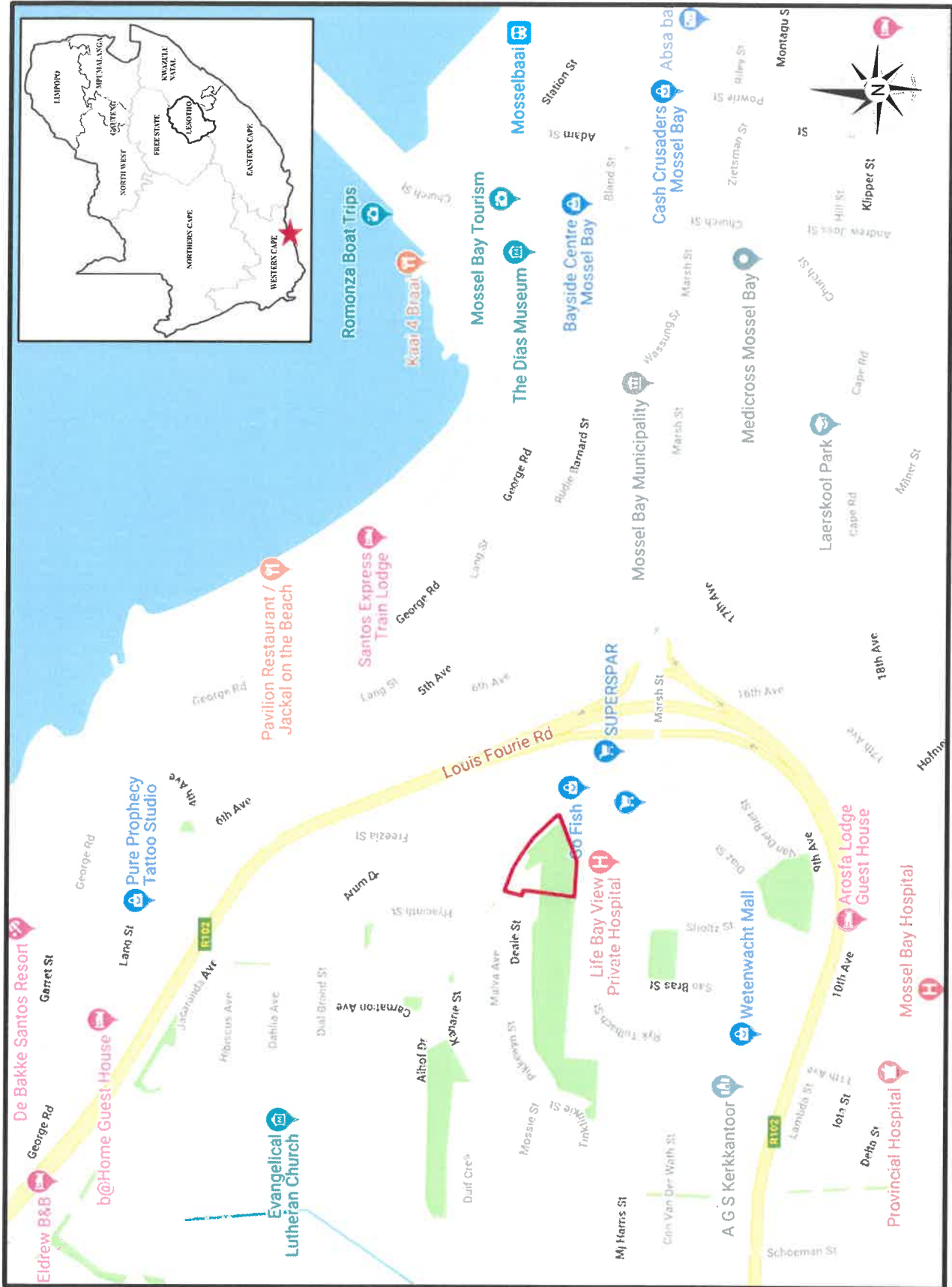
DATE OF DECISION: 15/04/2019

**FOR OFFICIAL USE ONLY:**

**EIA REFERENCE NUMBER: 16/3/3/1/D6/28/0013/18**

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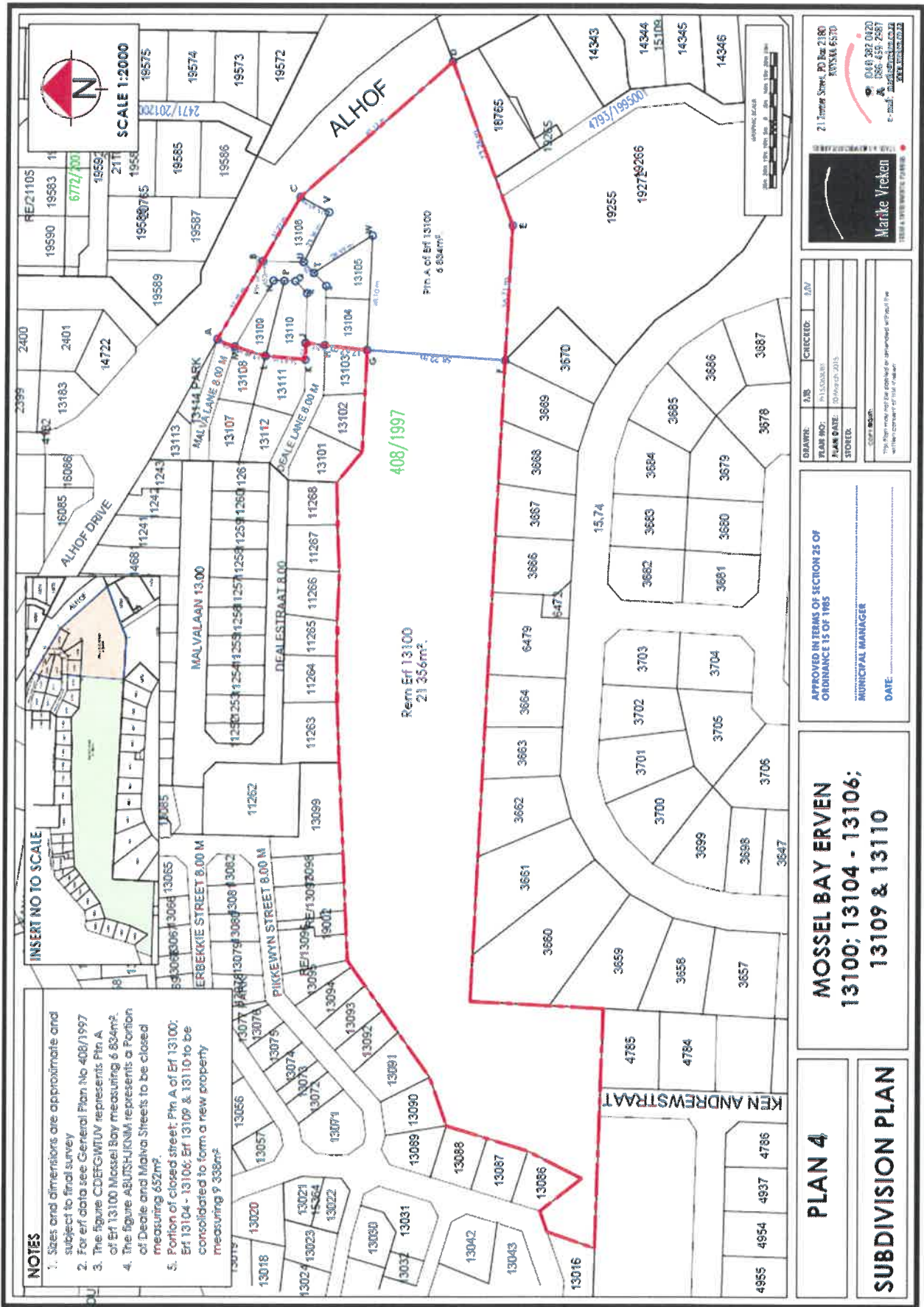
**ANNEXURE 1: LOCALITY MAP**



**ANNEXURE 2: SITE DEVELOPMENT PLAN**



**ANNEXURE 3: SUBDIVISION PLAN**



## 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 4 September 2018, the Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 5 December 2018;
- 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 30 November 2018;
- e) The synchronisation of the relevant information which was submitted to the authorities;
- f) The balancing of negative and positive impacts and proposed mitigation measures; and
- g) No site visit was conducted as sufficient information was made available in the report 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. Public Participation

The public participation process included:

- identification of and engagement with interested and affected parties (I&APs);
- fixing a notice board at the site and at the site on 23 June 2017;
- 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 29 October 2018;
- the placing of a newspaper advertisement in the 'Mossel Bay Advertiser' on 16 June 2017; and
- making the draft Basic Assessment Report available to I&APs for public review from 30 October 2018 to 28 November 2018.

The following Organs of State provided comment on the proposal:

- ❖ *Mossel Bay Municipality*
- ❖ *Garden Route District Municipality (GRDM) - Chief Municipal Health Officer*
- ❖ *WCG: Department of Health*
- ❖ *Western Cape Department of Transport and Public Works (Provincial Roads): Road Network Management*
- ❖ *Department of Agriculture, Forestry and Fisheries (DAFF)*
- ❖ *CapeNature*
- ❖ *Heritage Western Cape*

All the comments and issues raised by the respective *Organs of State* that were captured in the Basic Assessment Report (Appendix F1) were responded to by the EAP. The issues raised by organs of state were either addressed and/or incorporated in the development proposal or the issue requires compliance to another law related to a matter affecting the environment. The issues that



were raised which require compliance with other relevant legislation, by-laws or prescripts are not considered to be preemptory to this decision. No significant negative residual environmental risks or impacts were identified from the issues raised by these organs of state. The Directorate: Development Management (Region 3) agrees and is satisfied with the responses provided by the EAP.

In addition to the above the following aspects and comments are noteworthy:

❖ *Heritage Western Cape (HWC)*

This application has complied with the provisions of Section 38(8) of the National Heritage Resources Act, 1999. The HWC: Impact Assessment Committee provided comment stating that the Heritage Impact Assessment (HIA) fulfils the requirements of section 38(3) of the National Heritage Resources Act, 1999 and the proposed development is supported by HWC, subject to the following condition(s):

- Should any heritage resources, including evidence of graves and human burials, archaeological or palaeontological material be discovered during the execution of the activities, all works must be stopped and HWC must be notified without delay.

❖ *Mossel Bay Municipality – provision of bulk services*

The Municipality confirmed that there is sufficient spare capacity at the Klein Brak River Water Treatment Works and the water distribution network to supply the proposed development with water. There is also sufficient spare capacity at the Hartenbos Waste Water Treatment Works and the sewage network to receive the sewage that will be generated by the development (Director Technical Services) and the Storm Water Master Plan was acceptable to the Senior Manager Streets and Storm water.

❖ *Comments from Interested and Affected Parties (I&APs)*

Various objections to the proposal were received from I&APs during the public participation process conducted in July 2017. Most objections were related to the development of the open space, as such the residents in Da Nova had signed a petition in 2004 against any development on Erf 13100. The Mossel Bay Municipality's Council resolution of 21/10/2004 indeed confirmed that no portion of Erf 13100 should be alienated or leased, and that it should be retained as a public open space green belt / local nature conservation area for which the Municipality would be responsible for maintenance. However, in a letter dated 02 December 2013 it is noted that after public consultation the Mossel Bay Municipality approved the exchange of a portion of Erf 13100 ('Portion A') in lieu of Erven 13101, 13102, 13103, 13107, 13108, 13111, 13112, 13113 and 13114 (See subdivision plan in Annexure 3). Based on the public consultation in this application, it appears that the concerns have been adequately addressed.

The land swap allows for the creation of a new and linked area of a public open space between the proposed development and the Tarka community. This buffer area is to be rezoned to public open space, as an extension of the existing green belt. It is thus concluded that the Council resolution of 2004 has been upheld as a protected green belt will be retained, albeit reconfigured as an L-shaped strip, around the Tarka neighbourhood.

The need for the proposed development was an issue raised by I&APs; however, the view is held that the information contained in the BAR and need and desirability report, has sufficiently addressed this matter.

## 2. Alternatives

### Alternative 1:

Alternative 1 involved the development of a Hotel adjacent to the Tarka settlement. This alternative was discarded predominantly to avoid the need and desirability issues; visual / 'sense-of-place' and heritage related impacts associated with it.

### Alternative 2 - Preferred Alternative: (herewith authorised)

This alternative involves the clearance of indigenous vegetation and the transformation of open space to develop a retirement and frail care facility on Portion A of Erf 13100, Erven 13104 – 13106, 13109 and 13110, RE/2001 Mossel Bay. The Retirement and Frail Care facility is to comprise the following:

- ❖ Fifty-four (54) Units within three x 3-storey building blocks (Basement, Ground Floor and First Floor – restricted to 10.3m in height above natural ground level), with Communal recreation/admin. Facilities (gym, lounge and administration buildings). These buildings will be arranged in two rows, parallel to Alhof Drive, be built on the low-lying, flat and disturbed portion of the combined site, and be painted and cladded with natural colours / materials to integrate with the natural environment.
- ❖ Sixty-Eight (68) off-street parking bays;
- ❖ Vehicular internal road network (unbuilt loop of Malva Lane and Deale Street to be closed);
- ❖ Access and egress to and from Alhof Drive (along northern property boundary);
- ❖ Associated internal service infrastructure to be connected to existing municipal service networks.

### "No-Go" Alternative

The No-Go alternative would result in the preferred development not going ahead, but in the long-term, the affected private residential erven may still be developed as single residential housing. The Municipality will then have to construct the rest of the access roads (Malva and Deale Lane loop). The properties have been on the market for a long time, and there was no uptake. This is a clear indication that there is not a significant demand for single residential properties in this area in Tarka.

The development of modern dwellings directly adjacent to the historical stone-cottage architectural vernacular of Tarka would also not be desirable. In addition, with the No-Go Alternative, there will be no job creation, no additional capital income to the municipality, and no socio-economic benefits to the community.

## 3. Impact Assessment and Mitigation Measures

### 3.1 Activity need and desirability

With due consideration of the information on this aspect, specifically the Need & Desirability report, no significant negative residual environmental risks or impacts were identified to refuse this application based on the need and desirability of the proposed development. The following is however noteworthy:

The addition of a single retirement and frail care centre will be of little significance to the Gross Geographic Product of the area. However, this development represents an important addition to this part of Mossel Bay. The convergence point of Tarka, Da Nova and its surrounding commercial developments is constantly being redeveloped and urbanised. The timing of this development is therefore favourable and a positive impact can be derived.

The proposed development site is ideally suited for the establishment of a facility of this nature and forms part of the natural outflow of economic activities taking place in this area. It is expected that the facility will positively contribute to a structured form of urbanisation in the Da Nova area which is continuously experiencing various forms of urban development.

### 3.2 Regional/ planning context

The proposed development compliments the SDF spatial goals that aim to take the Western Cape on a path towards:

- (i) Greater productivity, competitiveness and opportunities within the spatial economy;
- (ii) More inclusive development in the urban areas;
- (iii) Strengthening resilience and sustainable development.

However, it is important to note some of the key policies laid down by the draft PSDF have a bearing on the application.

On a local level the proposed development can be regarded as urban integration and infill based on the mixture of land uses near the surrounding area. The proposed development will contribute to an increase in density which will facilitate the sustainable use of service delivery to the property as the service capacity of 54 dwelling units will be accommodated on the consolidated application area. The application area lies within the urban edge of Mossel Bay and facilitates brownfield development which promotes densification and intensification of the Tarka and Da Nova area. The proposed development is surrounded with a range of social facilities, and business associated uses all within walking distance. It can therefore be regarded that the proposal is consistent with the policies and objectives as prescribed in the PSDF.

According to this SDF, the application area is earmarked as "existing urban development", and within the earmarked Da Nova Node. According to the SDF, these nodes support higher order commercial and social facilities that have already developed in this area. The SDF further supports densification of the existing urban areas of Mossel Bay.

### 3.3 Services/ bulk infrastructure

There is written confirmation from the Mossel Bay Municipality that they can provide services to the development i.e. water, sewage, electricity, storm water management and solid waste management.

### 3.4 Biophysical Impacts

The site is on the side of a ridgeline / hillside, with no surface water present on or near the site. The nearest watercourse / wetland (a channelled valley bottom wetland, historically named 'Diepkloof') is located some 680 metres to the west of the property. Although the proposed development will result in the loss of a portion of the rocky hillside, a portion thereof within the development will be rehabilitated as private open space and managed for a conservation purpose, whereas the remainder will be managed by the Mossel Bay Municipality as an urban open space which should be for a conservation use. No significant negative residual environmental risks or biophysical impacts were identified to substantially influence the outcome of the decision or refuse this application.

### 3.5 Biodiversity

Due to extensive disturbance at the site, it is not considered highly functional ecologically and it has very limited value as habitat for fauna. The abundance of alien and introduced species is high. The more intact parts of the site are dominated by species typical of thicket and species associated

with rocky slopes. The condition of these areas is moderate and while there are a variety of aliens such as *Acacia cyclops* and *Pennisetum setaceum* present, the vegetation is dominated by indigenous species. Of significance is the presence of numerous Milkwood trees, which are a protected species and which would require a permit for their destruction. Approximately 50 indigenous species were recorded on the site. In general, the site is of localised biodiversity importance within the context of an urban area. This aspect should be promoted and the remaining open space appropriately zoned and managed to promote a conservation use.

No significant negative residual environmental risks or biodiversity impacts were identified to substantially influence the decision or refuse this application.

### 3.6 Heritage / Archaeological

No pre-colonial archaeological remains were identified. The following heritage resources (possibly older than 60-years) were identified:

- ❖ A concrete slab, representing the floor of a demolished building (Site 001), - not conservation worthy;
- ❖ Stone walling at the end of Malvalaan (Site 002/003) graded as Grade III C;
- ❖ A concrete structure, with reinforced iron bars, on the slopes of Erf 13100 (Site 004) – not conservation worthy.
- ❖ Sites 001 and 002/003 are protected from destruction as they are in the buffer zone between the proposed development and Tarka, while Site 004 is of low significance and may be demolished.

The Tarka suburb / settlement, located to the north-west of the development property, is associated with early settlement within and development of the town of Mossel Bay and was directly impacted upon through forced removal as a result of racial-based ideological apartheid policies, all of which are of high local historical and social cultural significance. The exact boundaries of the earliest settlement could not be determined.

The settlement morphology, characterised by fine-grained urban grid set within a rocky, north facing terraced hillside, which had developed in response to the natural ridgeline to the south (now developed) as well as the adjoining ravine (Diepkloof) to the west, is unique and of high local aesthetic cultural significance. The settlement was once considered of high local architectural cultural significance of reason of its uniqueness in terms of consistency of built form, consisting of modestly scaled and proportioned stone cottages, crafted from locally sourced stone and very good example of local vernacular architecture.

Tarka historic settlement will however remain intact as proposed buffer of the public open space between the Tarka community and the development (50 - 70m wide) (entrenched in the land-swap agreement with the Municipality) would serve to protect the cultural landscape of Tarka.

No Palaeontological Specialist study was required by HWC. In the unlikely event that palaeontological material is uncovered, it is recommended that the Fossil Protocol be implemented.

### 3.7 Visual / sense of place

From a visual perspective, the restriction of the development buildings to the low-lying, disturbed area of the site (adjacent to the Hospital), with a height limitation of 10 metres above natural ground level, will ensure minor impact on any views from the high-lying Da Nova residents to the south. In addition, the aesthetics / architectural design of the buildings has been changed to make

use of natural, earthen colours and stone and timber cladding, to better align with the surrounding natural environment (open space areas) and the nearby Tarka settlement. Recommendations for landscaping and screening with indigenous plants will also serve to reduce potential visual impacts. Any of the residual environmental risks or visual impacts are not regarded significant to substantially influence the decision or refuse this application.

### 3.8 Traffic

The Traffic Impact Assessment has concluded that a total of approx. nineteen (19) peak hour trips will be generated by the development: with distribution of 40% off Alhof Drive into the development and 60% out of the development during morning (AM) peak hour, and a 50 / 50% distribution split in and out of the development during afternoon (PM) peak hour. Thus, traffic on the immediate road network will not be negatively affected by the additional traffic generated by the proposed development.

### 3.9 Socio-economic

The proposed development site is ideally located in the middle of numerous medical developments, commercial and retail offerings. The site is poised to offer potential residents easy access to essential services that so many retirees are dependent on. This includes general medical assistance, intensive medical support and a plethora of medical specialists.

The Mossel Bay IDP highlights the need for job creation and social services as well as the improvement in the ward (such as upgrading of pavements). This proposed development will result in the upgrading of the Alhof Drive pavement and streetscape as well as the creation of job opportunities for in this area (Vreken, 2018). A new pedestrian walkway will also be developed within the re-zoned open space "buffer area" between the development and the Tarka community to provide continued access from the upgraded pavement of Alhof Drive to the residents of Malva Lane and Deale Street in Tarka.

No significant negative residual environmental risks or socio-economic impacts were identified to refuse this application or substantially change the approved development.

## 4. Scope and Validity of the Environmental Authorisation

This environmental authorisation does not define specific operational aspects. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase. A period of 12-months is specified for the final monitoring and post-construction rehabilitation to be completed after the construction phase is finalised. The environmental authorisation's validity period has been granted for a period of 10-years, during which period the development activities must commence and be concluded. The Holder is required to substantially implement the development within 5-year period after the environmental authorisation is issued.

## 5. National Environmental Management Act Principles

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

- the effects of decisions on all aspects of the environment to be taken into account;

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

## **6. Conclusion**

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

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