



REFERENCE: 16/3/3/2/A4/37/3049/21
NEAS REFERENCE: WCP/EIA/0000980/2021
DATE: 03 October 2022

The Municipal Manager
The City of Cape Town: Human Settlements
21st Floor, 2 Bay, Tower Block, Civic Centre
12 Hertzog Boulevard
CAPE TOWN
7435

Attention: Mr. Diaan Rangole/Ms. Riana Pretorius

Tel: 021 400 9423

Cell: 072 952 9170

E-mail: Diaan.Rangole@capetown.gov.za

Dear Sir/Madam

APPLICATION FOR 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): THE PROPOSED ENKANINI SOUTH HOUSING DEVELOPMENT ON ERVEN 18370-RE AND 18332-RE, KHAYELITSHA.

1. With reference to the above application, the Department hereby notifies you of its decision to grant the Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the EIA Regulations, 2014 (as amended), you are instructed to ensure, within 14 days of the date of the 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 National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

MR ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

Copies to:

- (1) Ms. C. Muller (Sillito Environmental Consulting)
- (2) Mr. A. Oosthuizen (DE&DP: DDF)
- (3) Ms. A. van Wyk (City of Cape Town: ERM)

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REFERENCE: 16/3/3/2/A4/37/3049/21
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ENVIRONMENTAL AUTHORISATION

APPLICATION FOR 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): THE PROPOSED ENKANINI SOUTH HOUSING DEVELOPMENT ON ERVEN 18370-RE AND 18332-RE, KHAYELITSHA.

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 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to Alternative 3, described in the Environmental Impact Assessment Report ("EIR"), dated June 2022.

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

A. DETAILS OF THE HOLDER OF THIS ENVIRONMENTAL AUTHORISATION

The City of Cape Town: Human Settlements
% Mr. Diaan Rangole/Ms. Riana Pretorius
21st Floor, 2 Bay, Tower Block, Civic Centre
12 Hertzog Boulevard
CAPE TOWN
7435

Tel: 021 400 9423
Cell. 072 952 9170
E-mail: diaan.rangole@capetown.gov.za

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

B. AUTHORISED ACTIVITIES

Listed Activities	Activity/Project Description
<p>Listing Notice 2 of the EIA Regulations, 2014 (as amended)–</p> <p>Activity Number: 15</p> <p><i>The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for –</i></p> <p><i>(i) the undertaking of a linear activity; or</i></p> <p><i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>	<p>The development will result in the clearance of more than 20ha of indigenous vegetation.</p>
<p>Listing Notice 3 of the EIA Regulations, 2014 (as amended)–</p> <p>Activity Number: 12</p> <p><i>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 –</i></p> <p><i>Western Cape</i></p> <p><i>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.</i></p>	<p>The development falls within the endangered Cape Flats Dune Strandveld ecosystem and will result in the clearance of more than 300m² of indigenous vegetation therein.</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 relating to the development:

The proposed development will entail the clearance of indigenous vegetation for the formalisation of the Enkanini Informal Settlement with the development of approximately 5500 serviced sites comprised of residential, community, public open space, and educational uses and associated infrastructure on the Erven No. 18370-RE and 18332-RE, Khayelitsha. The proposal includes the provision of Transitional Relocation Areas.

In order to offset the loss of indigenous vegetation, the City of Cape Town will secure, and through the provision of the necessary resources, ensure the formal protection and effective ecological management of, 55.35 ha of Cape Flats Dune Strandveld in the Macassar Dunes Conservation Landbank for conservation in perpetuity.

The development footprint of the proposed development is approximately 100.38ha.

C. SITE DESCRIPTION AND LOCATION

The Enkanini South Housing Development is located on parts of two erven, viz. Erf18370-RE and Erf 18332-RE, Khayelitsha. The site is located along the False Bay coastline, with Baden Powell Drive to the south, Oscar Mpetha Road to the west and Mew Way to the north and east.

The site co-ordinates:

Latitude (S)	34°	04'	5.32"
Longitude (E)	18°	41'	21.68"

The SG digit codes:

Erf No. 18370-RE, Khayelitsha	C0160000000183700000
Erf No.18332-RE, Khayelitsha	C0160000000183320000

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Sillito Environmental Consulting (Pty) Ltd
% Ms. Chantel Muller
Suite 105, Block B2
Tokai Village Centre
Vans Road
TOKAI
7966

Tel.: 021 712 5060
Cell: 071 313 4193
E-mail: chantel@environmentalconsultants.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 EIR dated June 2022 on the site as described in Section C above.
2. Authorisation for the activities is subject to compliance with the conditions set out in this Environmental Authorisation. The holder must ensure 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.
3. The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.

This Environmental Authorisation is granted for–

- a) A period of ten (**10**) years, from the date of issue, during which period the holder must commence with the authorised listed activities; and
- b) A period of ten (**10**) years, from the date the holder commenced with an authorised listed activities during which period the authorised listed activities must be concluded.

4. The authorised activities must only be carried out at the site described in Section C above in terms of the approved “Environmental Management Programme” (“EMPr”).
5. Any changes to, or deviations from the scope of the description set out in Section B and Condition 2 above must be 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 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 of authorisation and right to appeal

6. The holder of the authorisation must in writing, within 14 (fourteen) calendar days of the date of this decision –
 - 6.1. notify all registered Interested and Affected Parties of –
 - 6.1.1. the outcome of the application;
 - 6.1.2. the reasons for the decision;
 - 6.1.3. the date of the decision; and
 - 6.1.4. the date of issue of the decision;
 - 6.2. draw the attention of all registered Interested and Affected Parties (“I&APs”) to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended);
 - 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision; and
 - 6.4. provide the registered I&APs with:
 - 6.4.1. the name of the holder (entity) of this Environmental Authorisation,
 - 6.4.2. name of the responsible person for this Environmental Authorisation,
 - 6.4.3. postal address of the holder,
 - 6.4.4. telephonic and fax details of the holder,
 - 6.4.5. e-mail address, if any;
 - 6.4.6. 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 National Appeal Regulations, 2014 (as amended).

Commencement

7. 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.
8. In the event that an appeal is lodged with the Appeal Administrator, the effect of this Environmental Authorisation is suspended until such time as the appeal is decided. In the instance where an appeal is lodged the holder may not commence with the activities, including site preparation, until such time as the appeal has been finalised and the holder is authorised to do so.

Written notice to the competent authority

9. A minimum of 7 (seven) calendar days' notice, in writing, must be given to the competent authority before commencement of land clearing activities. Commencement for the purpose of this condition includes site preparation.
 - 9.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 9.2. The notice must also include proof of compliance with the following conditions described herein:

Conditions: 6, 7, 14, 19.1 and 19.2.

Management of activities

10. The draft EMPr (dated June 2022) submitted as part of the application for Environmental Authorisation is herewith approved and must be implemented.
11. An application for amendment to the EMPr must be submitted to the competent authority in terms of Chapter 5 of the EIA Regulations, 2014 (as amended) if any amendments are to be made to the outcomes of the EMPr, and these 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.
13. A copy of the Environmental Authorisation and the EMPr must be kept at the site where the listed activities will be undertaken. 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 be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.

Monitoring

14. The holder must appoint a suitably experienced Environment Control Officer ("ECO"), for the duration of the land clearing, construction and rehabilitation phases of implementation.

The ECO must–

- 14.1. be appointed prior to commencement of any land clearing, demarcation of no-go areas or construction activities commencing;
- 14.2. ensure compliance with the EMPr and the conditions contained herein; and
- 14.3. keep record of all activities on site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO.

Environmental audit reports

15. The holder must, for the period during which the Environmental Authorisation and EMPr remain valid-
 - 15.1. ensure that the compliance with the conditions of the Environmental Authorisation and the EMPr is audited;
 - 15.2. submit at least two environmental audit reports to the competent authority during the construction phase. The holder must submit the first audit report within four (4) months after commencement of the construction phase and another audit report within six (6) months after completion of the construction period; and
 - 15.3. submit an environmental audit report every five (5) years while the Environmental Authorisation remains valid.
16. The environmental audit report must be prepared by an independent person and must address the objectives and contain all the information set out in Appendix 7 of the EIA Regulations, 2014 (as amended).

In addition to the above, the environmental audit report, must –

- 16.1. 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 extent to which the avoidance, management and mitigation measures provided for in the EMPr achieve the objectives and outcomes of the EMPr and highlight whether this is sufficient or not;
- 16.2. identify and assess any new impacts and risks as a result of undertaking the activity; evaluate the effectiveness of the EMPr;
 - 16.3. identify shortcomings in the EMPr;
 - 16.4. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 16.5. 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; include a photographic record of the site applicable to the audit; and
 - 16.6. be informed by the ECO reports.
17. The holder must, within 7 (seven) calendar days of the submission of the environmental audit report to the competent authority, notify all potential and registered Interested and Affected Parties of the submission and make the report available to anyone on request and, where the holder has such a facility, be placed on a publicly accessible website.

Specific conditions

18. Based on the recommendations provided in the Offset Specialist Report, dated 17 March 2022, the following must be implemented:
 - 18.1. The applicant must secure, and through the provision of the necessary resources, ensure the formal protection and effective ecological management of, 55.35 ha of Cape Flats Dune Strandveld in the Macassar Dunes Conservation Landbank in perpetuity.
 - 18.2. Proof of submission of the application for Nature Reserve status under the National Environmental Management Protected Areas Act, 2003 (Act. No 57 of 2003) ("NEM: PAA") must be provided to the Directorate within 24 months of the date of this environmental authorisation.
 - 18.3. Compliance with the formal agreement signed between the City of Cape Town Directorate: Human Settlements (represented by the Department: Informal Settlements) together with the City of Cape Town's Environmental Management Department [represented by the Biodiversity Management Branch ("BMB")], must be audited on an annual basis whilst the Nature Reserve declaration is still pending, to check both the ecological performance of the offset site and the adequacy of provision of necessary resources to deliver the required offset outcomes, and to identify any corrective or adaptive measures that must be taken to ensure that the intended offset outcomes (as reflected in the management plan for the Macassar Dunes Nature Reserve) are achieved.
19. The following recommendations provided in the Botanical Impact Assessment dated February 2022, as compiled by Capensis, must be implemented (prior to construction):
 - 19.1. The area set aside as a buffer surrounding the detention pond and wetland area must be demarcated prior to construction and actively rehabilitated. This must be undertaken in conjunction with improving the water quality of this area and must be undertaken by a suitably qualified horticulturalist or restoration ecologist; and
 - 19.2. The Species of Conservation Concern ("SCC") that occurs within this area (*Psoralea repens*) must be demarcated. The other two SCC that will be lost on the development site should be targeted for seed collection and propagation into the restoration area.

20. The detention pond must be fenced off to prevent any unauthorised access.
21. Surface and ground water must not be polluted due to any actions on the site. The applicable requirements with respect to relevant legislation pertaining to water must be met.
22. 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 waste disposal facility licensed in terms of the applicable legislation.
23. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). 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 include archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings and graves or unmarked human burials.

A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. If the holder does not commence with the listed activities within the period referred to in Condition 3 this Environmental Authorisation shall lapse for the activity, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the competent authority prior to the expiry date of the Environmental Authorisation.
3. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.
 - 3.1. 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.
4. The manner and frequency for updating the EMPr is as follows:
 - 4.1. Amendments to the EMPr, must be made in accordance with Regulations 35 to 37 of the EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.
5. Non-compliance with any condition of this Environmental Authorisation or EMPr may render the holder liable to 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 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 Interested and Affected Parties -
 - 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 Interested and Affected Party, 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 Interested and Affected Party 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:	Attention: Marius Venter Western Cape Ministry of Local Government, Environmental Affairs and Development Planning Private Bag X9186 CAPE TOWN 8000
By facsimile:	(021) 483 4174; or
By hand:	Attention: Mr Marius Venter (Tel.: 021 483 3721) Room 809 8 th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are 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 Authority 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. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 03 OCTOBER 2022

Copies to:

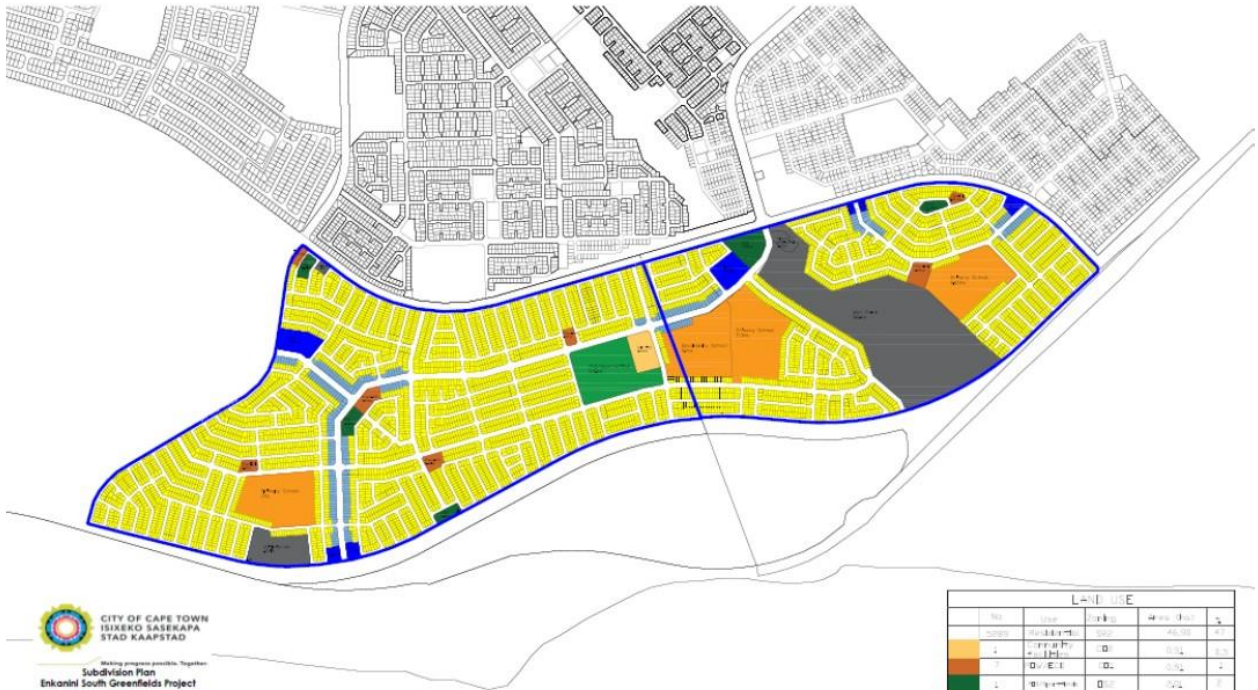
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ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE DEVELOPMENT PLAN



CITY OF CAPE TOWN
ISIXEKO SASERKAPA
STAD KAAPSTAD

Making progress possible. Together.
Subdivision Plan
Enkanini South Greenfields Project
PORTION OF REMAINDER ERF 18332
& REMAINDER ERF 18370
KHAYELITSHA

PROJECT NO:	HS: CoCI	REVISION	
APPROVED BY:	Internal Settlements Planning	NO.	DATE
DESIGNED BY:		AMENDMENT	
DRAWN BY:			
CHECKED BY:			
DATE:			

LAND USE				
Code	Description	Code	Area (sqm)	%
0000	Residential (General)	00	45,70	47,1
1	Residential (General)	01	10,14	10,5
2	Residential (General)	02	10,14	10,5
3	Residential (General)	03	10,14	10,5
4	Residential (General)	04	10,14	10,5
5	Residential (General)	05	10,14	10,5
6	Residential (General)	06	10,14	10,5
7	Residential (General)	07	10,14	10,5
8	Residential (General)	08	10,14	10,5
9	Residential (General)	09	10,14	10,5
10	Residential (General)	10	10,14	10,5
11	Residential (General)	11	10,14	10,5
12	Residential (General)	12	10,14	10,5
13	Residential (General)	13	10,14	10,5
14	Residential (General)	14	10,14	10,5
15	Residential (General)	15	10,14	10,5
16	Residential (General)	16	10,14	10,5
17	Residential (General)	17	10,14	10,5
18	Residential (General)	18	10,14	10,5
19	Residential (General)	19	10,14	10,5
20	Residential (General)	20	10,14	10,5
21	Residential (General)	21	10,14	10,5
22	Residential (General)	22	10,14	10,5
23	Residential (General)	23	10,14	10,5
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44	Residential (General)	44	10,14	10,5
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47	Residential (General)	47	10,14	10,5
48	Residential (General)	48	10,14	10,5
49	Residential (General)	49	10,14	10,5
50	Residential (General)	50	10,14	10,5
51	Residential (General)	51	10,14	10,5
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53	Residential (General)	53	10,14	10,5
54	Residential (General)	54	10,14	10,5
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57	Residential (General)	57	10,14	10,5
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81	Residential (General)	81	10,14	10,5
82	Residential (General)	82	10,14	10,5
83	Residential (General)	83	10,14	10,5
84	Residential (General)	84	10,14	10,5
85	Residential (General)	85	10,14	10,5
86	Residential (General)	86	10,14	10,5
87	Residential (General)	87	10,14	10,5
88	Residential (General)	88	10,14	10,5
89	Residential (General)	89	10,14	10,5
90	Residential (General)	90	10,14	10,5
91	Residential (General)	91	10,14	10,5
92	Residential (General)	92	10,14	10,5
93	Residential (General)	93	10,14	10,5
94	Residential (General)	94	10,14	10,5
95	Residential (General)	95	10,14	10,5
96	Residential (General)	96	10,14	10,5
97	Residential (General)	97	10,14	10,5
98	Residential (General)	98	10,14	10,5
99	Residential (General)	99	10,14	10,5
100	Residential (General)	100	10,14	10,5
TOTAL			200,00	100,0

ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, *inter alia*, the following:

- a) The information contained in the Application Form dated 23 September 2021, the final Scoping Report dated 4 November 2021, the final EIR dated June 2022, the EMPr submitted together with the final EIR dated June 2022, the revised Application Form received on 12 September 2022 and the additional information received on 26 September 2022 and 3 October 2022, respectively;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the NEMA; and
- d) The comments received I&APs and responses to these, included in the EIR dated June 2022.

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 I&APs ;
- fixing notices at the site where the listed activities will be undertaken;
- the placing of a newspaper advertisement in the "City Vision" newspaper on the 23 September 2021;
- the draft Scoping Report was made available for public review from 23 September 2021 until 25 October 2021;
- E-mail notifications were utilised to notify all potential and registered I&APs including the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities, about the availability of the report with reminders sent to submit comments;
- the draft EIR was made available to I&APs for public review and comment from 23 March 2022 to 25 April 2022; and
- the revised draft EIR was made available to I&APs for an additional 30 days for public review and comment from 6 May 2022 until 6 June 2022.

The preferred alternative has been revised considering the mitigation measures and recommendations of specialists and Organs of State. The potential impacts associated with the proposed development were assessed and sufficient information was provided for the Competent Authority's decision-making.

Responses to the comments raised during the public participation process were included in both the Scoping Report as well as the EIA Reports. This Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements.

2. Alternatives

Three Layout Alternatives and the "No-go" Alternative were identified and assessed.

Layout Alternative 1

This alternative was the initial concept layout alternative which excluded the 40ha area reserved by the City of Cape Town: Biodiversity Management Branch, located towards the southwest of the proposed development area. This alternative is not preferred as the exclusionary area limits the residential units for this layout to be approximately 3500 erven. Further, the reservation of the 40ha area

initially identified for long term conservation in the City of Cape Town's Conservation Network, has since been cancelled.

Layout Alternative 2

This alternative is a concept block layout plan proposing development for the entire subject property excluding the entire no-go sensitive area as earmarked by the botanist towards the east of the site of approximately 9,6 ha, leaving a developable area of 90.7 ha. This alternative is not preferred as the proposed on-site no-go area is not considered as a viable mitigation measure given the edge effects and risk of further land invasion.

Layout Alternative 3 (Preferred Alternative herewith authorised)

Given the current extent of illegal land occupation taking place on site, the dire need for housing in the province and the complications associated with successfully cordoning off and protecting sections of no-go areas in the long term; it was recommended that an offset be identified for the sensitive areas identified on site and that the no-go buffer area towards the eastern boundary of the site is no longer required. The layout was thus revised to include the area previously excluded; thus the entire subject property area is now available for urban development.

"No-Go" Alternative (Rejected)

The "no-go" alternative implies that the "status quo" would remain. This alternative is not preferred as it will not address the dire need for housing in the area. The "no go" alternative is not considered to be a feasible alternative in the current context of ongoing conversion and loss of biodiversity.

3. Impact Assessment and Mitigation measures

3.1 Need and Desirability

The most significant impact associated with the proposed development from an environmental perspective is the permanent loss of endangered indigenous vegetation endemic to the area. However, the factors to consider with this proposal is the current state of land invasion on site and the increasing housing demand within the City of Cape Town. The proposal addressed the housing needs of the community and ensures that the City of Cape Town's perpetual responsibility to preserve and maintain critical habitats through the ratification of the biodiversity offset as a nature reserve.

3.2 Planning Context

The properties are currently zoned as Limited Use and Utility Zone and there are no existing lawful uses on the properties. An application for rezoning will thus be required to accommodate the proposed development. The proposed development is in response to the current land invasion on site and addresses the demand for housing within this specific region and is thus in line with the Provincial Spatial Development Framework priority of socio-economic integrated development. As the proposal is an active response to the formalisation of an informal settlement, it is aligned with the City of Cape Town's Integrated Development Plan goal of "*providing a housing market for which a specific need exists that has been neglected in the past, being the affordable market.*" As such, the proposed development is therefore consistent with this forward planning context.

3.3 Botanical Impacts

The proposed site is comprised of Cape Flats Dune Strandveld, an ecosystem categorised as Endangered in terms of the National Environmental Management Biodiversity Act, 2004 List of Threatened Ecosystems in Need of Protection, 2011. In terms of the Western Cape Biodiversity Spatial Plan 2017, the site is mapped as a Terrestrial Critical Biodiversity Area. Based on the findings of the Botanical Impact Assessment Report dated February 2022, as compiled by Greg Nicholson from Capensis, three species of conservation concern were found on the site, namely (*Cullumia squarrosa* - Vulnerable), creeping fountainbush (*Psoralea repens* – Near Threatened) and *Lessertia* cf. *argentea* (Endangered). Most of the site is now considered to be 'highly degraded' as the original vegetation is mostly absent, and only remnant or pioneer species occur. Restoration potential is described as 'very low' in the Botanical Assessment Report.

The site was initially mapped as a priority site in the City of Cape Town's Conservation Implementation Plan, 2020 and was intended to be included in the City of Cape Town's conservation network over the long term. In 2019, the City of Cape Town's Biodiversity Management Branch reserved a 40ha portion on the western side of Erf 18370 Khayelitsha for conservation and it was agreed that the remainder of Erf 18370 and Erf 18332-RE could be reserved for human settlement purposes. However, the proposed conservation area on the western portion of Erf No.18370-RE is no longer a viable or defensible potential addition to the Protected Area network, due to the habitat fragmentation and destruction caused by the current land invasion on site.

Approximately 50% of the site has been illegally occupied by informal housing since 2020. Due to the nature of the land invasion, there is limited potential for rehabilitation/ restoration of Cape Flats Dune Strandveld on the site and the principal mitigation option to address the residual impacts is to provide a biodiversity offset in response to the loss of indigenous vegetation and habitat fragmentation.

Offset Specialists, Amrei von Hase and Susie Brownlie (deVilliers Brownlie Associates) were appointed to compile a Biodiversity Offset Report dated 17 March 2022). Since the project site is situated within the City's demarcated urban edge, a basic offset ratio of 1:1 for nationally Endangered Ecosystems applies in this regard. The Offset Specialist Report recommended that the applicant ensures the formal protection and effective ecological management of 55.35 ha of Cape Flats Dune Strandveld in the Macassar Dunes Conservation Land Bank for a minimum 30-year period. A formal agreement has been concluded between the applicant and the City of Cape Town's Environmental Management Department ("EMD") (representing the BMB) who will ensure the effective implementation offset on its behalf. In correspondence from the City's Environmental Management Department dated 18 March 2022 (as appended to the agreement), it is confirmed that the EMD is supportive of using a portion of Macassar conservation Land Bank to mitigate for the loss of 55.35ha of Cape Flats Dune Strandveld. EMD will ensure that an application for proclamation of the area as a Nature Reserve in terms of Section 23 of the Protected Areas Act, 2003 (Act NO. 57 of 2003) is submitted accordingly. The EMD further intends to submit the necessary capital and operational budgets required to adequately manage and defend the protected areas in Macassar East to the City's budget committee and Council for consideration and approval.

The botanical impacts were identified as high negative prior to a post mitigation, due to the loss of semi-intact and degraded Cape Flats Dune Strandveld vegetation. The applicant has confirmed their commitment to implement the Offset Specialist Report Recommendations and to secure the Offset Area for management in perpetuity. The City of Cape Town's BMB has confirmed commitment to manage the offset area as a Nature Reserve in perpetuity. The Offset Specialists recommendations have been included in the conditions of this Environmental Authorisation.

3.4 Heritage impacts

The impact of the proposed development on heritage resources is low, and the likelihood of archeological material being found during earthworks is low. Heritage Western Cape confirmed in a correspondence dated 25 February 2020, that since there is no reason to believe that the proposed development will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) is required.

3.5 Freshwater impacts

According to the Compliance Statement for Freshwater Ecosystems dated March 2022 as compiled by Inland Waters Consultancy, the site is comprised of a stormwater pond and associated fringe wetland. A highly degraded wetland is also present to the north of the site, forming part of a stormwater drain feature, while a more natural wetland occurs to the south of the site, on the other side of Baden Powell Drive. The Compliance Statement concluded that neither of these wetlands are likely to be negatively affected by the proposed development.

The stormwater pond on the site is one of the major stormwater attenuation ponds maintained and managed by the City of Cape Town (including the regular collection of water quality samples). The entire stormwater pond and associated wetland area will be regarded as a “no-go” area and the 20m buffer around the stormwater area, as recommended by the freshwater specialist has been included in the revised site development plan. Further, a Detention Pond Maintenance Plan, as compiled by Bosch Projects addresses the impact management actions required for the maintenance activities required and has been incorporated in the EMPr.

3.6 Groundwater impacts

The proposed development may result in impacts on the Cape Flats Aquifer, which is a shallow, unconfined, inter-granular aquifer that is critical to the city's water security. These potential impacts to the aquifer may not only affect the supply and quality of water, but also affect nearby wetlands and other surface waters associated with the Cape Flats Aquifer, and, as a knock-on effect, their associated fauna and flora. The potential groundwater impacts were assessed as low negative post mitigation. Various mitigation measures have been included in the EMPr to minimise potential negative groundwater impacts.

3.7 Dust and Noise impacts

Construction activities (mainly construction vehicles transporting materials to the site) will generate noise and associated volumes of dust during weekly construction hours. The EMPr includes dust and noise control measures that will be implemented on site. A Dust Management Plan has been compiled and incorporated in the EMPr. The potential dust and noise impacts have been assessed as low negative post mitigation.

3.8 Traffic impacts

Traffic impacts are expected to occur in the area due to the increase in construction vehicle traffic in the area for the duration of during the construction phase of the development, while materials are being transported to the site. Based on the findings off the Traffic Impact Assessment Report dated June 2021 and compiled by Mowana Engineers (Pty) Ltd, it is noted that there is an expected low vehicle ownership within the surrounding community who primarily rely on public transport. Public Transport will play the major role in the movement of people between the proposed developments, work and shopping centres. The Traffic Impact Assessment confirmed that the development can be accommodated within the current road infrastructure.

3.9 Socio-economic impacts

The proposed development will result in formalised housing opportunities and access to basic services for residents of the surrounding community.

The development will result in negative and positive impacts

Negative impacts:

- The development will result in the loss of indigenous vegetation;
- Visual impacts, and
- Dust and noise impacts.

Positive impacts:

- Formal housing opportunities and associated infrastructure;
- Access to improved service infrastructure;
- Improvement in quality of life; and
- Provision of employment opportunities during the construction phase.

4. 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.

5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the 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.

You are reminded of your 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."*

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