MINISTRY OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS and
DEVELOPMENT PLANNING

Provincial Government of the Western Cape

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DATE OF ISSUE 14 NOV 2011

Mr. Costa Zervas
Moquini Beach hotel (Pty) Ltd
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Dear Mr Zervas

APPLICATION: PROPOSED MOQUINI BEACH HOTEL DEVELOPMENT ON ERF 14796, DANA BAY, MOSSEL BAY

Your appeal against the environmental authorisation for the abovementioned proposed development that was issued by the Department of Environmental Affairs and Development Planning on 6 January 2009, refers.

Having considered the information at my disposal, I, Minister for Local Government, Environmental Affairs and Development Planning hereby set aside the decision of the Director: Land Management (Region 1) in the Department of Environmental Affairs and Development Planning, taken in terms of the Environmental Impact Assessment Regulations of 2006. The decision of the Director: Land Management (Region 1) issued on 6 January 2009, is hereby replaced with the following:

APPEAL DECISION

A. DESCRIPTION OF ACTIVITY:

The development entails the construction a 64 room hotel, 67 apartments (split into three separate blocks to allow for a visual corridor between the units), basement parking bays, a restaurant, a boardwalk access to the beach and a small restaurant on erf 14796, which is 4,6 ha in extent, Dana Bay near Mossel Bay. The lay-out of the development will be approximate to Drawing Nr. 2646/A/SK001 dated 4th August 2011 by Brinkman Ndayi Mcall Architects.

The building height will be restricted to 8m and at most will consist of a basement, ground floor and first floor. The development footprint will not exceed 2, 13 hectares and the footprint of disturbance will be limited to approximately 36% of the total size of the property. The rest of the site will remain open space with an appropriate zoning and will be managed as a nature area.

Access to the development will be via Flora Road, which is the main road into Dana Bay, which branches off Louis Fourie Road near the intersection with the N2 National Road.

The following listed activities are identified in Government Notice No. R386 of 21 April 2006, being:

Activity 1(k)

The construction of facilities or infrastructure, including associated structures or infrastructure for the bulk transportation of sewage and water, including storm water, in pipelines or channels with

(i) An internal diameter of 0,36 metres or more; or
(ii)A peak throughput of 120 litres per second or more

Activity 2

Construction or earth moving activities in the sea or within 100 metres inland of the high-water mark of the sea, in respect of -

(a) facilities for the storage of material and the maintenance of vessels;
(b) fixed or floating jetties and slipways;
(c) tidal pools;
(d) embankments;
(e) stabilising walls;
(f) buildings; or
(g) infrastructure.

Activity 3

The prevention of the free movement of sand, including erosion and accretion, by means of planting vegetation, placing a synthetic material on dunes or exposed sand surfaces within a distance of 100m inland of the high-water mark of the sea.

Activity 6

The excavation, moving, removal, depositing or compacting of soil, sand, rock or rubble covering an area exceeding 10 square metres in the sea or within 100 metres inland of the high-water mark of the sea.

Activity 15

The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long.

Activity 16

The transformation of undeveloped, vacant or derelict land to -

a) establish infill development covering an area of 5 hectares or more, but less than 20 hectares

b) residential use where such development does not constitute infill and where the total area to be transformed is bigger than 1 ha.

The following activity identified in terms of Government Notice R544 of 18 July 2010 was also considered during the assessment process. These are:

Activity 3

The planting of vegetation or placing of any material on dunes and exposed sand surfaces, within, the littoral active zone for the purpose of preventing the free movement of sand, erosion or accretion, excluding where the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation or where such planting of vegetation or placing of material will occur behind a development setback line.

Activity 16

Construction or earth moving activities in the sea, an estuary, or within the littoral active zone or a distance 100m inland of the high-water mark of the sea or estuary, whichever is greater, in respect of -

(v) buildings of 50 square metres or more; or

(vi) infrastructure covering 50 square metres or more.

Activity 18

The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock from:-

(iv) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater.

The following activity as identified in terms of Government Notice R546 of 18 July 2010 was also considered during the assessment process. These are:

Activity 6

The construction of resorts, lodges or other tourism accommodation facilities that sleep 15 people or more **in urban areas**:

Areas seawards of the development setback line or within 1 kilometre from the highwatermark of the sea if no such setback line is determined.

Activity 9

The construction of facilities or infrastructure exceeding 1 000 metres in length for the bulk transportation of water, sewerage or storm water –

(i) with an internal diameter of 0.36 metres or more; or

(ii) with a peak throughput of 120 litres per second or more, excluding where:

a. Such facilities or infrastructure are for bulk transportation of water, sewage or stormwater or stormwater drainage inside a road reserve; or

b. Where such construction will occur within urban areas but further than 32 metres from a watercourse, measured from the edge of the watercourse.

Activity 12

The clearance of an area of 300 square metres of more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation.

- 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
- Within critical biodiversity areas identified in bioregional plans
- Within the littoral active zone or 100 metres inland from the high water mark of the sea or an estuary, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas.

Activity 23

The transformation of undeveloped, vacant or derelict land to –

(i) residential, retail, commercial, recreational, industrial or institutional use, inside a total area to be transformed is 5 hectares or more, but less than 20 hectares, or

(ii) residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares;

hereinafter referred to as "the activity".

B. LOCATION:

The site is located on Erf 14796, Dana Bay, near the town of Mossel Bay. The property is bounded to the west by Fishermans Village; to the east by Dana Bay residential area, to the south by the ocean and to the north by Moquini beach residential development.

Co-ordinates:

Longitude (E): 22° 01' 32.03"

Latitude (S): 34° 12' 24.19"

hereinafter referred to as "the site."

C. APPLICANT:

Mr. Costa Zervas

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SUNNYSIDE

0132

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D.ENVIRONMENTAL ASSESSMENT PRACTITIONER:

Cape EAPrac (Pty) Ltd

C/o Mr. D. Holder

PO Box 2070

GEORGE

6530

Tel: (044) 874 0365

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E. SITE VISIT(S):

Site visit : 29 December 2010

Persons present : Messrs Ayub Mohamed and Mr. Neil Lambrechts (DEADP) and Minister Anton Bredell.

The site inspection and information submitted in the application documentation (i.e. photographs and maps of the site) together with relevant all information contained in the Departmental information base, was considered sufficient to provide adequate information on the nature of the receiving environment.

F. DECISION:

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2006, I, the Minister of Local Government, Environmental Affairs and Development Planning hereby authorises the activity described above and grants exemption from provisions requiring or regulating the Public Participation Process, namely:

Regulation 54 (2)(d) placing an advertisement in at least one provincial newspaper or national newspaper, if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or local municipality in which it is or will be undertaken: Provided that this paragraph need not be complied with if an advertisement has been placed in an official *Gazette* referred to in subregulation (c)(i)

The granting of this environmental authorisation is subject to the conditions set out below.

G. CONDITIONS OF AUTHORISATION:

1. The applicant, must, in writing, within 10 days of the issue of this authorisation, confirm acceptance of the conditions of this authorisation, failing which the Environmental Authorisation may be suspended until such time that these conditions of authorisation are accepted.

2. One week's notice, in writing, must be given to the Directorate: Land Management (Region 1), (hereinafter referred to as "this Directorate"), before commencement of construction activities.

   2.1 Such notice shall make clear reference to the site location details and reference number given above.

   2.2 The said notice must also include proof of compliance with the following conditions described herein:

   Conditions: 1, 5, 6, 7 & 14

3. The development footprint must be limited to 2,13 hectares and the remaining extent of Erf 14796 must be managed as a nature area with an appropriate zoning and specific focus on biodiversity conservation.

4. This Environmental Authorisation is for Activity Alternative 4 in accordance with Drawing Nr. 2646/A/SK001 dated 4th August 2011 by Brinkman Ndayi Mcall Architects which entails the construction of a 64 room hotel, 67 apartments (split into three separate blocks to allow for a visual corridor between the units), basement parking bays, a restaurant, a boardwalk and a small restaurant on erf 14796, Dana Bay near Mossel Bay.

5. The applicant must compile and submit an Environmental Management Programme ("EMP") to fulfil the requirements of this environmental authorisation. The contents of the EMP must:

5.1 be approved by the competent authority before the commencement of any construction activities;

5.2 be submitted to the competent authority for consideration at least three weeks prior to the commencement of construction activities;

5.3 meet the requirements outlined in Section 24N (2) & (3) of the National Environmental Management Act, 1998 (Act no 107 of 1998, as amended) ("NEMA") and regulation 34 of the Environmental Impact Assessment Regulations 2006;

5.4 incorporate all relevant mitigation/rehabilitation measures and recommendations contained in the amended Revised BAR Report;

5.5 set out an environmental policy, objectives and targets;

5.6 set out how the applicant and management body of the proposed development will adopt and implement the approved Environmental Management Programme;

5.7 identify and allocate environmental management roles, responsibilities and accountability within the organisation, as well as funding requirements, measurable targets and timeframes for the implementation of the EMP;

5.8 include environmental procedures which cover the construction activities for every phase of the development (Construction Environmental Management Programme ("CEMP")) pertaining to major services (e.g. roads, water, sewage and electricity);

5.9 describe the method and program, including clear targets and remedies for invasive alien vegetation clearance within five years of commencement of construction activities;

5.10 make provision for the compilation of method statements to the satisfaction of the appointed Environmental Control Officer ("ECO");

5.11 provide for the utilisation of local labour as far as possible. This must include, but need not be restricted to the establishment of a local labour registration office, recordkeeping and reporting procedures for monitoring purposes;

5.12 make provision for preferential employment and environmental training of staff, including contractors/service providers both for the construction phase and in relation to on-going operations;

5.13 include architectural guidelines for the construction of all buildings;

5.14 detail visual resource management guidelines and mitigation measures. These must incorporate, but need not be restricted to, those mitigation measures as detailed in the Visual Impact Assessment, May 2010, as compiled by Visual Resource Management Africa (VRMA).

5.15 include procedures for the search and rescue of conservation worthy vegetation.

5.16 include operating activities (Operational Environmental Management Programme) which includes, but is not limited to:

5.16.1 management of the built environment;

5.16.2 utilisation of resource conservation measures, including rainwater harvesting from hardened surfaces and solar heating devices;

5.16.3 an integrated waste management approach which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal where appropriate;

5.16.4 waste management and pollution control measures, including disposal of any solid waste which must be disposed of at a landfill licensed in terms of section 20 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) or the National Environmental Management: Waste Act (Act No. 59 of 2008);

5.16.5 management of the open space;

5.16.6 management of landscaped areas; and

5.16.7 management of ecological corridors and conservation areas. The operating activities must include detail on monitoring procedures and must be compiled by a qualified botanical specialist.

5.17 include procedures for communication and reporting on environmental performance;

5.18 include corrective action procedures;

5.19 be included in all contract documentation for the construction phase of the development;

5.20 include detail on Preferential Employment and Skills Training; and

6. The holder of the authorisation must appoint a suitably experienced Environment Control Officer for the construction phase of the development, before commencement of any land clearing or construction activities to ensure compliance with the conditions of the EA and provisions of the EMP.

7. A landscaping plan should be developed, which addresses *inter alia* the creation of a vegetation barrier (using locally indigenous species) between the development and the sensitive foredune.

8. Provision must be made for the utilization of local labour as far as possible. This must include, but need not be restricted to, the establishment of a local labour registration office and preferential employment and training policy.

9. All recommendations and upgrades as suggested in the Traffic Impact Assessment ("TIA") must be implemented and adhered to subject to negotiation with the local authority. Details of these upgrades are to be included in the Services Agreement with the local authority.

10. The funding for the road improvement must be shared by the developer and the local authority on a proportional basis given that a considerable amount to the additional traffic is attributed to other developments in Dana Bay. A proportion of the cost of the improvements must be set aside in a trust account to provide for such measures should they be warranted.

11. An Archaeologist must be present on site during the construction phase of the activity.

12. Should any heritage remains be discovered during excavations, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)). Heritage or archaeological remains uncovered or disturbed during earthworks must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape.

    12.1 If any archaeological remains (including but not limited to fossil bones and fossil shells, 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, rock art and rock engravings) are discovered during construction they must immediately be reported to Heritage Western Cape and must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape.

    12.2 If any graves or unmarked human burials are discovered, they must be treated with respect and SAHRA must be notified immediately and must not be disturbed further until the necessary approval has been obtained from SAHRA. An archaeologist must be contracted to remove the remains at the expense of the developer.

13. The holder of this authorisation must submit an Environmental Audit Report, ("audit report") to this Directorate (six months) after construction has been completed and also one year after the commencement of operation.

    13.1 The audit report must indicate the date on which the construction commenced, and detail compliance with the conditions of this authorisation and the status of the rehabilitation programme.

    13.2 The audit must be conducted by a suitably qualified independent person.

    13.3 This Directorate may require remedial action should the audit report reflect that rehabilitation is inadequate.

    13.4 If the audit report is not submitted, the competent authority may give 30 days written notice and may have such an audit undertaken at the expense of the applicant and may authorise any person to take such measures necessary for this purpose.

14. The applicant must in writing, within 12 (twelve) calendar days of the date of the decision on the application -

    14.1 notify all registered interested and affected parties of -

        14.1.1 the outcome of the application;

        14.1.2 the reasons for the decision; and

        14.1.3 the date of the decision;

    14.2 Inform all registered interested and affected parties of the manner in which they can access the decision;

15. The holder of this authorisation shall be responsible for ensuring compliance with the conditions by any person acting on his behalf, including but not limited to, an agent, sub-contractor, employee or any person rendering a service to the holder of this authorisation.

16. Any changes to, or deviations from, the project description set out in this authorisation must be approved, in writing, by the competent authority before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Competent authority may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.

17. The holder of this authorisation must notify this Directorate and any other relevant authority, in writing, within 24 hours thereof if any condition of this authorisation is not adhered to.

18. A copy of this authorisation must be kept at the property where the activities will be undertaken. The authorisation must be produced to any authorised official of the competent authority who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.

19. Where any of the applicant's contact details change, including the name of the responsible person, the physical or postal address and/ or telephonic details, the applicant must notify the competent authority as soon as the new details become known to the applicant.

20. Non-compliance with a condition of this authorisation may result in the suspension of the authorisation and may render the holder liable for criminal prosecution.

21. This Department must be notified, within 30 days thereof, of any change of ownership and/or project developer. A request for the transfer of the rights and obligations contained in this environmental authorisation must be submitted in the following manner:

    (i) The current holder of the environmental authorisation must submit an original signed letter to the Competent authority stating that he wish the rights and obligations contained in this environmental authorisation to be transferred, provide the Competent authority with (a) confirmation that the environmental authorisation is still in force (i.e. validity period have not yet expired or the activities was lawfully commenced with), (b) the contact details of the person to whom the rights and obligations are to be transferred, and (c) the reasons for the requested transfer.

    (ii) The person to whom the rights and obligations are to be transferred must also submit an original signed letter to the competent authority (a) accepting the rights and obligations contained in this environmental authorisation and (b) must indicate that he/she has the ability to implement the mitigation measures and to comply with the conditions of authorisation. If the transfer is found to be appropriate by the Competent authority, the Competent authority will issue a letter confirming the transfer of the rights and obligations contained in this environmental authorisation.

22. The competent authority shall be given access to the property referred to in B above for the purpose of assessing and/or monitoring compliance with the conditions contained in this environmental authorisation, at all reasonable times.

23. The activities which are authorised may only be carried out at the property indicated above.

24. Notwithstanding this authorisation, the holder of the authorisation must still comply with any other statutory requirements that may be applicable to the undertaking of the activity.

25. The activities must commence within a period of five (5) years from the date of issue of this authorization. If commencement of the activities do not occur within this period, this authorization lapses and a new application for environmental authorization must be made in order for the activities to be undertaken, unless the holder of this environmental authorization has lodged a valid application for the amendment of the duration of expiry of this authorization before the expiry of this authorization, in which case, the validity of this environmental authorization is automatically extended from the day before this environmental authorization would otherwise have expired until the amendment application for extension is decided ("the period of automatic extension"). The activities including site preparation may not commence during the period of automatic extension.

H. REASONS FOR THE DECISION:

In reaching its decision, the competent authority took, *inter alia*, the following into consideration -

a) The information contained in the Basic Assessment Report dated 25 May 2010,
b) The amendment to the revised Basic Assessment Report: Supporting Additional information received by the Ministry on 7 September 2011;
c) The comments received from interested and affected parties during the assessment and appeal process; and
d) The objectives and requirements of all relevant legislation, policies and guidelines, including section 2

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

All information presented to the Minister was taken into account in the competent authority's consideration of the application. A summary of the issues which, in the competent authority's view, were of the most significance is set out below:

Biophysical

The biophysical impacts of the previous alternative that was refused was deemed too high and the Botanical sensitivity analysis done by Mr. J. Vlok of Regalis in 2007 revealed that a possible threatened primary dune species according to the currently updated red data species list, *Agathosma muirii*, exists on the site and is therefore conservation worthy. According to Vlok & De Villiers (2007) and Vlok (2010) the fore dune is the most sensitive on the property (dune vegetation plays a vital role in stabilizing and retaining the highly erosion prone sands of the fore dune system. Mr. Vlok also indicates that the Dune Thicket vegetation is of significance to conservation and that a portion of

undisturbed natural vegetation must be left as a linking corridor between Fishermans Village, Moquini and Danabaai.

According to Mr.Vlok the vegetation on site has been classified on a national level as Canca Limestone Fynbos, with a conservation status of not threatened. A more detailed survey by STEP however, mapped the vegetation as Hartenbos Strandveld (Vlok et al, 2003), which has a conservation status of endangered. The most detailed vegetation map available for the region (Vlok & de Villiers, 2007) recognizes two vegetation units, Hartenbos Primary Dune and Gourits Dune Thicket.

During his second survey in May 2010, Mr.Vlok provided a "proposed development footprint area" which then formed the basis for the conceptualisation of an activity alternative that informed the approved Alternative 4. Mr.Vlok, concluded that should the development be limited to the "proposed development footprint area" and the mitigation measures ratified, the needs of the development and those of the environment will be attuned as much as they possibly can be.

The development design of the preferred alternative as well as the approved alternative will be limited to the development footprint area as indicated by Vlok (2010) and takes the afore-mentioned into account and no conservation worthy vegetation will be directly or indirectly affect the proposed development.

Regional/Planning Context

The Moquini Beach Hotel development originally received planning approval from the Provincial Government: Western Cape on 12 December 1997. The approval included a private residential estate, grouphousing, business, resort and retirement village, an equestrian estate and a large open space system on the majority of the land. The original approval referred to the remaining extent of Farm 284, Mossel Bay, of which the proposed hotel site formed part of. The hotel site was zoned to Local Business Zone".

Some of the residential components, including the Moquini Estate and Fisherman"s Village erven have been built, and the retirement village site has been developed. Other services, roads and a gate house have also been built already on the property.

Provincial Spatial Development Framework (June 2009)

The PSDF focuses on nine objectives, which are grouped under three themes, namely socio-economic development, settlement restructuring and resource conservation. According to Delplan (2010) the objectives and their relevance to the Activity are as follows:

Socio-Economic Development

All development must align the future settlement pattern of the Province with areas of economic potential and the location of environmental resources and since the development property is

located within the urban edge of the Mossel Bay and is regarded as infill development the proposal is in line with this objective.

The development proposal had been designed to conserve and strengthen the sense of place of important natural, cultural and productive landscapes, artifacts and buildings, as the preferred alternative was chosen in such a way to limit biophysical impacts to the best of their ability.

Settlement Restructuring

The development will also be located in a suitable and accessible. The public will have controlled access to the beach over this property via the boardwalk constructed to protect the primary dune and sensitive vegetation found on the property. Furthermore, the proposed hotel will be available to the general public and the flats will be for sale in the open market.

Resource Conservation

This proposal was formulated around the characteristics of the property by restricting the development entirely to a footprint defined by a biodiversity specialist. The indigenous vegetation on the property will be protected with the appropriate zoning, as well as the implementation of an environmental management plan.

In addition, the preferred alternative will take place in line with energy and water efficiency measures and will have a restricted footprint and the remainder of the site will be managed as a conservation area.

Eden Spatial Development Framework (SDF) (October 2003)

The Eden SDF prioritises the development of tourism as a sustainable industry. The proposed hotel will increase the number of tourists to the Dana Bay area and will provide a tourist facility which is not available in Dana Bay at present. It will also provide additional employment opportunities during the construction and operation phases of the development to the residents of the greater Mossel Bay area. The concept is also found to be in-line with the spatial recommendations of the ESDF.

Draft Mossel Bay Spatial Development Framework (SDF) (December 2008)

Erf 14796, Mossel Bay is located within the urban edge of the greater Mossel Bay area. The creation of higher density development on this property is in accordance with the guidelines of this SDF.

The property is indicated as spatial planning category Bb (Private Conservation Area) in the Mossel Bay SDF. The proposed zoning of approximately 3ha of the property as Conservation Zone supports this designation.

Socio-economic

Dana Bay is a predominantly residential area located to the west of Mossel Bay. This area is composed primarily of high income groups. Many of the residences in the area are second holiday homes and there are a number of private Bed and Breakfast type residences. A small number of commercial development and higher density group housing is present, particularly along Flora Road. The proposal will therefor fit in with the existing socio-economic description of the area.

The development has the potential to make a significant economic and social input through employment and training opportunities during the construction and operation of the development, as well as through strengthening opportunities for local suppliers and contractors.

The development will also provide employment to numerous individuals, which will assist in the alleviation of poverty in the Mossel Bay and surrounding areas.

Visual Impact

The site is classified as visually sensitive, but according to the Visual Impact Assessment, the visual impacts can be mitigated to acceptable levels. Mitigation includes unobtrusive architectural design and colour, height limitations and avoidance of steep slopes and endangered vegetation.

Additional cultural landscape input

An additional study based on physical aerial surveying on 28th June 2011 and the earliest available aerial photography for the area found the following:

On a 1939 aerial photography series for the Mossel Bay (Flight Series 140 of 1939) I (i.e. Pre-Modern) cultural landscape patterns in the vicinity of the property and its environs indicated that the vegetation along site itself appeared to be undisturbed at the time

However, it was found that there were some human activity and vegetation clearing was visible just north and northwest of the site (possibly mining activities); some narrow tracks leading towards coastline legible within landscape directly west of the site which indicated that transformation of the surrounding areas started as early as the 1930s. The higher lying areas was dominated by agriculture while further north of the coast, agricultural activities within the direct proximity of the site appears to have been limited to two small fields directly northwest and northeast of the site, respectively. According to this aerial photograph, the only predominant route between plateau and coastal area within proximity of site seems to be narrow (gravel) road leading towards the Blinde River, which passed the site some distance to the northwest. Two structures (one of which possibly a farmstead) are also observed within a cleared area and narrow roads leading in various directions are visible along the headland just northeast of the site (directly east of small field).

Perception Environmental Planning further indicates that the cultural landscape elements (e.g. buildings, footpaths, narrow tracks) that were evident within the landscape in the early aerial photography no longer exists and have to the best of their knowledge not been incorporated into existing urban development (Dana Bay and Moquini) within the direct proximity of the site and have therefore already permanently
altered what remained of the original coastal cultural landscape.

The site itself is traversed by an existing road, which inevitably materially altered its former pristine natural landscape character.

In conclusion, it is the opinion of Perception Environmental Planning that the coastal landscape within proximity of site has generally been notably impacted upon by human activities as far back as the 1930's and that the proposal would not impact on any cultural landscape of local or provincial cultural significance.

Traffic Impact Assessment

Conclusion was reached that the intersection of Louis Fourie and Flora Road requires upgrading with the addition of a second northbound right turn lane to provide the necessary capacity to accommodate 80% of development traffic.

Furthermore, the intersection of Flora Road and Heide Road may require upgrading from a four way stop to a signalized intersection. It is recommended that the intersection be monitored by the local authority and that traffic signals be introduced should the actual queues exceed the warranted amount of 4 vehicles on average per hour. The funding for the road improvement should be shared by the developer and the local authority on a proportional basis given that a considerable amount to the additional traffic is attributabed to other developments in Dana Bay. A proportion of the cost of the improvements should be set aside in a trust account to provide for such measures should they be warranted.

Kantey and Templer confirmed in May 2010 that the findings of the 2006 study are still valid. Since the preferred alternative and as such, the approved proposal is significantly downscaled as oppose to the previous proposal, the impacts are deemed to be still within acceptable limits, subject to the implementation of the proposed mitigatory measures.

Services

Water

The site does have an existing water connection, Mossel Bay Municipality provided confirmation that sufficient capacity exists and the adequacy of existing infrastructure networks (i.e., Sewerage and water) was also confirmed by the civil engineering report by Kentey and Templer dated 10 May 2010.

The existing road, as well as associated infrastructure leading to the Moquini development traverse the site and as such, have altered the landscape character on the site.

Storm Water Management

Stormwater runoff from hardened surfaces will be managed with surface drainage as a first priority. Sheet flow will be the prime objective of this approach. Concentration of run-off from hardened surfaced areas will be avoided at all costs. Run-off will also be led away from hardened surfaces to seep away into the permeable dune sands at regular intervals. When required, use will be made of vegetated earth channels as far as possible. Where surface drainage is not possible, drop inlet catch pits will be provided, which will be connected to a buried pipe network. This water will be discharged into a buried seepage drain.

Electricity

According to the Electrical Services Report, the Supply Authority will be Mossel Bay Municipality, as they have already taken-over the internal Medium Voltage (MV - 11 000 volt), and Low Voltage (LV - 400 / 230 volt) reticulation network that was installed by the initial developer of the Moquini Development and of which the subject property forms part of. Electricity to Erf 14796 could be supplied from the existing MV (11kV) municipal network.

Need and Desirability

The development proposal was designed specifically with the limiting biophysical factors in mind. This includes restricting the development entirely within an area defined by the biodiversity specialist and setting the development back behind a scientifically defined setback line to protect the steep slope of the primary dune.

Furthermore, the majority of the property will be zoned to an appropriate Open Space zoning with an overall conservation outcome for the site. The conservation of the natural areas on site can thus be ensured through proper management and funding from the development.

Cumulative effects

The approval of this development on a dynamic dune system may create a precedent and will have a definite bearing on sound future decision-making. However, the proposal was designed in such a way that it will be limited to the disturbed areas and will occur behind a setback line. Therefore, it is the opinion of this Ministry that the current proposal is the most sustainable.

Alternatives

Preferred alternative

This alternative consists of 64 room hotel with 94 parking bays, 5 loading bays and a small restaurant as well as 67 apartments with 110 parking bays on a 4,5 hectare property. The total development footprint of the hotel and apartments will be approximately 2,13 hectares with the disturbance

footprint being 36% of the site. All buildings will be restricted to a height of 8 meters and at most will consist of a basement, ground floor and first floor. Provision is made for a single boardwalk access to the beach in compliance with the recommendations of the Biodiversity specialist.

Activity Alternative 2

This alternative entails construction of a 70 room hotel, 6 blocks of flats comprising of 190 units and a restaurant with a capacity to accommodate 250 people. The footprint of the buildings for this alternative will approximately 1.5 hectares with a total area. The total floor area (bulk) for the buildings is 4,2 hectares. The disturbance area for this alternative will be significantly higher than the footprint, as buildings will be placed throughout the site (with the exception of the primary dune). The estimated disturbance area in this regard is 3.4ha. This alternative was not preferred by the developer as there are numerous biophysical and visual impacts.

Activity Alternative This alternative entails the execution of existing development rights granted in 2007 for the rezoning to Local Business Zone to accommodate a 580-roomed hotel and shops on the site.

Activity Alternative 3

This alternative entails the construction of only one-storey buildings on the property. This alternative was not considered feasible to the applicant. It is also the opinion of this competent authority that this alternative is not acceptable as this development will be spread out over a much larger area and an unacceptable amount of near pristine vegetation will be destroyed.

Alternative 4

This alternative entails a development proposal similar to the preferred alternative, but instead of a single block of apartments, the block of apartments will be broken up into 3 free-standing blocks to allow for a visual corridor to the coast. This development footprint will be restricted to 2.13 hectares and a disturbance footprint of 36%. It will also include a hotel with approximately 64 rooms, 94 parking bays, 5 loading bays and a small restaurant as well as approximately 67 apartments with 110 parking bays all within a 2.13 hectare development footprint on a 4,2 hectare property.

Alternative 5: Existing Rights

This alternative entails the execution of the applicants approval in terms of the land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) ("LUPO") by developing a 98 room Hotel with 94 parking bays and 5 loading bays. The total development footprint of the No-Go Alternative is 0, 99 hectares which amounts to 22% of the total site area. Roads, services and removal of vegetation will all be kept below the thresholds of the listed activities in terms of the NEMA EIA Regulations of 18 June 2010.

Status Quo Alternative/No-go alternative

The status quo refers to the current status of the property in the absence of any development. Since there is existing development rights associated with the property, the Status Quo, although considered, was not considered a reasonable and feasible alternative.

Public Participation

Original Public Participation

- Public stakeholders Open Day was held on 31 May 2007 at the Dana Bay Community Hall.
- Consultation with key government departments, such as CapeNature, Department of Health, Mossel Bay Municipality and the Department of Agriculture;
- Liaison with CBOs and NGOs, such as, inter alia; Mossel Bay Environmental Partnership and Dana Bay Home Owners Association;
- Consultation with adjacent landowners and neighbours within 100m of the proposed site. A written notice was provided to each adjacent landowner;
- The placement of an advertisement in the local newspaper, The Mossel Bay Advertizer on 18 January 2007;
- The placement of notices on site;
- EA issued on 05 January 2009;
- Appeal received 13 February 2009;

After the appeal was received, the following Public Participation took place:

- Site notices was placed on 28 May 2010;
- Written notice was given to all immediate neighbouring property owners/organizations, informing them of the availability of the revised BAR for review and comment. These notices were distributed on 28 May 2010;
- The Draft Bar was made available in terms of Section 24 O of NEMA from 9 June to 21 July 2010
- On 19 July 2011 Ms Alana Duffell-Canham indicated that CapeNature alternative 3 allows for some ecological connectivity and therefore does not object to the proposal. With the visual corridor in between the apartment blocks, this ministry is of the opinion that alternative 4 is much more pleasant visually.
- Written notice was given to all immediate property owners/organisations within 100m of the site, informing them of the availability of the revised BAR for review and comment. These notices were distributed on 28 May 2010;
- The revised BAR was made available for review and comment from 28 May 2010 until 8 July 2010 at the Mossel Bay Library (Marsh Street), the Mossel Bay Municipality: Planning Department (4th Floor, Montagu Place,Montagu Street) and the Cape EAPrac website: www.cape-eaprac.co.za/projects.htm

- The revised alternative requested by the Ministry on 25 March 2011 was made available to all the registered I&Aps from 8 - 30 September 2011. No additional comments were received except for the comment from Heritage Western Cape.
- All recommendations made by Heritage Western Cape were taken into account during the decision-making process.
- Amended revised BAR addressing an alternative which allows for a visual corridor was made available to the public for a further 21 days. No comments were received.
- CapeNature and Eden District Municipality provided comment outside the timeframe and suggested a site inspection. However, a biodiversity assessment was done by Mr.Vlok and numerous site inspections were done by the Minister and officials from this Department. Notwithstanding the afore-mentioned, all the issues raised by CapeNature in their late comment were taken into consideration.

In view of the above, the Department of Environmental Affairs and Development Planning and the Ministry are satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down 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 proposed activity can be mitigated to acceptable levels. The application is accordingly granted.

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

Yours faithfully

ANTON BREDELL
MINISTER FOR LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS & DEVELOPMENT PLANNING

DATE 14/11/2011

CC: 1. Mr. D. Holder (EAP)
2. DEA&DP (George)

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