

**EIA REFERENCE NUMBER:** 16/3/3/1/D6/17/0028/23  
**NEAS REFERENCE NUMBER:** WCP/EIA/0001361/2023  
**DATE OF ISSUE:** 16 May 2024

## 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: THE PROPOSED DWARSWEGSTRAND HOLIDAY RESORT ON ERF 720, MOSSEL BAY MUNICIPALITY

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 in respect of **the preferred alternative**, described in the Final Basic Assessment Report ("FBAR") (Ref: MOS643/10), dated 23 February 2024, as prepared and submitted by the appointed environmental assessment practitioner ("EAP"), Ms. Louise-Mari van Zyl (EAPASA No: 2019/1444) and assisted by Candidate EAP, Mr. Francois Byleveld (EAPASA No: 2023/6770) of Cape EAPrac.

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 Trustee(s)  
KAAPLAND ONDERWYS TRUST (KOT)  
PO Box 192  
GREAT BRAK RIVER  
6525

**Attention:** Mr. Johann Haupt

E-mail: [bestuurder@dwarswegstrandoord.co.za](mailto:bestuurder@dwarswegstrandoord.co.za)

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

**B. LIST OF ACTIVITY/IES AUTHORISED**

Listed Activities	Activity/Project Description
<b>Environmental Impact Assessment Regulations Listing Notice 3 of 2014, Government Notice No. 985 of 4 December 2014 (as amended)</b>	
<p>Activity Number: <b>4</b> Activity Description:</p> <p>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p>i. Western Cape</p> <p>i. Areas zoned for use as public open space or equivalent zoning;</p> <p>ii. Areas outside urban areas;</p> <p>(aa) Areas containing indigenous vegetation;</p> <p>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use; or</p> <p>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p>	<p>The proposed development includes the development of internal roads wider than 4m. The property is regarded to fall outside the urban area and contains indigenous vegetation.</p>
<p>Activity Number: <b>12</b> Activity Description:</p> <p>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p> <p>i. Western Cape</p> <p>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</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>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;</p> <p>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was</p>	<p>The proposal will require the clearance of ca. 3 350m<sup>2</sup> of indigenous vegetation as defined in the EIA Regulations, 2014 (as amended). The ecosystem on the proposed site have been mapped as Hartenbos Dune Thicket. Furthermore, the property on which the resort is proposed in currently zoned Open Space Zone II (private open space) in terms of the Mossel Bay Municipality Zoning Scheme, 2021.</p>

<p>zoned open space, conservation or had an equivalent zoning; or</p> <p>v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</p>	
<p>Activity Number: <b>15</b> Activity Description:</p> <p>The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, such land was zoned open space, conservation or had an equivalent zoning, on or after 02 August 2010.</p> <p>f. Western Cape</p> <p>i. Outside urban areas, or</p> <p>ii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use or equivalent zoning, on or after 02 August 2010;</p> <p>(bb) A protected area identified in terms of NEMPAA, excluding conservancies; or</p> <p>(cc) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act as adopted by the competent authority.</p>	<p>The proposed development entails the transformation of a portion of land which is zoned open space (i.e., Open Space Zone II) to a commercial use. The property is regarded to fall outside urban areas.</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:

The proposed development entails the establishment of a holiday resort on a Portion of Erf 720 in Dwarswegstrand, Mossel Bay Municipality. The resort will consist of the following:

- Eight Duette holiday units with stoep - 97.82m<sup>2</sup> per unit;
- Ten Two-bedroom holiday units with stoep - 62.62m<sup>2</sup> per unit;
- Conference room with lapa building and ablution facilities;
- Pool;
- Entrance gate and gatehouse (entrance from H.C. Botha Street);
- Two 11kℓ conservancy tanks;
- Internal roads;
- Paved/Raised pedestrian walkway in H.C. Botha Street Road Reserve to provide pedestrian access to the beach and Dwarswegstrand Resort (1.5m wide); and
- 1.8m-high fence (i.e., ClearVu) along existing tarred road boundaries (Morrison Road and H.C. Botha Street) over a distance of approximately 570m. No fencing along the southern boundary of proposed development footprint that opens to the remaining private open space areas.

The proposed resort development will be implemented in accordance with the Site Development Plan and Services Layout drafted by *Element Consulting Engineers* (Drawing No: 1903141/C/100; Rev. R) dated 2 February 2024. Please refer to Annexure 2 of this Environmental Authorisation.

### C. SITE DESCRIPTION AND LOCATION

The proposed development will be located on a portion of Erf 720 in Dwarswegstrand, Mossel Bay Municipality. The site is located between Bothastrand and Outeniqua Strand, on the corner of H.C. Botha Street and Morrison Road and can be accessed directly from H.C. Botha Street.

Coordinates of the proposed development:

Latitude (S)			Longitude (E)		
34°	02'	58.72"	22°	16'	32.05"

SG digit code:

C0270003000006100000

Refer to Annexure 1 of this Environmental Authorisation for the Locality Plan; and Annexure 2 of this Environmental Authorisation for the Site Development Plan (SDP).

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

### D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Ms. Louise-Mari van Zyl  
EAPASA NO: 2019/1444  
E-mail: [louise@cape-eaprac.co.za](mailto:louise@cape-eaprac.co.za)  
Assisted by: Mr. Francois Byleveld  
EAPASA No: 2023/6770

Cape EAPrac  
PO Box 2070  
GEORGE  
6530

Tel: 044 874 0365  
Web: <https://www.cape-eaprac.co.za/>

### E. CONDITIONS OF AUTHORISATION

#### **Scope and Validity Period of authorisation**

1. This Environmental Authorisation is granted for the period from date of issue until **31 May 2029** (validity period), during which period the Holder must ensure that the—
  - (a) physical implementation of all the authorised listed activities is started with and concluded;
  - (b) construction monitoring and reporting requirements are undertaken and submitted to the Competent Authority in time to allow said authority to process such documents timeously;
  - (c) post construction rehabilitation and monitoring requirements is undertaken and completed; and
  - (d) environmental auditing requirements are complied with; and that such auditing is finalised in time to allow the competent authority to be able to process the environmental audits timeously within the specified validity period.

Failing which, this Environmental Authorisation shall lapse, unless the environmental authorisation is amended in accordance with the relevant process contemplated in the Environmental Impact

Assessment Regulations promulgated under the National Environmental Management Act, 1998 (Act no. 107 of 1998).

2. The Holder is authorised to undertake the listed activities specified in Section B above in respect of the preferred alternative described in the FBAR, dated 23 February 2024, on the site as described in Section C above.

This Environmental Authorisation is for the implementation of **the preferred alternative** which entails:

The establishment of a holiday resort on a Portion of Erf 720 in Dwarswegstrand, Mossel Bay Municipality. The resort will consist of the following:

- Eight (8x) Duette holiday units with stoep - 97.82m<sup>2</sup> per unit;
- Ten (10x) Two-bedroom holiday units with stoep - 62.62m<sup>2</sup> per unit;
- A conference room with lapa building and ablution facilities;
- A swimming pool;
- The entrance gate and gatehouse (entrance from H.C. Botha Street);
- Two (2x) 11kl conservancy tanks;
- Internal roads;
- A paved/raised pedestrian walkway in H.C. Botha Street Road Reserve to provide pedestrian access to the beach and Dwarswegstrand Resort (1.5m wide); and
- A 1.8m-high fence (ClearVu) along existing tarred road boundaries (Morrison Road and H.C. Botha Street) over a distance of approximately 570m. No fencing along the southern boundary of proposed development footprint that opens to the remaining private open space areas.

The proposed resort development will be implemented in accordance with the Site Development Plan and Services Layout drafted by Element Consulting Engineers (Drawing No: 1903141/C/100; Rev. R) dated 2 February 2024. Please refer to Annexure 2 of this Environmental Authorisation.

3. This Environmental Authorisation may only be implemented in accordance with the 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—
  - 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
    - 6.1.1. the decision reached on the application;
    - 6.1.2. the reasons for the decision as included in Annexure 3;
    - 6.1.3. the date of the decision; and
    - 6.1.4. the date when the decision was issued.

- 6.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;
- 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
- 6.4. provide the registered I&APs with the:
  - 6.4.1. 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, of the Holder,
  - 6.4.6. contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
- 6.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the holder notifies the registered I&APs of this decision.
- 6.6. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided *i.e.*, the listed activities, including site preparation, must not commence until the appeal is decided.

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

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities on site.
  - 7.1. The notice must make clear reference to the site details and EIA Reference number given above.
  - 7.2. The notice must also include proof of compliance with the following conditions described herein:  
**Condition no.: 6 and 13**
8. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities.

#### **Management of activity/activities**

9. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is herewith **approved**.
10. The requirements for the avoidance, management, mitigation, monitoring and reporting of the impacts of the activity on the environment, which have been identified in this Environmental Authorisation additional to those contained in the approved EMPr, must be implemented together with the EMPr.
11. The EMPr must be updated to incorporate the final design layout plans, all the conditions contained in this Environmental Authorisation and all those measures for the avoidance, management, mitigation, monitoring and reporting as identified in this Environmental Authorisation additional to those contained in the approved EMPr.

The updated EMPr must be re-submitted to the Competent Authority prior to commencement of the construction activities.

12. The approved EMPr (including the additional measures for the avoidance, management, mitigation, monitoring and reporting identified in the Environmental Authorisation) must be included in all contract documentation for all phases of implementation.

## **Monitoring**

13. The Holder must appoint a suitably experienced environmental control officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
14. The ECO must–
  - 14.1. be appointed prior to commencement of any works (*i.e.*, demarcation of the remaining natural area, relocation of bulbs; and disturbance, cutting and / or damage to protected trees);
  - 14.2. ensure compliance with the EMPr and the conditions contained herein;
  - 14.3. keep record of all activities on the site; problems identified; transgressions noted, and a task schedule of tasks undertaken by the ECO;
  - 14.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
15. 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.
16. 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.

## **Environmental Auditing**

17. The Holder must, for the period during which the environmental authorisation and EMPr remain valid, ensure that —
  - 17.1. compliance with the conditions of the environmental authorisation and the EMPr, is audited;
  - 17.2. the first environmental audit is undertaken and submitted to the Competent Authority within a period of 3-years from the date of issue of the Environmental Authorisation; and
  - 17.3. a final Environmental Audit Report is submitted to the Competent Authority within six (6) months of completion of the development activities (construction phase), during which period the post construction rehabilitation and monitoring requirements must be concluded too.

**Note:** Where the development activities (construction phase) and the post construction rehabilitation and monitoring requirements are concluded within a period of 3-years from the date of issue of the environmental authorisation, then the Holder need only submit a final Environmental Audit.

Failure to complete the final auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements.

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



- 18.1. be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;
  - 18.2. provide verifiable findings, in a structured and systematic manner, on–
    - 18.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
    - 18.2.2. the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
  - 18.3. identify and assess any new impacts and risks as a result of undertaking the activity;
  - 18.4. evaluate the effectiveness of the EMPr;
  - 18.5. identify shortcomings in the EMPr;
  - 18.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
  - 18.7. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
  - 18.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
  - 18.9. include a photographic record of the site applicable to the audit; and
  - 18.10. be informed by the ECO reports.
19. 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**

20. The following requirements for the avoidance, management, mitigation, monitoring and reporting of the impacts of the activity on the environment must be implemented together with the EMPr:
  - 20.1. Prior to the commencement of the physical implementation of any activities on the site, the 10m buffer area along the steep slope must be surveyed and demarcated by means of erecting a temporary construction fence. No permanent fencing is allowed along the southern boundary of the site.
  - 20.2. The Holder must obtain the required permits in terms of the—
    - 20.2.1. National Forests Act, Act No. 84 of 1998; and
    - 20.2.2. Western Cape Nature Conservation Laws Amendment Act, Act 3 of 2000
 Copies of such permits must be submitted to the competent authority prior to the commencement of the physical implementation of any activities on the site.
  - 20.3. Micro-siting of the proposed buildings, structures or infrastructure may be undertaken to avoid the disturbance of protected tree species. Such micro-siting may only be undertaken in conjunction with officials from the Department of Fisheries, Forestry and the Environment (Forestry branch).



Should the micro-siting change the approved Site Development Plan, the revised layout must first be endorsed by the Competent Authority before it is implemented.

- 20.4. Geophytes which are located within the development footprint must be recorded and relocated to a predetermined suitable habitat. The ECO must inform the competent authority in writing of the identified relocation area prior to the geophytes being moved/removed.
- 20.5. The Holder must ensure that the natural area / open space (i.e., the remainder of Erf 720 that will remain undeveloped) must be managed for a conservation use to achieve a conservation outcome.

Further to the above—

- 20.5.1. The Holder must ensure, that for the duration of the validity period, the natural area/open space is managed in accordance with a "Conservation Management Plan" (CMP).
- 20.5.2. Prior to the commencement of the physical implementation of any activities on the site, the Holder must compile a CMP document and submit a copy thereof to the Competent Authority. Such CMP, including method statements where relevant, must address or incorporate the following—
  - (a) Fire management requirements (i.e., protective and ecological);
  - (b) No planting except for rehabilitation in terms of an approved management plan;
  - (c) No collection or damaging of fauna and flora;
  - (d) No vehicles of any type are permitted;
  - (e) Financial provisions for the management and upkeep of the conservation area.
  - (f) The control and eradication of any listed invasive plant species occurring on the site and to prevent these species from spreading.

**Note:** In terms of the provisions of the National Environmental Management: Biodiversity Act, 2004 (Act No.10 Of 2004), an Invasive Species Control Plan should be submitted to the National Department of Forestry, Fisheries and the Environment: Branch - Biosecurity ("DFFE: Biosecurity") for consideration and agreement.

- 20.5.3. No development is permitted on the south-facing dune face of the dune-slack or dune valley up to the paved road - HC Botha Street (as required from the specialists' input);
  - 20.5.4. No recreational activities are permitted, nor the development of structures or infrastructure, within the natural area/open space area, unless authorised by the competent authority.
21. 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 activity.

### **Amendment of Environmental Authorisation and EMPr**

2. If the Holder does not start with the listed activities and exceed the thresholds of the listed activities within the period referred to in Section G, this Environmental Authorisation shall lapse for those activities, 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 EMPr has been approved by the competent authority.

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

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

### **Compliance with Environmental Authorisation and EMPr**

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is subject to compliance with all the peremptory conditions (6 and 13). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
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**

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;
  - 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; and
  - 1.3. Submit a copy of the appeal to the decision-maker (*i.e.*, the Competent Authority that issued the decision) at:  
[Zaahir.Toefy@westerncape.gov.za](mailto:Zaahir.Toefy@westerncape.gov.za);  
[Gavin.Benjamin@westerncape.gov.za](mailto:Gavin.Benjamin@westerncape.gov.za); and copied to  
[DEADPEIAadmin.George@westerncape.gov.za](mailto:DEADPEIAadmin.George@westerncape.gov.za)
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.
  - 2.3. Submit a copy of the appeal to the decision-maker (*i.e.*, the Competent Authority that issued the decision) at:  
[Zaahir.Toefy@westerncape.gov.za](mailto:Zaahir.Toefy@westerncape.gov.za);  
[Gavin.Benjamin@westerncape.gov.za](mailto:Gavin.Benjamin@westerncape.gov.za); and copied to  
[DEADPEIAadmin.George@westerncape.gov.za](mailto:DEADPEIAadmin.George@westerncape.gov.za)
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any,

to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.

4. The appeal and the responding statement must be submitted to the Appeal Administrator at the address listed below:

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

By facsimile: (021) 483 4174; or  
By hand: Appeal Administrator  
Attention: Mr Marius Venter (Tel: 021 483 3721)  
Room 809  
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 [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za).

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

## 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

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**DIRECTOR: DEVELOPMENT MANAGEMENT**

**WESTERN CAPE GOVERNMENT: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE OF DECISION: 16 MAY 2024

**FOR OFFICIAL USE ONLY:**

**EIA REFERENCE NUMBER:** 16/3/3/1/D6/17/0028/23

**NEAS REFERENCE NUMBER:** WCP/EIA/0001361/2023

# ANNEXURE 1: LOCALITY MAP





**ANNEXURE 2: SERVICES LAYOUT DRAFTED (DRAWING NO: 1903141/C/100; REV. R) DATED 2 FEBRUARY 2024 DRAFTED BY ELEMENT CONSULTING ENGINEERS**





## 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, received on 7 November 2023, the Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 23 February 2024;
- 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 submitted on 23 February 2024;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) Appropriate information was made available in the report to understand the environmental and spatial context.
- g) The Competent Authority conducted a site visit on 15 May 2024 .

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. Other relevant legislative considerations

- The listed activity not authorised in this Environmental Authorisation include:
  - Activity 27 of Listing Notice 1 (GN No. R983 of 4 December 2014, as amended):  
Reason – The proposed development that will be established, is located within an area of approximately 1.8ha; however, according to the information received an area of only ca. 3 350m<sup>2</sup> of indigenous vegetation will be cleared for the establishment of the proposed resort, this represents the development footprint.

Activity 27 is listed as a phased activity, which means that the activity can take place in phases over time on the same or adjacent properties to create a single or linked entity. This implies that any one phase of the activity may be below a threshold, but where a combination of the phases exceeds the threshold, environmental authorisation must be obtained from the competent authority.

In light of the above, the clearance of 0.335ha of indigenous vegetation for the proposed resort is less than the activity's threshold and thus is therefore regarded as the first phase in respect of Activity 27 of Listing Notice 1. Notwithstanding Activity 12 of Listing Notice 3, where any future combination of phases exceeds the 1ha threshold, environmental authorisation must be obtained from the competent authority.

- Activity 6 of Listing Notice 3 (GN No. R985 of 4 December 2014, as amended):  
Reason – The proposed development is not located within 5km from a national park, world heritage site or an area identified in terms of the National Environmental Management: Protected Areas Act, Act 57 of 2003. Furthermore, the Western Cape Minister of Local Government, Environmental Affairs and Development Planning has, to date, not adopted the Western Cape Biodiversity Spatial Plan (2017) as a systematic biodiversity plan or bioregional plan. Therefore, Critical Biodiversity Areas are not regarded as a listed geographical area in



the Western Cape. Until such time that a biodiversity spatial plan for the Western Cape been adopted by the relevant authority, the specified activity in the identified geographical area is excluded from the requirement to obtain environmental authorisation.

● *National Forests Act, Act No. 84 of 1998*

According to the applicant there are a number of protected *Sideroxylon inerme* (milkwood) and *Pittosporum viridiflorum* (cheesewood) trees on the property. It is understood that the trees will as far as possible be incorporated into the development. However, the implementation of the proposed development may require the cutting, disturbance or damage of the protected tree species. In this regard, the applicant has indicated that the necessary permits / licenses will be obtained prior to the cutting, disturbance or damage of the protected tree species.

● *Western Cape Nature Conservation Laws Amendment Act, Act 3 of 2000*

There are a number of plant species which are protected in terms of the Western Cape Nature Conservation Laws Amendment Act, Act 3 of 2000, *inter alia* *Gladiolus floribundus* and *Brunsvigia orientalis*. In this regard, the applicant has indicated that the necessary permits will be obtained prior to the removal and / or relocation of listed species.

## 2. Public Participation

The public participation process included:

- identification of and engagement with interested and affected parties (I&APs) including organs of state which have jurisdiction in respect of the activity to which the application relates;
- fixing a notice board at the site on 17 August 2023 for the commenting period on the pre-application BAR from 22 August to 21 September 2023;
- 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 21 August 2023 regarding the availability of the pre-application BAR and on 14 November 2023 regarding the availability of the DBAR;
- the placing of newspaper advertisements in the “Mossel Bay Advertiser” on 18 August 2023; and
- making the pre-application BAR available to I&APs for public review and comment from 22 August to 21 September 2023, and the Draft Basic Assessment Report available to I&APs for public review and comment from 15 November to 14 December 2023. The reports were made available on the EAP's website at [https://www.cape-eaprac.co.za/index.php?option=com\\_content&view=article&id=569:dwarwegstrand-holiday-resort&catid=9&Itemid=102](https://www.cape-eaprac.co.za/index.php?option=com_content&view=article&id=569:dwarwegstrand-holiday-resort&catid=9&Itemid=102).

All the comments and issues raised by the respective *Organs of State and Interested and Affected Parties (I&APs)* that were captured in the Basic Assessment Report were responded to by the EAP. The Competent Authority is satisfied with the responses provided by the EAP to these other organs of state and I&APs.

## 3. Alternatives

### Layout Alternatives:

● Layout Alternative 1 – preferred alternative (Herewith approved)

This alternative entails the establishment of a holiday resort on a Portion of Erf 720 in Dwarswegstrand, Mossel Bay Municipality. The resort will consist of the following:

- Eight Duette holiday units with stoep - 97.82m<sup>2</sup> per unit;

- Ten Two-bedroom holiday units with stoep - 62.62m<sup>2</sup> per unit;
- Conference room with lapa building and ablution facilities;
- Pool;
- Entrance gate and gatehouse (entrance from H.C. Botha Street);
- Two 11kl conservancy tanks;
- Internal roads;
- Paved/Raised pedestrian walkway in H.C. Botha Street Road Reserve to provide pedestrian access to the beach and Dwarswegstrand Resort (1.5m wide); and
- 1.8m-high fence (ClearVu) along existing tarred road boundaries (Morrison Road and H.C. Botha Street) over a distance of approximately 570m. No fencing along the southern boundary of proposed development footprint that opens to the remaining private open space areas.

The proposed resort development will be implemented in accordance with the Site Development Plan and Services Layout drafted by Element Consulting Engineers (Drawing No: 1903141/C/100; Rev. R) dated 2 February 2024. Please refer to Annexure 2 of this Environmental Authorisation.

The following layout alternative was included in the report, but have been eliminated:

#### ● Layout Alternative 2:

This alternative entails the establishment of a holiday resort on Erf 720, Dwarswegstrand. The proposed development will consist of:

- 9 x duet holiday units;
- 9 x two-bedroom units;
- Conference room;
- Lapa building;
- Pool with ablution facilities;
- A gate and gatehouse off H.C. Botha Street;
- Solid waste enclosure and shelter;
- Modular Sewage Package Plant on-site.
- Internal roads (3.2m – 5.2m wide). Paved road from entrance to last parking of swimming pool. Remainder of internal roads and parking areas will be constructed with eco-blocks and topsoil.
- Wooden staircase in the south-western corner.
- Fence (1.8m high ClearVu) along the entire perimeter of the 4ha area.

This alternative was eliminated due to the following:

- Fragmentation of natural environment due to fences and staircases that will block animal movement within the remaining natural habitat;
- Does not take into account the location of protected indigenous trees; and
- The use of a sewage package plant will be an expensive short-term solution for the proposed development and is therefore not deemed feasible.

### **Technology Alternatives: Sewage Disposal**

#### ● Alternative 1: Conservancy tanks – preferred alternative:

This alternative entails the development of two underground 11 kilolitre (kl) conservancy tanks located at opposite sides of the proposed resort. According to the BAR conservancy tanks are highly resistant to degradation and requires minimum maintenance costs. The tanks will be emptied by a private contractor and transported to the Hartenbos Regional Wastewater Treatment Works. This is

the applicant's preferred alternative and has also been incorporated into the preferred layout alternative.

Furthermore, future small pumpstation will be developed alongside the conservancy tanks for easy conversion / connection to the future municipal sewer along Morrison Road.

● Alternative 1: Sewage package plant:

This alternative entails the development of sewage package to be used for sewage treatment until such time that a municipal system becomes available in the next five to ten years. This is not the applicant's preferred alternative due to the short-term use and costs involved with the implementation of such treatment method.

**"No-Go" Alternative**

The No-Go alternative entails that the proposed resort will not be developed. The current zoning of the property is Open Space Zone II i.e. private open space. Therefore, if the proposed resort is not developed, the site will remain for use as private open space and managed as such. This entails that the invasive alien species on the site is controlled / eradicated and that the natural vegetation on the site can be managed appropriately. This will result in the retaining of at least 3 350m<sup>2</sup> of Hartenbos Dune Thicket which has a conservation status Endangered.

**4. Impact Assessment and Mitigation Measures**

*4.1 Activity Need and Desirability*

According to the applicant the development site formed part of an original resort development, Dwarswegstrand Resort, which was approved on 3 April 1991 by the then Gleniqua Local Council. The site was consequently zoned Resort Zone. However, the property was rezoned to Open Space Zone II in 2016 which, according to the applicant, it was not intended for conservation purposes but reserve the rights to consider a future use for the site. The latter view is regarded to be an error in judgement regarding the rights and obligations associated with this zone.

Notwithstanding the above, according to the Mossel Bay Spatial Development Framework (May 2022) ("SDF") the site is located within the urban edge of the Mossel Bay Municipality and has been earmarked for urban expansion. Furthermore, this specific site (1.5ha) has been earmarked for a resort development or medium density residential development in both the SDF and the Fifth Generation Integrated Development Plan (2024/25) ("IDP") for the Mossel Bay Municipality. However, the applicant has not considered an alternative for the purposes of a residential type of development. As such, this environmental authorisation is only for the development of the resort as described herein. Therefore, any future use of the resort units for residential use (or any other purposes) will be considered as a change of scope of this environmental authorisation.

In light of the above, this Directorate acknowledges that the site on which the proposed resort is earmarked has been considered in the relevant municipal forward planning documents and that the proposal is in line with such planning documents.

*4.2 Terrestrial biodiversity and botanical aspects*

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

In order to adequately assess the terrestrial biodiversity aspects associated with the proposed resort development, the BAR was informed by a Terrestrial Biodiversity Impact Assessment and Botanical Impact Assessment.

### Botanical aspects

According to these assessments and the relevant information the ecosystem on the site is Hartenbos Dune Thicket, which has a conservation status of Endangered according to the Revised National List of Ecosystems that are threatened and in need of protection (Government Notice No. 2747 of 18 November 2022). The Botanical Impact Assessment found that the vegetation on the site is typical of the “*upland phase of Hartenbos Dune Thicket on the dune crest or plateau and less dense than the slope phase of the vegetation type on the steeper, south-facing slopes that has more large and well-developed trees*”. The assessment found that the vegetation on the study site is in a fair to good condition and highlighted two botanical constraints, namely:

- no development on the south-facing dune face of the dune-slack or dune valley up to the paved road.
- limited development of a sensitive, low-impact nature can be considered for the high lying plateau north of the ridgeline – a buffer zone of 10m from the ridgeline would be necessary to accommodate the ecotone between the plateau and the steep slope.

According to the assessment, the abovementioned constraints have been considered by the applicant which has resulted in the preferred alternative.

Furthermore, according to the Botanical Impact Assessment there are geophyte species present on the site, namely *Gladiolus floribundus*, *Ixia orientalis* and *Brunsvigia orientalis*. According to the assessment it would be necessary to relocate these species but that this should occur in the appropriate season. CapeNature supports this requirement but indicates that suitable locations with similar microclimate and geological conditions must be identified prior to the relocation to increase the success rate.

The Site Ecological Importance (“SEI”) for Hartenbos Dune Thicket was determined which indicates that the SEI is High. According to the guideline for interpreting SEI low impact development activities may be considered but impacts must be avoided wherever possible. According to the applicant, the highly sensitive areas such as protected tree clumps, individual trees and corridor have been avoided. The applicant has indicated that micro-siting of units, structures and infrastructure will occur prior to the commencement of development activities to minimise the impact on any newly germinated protected trees or trees that has since grown.

### Terrestrial biodiversity aspects

According to the data of the Western Cape Biodiversity Spatial Plan (2017), the majority of the site has been mapped as Ecological Support Area 1 (“ESA1”) with only a small strip along the northern boundary mapped as Critical Biodiversity Area 1 (“CBA1”). However, according to the Terrestrial Biodiversity Assessment there is very little difference between the CBA1 and the ESA1 and is therefore of the opinion that the entire site should be classified as ESA1. This has not been disputed in the comment by CapeNature (as the custodian of biodiversity in the Western Cape).

CapeNature confirmed that the property is located within the coastal corridor and advises that the foredune should be kept in a functional near natural state as they are important corridors to maintain landscape connectivity. In this regard, the BAR was informed by a Faunal Compliance Statement. According to the compliance statement and the Terrestrial Biodiversity Impact Assessment, the south facing dune / ravine should not be developed and conserved as this is an important faunal corridor and the vegetation consists of important Hartenbos Dune Thicket vegetation with many mature protected tree species.

In this regard, the faunal compliance statement and the terrestrial biodiversity assessment both support a 10m buffer to accommodate the ecotone between the development site and the ridgeline and to prevent undue disturbance for faunal movement. Furthermore, the fence line along

the southern boundary (along the ecotone) and a proposed staircase is not supported in the faunal compliance statement. In light of the findings by the specialists the applicant omitted both the fence along the southern boundary and the wooden staircase in the south-western corner of the site. These recommendations are supported by CapeNature.

With due consideration of the above, this Department is of the considered opinion that the applicant has adequately addressed the terrestrial biodiversity and botanical related aspects and that the proposed resort will not have a significant impact on the terrestrial biodiversity.

#### Conservation of the remainder of Erf 720

According to the applicant the remainder of Erf 720 will be zoned open space and managed for a conservation use to prevent development creep into the remaining open space (natural) areas. In this regard, the Mossel Bay Municipality Zoning Scheme By-law (2021) provides the following zonings which can be considered:

- **Open Space II:** The objective of this zone is to provide for private active and passive recreational areas in order to promote recreation and enhance the aesthetic appearance of an area. The primary use of this zoning is "private open space".
- **Open Space III:** The objective of this zone is to provide for the conservation of natural resources in areas that have not been proclaimed as nature areas (non-statutory conservation), in order to sustain flora and fauna and protect areas of undeveloped landscape including woodlands, ridges, wetlands and the coastline. The primary use of this zoning is "nature conservation area".

According to the applicant the southern portion (natural area) will remain Open Space Zone II and the management thereof will be focused on keeping the area natural. The applicant submits that the zoning the remainder of Erf 720 Open Space Zone II or Open Space Zone II will not change the operational management of the area. However, according to the objectives of the zonings as provided in the Mossel Bay Municipality Zoning Scheme Bylaw (2021) the appropriate zoning for the conservation purpose is Open Space Zone III. Therefore, it is strongly advised that consideration be given to this zoning (i.e. Open Space Zone III) to achieve the desired outcomes. Nonetheless, a condition has been included which requires the Holder to develop and implement a Conservation Management Plan (CMP) for this open space area. Such CMP should be adopted and implemented during the operational phase of the development as well.

#### 4.3 *Heritage / Archaeological Aspects*

No significant impacts on heritage / archaeological resources are expected as a result of the proposed resort development on Erf 720, Dwarswegstrand. This was confirmed in the response to the Notice of Intent to Develop (Case No: 22082902SB0830E) issued by Heritage Western Cape, dated 7 September 2022. The competent authority is satisfied that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of the National Heritage Resources Act, 1999 and the comments and recommendations of the relevant heritage resources authority with regard to the proposed development have been taken into account.

#### 4.4 *Traffic impact*

A description of the traffic related issues and risks have been included in the BAR. In this regard, the BAR was informed by a Traffic Impact Assessment ("TIA") which assessed the proposed development with 26 self-catering units, conference room and gate house. According to the TIA the assessment year are the base year 2022 and horizon year 2027 with an annual growth rate of 3.5% as the proposed development falls within an area experiencing average growth.

According to the findings of the TIA the peak hour trip generation of the proposed resort during the morning and afternoon peak hour of the adjacent road network is 5 vehicles (AM) and 8 vehicles

(PM) respectively. The assessment concludes that the proposed resort will have a negligible impact on the Level of Service during both the morning horizon year peak hours and that the relevant intersections will continue to operate at a Level of Service A for both the morning and afternoon peak hours.

In considering the above, the view is held that the applicant has adequately considered the traffic related aspects and that the proposed development will not result in significant negative traffic impacts.

#### 4.5 Other impacts

No other significant visual dust, noise and odour impacts have been identified.

### 5. Scope and Validity of the Environmental Authorisation

This environmental authorisation does not define specific operational aspects. The environmental authorisation's validity period has been granted for a period of ca. five (5) years, during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit reports for the construction phase. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase.

Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years.

### 6. National Environmental Management Act Principles

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

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

### 7. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with an approved EMPr, the Competent Authority is satisfied that, except for the activity that has been refused, 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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