



REFERENCE: 16/3/3/1/D6/17/0009/24
NEAS REFERENCE: WCP/EIA/0001413/2024
DATE OF ISSUE: 09 September 2024

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION (EA) IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): THE PROPOSED RESIDENTIAL DEVELOPMENT ON REMAINDER OF ERF 2833, GREAT BRAK, MOSSEL BAY

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

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to **the Mitigated Preferred Design Alternative**, described in the Final Basic Assessment Report ("FBAR"), 21 May 2024 as prepared and submitted by Cape EAPrac Cape Environmental Assessment Practitioners, the appointed environmental assessment practitioner ("EAP").

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

NEW CARE INNOVASIONS (PTY) LTD
c/o Joe Bezuidenhout
P.O. Box 4984
George East
6539

Cell: 060 717 2754
Email: djprojects777@gmail.com

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Environmental Impact Assessment Regulations Listing Notice 1 (Government Notice No. 326 of 7 April 2017)	
<p>Activity Number: 27 Activity Description:</p> <p>The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for-</p> <p>(i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p>	<p>The site to be cleared of indigenous vegetation is approximately 2.5 hectares which is more than 1 hectare.</p>
<p>Activity Number: 28 Activity Description:</p> <p>Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</p> <p>(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or</p> <p>(ii) will occur outside the urban area, where the total land to be developed is bigger than 1 hectare;</p> <p>Excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>The property is currently zoned Agriculture I and was previously used for cultivation/agriculture activities. The property lies outside an urban area.</p> <p>An area of 2.5 hectares will be transformed for the establishment of a residential development.</p>
Environmental Impact Assessment Regulations Listing Notice 3 (Government Notice No. 324 of 7 April 2017)	
<p>Activity Number: 4 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>Two internal roads will be developed which each will be wider than four (4) meters and will be developed on 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; (aa) Areas zoned for conservation use or; (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p>	
<p>Activity Number: 12 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 even 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 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>The proposal will require the clearance of more than 300m² but no more than 2.5ha of indigenous vegetation in a threatened ecosystem with a threat status of Endangered (EN) namely: Hartenbos Dune Thicket.</p>

The abovementioned list is hereinafter referred to as “**the listed activity**”.

The Holder is herein authorised to undertake the following alternative Mitigated Preferred Design Alternative (Alternative 1) that includes the listed activities as it relates to the development and development footprint area:

The transformation of land on the Remainder of Erf 2833, Great Brak River for the establishment of a residential development and associated infrastructure, which will include the following:

- **41 x General Residential Zone I erven** and the residential buildings / top structures.
 - This will be on approximately 1.11ha used for group housing and will have a density of approximately 19.53 units per hectare
- **1 x Transport Zone III erf** with a Private Roads of 8-10m in width.
 - This will be on approximately 0.99 hectare
- **1 x Transport Zone II erf** for a Public Road.
 - The expansion of the existing road will be on approximately 0.35 hectare.
- **1 x Utility Zone erf** for the development of a Conservancy Tank
 - This will be on approximately 0.039 hectares
 - The tank will have dimensions of 5m x 10m x 3m.
- **4 x Open Space II erven** (Private Open Space)
 - This will be on approximately 3.56 hectares.
 - The natural vegetation will be retained on these erven, and invasive species removed.

Engineering Services:

Potable water

- The following services will be installed to connect the development to the existing 200mm Ø pipe in Sandhoogte Road;
 - 300mm x 110mm Ø new supply pipe, and
 - Pressure Reducing Valve ("PRV") to manage high water pressure.

Electricity

- A new 400kVa miniature substation will be installed inside the Sandhoogte Road reserve. Furthermore, a Low Voltage ("LV") cable will be installed from the substation to a LV bulk metering / distribution kiosk located on the erf boundary,

Sewage

- The development will be connected to a dedicated on-site conservancy tank which is located within the development area (Erf 5: Utility Zone). This conservancy tank will be installed underground on Erf 5: Utility Zone.

Roads & Access

- The Remainder of Erf 2833 ("RE/2833") has an existing servitude (private road) which is situated along the western boundary that provides access to not only the property itself, but also to the Remainder of Erf 2832 ("RE/2832") and Erf 2833 which is situated north of the proposed development. This servitude connects to Sandhoogte Road which is a public Provincial Road.
- Furthermore two (2) internal roads (private roads) which will provide access to the single residential and general residential erven. These roads will be 8 to 10m in width.

This EA will be implemented in accordance with the Site Development Plan attached to this EA as Annexure 2.

C. SITE DESCRIPTION AND LOCATION

The proposed clearance of indigenous vegetation and endangered vegetation for the development of a residential estate on a portion of the Remainder of Erf 2833 (RE/2833), Great Brak River, Mossel Bay Municipal area, Western Cape Province. The site is located along Sandhoogte

Road and is accessible via an existing, paved servitude road along the property's western boundary. Furthermore, the property is located inside the urban edge of Great Brak River and is bounded by existing residential dwellings and small holding to the east and south across Sandhoogte Road.

Site Coordinates:

Position:	Latitude (South)	Longitude (East)
Centre Point	34° 03' 18.86"	22° 12' 10.04"

SG digit code: C05100030000283300000

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

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Cape Environmental Assessment Practitioners (Cape EAPrac)

% Ms. Louise-Mari van Zyl

P.O. Box 2070

George

6530

Tel: (044) 874 0365

Email: louise@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 **30 September 2034** (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 at the site 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;
 - (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 activity specified in Section B above in accordance with the Mitigated Preferred Design Alternative (Alternative 1) described in the FBAR dated 21 May 2024 on the site as described in Section C above. Clearance may only take place on the area identified and depicted on the Site Layout Map (Annexure 2) of this Environmental Authorisation.

3. 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.
4. Any changes to, or deviations from the scope of the preferred alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

Notification and administration of appeal

5. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 5.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 5.1.1. the decision reached on the application;
 - 5.1.2. the reasons for the decision as included in Annexure 3;
 - 5.1.3. the date of the decision; and
 - 5.1.4. the date when the decision was issued.
 - 5.2. 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;
 - 5.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 5.4. provide the registered I&APs with the:
 - 5.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 5.4.2. name of the responsible person for this Environmental Authorisation,
 - 5.4.3. postal address of the Holder,
 - 5.4.4. telephonic and fax details of the Holder,
 - 5.4.5. e-mail address, if any, of the Holder,
 - 5.4.6. 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).
 - 5.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
 - 5.6. 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

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
 - 6.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 6.2. The notice must also include proof of compliance with the following conditions described herein:
Conditions: 5, 8, 10 and 18.

Management of activity

7. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is herewith approved in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2014 (as amended).

8. The EMPr must be updated to incorporate all the conditions contained in this Environmental Authorisation and all those measures for the avoidance, management, mitigation, monitoring, rehabilitation 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.

9. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

10. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), prior to commencement of any works (i.e., removal and movement of soil) and for the duration of the clearance and rehabilitation phases of the implementation contained herein.
11. The ECO must–
 - 11.1. be appointed prior to commencement of any works (i.e. removal and movement of soil);
 - 11.2. ensure compliance with the EMPr and the conditions contained herein;
 - 11.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
 - 11.4. remain employed until 30 April 2033 when all development activities are concluded, and the post development/implementation rehabilitation and monitoring requirements are finalised.
12. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.
13. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

14. The Holder must, for the period during which the environmental authorisation; and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.
15. The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, must adhere to the following programme:
 - 15.1. During the period when the development of the residential phases (i.e. construction of to structures) is undertaken, the Holder must ensure that environmental audits (s) are performed regularly and submit these Environmental Audit Report (s) to the Competent Authority.

During the non-operational phase of the development, the frequency of the auditing of compliance with the conditions of the environmental authorisation and compliance with the

EMPr **may not exceed intervals of three (3) years** as reckoned from the date of issue of this Environmental Authorisation.

A final Environmental Audit Report must be submitted to the Competent Authority within three (3) months of completion of the final phase of the residential development and the post construction rehabilitation and monitoring requirements thereof.

Note: The final auditing requirement should be completed at least three months prior to the expiry of the validity period of the environmental authorisation (i.e., by no later than 30 June 2034) to ensure the Holder is able to comply with all the environmental auditing and reporting requirements and for the competent authority to be able to process it timeously.

16. The Environmental Audit Report(s), must –
 - 16.1. 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;
 - 16.2. provide verifiable findings, in a structured and systematic manner, on–
 - 16.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 16.2.2. 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.
 - 16.3. identify and assess any new impacts and risks as a result of undertaking the activity;
 - 16.4. evaluate the effectiveness of the EMPr;
 - 16.5. identify shortcomings in the EMPr;
 - 16.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 16.7. 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;
 - 16.8. indicate the date on which the maintenance/ rehabilitation was commenced with and the progress of the rehabilitation;
 - 16.9. include a photographic record of the site applicable to the audit; and
 - 16.10. be informed by the ECO reports.
17. 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

18. The No-Go areas must be physically and clearly demarcated, prior to any earthworks or clearance activities commencing. This area may not be used to store any materials. All construction related activities such as materials storage and site camp establishment must occur within an identified area approved by the ECO.

19. The sensitive valley thicket vegetation must be excluded from the development footprint and remain protected as an internal open space for a conservation purpose. No indigenous vegetation may be cleared within these open spaces, unless authorised by the competent authority.
20. The 30-buffer zone on either side of the lowest point along the valley bottom must be managed as a no-go area.
21. No development is allowed on slopes with a gradient of 1:4 or steeper, unless authorised by the competent authority.
22. The remainder of the natural indigenous vegetation (apart from the 30m buffer zone) must be managed as a conservation area and must be zoned accordingly.
23. Protected trees must be Geo-referenced in order to determine their exact position to ensure that these are being incorporated within the Site Layout Map (Annexure 2) or handled in terms of a permit in terms of the National Forests Act, 1998.
24. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the Holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

Amendment of Environmental Authorisation and EMPr

2. If the Holder does not start with all listed activities and exceed the threshold of each listed activity within the period referred to in Section G, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.
3. 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.

4. 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.

5. 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.

6. 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

7. 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).
8. This Environmental Authorisation is granted for a set period from date of issue, during which period all the listed activities must be commenced with and concluded, including the post-development rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

The validity period and conditions of the environmental authorisation has been structured to promote the effective administration of the environmental authorisation and guidance has been provided to ensure the compliance thereof within the validity period, for example:

- Failure to complete the post construction rehabilitation and monitoring requirements at least three months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.
- 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 and may result in the competent authority not being able to process the audit timeously.

9. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e., 5, 8, and 18). 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.
10. 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.
11. 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; and
 - 1.2. Submit a copy of the appeal to any registered I&APs including any Organ of State with interest in the matter; 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 and copied to
Gavin.Benjamin@westerncape.gov.za;
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 and any registered I&AP including any Organ of State with an interest in the matter; and
 - 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 and copied to
Gavin.Benjamin@westerncape.gov.za;
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
8th 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

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 or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the Holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully

DIRECTOR: DEVELOPMENT MANAGEMENT

WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: **09 SEPTEMBER 2024**

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/1/D6/17/0009/24
NEAS REFERENCE: WCP/EIA/0001413/2024

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: MITIGATED PREFERRED DESIGN ALTERNATIVE (ALTERNATIVE 1) – HEREIN AUTHORISED



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 23 February 2024, the Final Basic Assessment Report (FBAR) and EMPr dated 23 May 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 dated 23 May 2024;
- e) The balancing of negative and positive impacts and proposed mitigation measures.

The Department had sufficient information at its disposal to understand the environmental and spatial context and the case officer is also familiar with the site and surrounding area. All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

A sufficient public participation process was undertaken, and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulation 2014 for public involvement. The public participation process included:

- a) 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;
- b) fixing a notice board at the sites on 07 March 2024;
- c) 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 11 March 2024;
- d) the draft BAR was made available for comment from 11 March 2024 until 15 April 2024;
- e) the placing of a newspaper advertisement in the 'Mossel Bay Advertiser' on 8 March 2024.

The following Organs of State provided comment on the proposal:

- a) Cape Nature ("CN")
- b) Department of Forestry, Fisheries & the Environment ("DFFE: Forestry")
- c) South African Civil Aviation Authority ("SACAA")
- d) Breede Olifants Catchment Management Agency (BOCMA)
- e) Garden Route District Municipality
- f) Heritage Mossel Bay – Perception Planning
- g) Mossel Bay Municipality
- h) Department of Agriculture

Cape Nature ("CN")

CN did not object to the proposed development, however they did provide several comments and mitigation measures. These proposed mitigation measures were included into the Environmental Management Programme and the Site Development Plan. Furthermore, CN did not support any development on slopes with a gradient steeper than 1:4. It was then confirmed that the proposed

erven is not located on slopes steeper than 1:4 and no internal roads are proposed on slopes steeper than 1:5.

Department of Forestry, Fisheries & the Environment (“DFFE: Forestry”)

DFFE: Forestry requested that the Coastal Forest, protected Milkwood trees, as well as Protected Cheesewood trees occur on the development portion of property must be GPS'd and incorporated within the proposed development design as no-go areas. The highly sensitive valley-thicket has been excluded from the development footprint of the property and the highly sensitive valley-thicket will remain protected as an internal open space.

Breede Olifants Catchment Management Agency (“BOCMA”)

BOCMA requested that the intermittent natural channel which transverses the site must be assessed and delineated to the extent where it can be identified if the development will trigger water uses in terms of the National Water Act, 1998. The aquatic specialist did delineate the low point of the watercourse and recommended that a 30m buffer zone be implemented on either side of the lowest point along the valley bottom. Except for where one internal road will cross the watercourse, no further development will take place within the 30-metre buffer area.

Garden Route District Municipality

The Garden Route District Municipality did not have any objections to the proposed development, however they made several mitigation requests. These mitigation requests were included in the Environmental Management Programme which will be adhered to.

Mossel Bay Municipality

The Mossel Bay Municipality raised concerns regarding erosion, siltation, and flooding during all stages of the proposed development. All the concerns were addressed in the Environmental Management Programme and must be adhered to during all stages of development (pre-construction design, construction and operational phase).

The Municipality raised concerns about the stormwater management during all the development phases. The applicant's consulting engineers had a meeting with the Mossel Bay Municipality to discuss the stormwater issues in more detail. There was agreement reached on several points and these were incorporated into the Environmental Management Programme and will be adhered to.

The Mossel Bay Municipality – availability of bulk engineering services:

The Mossel Bay Municipality found the proposal to implement a conservancy tank, linked to an internal sewer, acceptable for the development as the municipality is in the process of attending to the challenges at the Cricket Field sewer pumpstation. Furthermore, the Great Brak Wastewater Treatment Works (WWTW) is currently being upgraded and there is sufficient capacity to deal with the sewage volumes from the development. It was confirmed that the existing Sandhoogte water reticulation system (pipe) has sufficient capacity to accommodate the proposed development and that no additional reservoir storage capacity is required. Sufficient potable water is available for the proposed development. Electricity will be supplied via the existing Municipal electrical infrastructure. A minor upgrade is required to the service infrastructure and will require the development of a mini-substation and a low-voltage cable.

Internal Roads: To accommodate the proposed development, the Applicant is required to develop the access routes according to the municipal standard. The applicant is required to upgrade the existing access road along the western boundary of Erf 2833 to include two 3.4m wide lanes. The existing road along the western boundary must therefore be widened from its current width of 3m to 6.8m, to accommodate the design requirements. A 20-metre-wide servitude will be registered along

this western boundary for this road. The two (2) development nodes namely the top and bottom general residential erven must be serviced by internal roads of between ~8m – 10m wide.

The Mossel Bay Municipality did state that spatially the development is supported. Furthermore, the development constraints on the property must be considered. All the identified development constraints were taken into account by the EAP in die SDP and EMP.

Heritage Mossel Bay to Perception Planning

Heritage Mossel Bay had no objections towards the proposed development; however, they have raised concerns. These concerns were adequately addressed by the EAP.

Department of Agriculture

The Department of Agriculture stated that they have no objection to the proposed development.

South African Civil Aviation Authority (“SACAA”)

The SACAA requested a formal obstacle assessment must be done, however the EAP stated that the residential development will not exceed any of the Civil Aviation Regulations in terms of height and the proposed development will not pose a threat to air traffic in terms of any obstruction.

All the comments and issues raised by the respective Organs of State that were captured in the Basic Assessment Report were responded to by the EAP. The Competent Authority is satisfied with the responses from the EAP to the I&APs comments and concerns.

2. Alternatives

Mitigated Preferred Design Alternative (Alternative 1) – herein authorised.

The Mitigated Preferred Design Alternative entails the following:

- 41 x General Residential Zone 1 Erven, approximately 1.11ha in size.
- 1 x Transport Zone III Erven, approximately 0.99ha in size.
- 1 x Transport Zone II Erven, approximately 0.35ha in size.
- 1 x Utility Zone Erven, approximately, 0.03ha in size.
- 4 x Open Space II Erven, approximately, 3.56ha in size.

This alternative avoids highly sensitive areas such as the Valley Thicket containing protected tree species, plant species of conservation concern and fauna species of conservation concern. Furthermore, this alternative avoids the hydrological function zone with a 30m buffer area. In addition, this alternative also avoids development within areas that is suitable for the establishment of butterfly-friendly fynbos vegetation.

The Non-Mitigated Design Alternative (Alternative 2)

The Non-Mitigated Design Alternative entails the following:

- 14 x Single Residential Zone 1 Erven, approximately 1.44ha in size.
- 37 x General Residential Zone 1 Erven, approximately 0.83ha in size.
- 2 x Transport Zone III Erven, approximately 1.14ha in size.
- 1 x Transport Zone II Erven, approximately 0.35ha in size.
- 2.28 x Open Space II Ervan, approximately, 3.56ha in size

This alternative will result in permanent loss of highly sensitive thicket containing protected tree species. Furthermore, the specialist also indicated that an area suitable for the establishment of butterfly-friendly fynbos will be impacted on by this alternative.

“No-Go” Alternative

It is noted that the preferred property is earmarked by the Municipality for residential development and if the site is not developed within a designated urban edge there will be additional pressure on sites that fall outside of the urban edge which will then ultimately result in unwanted urban sprawl.

3. Impact Assessment and Mitigation Measures

3.1. Activity Need and Desirability

In terms of the “no-go” option, the site will not be developed and rights in line with site's current zoning may be developed, should it comply with all relevant legislation. Furthermore, this proposal is regarded as desirable because this development is unlikely to impact negatively on existing land use rights of neighbouring property owners. The development will not prevent any surrounding owner to exercise their legal land use rights. This Directorate has considered the timing and placing of this proposal as well and found it to be acceptable.

3.2. Integrated Development Plan (IDP)

The key pillars of sustainability of the Mossel Bay Municipality are social well-being, economic viability, and environmental integrity. This development is also in line with the key development priorities for Mossel Bay which is property development and bulk infrastructure development. The IDP highlights the following aspects: There has been change in the attitude of most residents, which shows a positive attitude towards growth. Growth is inevitable and the focus should be managing growth within urban areas, to protect what is important. Furthermore, the IDP recognises the need for property development in the Mossel Bay area, and the need for growth and development on vacant land within the urban edge. Therefore the proposal is in accordance with the proposals contained in the Mossel Bay Integrated Development plan for the period of 2022 to 2027.

3.3. Spatial Development Framework (SDF)

The Mossel Bay Municipality has identified towns which have high growth potential. The Mossel Bay area is one of the areas with high growth potential. This proposed site is within the study area of Mossel Bay Spatial Development Framework (2023) (“MSDF”). According to the MSDF the property is earmarked for urban development. This proposal allows for urban development, and therefore this Directorate is in agreement that the proposal is in line with the provisions of the MSDF.

3.4. Surface Water

According to relevant aerial-imagery (Cape Farm Mapper 2024), a non-perennial drainage line traverses RE/2833 and another non-perennial drainage line runs outside the southern boundary of RE/2833. According to the specialist, the non-perennial drainage line which transverses the property is not a natural watercourse given the lack of defined bed, bank and channel. In addition, there is also no evidence of standing water or that it accumulates along the area given the lack of hydrophilic plant species and seasonal, temporary or permanent soil saturation. It is also acknowledged as a low point in the landscape (valley) with natural drainage and therefore it serves a hydrological function that must be accommodated. The specialist delineated the valley and recommended a 30m buffer zone on either side of the lowest point along the valley bottom/watercourse. This buffer zone is included in the Mitigated Preferred Site Development Plan. This Directorate supports the implementation of a 30m buffer area which will be a conservation area.

3.5. Stormwater Management

Stormwater on the site will be managed according to Sustainable Drainage System (SUDS) principles as recommended by the aquatic specialist, which will be inclusive of the following: Source Controls: Reduce runoff by means of rainwater harvesting tanks which will collect and store water from building roofs. Emergency overflows will be included in the design to allow controlled discharge of water during major storms. Local controls – this will divert access water toward the existing grass lined stormwater channel which are currently situated on the erf. Reducing the hardened surface area of the development to a maximum of 60% will ensure that the post-development runoff generated is limited. With this proposed development the hardened area will be 18% which is much less than 60%. Therefore, this Directorate is satisfied that stormwater can be effectively managed on the proposed site.

3.6. Biodiversity Impacts

Botanical

According to the Western Cape Biodiversity Spatial Plan ("WCBSP") the majority of RE/2833 falls within a Critical Biodiversity Area ("CBA"). The south-eastern corner of the site is mapped as Forest CBA, (but the specialist study found that it is in fact Black Wattle invested valley vegetation) and the south-western corner of the site is mapped as an Ecological Support Area ("ESA"). A Site Sensitivity Verification ("SSV") was conducted by a SACNASP registered specialist and the outcome of the SSV required the initial proposal to be mitigated. The mitigated SDP indicated that the proposed development will not be within the highly sensitive thicket vegetation which contains protected tree species, and the mitigated SDP will only be in areas consisting of a stand of Black Wattle, Grass Dominated field & roadside bushes, Secondary Fynbos, Senescent Fynbos, and Black Wattle dominated Thicket. The proposal is within a CBA and cannot be avoided, however with the application of the mitigation hierarchy the initial layout was mitigated to avoid the impacts on the loss of highly sensitive thicket. Therefore, this specialist study concludes that the proposed mitigation measures will reduce the significance of impacts from Moderate to Minor.

Animal species

The screening tool identified the sensitivity for fauna as high sensitivity. However, the specialist also compiled a SSV map which indicated different areas to be low, medium and high sensitivity which also informed the mitigated SDP and mitigation measures which were included into the EMPr.

3.7. Archaeology

An Archaeological Impact Assessment (AIA) was undertaken, and the AIA stated that there is no significance of impact to the pre-colonial archaeological material that will require mitigation prior to construction. The probability of locating important archaeological remains on the steep hills/slope of RE/2833 and the significance rating is "Low".

3.8. Palaeontology

Based on the findings of a Desktop Paleontological Impact Assessment (PIA) which were conducted for the proposed development it was noted that the site should have a moderately sensitivity rating due to the formation on the site which consists of large to small well-rounded boulders which provides an indication that boulders have been transported some distance meaning they would be out of primary context and poorly preserved. According to the specialist there is a very small chance that fossils may occur in the underlying conglomerated of the Enon Formation. A Fossil Chance Find Protocol must be added to the EMPr. This Directorate is in agreement as the mitigation measure was included into the EMPr.

3.9. Socio/Economic Aspects

According to the information provided the socio-economic needs of the Mossel Bay Community are primarily jobs, housing and social facilities. The Mossel Bay area is experiencing a great influx of people and is therefore not sustainable because residential densities are too low. The proposed development is expected to contribute to the socio-economic value of Mossel Bay Municipality by creating temporary employment opportunities during the construction phase and will create permanent employment opportunities during the operational phase. In addition, financial sustainability for the local municipality will be improved with the additional rates and taxes that will be generated.

3.10. Other Impacts

No other impacts of significance are anticipated for the area that has been authorised in this Environmental Authorisation.

Considering the findings of the impact assessment and proposed mitigation measures to address the aforementioned impacts this Directorate is satisfied that the activity will not negatively impact on the receiving environment, subject to the strict implementation of the conditions of this EA and the mitigation measures contained in the EMPr.

4. Scope and Validity Period of authorisation

The applicant has indicated that the construction activities (non-operational aspects) should be completed within ten (10) years, by 30 September 2034. The validity period of the environmental authorisation has been granted for a period of ten (10) years from the date of issue, 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. 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.

5. National Environmental Management Act Principles

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

- a) the effects of decisions on all aspects of the environment to be taken into account;
- b) 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;
- c) the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- d) the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- e) the selection of the best practicable environmental option.

6. Conclusion

After consideration of the information and factors listed above, the Department made the following findings:

- (a) The identification and assessment of impacts that are detailed in the FBAR dated 21 May 2024 can be regarded as a sufficient assessment of the key identified issues and impacts.
- (b) The procedure followed for the impact assessment is considered adequate for the decision-making process.
- (c) The proposed mitigation of impacts identified and assessed, curtails the identified negative impacts.
- (d) The EMPr proposed mitigation measures for the pre-construction, construction and rehabilitation phases of the development and were included in the FBAR. The mitigation measures will be implemented to manage the identified environmental impact during the construction phase.

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 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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