

**REFERENCE:** 16/3/3/5/D6/29/0008/22  
**NEAS REF.:** WCP/EIA/AMEND/0000677/2022  
**DATE OF ISSUE:** 22 June 2023

## ADDENDUM TO ENVIRONMENTAL AUTHORISATION

**APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND PART 2 AND 4 OF CHAPTER 5 OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 FOR THE AMENDMENT OF THE APPEAL ENVIRONMENTAL AUTHORISATION ISSUED ON 18 AUGUST 2009 (REF 3/6/3) AND THE ENVIRONMENTAL MANAGEMENT PROGRAMME (DATED 8 MARCH 2008) FOR THE PROPOSED RESIDENTIAL DEVELOPMENT ON A PORTION OF THE FARM VAALE VALLEY 219, MOSSEL BAY – HARTLAND LIFESTYLE ESTATE**

With reference to your application for the abovementioned, find below the decision with respect to the application (submitted 21 October 2022) for the amendment to the Environmental Authorisation issued on 18 August 2009 (hereinafter referred to as an "Environmental Authorisation").

### A. DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998, as amended) and the Environmental Impact Assessment Regulations, 2014, ("EIA Regulations") the competent authority herewith—

- **grants in part**, the amendment of the Environmental Authorisation issued on 18 August 2009; whereas, the removal of the social housing node from the development proposal is refused.
- **refuses** the amendment of Condition 8.3 of the Environmental Authorisation issued on 18 August 2009 to allow kikuyu grass (*Pennisetum clandestinum*) to be included in the list of plant species in the OEMP that must be encouraged on the estate.
- **grants**, the removal of the impact management action of the Construction Phase Environmental Management Programme ("CEMP") dated March 2008 and the Operational Phase Environmental Management ("OEMP") dated June 2008 regarding the establishment of an Environmental Liaison Committee ("ELC"); and
- **refuses** the amendment to the impact management action and impact management outcome in the CEMP and OEMP related to Condition 8.3 of the Environmental Authorisation issued on 18 August 2009, regarding the addition of kikuyu grass (*Pennisetum clandestinum*) to the list of plant species that should be encouraged/permitted on the estate.

The Environmental Authorisation issued on 18 August 2009 and the EMPr (comprising of the CEMP and OEMP) are amended as set out below.

**1. The Environmental Authorisation issued on 18 August 2009 is amended as follows:**

- 1.1 The substitution in the Title and Section A of the Environmental Authorisation for the expression “Hartenbos Landgoed Phase 2” or “Hartenbos Landgoed” where it refers to the development on portion of the Farm Vaale Valley 219, Mossel Bay, for the following words—

***“Hartland Lifestyle Estate”***

- 1.2 Section A: Description of the Activity is substituted with the following:

*“The proposed development consists of a total of 2288 Residential units made up of single residential erven and general residential (including 150 Social Housing units), a 0.88ha Business Zone, 3.24ha Community Zone (consisting of a school and sports field) and an Open Space of 235ha (excluding the internal Open Spaces), which will be managed as a nature reserve, a road network and associated infrastructure services will be accommodated on the footprint.*

*The main access will be from through the New Vintage Development to the southwest of Hartland and the secondary access will be from the MR 344 through the culvert under the N2 National Road.*

*Water will be provided from the proposed new 15Ml reservoir that will supply both the proposed Hartland Lifestyle Estate and possible future developments in the area, in addition to a 5Ml reservoir and booster pump station.*

*Sewerage removal will be accommodated by means of a gravity sewer network in combination with sewage pump stations. The sewage will be pumped to a point near the north-western edge of the site from where it will gravitate and siphon to the Hartenbos Regional Sewage Treatment Works.”*

- 1.3 Section G: Condition 25 is substituted with the following:

*“25. The Holder must, for the period during which the environmental authorisation and EMPr (comprising of the CEMP and OEMP) remain valid, ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.”*

*25.1 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:*

*25.1.1 During the period which the activities have been commenced with on site until the construction of the bulk internal service infrastructure (i.e., internal roads; water-, sewer-, electricity reticulation and bulk*

storm water) has been completed on site, the Holder must undertake annual environmental audit(s) and submit the Environmental Audit Report(s) to the Competent Authority.

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

- 25.1.2 During the period the development of the residential phases (i.e., construction of top structures) is undertaken, the Holder must ensure that environmental audit(s) are performed regularly and submit these Environmental Audit Report(s) to the Competent Authority.

During this phase of the development, the frequency of the auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr may not exceed intervals of three (3) years.

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."

1.4 Section G: Condition 26 is substituted with the following:

"26. The Environmental Audit Report(s), must–

- 26.1 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 the EAP who managed the application or the EIA process.
- 26.2 provide verifiable findings, in a structured and systematic manner, on–
  - 26.2.1 the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
  - 26.2.2 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.
- 26.3 identify and assess any new impacts and risks as a result of undertaking the activity;
- 26.4 evaluate the effectiveness of the EMPr;
- 26.5 identify shortcomings in the EMPr;
- 26.6 identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;

- 26.7 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;
- 26.8 indicate the date on which the maintenance/ rehabilitation was commenced with and the progress of the rehabilitation;
- 26.9 include a photographic record of the site(s) applicable to the audit; and
- 26.10 be informed by the ECO reports.

**Note:** 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).  
The EMPr comprises of the CEMP and OEMP"

- 1.5 All other conditions contained in the Environmental Authorisation issued on 18 August 2009 (as amended) still remain unchanged and in force.

## **2. The EMPr (comprising of the CEMPr and OEMPr approved on 18 August 2009) is amended as set out below:**

- 2.1. The requirements of Condition 25 of the Environmental Authorisation as issued on 18 August 2009, which required the establishment of an Environmental Liaison Committee ("ELC") prior to the commencement of site preparation and construction activities; may be removed respectively from the CEMPr and OEMPr (as approved on 18 August 2009); and
- 2.2. The requirement relating to the submission of an Environmental Audit Report to the Department within 6 months after installation of the services of each phase that has been completed as contained in Condition 26 of the Environmental Authorisation as issued on 18 August 2009; must be amended to address the environmental auditing requirements of the Environmental Impact Assessment Regulation, 2014 and incorporate the changes to the conditions in Section G made in this Addendum to the Environmental Authorisation.

## **B. CONDITIONS**

- 1. The applicant must, in writing, within **14 (fourteen)** calendar days from the date of the Department's decision –
  - 1.1 notify all registered interested and affected parties registered in the previous EIA process of –
    - 1.1.1 the outcome of the application;
    - 1.1.2 the reasons for the decision;
    - 1.1.3 the date of the decision; and
    - 1.1.4 the date of issue of the decision;

- 1.2 draw the attention of all registered interested and affected parties registered in the previous EIA process to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 (as amended) in section D below;
  - 1.3 draw the attention of all registered interested and affected parties registered in the previous EIA process to the manner in which they may access the decision.
2. The holder of the environmental authorisation must within thirty (30) calendar days of the issue of this amendment decision, provide the competent authority with written proof of compliance with condition 1 above.
3. A new Site Development Plan ("SDP") must be submitted that includes the Social Housing units. This SDP must be submitted to this Department prior to the commencement of the new phases.
4. The amended CEMPr and OEMPr submitted with the Final Impact Report must be amended to incorporate the changes made in this Addendum to the Environmental Authorisation. The amended CEMPr and OEMPr must be submitted to this Department for approval prior to the commencement of the construction of the new phases.

## **C. 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](mailto:Zaahir.Toefy@westerncape.gov.za) and copied to:  
[DEADPEIAadmin.George@westerncape.gov.za](mailto:DEADPEIAadmin.George@westerncape.gov.za)  
[Gavin.Benjamin@westerncape.gov.za](mailto:Gavin.Benjamin@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](mailto:Zaahir.Toefy@westerncape.gov.za) and copied to:  
[DEADPEIAAdmin.George@westerncape.gov.za](mailto:DEADPEIAAdmin.George@westerncape.gov.za)  
[Gavin.Benjamin@westerncape.gov.za](mailto:Gavin.Benjamin@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 <http://www.westerncape.gov.za/eadp>.

## D. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this Addendum to the 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

**Zaahir  
Toefy**

Digitally signed by  
Zaahir Toefy  
Date: 2023.06.21  
18:52:36 +02'00'

**ZAAHIR TOEFY**

**DIRECTOR: DEVELOPMENT MANAGEMENT**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE OF DECISION: 21 JUNE 2023

### FOR OFFICIAL USE ONLY:

#### APPEAL ENVIRONMENTAL AUTHORISATION

REFERENCE NUMBER: 3/6/3 (HARTENBOS LANDGOED PHASE 2)  
DATE OF ISSUE: 18 AUGUST 2009

EA ADDENDUM #1 REFERENCE NUMBER: M3/6/5  
DATE OF ISSUE: 18 DECEMBER 2012

EA ADDENDUM #2 REFERENCE NUMBER: M3/6/5  
DATE OF ISSUE: 12 FEBRUARY 2018

EA ADDENDUM #3 REFERENCE NUMBER: 16/3/3/5/D6/29/0008/22  
NEAS REF.: WCP/EIA/AMEND/0000677/2022  
DATE OF ISSUE: THIS DECISION  
CASE OFFICER: MS. JESSICA CHRISTIE | [Jessica.Christie@westerncape.gov.za](mailto:Jessica.Christie@westerncape.gov.za)

## **ANNEXURE A: REASONS FOR THE DECISION**

In reaching its decision, the Department took, *inter alia*, the following into consideration:

- a) The information contained in the Application Form received on 21 October 2022, the Final Impact Report (FIR) and supporting documents submitted on 3 April 2023;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Need and Desirability;
- 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 Interested and Affected Parties (I&APs) and responses to these, included in the FIR received by this Department on 3 April 2023;
- e) The balancing of negative and positive impacts and proposed mitigation measures;
- f) All relevant information that was made available in the report to understand the environmental and spatial context.
- g) The site inspection that was undertaken by Ms. Jessica Christie and Mr. Francois Naudé on 2 August 2022.

All information presented to the Competent Authority was taken into account in the consideration of the application for the amendment of the 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 public participation process was undertaken according to a Public Participation Plan that was approved by this Department and the plan has satisfied the minimum requirements as prescribed in the EIA Regulation 2014 for public involvement.

The following Organs of State provided comment on the proposal during the Public Participation Process:

- WCG: Department of Agriculture
- CapeNature
- Department of Forestry, Fisheries and Environment – Forestry Section
- Breede Gouritz Catchment Management Agency
- Interested and Affected Parties ("I&APs):
  - Chairperson of Garden Route Stakeholders of Built Environment
  - Mr. Charl Moller (Consulting Engineer)

### **2. Key Factors Affecting the Decision**

- Layout alternative and densification of housing:

The proposed amendments will not increase the total development footprint of the estate, but the purpose is to re-align internal roads and increase the density of the houses. This proposed changes to the layout and density of the development, except for the



exclusion of the social housing node, are supported as this will improve the efficiency of the land use and promote the better utilisation of resources.

- Removing the requirement for a Social Housing node:

During the process to develop the property now known as Hartland Lifestyle Estate, the developer at the time entered into an agreement with the Mossel Bay Municipality to include 150 social housing units in the SDP to allow for the relocation of residents of Power Town. Due to the time delay in commencing with the development, the Mossel Bay Municipality developed a further phase to Sonskynvallei to provide residents an alternative to relocate from Power Town; however, many residents from Power Town did not wish to relocate. Since then, the developer and the Mossel Bay Municipality have reached a new agreement regarding the social housing node whereby the developer will provide a financial contribution to the Mossel Bay Municipality. It is written that this funding will be ringfenced by the municipality specifically for the development of municipal services for the Power Town community since the municipality has not yet decided on the way forward regarding the remaining residents of Power Town.

Notwithstanding this agreement, the application to remove the social housing units from the development is refused as the need for social housing / inclusionary housing in the development had not been refuted and the assessment had not addressed this aspect appropriately. It appears that the social housing had only been interpreted as a form of "low-cost housing" in the initial application for environmental authorisation. The Socio-Economic Compliance Statement only addressed the economic nature of the removal of the social housing for a single community and concluded that *"the removal of the 150 social housing units will not produce an adverse social / economic impact as alternative provisions have been made for the community in question"*, and it thereby failed to address the need for social housing and an integrated residential development in general. Providing social / inclusionary housing opportunities in high-value, well-resourced urban locations through private developments, is a mechanism to promote spatial transformation and seeks to offer an alternative to poor spatial choices facing middle to lower income households. It should not be seen as the development of low-cost housing alone, which in this application it was.

Therefore, this item / aspect was not removed from the proposed scope of the development. A condition has been set that a revised site development plan be submitted to the Competent Authority to demonstrate how a social housing component has been retained in the development.

- Refusal to amend Condition 8.3 of the Environmental Authorisation dated 18 August 2009:

Whereas condition 8 of said Environmental Authorisation requires that Chapter 12 of the Operational Management Plan must be expanded to include specific impact management actions related to biodiversity impact management outcomes on the estate, Condition 8.3 states: *"The list of plant species that should be encouraged must include all the locally occurring indigenous plant species, as well as kweek and buffalo*

grass". The latter refers to *Cynodon dactylon* (kweek grass) and *Bouteloua dactyloides* (buffalo grass).

In the application for the amendment of the Environmental Authorisation, it has been requested that Kikuyu grass (*Pennisetum clandestinum*) be added to the list in Condition 8.3 as one of plant species that are allowed to be introduced to / planted and therefore should be encouraged on the estate.

The Environmental Impact Report and supporting documentation has failed to demonstrate what the impact would be and how the relevant biodiversity impact management outcome(s) will be influenced. No reason or motivation besides that "it comes up naturally" has been given. There are specific impacts and impact management outcomes that were initially assessed, and which must be met.

Notwithstanding the above, *Pennisetum clandestinum* is classified as an alien invasive plant species. Even though a person may not be required to obtain a specific permit in terms of the provisions of the National Environmental Management: Biodiversity Act, 2004 (as amended) to allow such a person to grow or allow the spread of any specimen of this plant on the site, since this is a recognised alien invasive plant species any impacts on biodiversity within the site must be avoided. The impact report fails to clearly address the advantages and disadvantages associated with the proposed change; the measures to ensure avoidance, management and mitigation of impacts associated with such proposed change; and which changes to the EMPr are required. The reasons provided do not justify the loss or risk of loss of biodiversity or the degradation to the environment. This decision is further supported by the principles as set out in Section 2 of the National Environmental Management Act, 1998 (as amended ("NEMA")).

- Refusal to amend the impact management outcome in the CEMPr and OEMPr related to the introduction of kikuyu grass (*Pennisetum clandestinum*).

The abovementioned reasons to refuse the amendment of Condition 8.3 consequently inform the decision to refuse the application to amend the EMPr to include kikuyu grass.

In light of this decision, the EMPr should in fact be amended to include *Pennisetum clandestinum* on the list of plant species which must not be planted or permitted in the estate. Condition 8.2 of the Environmental Authorisation issued on 18 August 2009 has reference in this regard.

- Amendment of Condition 25 of the Environmental Authorisation:

Condition 25 of the Environmental Authorisation required the establishment of an Environmental Liaison Committee ("ELC") prior to the commencement of site preparation and construction. It is noted that the developer placed an advert to invite participants to join the ELC and a Terms of Reference ("TOR") was submitted to this Department for approval, nonetheless, the establishment of the ELC did not occur.

This Department is satisfied that an Environmental Control Officer (“ECO”) was appointed to monitor compliance with the Environmental Authorisation and EMPr in accordance with the agreed frequency. The establishment of the ELC only at this point in the development of the estate is regarded unnecessary and the presence of an established estate homeowners’ association can support the role and responsibility of the ECO. The omission of the requirement to establish and maintain an ELC is regarded to be acceptable.

- **Amendment of Condition 26 of the Environmental Authorisation:**

Condition 26 required the Holder of the Environmental Authorisation to submit an Environmental Audit Report to the Department within 6 months after installation of the services of each phase that has been completed.

The changes to Condition 25 and 26 are regarded to comply with the environmental auditing requirements stipulated in the Environmental Impact Assessment Regulations, 2014 (as amended) and the changes will adequately address the auditing frequency and reporting requirements for the estate development.

It must be acknowledged that the EAP revised the CEMPr and OEMPr to bring the document in line with Appendix 4 of the Environmental Impact Assessment Regulations 2014, however, it has not been approved as the document does not comply with Appendix 4 of the EIA Regulations 2014 and the abovementioned refusal to allow kikuyu to be planted, amongst other aspects are still contained within the EMPr.

### **3. 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;
- sensitive, vulnerable, highly dynamic or stressed ecosystems to receive specific attention in the management and planning procedures;
- the prevention of the disturbance of ecosystems and loss of biological diversity, or, where this cannot be altogether avoided, that the disturbance or losses are minimised and remedied;
- 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.

#### 4. Conclusion

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

- (a) The identification and assessment of impacts associated with the proposed changes to the Environmental Authorisation and EMPr are detailed in the Final Impact Report (FIR) and supporting documents submitted on 3 April 2023.
- (b) The procedure followed for the impact reporting is adequate for the decision-making process.

Due consideration is also given to the person's duty of care described in Section 28 of NEMA:

*"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment".*

In view of the above, the NEMA principles, compliance with the conditions stipulated in the Environmental Authorisation (as amended), 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.

----- **END** -----




Ministry of Local Government, Environmental Affairs and Development Planning  
 Ministerie van Plaaslike Regering, Omgewingsake en Ontwikkelingsbeplanning  
 AbaPhathiswa bakaRhulumente womMandla, bemCimbi esiNgqongileyo noCwangciso loPhuhliso

3/6/3

REGISTERED MAIL

DATE OF ISSUE 18 AUG 2009

Mr J C Janse van Rensburg  
 Director  
 Hartenbos Landgoed  
 17 Penz Drive  
 Flamingo Vlei  
 BLOUBERG  
 7441

**FAX** TO: MR J SHARPLES  
 COMPANY: \_\_\_\_\_ PAGE: \_\_\_\_\_ OF: \_\_\_\_\_  
 FAX NO: 044/ 874 5953 DATE: 18/8/09  
 FROM: JAAP DE VILLIERS  
 COMPANY: \_\_\_\_\_ PHONE NO: 021 483 3721  
 FAX NO: \_\_\_\_\_  FAX PAD 7551

Dear Mr Janse van Rensburg

Tel : 083 790 1234  
 Fax: 044 878 1449

APPLICATION: PROPOSED RESIDENTIAL DEVELOPMENT ON A PORTION OF THE  
 FARM VAAL VALLEY 219, MOSSEL BAY (HARTENBOS LANDGOED  
 PHASE 2)

The appeals against the Record of Decision regarding the above, refers.

After careful consideration of the appeals, as well as supporting documentation received, I have decided to vary the decision. Please find below the varied Record of Decision in respect of this application.

## RECORD OF DECISION

### A. DESCRIPTION OF ACTIVITY:

The proposed development consists of 1265 residential erven (zoned Residential I), five townhouse erven (zoned Residential III that includes 150 Social housing units, a multi-purpose community centre and a  $\pm 300\text{m}^2$  split zoned Business II site located on Ptn. 1302), an open space network and recreation area (zoned Open Space II) and a  $\pm 3500\text{m}^2$  split zoned Business II site (located on Ptn. 1306), a road network and associated infrastructure services on the footprint as indicated on the layout plan HB/C/204/9 by Nel & De Kock dated February 2009. The remainder of the property will be managed as a nature reserve.

Access will be from Main Road 344 through the culvert under the N2 national road, which will be upgraded to four lanes. A second access will be provided to the south along the existing dirt track to Hartenbos landgoed Phase 1. This road will be upgraded to two lanes and will have a paved/tarred surface.

Water will be provided from the proposed new 15Ml reservoir that will supply both the proposed Hartenbos Landgoed and possible future developments in the area. (See drawing M1607/002A dated 24 June 2008). A 5Ml reservoir and booster pump station is proposed for construction on Erf 1313 of Plan No. HB/C/204/9 as part of this application. (See drawing M1607/002B dated 24 June 2008).

Sewerage removal will be accommodated by means of a gravity sewer network in combination with sewage pump stations. From pump station PS01 on Erf 1308 next to the N2 national road, the sewage will be pumped to a point near Erf 1 from where it will gravitate and siphon to the Hartenbos Regional Sewage Treatment Works. (See drawing Number M1607/001 dated 24 June for the bulk sewer layout.)

These are activities identified in Schedule 1 of Government Notice No. R1182 of 5 September 1997, as amended, being:

Item 1(c): The construction, erection or upgrading of – with regard to any substance which is dangerous or hazardous and is controlled by national legislation – (i) infrastructure, excluding road and rail, for the transportation of any such substance; and (ii) manufacturing, storage, handling, treatment or processing facilities for any such substance;

Item 1(d): The construction, erection or upgrading of roads, railways, airfields and associated structures;

Item 1(k): The construction, erection or upgrading of reservoirs for public water supply;

Item 1 (m): The construction, erection or upgrading of public and private resorts and associated infrastructure;

Item 1(n): The construction or upgrading of sewage treatment plants and associated infrastructure;

Item 2(c): The change of land use from agricultural or zoned undetermined use or an equivalent zoning to any other land use;

Item 10: The cultivation or any use of virgin land;

hereinafter referred to as "the activity".

## **B. LOCATION:**

The proposed development will occur on Portion 11 of Farm Vaale Valley No. 219, Hartenbos, is located between the towns of Hartenbos in the southwest and Klein Brak River in the Northeast and between the railway line which runs along the coastline in the southeast and the N2 National Road in the North-West. A locality map is included as Figure 1 in the Vegetation and Vertebrate Fauna Sensitivity Analysis by Conservation Management Services dated June 2005, which is attached to the application form. The above-mentioned portion of the farm Vaale Valley 219, hereinafter referred to as "the property", is approximately 370ha in extent.

Co-ordinates: 34° 06' 4.23" South & 22° 07' 38.57" East

**C. APPLICANT:**

Hartenbos Landgoed (Pty) Ltd.

c/o Mr W. van Rensburg

3 Bell House

Westlake Business Park

STEENBERG

7947

Tel: 083 790 1234

Fax: 044 878 1449

**D. CONSULTANT:**

Sharples Environmental Services cc

c/o Mr J Sharples

PO Box 9087

George

6530

Tel: 044 873 4923

Fax: 044 874 5953

**E. SITE VISIT(S):**

Date: 11 December 2008

Persons Present: Messrs Y Atwaru, N. Lambrechts and D Swanepoel of the Department of Environmental Affairs & Development Planning ("DEA&DP")

**F. DECISION:**

In terms of Sections 22 and by virtue of powers delegated by the Minister in terms of Sections 28 & 33 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), I, Minister of Local Government, Environmental Affairs and Development Planning, hereby grant **authorisation with the conditions** contained in this Record of Decision, for the execution of the activity described above.

In terms of Sections 22 and by virtue of powers delegated by the Minister in terms of Sections 28 & 33 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), I, Minister of Local Government, Environmental Affairs and Development Planning hereby **refuse authorisation** for the execution of the following:

- The creation of the erven 1019 to 1053 indicated on the layout plan HB/C/204/9 by Nel & De Kock dated February 2009; and
- The two parking areas for 50 and 70 cars.

This Authorisation has been granted in terms of section 22 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) solely for the purposes of undertaking the activity referred to above, and does not exempt the holder thereof from compliance with any other relevant legislation.

**G. CONDITIONS OF AUTHORISATION:**

1. One week's notice, in writing, must be given to the Department, before commencement of construction activities.

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

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

Conditions: 7, 8, 23, 25 & 27

2. An integrated waste management approach must be used that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 of the Environment Conservation Act, 1989 (Act No. 73 of 1989). A system of waste separation at source must be implemented and the separated waste must be regularly transported to the various recycling companies.
3. The mitigation/rehabilitation measures and recommendations as detailed in the Environmental Impact Report dated 5 September 2008 compiled by Sharples Environmental Services, must be adopted and implemented.
4. The recommendations made in the Vegetation and Vertebrate Fauna Sensitivity Analysis dated June 2005 by Conservation Management Services must be implemented.
5. The recommendations included in the report by MAPCARM cc dated 28 September 2005 must be implemented. Permits as stipulated in the aforementioned report must be obtained from Heritage Western Cape (HWC) before commencement of each development phase.
6. No new roads may be made within the nature area. No parking for visitors to the beach may be made in the nature area. Parking can be provided on the transformed areas as indicated on the vegetation sensitivity map (Figure 3 of the Vegetation and Vertebrate Fauna Sensitivity Analysis dated June 2005) or within the disturbed area on Hartenbos Landgoed Phase I. Existing roads or tracks that are required for the management of the nature area may be retained. All other roads that are not required for management must be rehabilitated. A system of hiking trails through the nature area may be established in accordance with the Operational phase environmental management plan.
7. A Fire Management Programme must be developed before any construction commences, except for the construction of the proposed Social Housing development. The Fire Management Programme must be approved by CapeNature as well as the Mossel Bay Fire Chief and the Eden Fire Chief.
8. Chapter 12 of the Operational Management Plan must be expanded to include amongst others the following:
  - ✓ 8.1 No cats may be allowed on the estate.
  - ✓ 8.2 The list of plant species which may not be planted must also include Pine trees, Monkey puzzle trees, palm trees or any other exotic tree species with a growth form which is unlike the growth form of the locally indigenous vegetation and which may dominate the landscape.
  - ✓ 8.3 The list of plant species that should be encouraged must include all the locally occurring indigenous plant species, as well as kweek grass and buffalo grass for lawns.



9. A property Owners Association must be established to which all property owners on Hartenbos Landgoed must belong. Each member of the POA must sign acceptance of the POA management plan / rules and regulations and operational phase Environmental Management Plan which they will abide to.
10. The applicant must approach CapeNature with a request to enter into some form of agreement or contract in terms of CapeNature's Stewardship Programme.
11. All invasive alien vegetation must be cleared from the site. The initial clearing of all alien invasive vegetation must take place within 24 months after commencement of construction work. Follow up clearing of invasive alien plants must be done annually.
12. The area with natural vegetation must be managed as a nature reserve according to a management plan approved by CapeNature.
13. With reference to layout plan no. HB/C/204/9 dated February 2009, the following erven must be removed from the proposed development: 1019 to 1053 and the two parking areas for 50 and 70 cars. These areas are to be included in the open space network.
- 13.1 An amended layout plan depicting these changes must be submitted to the Department for approval prior to commencement of construction activities. *clear*
14. Only single storey dwellings (6m height restriction from natural ground level) must be constructed on the following erven indicated on layout plan NB/C/204/9 dated February 2009: 1 & 2; 84 to 88; 89 to 107; 523 to 540; 528 to 544; 880 to 887; 1054 to 1087; 1287 to 1290; 1009 to 1018; 1253 to 1269; 1245 to 1247; 1284 to 1300; 1226 to 1228; 545 to 611; 656 to 681; 643 to 655 and 548 to 567.
15. A fire break or buffer of at least 10m must be maintained between erf boundaries and the existing edge of the natural vegetation. All buildings must be set back at least 10m from the edge of the natural vegetation. This 10m buffer must not be bulldozed but the grass in this area must be regularly cut. A 20m buffer must be provided for all erven located closest to the N2 highway. This buffer may also serve as an access for fire fighting vehicles.
16. The following Resource Conservation Measures must be implemented:
  - 16.1 Rainwater from roofs must be collected and stored in rainwater tanks. No taps linked to piped, potable water may be installed outside buildings. Any water used in gardens or outside buildings must only be collected rainwater.
  - 16.2 All buildings must be fitted with water saving devices such as low flow showerheads and double flush toilets.
  - 16.3 All residential dwellings must be fitted with and use solar hot water systems.
17. A Storm water management plan must be prepared and approved by the Mossel Bay Municipality. Hard surfaces must be limited or reduced where possible. Measures must be implemented to slow down the flow of storm water, such as artificial wetlands and swales, which will also assist in filtering storm water, dissipating energy and increasing infiltration of storm water, thereby reducing storm water and replenishing groundwater. Storm water may not be allowed to run down the steep slopes on the north-eastern boundary towards the Kleinbrak River.
18. No buildings are allowed on slopes of 1:4 and steeper.
19. Permits must be obtained from the Department of Water Affairs and Forestry before any protected tree species (including Milkwood trees, *Sideroxylon inerme*) or forest may be disturbed, pruned or damaged in any way.
20. The existing indigenous hedgerows on the property must be retained.

21. The Guidelines contained in the Economic Impact Assessment Report by Urban-Econ must be implemented. Preference must be given to local labour. The applicant must provide ample opportunity for training and skills transfer.
22. Bulk earthworks and excavations must be monitored by a professional archaeologist. Should any heritage remains be exposed during excavations, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)). Heritage remains uncovered or disturbed during earthworks must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape.
  - 22.1 If any archaeological remains (including but not limited to fossil bones and fossil shells, coins, indigenous and/or colonial ceramics, any articles of value or antiquity, marine shell heaps, stone artefacts and bone remains, structures and other built features, rock art and rock engravings) are discovered during construction they must immediately be reported to Heritage Western Cape and must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape.
  - 22.3 If any graves or unmarked human burials are discovered, or any human remains be disturbed, exposed or uncovered during excavations and earthworks, they must be treated with respect and SAHRA must be notified immediately and must not be disturbed further until the necessary approval has been obtained from SAHRA. An archaeologist must be contracted to remove the remains at the expense of the developer.
- ✓ 23. The applicant must appoint a suitably experienced Environment Control Officer before commencement of any land clearing or construction activities to ensure that the mitigation/rehabilitation measures and recommendations referred to in this Record of Decision are implemented and to ensure compliance with the provisions of the construction phase EMP.
24. The Construction Phase Environmental Management Plan for the proposed development dated March 2008 and the Operational Phase Environmental Management Plan for the proposed development dated June 2008 by Sharples Environmental Services must be implemented. Any amendments to the environmental management plans must be submitted to the Department for approval.
- \* 25. An Environmental Liaison Committee ("ELC") must be established at the cost of the Applicant, prior to commencement of site preparation and construction.
  - 25.1 The applicant must draw up the ELC's draft terms of reference ("TOR") or draft constitution and submit it to the Department. This must be approved by the Department prior to any land clearing or construction commencing.
  - 25.2 The TOR must include but is not limited to the following:
    - 25.2.1 the frequency of meetings and reports
    - 25.2.2 chairmanship/membership
    - 25.3.3 auditing requirements
    - 25.2.4 duties and responsibilities during the construction phase
    - 25.2.5 the termination of such ELC
    - 25.2.6 the frequency of providing feedback to the local community.
26. The applicant must submit an Environmental Audit Report, ("audit report") to this Department within six months after installation of the services of each phase has been completed.

- 26.1 The audit report must indicate the date on which the construction was completed, and detail compliance with the conditions of this authorisation, and the status of the rehabilitation programme.
- 26.2 The Department may require remedial action should the audit report reflect that rehabilitation is inadequate.
- 26.3 If the audit report is not submitted, the Department may give 30 days written notice and may have such an audit undertaken at the expense of the applicant and may authorise any person to take such measures necessary for this purpose.
27. All outdoor advertising associated with this activity, whether on or off the property concerned, must comply with the applicable Local Authority By-Law for the control of Outdoor Advertising or in the absence of local legislative controls, must comply with the South African Manual for Outdoor Advertising Control (SAMOAC) available from:  
  
The Director: Environmental Impact Management  
Department of Environmental Affairs and Tourism  
Private Bag X447  
Pretoria  
0001.
28. The applicant shall be responsible for ensuring compliance with the conditions contained in the Record of Decision by any person acting on his behalf, including but not limited to, an agent, servant, employee or any person rendering a service to the applicant in respect of the activity, including but not limited to contractors and consultants.
29. The owner and/or developer must notify this Department and any other relevant authority, in writing, within 24 hours thereof if any condition of this authorisation is not adhered to.
30. Departmental officials shall be given access to the property referred to in B above for the purpose of assessing and/or monitoring compliance with the conditions contained in this Record of Decision, at all reasonable times.

#### **H. RECOMMENDATIONS:**

The relevant authority recommends that:

The Architectural Guidelines proposed for the development limit architectural styles to only one style. It is suggested that a local vernacular style is the most appropriate in view of the place-specific approach to planning, design and management of the natural and human-made environment and guiding principles of 'critical regionalism' described in the Bioregional Planning Framework for the Western Cape Province, October 2000.

#### **I. KEY FACTORS AFFECTING THE DECISION:**

As an introduction to the key factors affecting this decision, the applicant is respectfully reminded of the principles of the National Environmental Management Act ("the NEMA" Act 107 of 1998) which apply throughout the Republic to the actions of all organs of state that may significantly affect the environment. These principles serve as guidelines by reference to which any organ of state must exercise any function when taking any decision in terms of this Act or any statutory provision concerning the protection of the environment.

The NEMA principles state that sustainable development requires the consideration of all relevant factors including, amongst others, the following:

- i. That the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
- ii. that the disturbance of landscapes and sites that constitute the nation's cultural heritage is avoided, or where it cannot be altogether avoided, is minimised and remedied;
- iii. that a risk averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions; and
- iv. that negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied.

#### **Biophysical environment:**

A Vegetation and Vertebrate Sensitivity Study dated June 2005 was conducted by Conservation Management Services. The report concludes that the broad vegetation type of the study area, Herbertsdale Renoster Thicket (HRT) is classed in the STEP project as highly threatened. Much of the HRT has been transformed with only 16.2% of the original Herbertsdale Renoster Thicket remaining. Only 1.14% remains in good condition. In addition to the overall threatened condition of the HRT, the vegetation of the study area is particularly sensitive in that it contains 3 Red Data Species, 10 limestone fynbos-endemic species, one of which is only known from the study area and another from only one other site nearby. Ten of the birds that are likely to occur on the study area are classified in the Red Data Book as endangered, vulnerable or near-threatened and ten of the mammals predicted to occur on site are also listed as Red Data species. The application area is clearly sensitive to any kind of disturbance that may reduce the ecological integrity of the HRT or threaten any of the Red Data listed or endemic biota. Approximately half of the area under study for this application has been transformed by cultivation. On-site connections between the differing habitats within the HRT are critical and should also not be jeopardized by fragmentation of any kind. The natural vegetation of the study area is one of the last remaining larger patches of intact coastal vegetation on the south coast area. It is thus a valuable area for the conservation of the local vegetation and animal biodiversity and should thus be retained intact and effectively managed as a conservation area. Accordingly, the development footprint is restricted to largely disturbed and transformed areas which have a low level of species diversity and no species of concern as transformed areas have lost inherent their ecological functioning and is of a low conservation status.

In terms of fire ecology although the assessment undertaken by Mr Nigel Wessels of Synecology cc determined that a 10m building line set back from the fringe of the natural vegetation as an appropriate distance for both the execution of controlled ecological fires as well the control of wildfires. Accordingly, a condition to impose this requirement has been included in this Record of Decision to address this issue except for erven located closest to the N2 highway where a 20m buffer will be applicable.

#### **Cultural historic:**

A Heritage Impact Assessment was done by Dr P Nillsen. The study revealed that numerous archaeological and heritage resources occur on the property and that d Development will certainly have a negative impact on these resources unless mitigation measures are employed. Identified materials range in age from Early Stone Age (ESA) through Middle Stone Age (MSA), Later Stone Age (LSA) and pottery/pastoralist period to historic times. Heritage Western Cape has stated in a letter dated 6 June 2008 that in terms of Section 38 of the Heritage Resources Act, 1999, the application is endorsed as follows:

- That no further assessments are required as the nature of the proposed development and contextual analysis reveals that the development does not warrant such action.
- The development may proceed and all other approvals must be handled by the local municipality.
- If any archaeological material is discovered during earth moving activities all works must be stopped and HWC must be notified immediately and the necessary permits obtained.

This is in accordance with the mitigation measures proposed in the Heritage Impact Assessment.

**Social:**

The proposed development includes a social housing component of approximately 5.31ha in extent on which approximately 150 Townhouse units will be built. The applicant has agreed to the relocation of the Power Town community from the flood plain of the Klein Brak River to a site on the proposed development (i.e. Ptn. 1302 as indicated on the layout plan HB/C/204/9 dated February 2009. In addition to social housing a multi-purpose hall which can be used as a community hall for 150 families, and a church on the weekend and a crèche during the week. There will also be a small kiosk supplying the basic necessities for sale and an open space area for sport facilities.

**Economic:**

An Economic Impact Assessment was done by Urban-Econ. The report concluded that the Mossel Bay Municipal Area community can improve its ability to take advantage of the opportunities created by the proposed development by acquiring scarce skills (particularly those that are likely to be demanded by the proposed development) and expanding the breadth of skills available in the Mossel Bay Municipal area. There are two strategies that can assist the local community (and particular the poorer communities) in order to benefit more from the proposed development, namely: Training and the employment of local labour. The report has provided guidelines which will enable the developers to understand their skills demand and supply factors and where skills training can be done. These guidelines provide a broad description of ways in which possible negative impacts can be minimised to ensure maximised benefit from the proposed development. The report concluded that the proposed development will in terms of the impact on the economy result in medium to high positive impact on both the local and regional economy of Mossel Bay.

**Visual impact:**

A Visual Impact Assessment for the proposed development dated August 2008 was prepared by Visual Resource Management Africa cc. The assessment found that the various layout alternatives did not meet the visual management objectives due to the location and massing of structures in areas which have a high regional prominence and visual significance and which are prone to high levels of contrast created by skyline development. The study found that the existing character of the landscape would be permanently altered with little scope to reduce long term visual impacts by means of mitigation. Due to the nature of the development, the existing character of the landscape would be changed altering the sense of place which would be detrimental to the landscape character of this section of the Garden Route. VRM Africa further found that the site is suitable for development, but that the layout should be modified to take into account the landscape character and sense of place. This could be achieved by the particular placement of structures in specific locations and retaining and enhancing the sense of place of the property. The Assessment was based on the objective of achieving the Best Practicable Environmental Option (BPEO) and proposed a revised development area to ensure the long term protection of important scenic resources and heritage sites, the minimisation of visual intrusion in scenic areas, the retention of wilderness or special areas as far as possible and a responsiveness to the area's uniqueness, or sense of place.

The Best Practicable Environmental Option that was forthcoming out of the visual impact assessment and the impacts associated with this alternative such as biophysical, social and economic impacts has not been assessed by the various specialists. The environmental consultant, Sharples Environmental Services cc did not believe it necessary to further assess this alternative as it will not be viable for the applicant. The applicant was requested to identify and describe a viable alternative which takes the recommendations of the VIA into account. In response, the applicant appointed Mr Alan Cave of Cave Klapwijk & Associates to

comment on the VIA by VRM Africa and to present a proposal to indicate how visual mitigation could be applied to the proposed layout plan for the proposed development. Mr Cave's interpretation of the findings differs from the interpretation of the findings of VRM Africa. Mr Cave has made recommendations as to how the layout can be altered to ensure that the findings of the VIA mould the layout into a layout of which the significance of the visual change on the receiving environment can be considered to be low. He goes on to note that "In context therefore while the visual impact is high the significance of the impact is considered to be low in the immediate and longer term". An amended layout, Plan No. HB/C/204/9 was submitted. Red-I has done 3D modelling of the amended layout. It is evident that buildings will be visible on the skyline as seen from the Klein Brak and the N2 national road. As a result conditions have been included in an attempt to avoid skyline development, especially as seen from Kleinbrak River.

The Department was presented with the interpretations of two visual specialists that differ from each other. It is unfortunate that there was no communication between the two specialists. It is also unfortunate that there is no time to have the VIA by VRM Africa and the report by Cave Klapwijk & Associates reviewed by a mutually agreed to independent specialist. Under the circumstances I have included recommendations of both specialists in the conditions of approval.

**Policy: Regional/planning context:**

The Mossel Bay / Riversdale Subregional Structure Plan has been amended on 5 March 2008 from Agricultural use to Urban development to allow for the proposed development on Portion 11 of the farm Vaale Valley 219, Hartenbos.

**Service impacts of the activity:**

Water will be provided from the proposed new 15Ml reservoir that will supply both the proposed Hartenbos Landgoed and possible future developments in the area. (See drawing M1607/002A dated 24 June 2008). The proposed reservoir is handled in a separate EIA process. In addition, it is proposed that a 5Ml reservoir and booster pump station will be constructed on Erf 1313 of Plan No HB/C/204/9. (See also drawing M1607/002B dated 24 June 2008), should the 15 Ml not be available by the time construction of this development commences.

In November 2007 the Department of Water Affairs and Forestry granted the Mossel Bay Municipalities request for a Section 33 declaration in order to enable the Mossel Bay Municipality to use an additional 2.8Mm<sup>3</sup> of water per year from the Wolwedans dam. In a letter dated 14 August 2007 the Mossel Bay Municipality confirmed that it can supply bulk services including sufficient volumes of potable water for an approximately 1700 unit residential development on the farm Vaale Valley 219. Mossel Bay Municipality has reconfirmed in a letter dated 6 June 2008 that they can provide 1835kl water per day for the proposed development.

The Mossel Bay Municipality confirmed in a letter dated 27 September 2004 that there is sufficient capacity at the Hartenbos Regional Waste Water Treatment Works to accept the estimated 1600kl sewage / day from the proposed development. In a letter dated 6 June 2006 the Mossel Bay Municipality confirmed that they can accept 1567 kl/day of sewage from the proposed development.

The Mossel Bay Municipality has confirmed in a letter dated 1 July 2009 that sufficient electrical supply capacity will be available at the Sionskynvallei 66/11kV substation to cater for the projected load growth at Hartenbos Landgoed, during period 2008 to 2012.

Traffic Impact Studies was done by VelaVKE, dated January 2006 and July 2008. The 2006 report concluded that the proposed development will have an impact on traffic volumes on the Main Road 344 between the access road and Louis Fourie Road. The 2008 Report

recommends the upgrade of a number of intersections in the area with the addition of lanes and traffic signals. The following additional requirements were also identified:

- Provision of two off-street transport stops at key intersections along MR344.
- Provision of a pedestrian walkway on one side of MR344 from TR33/1 (Oudtshoorn – Hartenbos Road) to the main access of the proposed development from MR344.

The South African National Roads Agency Limited (SANRAL) has accepted the Traffic Impact Assessment.

#### **Alternatives:**

The original layout proposal (Plan No. HB/C/204/1 dated 5 July 2005) included the following:

- 1057 Residential Zone 1 erven;
- 1 Residential Zone II Group Housing Erf;
- 2 Residential Zone III Town Housing erven;
- 106 Resort Zone II units (the 'Bush Units')
- A recreational area; as well as
- Private open space and roads.

An Alternative Layout 1, was formulated, incorporating recommendations from various interested and affected parties (I&APs) and relevant stakeholders regarding the original layout and potential impacts associated therewith. As part of this alternative, the applicant proposed to relocate the current informal settlement of Power Town in order to accommodate these residents on the property. This layout Plan No. HB/C/204/3 dated November 2006) includes:

- 1151 Residential Zone I dwellings;
- 100 Residential Zone II Group Housing Erven (the "Bush Units");
- 2 Residential Zone III Town Housing erven;
- 1 Residential Zone IV Flat Apartment erf (site for Power Town);
- A recreational area; and
- Open Space and roads.

Alternative layout 2 has taken the conditions of the Guide Plan Amendment Issued on 5 March 2008 into account. (See Plan No. HB/C/204/8 dated August 2008.) Alternative layout 2, which is the applicant's preferred alternative, entails the following:

- 1376 Residential Zone I dwellings;
- 3 Residential Zone III Town Housing erven with a total coverage of 10.4ha;
- A recreational area, as well as
- Private Open Space and roads.

In terms of VRM Visual Impact Assessment, the Best Practicable Environmental Option was proposed, taking into account the recommendations and mitigation measures as set out in the Visual Impact Assessment. The environmental consultant stated that this alternative is not viable for the applicant and an amended version of Layout 2 was submitted, based on the recommendations another assessment undertaken by Mr Cave of Cave Klapwijk & Associates, as Plan No. HB/C/204/9, dated February 2009. I have considered the two visual assessment and authorised a proposed development area that excludes erven 1019 to 1053 (a total of 34 erven) and the two parking areas for 50 and 70 cars, taking into consideration the recommendations of the two visual impact assessments.

The no-go alternative (status quo) was also described.

#### **Public Participation:**

The public participation process identified a number of issues discussed above. There were no major public opposition against the proposed development. Issue raised were adequately assessed and mitigation measures are proposed as conditions of this Record of Decision.

The assistant District Roads Engineer has indicated that the scope of the development will require a Traffic Impact Assessment (TIA). The District Roads Engineer has not commented on the TIA. SANRAL has accepted the findings of the TIA.

The Provincial Department of Health has no objection to the proposed development subject to various conditions contained in their letter dated 26 August 2005.

The Department of Agriculture: Western Cape supports the change of land use of portion B of Remainder of Farm Vaale Valley 219.

Mr Horowitz of Transnet stated in a letter dated 11 November 2008 that Transnet had no objection to the proposed development.

CapeNature has raised a number of issues during the scoping process. In an e-mail of 13 February 2009, Dr Roets of CN has indicated that they have not received a copy of the final Environmental Impact Report. However, he has voiced his concern over the position of the proposed parking areas, especially in light of climate change and sea level rise.

#### **Meetings held:**

There were a number of meetings between the applicant, the Mayor of Mossel Bay Municipality, officials of Mossel Bay Municipality, the Department of Local Government and Housing and the Department of Environmental Affairs and Development Planning, amongst others on 24 April 2008, 2 October 2008 and 11 December 2008.

#### **Reasons for the refusal of certain components**

The proposed residential erven that are excised from the development as a result of the visual assessments undertaken. In terms of VRM Visual Impact Assessment, the Best Practicable Environmental Option was proposed, taking into account the recommendations and mitigation measures as set out in the Visual Impact Assessment. The environmental consultant stated that this alternative is not viable for the applicant and an amended version of Layout 2 was submitted, based on the recommendations another assessment undertaken by Mr Cave of Cave Klapwijk & Associates, as Plan No. HB/C/204/9, dated February 2009. I have considered the two visual assessments and authorised a proposed development area that excludes erven 1019 to 1053 and the two parking areas for 50 and 70 cars, taking into consideration the recommendations of the two visual impact assessments. In addition, I have placed height restrictions on numerous erven to further mitigate against the visual impact.

Furthermore, the biophysical impacts of the two parking areas located close to the beach for 50 and 70 cars with their associated access roads along existing tracks have been assessed. These access routes would cross the natural vegetation which forms a critical corridor which should not be compromised by fragmentation. According Synecology cc, who undertook a vegetation assessment the upgrading and intensified use of the existing roads that lead down to behind the primary dunes where parking areas are proposed, will have a negligible significance in terms of biota and ecological corridor functionality and the proposed parking areas if kept elementary with minimal clearing of vegetation will also not represent a significant impact at botanical level. However, in spite of Synecology's statements, CapeNature has indicated that they are concerned about the positioning of the proposed parking areas. Furthermore, the study by Conservation Management Services concluded, "The natural vegetation of the study area forms a critical corridor between the Klein Brak and Hartenbos River estuaries and river systems which should not be compromised by any kind of fragmentation. The Visual Impact Assessment of VRM Africa states, "The beach area



between the two rivers is one of the last remaining remote beach areas in this section of the Garden Route. In this regard it is recommended that this area should not be utilised as a high usage beach access point as the accumulative impacts associated with opening this area up as a beach node would radically undermine the visual significance of this area. Access along the road to the beach needs to be restricted and the route should remain a single lane with lay-bys. It is recommended that a beach parking areas for vehicles should be avoided as the accumulative visual impacts could potentially jeopardise this highly visual significant area".

#### **Transitional arrangements**

This application was submitted prior to the NEMA EIA Regulations coming into being. In terms of the NEMA EIA Regulations, an application for authorisation of an activity submitted in terms of the previous regulations and which is pending when the NEMA EIA Regulations took effect, must despite the repeal of the previous regulations be dispensed with in terms of the previous regulations as if the previous regulations were not repealed.

Subject to compliance with the conditions contained in this Record of Decision, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels.

#### **Consideration of Appeal:**

Upon careful consideration of the documentation submitted in support of the appeals, I determined that although the erven 1067 – 1072; 528 – 540; 545 – 555; 566 – 611; 643 – 681 will have a visual impact, the impact will not be significant particularly considering that the surrounding area is characterised by urban / township development. I have however determined that erven 1019 – 1053 will be visually prominent from various key points of observation and will detract from the natural setting of the area if included in the proposal.

Consequently, I have authorised a proposed development area that only excludes erven 1019 to 1053 and the two parking areas for 50 and 70 cars, taking into consideration the recommendations of the two visual impact assessments as well as additional information submitted in support of the appeals. In addition, I have placed height and buffer restrictions on numerous erven to further mitigate against the visual impact. These amendments to the layout will make the project financially viable to accommodate the social housing component which is a component of this proposal.

#### **J. DURATION AND DATE OF EXPIRY:**

This activity must commence within a period of three years from the date of issue of this decision. If commencement of the activity does not occur within this period, the Record of Decision lapses and a new application for authorization must be made in order for the activity to be undertaken.

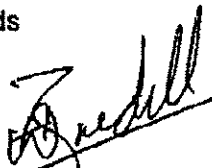
If any condition imposed in terms of this authorisation is not being complied with, the authorisation may be withdrawn after 30 days written notice to the applicant in terms of Section 22(4). Failure to comply with any of these conditions is also an offence and may be dealt with in terms of Sections 29, 30 and 31 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) as well as any other appropriate legal mechanisms.

Provincial Government, Local Authority or committees appointed in terms of the conditions of the application or any other public authority or organisation shall not be held responsible for any

damages or losses suffered by the developer or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the developer with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

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

Kind regards



**ANTON BREDELL**  
**MINISTER: LOCAL GOVERNMENT,**  
**ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE : 18/8/2009

Copies to: (1) Mr E Kruger (Mossel Bay Municipality)  
(2) Mr John Sharples (Sharples Environmental Services)  
(3) George Office

Fax: 044 690 5786  
Fax: 044 874 5953  
Fax: 044 874 2423



M 3/6/5

Mr PR Steyn  
K2011138641 (South Africa) (Pty) Ltd  
PO Box 242  
**MOSSSEL BAY**  
6500

Cell: 082 577 2532  
Email: [tossie@steynsmica.co.za](mailto:tossie@steynsmica.co.za)

Dear Mr Steyn

**AMENDMENT APPLICATION: PROPOSED DEVELOPMENT ON A PORTION OF THE REMAINDER OF  
FARM VAALE VALLEY NO. 219, MOSSSEL BAY**

With reference to your application dated 1 August 2012 for the amendment of the environmental authorisation, find below the amended environmental authorisation in respect of the amendment application.

**1. DECISION**

By virtue of the powers conferred on me by the Environmental Impact Assessment ("EIA") Regulations (5 September 1997) and the EIA Regulations (18 June 2010), I have decided to amend the appeal Environmental Authorisation which was granted on 18 August 2009 (Reference Number: EG12/2/1-AM18-Farm Vaalevalley 219/B, Mossel Bay). The following are amended:

**1.1 The applicant's details which read as follows:**

"Hartenbos Landgoed (Pty) Ltd  
c/o Mr W van Rensburg  
Bell House  
Westlake Business Park  
STEENBERG  
7947  
Cell: 083 790 1234  
Fax: (044) 878 1449"

is amended to read as follows:

"K2011133641 (South Africa) (Pty) Ltd  
c/o PR Steyn  
PO Box 242  
MOSSEL BAY  
6500  
Cell: 082 577 2532  
Email: fossie@steynsrnica.co.za"

1.2 Section J: Duration and date of expiry that read as follows:

"This activity must commence within a period of three years from the date of issue of the decision. If commencement of the activity does not occur within this period, the Record of Decision lapses and a new application for authorisation must be made in order for the activity to be undertaken"

is amended to read as follows:

"This environmental authorisation is valid for a period of 5 years from the date of issue. The holder must commence with the listed activity within the said period or this environmental authorisation lapses and a new application for environmental authorisation must be submitted to the competent authority, unless the holder has lodged a valid application for the amendment of the validity period of this environmental authorisation (i.e. **the application must be submitted to the Minister responsible for environmental affairs in the Western Cape**), before the expiry of this environmental authorisation. In such instances, the validity period will be automatically be extended ("the period of administrative extension") from the day before this environmental authorisation would otherwise have lapsed, until the amendment application for the extension of the validity period is decided. The listed activity, including site preparation, may not commence during the period of administrative extension."

1.3 The Construction and Operational Phases Environmental Management Plans submitted as part of the application for authorisation must be amended as per the amendment applied for in this amendment application.

## 2. REASONS FOR THE DECISION

2.1 In reaching my decision, I took the following information into consideration:

2.1.1 The information contained in the application for the amendment of the environmental authorisation dated March 2012; and

2.1.2 Additional information received on 22 August 2012, 27 September 2012, 28 September 2012 and 3 October 2012.

2.2 Below are the reasons for the decision to amend the environmental authorisation:

2.2.1 The granting of the proposed amendment of the environmental authorisation is not likely to adversely affect the environment or the rights or interests of other parties. No new

negative impacts will result due to this amendment application being granted. The negative environmental impacts to be associated with the proposed Hartenbos Landgoed development have already been assessed during the EIA process and these impacts will remain unchanged. The mitigation measures proposed in the EIA Report (dated 5 September 2008) will still be implemented to mitigate and/or avoid the associated negative impacts already identified.

2.2.2 The owner of the property (Ms MM Smif) passed away after the appeal Environmental Authorisation was issued and the property has subsequently been placed in care of the estate. The estate transport has only been recently finalised.

2.2.3 The company (i.e. Hartenbos Landgoed (Pty) Ltd) to which the authorisation was issued is currently under liquidation. The liquidators have seized control of the assets of Hartenbos Landgoed (Pty) Ltd, one of which is the appeal Environmental Authorisation granted on 18 August 2009.

2.2.4 The following contributed to the original applicant not being able to proceed with the selling of erven:

2.2.4.1 The economy has not fully recovered since the global recession;

2.2.4.2 Fears of a double-dip recession are discouraging people to buy erven at present; and

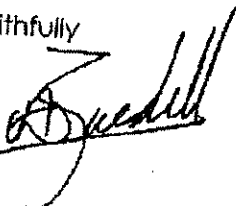
2.2.4.3 Rising material costs for the construction of dwellings.

2.2.5 The extension of the validity period is needed in order to allow adequate time for the new owner to secure funding for the development.

2.2.6 During the site visit which was undertaken by the Environmental Assessment Practitioner (Sharpley Environmental Services cc) on 26 July 2012, it was determined that the vegetation cover has remained similar, the property was still being used for agricultural purposes i.e. grazing of cattle and there were no signs of clearing activities or disturbance visible on the property, other than the clearing of alien invasive plants. The sensitive vegetated areas as identified by the Vegetation and Fauna Sensitivity Analysis conducted by Conservation Management Services (2005) and the botanical survey conducted by Synecology (2008) are still present on the property.

Your interest in the future of our environment is appreciated.

Yours faithfully



**ANTON-BREDELL**  
**MINISTER OF LOCAL GOVERNMENT,**  
**ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 18.12.2012

Copies: 1. Ms M Schaaf (Sharpley Environmental Services cc)  
2. Mr J van Rensburg (Hartenbos Landgoed (Pty) Ltd)

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Western Cape  
Government  
Environmental Affairs and  
Development Planning

MINISTRY OF LOCAL GOVERNMENT,  
ENVIRONMENTAL AFFAIRS AND  
DEVELOPMENT PLANNING

M 3/6/5

Mr P.R. Steyn  
K2011133641 (South Africa) (Pty) Ltd  
P.O. Box 242  
MOSSEL BAY  
6500

Tel: (082) 577 2532  
e-mail: [fossie@steynsmica.co.za](mailto:fossie@steynsmica.co.za)

Dear Mr Steyn

**APPLICATION FOR THE AMENDMENT OF THE AMENDED APPEAL RECORD OF DECISION  
(ENVIRONMENTAL AUTHORISATION) FOR THE PROPOSED RESIDENTIAL DEVELOPMENT ON A  
PORTION OF THE FARM VAALE VALLEY 219, MOSSEL BAY (HARTENBOS LANDGOED PHASE 2)**

Your application for the amendment of the abovementioned decision refers.

By virtue of the powers conferred upon myself by the *National Environmental Management Act, 1998* ("NEMA") *Environmental Impact Assessment ("EIA") Regulations (GN R. 326 of 7 April 2017)*, I have decided to grant the amendment of the validity period of the amended appeal Record of Decision ("Environmental Authorisation - EA") as contained in section J of the appeal decision granted on 18 August 2009 and amended on 18 December 2012 to read as follows:

**J: DURATION AND DATE OF EXPIRY**

*"This environmental authorisation is valid until **18 August 2019**. The holder must commence with the listed activity within the said period or the amended appeal Record of Decision (Environmental Authorisation) lapses and a new application for environmental authorisation must be submitted to the competent authority."*

The applicant must, in writing, within 14 (fourteen) calendar days of the date of this decision notify all registered Interested and Affected Parties ("I&AP's") of the outcome of the amendment application

and the reasons for the decision.

The reasons for this decision are as follows:-

- o The proposed amendment will not adversely affect the environment or the rights and interests of other parties
- o No new negative impacts will result due to this amendment being granted.
- o The project is now ready to be developed, based on the current economic climate and the availability of funding.
- o The necessary municipal planning approvals are valid and in place.

Your interest in the future of our environment is appreciated.

Yours faithfully



**ANTON BREDELL**  
**PROVINCIAL MINISTER OF LOCAL GOVERNMENT,**  
**ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 12/2/2018

Cc Mr Steve Kleinhans (Sharples Environmental Services)

e-mail: [steve@sescs.net](mailto:steve@sescs.net)