

EIA REFERENCE NUMBER: 16/3/3/5/D6/18/0006/24
NEAS REFERENCE: WCP/EIA/AMEND/0000847/2024
DATE OF ISSUE: 07 November 2024

NEW ENVIRONMENTAL AUTHORISATION

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION (REF: EG12/2/3/1-D6/17-1077/08) ISSUED ON 22 NOVEMBER 2011: PROPOSED NEW DEVELOPMENT ON THE REMAINDER OF PORTION 58 OF THE FARM HARTENBOSCH NO. 217, HARTENBOS

With reference to your application for the amendment of the environmental authorisation (Ref: EG12/2/3/1-D6/17-1077/08) issued on 22 November 2011 for the proposed development on Portions 91, 99, 100 and the Remainder of Portion 58 of the Farm Hartenbosch no. 217, Hartenbos, find below the outcome with respect to the application.

A. 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 the amendment** of the Environmental Authorisation issued on 22 November 2011 (Ref: EG12/2/3/1-D6/17-1077/08) by the—

- (a) transfer of the rights and obligations of the Environmental Authorisation issued on 22 November 2011 (Ref: EG12/2/3/1-D6/17-1077/08) as it relates to the "Development Area B" on the Remainder of Portion 58 of the Farm Hartenbosch No. 217 from Mr. J.J. Claassen to Organic Coral Investments 4 (Pty) Ltd;
- (b) deletion of the description of the proposal as it relates to Development Area B (on the Remainder of Portion 58 of the Farm Hartenbosch No. 217);
- (c) removal of the rights and obligations as it relates to Development Area B (on the Remainder of Portion 58 of the Farm Hartenbosch No. 217).

Further to this, the deletion of the words "Development Area B" AND "the Remainder of Portion 58 of the Farm Hartenbosch No. 217", wheresoever they appear in the Environmental Authorisation issued on 22 November 2011 (Ref: EG12/2/3/1-D6/17-1077/08) and the approved Environmental Management Programme for the Environmental Authorisation issued on 22 November 2011 (Ref: EG12/2/3/1-D6/17-1077/08); and

- (d) splitting of the existing valid environmental authorisation and issuing this New Environmental Authorisation in the applicant/landowner's name for the proposed development on the Remainder of Portion 58 of the Farm Hartenbosch No. 217.

B. DETAILS OF THE APPLICANT FOR THIS NEW ENVIRONMENTAL AUTHORISATION

The Managing Director
ORGANIC CORAL INVESTMENTS 4 (PTY) LTD
% Mr. Carel Johannes Francois Swanepoel
33 York Street
GEORGE
6530
Tel: 044 874 0711
E-mail: carel@neotrend.co.za

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

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Environmental Impact Assessment Regulations Listing Notice 1 of 2014, Government Notice No. R. 983 of 4 December 2014, as amended.	
Activity Number: 27 Activity Description: <i>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—</i> (i) <i>the undertaking of a linear activity; or</i> (ii) <i>maintenance purposes undertaken in accordance with a maintenance management plan.</i>	The development of the proposed retail facility will require the clearance of approximately 6.8ha of indigenous vegetation as defined in the EIA Regulations, 2014.
Activity Number: 28 Activity Description: <i>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:</i> (i) <i>will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or</i> (ii) <i>will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;</i> <i>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</i>	The Portion 58 of the Farm Hartenbosch No. 217 was used for agricultural purposes on or after 1 April 1998. The proposed development entails the development of retail facility of approximately 6.86 outside the urban area.
Environmental Impact Assessment Regulations Listing Notice 3 of 2014, Government Notice No. R. 985 of 4 December 2014, as amended.	
Activity Number: 4 Activity Description: <i>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</i> i. Western Cape i. <i>Areas zoned for use as public open space or equivalent zoning;</i> ii. <i>Areas outside urban areas;</i> (aa) <i>Areas containing indigenous vegetation;</i>	The proposed development will include the development of roads wider than 4m with a reserve less than 13.5m is areas containing indigenous vegetation outside urban areas.

Listed Activities	Activity/Project Description
(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 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.	
Activity Number: 12 Activity Description: The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan i. Western Cape 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; ii. Within critical biodiversity areas identified in bioregional plans; iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas; 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 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.	The proposed development of will require the clearance of approximately 6.8ha of indigenous vegetation as defined in the EIA Regulations, 2014 within the Mossel Bay Shale Renosterveld which has a gazetted conservation status of Critically Endangered.

The abovementioned list is hereinafter referred to as "**the listed activities**".

The Holder is herein authorised to undertake the following that includes the listed activities as it relates to the following development:

The development of a commercial shopping centre and associated infrastructure on the Portion 58 of the Farm Hartenbosch No. 217 near Hartenbos. The proposed commercial shopping centre will consist of *inter alia*:

- 8 166m² GLA for anchors and sub-anchors
- 8 055m² GLA for line shops;

- 397m² GLA for sit down restaurants;
- 499m² GLA for drive-through restaurants; and
- associated infrastructure, including parking areas.

The proposed development will be implemented in accordance with the Site Development Plan (Drawing No: A2389-900 (Rev. B); Date: 2023/09/08) compiled by BAR Architects and approved by the Mossel Bay Municipality on 11 September 2023. Refer to Annexure 2 of this environmental authorisation for a copy of the proposed SDP.

D. SITE DESCRIPTION AND LOCATION

The proposed development will only take place on the Remainder of Portion 58 of the Farm Hartenbosch No. 217 near Hartenbos. The property is located approximately 2km from the Hartenbos Central Business District between the N2 National Road and Main Road 344 between Hartenbos and Little Brak River.

Coordinates of the site:

Latitude (S)		Longitude (E)		
34°	06'	25.18"	22°	06' 38.85"

SG digit code: C05100000000021700058

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

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Mrs Cathy Avierinos
EAPASA Registration number: 2019/1053

% HillLand Environmental
P.O. Box 590
GEORGE
6530

Tel: 044 889 0229
E-mail: admin@hilland.co.za | cathy@hilland.co.za
Website: www.hilland.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 **12 November 2029** (validity period), during which period the Holder must ensure that the—
 - (a) physical implementation of all the authorised listed activities, including the installation of bulk services and the construction of the retail facility, is started with and concluded at the site;

- (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 at the site; and
 - (d) environmental auditing requirements are complied with; and that such auditing is finalised in time to allow the competent authority to be able to process the environmental audits timeously within the specified validity period.
2. The Holder is authorised to undertake the listed activities specified in Section B above and in accordance with the SDP described in the Final Impact Report dated 22 July 2024 on the site as described in Section C above.

The development of a commercial shopping centre and associated infrastructure on the Portion 58 of the Farm Hartenbosch No. 217 near Hartenbos. The proposed commercial shopping centre will consist of the *inter alia*:

- 8 166m² GLA for anchor shops and sub-anchor shops
- 8 055m² GLA for line shops;
- 397m² GLA for sit down restaurants;
- 499m² GLA for drive-through restaurants; and
- associated infrastructure, including parking areas.

The proposed development will be implemented in accordance with the Site Development Plan (Drawing No: A2389-900 (Rev. B); Date: 2023/09/08) compiled by BAR Architects and approved by the Mossel Bay Municipality on 11 September 2023. Refer to Annexure 2 of this environmental authorisation for a copy of the proposed SDP.

- 3. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
- 4. The Holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the Holder.
- 5. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

Notification and administration of appeal

- 6. The Holder must in writing, within 14 (fourteen) calendar days of the date of the decision as set out in Section A of this New Environmental Authorisation –
 - 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1. the decision reached;
 - 6.1.2. the reasons for the decision as included in Annexure 3;
 - 6.1.3. the date of the decision; and
 - 6.1.4. the date when the decision was issued.

- 6.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the Decision as set out in Section A of this New Environmental Authorisation in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;
- 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
- 6.4. provide the registered I&APs with the:
 - 6.4.1. name of the Holder (entity) of this New Environmental Authorisation,
 - 6.4.2. name of the responsible person for this New Environmental Authorisation,
 - 6.4.3. postal address of the Holder,
 - 6.4.4. telephonic and fax details of the Holder,
 - 6.4.5. e-mail address, if any, of the Holder,
 - 6.4.6. contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
7. 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 decision to amend the Environmental Authorisation issued on 22 November 2011 (Ref: EG12/2/3/1-D6/17-1077/08) which implies that the listed activities, including site preparation, may not continue until the appeal is decided.
8. The listed activities, including site preparation, may not continue within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of the decision, as set out in Section A of this New Environmental Authorisation.

Written notice to the Competent Authority

9. Seven calendar days' notice, in writing, must be given to the Competent Authority before continuation any of the activities on site (including site preparation).
 - 9.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 9.2. The notice must also include proof of compliance with the following conditions described herein:
Conditions no.: 6 and 15
10. Seven calendar days' written notice must be given to the Competent Authority on completion of the construction activities.

Management of activity

11. The new Environmental Management Programme ("EMPr") submitted together with the Application for the Amendment of the Environmental Authorisation (EG12/2/3/1-D6/17-1077/08) is herewith approved. The EMPr must be read with this Environmental Authorisation. The EMPr does not substitute any requirements for the avoidance, management, mitigation, monitoring and reporting of the impacts of the activity or conditions contained in this environmental authorisation.
12. The requirements for the avoidance, management, mitigation, monitoring, rehabilitation and reporting of the impacts of the activity on the environment, which have been identified in this Environmental Authorisation additional to those contained in the approved EMPr, must be implemented together with the EMPr.
13. 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.

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

Monitoring

15. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
16. The ECO must–
 - 16.1. be appointed prior to commencement of any works (i.e. removal and movement of soil);
 - 16.2. ensure compliance with the EMPr and the conditions contained herein;
 - 16.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
 - 16.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised; and
 - 16.5. the ECO must conduct site inspections at least every 2 (two) weeks and must submit ECO Monitoring Reports on a monthly basis to the competent authority.
17. 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.
18. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Environmental Auditing

19. 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.
20. 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:
 - 20.1. Auditing during the non-operational phase (construction activities):
 - 20.1.1. During the period which the development activities have been commenced with on the site, the Holder must ensure annual environmental audit(s) are undertaken and the Environmental Audit Report(s) submitted annually to the Competent Authority.

20.1.2. A final Environmental Audit Report for the construction phase (non-operational component) must be submitted to the Competent Authority within **three (3) months** of completion of the construction phase.

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

- 21.1. 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;
 - 21.2. provide verifiable findings, in a structured and systematic manner, on–
 - 21.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 21.2.2. 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.
 - 21.3. identify and assess any new impacts and risks as a result of undertaking the activity;
 - 21.4. evaluate the effectiveness of the EMPr;
 - 21.5. identify shortcomings in the EMPr;
 - 21.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 21.7. 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;
 - 21.8. indicate the date on which the maintenance/ rehabilitation was commenced with and the progress of the rehabilitation;
 - 21.9. include a photographic record of the site(s) applicable to the audit; and
 - 21.10. be informed by the ECO reports.
22. 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

23. The following requirements for the avoidance, management and mitigation must be implemented in respect of the visual impact of the proposed development:
- 23.1. implementation and adherence to the establishment of a 20m building line from the eastern boundary (N2 National Road) and 16m building line from all other boundaries;
 - 23.2. the development of a 7.5m high berm along the eastern boundary of the site; and
 - 23.3. the planting on locally occurring indigenous shrubs and trees on the 7.5m high berm.
24. Should any heritage remains be exposed during excavations or any other actions on the site(s), 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 continue with the listed activity and conclude the activity within the period referred to in Section E, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

If the Holder wishes to extend a validity period specified in the Environmental Authorisation, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of such a period.

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.
 - (b) It is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity if the competent authority has not granted an Environmental Authorisation for the undertaking of the activity.
3. The Holder is required to notify the Competent Authority where any detail with respect to this New Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, the Competent Authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

The onus is on the Holder to verify whether such changes to the environmental authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note: An environmental authorisation may be amended or replaced without following a procedural requirement contained in the Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially

4. The manner and frequency for updating the EMPr is as follows:
 - (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
 - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMPr has been approved by the competent authority.

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

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

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is granted for a set period from date of issue, during which period the listed activity must be commenced with and concluded, including the post-construction 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 the following milestones should not be missed:

- Failure to complete the post construction rehabilitation and monitoring requirements at least six 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.
- 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.

Note: It is advised that if any of the milestones as indicated above, might not be achieved, the Holder must consider extending the validity period through an amendment process.

8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e., **6** and **15**). 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.
9. 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.
10. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator;
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker *i.e.* the Competent Authority that issued the decision; and
 - 1.3. Submit a copy of the appeal to the decision-maker (*i.e.*, the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za; and copied to
DEADPEIAadmin.George@westerncape.gov.za
 2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker *i.e.*, the Competent Authority that issued the decision.
 - 2.3. Submit a copy of the appeal to the decision-maker (*i.e.*, the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za; and copied to
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 <https://www.westerncape.gov.za/eadp/resource-library/forms>.

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully

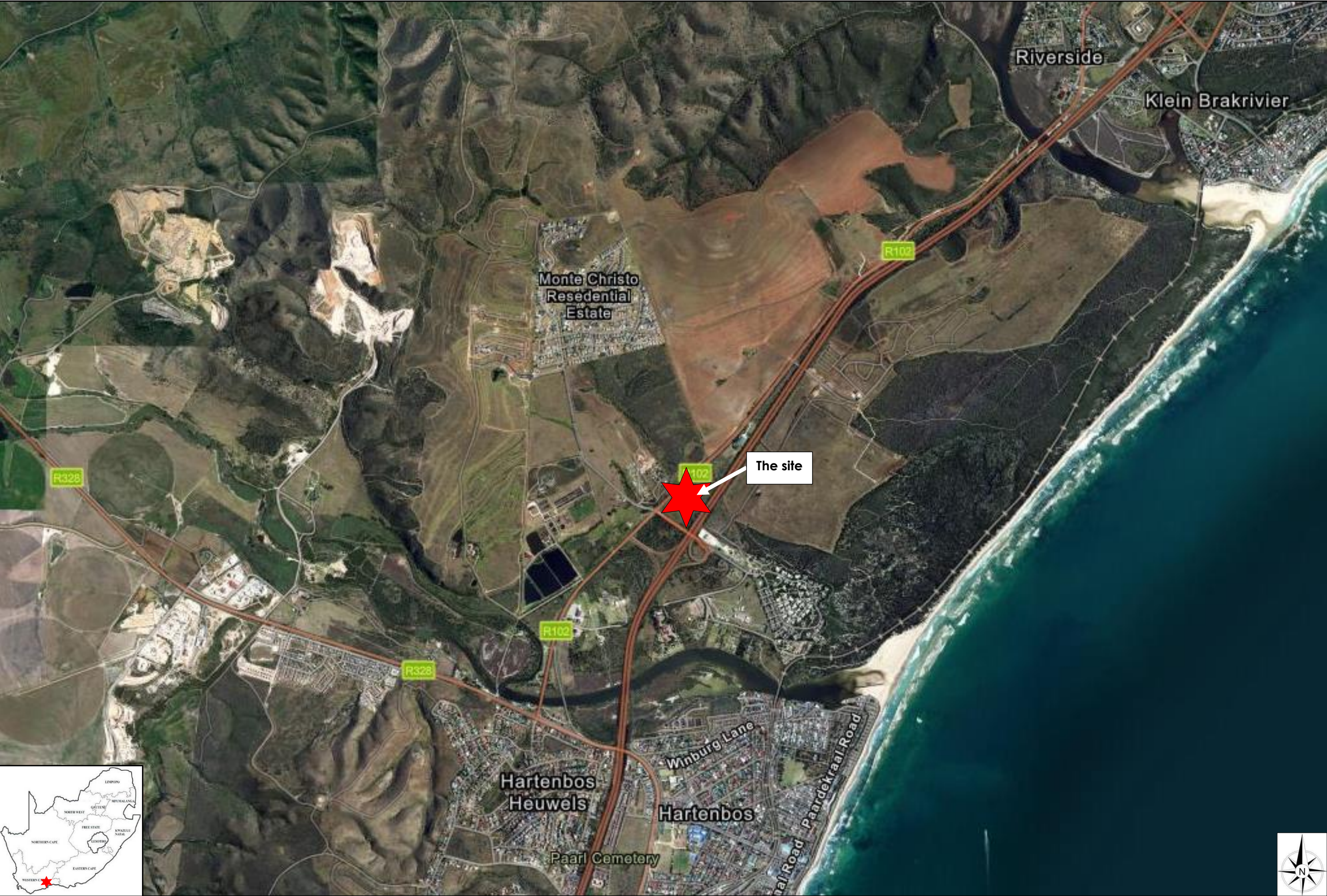
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)
WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

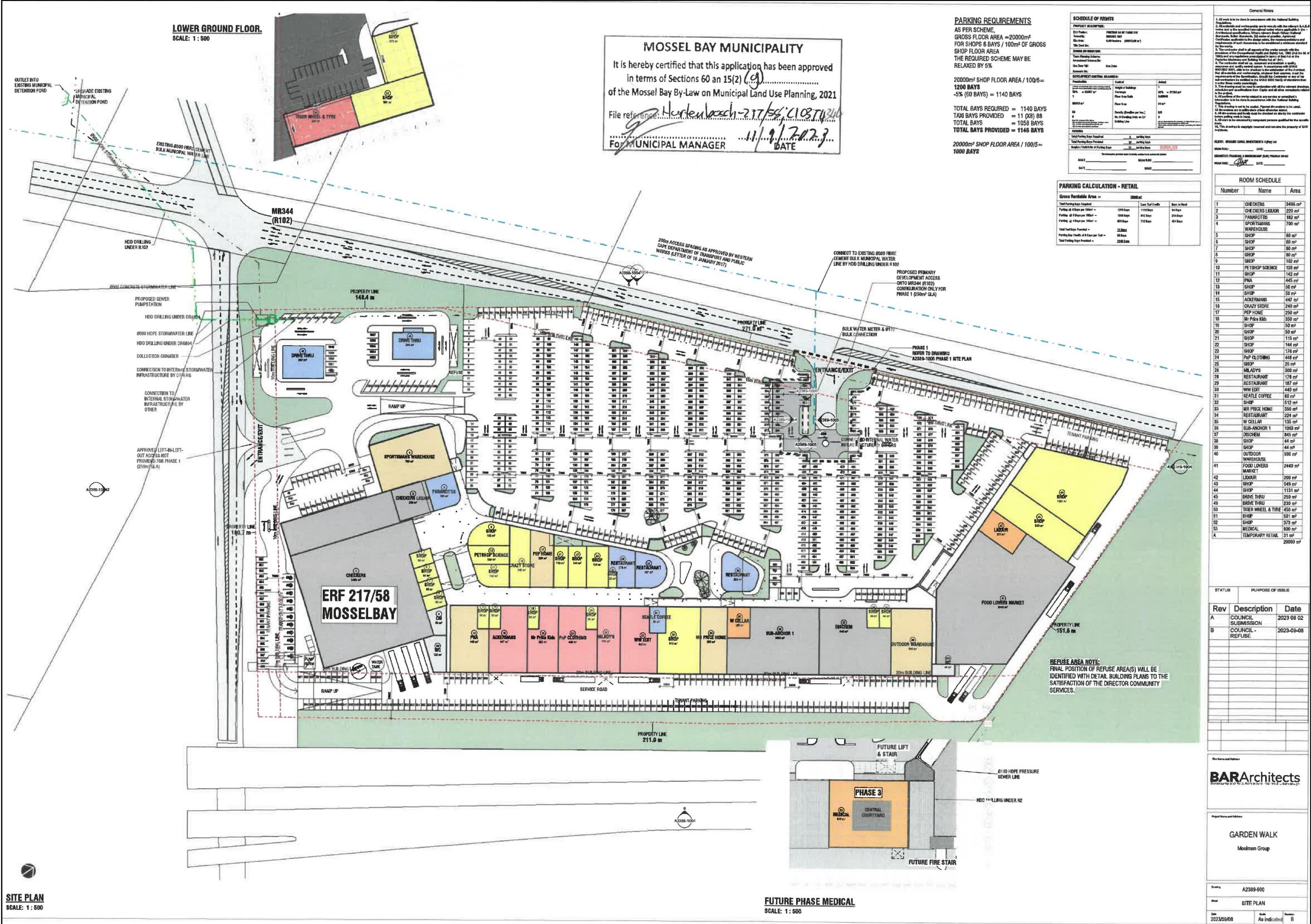
DATE OF DECISION: **07 NOVEMBER 2024**

FOR OFFICIAL USE ONLY:

FIRST EA REFERENCE NUMBER:	EG12/2/3/1-D6/17-1077/08
NEAS REFERENCE:	WCP/EIA/8692/2010
Date of issue:	22 November 2011
EA ADDENDUM #1 REFERENCE NUMBER:	16/3/3/5/D6/16/0012/16
NEAS REFERENCE NUMBER:	WCP/EIA/AMEND/0000144/2016
Date of issue:	25 November 2016
EIA ADDENDUM #2 REFERENCE NUMBER:	16/3/3/5/D6/18/0013/18
NEAS REFERENCE:	WCP/EIA/AMEND/0000318/2018
Date of issue:	21 February 2019
NEW EA (SPLIT EA) REFERENCE NUMBER:	16/3/3/5/D6/18/0006/24
NEAS REFERENCE:	WCP/EIA/AMEND/0000847/2024
CASE OFFICER:	Mr Steve Kleinhans Steve.Kleinhans@westerncape.gov.za
Date of issue:	THIS AUTHORISATION

ANNEXURE 1: LOCALITY MAP





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 for the Amendment of an Environmental Authorisation received on 3 May 2024, the Final Impact Report dated 22 July 2024 and submitted on 23 July 2024 and the Environmental Management Programme submitted with the Final Impact Report on 23 July 2024;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation (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 Final Impact Report dated 22 July 2024;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) A site inspection was not undertaken as the officials have adequate knowledge of the site.

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. Legislative Requirements

The current holder of the original Environmental Authorisation (Ref: EG12/2/3/1-D6/17-1077/08) issued on 22 November 2011 ("Original EA") is Mr. J.J. Claassen who was granted environmental authorisation for a proposed lifestyle Village (including a filling station) on Portions 91, 99, 100 and the Portion 58 of the Farm Hartenbosch No. 217.

Mr. J.J. Claassen sold Portion 58 of the Farm Hartenbosch No. 217 to Organic Coral Investments 4 (Pty) Ltd which does not intend to develop the Remainder of Portion 58 described as "Development Area B" in the Original EA, which includes a 90-bed hospital, as the market for a new hospital in the region was satisfied by the new Medi-Clinic hospital in George. The holder of this environmental authorisation now intends to develop a retail facility with a Gross Lettable Area ("GLA") of approximately 20 000m².

Considering the property's changing ownership and the change in scope of the Original EA, an application for the amendment of the EA was submitted to this Department in terms of Regulation 31(a).

In accordance with Regulation 27(2)(a) the Competent Authority may, when deciding to amend an EA, issue an amendment to the environmental authorisation either by way of a new environmental authorisation or new environmental authorisations or an addendum to the relevant environmental authorisation. In this way, the Original EA is split and the new landowner / developer for Portion 58 of the Farm Hartenbosch is issued with a new single EA.

Consideration has been given to the transitional arrangements in the EIA Regulations, 2014 and similarly listed activities from previous NEMA notices which were authorised in the Original EA. In this regard, Section B of this EA describes the listed activities which are applicable to the proposed development on the Remainder of Portion 58 of the Farm Hartenbosch No. 217, which activities are identified in the Environmental Impact Assessment Regulations 2014 Listing Notice 1 (Government Notices No. R.983); and Environmental Impact Assessment Regulations 2014 Listing Notice 3

(Government Notices No. R.985). These activities are regarded to be similarly listed to the authorised as tabulated below:

Listed Activities authorised in the Original EA Ref: EG12/2/3/1-D6/17-1077/08 Issued on 22 November 2011)	"Similarly listed activity" Identified in EIA Listing Notices 983, 984 and 985 of 4 December 2024 (as amended)
Activity 1(k)(ii) of GN R. 386 of 21 April 2006 Activity 9 of GN R. 544 of 18 June 2010	Activity 9 of GN No. R. 983 of 4 December 2014 Activity 10 of GN No. R. 983 of 4 December 2014
Activities relate to the proposed development of bulk water and sewage infrastructure associated with the proposed development. In this regard, bulk services infrastructure associated with the proposed development on Remainder of Portion 58 of the Farm Hartenbosch No. 217 no longer exceed the thresholds of the similarly listed activities listed in terms of the EIA Regulations, 2014. DETERMINATION: Relevant similarly listed activities are <u>NOT</u> triggered by the proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217 and has therefore not been considered in this Environmental Authorisation.	
Activity 7 of GN R. 386 of 21 April 2006 Activity 3 of GN R. 387 of 21 April 2006 Activity 13 of GN R. 544 of 18 June 2010	Activity 14 of GN No. R. 983 of 4 December 2014 Activity 10 of GN No. R. 985 of 4 December 2014
Activities relate to the proposed development and operation of a filling station. In this regard, the filling station (already commenced with) was authorised and developed as part of Development Area C of the Original EA. No filling station and / or storage of a dangerous good was originally authorised on the Remainder of Portion 58 of the Farm Hartenbosch No. 217. DETERMINATION: The relevant similarly listed activities are <u>NOT</u> applicable to the proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217 and has therefore not been considered in this Environmental Authorisation.	
Activities 13(c)(ii)(gg) and 14 of GN R. 546 of 18 June 2010	Activity 27 of GN No. R. 983 of 4 December 2014
Activities relate to the clearance of more than 1ha but less than 20ha of indigenous vegetation. The proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217 will require the clearance of 6.86ha of indigenous vegetation. DETERMINATION: The relevant similarly listed activity is <u>triggered</u> by the proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217.	
Activity 12 of GN R. 386 of 21 April 2006	Activity 12 of GN No. R. 985 of 4 December 2014
Activities relate to the clearance of indigenous vegetation within a critically endangered or endangered ecosystem. The proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217 is located within a critically endangered ecosystem i.e. Mossel Bay Shale Renosterveld. DETERMINATION: The relevant similarly listed activity is <u>triggered</u> by the proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217.	
Activity 15 of GN R. 386 of 21 April 2006	Activity 4 of GN No. R. 985 of 4 December 2014

Listed Activities authorised in the Original EA Ref: EG12/2/3/1-D6/17-1077/08 Issued on 22 November 2011)		"Similarly listed activity" Identified in EIA Listing Notices 983, 984 and 985 of 4 December 2024 (as amended)
Activities relate to the development of roads wider than 4m. The accesses and internal associated with the proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217 is wider than 4m and the site is regarded to fall outside the urban area.		
DETERMINATION: The relevant similarly listed activity is <u>triggered</u> by the proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217.		
Activity 16(b) of GN R. 386 of 21 April 2006 Activity 23 of GN R. 544 of 18 June 2010	Activity 28 of GN No. R. 983 of 4 December 2014	
Activities relate to the transformation of undeveloped, vacant or derelict land to residential, mixed, retail, commercial, industrial or institutional. The proposed development entails the transformation of land used for agriculture on or after 1 April 1998 to residential, mixed, retail, commercial, industrial or institutional outside the urban area. The extend of the proposal is 6.86ha.		
DETERMINATION: The relevant similarly listed activity is <u>triggered</u> by the proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217.		
Activity 18 of GN R. 386 of 21 April 2006	NO LONGER SIMILARLY LISTED.	
The activity was for the subdivision of portions of land 9ha or larger into portions of 5ha or less. There is no similarly listed activity in terms of the EIA Regulations, 2014.		
Activity 2 of GN R. 387 of 21 April 2006 Activity 15 of GN R. 545 of 18 June 2010	Activity 15 of GN No. R. 984 of 4 December 2014	
Activities relate to the clearance of more than 20ha of indigenous vegetation. The proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217 will require the clearance of 6.86ha of indigenous vegetation.		
DETERMINATION: The relevant similarly listed activity is <u>NOT</u> triggered by the proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217 and has therefore not been considered in this Environmental Authorisation.		

An appeal may be lodged against the Decision as set out in Section A of this New Environmental Authorisation. Details regarding the appeal procedure is detailed in Section G of this New Environmental Authorisation.

Furthermore, the conditions of authorisation contained in this EA are similar in nature as the Original EA and to bring the conditions in line with the current legislation.

2. Public Participation

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

- identification of and engagement with interested and affected parties (I&APs) including organs of state which have jurisdiction in respect of the activity to which the application relates;
- fixing two site notice boards at the site on 17 May 2024;

- 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 17 May 2024 to comment on the Draft Impact Report;
- the placing of a newspaper advertisement in the “Mossel Bay Advertiser” on 17 May 2024.

The following Organs of State provided comment on the proposal:

- *Breede Olifants Catchment Management Agency (“BOCMA”);*
- *CapeNature;*
- *DEA&DP: Biodiversity and Coastal Management;*
- *Department of Forestry, Fisheries and the Environment: Oceans and Coasts; and*
- *Mossel Bay Municipality*

All the comments and issues raised by the respective *Organs of State and I&APs* that were captured in the Environmental Impact 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.

3. Alternatives

The Original EA authorised the development of a commercial precinct, an office component and a 90-bed hospital with a floor area of 12 805m² with a total development footprint of 2.5ha on the Portion 58 of the Farm Hartenbosch No. 217. The holder sold the property, and the new landowner and applicant now wants to develop a retail facility with a GLA of approximately 20 000m². The proposed 20 000m² GLA retail facility is preferred and is henceforth authorised.

“No-Go” Alternative

The no-go alternative entails the implementation of the proposed development as authorised in the Original EA (Ref: EG12/2/3/1-D6/17-1077/08) issued on 22 November 2011.

4. Consideration of the amendment to the original Environmental Authorisation

The application form for the amendment of the environmental authorisation did not identify any specific conditions of approval, as contained in the Original EA (issued on 22 November 2011, Ref: EG12/2/3/1-D6/17-1077/08), to be removed or changed; however, the Environmental Impact Report submitted in support of the application to amend the Original EA, identified several of the existing conditions of approval to still be appropriate. However, to bring the content of the new EA in line with the Environmental Impact Assessment Regulations, 2014, certain changes have been made to the conditions.

5. Impact Assessment and Mitigation Measures

5.1 Activity Need and Desirability

During the original application to obtain environmental authorisation (Ref: EG12/2/3/1-D6/17-1077/08) it was reported that there is a demand for more retail facilities in the Mossel Bay municipal area. Furthermore, at the time there was also a demand for more hospital facilities in the region. However, according to the applicant the market for a new hospital in the region has been filled by the development of the new 215-bed Medi-Clinic Hospital currently under construction in George.

A review of the Mossel Bay Municipality Spatial Development Framework (2022) indicates the site and surrounding area as a Large Business Node. This has been confirmed by the Mossel Bay Municipality which has approved the amendments to the Site Development Plan on 11 September 2023.

In light of the above, the applicant has adequately demonstrated the need and desirability of the proposed development of the 20 000m² GLA retail facility on the Portion 58 of the Farm Hartenbosch No. 217.

5.2 Socio-Economic aspects

According to the Socio-Economic Impact Assessment the total capital investment that will be made during the construction phase will be in the region of R600 000 000 and will create in excess of 400 direct and 600 indirect employment opportunities during the construction phase. The various stores and facilities are expected to create a number of job opportunities during the operational phase. Furthermore, the facility is expected to result in *inter alia*:

- increased tax revenue to the local municipality;
- stimulate economic growth by attracting consumers to the area;
- enhanced consumer choices; and
- appreciation of surrounding properties' value.

The report also highlights disadvantages of the proposed development *inter alia* the influx of workers and construction phase nuisances. However, it has been reported that the economic benefits of the proposed retail facility outweigh the disadvantages thereof.

The Original EA authorised the development of a commercial precinct, an office component and a 90-bed hospital on the Portion 58 of the Farm Hartenbosch No. 217. Apart from the 90-bed hospital authorised in the Original EA, the new proposed retail facility is substantially similar to the authorised development as the new proposal will make provision for medical elements such as a pharmacy, walk-in doctors, optometrists, etc.

5.3 Traffic Impact Assessment

A Traffic Impact Assessment ("TIA") was undertaken to assess the proposed revised density of the proposed retail facility. According to the TIA the original approved development rights were for 9,000m² GLA retail, 3,000m² GLA offices and a 90-bed hospital, while that of the new preferred proposal are for 8,166m² GLA anchor and sub-anchor retail, 8,055m² GLA line shops, 397m² restaurants and 499m² GLA drive-through restaurants.

The SDP for the proposed retail facility includes the two accesses which has been approved in the Original EA and it has been found that the surrounding intersections (some of which have been upgraded recently) will operate at acceptable Levels of Services during the Friday Afternoon Peak Hour for the total ultimate phase existing and future (2028) traffic conditions with the implementation of the recommended mitigations measures specified in the TIA.

In light of the above, the applicant has adequately demonstrated that the proposed retail facility will not have a significant negative impact on the surrounding road network.

5.4 Biophysical aspects

● Fauna and flora

The findings of the Plants, Animals, Terrestrial and Aquatic Biodiversity Assessment indicate that the main habitat on the site consists of secondary vegetation on old lands and some remnants of the original gardens that occurred around the homestead of the site. The vegetation on the site consists of a small number of species on the property which have colonised the site after agricultural activities were discontinued. Furthermore, no threatened,

near threatened or rare plant species were recorded on the site. The information provided during this application for the amendment of the environmental authorisation aligns with the information which was provided during the Original EA process which indicated that physical disturbance of the natural vegetation by agriculture has been relatively severe. Furthermore, the assessment recorded no animal Species of Conservation Concern, as no suitable habitat conditions are present to support the animal species which has been identified in the Screening Tool Report. As such, the Site Ecological Importance has been determined to be very low.

- *Estuarine Functional Zone*

A portion of the site falls within an area mapped as Estuarine Functional Zone ("EFZ") which is the 5m contour around the Hartenbos River estuary. According to the Plants, Animals, Terrestrial and Aquatic Biodiversity Assessment no part of the property has any importance to the EFZ as the area has historically been cut off from the estuarine system and has only been mapped as such due to the location of the 5m contour. Furthermore, there are no plant species occurring on the site indicating the existence of estuarine habitat. Therefore, it is unlikely that the proposed development will have a negative impact on the EFZ.

5.5 Visual impact

A description of the visual impact was provided and compared to the authorised development as described as Development Area B (on the Remainder of Portion 58 of the Farm Hartenbosch No. 217) in the environmental authorisation (Ref: EG12/2/3/1-D6/17-1077/08) issued on 22 November 2011. In this regard, it has been reported that the building will be set back approximately 20m from the eastern boundary (N2 National Road) and approximately 16m from the other boundaries. Furthermore, the natural ground level will be excavated to reduce the buildings prominence, achieving an overall maximum height of 12m. In order to minimise the visual impact it is recommended that a 7.5m-high embankment, planted with indigenous trees, is developed to obscure direct views into the proposed development's yard.

The comparative assessment of the authorised development vs. the new proposed development indicates that the majority of the authorised development is in the middle of the site which has a high visibility and higher visual exposure than the lower character of the new proposed development with a moderate to low visibility and visual exposure. Furthermore, it has been reported the height of the authorised development does consider the natural slope of the site with a high Visual Absorption Capacity) where the new proposed development aims to have a moderate to low Visual Absorption Capacity and visual impact on high sensitivity receptors.

In light of the above, the decision-maker is of the considered view that the applicant has adequately addressed the visual impact of the proposed retail facility on the Remainder of Portion 58 of the Farm Hartenbosch No. 217.

5.6 Municipal Service Infrastructure

A description of the bulk services infrastructure has been provided in the Final Environmental Impact Report dated 22 July 2024. In this regard the following:

- *Bulk water supply*

According to the Final Environmental Impact Report the proposed retail facility will be serviced by an existing 300mm diameter bulk water supply pipeline along Main Road 344 (R102 Provincial Road) on the northern boundary of the site and will require Horizontal

Directional Drilling underneath the aforementioned road. The proposed link pipeline will have a diameter of 110mm.

- Bulk sewer

According to the Final Environmental Impact Report the adjacent development, Hartland Estate, is in the process of constructing a sewer line to the Hartenbos Regional WWTW. However, it will be required to develop a new sewage pumpstation on the western corner of the Remainder of Portion 58 of the Farm Hartenbosch No. 217 with a new 110mm diameter pipeline from the pumpstation to the Hartenbos Regional Wastewater Treatment Works situated west of the proposed development. This will require Horizontal Directional Drilling underneath the R102 Provincial Road.

- Stormwater infrastructure

Stormwater from the proposed development will be collected in a chamber in the western corner of the Remainder of Portion 58 of the Farm Hartenbosch No. 217 and discharged into an existing municipal detention pond approximately 150m west of the proposed development. This will require Horizontal Directional Drilling underneath the Divisional Road 6804 and R102 Provincial Road.

- Electrical infrastructure

Electrical supply points in the vicinity of the property have been made available for the development of the proposed retail facility.

A Service Level Agreement between the applicant and the Mossel Bay Municipality was drafted and subsequently signed by both parties on 27 October 2023.

5.7 Other Impacts

No other impacts of significance are anticipated other than the abovementioned.

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

6. Scope and Validity Period of authorisation

This new environmental authorisation does not define specific operational aspects. This environmental authorisation's validity period has been granted for a period of approximately 5-years, (i.e., from date of issue of the New EA until 12 November 2029), during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit reports for the construction phase. The validity period is aligned with the implementation programme provided by the applicant in Section 11 of the Final Environmental Impact Report dated 22 July 202.

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.

7. National Environmental Management Act Principles

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

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment; and
- the selection of the best practicable environmental option.

8. Conclusion

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

- (a) The identification and assessment of impacts are detailed in the Final Impact Report dated 22 July 2024 and sufficient assessment of the key identified issues and impacts have been completed.
- (b) The procedure followed for the impact assessment is 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 final EIR. The mitigation measures will be implemented to manage the identified environmental impact during the construction phase.

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 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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