



**Western Cape  
Government**  
Environmental Affairs and  
Development Planning

DIRECTORATE: DEVELOPMENT MANAGEMENT:  
REGION 1

**EIA REFERENCE NUMBER:** E12/2/4/1-A5/235-2058/10  
**ENQUIRIES:** RONDINE ISAACS  
**DATE OF ISSUE:** 04 JAN 2016

Mesdames BI Scher & MH Derman  
P. O. Box 335  
CONSTANTIA  
7848

**Attention: Mr. Colin Derman**

Tel.: (021) 535 1890

Fax: (021) 535 5288

Dear Sir

**THE SUBMISSION OF AN APPLICATION FOR AN ENVIRONMENTAL AUTHORIZATION (EA) IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT AMENDMENT REGULATIONS, 2010 AND 2014: A PROPOSED RESIDENTIAL DEVELOPMENT ON A PORTION OF ERF 8343 AND REMAINDER ERF 2224, HOUT BAY**

With reference to your application for the above-mentioned EA, find below the outcome with respect to this application.

### **ENVIRONMENTAL AUTHORIZATION**

#### **DECISION**

By virtue of the powers conferred on him by the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Amendment Regulations, 2010 and 2014, (the "NEMA EIA Regulations") the Competent Authority herewith grants environmental authorisation to the applicants to undertake the list of activities specified in section B below as included in the amended final Basic Assessment Report ("BAR") dated 5 October 2015.

The granting of this Environmental Authorisation (here after referred to as the "Environmental Authorisation") is subject to the compliance with the conditions set out in **section E** below.

**A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORIZATION**

Mesdames BI Scher & MH Derman  
c/o Mr Colin Derman  
P. O. Box 335  
CONSTANTIA  
7848

Tel.: (021) 535 1890  
Fax: (021) 535 5288

The above-mentioned company is the holder of this Environmental Authorisation and is here after referred to as "the applicant".

**B. LIST OF ACTIVITIES AUTHORIZED**

Government Notice No. R. 544 of 18 June 2010 –

**Activity 9:**

*"The construction of facilities or infrastructure exceeding 1000 metres in length for the bulk transportation of water, sewage or storm water –*

- (i) with an internal diameter of 0,36 metres or more; or*
- (ii) with a peak throughput of 120 litres per second or more,*

*excluding where:*

- a. such facilities or infrastructure are for bulk transportation of water, sewage or storm water drainage inside a road reserve; or*
- b. where such construction will occur within urban areas but further than 32 metres from a watercourse, measured from the edge of the watercourse";*

**Activity 11:**

*"The construction of:*

- (i) canals;*
- (ii) channels;*
- (iii) bridges;*
- (iv) dams;*
- (v) weirs;*
- (vi) bulk storm water outlet structures;*
- (vii) marinas;*
- (viii) jetties exceeding 50 square metres in size;*
- (ix) slipways exceeding 50 square metres in size;*
- (x) buildings exceeding 50 square metres in size; or*
- (xi) infrastructure or structures covering 50 square metres or more*

*where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line"; and*

**Activity 23:**

"The transformation of undeveloped, vacant or derelict land to –

- (i) residential, retail, commercial, recreational, industrial or institutional use, inside an urban area, and where the total area to be transformed is 5 hectares or more, but less than 20 hectares, or
- (ii) residential, retail, commercial, recreational, industrial or institutional use, outside an urban area, and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares;-

except where such transformation takes place –

- (i) for linear activities; or
- (ii) for purposes of agriculture or afforestation, in which case Activity 16 of Notice No. R. 545 applies".

Government Notice No. R. 546 of 18 June 2010 -

**Activity 16:**

"The construction of:

- (i) jetties exceeding 10 square metres in size;
- (ii) slipways exceeding 10 square metres in size;
- (iii) buildings with a footprint exceeding 10 square metres in size; or
- (iv) infrastructure covering 10 square metres or more

where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.

- (d) In the Western Cape:
  - i. In an estuary;
  - ii. Outside urban areas, in:
    - (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
    - (bb) National Protected Area Expansion Strategy Focus areas;
    - (cc) World Heritage Sites;
    - (dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;
    - (ee) Sites or areas identified in terms of an International Convention;
    - (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;
    - (gg) Core areas in biosphere reserves;
    - (hh) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;
    - (ii) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined.
  - iii. Inside urban areas:

- (aa) Areas zoned for use as public open space;
- (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;
- (cc) Areas seawards of the development setback line or within 100 metres of the high water mark where no setback line has been determined".

Government Notice No. R. 983 of 4 December 2014 –

**Activity 9:**

"The development of infrastructure exceeding 1000 metres in length for the bulk transportation of water or storm water-

- (i) with an internal diameter of 0,36 metres or more; or
- (ii) with a peak throughput of 120 litres per second or more;

excluding where-

- (a) such infrastructure is for bulk transportation of water or storm water or storm water drainage inside a road reserve; or
- (b) where such development will occur within an urban area";

**Activity 10:**

"The development and related operation of infrastructure exceeding 1000 metres in length for the bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes -

- (i) with an internal diameter of 0,36 metres or more; or
- (ii) with a peak throughput of 120 litres per second or more;

excluding where-

- (a) such infrastructure is for bulk transportation of sewage, effluent, process water, waste water, return water, industrial discharge or slimes inside a road reserve; or
- (b) where such development will occur within an urban area";

**Activity 12:**

"The development of-

- (i) canals exceeding 100 square metres in size;
- (ii) channels exceeding 100 square metres in size;
- (iii) bridges exceeding 100 square metres in size;
- (iv) dams, where the dam, including infrastructure and water surface area, exceeds 100 square metres in size;
- (v) weirs, where the weir, including infrastructure and water surface area, exceeds 100 square metres in size;
- (vi) bulk storm water outlet structures exceeding 100 square metres in size;
- (vii) marinas exceeding 100 square metres in size;
- (viii) jetties exceeding 100 square metres in size;
- (ix) slipways exceeding 100 square metres in size;
- (x) buildings exceeding 100 square metres in size;
- (xi) boardwalks exceeding 100 square metres in size; or

(xii) infrastructure or structures with a physical footprint of 100 square metres or more;

where such development occurs-

- (a) within a watercourse;
- (b) in front of a development setback; or
- (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; -

excluding-

- (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
- (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;
- (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;
- (dd) where such development occurs within an urban area; or
- (ee) where such development occurs within existing roads or road reserves"; and

#### **Activity 27:**

"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) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan".

Government Notice No. R. 985 of 4 December 2014 –

#### **Activity 14:**

"The development of-

- (i) canals exceeding 10 square metres in size;
- (ii) channels exceeding 10 square metres in size;
- (iii) bridges exceeding 10 square metres in size;
- (iv) dams, where the dam, including infrastructure and water surface area exceeds 10 square metres in size;
- (v) weirs, where the weir, including infrastructure and water surface area exceeds 10 square metres in size;
- (vi) bulk storm water outlet structures exceeding 10 square metres in size;
- (vii) marinas exceeding 10 square metres in size;
- (viii) jetties exceeding 10 square metres in size;
- (ix) slipways exceeding 10 square metres in size;
- (x) buildings exceeding 10 square metres in size;
- (xi) boardwalks exceeding 10 square metres in size; or
- (xii) infrastructure or structures with a physical footprint of 10 square metres or more;

where such development occurs -

- (a) within a watercourse;

- (b) in front of a development setback; or
- (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;

excluding the development infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.

(f) In the Western Cape:

i. Outside urban areas, in:

(aa) A protected area identified in terms of NEMPAA, excluding conservancies;

(bb) National Protected Area Expansion Strategy Focus areas;

(cc) World Heritage Sites;

(dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;

(ee) Sites or areas listed in terms of an International Convention;

(ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;

(gg) Core areas in biosphere reserves; or

(hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined".

The above-mentioned list is hereinafter referred to as "the listed activities".

The applicant is herein authorised to undertake the following related to the listed activities:

This Environmental Authorization is for the construction of a residential development on Portion A of Erf 8343 and the Remainder of Erf 2224, Hout Bay. The site is approximately 78.15ha in extent. However, it is important to note that the proposed residential development will cover approximately 19ha of the site. The proposed development will consist of "full title" (i.e. separate title) residential properties, open spaces, private roads and bulk services infrastructure. The residential component will consist of the following:

- 65 single residential erven;
- 1 special residential erf consisting of 8 units;
- 2 rural erven; Private Open Spaces/ecological buffers/riparian corridors;
- Private roads; and -
- An Undetermined land portion (for the future high level road reserve).

The residential erven will range in size, but will not exceed the minimum permissible extent. The remainder of the site will comprise of the following:

- An open space area of approximately 9ha just south of the developmental footprint, which is too steep and ecologically-sensitive to develop; and -
- An area of approximately 48.28ha adjacent to the Table Mountain National Park (TMNP) which is currently being managed by the South African National Parks ("SANParks"). The area is being managed in accordance with a long term management agreement between the landowner and SANParks.

- The 9ha open space area will be included into the contracted area managed by SANParks.

### C. PROPERTY DESCRIPTION AND LOCATION

The listed activities will take place on a Portion of Erf 8343 and the Remainder of Erf 2224, Hout Bay.

The site is located adjacent to the Table Mountain National Park to the south and residential developments to the east and west of the site in question.

The SG 21 digit codes are:

Erf 2224: C01600240000222400000

A portion of Erf No. 8343: C016002400834300000

Co-ordinates:

Latitude: 34° 01' 26.80" S

Longitude: 18° 20' 47.02" E

hereinafter referred to as "the site".

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

Sillito Environmental Consulting  
c/o Ms Colleen McCreadie  
P. O. Box 30134  
TOKAI  
7699  
Tel.: (021) 712 5060  
Fax: (021) 712 5061

### E. CONDITIONS OF AUTHORIZATION

1. This Environmental Authorisation is valid for a period of five **(5)** years from the date of issue. The holder must commence with the listed activities 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, at least three (3) months prior to the expiry of this Environmental Authorisation. The listed activities, including site preparation, may not commence during the period of administrative extension.

#### **Please note that:**

- 1.1 In terms of Regulation 28(2) of the NEMA EIA Regulations, 2014 failure to lodge an application for amendment at least three (3) months prior to the expiry of the validity period of the Environmental Authorisation may result in the Competent Authority being unable to process an application for amendment and in the lapsing of the Environmental Authorisation; and -

- 1.2 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 Authorization for the undertaking of the relevant activity.
2. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days of the date of the notification of the decision being sent to the registered Interested and Affected Parties. In the event that an appeal is lodged with the Appeal Administrator, the effect of this Environmental Authorisation is suspended until such time as the said appeal is decided upon.
3. The applicant must in writing, within 12 (twelve) calendar days of the date of this decision and in accordance with Regulation 10(2)–
  - 3.1 notify all registered Interested and Affected Parties of –
    - 3.1.1 the outcome of the application;
    - 3.1.2 the reasons for the decision as included in Annexure 1;
    - 3.1.3 the date of the decision; and -
    - 3.1.4 the date of issuing of the decision;
  - 3.2 draw the attention of all registered Interested and Affected Parties to the fact that an appeal may be lodged against the decision in terms of Chapter 7 of the Environmental Impact Assessment Amendment Regulations, 2010 detailed in **section F** below;
  - 3.3 draw the attention of all registered Interested and Affected Parties to the manner in which they may access the decision; and -
  - 3.4 publish a notice in the newspapers contemplated in Regulation 54(2)(c) and (d), and which newspaper was used for the placing of advertisements as part of the Public Participation Process (PPP), that –
    - 3.4.1 informs all Interested and Affected Parties of the decision;
    - 3.4.2 informs all Interested and Affected Parties where the decision can be accessed; and -
    - 3.4.3 informs all Interested and Affected Parties that an appeal may be lodged against the decision in terms of Chapter 7 of the Regulations; and -
  - 3.5 provide the registered Interested and Affected Parties with–
    - 3.5.1 the name of the holder (entity) of this Environmental Authorization;
    - 3.5.2 the name of the responsible person for this Environmental Authorization;
    - 3.5.3 the postal address of the holder;
    - 3.5.4 the telephonic and fax details of the holder; and -
    - 3.5.5 an e-mail address, if any.
4. Seven calendar days' notice, in writing, must be given to the Competent Authority before the commencement of the construction activities.



- 4.1 The notice must make clear reference to the site details and EIA reference number given above.
- 4.2 The notice must also include proof of compliance with the following conditions described herein:  
Conditions: 2, 3 and 14.
5. The holder is responsible for ensuring the compliance with the conditions by any person acting on his behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
6. Any changes to, or deviations from the scope of the description set out 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 an acceptance/approval or not, the Competent Authority may request such information as it deems necessary to evaluate the significance and impact of such changes or deviations and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.
7. The applicant must notify the Competent Authority in writing, within 24 hours thereof if any condition herein stipulated is not being complied with.
8. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorization is hereby approved and must be implemented.

An application for the amendment to the EMPr must be submitted to the Competent Authority if any further amendments are to be made to the EMPr, and these may only be implemented once the amended EMPr has been authorized by the Competent Authority.

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

9. Should any amendments to the EMPr be required before the required audit in terms of this Environmental Authorisation, the applicant must:
  - 9.1. Notify the Competent Authority of its intention to amend the EMPr at least sixty (60) days prior to the submission of the application for amendment to the EMPr;
  - 9.2. Obtain comment from any potential Interested and Affected parties, including the Competent Authority, by using any of the methods provided for in the NEMA for a period of at least 30 days; and -
  - 9.3 Submit the amended EMPr to the Competent Authority for approval within 60 days of inviting comment on the proposed amendments.
10. The mitigation measures and recommendations made by the specialists involved in the EIA process, as contained in the EMPr, must be strictly adhered to.
11. A copy of the Environmental Authorization and the EMPr must be kept at the site where the listed activities will be undertaken. Access to the site referred to

in **Section C** above must be granted and, the Environmental Authorization and EMPr 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. The Environmental Authorisation and EMPr must also be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.

12. the non-compliance with a condition of this Environmental Authorization or EMPr may result in the suspension of this Environmental Authorization and may render the holder liable for criminal prosecution.
13. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). 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 include: archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings; shipwrecks; and graves or unmarked human burials.

A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.

14. The holder must appoint a suitably experienced Environment Control Officer ("ECO"), or site agent where appropriate, for the construction phase of implementation before the commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
15. An integrated waste management approach, which is based on waste minimization that incorporates the reduction, recycling, re-use and disposal, where appropriate, must be employed.
16. No surface or ground water may be polluted due to any actions on the site. The applicable requirements with respect to relevant legislation pertaining to water must be met.
17. The applicable requirements with respect to relevant legislation pertaining to occupational health and safety must be adhered to.
18. The holder of the Environmental Authorization must, at all times, ensure that the construction activities comply with the Noise Regulations in terms of the relevant legislation.

## F. APPEALS

Appeals must comply with the provisions contained in Chapter 7 of the NEMA EIA Regulations.

1. An appellant must –
  - 1.1 submit a Notice of Intention to Appeal to the Minister, within 20 (twenty) calendar days of the date of the decision.
    - 1.1.1 If the appellant is an applicant, the appellant must provide each person and Organ of State which was a registered Interested and Affected Party in relation to the applicant's application, within 10 days of having submitted the notice with the Minister, with—
      - (a) a copy of the notice lodged with the Minister; and
      - (b) a notice indicating that the appeal submission will be made available on the day of lodging it with the Minister and where and for what period the appeal submission will be available for inspection by such person or Organ of State.
    - 1.1.2 If the appellant is a person other than an applicant, the appellant must provide the applicant, within 10 days of having lodged the notice with the Minister, with-
      - (a) a copy of the notice lodged with the Minister; and
      - (b) a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
  - 1.2 submit the appeal within 30 (thirty) calendar days after the lapsing of the 20 (twenty) calendar days contemplated in Regulation 60(1), for the submission of the Notice of Intention to Appeal;
  - 1.3 that a responding statement may be made on the appeal within 30 (thirty) calendar days from the date the appeal submission was lodged with the Minister; and -
  - 1.4 if a respondent introduces any new information not dealt with in the appeal submission of the appellant, the appellant is entitled to submit an answering statement to such new information to the Minister within 30 days of receipt of the responding statement.
2. A person, Organ of State or applicant who submits a responding or answering statement in terms of Regulation 63 must within 10 (ten) calendar days of having submitted the responding or answering statement, serve a copy of the statement on the other party.
3. All Notice of Intention to Appeal and Appeal forms must be submitted in hard copy by means of one of the following methods:

By post: The Western Cape Ministry of Local Government,  
Environmental Affairs and Development Planning  
Private Bag X9086  
CAPE TOWN  
8000

By facsimile: (021) 483 4174; or -

By hand: Attention: Mr. Jaap de Villiers (Tel: 021-483 3721)  
Room 809, 8<sup>th</sup> Floor Utilitas Building, 1 Dorp Street, Cape Town,  
8001

**PLEASE NOTE:** No appeal, responding and answering statement may be lodged by e-mail.

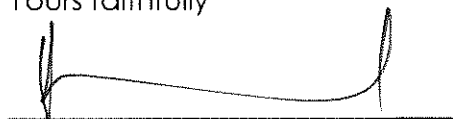
4. A prescribed Notice of Intention to Appeal form and Appeal form as well as assistance regarding the appeal processes is obtainable from the office of the Minister at: Tel. (021) 483 3721, E-mail [Jaap.DeVilliers@westerncape.gov.za](mailto:Jaap.DeVilliers@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.

#### G. 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 Authorization 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



**MR ANDRE LOMBAARD**  
**ACTING-DIRECTOR: DEVELOPMENT MANAGEMENT: REGION 1**

DATE OF DECISION: 4/1/2016

CC: (1) Colleen McCreadie (Sillito Environmental Consulting)

Fax: (021) 712 5061

#### **FOR OFFICIAL USE ONLY:**

**EIA REFERENCE NUMBER: E12/2/4/1-A5/235-2058/10**  
**NEAS EIA REFERENCE NUMBER: WCP/EIA/0000070/2010**

## ANNEXURE 1: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority, *inter alia*, considered the following:

- a) The information contained in the following:
  - Application Form dated 12 November 2010, as received by the Competent Authority on the same date;
  - The amended final BAR dated 5 October 2015, as received by the Competent Authority on the same date and the EMPR submitted together with the BAR;
  - The amended Comments and Responses Report and original signed declaration of independence from the various specialists involved in the EIA process, dated 23 October 2015, as received by the Competent Authority on 26 October 2015;
  - The correspondence dated 17 November 2015, received by the Competent Authority on 18 November 2015, which provided proof that the amended Comments and Responses Report were distributed to registered Interested and Affected Parties for information purposes;
  - The electronic correspondences from Sillito Environmental Consulting dated 18 November 2015 and 30 November 2015, respectively.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from Interested and Affected Parties and the responses provided, as included in the amended final BAR dated 5 October 2015;
- e) The site visit conducted on  
  
Date: 30 December 2015  
  
Attended by Ms R. Isaacs of the Department of Environmental Affairs and Development Planning;
- f) This application was submitted in terms of the previous EIA Regulations, 2010 and was pending at the time of the promulgation of the Environmental Impact Assessment Amendment Regulations, 2014. Some of the listed activities herein authorised may not have been listed under the previous EIA Regulations, but are now listed in terms of the Environmental Impact Assessment Amendment Regulations, 2014. In accordance with Regulation 53(3) of G.N. No. R. 982 these activities may be authorized as if applied for.

All the information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorization. A summary of the issues which, according to the Competent Authority, were the most significant reasons for the decision is set out below.

## 1. Public Participation

The Public Participation Process consisted of the following:

- Letters were posted by registered mail to owners and occupants within a 100m radius of the site, the Ward Councillor, relevant government Departments and Non-Governmental Organisations and Ratepayers' Associations in the area on 5 February 2008;
- An advertisement was placed in the "Sentinel" newspaper on 8 February 2008;
- Letters were sent to registered Interested and Affected Parties on 23 June 2009 to announce the availability of the draft BAR;
- Copies of the draft BAR were also placed at the Hout Bay Library for review and comment;
- Letters were sent to registered Interested and Affected Parties on 10 December 2010 to announce the availability of the final BAR;
- Copies of the final BAR were also placed at the Hout Bay Library for review and comment;
- Letters were sent to registered Interested and Affected Parties and to new families in the area on 4 July 2012 to announce the availability of the final BAR;
- Copies of the final BAR were also placed at the Hout Bay Library for review and comment;
- Letters were sent to registered Interested and Affected Parties and to new families in the area during February and March 2015 to announce the availability of the amended final BAR; and -
- Copies of the amended final BAR were also placed at the Hout Bay Library for review and comment.

### Authorities consulted

The authorities consulted included the following:

- Heritage Western Cape;
- CapeNature;
- The national Department of Water and Sanitation;
- The provincial Department of Transport and Public Works;
- South African National Parks; and -
- Various Departments within the City of Cape Town.

The Competent Authority is satisfied that the Public Participation Process that was followed met the minimum legal requirements. All the comments and responses that were raised were included in the amended final BAR.

## 2. Alternatives

### 2.1 Layout alternatives:

Layout alternatives have been investigated due to the sensitivity of the Bokkemannskloof River corridor; the visual character of the site in the surrounding rural mountainside; the requirement for adequate fire management and vegetation rehabilitation along the interface of the development with the natural areas abutting the Table Mountain National Park and the steep slopes prevalent towards the south of the site against the Table Mountain National Park.

### Layout Alternative 1

In this alternative the residential component consisted of the following:

- 73 Single Residential erven;
- One erf zoned Special Residential;
- Two Rural zoned erven;
- Five private open spaces;
- One erf zoned as Undetermined;
- One erf zoned as Open Space (conservation); and -
- Private roads.

This alternative was rejected since it included development which impacted on the river corridor and the buffer areas.

### Layout Alternative 2

In this alternative the residential component comprises of the following:

- 73 Single Residential erven;
- One erf zoned Special Residential;
- Two Rural zoned erven;
- Eight private open spaces;
- One erf zoned as Undetermined; and -
- Private roads.

This alternative was rejected since some of the erven were located on slopes steeper than 1:4. Development on such steep slopes is not desirable due to potential erosion and slope instability.

### Layout Alternative 3

This alternative retained and accommodated all 73 single residential erven. It was a conceptual exercise to determine whether all 73 single residential erven could be accommodated, considering the environmental constraints. This alternative was rejected as the "look and feel" of the development (i.e. the Hout Bay mountainside character) could not be retained.

### Alternative 4 (the preferred alternative-herewith authorized)

This alternative includes the construction of a residential development on a Portion of Erf 8343 and the Remainder of Erf 2224, Hout Bay. The site is approximately 78.15ha in extent. However, it is important to note that the proposed residential development will cover approximately 15ha of the site. The proposed development will consist of "full title" (i.e. separate title) residential properties, open spaces, private roads and bulk services infrastructure. The residential component comprises of the following:

- 65 single residential erven;
- 1 special residential erf comprising of 8 units;
- 2 rural erven; Private Open Spaces/ecological buffers/riparian corridors;
- Private roads; and -
- An Undetermined land portion (for the future high level road reserve).

The residential erven will range in size, but will not exceed the minimum permissible extent. The remainder of the site will comprise of the following:

- An open space area of approximately 9ha just south of the developmental footprint, which is too steep and ecologically sensitive to develop; and -
- An area of approximately 48.28ha adjacent to the Table Mountain National Park which is currently being managed by the South African National Parks ("SANParks"). The area is being managed in accordance with a long-term management agreement between the land owner and SANParks.
- The 9ha open space area will be included into the contracted area managed by SANParks.

This is the preferred alternative as it considers the findings of the fresh water specialist for the protection of the Bokkenskloof River; the findings of the faunal specialist with regards to the need to protect the habitat for sustaining Western Leopard Toad activity across the site; as well as the recommendations made by the botanical specialist for conserving the indigenous trees which grow along the drainage lines on the site. The preferred layout also considers the visual specialist input in terms of softening the visual impact of the proposed development. The need to avoid the steep slopes has also been considered. In addition, the preferred layout addresses the need for adequate fire management measures along the interface of the development with the natural mountainside, including aspects such as adequate fire breaks and access through the development.

## **2.2 Access alternatives:**

### Access alternatives included in Layout Alternative 2

Access to the properties located in the northern portion of the site was to be via Birch Street, a stub road coming off Blue Valley Avenue. Access to the properties in the southern portion of the site was to be via a temporary access road off Blue Valley Avenue along the proposed alignment/road reserve of the future bypass road. These accesses were rejected due to the uncertainty regarding the timeframe for the construction of the bypass road.

### Access arrangements via Dorman Way and Oakhurst Avenue

The access alternatives include access via Dorman Way or Oakhurst Avenue which are roads leading off the Hout Bay Main Road to properties just west of Erf 2224. An access via an existing gravel road off the Hout Bay Main Road which provides access to the very northern part of a portion of Erf No. 8343 and the Remainder of Erf 2224 was also proposed.

It was found that access via Dorman Way or Oakhurst way was not feasible since it crossed private land to which the applicant had no right of access before it would meet with the western boundary of Erf 2224. With the intrusion onto private land, the original town planning layout of the Oakhurst area never considered traffic traversing in such an alignment. The existing properties adjacent to such a road alignment would be unacceptably negatively affected. In addition, the access via the gravel road was not feasible due to insufficient shoulder sight distance to the east along Main Road. Furthermore, no right-turns onto Main Road are allowed from the gravel road.



Access alternatives included in Layout Alternative 4 (the preferred access alternative-herewith authorised)

Access to the northern portion of the site will be gained from Blue Valley Road, along different link roads. This is the preferred access as it is acceptable from a traffic engineering perspective (with acceptable levels of service and shoulder sight distances at intersections). This access arrangement addresses the option of access via more than one of the stub roads leading off Blue valley Avenue.

The preferred access design is aligned with the City of Cape Town's road authority planning for the area as well as with the relevant road design guidelines for ensuring traffic safety and easing congestion (e.g. national guidelines such as the Urban Transport Guidelines, Guideline 7 and the Guidelines for the Provision of Engineering Services in Residential Townships).

### **2.3 Resources alternatives:**

Energy and water saving technologies have been considered given the stressed state of scarce natural resources such as water and fossil fuels.

- The development will implement natural lighting schemes as far as possible as opposed to standard space lighting through electrical means. This will reduce the energy requirements for heating and cooling and lighting.
- One or a combination of the following will be implemented for all geysers to reduce their energy requirements: energy efficient geyser blankets, solar heated water geysers and/or geyser timers. This will reduce the energy requirements for heated water to be available on tap.
- The development will implement passive heating and cooling mechanisms as far as possible as opposed to mechanically ventilated solutions. This will reduce the energy requirements for heating and cooling.
- Rain water harvesting technologies will also be implemented as opposed to allowing water runoff to disperse into the storm water system, which impacts on the natural flow regime and ecology of rivers.
- Drip irrigation technologies for all landscaped areas will be implemented as far as practically possible as opposed to standard irrigation technologies. Drip irrigation saves up to 90% of water use when compared to standard irrigation systems. Drip irrigation also curbs weed growth which in turn requires less maintenance on landscaped areas.
- All buildings will be implementing water saving devices such as dual flush cisterns, waterless urinals and aerated taps, as opposed to standard flush cisterns and taps.

#### The "No-Go" Alternative

This alternative was rejected as the site would remain in its current state. In addition, should the land not be developed, the site would not be managed and there would be no control over factors such as fires and alien vegetation. The land use of the site will also not be in line with that of the surrounding developments in the area.

### 3. Impact, assessment and mitigation measures

#### 3.1 Activity need and desirability

A Portion of Erf 8343 and the Remainder of Erf 2224, Hout Bay are zoned for subdivisational purposes. This zoning enables the site to be developed for residential purposes. The proposed development is in line with the City of Cape Town's Spatial Development Plan and Integrated Development Plan (IDP). The proposed development also supports the goals of the Provincial Spatial Development Framework (PSDF) in terms of the densification of urban areas.

The Cape Peninsula Protected Natural Environment ("CPPNE") line is applicable to the proposed development, given the locality of Erf No. 2224 adjacent to the Table Mountain National Park. The purpose of the CPPNE line is to ensure that urbanisation does not encroach on the conservation planning priorities relating to the Table Mountain National Park, such as fire management and the management of endemic vegetation.

The preferred layout includes only seven single residential dwellings and two rural dwelling houses within the area situated between the CPPNE line and the urban edge. Several of these dwellings will be located in close proximity to the bottom-end of the CPPNE line, *i.e.* on or near the line itself, as opposed to above the line.

The proposed development also includes fire management measures, such as a 20m wide fire break. Approximately 10m of the fire break is situated on the even which encroach on the CPPNE line to the south and 10m is situated on the land beyond.

The proposed development includes vegetation management measures. All landscaped gardens within 100m of natural interface areas will consist of local indigenous plant species that have only been sourced from the immediate Cape Peninsula region, or non-invasive exotics that pose no threat to conservation in the Table Mountain National Park.

The preferred layout and management measures will ensure that minimal encroachment onto the CPPNE line will occur.

#### 3.2 Biophysical impact

Erf 2224 has a long history of agricultural activity and anthropological interference. Peninsula Granite Fynbos, the original vegetation that would have occurred on the site, is no longer present. A few remnant indigenous plant species persists, but are of little value since no intact fynbos plant communities remain. The largest indigenous plants on site are a fine patch of klyphout growing near the eastern banks of the Bokkemannskloof River. No rare or threatened plant species are found and none is likely to occur. The City of Cape Town's Biodiversity Network does not identify the site as a priority conservation area.

A long term (99 years) contractual agreement is in place between the land owner and SANParks for the management of the upper portion of the Remainder of Erf No. 2224, which measures 48.28ha in extent. This portion of the site is managed as

part of the Table Mountain National Park. The contractual agreement makes provision for the amendment of the boundary and extent of the portion of land under SANParks management to include additional land. An open space area of approximately 9ha just south of the development footprint, which is too steep and ecologically sensitive to develop, will be included into the contracted area managed by SANParks.

The upper- to middle reaches of the Bokkemanskloof River, a tributary of the Disa River, crosses the site within a deeply eroded stream channel. A number of small tributaries also flow into this stream. Two small off-stream dams and a wetland area occur adjacent to the stream. The wetland area occurs at the base of one of the small tributaries which drain into the Bokkemanskloof River.

Adequate buffers or development setback areas are provided from the top of the bank of all watercourses and the wetland on the site. A buffer of at least 30m, with corridors of 20m (10m on either side, measured from the centre of the stream) will be established along the tributaries.

The sewer pipe currently located in the buffer zone, adjacent to Erven 16 to 19, is an existing pipe. Although the pipe is located in the buffer zone, it is located outside the 1:50 and 1:00 year flood lines. The only other sewer pipe crossing the buffer zone is located in the existing jeep track, which is an already disturbed area and will have minimal impact on the functioning of the buffer zone.

The site is located within the Western Leopard Toad foraging range. The Bokkemanskloof River is regarded as being unsuitable for toads for breeding purposes. However, the wetlands and ponds in the area do have the potential to support breeding activity. It is therefore highly likely that toads are foraging on or passing through Erf 2224 *en route* to and from breeding sites.

The mitigation measures recommended by the various specialists for the avoidance of impact on the sensitive elements on the site and the surrounding area will ensure that the relevant policies, by-laws and norms and standards are adhered to. The recommendations made by the fresh water specialist are aligned with the City of Cape Town's *Floodplain and River Corridor Management Policy* and *Management of Urban Stormwater Impacts Policy*.

Furthermore, the EMP contains all the mitigation measures recommended by the specialists for the avoidance or minimisation of impacts on sensitive biophysical elements, such as:

- Western Leopard Toads likely to be found on or very near the site;
- The Bokkemanskloof River and the remaining indigenous vegetation found along the river corridor;
- The highly sensitive and nearby Table Mountain National Park;
- Road users on the surrounding road network;
- The visual landscape where the site is situated, which has cultural aesthetic value; and -
- Scarce natural resources such as water and fuel.

### 3.3 Cultural historical

According to the heritage study the site contains elements of cultural significance. A section of oak woodland occurs towards the north of the site, i.e. towards the Hout Bay Main Road. It is anticipated that the trees are successors to trees planted in the eighteenth century. The Bokkemenskloof riverine corridor is also an important structural element in the cultural landscape, are also of ecological importance and therefore of heritage significance. The buffer areas will suffice to protect the aesthetic significance of the river corridor, including the conservation-worthy grove of Klipkershout trees. The site has aesthetic value for the adjacent neighbours due to the open "mountainside feel" of the property. In addition, the site is also visible from a short section of two tourist/scenic drives.

### 3.4 Visual impact

The view of the site is often screened by trees lining Valley Road and Main Road, which are described as scenic routes. Views of the site from Suikerbossie are reduced by distance. The visibility of the site is low to moderate, as it is visible from a small area around the site, to an intermediate area of several hectares. The development is compatible with the surrounding residential developments on the eastern and western boundaries. The visual intrusion will therefore be low and the proposed development will blend in well with the surroundings. The preferred Layout Alternative 4 has fewer single residential erven, and hence less built upon area. Furthermore, the more visible and visually sensitive upper reaches of the site will not be developed.

### 3.5 Traffic impact and access considerations

Access to the northern portion of the development will be gained from Blue Valley Road, along different link roads.

The gradient of Blue Valley Avenue is suitable and acceptable for the current traffic volumes as well as the anticipated future traffic volumes. The operating speed is low along Blue Valley Avenue due to the steep gradient and general road conditions. The existing limitation to shoulder sight distance is therefore considered to be acceptable.

The planning and function of the stub roads are in line with the historical planning of the area. The additional traffic of the proposed development can be accommodated by any one of the existing Class 5 stub roads without changing the function of the road. The width of Birch Street (i.e. a road reserve of 9.45m) is considered to be acceptable to accommodate the additional traffic, including "truck traffic". This has been confirmed by the City of Cape Town in its letter dated 29 May 2015.

### 3.6 Storm water impact

The storm water component of the proposed development complies with the requirements of both the management of urban storm water impact policy as well as the floodplain and river corridor management policy.

### **National Environmental Management Act Principles**

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

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

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorization, and compliance with the EMP, the Competent Authority is satisfied that the proposed listed activity 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 impact resulting from the listed activities can be mitigated to acceptable levels.

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14/3/1/A6/36/0152/16

Mr C Derman  
Mesdames BI & MH Derman  
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**CONSTANTIA**  
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Dear Mr Derman

**APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE ENVIRONMENTAL AUTHORISATION GRANTED FOR THE PROPOSED RESIDENTIAL DEVELOPMENT ON A PORTION OF ERF NO. 8343 AND REMAINDER OF ERF NO. 2224, HOUT BAY**

The appeal lodged against the Environmental Authorisation ("EA") granted on 4 January 2016, refers.

After careful consideration of the appeal, as well as supporting documentation received, I have decided, in terms of section 43(2) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") and Chapter 7 of the 2010 Environmental Impact Assessment ("EIA") Amendment Regulations, to dismiss the appeal and confirm the abovementioned decision of the competent authority granted on 4 January 2016.

The abovementioned EA and the conditions under which the authorisation was granted are still valid and must be complied with. However, Conditions E 2 and E3 and section F are excluded from this authorisation because it is no longer applicable.

Condition E 1 has been amended to read as follows;-

**Condition E1:**

*"This environmental authorisation is valid for a period of five years from the date of this appeal decision. The holder of must commence with all the listed activities 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, before the expiry of this environmental authorisation. In such instances, the validity period will be automatically extended ("the period of the 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 activities, including site preparation, may not commence during the period of administrative extension."

## 1. REASONS FOR THIS APPEAL DECISION:

The reasons for dismissing the appeal and confirming the aforementioned decision of the competent authority granted on 4 January 2016 are contained in the aforementioned EA. Below find further reasons for dismissing the appeal and confirming the decision of the competent authority:

### **Failure to consider alternative access routes**

- 1.1 The consideration of alternative access roads was adequately addressed as it was previously raised as a concern by the registered interested and affected parties during the public participation process conducted during the basic assessment process. The access road to Erf No. 2224 was only investigated via the adjacent road network and not across neighbouring private properties. Access via other properties was discussed during the earliest planning stages by the professional team, but since none of the accesses via alternative properties were possible, these were not formally reported on in the documentation prepared by ITS traffic Engineers. The traffic engineers have dealt at length with the suggestion that development related traffic will cause unacceptable traffic impacts at the Blue Valley Avenue - Main Road intersection. The suitability of the Blue Valley Avenue - Main Road intersection to carry the additional traffic that will be generated by the development has been investigated in detail by ITS Engineers who undertook the independent and specialist traffic impact assessment. This investigation includes the suitability of the intersection from the perspective of levels of service, shoulder sight distance, pedestrian safety and consideration of background traffic conditions on the Hout Bay Main Road.
- 1.2 The trip generation rates for the development proposal have been calculated using standard transport engineering methodology, i.e. in accordance with the South African Trip Generation rates published by the Department of Transport.
- 1.3 The Blue Valley Avenue as a development access alternative was found suitable from a traffic engineering perspective by ITS traffic Engineers and supported by the relevant roads authorities such as the City of Cape Town's ("City") Transport Department.
- 1.4 The 2010 EIA Amendment Regulations require the contents of a basic assessment report to, *inter alia*, provide "a description of any identified alternatives to the proposed activity that are feasible and reasonable, including the advantages and disadvantages that the proposed activity or alternatives will have on the environment and on the community that may be affected by the activity". Therefore, Dorman Way and Blue Valley Avenue were comparatively assessed in the basic assessment report ("BAR") which concluded that the Blue Valley Avenue should be the preferred development access alternative.

- 1.5 The investigation of the development access options as included in the Final Basic Assessment Report concluded that due to reasons such as levels of service currently being experienced, intersection geometry, the alignment of Dorman Way and shoulder sight distances, Blue Valley Avenue is considered to be a preferred development access option.
- 1.6 The selection of Blue Valley Avenue and the stub roads as an access was based on town planning and transport engineering principles. The sub-divisional zoning approval of a Portion of Erf No. 8343 and the Remainder of Erf No. 2224, dated 1994, demonstrates that access via Blue Valley Avenue and the stub roads is the preferred access road for the property. ITS Engineers, who undertook the traffic engineering design and reporting for the development, found no unacceptable impacts on traffic safety or congestion associated with the proposed Blue Valley Avenue development access.
- 1.7 In order to address concerns raised by stakeholders, the development's access which was originally proposed was amended to include access not only from Birch Street as originally proposed, but from a number of the stub roads leading off Blue Valley Avenue (the development access authorised by the Department).
- 1.8 Dorman Way as an access option was investigated in more detail by ITS traffic engineers in August 2015 after the closure of the final round of public comment during April and May 2015. The detailed investigation was undertaken in response to a request received from the City's Transport Planning Department. Dorman Way was not found to be the optimal access route due to the fact that, *inter alia*, it crosses private land to which the applicant had no right of access before it would meet with the western boundary of Erf No. 2224 and the access via the gravel road was not feasible due to insufficient shoulder sight distance to the east along Main Road. The investigation and outcome were found to be satisfactory by the City's Transport Planning Department.
- 1.9 The August 2015 ITS investigation of Dorman Way as an access option was included in the comments and responses report for the application.
- 1.10 Access via the gravel access point from Hout Bay Main road directly onto Erf 2224 is not feasible due to contravention with the Provincial Road Access Guidelines. This option was therefore discarded at the earliest stages as a development access option.
- 1.11 The investigation of alternatives in terms of the NEMA, the 2010 EIA Amendment Regulations and the relevant Guideline on Alternatives, is driven by the need to avoid, minimise or mitigate impacts. Where traffic engineering input found that the access, as determined in this matter, did not have any unacceptable impacts and received no objections from the roads authorities it is not considered appropriate to investigate further access alternatives.
- 1.12 In cognisance of the above, the appointment of an external specialist to review the traffic impacts of the proposed development is not warranted as the traffic impacts was addressed by and independent traffic specialist.
- 1.13 The Environmental Management Programme ("EMP") which has been imposed as part of the conditions of approval will be implemented to mitigate any impacts that may result due to the development.



## Impacts on non-motorised transport users

1.14 The impacts on non-motorised transport ("NMT") users were adequately addressed as they were previously raised as a concern by the registered interested and affected parties during the public participation process conducted during the basic assessment process. The ITS traffic engineers' response to the Vanderschuuren report discusses the recommendations for NMT and pedestrian provisions that are within the ambit of the developer's responsibility. This includes recommendations made by the traffic engineers throughout the application for pavement facilities along the stub roads and taxi embayments near the Blue Valley Avenue- Hout Bay Main Road intersection.

The 2008 traffic impact statement, it is stated that: "... [t]he are no walkways/sidewalks along any of the roads in the site vicinity. Pedestrians have to walk in the street or along the gravel shoulder, similar to many other areas in the Cape Town area.

*Proposed facilities: Ideally sidewalks should be provided along the major internal roads, but since there are no other facilities in the immediate surrounding area, these sidewalks will lead nowhere. The internal streets are windy and relatively narrow, hence vehicle speeds will be low which will benefit pedestrian safety.*

*Public Transport:*

*There are no dedicated facilities along Hout Bay Road and currently the buses stop on the road to pick-up/drop-off passengers.*

*Proposed facilities: A bus lay-by should be considered in both directions along Hout Bay Main Road. However, this development cannot be solely responsible for the construction thereof".*

1.15 On page 6 of the April 2012 response to stakeholder concerns it is stated that:

"Birch Street is low order street which will function as a low volume access road and have sidewalks. None of the other streets in the area have sidewalks and there will be no continuity in the pedestrian network, which is unfortunate. However, the registered road reserve width for Birch Street of 9.45 metres is sufficient for a low volume access road, with a 1.8m to 2m sidewalk along one side. The road will not be busy since it will only serve 22 even which at most generate 30 trips per hour, i.e. a vehicle every 2 minutes. A narrow road in a residential environment with a sidewalk is ideally suited for low traffic volumes serving only a few residential units. Birch Street and all the parallel roads were designed and built to connect to the open space to the south west".

1.16 On page 30 of the EMP which has been approved as part of the conditions of authorisation requires that the detailed design process must ensure that a sidewalk for pedestrians of some 1.8 to 2m width is provided along Birch Street. As such, the impacts on NMT users have been adequately considered and mitigation measures have been proposed in the EMP.

### **Impacts on the road surface of Blue Valley Avenue**

- 1.17 The aspect of the road surface quality, and whether Blue Valley Avenue is of adequate design to accommodate the additional traffic associated with the development was adequately addressed as it was previously raised by the registered interested and affected parties during the public participation process.
- 1.18 ITS traffic engineers have stated that development levies are aimed at infrastructure maintenance and, where applicable, upgrading; and the maintenance will be levied by the City on the developer for this purpose.

### **Impacts on public transport users not assessed**

- 1.19 ITS traffic engineers stated that there are no dedicated public transport facilities along Hout Bay Main Road whereas currently the buses stop on the road to pick/drop-off passengers.
- 1.20 ITS traffic engineers' response to the Vanderschuuren report addresses the issue of public transport users at the intersection of Blue Valley Avenue and Hout Bay Main Road.
- 1.21 ITS traffic engineers' response states that the current road reserve width of 9.45 metres of the stub streets such as Birch Street is more than adequate to accommodate a 5.5m metre road, a sidewalk of 1.8 to 2 metres and possibly also parking on the verge of 2,0 to 2.2 metres.

### **Decision to approve based on outdated or incorrect information**

- 1.22 ITS traffic engineers' response to the Vanderschuuren report addressed the matter of more recent trip generation data being available for use in the traffic impact assessment. The more recent data (2013) is less conservative than the trip generation rates originally used (1995). The more recent data has been included by ITS in their response and an updated analysis of traffic conditions at the Blue Valley Avenue-Hout Bay Main Road intersection has been undertaken based on this more recent data.
- 1.23 It was found that the more recent trip generation data yields lower anticipated total traffic volumes at the intersection and an unchanged level of service of between D and E.
- 1.24 The use of the 1995 data is therefore considered to provide a worst-case scenario and to still be valid in the analysis of traffic conditions anticipated at the Blue Valley Avenue- Hout Bay Main Road intersection.
- 1.25 It is disagreed that the decision-maker failed to consider relevant information. The review of more recent data indicated comparative reduction in traffic volumes and that the data used in the road design was therefore very conservative.
- 1.26 According to ITS traffic engineers, there is no basis for the suggestion that the level of service E is considered as "*unacceptable*". ITS traffic engineers also state that there is no basis for suggesting that the intersection could operate at level of service F.

1.27 Cross section designs of Birch Street were provided by ITS in their April 2012 and October 2015 responses to stakeholders on issues raised on the basic assessment reports. In addition to this, the road reserve width was known to the City's Transport Planning Department, whose feedback on the proposed development access was available to the Department during decision-making.

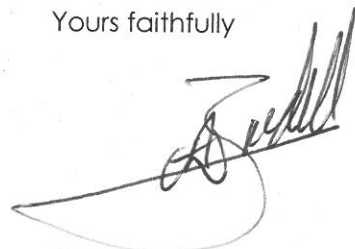
2. **CONCLUSION:**

In view of the above, the NEMA principles, compliance with the conditions stipulated in the EA and compliance with the conditions of the EMP, the proposed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and any potentially detrimental environmental impacts resulting from the activities can be mitigated to acceptable levels.

3. **DISCLAIMER:**

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

Yours faithfully



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

DATE: 19/9/2016

Copied to: 1. Mr Colleen McCreadie (Sillito Environmental Consulting)  
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