

Inframax Reality (Pty) Ltd  
PO. Box 38119  
Pinelands  
7430

Attention: Mr Michael MacLachlan

E-mail: [mmaclachan@inframax.co.za](mailto:mmaclachan@inframax.co.za)

**APPLICATION FOR AUTHORISATION IN TERMS OF SECTION 24 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, ACT 107 OF 1998 AS AMENDED TO UNDERTAKE LISTED ACTIVITIES AS SCHEDULED IN THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 AS AMENDED: RESIDENTIAL DEVELOPMENT OF ERF 168, KABEGA, PORT ELIZABETH WITHIN THE NELSON MANDELA BAY MUNICIPALITY.**

1. With reference to the above-mentioned application (Reference number **ECm1/C/LN1&3/M/21-2023**, please be advised that the Department has decided to grant authorisation as set out in the attached Environmental Authorisation. The Authorisation Notice and reasons for the decision are attached herewith.
2. In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014 as amended, you are instructed to notify all registered interested and affected parties, in writing and within fourteen (14) days of the date of this letter, of the Department's decision in respect of your application.
3. The written notification referred to above must -
  - 3.1. Specify the date on which the Environmental Authorisation was issued;
  - 3.2. Inform interested and affected parties of the appeal procedure provided for in the Appeal Regulations published in GN R993 of 8 December 2014 as amended in terms of Section 44 read together with Section 43 of the National Environmental Management Act, Act 107 of 1998 as amended; and
  - 3.3. Advise interested and affected parties that a copy of the Environmental Authorisation and reasons for the decision will be furnished on request.
4. Any appeal against the decision contained in this Authorisation must be addressed in writing, to the MEC for Economic Development, Environmental Affairs & Tourism (hereinafter referred to as "the MEC") in terms of Regulation 4(1) of the NEMA Appeal Regulations 2014 and within 20 (twenty) days after the appellant has been notified in terms of paragraphs 2 and 3, of the decision.
5. In the event that an appeal is lodged, copies of such appeal must be served on the applicant (if not the appellant), all registered interested and affected parties as well as juristic state departments (organ of state with interest in the matter) within 20 days of having been notified in accordance with the requirements stipulated in paragraphs 2 and 3 of the decision.

*"Innovation for Sustainable Development"*

*Only appeals on environmental grounds can be considered. All appeals should be accompanied by relevant supporting documentation.*

6. An Appeal Submission must be made on a form obtainable from the Departmental Appeal Administrator and/or the Departmental website on [www.dedea.gov.za](http://www.dedea.gov.za) or relevant Regional Office.
7. The Appellant must also serve a copy of the appeal to the regional office that processed the application.
8. The address to which the **originals** of such appeal and any other documents pertaining to the appeal must be mailed is outlined below. Please note that originals may also be delivered per hand or courier.

Department	Economic Development, Environmental Affairs & Tourism
Attention	General Manager: Environmental Affairs
Postal Address	Private Bag X0054, <b>BHISHO</b> , 5605
Hand delivery	Old Safety and Liaison Building (Global Life Complex) opposite Engen Garage, Bhisho
In order to facilitate efficient administration of appeals <b>copies</b> of any appeal and supporting documentation must also be submitted via email as follows:	
Appeal Administrator: Mr S. Gqalangile	<a href="mailto:Siyabonga.Gqalangile@dedea.gov.za">Siyabonga.Gqalangile@dedea.gov.za</a>
Administrative assistant: Ms P. Gxala	<a href="mailto:Phumeza.Gxala@dedea.gov.za">Phumeza.Gxala@dedea.gov.za</a>

9. In the event that an appeal is lodged with regard to this Authorisation, the listed activities described in this Authorisation may not commence prior to the resolution of the appeal and prior to the Department's written confirmation of compliance with all conditions that must be met before construction can commence, whichever event is the latter.



**DAYALAN GOVENDER**

**DEPUTY DIRECTOR: ENVIRONMENTAL AFFAIRS**

**SARAH BAARTMAN/NMB REGION**

**DATE:** 02 February 2024

# Environmental Authorisation

<b>AUTHORISATION NOTICE REGISTER NUMBER</b>	Provincial number: ECm1/C/LN1&3/M/21-2023 NEAS number: ECP/EIA/0001397/2023
<b>LAST AMENDED</b>	Not Applicable
<b>HOLDER OF AUTHORISATION</b>	Inframax Reality (Pty)Ltd
<b>LOCATION OF ACTIVITY</b>	Erf 168, Walker Drive, Kabega, Port Elizabeth within the Nelson Mandela Bay Municipality.

## DEFINITIONS:

The following definitions are applicable to this Environmental Authorisation:

“Audit” - refers to an audit of compliance with conditions contained in this Environmental Authorisation and the requirements / stipulations of a Construction and / or Operational Environmental Management Programme and not to an Environmental Audit undertaken in terms of an accredited environmental management system by a certified environmental management systems auditor.

“CBA” – refers to Critical Biodiversity Areas

“CEMP” – Construction Environmental Management Programme.

“Commencement” – Any physical activity on site that can be viewed as associated with the construction of the residential units inclusive of initial site preparation and site camp establishment.

“EA- Environmental Authorisation

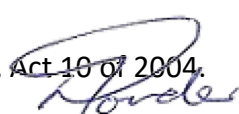
“EIA regulations” – These are the 2014 Environmental Impact Assessment Regulations as amended and published in Government Notice R326 of 07 April 2017 in terms of Chapter 5 of the National Environmental Management Act, Act 107 of 1998 as amended.

“EMPr” – refers to the Environmental Management Programme titled “Environmental Management Programme Proposed Residential Development of Erf 168, Kabega, Nelson Mandela Bay” dated September 2023 as prepared by Engineering Advice & Services and attached to the FBAR as Appendix F.

“FBAR” - refers to the Final Basic Assessment Report titled “Final Basic Assessment Report: Proposed Residential Development of Erf 168, Kabega, Nelson Mandela Bay” dated 29 September 2023, as prepared by Engineering Advice & Service.

“NEMBA” – National Environmental Management: Biodiversity Act, Act 10 of 2004.

“NMBM” – Nelson Mandela Bay Municipality



“OEMP” – Operational Phase Environmental Management Programme.

“The Department” – The Department of Economic Development, Environmental Affairs and Tourism, Eastern Cape Province

## 1. Decision

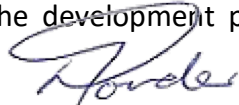
The Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this Environmental Authorisation that the applicant should be allowed to undertake the activity specified below. Details regarding the basis on which the Department reached this decision are set out in Section 4.

## 2. Activities and regulations for which authorisation has been granted

By virtue of the powers conferred on it by the National Environmental Management Act, Act 107 of 1998 and the Environmental Impact Assessment Regulations, 2014 as amended the Department hereby authorises **Inframax Reality (Pty)Ltd** being the legal or natural person who has applied for this Authorisation, with the following contact details:

Name	Inframax Reality (Pty)Ltd		
Address	P.O. Box 38119, Pinelands, 7430 / Unit B1, Sunrise Park, Ndabeni, 7405		
Contact Person	Mr Micheal MacLachlan	Cellphone	082 596 9387
E-mail	mmaclachan@inframax.co.za	Telephone	021 530 5760

To undertake the following activities (hereafter referred to as “the activity”), in terms of the scheduled activities listed in the table below:

Detailed description of activity
<p>Erf 168, Kabega is located along Walker Drive opposite the Sherwood Garden Centre and approximately 300 m west of the Walker Drive Shopping Centre. The site is bordered by residential development to the West and North, bordering the Baakens River to the South, and vacant land is situated to the East.</p> <p>The site is currently vacant, unoccupied land with a flat topography gradually sloping towards the south. Vegetation cover comprises a mixture of fynbos and grasses indicative of Algoa Sandstone Fynbos with sporadic clumps of alien invasive vegetation (Port Jackson). There are no structures on the site, and disturbance is limited to the edges of the site and the vehicle track paths and footpaths. Surrounding land uses include residential, vacant land, commercial, roads, infrastructure, and open space. A tributary of the Baakens River runs along the southern portion of the site towards the east. This area and the associated 32 m buffer (from the river centre line) have been excluded from the development plan and incorporated into open space.</p> 

Erf 168 is 17.77 Ha and according to the project description in the FBAR it is proposed to development approximately 12.29ha with 2.56 Ha to be left intact as Public Open Space and 2.92 Ha that will be left intact as private open space.

### **PROJECT LAYOUT AND DESIGN**

As per the description in the FBAR, the development is proposed to entail the construction of 9 different residential unit types, which equal a total of 654 units for alternative A and 634 units for Alternative B, excluding “other buildings” for recreation, refuse, maintenance, entrance area, and security. It must be noted that 815 Units are permitted to be built on the property in terms of the municipal zoning.

The FBAR addresses two alternatives:

#### **Alternative A(Preferred) (Drawing Number – SDP 008)**

- GH - Entrance buildings (380m<sup>2</sup>)
- Type A – 14 x 1 Bedroom Retirement Units (25m<sup>2</sup>)
- Type B – 16 x 1 Bedroom Retirement Units (40m<sup>2</sup>)
- Type C – 59 x 2 Bedroom Retirement Units (60 – 70m<sup>2</sup>)
- Type D – 31 x 2/3 Bedroom Retirement Units (80m<sup>2</sup>)
- Type E – 17 x 3 Story Blocks comprising of 12 x 2 Bedroom units per block (204 units)
- Type F – 18 x 2 Story Blocks comprising of 8 x 1 Bedroom units per block (144 units)
- Type G – 92 x 2/3 Bedroom Town House Units (50-60m<sup>2</sup>)
- Type H – 94 x 2 Bedroom Town House Units (70m<sup>2</sup>)

#### **Alternative B (Drawing Number – SDP 008/2)**

- GH - Entrance buildings (380m<sup>2</sup>)
- Type A – 14 x 1 Bedroom Retirement Units (25m<sup>2</sup>)
- Type B – 16 x 1 Bedroom Retirement Units (40m<sup>2</sup>)
- Type C – 59 x 2 Bedroom Retirement Units (60 – 70m<sup>2</sup>)
- Type D – 31 x 2/3 Bedroom Retirement Units (80m<sup>2</sup>)
- Type E – 17 x 3 Story Blocks comprising of 12 x 2 Bedroom units per block (204 units)
- Type F – 18 x 2 Story Blocks comprising of 8 x 1 Bedroom units per block (128 units)
- Type G – 92 x 2/3 Bedroom Town House Units (50-60m<sup>2</sup>)
- Type H – 94 x 2 Bedroom Town House Units (70m<sup>2</sup>)

For Alternative A: The residential units, associated roads, parking bays, and related infrastructure will cover an area of 12.69 Ha. In terms of the Port Elizabeth Zoning Scheme Regulations, the development must provide 34 776m<sup>2</sup> of open space for the type of units proposed for the development; however, the development will provide 50 753m<sup>2</sup>(5.1 Ha) of open space.

For Alternative B: The residential units, associated roads, parking bays, and related infrastructure will cover an area of 12.29 Ha. In terms of the Port Elizabeth Zoning Scheme Regulations, the development must provide 34 776m<sup>2</sup> of open space for the type of units

proposed for the development; however, the development will provide 54 761m<sup>2</sup>(5.48 Ha) of open space.

The boundary wall surrounding the development will constitute of the likes of a brick wall with columns on North, East and West boundaries of the site and a fence between the PROS and POS (Valley).

With reference to the SDP, the open space section (PROS – Private Open Space) located in the development's middle section will be rehabilitated where necessary and kept intact as natural Algoa Sandstone Fynbos. The open space section (POS – Public Open Space) will not be developed; only certain stormwater infrastructure will be located within this open space section. All open space within the property boundaries will be rehabilitated and managed to be restored to its natural state. The PROS section in the middle of the development will be linked to the other sections on the southern side of the property by utilising culverts to act as pathways for small animals. Signage will be erected to educate residents and visitors of the importance of the vegetation and biodiversity of the area. Pathways will be located within the open space areas (excluding the very high sensitivity area) for residents to walk through the open space areas and admire the natural indigenous fynbos located within their residential area. This will also avoid people making their own footpaths through the vegetated areas and possibly damaging the vegetation. The SDP's for both alternatives is attached in Appendix C. It should be noted that the municipality has indicated that approval of the SDP is subject to the Environmental Authorisation being granted.

The proposed development will entail the following activities on the site:

- Clearing of vegetation from the proposed site for the development.
- Levelling and landscaping the site for roads, units and on-site parking,
- The construction of a boundary fence/wall spanning the property boundary,
- Construction of internal roads to provide access to buildings and on-site parking.
- Construction of walkways and related foot pathways,
- Construction of residential units, gatehouse and related infrastructure,
- Installation of stormwater infrastructure,
- Installation of sewer reticulation,
- Connections to existing municipal services,
- Linking of the open space areas to one another,
- Construction activity related to access to the site from Walker Drive, and
- Landscaping of the site to provide private open space between the buildings.

**It must be noted that this Environmental Authorisation does not pertain to either of the two alternatives as described in the FBAR. Conditions contained in this Environmental Authorisation requires submission of a new layout that restricts development on Erf 168 to only 50% of the Erf size i.e. approximately 9ha and requires relocation of the 3 storey blocks from the edge of the Public Open Space adjacent to the Baakens River.**

Services



Water

Bulk potable water supply will be provided by the existing municipal bulk water infrastructure in the area.

Sewage

The effluent of the proposed residential development will be treated by the NMBM Driftsands Waste Water Treatment Works.

Electricity

Electricity will be supplied by Nelson Mandela Bay Municipality.

Solid Waste

Domestic waste will be transported to and disposed of at the closest registered landfill site.

Access

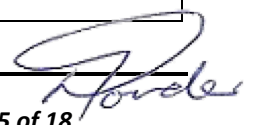
The site has two potential existing access routes, Walker Drive and Wiehahn Avenue. Public roads, facilities and the development plan influence the location of access points. With approval from the local municipality, access into the erf will be via Walker Drive in order to reduce traffic within the residential parts of Kabega (Ben Kamma) (i.e. Wiehahn Avenue).

**Listed Activities in terms of the NEMA EIA Regulations 2014 as amended**

GNR. 327 – 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.
GNR. 324 – Activity 12	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. <b>a. Eastern Cape</b> ii. Within critical biodiversity areas identified in bioregional plans.

At the locality defined in the Table below, and hereafter referred to as “the property”:

<b>District</b>	Sarah Baartman
<b>Municipal Area</b>	Nelson Mandela Bay Municipality
<b>Farm Name</b>	N/A
<b>Farm Number and Portion</b>	N/A
<b>Erf Number and Township Extension or Suburb</b>	Erf 168, Kabega





<b>Co-ordinates (corners of study site)</b>	Representing corner points of study area: 33° 57'31.21" E      25° 29'35.52" S 33° 57'29.12" E      25° 29'49.48" S 33° 57'45.71" E      25° 29'58.62" S 33° 57'46.52" E      25° 29'47.87" S 33° 57'44.11" E      25° 29'46.21" E 33° 57'44.05" E      25° 29'43.80" E
<b>Physical address</b>	Erf 168, Walker Drive opposite the Sherwood Garden Centre, Kabega, Port Elizabeth within the Nelson Mandela Bay Municipality.

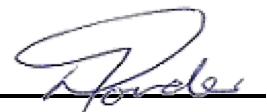
**This Environmental Authorisation is granted subject to the conditions set out below.**

### 3. Conditions

*The Department of Economic Development, Environmental Affairs and Tourism may from time to time review this Environmental Authorisation and on good grounds and after written notice to the holder thereof, suspend or amend such Environmental Authorisation.*

#### 3.1. Duration of authorisation

- 3.1.1. The Residential development inclusive of the associated infrastructure as described in Section 2 of this Authorisation Notice must commence within a period of 24 (twenty- four) months from the date of issue of this Authorisation.
- 3.1.2. Construction to be completed within 24 (twenty-four) months from date of commencement.
- 3.1.3. If commencement of the activity does not occur within the above mentioned periods, this Environmental Authorisation lapses and a new application for environmental authorisation in terms of the 2014 EIA Regulations as amended must be made in order for the activity to be undertaken.
- 3.1.4. An application for the amendment of the Environmental Authorisation must be submitted to the Department on condition that the Environmental Authorisation is valid on the date of receipt of such amendment application. If no request for amendment is received prior to the expiry of this Environmental Authorisation, the Environmental Authorisation will be deemed to have lapsed.
- 3.1.5. On receipt of any such application for amendment, the Department reserves the right to request such information as it may deem necessary to consider the application for amendment which may include but not limited to:
  - 3.1.5.1. An updated EMP; and
  - 3.1.5.2. Such public participation process as may be deemed necessary at the time of the application for extension





3.1.6. Conditions relating to the operation of the project are valid in perpetuity.

### **3.2 Standard conditions**

3.2.1 Authorisation is subject to the conditions contained in this Environmental Authorisation which conditions form part of the Environmental Authorisation and are binding on the holder thereof.

3.2.2 This Environmental Authorisation applies only to the activities and property described therein.

3.2.3 This Environmental Authorisation does not negate the holder thereof of his/her responsibility to **comply with any other statutory requirements** that may be applicable to the undertaking of the activity, including but not limited to:

3.2.3.1 The National Environmental Management: Biodiversity Act, Act 10 of 2004.

3.2.4. The holder of this Environmental Authorisation shall be responsible for ensuring compliance with the conditions by any person acting on his or her behalf, including but not limited to, an agent, sub-contractor, employee or person rendering a service to the holder of this Environmental Authorisation.

3.2.5. Should any environmental damage be detected, that in the opinion of this Department, is the result of the development, then the applicant shall be required to make good that damage to the satisfaction of the said authority at his/her own expense.

3.2.6. In the event of any dispute as to what constitutes environmental damage, this Department's opinion will prevail.

3.2.7. This authorisation applies strictly to the project description as outlined in Section 2 of this Authorisation. Should the applicant wish to amend any component or aspect of the project hereby authorised, then approval will be required from this Department. The Department will advise what information is required as well as the process that must be followed in order to apply for an amendment to this Environmental Authorisation or, if needed, for authorisation in terms of the applicable EIA Regulations promulgated in terms of the National Environmental Management Act, Act 107 of 1998.

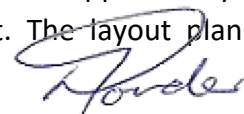
3.2.8. This Environmental Authorisation is issued to the applicant described above. Should the applicant wish to transfer this Environmental Authorisation to another person (whether legal or natural), such transfer is to be affected by means of an amendment to the Environmental Authorisation. Such amendment to be applied for in terms of the relevant provisions contained in the EIA Regulations that may be applicable at the time.



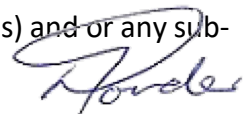
- 3.2.9. Any changes to, or deviations from, the project description set out in this Environmental Authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of this Environmental Authorisation to apply for further authorisation in terms of the regulations.
- 3.2.10. This Environmental Authorisation must be made available to any interested and affected party who has registered their interest in the proposed development. The applicant is responsible for ensuring that a copy of this Environmental Authorisation is given to any such interested and affected party within 14 (fourteen) days of receiving this Environmental Authorisation.
- 3.2.11. This Environmental Authorisation or a certified copy thereof must be kept at the property where the activity will be undertaken. The Authorisation must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the site.
- 3.2.12. Where any of the applicant's contact details change, including the name of the responsible person, the physical or postal address and/or telephonic details, the applicant must notify the Department as soon as the new details become known to the applicant.
- 3.2.13. In all cases, the holder of the Environmental Authorisation must notify the Department, in writing, within 30 days if a condition of this Authorisation is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance.
- 3.2.14. Non-compliance with a condition of this Environmental Authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, Act 107 of 1998 and the regulations.

**3.3. Project - specific conditions**

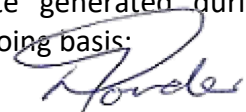
- 3.3.1 Fourteen days' written notice must be given to the Department that the activity will commence. Commencement for the purposes of this condition includes site preparation and site camp establishment. The notice must include a date on which it is anticipated that the activity will commence.
- 3.3.2 A detailed layout plan and final design must be submitted to and approved by the Department prior to commencement of the development. The layout plan to address the following:



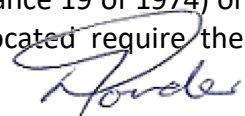
- 3.3.2.1 Development on Erf 168 to be restricted to a maximum of 50% of the site i.e. approximately 9ha, with the bulk of the area to remain undeveloped to abut the Baakens River to the south.
- 3.3.2.2 Indicate all components of the development i.e. access, parking, position of housing blocks, playgrounds etc. within the 50% of the property that is to be developed;
- 3.3.2.3 The position of all stormwater management infrastructure such as storm water retention ponds which are not be located within any part of the property that is to remain undeveloped as per Condition 3.3.2.1; and
- 3.3.2.4 Demarcation of the undeveloped portion of Erf 168 as Open Space reserved for biodiversity conservation.
- 3.3.3 All recommendations contained in the Traffic Impact Assessment contained under Appendix D- Specialist Report must be adhered to and implemented prior to the commencement of the activity, confirmation of compliance to be provided to the Department.
- 3.3.4 No component of the proposed development may exceed the maximum height of 3 storeys (12m).
- 3.3.5 The portions of the property that will remain undeveloped must be demarcated and fenced off as “No-Go” areas prior to commencement of the proposed development and no construction related activities inclusive of the storage of material and construction laydown areas are to be located within such “No-Go” areas.
- 3.3.6 A comprehensive storm water management programme must be implemented wich includes special measures that may be necessary to ensure that stormwater from the development is managed at source to remove the risk of erosion.
- 3.3.7 Any recommendations / mitigatory measures contained in the FBAR and its appendices and not explicitly covered under the conditions contained in this Environmental Authorisation, are regarded as conditions in terms of this Environmental Authorisation. In the event that any such recommendation / mitigatory measure is contradictory to a condition contained in this Environmental Authorisation, such condition will be deemed to take precedence.
- 3.3.8 Inframax (Pty) Ltd must compile a detailed record of all Conditions, inclusive of recommendations / mitigatory measures contained in the FBAR, in tabular format for inclusion in the CEMPr and OEMPr as applicable.
- 3.3.9 The relevant conditions of this Environmental Authorisation shall form part of any contracts entered into between the applicant and any contractor(s) and or any sub-contractor(s).



- 3.3.10 Further to Condition 3.3.9, a performance-based requirement with regard to environmental impact management must be included in all contracts related to any activity relating to this Environmental Authorisation inclusive of incentives and penalties.
- 3.3.11 A comprehensive CEMPr, to be compiled, submitted to and approved by the Department prior to commencement of the Development. In this regard components of the EMPr that addresses construction can be used as a point of departure and such CEMPr to include, amongst others, the following:
- 3.3.11.1 Applicable conditions of this Environmental Authorisation;
  - 3.3.11.2 All recommendations, mitigation measures, responsibilities, key actions and other provisions contained in the FBAR;
  - 3.3.11.3 General principles of environmental management as applicable to construction activities including environmental best practice, erosion prevention and control, and rehabilitation measures of the development footprint area etc.;
  - 3.3.11.4 Copies of all permits / licences issued to South Inframax Reality (Pty) Ltd in relation to this project that have relevance to the environment;
  - 3.3.11.5 A general code of conduct for any contractor that may be carrying out any work on the relevant development site;
  - 3.3.11.6 A clear description of the construction activities to be carried out on the site;
  - 3.3.11.7 Details regarding storage of construction material on site; and
  - 3.3.11.8 A framework for all contracts associated with the construction phase of the development and the Environmental Method Statements that will be associated with such contracts.
- 3.3.12 General principles of environmental management as contemplated in Condition 3.3.11.3 to include amongst others the following if not already contained in the EMPr:
- 3.3.12.1 No cement/concrete mixing to take place on the soil surface. Cement mixers to be placed on large trays to prevent accidental spills from coming into contact with the soil surface;
  - 3.3.12.2 Generators and fuel supply needed during construction must be placed on trays, which rest on clean sand. Once construction has been completed, this sand must be removed from site and disposed of at a registered waste disposal site;
  - 3.3.12.3 Any substrate contaminated by the spillage of hydrocarbons or other pollutants to be removed from the site and disposed of at a registered waste disposal site;
  - 3.3.12.4 All excess construction material and any waste generated during construction must be removed from site on an ongoing basis:



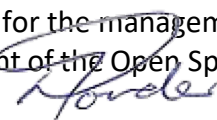
- 3.3.12.5 Adequate waste disposal and sanitation facilities to be provided and the applicant must ensure that these facilities are properly used and maintained; and
- 3.3.12.6 Clear stipulations as to who is responsible and accountable for what actions.
- 3.3.13 An Environmental Control Officer to be appointed to oversee implementation of the EMPr as well as adherence to the conditions contained within this Environmental Authorisation. Confirmation of appointment of the ECO to be provided to the Department together with the notice of commencement contemplated in Condition 3.3.1. The ECO is amongst others responsible for the following:
  - 3.3.13.1 Pre-commencement Audit report to be compiled and submitted to the Department;
  - 3.3.13.2 To keep record of all activities on site, problems identified, transgressions noted as well as a schedule of tasks undertaken by the ECO;
  - 3.3.13.3 To keep and maintain a detailed incident and complaints register (inclusive of any spillages of hazardous substances and other materials) indicating how these issues were addressed (including any rehabilitation measures implemented) and preventative measures implemented to avoid re-occurrence of such incidents;
  - 3.3.13.4 To keep copies of all reports submitted to the Department on site;
  - 3.3.13.5 Conduct monthly audits during construction and submit quarterly, summarized audit reports to DEDEAT during the construction phase of the development.
- 3.3.14 A plant “search and rescue”, to be conducted by a suitably qualified botanical specialist prior to commencement of any vegetation clearing for all protected species and species of special concern that may be affected by the development, as well as other indigenous plant specimens which can be relocated. Such specimens are to be relocated and appropriately transplanted, including in rehabilitation initiatives, where applicable and practical on site.
- 3.3.15 Further to Condition 3.3.14 any protected species which need to be removed or relocated require the necessary permits to be obtained from DEDEAT for those species protected under the Cape Nature and Environmental Ordinance (Ordinance 19 of 1974), as well as those species listed under NEMBA, i.e. ToPS species.
- 3.3.16 A suitably qualified individual is to carry out a faunal “search and rescue”, which fauna are to be relocated to a suitably protected natural area prior to the commencement of vegetation clearing. Should any injured fauna be found, they are to be taken to be examined by a veterinarian and if deemed suitable for rehabilitation, these fauna are to be taken to a suitable faunal rehabilitation centre, in consultation with the Department's Biodiversity Unit. Any species protected in terms of the Cape Nature and Environmental Ordinance (Ordinance 19 of 1974) or NEMBA, Act 10 of 2004 which need to be removed or relocated require the necessary permits to be obtained from DEDEAT.



- 3.3.17 All construction activities to be restricted to normal working hours being 08:00 to 17:00 on weekdays. No construction to take place on weekends and public holidays.
- 3.3.18 Any construction camp sites that may be necessary must be identified with the help of the ECO to ensure that they are located outside any of the “No-Go” areas.
- 3.3.19 The development footprint needed for the construction /installation of services to be restricted to the absolute minimum necessary to facilitate construction of such. Such development footprint to be clearly demarcated with pegs. Construction activities, stockpiling of any building material and the storing of machinery must be accommodated within such demarcated areas and in accordance with the relevant provisions of the EMPr. Open spaces are not to be used for such.
- 3.3.20 All sand, gravel, stone or other building material to be used are to be obtained from a bona fide source and the building contractor is not allowed to source any such material from the surrounding environment.
- 3.3.21 Any areas disturbed as a result of construction activities to be rehabilitated within 7 days using vegetation indigenous to the area.
- 3.3.22 Low-flow technology such as dual flush toilets must form part of the water and sanitation system for the project to reduce potential water consumption and wastewater loading on the sanitation system.
- 3.3.23 Provision to be made for rainwater harvesting at all units to augment the municipal water supply.
- 3.3.24 Inframax Reality (Pty) Ltd will be held liable in the event of non-compliance by any contractor associated with this activity.
- 3.3.25 Compliance/non-compliance records must be kept and shall be made available on request from the authorities.
- 3.3.26 The South African Heritage Resources Agency (SAHRA) and the Eastern Cape Province Heritage Resources Agency (ECPHRA) must be contacted immediately should any archaeological findings be discovered during the course of the development.
- 3.3.27 Non-compliance with any stipulation in the CEMPr will be regarded as non-compliance in terms of this Environmental Authorisation.
- 3.4 Conditions specific to the on-going operation and management of the development as described in Section 2 of this Environmental Authorisation**
- 3.4.1 Measures to protect the integrity of the Kabega-Baakens river must be implemented.
- 3.4.2 An OEMPr is to be compiled by a suitably qualified and experienced professional and submitted to the Department for approval / endorsement within 12 months of the date of signature of this Environmental Authorisation. In this regard the portions of the EMPr that addresses operational issues may be used as a point of departure. The OEMPr must be implemented by the developer and must be

regarded as working document to allow for information gained during the monitoring of activities on site to inform any changes necessary to the OEMP.

- 3.4.3 The OEMP<sub>r</sub> provided for in condition 3.4.2 must include environmental goals and objectives, management actions, monitoring requirements and criteria for monitoring and remedial actions where actions are ineffective. The OEMP<sub>r</sub> must furthermore provide for amongst others:
- 3.4.3.1 Address operational matters associated with any component of the development;
  - 3.4.3.2 A comprehensive Fire Management Plan;
  - 3.4.3.3 A comprehensive waste management programme;
  - 3.4.3.4 A comprehensive storm water management programme including special measures that may be necessary to ensure that stormwater from the development is managed within the confines of the developed portion of the property to reduce the risk of erosion on any of the Open Space components and the risk of pollution of the Baakens River;
  - 3.4.3.5 A comprehensive Open Space Management Plan to ensure the ongoing management and conservation of the areas of the property that are to remain undeveloped and that is set aside for conservation purposes.
- 3.4.4 The Open Space Management Plan (OSMP) provided for in Condition 3.4.3.4 is to govern the management of all the Open Space areas. The OSMP is to include, amongst others, the following:
- 3.4.6.1. Monitoring to take place quarterly from the date of implementation of the OSMP until construction is completed. Thereafter, monitoring to take place annually for the lifetime of the development;
  - 3.4.6.2. A comprehensive vegetation management programme, inclusive of a relocation and rehabilitation plan as well as a fire management plan for all open space areas;
  - 3.4.6.3. A comprehensive fauna monitoring and management programme; and
  - 3.4.6.3 A comprehensive storm water management programme including special measures that may be necessary to ensure that stormwater from the development is managed at source to reduce the risk of erosion and pollution of the Baakens River.
- 3.4.5 An appropriately qualified individual is to be appointed by the developer to oversee the implementation of the OSMP which will continue to be enforced during construction and in perpetuity.
- 3.4.6 The holder of this Environmental Authorisation is responsible for the management of all components of the development inclusive of management of the Open Space.





- 3.4.7 Notwithstanding the provisions of any of these conditions, all recommendations, guidelines and standard conditions contained in the Final Basic Assessment Report must be adhered to.

#### **4 Reasons for Decision**

##### **4.1 Information considered in making the decision**

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

##### **4.1.1 The information contained in the following documentation:**

- Completed application form dated 12 May 2023 and received on 10 May 2023;
- The initial DBAR dated 31 May 2023;
- The revised DBAR dated 18 August 2023; and
- FBAR dated 29 September 2023 and received by the Department on 29 September 2023;

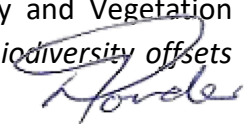
##### **4.1.2 The EIA regulations of 2014 as amended and the objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the National Environmental Management Act, Act 107 of 1998.**

#### **4.2 Key factors considered in making the decision**

##### **4.2.1 Erf 168 is located along Walker Drive opposite the Sherwood Garden Centre and approximately 300 m west of the Walker Drive Shopping Centre. The site is bordered by residential development to the West and North, bordering the Baakens River to the South, and vacant land is situated to the East.**

##### **4.2.2 Erf 168 is located within the approved urban edge of the NMBM but with that being said it must be noted that the entire extent of Erf 168 is located within a Critical Biodiversity Area as mapped in the NMBM Bioregional Plan. Furthermore, the indigenous vegetation on Erf 168 is mapped as Algoa Sandstone Fynbos in the National Vegetation Map which is critically endangered. The development guidelines for any vegetation that is critically endangered is that no further loss should occur. Similarly the fact that the property is located within a mapped CBA implies that no development should be considered unless a suitable off-set is provided.**

##### **4.2.3 Comments made by the Department on the Draft BAR highlighted these constraints and instructed the EAP to address these matters amongst others by the consideration of an appropriate and suitable offset. This has however not been considered and addressed. Instead the Terrestrial Biodiversity and Vegetation Assessment states amongst others: *As previously mentioned, biodiversity offsets***

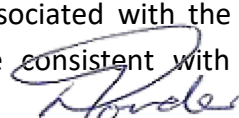


*have been recently put in place as a conservation measure designed to compensate for the negative impacts of development activities on natural habitats and species. Where residual negative biodiversity impacts are evaluated to be medium or high significance, a biodiversity offset would be required as a final resort to aid in the loss of residual biodiversity. Algoa Sandstone Fynbos being critically endangered has a starting offset ratio of 30:1. In terms of the specific site, this method of offset implementation would thus not be viable as the footprint only constitutes 17ha. Therefore it is important that the designated conservation target of 23% (3.91ha) be achieved within the site footprint and overall site development plan by implementing open space areas that are relevant to the areas that act as ecological corridor and that hold high species richness (being most representative of the vegetation unit present).*

This argument however is flawed in the sense that the biodiversity offset that is to be considered should not necessarily be on the same property on which development is being proposed. In this regard it would have been appropriate to consider biodiversity offsets that are not directly linked to the property. It is furthermore also not acceptable to argue that it would be appropriate to only ensure that the conservation target of 23% be achieved on the subject property. The mere fact that the vegetation unit (Algoa Sandstone Fynbos) is critically endangered indicates that it is severely under threat and that there quite possibly is not enough intact vegetation left to meet this conservation target.


- 4.2.4 Under the circumstances the Department would be within its rights to refuse any development on the subject property, especially as no biodiversity offsets were considered. Given the history though of Erf 168 and the fact that authorisations have previously been issued for development thereon (which has lapsed) it was decided that it would be reasonable to allow for some development. In this regard it was concluded that it would be reasonable to allow for a maximum development footprint of 50% of the extent of Erf 168 with the remainder being set aside as Open Space which are to be managed for biodiversity conservation. This undeveloped area will include the riparian area adjacent to the Baakens River that runs across the southern portion of Erf 168. Conditions contained in this Environmental Authorisation addresses this as well as the management of the Open Space areas inclusive of activity rehabilitation and restoration.
- 4.2.5 Municipal bulk services are available as was confirmed by the Nelson Mandela Bay Municipality. The Developer will be responsible to contribute the full augmentation fees for his development. Furthermore, the developer will be responsible for the direct costs for the required connector service to link the internal services of the development to the Municipality's bulk services.



- 4.2.6 The development will create a large number of employment opportunities during the construction phase and will assist in skills development of the surrounding local communities.
- 4.2.7 The project has been advertised and has been subjected to Public Participation as per the EIA Regulations and objections were lodged against the proposed activity. Comments that have been raised by I&AP have been accommodated and addressed by the EAP in the planning of the proposed development. Comments raised by the Department has however not been comprehensively addresses as articulated above. Conditions contained in this Environmental Authorisation have however addressed this as articulated in paragraphs 4.4.3 and 4.4.4.
- 4.2.8 Impacts during site establishment and construction will be managed through the implementation of a comprehensive Environmental Management Programme as required in terms of this Environmental Authorisation. Implementation of and adherence to this EMPr as well as compliance to the conditions of this Environmental Authorisation are to be overseen by a dedicated Environmental Control Officer.
- 4.2.9 Impacts during operational phase will be managed through the implementation of the Operational Environmental Management Programme as required in terms of Condition 3.4.2 which includes management of the conservation areas.
- 4.2.10 No fatal flaws other than the matter related to biodiversity and the critically endangered state of the vegetation type as raised by the Department were discovered during the Environmental Impact Assessment Process. This has however been addressed through conditions contained in this Environmental Authorisation and as explained in the paragraphs above. In addition, a number of other measures are stipulated in the conditions contained in Section 3 of this Environmental Authorisation that are intended to ensure that potential impacts associated with the development are kept within limits that are compatible with the environmental character of the site. It is further believed that this development does not present any impact that could not be successfully mitigated.
- 4.2.11 The Department is satisfied that the risks to the natural environment and to humans can be adequately managed if all the conditions contained within this Environmental Authorisation are adhered to.
- 4.2.12 The conditions set out in this Environmental Authorisation have been designed to ensure that the negative impacts and risks associated with the project are identified, addressed and/or managed effectively.
- 4.2.13 In conclusion, this Department is satisfied that the benefits associated with the proposed project outweigh the environmental costs and are consistent with sustainable development principles.
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- 4.2.14 In general, the environmental process followed is deemed to be satisfactory. It is the opinion of the Department that the information at hand is sufficient and adequate to make an informed decision. In this regard the Department is satisfied that, subject to compliance with the conditions contained in the Environmental Authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management as laid down in Chapter 5 of the National Environmental Management Act, Act 107 of 1998, and that any potentially detrimental environmental impacts resulting from the proposed activities can be mitigated to acceptable levels.

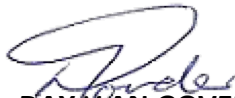
## **5 Appeal of authorization**

- 5.1 In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014 as amended, you are instructed to notify all registered interested and affected parties, in writing and within 14 (fourteen) calendar days of the date of this letter, of the Department's decision in respect of your application.
- 5.2 The written notification referred to in Condition 5.1 above must:
- 5.2.1 Specify the date on which the Authorisation was issued;
- 5.2.2 Inform interested and affected parties of the appeal procedure provided for in the Appeal Regulations published in GN R993 of 8 December 2014 as amended in terms of Section 44 read together with Section 43 of the National Environmental Management Act, Act 107 of 1998 as amended; and
- 5.2.3 Advise interested and affected parties that a copy of the Environmental Authorisation and reasons for the decision will be furnished on request.
- 5.3 Any appeal against the decision contained in this Authorisation must be addressed in writing, to the MEC for Economic Development, Environmental Affairs & Tourism (hereinafter referred to as "the MEC") in terms of Regulation 4(1) of the NEMA Appeal Regulations 2014 and within 20 (twenty) days after the appellant has been notified in terms of paragraphs 5.1 and 5.2 of the decision.
- 5.4 In the event that an appeal is lodged, copies of such appeal must be served on the applicant (if not the appellant), all registered interested and affected parties as well as juristic state departments (organ of state with interest in the matter) within 20 days of having been notified in accordance with the requirements stipulated in paragraphs 2 and 3 of the decision.
- Only appeals on environmental grounds can be considered. All appeals should be accompanied by relevant supporting documentation.*
- 5.5 "An Appeal Submission must be made on a form obtainable from the Department Appeal Administrator and/or the Departmental website on [www.dedea.gov.za](http://www.dedea.gov.za) or relevant Regional Office.
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- 5.6 The Appellant must also serve a copy of the appeal to the regional office that processed the application.”
- 5.7 The address to which the **original** of any appeal and any other documents pertaining to the appeal must be mailed is outlined below. Please note that originals may also be delivered per hand or courier.

Department	Economic Development, Environmental Affairs and Tourism
Attention	General Manager: Environmental Affairs
Postal Address	Private Bag X0054, <b>BHISHO</b> , 5605
By Hand	Old Safety and Liaison Building (Global Life Complex) opposite Engen Garage, Bhisho
In order to facilitate efficient administration of appeals <b>copies</b> of any appeal and supporting documentation must also be submitted via email as follows:	
Appeal Administrator: Mr S. Gqalangile	<a href="mailto:Siyabonga.Gqalangile@dedea.gov.za">Siyabonga.Gqalangile@dedea.gov.za</a>
Administrative assistant: Phumeza Gxala:	<a href="mailto:Phumeza.gxala@dedea.gov.za">Phumeza.gxala@dedea.gov.za</a>

- 5.7 In the event that an appeal is lodged with regard to this Authorisation, the listed activities described in this Authorisation may not commence prior to the resolution of the appeal and prior to the Department’s written confirmation of compliance with all conditions that must be met before construction can commence, whichever event is the latter.

**ANDISWA MHLABA****ENVIRONMENTAL OFFICER: EIM****SARAH BAARTMAN/NMB REGION****DATE:** 02 February 2024**DAYALAN GOVENDER****REGIONAL MANAGER: ENVIRONMENTAL AFFAIRS****SARAH BAARTMAN/NMB REGION****DATE:** 02 February 2024