



DEPARTMENT of
ENVIRONMENTAL AFFAIRS
& DEVELOPMENT PLANNING
Provincial Government of the Western Cape

DIRECTORATE: LAND MANAGEMENT
REGION 2

tel: +27 21 483 2881/ 2596 fax: +27 21 483 4372
1 Dorp Street, Cape Town, 8001
Private Bag X9086, Cape Town, 8000
www.capegateway.gov.za/eadp

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ENQUIRIES: MS.C. MUSEMBURI
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28 OCT 2011

The Director
Communicare
P. O. Box 259
CAPE TOWN
8000

For attention: Mr. A. F. J. Brosens

Tel: (021) 421 6008
Fax: (021) 421 6094

Dear Sir

**APPLICATION: THE PROPOSED MONT CLAIR MIXED USE DEVELOPMENT AND ASSOCIATED
INFRASTRUCTURE ON ERF 776, MANDALAY, CAPE TOWN.**

With reference to your application, find below the Environmental Authorisation in respect of this application.

ENVIRONMENTAL AUTHORISATION

A. DESCRIPTION OF ACTIVITY:

The proposed development entails the construction of a mixed use development and associated infrastructure on Erf 776, Mandalay. The mixed use development will consist of a single residential component, an apartment component, a commercial component, a Rural Zone component and associated infrastructure. Erf 776 will be subdivided as follows:

- approximately 413 single residential erven, with a total footprint of approximately 78 626m²;
- 4 blocks of 3 storey apartments containing approximately 650 units, with a total footprint of approximately 62 214m²;
- 1 commercial zone Erf consisting of shops and or offices with a total footprint of approximately 8 217m²;
- 3 private Open Spaces with a total footprint of approximately 9 458m²;
- 2 public Open Spaces with a total footprint of approximately 23 098m²;
- internal roads with a total footprint of approximately 53 818 m²; and
- associated infrastructure.

The total footprint of the proposed development is approximately 235 431m².

The proposed development will be accessed off Montclair Drive.

The proposed development will connect to the following municipal services:

- solid waste management;
- storm water management;
- treatment and disposal of sewage and effluent;
- water supply; and
- power supply.

These are activities identified in:

GN No. R. 544 of 18 June 2010, being:

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 structure 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.

Activity 18: The infilling or deposition of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from:

- (i) a watercourse;
- (ii) the sea;
- (iii) the seashore;
- (iv) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater-

but excluding where such infilling, depositing, dredging, excavation, removal or moving;

- (a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or
- (b) occurs behind the development setback line.

Activity 39: The expansion of:

- (i) canals;
- (ii) channels;
- (iii) bridges;
- (iv) weir;

- (v) bulk storm water outlet structures;
- (vi) marinas;

within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, where such expansion will result in an increased development footprint but excluding where such expansion will occur behind the development setback line.

GN No. R. 545 of 18 June 2010, being:

Activity 15: *Physical alteration of undeveloped, vacant or derelict land for residential, retail, commercial, recreational, industrial or institutional use where the total area to be transformed is 20 hectares or more;*

except where such physical alteration takes place for:

- (i) linear development activities; or
- (ii) agriculture or afforestation where activity 16 in this Schedule will apply.

Hereinafter referred to as "the activity".

B. LOCATION:

The proposed activity is to be located on Erf 776, Montclair Drive, Mandalay.

Co-ordinates: 34° 01.14' 87" South
 18° 37.17' 13" East

Hereinafter referred to as "the site/property".

C. APPLICANT:

Communicare
c/o Mr. A. F. J. Brosens
P. O. Box 259
CAPE TOWN
8000

Tel: (021) 421 6008
Fax: (021) 421 6094

D. ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP):

Braaf Environmental Practitioners CC.
c/o Ms. Olivia Braaf
P.O. Box 692
KUILS RIVER
7579

Tel: (086) 011 1382
Fax: (086) 658 7676

E. SITE VISITS:

Date: 27 July 2011

Persons Present: Ms. Constance Musemburi and Ms. Liza Petersen (Department of Environmental Affairs and Development Planning), Ms. Samantha Ralston (CapeNature), Ms. Olivia Braaf (Braaf Environmental Practitioners CC) and Mr. Tinus Coetzee (Project Consultant).

F. 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 authorised to undertake the activity specified above.

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA) and the NEMA EIA Regulations (18 June 2010), the Department hereby authorises the activities.

The granting of this Environmental Authorisation is subject to the conditions set out below.

G. CONDITIONS OF AUTHORISATION:

1. The activity, including site preparation, may not commence within 20 (twenty) days after having received this environmental authorisation. In the event that an appeal notice and subsequent appeal is lodged with the competent authority, the effect of this environmental authorisation will be suspended until such time as the appeal is decided.
2. The applicant, must, in writing, within 20 days of the issue of this authorisation, confirm acceptance of the conditions of this authorisation, failing which the Environmental Authorisation may be suspended until such time that these conditions of authorisation are accepted.
3. One week's notice, in writing, must be given to the Directorate: Land Management (Region 2), (hereinafter referred to as "this Directorate"), before commencement of such construction activities.

- 3.1. such notice shall make clear reference to the site location details and reference number given above, and
- 3.2. the said notice must also include proof of compliance with the following conditions described herein:

Conditions: 1, 2, 6, 8 and 21.

4. An integrated waste management approach must be used that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste that cannot be recycled or re used must be disposed of at a landfill licensed in terms of the relevant legislation. There must be no on-site burying, dumping or burning of any waste materials, litter or refuse.
5. The relevant requirements of the National Water Act, 1998 (Act No. 36 of 1998) and any conditions and recommendations set by the Department of Water Affairs ("DWA") must be complied with at all times.
 - 5.1. No surface or ground water may be polluted due to any activity on the property/site.
6. The holder of the authorisation must appoint a suitably experienced Environmental Control Officer ("ECO") before commencement of any land clearing or construction activities to ensure that the mitigation measures and recommendations referred to in this Environmental Authorisation are implemented and to ensure compliance with the provisions of the Environmental Management Programme ("EMP").
7. The following fuel mitigation measures must be implemented:
 - 7.1. All fuel temporarily stored on site must be confined to specific, secured, and bunded areas (bunded to a minimum of 110% of the fuel stored);
 - 7.2. Drip trays must be provided for all vehicles, construction equipment and generators that may require re-fuelling on site to avoid the possible spillage of fuel/oil; and

- 7.3. Should soil be contaminated by a spill, the spill must be contained and the contaminated soil removed to a licensed landfill site.
8. The following conditions, *inter-alia*, regarding the wetlands on site must be implemented in accordance with a "Maintenance Management Plan":
 - 8.1. The Maintenance Management Plan must:
 - 8.1.1. be approved by this Department prior to the commencement of any construction activities;
 - 8.1.2. be drawn up with input from a suitably qualified and experienced wetland specialist;
 - 8.1.3. define "Wetland 3" as part of the proposed private Open Space;
 - 8.1.4. define the partially piped "Wetland 7" as part of the private Open Space; and
 - 8.1.5. define a riparian buffer zone of approximately 30m for the wetlands to be conserved.
 - 8.2. "Wetland 3" and the partially piped "Wetland 7" identified above, including the buffer areas, must be identified as "No-Go" areas before the commencement of construction activities:
 - 8.2.1. no development must occur in the "No-Go" areas;
 - 8.2.2. the "No-Go" areas must be zoned and used as private Open Space;
 - 8.2.3. the "No-Go" areas must be clearly demarcated before commencement of any construction activities;
 - 8.2.4. no construction activities must be allowed in the "No-Go" areas;
 - 8.2.5. all rubbish in the "No-Go" areas, must be removed during the construction phase and a final clean-up must be done after construction has been completed; and
 - 8.2.6. the "No-Go" areas must form an integral part of the proposed development.
 - 8.2.7. The maintenance of the "No-Go" areas, and the public Open Spaces, during the operational phase, must remain the responsibility of the applicant unless a contractual agreement states otherwise.
9. The construction site must be clearly demarcated during the construction period. The footprint of the proposed development must be limited to the areas required for actual construction work and operational activities.
10. The following conditions regarding stormwater must be implemented:
 - 10.1. a Stormwater Management Plan that complies with the requirements of the Local Authority must be implemented for the proposed development during the operational phase;
 - 10.2. runoff impact from the construction site and deposition of sediments in the wetland environment must be prevented; and
 - 10.3. the applicant must remain responsible for on-site stormwater management unless a contractual agreement states otherwise.
11. All areas of the site disturbed by construction must be rehabilitated with locally occurring indigenous plants. A search and rescue of any transplantable species for re-use on site for rehabilitation and/or landscaping purposes must be done (in the appropriate season) where land clearing is to occur.
12. Environmental awareness and training programmes for all employees on the site during the construction phase must be conducted. All employees must be made aware of the sensitive areas.

13. The following conditions regarding noise mitigation measures, during the construction phase, must be implemented:
 - 13.1. all noise and sounds generated during all phases of the proposed development must comply with the relevant SANS codes and standards;
 - 13.2. no pure tone sirens or sounds must be used unless in emergency situations, or when required with respect to relevant health and safety regulations;
 - 13.3. silencers must be installed and maintained on machinery, vehicles and earth moving equipment; and
 - 13.4. work hours during the construction phase must be restricted to the following times:
 - 13.4.1. 08h00 – 17h00 Mondays to Fridays;
 - 13.4.2. 08h30 – 16h00 Saturdays; and
 - 13.4.3. No operations on Sundays and public holidays.
14. Dust suppression methods must be used to mitigate dust during the construction phase. No water is to be used to mitigate dust in this regard (as far as is practically possible). Alternative dust suppression methods (such as shade netting screens and/or straw stabilisation, etc.) may be implemented instead.
15. Adequate ablution facilities must be provided on site during construction. The ratio of 15 people per ablution facility must not be exceeded.
16. The following visual mitigation measures must be implemented:
 - 16.1. electrical cables must be installed underground or concealed appropriately and be tamper proof, as far as possible; and
 - 16.2. architectural guidelines compiled by Tinus Coetzee Architects included in the Environmental Impact Assessment Report dated 20 July 2011, must be adhered to.
17. The use of water, energy, and resource demand management and efficiency devices and fittings must be incorporated and implemented in the development, which, *inter alia*, include the following:
 - 17.1. all toilets must have appropriately installed devices to reduce the amount of water used in a single flush;
 - 17.2. all toilet cisterns must have a capacity of less than 9 litres;
 - 17.3. no automatic flush urinals are to be installed;
 - 17.4. all taps used must include an aerator that reduces the flow of water by at least 30% or to 6 litres/minute, unless used solely to fill receptacles such as basins or water troughs;
 - 17.5. shower heads must be adjustable to reduce the water flow or have a built-in water restrictor/aerator that reduces the water flow to at least 10 litres/minute;
 - 17.6. energy saving light bulbs such as Compact Fluorescent Light's (CFLs) and Light Emitting Diodes (LEDs) must be installed instead of incandescent bulbs, except where higher quality light is required;
 - 17.7. all outdoor lighting must be fitted with appropriate devices to switch off the lights during daylight hours;
 - 17.8. rainwater harvesting from roofs must be implemented for the development; and
 - 17.9. the installation of a passive thermosyphon system or alternative improved technologies for the generation of hot water must be implemented.

18. Should any heritage remains be exposed during excavations, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)). Heritage remains uncovered or disturbed during earthworks must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape.
 - 18.1. if any archaeological remains (including but not limited to fossil bones and fossil shells, coins, indigenous and/or colonial ceramics, any articles of value or antiquity, marine shell heaps, stone artefacts and bone remains, structures and other built features, rock art and rock engravings) are discovered during construction they must immediately be reported to Heritage Western Cape and must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape; and
 - 18.2. if any graves or unmarked human burials are discovered, they must be treated with respect and SAHRA must be notified immediately and the burials must not be disturbed further until the necessary approval has been obtained from SAHRA. An archaeologist must be contracted to remove the remains at the expense of the developer.
19. The Environmental Management Programme ("EMP") dated February 2011 compiled by Braaf Environmental Practitioners and submitted together with the Environmental Impact Assessment Report must be implemented and must address, *inter-alia*, the following:
 - 19.1. the recommendations, as indicated in the EMP, *inter-alia*, for water management, site safety and security, excavation activities, storm water management, material handling, waste management, fire and noise control must be adhered to;
 - 19.2. the EMP must be included in all contract documentation for the construction phase of the upgrading;
 - 19.3. this Directorate must be notified in writing of any proposed changes to the EMP due to additional information gained as a result of construction activities, and this Directorate must approve any proposed changes prior to implementation;
 - 19.4. the ECO must notify this Directorate immediately of events or incidents that may cause significant environmental damage or breach the requirements of the EMP; and
 - 19.5. the conditions/mitigation measures in the EMP must be strictly adhered to.
20. The holder of this environmental authorisation must submit an Environmental Audit Report ("Audit Report") to this Directorate one (1) year after the completion of the construction phase.
 - 20.1. the Audit Report must detail compliance with this Environmental Authorisation and the EMP relevant to the stage of development; and
 - 20.2. if the Audit Report is not submitted, this Directorate may give 30 days written notice and may have such an audit undertaken at the expense of the applicant and may authorise any person to take such measures necessary for this purpose.
21. The applicant must in writing, within 12 (twelve) calendar days of the date of the decision on the application –
 - 21.1 notify all registered interested and affected parties of –
 - 21.1.1. the outcome of the application;
 - 21.1.2. the reasons for the decision; and
 - 21.1.3. the date of the decision.
 - 21.2 Inform all registered interested and affected parties of the appeal procedure provided for in Chapter 7 of the EIA Regulations 2010;
 - 21.3 inform all registered interested and affected parties of the manner in which they can access the decision;

- 21.4. advise all registered interested and affected parties that, should they wish to appeal, they must lodge a notice of intention to appeal with the Minister within 20 (twenty) days of date of the Department's decision and must submit their appeal within 30 (thirty) days after the lapsing of the 20 (twenty) days contemplated in regulation 60(1), for the lodging of the notice of intention to appeal;
- 21.5 inform all registered interested and affected parties that the prescribed Notice of Intention to Appeal form and Appeal form are obtainable from the Minister's office at telephone number (021) 483 3721 or email jagp.deVilliers@mgw.gov.za or via the URL <http://www.capegateway.gov.za/cado>;
- 21.6. inform all registered interested and affected parties that should they wish to appeal, the appellant must serve on the applicant, within 10 (ten) days of having submitted the notice of intent to appeal with the Minister, a copy of the Notice of Intention to Appeal form as well as a notice indicating where and for what period the appeal submission will be available for inspection by the applicant;
- 21.7. if the applicant should decide to appeal the decision, the applicant must –
 - 21.7.1. lodge a notice of intention to appeal with the Minister, within 20 (twenty) days after the date of the decision;
 - 21.7.2 submit the appeal within 30 (thirty) days after the lapsing of the 20 (twenty) days contemplated in regulation 60(1), for the lodging of the notice of intention to appeal; and
 - 21.7.3. within 10 (ten) days of having lodged the notice of intention to appeal, provide each person and organ of State registered as an interested and affected party in respect of the application, with –
 - 21.7.3.1. a copy of the Notice of Intention to appeal form; and
 - 21.7.3.2. a notice indicating where and for what period the appeal submission will be made available for inspection by such person or organ of State, on the day of lodging it with the Minister, and that a responding statement may be made on the appeal within 30 (thirty) days from the date the appeal submission was lodged with the Minister. A person, organ of state or applicant who submits a responding statement in terms of regulation 63(1) must within 10 (ten) days of having submitted the responding statement, serve a copy of the statement on the appellant.
22. The holder of the authorisation shall be responsible for ensuring compliance with the conditions by any person acting on his behalf, including but not limited to, an agent, sub-contractor, employee or any person rendering a service to the holder of the authorisation.
23. Any changes to, or deviations from the project description set out in this 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 the authorisation to apply for further authorisation in terms of the regulations.
24. The holder of the authorisation must notify this Directorate and any other relevant authority, in writing, within 24 hours thereof if any condition of this authorisation is not adhered to.
25. A copy of this authorisation 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 property.

26. Where any of the holder of the authorisation'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 holder of the authorisation.
27. Non-compliance with a condition of this authorisation may result in the suspension of the authorisation and may render the holder liable for criminal prosecution.
28. This Department must be notified, within 30 days thereof, of any change of ownership and/or project developer. A request for the transfer of the rights and obligations contained in this environmental authorisation must be submitted in the following way:
 - 28.1. the current holder of the environmental authorisation must submit an original signed letter to the Department stating that he/she wish the rights and obligations contained in this environmental authorisation to be transferred, provide the Department with:
 - 28.1.1. confirmation that the environmental authorisation is still in force (i.e. validity period have not yet expired or the activity(ies) was lawfully commenced with); and
 - 28.1.2. the contact details of the person to whom the rights and obligations are to be transferred, and
 - 28.1.3. the reasons for the requested transfer.
 - 28.2. the person to whom the rights and obligations are to be transferred must also submit an original signed letter to the Department:
 - 28.2.1. accepting the rights and obligations contained in this environmental authorisation; and
 - 28.2.2. must indicate that he/she has the ability to implement the mitigation measures and to comply with the conditions of authorisation.
29. If the transfer is found to be appropriate by the Department, the Department will issue a letter confirming the transfer of the rights and obligations contained in this environmental authorisation.
30. Departmental officials must be given access to the property referred to in B above for the purpose of assessing and/or monitoring compliance with the conditions contained in this environmental authorisation, at all reasonable times.
31. The activity which is authorised may only be carried out at the property indicated above.
32. Notwithstanding this authorisation, the holder of the authorisation must still comply with any other statutory requirements that may be applicable to the undertaking of the activity.
33. This activity must commence within a period of **five (5) years** from the date of issue of this authorisation. If commencement of the activity does not occur within this period, this authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken, unless the holder of this environmental authorisation has lodged a valid application for the amendment of the duration of expiry of this authorisation before the expiry of this authorisation, in which case, the validity of this environmental authorisation is automatically extended from the day before this environmental authorisation would otherwise have expired until the amendment application for extension is decided ("the period of automatic extension"). The activity including site preparation may not commence during the period of automatic extension.

H. REASONS FOR THE DECISION:

1. In reaching its decision, the Department took, *inter alia*, the following into consideration:
 - 1.1. The information contained in the amended Application Form dated 9 May 2011, the final Scoping Report dated September 2008 and accepted by the Department on 07 January 2009 (originally submitted in terms of NEMA EIA Regulations 2006), the completed Environmental Impact Assessment Report dated 20 July 2011 and received by the Department on 25 July 2011, the EMP dated February 2011 submitted together with the Environmental Impact Assessment Report, and subsequent additional information including additional information dated and received by the Department on 19 August 2011;
 - 1.2. The comments received from interested and affected parties and the responses given by the applicant, as included in the Environmental Impact Assessment Report;
 - 1.3. Relevant information contained in the Departmental information base including - the Guidelines on Public Participation, Alternatives and Exemptions (dated August 2010); and
 - 1.4. 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).

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below.

2. Need and Desirability and Socio-Economic Impacts

- 2.1. The Metropolitan Spatial Development Framework and the Provincial Spatial Development framework support densification along the major transport routes such as the R300, AZ Berman Drive, Stock Road and other railway corridors. As such, the proposed development is suited for densification in terms of these policies.
- 2.2. According to the Social and Economic Impact Assessment dated July 2010 and conducted by the Theta Research and Strategic Consultants, the proposed development will be aligned with strategic priorities and objectives as identified in the City of Cape Town IDP 2006/2007 which, *inter-alia*, includes:
 - 2.2.1. provision of affordable housing;
 - 2.2.2. proximity to established transport routes and systems; and
 - 2.2.3. provision of opportunities for local economic development (through the development of a commercial area).
- 2.3. In addition, the proposed development will create employment related benefits during the construction phase.

3. Environment

- 3.1. Erf 776, Mandalay, is bordered by the Mandalay station and railway line to the north, Lentegeur Psychiatric Hospital to the south and west and residential areas to the east. The site is currently vacant with only an existing Eskom power line servitude crossing the northern boundary and a stormwater channel that runs from the north to the southeast corner of the site. The site is within the urban edge of the City of Cape Town. The site is approximately 235 431m² in extent. The terrain is relatively flat with deep underlying alluvial sands.

3.2. Biodiversity

- 3.2.1. According to the Botanical Assessment Report dated August 2008, revised in November 2010 and compiled by Indigenous Vegetation Consultancy, the site contains one dominant vegetation type, Cape Flats Dune Strandveld which is classified as Endangered.
- 3.2.2. However the vegetation on site has been heavily disturbed by earthmoving activities, fires, invasive alien plants, frequent mowing and grazing.
- 3.2.3. The Botanical Assessment Report further indicates that despite the threats, the indigenous floral component persists, and indigenous species are scattered throughout the site but are concentrated in several small patches (mostly associated with the wetter areas around the wetland areas to the north of the site).
- 3.2.4. From a terrestrial ecology perspective, the site is of Low Ecological Sensitivity. The Botanical Assessment Report further indicates *"It is possible to restore this site, although indigenous species presence is very low through most of the site"*. The restoration would, however, require significant financial input, management and maintenance to restore the site to a resemblance of its former state.

3.3. Wetlands

- 3.3.1. The City of Cape Town wetland mapping described the wetlands on site as Dune Strandveld Depressions with moderate functional importance, ecological sensitivity and very high levels of threat.
- 3.3.2. The proposed development will impact on the wetlands on site which have been identified as Critical Ecological Support Areas in the City of Cape Town's Biodiversity Network.
- 3.3.3. The cumulative impact of the loss of individual wetlands could be significant; especially in light of the large scale loss of wetlands that has taken place in the past.
- 3.3.4. The Freshwater Study dated November 2010 and compiled by Environmental Monitoring Consulting, however, indicated that the loss of wetlands on the site is of moderate significance as most of the wetlands are degraded, small, in size and of low ecological or functional value. According to this study, only two wetlands were indicated as being significant due to the presence of a red data species and it being representative of a regionally threatened type.
- 3.3.5. The Freshwater Study recommended "Wetland 3" and "Wetland 7" be retained as Open Spaces with adequate buffer zone allocated to the wetlands.
- 3.3.6. The Wetland Feasibility Study dated March 2009 and revised in May 2009, July 2009 and November 2010 and compiled by Indigenous Vegetation Consultancy and Environmental Monitoring Consulting however recommends that *"no development or at least a reduced development footprint be considered"*
- 3.3.7. CapeNature supports the recommendations made by the Wetland Feasibility Study, with respect to the impact the proposed development would have on the wetlands onsite. CapeNature is concerned that while the wetland systems may be degraded, the proposed development will irreversibly foreclose future options to rehabilitate these *"valuable resources"*.
- 3.3.8. The City of Cape Town supports the proposed development and recommends "Wetland 3" and the partially piped "Wetland 7" be retained as Open Spaces with adequate buffer zone allocated to the wetlands.

3.4. Mitigation Measures for the Wetlands and Biodiversity

- 3.4.1. Although the proposed development will negatively impact on the wetlands, the need for and the positive impacts associated with the proposed development outweigh the negative impacts.

- 3.4.2. The most significant wetlands on site ("Wetland 3 and the partially piped Wetland 7") will however be conserved as private Open Spaces.
- 3.4.3. "Wetland 3" and the partially piped "Wetland 7" including the buffer areas will be identified as "No-Go" areas before the commencement of construction activities. No development will occur in the "No-Go" areas. The "No-Go" areas will be clearly demarcated, to ensure adequate environmental protection is exercised during construction, and no heavy machinery will be allowed in the "No-Go" areas. The "No-Go" areas will form an integral part of and conform to the aesthetic character of the proposed development.
- 3.4.4. The maintenance of the "No-Go" areas and the public Open Spaces during the operational phase will remain the responsibility of the applicant unless a contractual agreement states otherwise.
- 3.4.5. Although the remaining natural vegetation on the property will be removed to allow for the proposed development, the proposed development will retain some natural vegetation in retaining "Wetlands 3" and the partially piped "Wetland 7".
- 3.4.6. A developmental footprint that retains and buffers the most sensitive wetlands on site while at the same time contributing to a potential level of continued connectivity between the components of biodiversity network will therefore be implemented.
- 3.4.7. Although CapeNature's concerns could not be fully accommodated, the Department is satisfied that the effective implementation of the approved EMP and the conditions of this Environmental Authorisation will further mitigate impacts to acceptable levels.

4. Dust, Noise and Visual Impacts

- 4.1. The impacts of dust generated during the construction phase will be mitigated by the implementation of the conditions of this Environmental authorisation. Dust suppression methods will be used to mitigate dust during the construction phase, although no water will be used to mitigate dust in this regard (as far as is practically possible). Alternative dust suppression methods (such as shade netting screens and/or straw stabilisation, etc.) may be implemented instead.
- 4.2. All noise and sounds generated during all phases of the proposed development will comply with the relevant SANS codes and standards. Furthermore, noise impacts will be mitigated by the implementation of the conditions of this Environmental Authorisation.
- 4.3. A Visual Impact Assessment conducted by Viridian Consulting (Pty) Ltd. dated October 2010 indicated that the development will be in character and that the proposed land use is consistent with the surrounding land uses. The proposed development is therefore considered to be appropriate, with the implementation of mitigation measures.

5. Heritage and Archaeological Impacts

- 5.1. Due to the scale of the proposed development, Heritage Western Cape was notified of the proposed development. Heritage Western Cape issued a Record of Decision dated 08 October 2008, which indicated that no further assessments were required.
- 5.2. Conditions stipulated in this Environmental Authorisation will thus be adequate to mitigate any impacts that may occur in this regard.

6. Cumulative Effects of the Activity

- 6.1. The cumulative impacts associated with the proposed development include, but is not limited to, *inter alia*:
 - 6.1.1. Increased pressure on service provision;
 - 6.1.2. Long term loss of wetland areas on the Cape Flats; and

6.1.3. Positive socio-economic impacts.

- 6.2. The proposed development will impact on the bulk and connector services of the surrounding areas, however, the relevant authorities have confirmed that they have adequate capacity to accommodate the proposed development.
- 6.3. The proposed development will contribute to socio-economic development of the local community by providing employment opportunities, affordable housing and business opportunities.

7. Alternatives

Various activity alternatives and layout alternatives were investigated with respect to the proposed development.

7.1. Activity Alternatives

- 7.1.1. The original activity alternative of the development included a site for a school (educational institution) and a sports field.
- 7.1.2. This activity alternative was not accepted due to the fact that the Department of Education indicated that they were not interested in taking up the option of establishing a school in Mont Clair as there are enough schools in the surrounding areas to accommodate the future residents of the proposed development.
- 7.1.3. In addition the City of Cape Town's Parks Department indicated that they were not in support and financially incapable of maintaining another sports field of a development footprint of approximately 1.7 hectares as the area was too large.
- 7.1.4. Furthermore, this activity alternative had no area set aside for the conservation of the most significant wetlands on the site.

7.2. Based on different specialist reports and the ongoing discussions between the City of Cape Town and the applicant, the following layout alternatives were investigated:

- 7.2.1. A Wetland Feasibility Study dated March 2009 and compiled by Indigenous Vegetation Consultancy and Environmental Monitoring Consulting was undertaken to inform further layout alternatives of the proposed development.
- 7.2.2. The study indicated that the site contains "a mosaic of small wetlands which are surrounded by old dunefields that are degraded in areas, particularly towards the south east and southwest of the site. The wetlands are mostly seasonal".
- 7.2.3. The findings of the Wetland Feasibility Study were therefore discussed in further detail with the City of Cape Town, where it was agreed that the applicant must further identify and assess layout alternatives.
- 7.2.4. Following these discussions, three layout alternatives were investigated taking into account the findings and recommendations of detailed specialist studies and the City of Cape Town.
- 7.2.5. The applicant incorporated the various mitigation measures as recommended by the City of Cape Town, including, *inter-alia*, the incorporation of the buffer areas around "Wetland 3" and partial piping of "Wetland 7".
- 7.2.6. The three layout alternatives investigated are similar. They all include an area identifying "Wetland 3" as a private Open Space which will be conserved, single residential units, apartment blocks, a commercial area and an internal road network.
- 7.2.7. The Layout Alternative 1 ("L1") (Preferred Alternative – herewith authorised) entails a single residential component covering 32.57% of the entire site, an apartment component covering 26% of the site, a commercial erven covering 3% of the site, Open Spaces (private Open Spaces and public Open Spaces (covering 14 % of the site) and an internal road network covering 23% of the site.

7.2.8. The only difference is that Layout Alternative 2 ("L2") had a road network component covering 24% of the entire site compared to L1 which has 23%, whilst the Layout Alternative 3 ("L3") had a lesser Open Space component (12%) as compared to 14 % of the preferred alternative.

7.2.9. L2 and L3 were not accepted since the area set aside for Open Space was insufficient to protect the significant wetland system on the site.

7.3. "No-Go" Option

7.3.1. The "no-go" option will result in the *status quo* being maintained. Given that the need for the proposed development outweighs the negative impacts associated with the proposed development, the "no-go" option was not warranted.

8. Public Participation

8.1. The public participation process entailed:

8.1.1. The fixing of notice boards at the eastern, northern and western corners of the site where the activity is to be undertaken;

8.1.2. Giving written notice to:

- The owners and occupiers of land adjacent to the site where the activity is to be undertaken;
- The municipal councillors of the ward in which the site is situated;
- Municipality that has jurisdiction in the area; and
- Organs of State having jurisdiction in respect of aspects of the activity.

8.1.3. Placing an advertisement in a local newspaper (Cape Times, 12 September 2007); and

8.1.4. Opening a register of Interested and Affected Parties ("I&APs"), maintaining and making it available to any person requesting access to the register in writing.

8.2. Objections were raised and impacts were identified by the registered I&APs during the public participation process. The issues raised and comments received during the public participation process were responded to by the Environmental Assessment Practitioner and adequately addressed during the process. Specific management measures are provided for in this Environmental Authorisation to adequately address the issues raised.

In view of the above, this Directorate 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 laid down in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The application is accordingly granted.

9. National Environmental Management Principles

9.1. The National Environmental Management Principles (set out in Section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), ("NEMA")) which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment, *inter alia*, provides for:

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

- The resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures.

I. APPEAL:

1. Appeals must comply with the provisions as outlined in Chapter 7 of the Regulations.
2. If the applicant should decide to appeal, the applicant must, in terms of, regulation 60(1), lodge a notice of intention to appeal with the Minister, within 20 (twenty) days after the date of the decision, and must within 10 (ten) days of having submitted the notice contemplated in regulation 60(1), provide each person and organ of State registered as an interested and affected party in respect of the application with a copy of the Notice of Intention to Appeal; a notice indicating where and for what period the appeal submission will be made available for inspection by such person or organ of State on the day of lodging it with the Minister, and indicate that a responding statement may be made on the appeal within 30 (thirty) days from the date the appeal submission was lodged with the Minister.
3. A person, organ of state or applicant who submits a responding statement in terms of regulation 63(1) must within 10 (ten) days of having submitted the responding statement, serve a copy of the statement on the appellant.
4. If the applicant should decide to appeal, the applicant must submit the appeal within 30 (thirty) days after the lapsing of the 20 (twenty) days contemplated in regulation 60(1), for the lodging of the notice of intention to appeal.
5. Should any other person, or an interested and affected party, decide to appeal, they must, in terms of, regulation 60(1), lodge a notice of Intention to appeal with the Minister, within 20 (twenty) days after the date of the decision. An appeal must be submitted within 30 (thirty) days after the lapsing of the 20 (twenty) days contemplated in regulation 60(1).
6. The appellant must provide the applicant, within 10 days of having lodged the notice contemplated in regulation 60(1), with a copy of the notice referred to in regulation 60(1), and a notice indicating where and for what period the appeal submission will be available for inspection by the applicant. A responding statement may be made on the appeal within 30 (thirty) days from the date the appeal submission was lodged with the Minister.
7. The prescribed Notice of Intention to Appeal form and Appeal form are obtainable from the Minister's office, as well as assistance regarding the appeal processes, at telephone number (021) 483 3721, or 483 3721, email jaap.deVilliers@gwgc.gov.za or via the URL <http://www.capegateway.gov.za/cadp>.
8. All Notice of Intention to Appeal and Appeal forms must be submitted by means of one of the following methods:

By post: Western Cape Minister of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
Cape Town
8000

By facsimile: (021) 483 4174; or

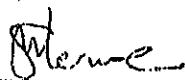
By hand: Attention: Mr Jaap de Villiers
Room 305 A
3rd Floor Leeusig Building
1 Dorp Street
Cape Town
8001

A prescribed Notice of Intent to Appeal form and Appeal form is obtainable from the Minister's office at tel (021) 483 3721, email jaap.deVilliers@gwgc.gov.za or URL <http://www.capegateway.gov.za/cadp>.

Directorate: Land Management (Region 2)

Provincial Government, Local Authority or committees appointed in terms of the conditions of the application or any other public authority or organisation shall not be held responsible for any damages or losses suffered by the developer or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the developer with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Yours faithfully



ZAAHIR TOEFY
DIRECTOR: LAND MANAGEMENT (REGION 2)

Date of Decision: 2011-10-28

Copies to: 1. Ms. O. Braaf (Braaf Environmental Practitioners CC)
2. Ms. A. Van Wyk (City of Cape Town- Helderberg)

Fax: (086) 658 7676
Fax: (021) 850 4004