



Province of the  
**EASTERN CAPE**  
ECONOMIC DEVELOPMENT,  
ENVIRONMENTAL AFFAIRS AND TOURISM

CACACU REGION

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**FAX COVER SHEET**

**To :** FAIRVIEW SUBURBAN ESTATE COMPANY LIMITED  
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**Fax No. :** 086 5285192

**CC :** PUBLIC PROCESS CONSULTANTS  
**Attention :** SANDY WREN  
**Fax No. :** 041 3732002

**From :** CHARMAINE STRUWIG  
**Tel No :** 041-5085800

**Date :** 06 November 2012

**Total no. of pages :** 1+22 (including cover)

**RE:** AMENDMENT NOTICE #2: PROPOSED MIXED USE  
DEVELOPMENT ON ERF 1082, FAIRVIEW, PORT  
ELIZABETH, WITHIN THE NELSON MANDELA BAY  
MUNICIPALITY

FILE REF > ECm1/387/M/07-169  
ENQUIRIES: MS N. GERBER

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Please find attached the letter, for your attention.





Province of the  
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 ECONOMIC DEVELOPMENT,  
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Reference: ECm1/387/M/07-169  
 Enquiries: N. Gerber

**CC:** Ms Sandy Wren  
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Attention: Mr Fraser Mantell

**AMENDMENT NOTICE # 2: AMENDMENT OF ENVIRONMENTAL  
 AUTHORISATION - MIXED USE DEVELOPMENT OF ERF 1082, FAIRVIEW,  
 PORT ELIZABETH, WITHIN THE NELSON MANDELA BAY MUNICIPAL AREA.**

The Environmental Authorisation dated 09 May 2012 and Final Amendment Application Report dated September 2012 and received in the Department on 17 September 2012 refers. In this regard please be advised of the following amendments:

- 1) Limited development to be allowed on the portion of the site designated as Phase 14 as per the layout plan contained in the Amendment Application Report with drawing number 000\_Fai\_00 1, dated 31 July 2012. All relevant sections as contained in the Environmental Authorisation dated 09 May 2012 are amended as contained in the Amended Environmental Authorisation.
- 2) The conditions regarding the duration of authorisation are also hereby amended, as contained in Section 3.1 of the Amended Environmental Authorisation.
- 3) This department requested a further public participation process in terms of Section 41[3] of GN 543, as this amendment was deemed as substantive.
- 4) The provisions of the Amended Environmental Authorisation ECm1/387/M/07-169 supersede the Environmental Authorisation dated 09 May 2012 and must be adhered to.

**DAXALAN GOVENDER**  
 DEPUTY DIRECTOR: ENVIRONMENTAL AFFAIRS  
 CACADU REGION  
 DATE: 6/11/2012





PROVINCE OF THE  
**EASTERN CAPE**

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**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**

## **Amended Environmental Authorisation**

<b>AUTHORISATION NOTICE REGISTER NUMBER</b>	ECm1/387/M/07-169
<b>LAST AMENDED</b>	24 August 2012
<b>HOLDER OF AUTHORISATION</b>	Fairview Suburban Estate Company Limited
<b>LOCATION OF ACTIVITY</b>	Remainder of Erf 1082, Fairview, Port Elizabeth, within the Nelson Mandela Bay Municipal area

### **DEFINITIONS:**

The following definitions are applicable to this Environmental Authorisation:

“EIA regulations” – These are the Environmental Impact Assessment Regulations published in Government Notice R. 385 of 21 April 2006 and in Government Notice R. 543 of 18 June 2010 in terms of Chapter 5 of the National Environmental Management Act, Act 107 of 1998.

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

“Commencement” – Any physical activity on site that can be viewed as associated with the construction of the development inclusive of initial site preparation.

### **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.

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**  
**CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS**

Details regarding the basis on which the Department reached this decision are set out in Sections 4 and 5 of this Environmental Authorisation.

**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, 2006 the Department hereby authorises Fairview Suburban Estate Company Limited being the legal or natural person who has applied for this authorisation, with the following contact details:

<b>Name</b>	<b>Fairview Suburban Estate Company Limited</b>		
<b>Address</b>	<b>P O Box 6210, Walmer, Port Elizabeth, 6065</b>		
<b>Telephone</b>	<b>(041) 581 7997</b>	<b>Fax</b>	<b>086 528 5192</b>
<b>Cell</b>	<b>083 415 1651</b>		
<b>Contact</b>	<b>Mr Fraser Mantell</b>	<b>E-mail</b>	<b><u>fairview@riverroad.co.za</u></b>

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

<b>Detailed description of activity</b>
<p>The proposed mixed use development entails the development of the Remainder of Erf 1082, Fairview, Port Elizabeth, within the Nelson Mandela Bay Municipality. Remainder of Erf 1082 measures approximately 115.71 hectares in extent. The erf is bound by the Baakens River system to the north, Circular Drive and the suburb of Lorraine to the west, Willow Road to the south and the undeveloped Fairview/Willowdene suburb to the east. The site falls within the urban edge of the Nelson Mandela Bay Municipality and is currently zoned Residential 1, Community 1 and Open Space. It is proposed to subdivide and rezone the erf as described in the list of phases below.</p> <p>It is proposed that approximately 58.11 ha (50.22%) of the 115.71 ha is to be developed to provide for residential units of varying densities, Business/Commercial and Special Purposes sites, as well as those for Roads and Infrastructure. An area of 57.60 ha (49.78%) is proposed to be set aside as Open Space (Private and Public). It is proposed that the site will be developed in phases as follows:</p> <ul style="list-style-type: none"> <li>➤ Phase 1, 2 and 3: Special Purpose (Light Industrial) measuring 9.12 ha (7.88%) of the site;</li> <li>➤ Phase 4: Business 1 (Retail and Commercial) measuring 3.46 ha (2.99%) of the site;</li> </ul>

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**  
**CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS**

- Phase 5 to phase 9: Residential 2 consisting of 239 units on 12.43 ha (10.74%) of the site;
- Phase 10, 11, 13 and 14: Residential 2 consisting of 496 units on 24.81 ha (21.44%) of the site;
- **This Amended Environmental Authorisation authorises limited development in the area allocated for Phase 14 of the development. Such development to conform with the layout plan as contained in Appendix G of the Amendment Application Report dated September 2012 with drawing number 0000\_Fai\_00 Revision 1. The total area of Phase 14 is 2.23 ha. A total of 12 Residential 2 erven will be allowed for, varying in size from 450 m<sup>2</sup> to 637 m<sup>2</sup> which covers approximately 5671 m<sup>2</sup> or 25.43% of the total area of the Phase 14 site. The remainder is designated for special purpose (1503 m<sup>2</sup> for the access road - approximately 6.74% of the total area) and Private Open Space of 15 126 m<sup>2</sup> (approximately 67.83% of the total area). This Private Open Space area is to be re-habilitated with indigenous vegetation removed from the areas designated as Phase 12 and Phase 13.**
- Phase 12: A proposed Subdivisional Area ("Eco-Estate" type development) which will consist of approximately 10 dwelling units, with a maximum proposed footprint of 900m<sup>2</sup> each, or approximately 1ha total disturbance footprint. It is proposed that the development footprint of the dwellings will be 450m<sup>2</sup> with an additional 450m<sup>2</sup> for an additional disturbance area for lawns/gardens/swimming pools and access routes. The remainder of this area (approximately 14 ha), will be subdivided off as an eleventh plot which is proposed to be managed as private open space and will be zoned as such;
- Transportation 1 (Roads) and bulk infrastructure measuring approximately 4.33 ha (3.74%) of the site; and
- Special Purpose (access) measuring 2.96 ha (2.56%) of the site.

The following Public and Private Open Space areas are proposed which will be immediately set aside and zoned as such :

- Public Open Space of 36.18 ha (31.27%) of the site - indicated as Phase 16 on the layout plan, Drawing Number FAI/2027/10, Revision 7, titled "Proposed Subdivision of Erf 1082, Fairview", dated 21 September 2010, by Metroplan Town and Regional Planners, which will be handed over to the NMBM for the management thereof following rezoning;
- Private Open Space, areas depicted as Phase 12 (approximately 14 hectares) and Phase 15 (measuring 6.13 ha - 5.30% of the site) on the

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**

CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS

Layout Map, Drawing Number FAI/2027/10, Revision 7, titled "Proposed Subdivision of Erf 1082, Fairview", dated 21 September 2010, by Metroplan Town and Regional Planners;

- Private Open Space in the remaining portion of Phase 14 measuring approximately 1.5 ha (15 126m<sup>2</sup>) as depicted in the layout plan included as Appendix G of the Amendment Application Report, titled "Proposed Hybrid subdivision of a Portion Erf 1082 Fairview", with drawing number 0000\_Fai-00 Revision 1, dated 31 July 2012, by Metroplan Town and Regional Planners; and
- Private Open Space measuring 1.13 ha (0.98%) located within the Residential 2 component of Phases 5 to 9.

The development is proposed to be undertaken in the above phases over a period of approximately 15 years, and will entail:

- Phased clearing of vegetation to allow for the installation of bulk services;
- The construction of infrastructure (access roads, stormwater drainage system, water network, electrical network and sanitation);
- The clearing of vegetation on individual erven and the construction of either residential units, business or light industrial properties; and
- The restoration of all open space areas, which will commence within 3 months of the date of signature of this Environmental Authorisation.

Access:

The access points will be off the existing public roads, Willow Road to the south and Circular Drive to the west. There are two accesses proposed along Circular Drive. The existing Lily Road/Willow Road intersection is another, existing access point to the development.

No road upgrade will be necessary for Phase 1 of the development. The following roads will require upgrading in the full development scenario as indicated in the Traffic Impact Assessment Report:

- Realignment of the Willow Road approach to Circular Drive;
- Upgrading of the Circular Drive/Willow Road signalised intersection;
- Widening of Centenary Road;
- Upgrading of Circular Drive and Willow Road to dual carriageways;
- Upgrading of the Willow Road/Lily Road intersection;
- Upgrading of the William Moffett/Willow Road intersection.

However, as this development will take place in phases over a number of years, the TIA may need to be updated.

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**  
**CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS**

Services:

- Stormwater
  - The stormwater system will be designed in such a manner that minor storms, i.e. 1:2 year storms will be piped (maximum pipe size of 750mm diameter) and major storms will be accommodated in the road reserves and through open spaces. All outlets will be provided with scour protection measures to prevent erosion.
  - A stormwater management report has only been completed for the area that has detailed town planning available, thus an updated stormwater management report will be a requirement of this Environmental Authorisation once further detailed town planning for the remainder of the site is complete.
- Water
  - Water will be supplied from existing main reticulation pipelines adjacent to the development. Internal reticulation will consist of main supply pipes of 250mm and 160mm diameter. A ringed water reticulation system of smaller diameter pipes will provide water to the individual erven. In order to service phase 13 of the development, a new water pipeline of 200mm diameter will need to be installed.
- Sewerage
  - The effluent will flow into an existing 250mm diameter foulsewer pipeline which in turn discharges into the existing 600mm diameter Baakens River Bulk Sewer pipeline. The effluent will be treated at the NMBM Driftsands Wastewater Treatment Works. Internal sewer pipelines of 160mm diameter will be installed to tie into existing sewer infrastructure.
- Electricity
  - An underground electrical reticulation with a service connection to each erf will be provided. Electricity is available and there is available capacity to supply the development.
- Solid Waste
  - Removal of solid waste will be removed by the municipality and disposed of at the nearest registered waste disposal facility.

**Listed Activities in terms of the NEMA EIA Regulations 2006, GN R. 385**

R. 386 - 1

The construction of facilities or infrastructure, including associated structures or infrastructure, for -  
 (k) the bulk transportation of sewage and water, including stormwater, in pipelines with -  
 (i) an internal diameter of 0.36 meters or more; or

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM****CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS**

	<p>(ii) a peak throughput of 120 litres per second or more;</p> <p>(m) any purpose within the one in ten year floodline of a river or stream, or within 32 metres from the bank of a river or stream where the floodline is unknown.</p>
R. 386 - 4	The dredging, excavation, infilling, removal or moving of soil, sand or rock exceeding 5 cubic metres from a river, tidal lagoon, tidal river, lake, in-stream dam, floodplain or wetland.
R. 386 - 12	The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
R. 386 - 15	The construction of a road that is wider than 4 meters or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres.
R. 386 - 16	The transformation of undeveloped, vacant or derelict land to - (b) residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare.
R. 386 - 18	The subdivision of portions of land 9 hectares or larger into portions of 5 hectares or less.
R. 386 - 20	The transformation of an area zoned for use as public open space or for a conservation purpose to another use.
R. 387 - 2	Any development activity, including associated structures and infrastructure, where the total area of the developed area is, or is intended to be, 20 hectares or more.
R. 387 - 5	The route determination of roads and design of associated physical infrastructure, including roads that have not yet been built for which routes have been determined before the publication of this notice and which has not been authorised by a competent authority in terms of the Environmental Impact Assessment Regulations, 2006 made under section 24(5) of the Act and published in Government Notice R. 385 of 2006, where - (d) the road will cater for more than one lane of traffic in both directions.



**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM****CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS****Listed Activities in terms of the NEMA EIA Regulations 2010, GN R. 543 (Authorised in terms of the Transitional Arrangements as contained in Section 76 (3) in GN R. 543 of the NEMA EIA Regulations 2010).**

R. 544 – 11	The construction of: (vi) bulk stormwater outlet structures; 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.
R. 544 – 18	The infilling or depositing 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 from (i) a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving (i) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or (ii) occurs behind the development setback line.
R. 544 – 24	The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, at the time of the coming into effect of this Schedule such land was zoned open space, conservation or had an equivalent zoning.
R. 545 – 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.
R. 545 – 18	The route determination of roads and design of associated physical infrastructure, including roads that have not yet been built for which routes have been determined before 03 July 2006 and which have not been authorised by a competent authority in terms of the Environmental Impact Assessment Regulations, 2006 or 2010, made under section 24(5) of the Act and published in Government Notice No. R. 385 of 2006, - (iv) the road will cater for more than one lane of traffic in both directions.

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

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CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS

<b>District</b>	Cacadu
<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 1082
<b>Physical address</b>	Erf 1082, Fairview, Port Elizabeth, within the Mandela Bay Municipal area

**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, withdraw or amend such Environmental Authorisation.*

#### **3.1. Duration of authorisation**

- 3.1.1. Subdivision and rezoning of the Erf to commence within 3 months from the date of signature of this Environmental Authorisation and is to be completed within 18 months of the date of commencement. Such rezoning to include the eleventh plot of the Phase 12 subdivisions as Private Open Space. The date of the finalisation of the rezoning to be submitted to DEDEAT.
- 3.1.2. The restoration of the site, which is inclusive of alien vegetation removal and rehabilitation of all the designated open spaces to commence within 3 months from the date of signature of this Environmental Authorisation.
- 3.1.3. The installation of infrastructure (access roads, stormwater drainage system, water network, electrical network and sanitation) for Phase 1 , as described in Section 2 of this Authorisation Notice must commence within a period of 6 (six) months from the date of rezoning being effected and must be completed within 18 months of commencement. The commencement of the installation of infrastructure for Phases 2 to 4 is to commence within 3 months of the completion of Phase 1 and must be completed within three (3) years of commencement. If commencement of the activity does not occur within this period, this Environmental Authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.
- 3.1.4. The construction of top structures on Phase 1 of the development to commence within 24 months of the completion of infrastructure installation, as indicated in Condition 3.1.7 below.

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM****CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS**

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- 3.1.5. Each subsequent phase of the development is to commence within 12 months of the completion of the previous phase.
- 3.1.6. Phases 1 to 4 of the development to be completed within 5 years from the date of rezoning being effected. Thereafter, an assessment of the state of the environment of the rest of the development site is to be undertaken and such report to be submitted to the Department in order to amend/extend the authorisation for the subsequent phases.
- 3.1.7. The deed of sale for erven to include a clause indicating that purchasers must commence construction within 2 years of the date of registration of the property.
- 3.1.8. 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.
- 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. 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.
- 3.2.8. 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), then

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM****CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS**

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written notification of such proposed transfer must be sent to this Department a reasonable time before such transfer is proposed to take place. The Department will then consider the request and inform the applicant in writing as to whether the transfer is approved or not. Transfer may only take place if the Department has approved the transfer and issued such written approval. Conditions established in this Environmental Authorisation must be made known to and are binding on the new owner/developer.

- 3.2.9. 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 including the neighbouring landowners within 12 (twelve) days of receiving this Environmental Authorisation.
- 3.2.10. This Environmental 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.
- 3.2.11. 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.
- 3.2.12. 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.
- 3.2.13. 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. Conditions specific to the establishment (inclusive of layout and design) of the development site as described in Section 2 of this Environmental Authorisation**

- 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. The notice must include a date on which it is anticipated that the activity will commence.
- 3.3.2. An amended layout plan, based on the layout plan titled "Proposed Subdivision of Erf 1082, Fairview" with Drawing No. Fai/2027/10, Revision No. 7, dated 21 September 2010, by Metroplan Town and Regional Planners, as included in the additional information received on 06 July 2011, to be submitted to DEDEAT for approval prior to the commencement of construction. Such layout plan to indicate the

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM****CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS**

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layout of Phase 12 and Phase 14 (as described in Section 2 of this Environmental Authorisation and in Condition 3.3.4). The layout of Phase 14 to conform to the layout plan included as Appendix G in the Amendment Application Report dated 31 July 2012, with drawing number 0000\_Fai-00 Revision 1.

- 3.3.3. A Homeowner's Association to be instituted for Phase 14 property owners. Such Homeowner's Association to manage the Private Open Space portion of Phase 14, including, amongst others:
- 3.3.3.1. The removal of exotic and invasive plant species from the Private Open Space area on an on-going basis to ensure the recovery of the Baakens Grassy Fynbos;
  - 3.3.3.2. Actively manage the rehabilitation of the area with vegetation relocated from Phases 12 and 13;
  - 3.3.3.3. Ensure that the Private Open Space area is a "No-Go" area during construction, as well as limit disturbance during the operational phase of the project; and
  - 3.3.3.4. Monitor, prevent and remove any rubble/illegal waste dumping on the site.
- 3.3.4. All Public Open Spaces to be handed over to the NMBM within three (3) months of rezoning being effected, and the management of such to be in accordance with the Nelson Mandela Bay Conservation Assessment and Plan, as well as in accordance with the OSMP, as described in Condition 3.3.8.
- 3.3.5. A final layout plan for all the services for the entire development to be submitted to DEDEAT prior to the commencement of construction.
- 3.3.6. The 10 units in Phase 12 of the development are to be clustered along the southern and eastern boundaries of the Phase 12 area. An existing vehicle track along the southern boundary will be a future road and is to be utilised for the future access to this portion and all services are to be located within the road reserve of this future road.
- 3.3.7. All open spaces of the development designated as either Private Open Space or Public Open Space as indicated in the layout plan described in Condition 3.3.2, are to be demarcated as "No-Go" areas for the duration of construction activities and must be fenced off prior to the commencement of any activity on site. The fencing must however allow for the free movement of small mammals.
- 3.3.8. A 30 metre buffer zone must be established between the construction areas and all Open Space areas. Such buffer to be indicated on the layout plan described in Condition 3.3.2.
- 3.3.9. An Open Space Management Plan (OSMP) is to be compiled by a suitably qualified specialist and submitted to DEDEAT prior to the commencement of any activity on site and is to be implemented by the

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**

CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS

developer in conjunction with the NMBM's Environmental Services/Parks Department.

- 3.3.10. The Open Space Management Plan (OSMP) is to govern the management of all the Open Space areas and is to be implemented within three (3) months of the date of signature of this Environmental Authorisation. 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. The OSMP is to include, amongst others, the following:
- 3.3.10.1. An alien vegetation management program and is to include provision for 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;
  - 3.3.10.2. A comprehensive vegetation management programme, inclusive of a relocation and rehabilitation plan as well as a fire management plan for all open space areas;
  - 3.3.10.3. A comprehensive fauna monitoring and management programme; and
  - 3.3.10.4. 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.
- 3.3.11. An Environmental Control Officer (ECO) must be appointed to:
- 3.3.11.1. Oversee the biodiversity management as contained in the OSMP, especially the relocation of plant species of special concern and the implementation of the rehabilitation plan in conjunction with a suitably qualified botanist/rehabilitation specialist;
  - 3.3.11.2. Oversee all construction activities; and
  - 3.3.11.3. Ensure compliance with the conditions set out in this Environmental Authorisation and the Construction Environmental Management Programme.
- 3.3.12. The ECO must be on site at all times during vegetation clearing and construction.
- 3.3.13. A plant "search and rescue", to be conducted by a botanical specialist prior to commencement of any site preparation or construction activities for all protected species and species of special concern that may be affected by construction, as well as other indigenous plant specimens which can be relocated. Such specimens are to be housed in an on-site nursery whereafter they are to be relocated and appropriately transplanted, including in rehabilitation initiatives, where applicable and practical, to the open space areas designated for

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM****CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS**

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such rehabilitation on the site. A list of all relocated species must be submitted to DEDEAT thereafter. Areas where removal will take place are to be clearly demarcated and the ECO is to be on site to monitor that no species are removed from the designated open space areas.

- 3.3.14. Further to Condition 3.3.13 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). The relevant permits are to be obtained from the Department of Agriculture, Forestry and Fisheries for any species protected under the National Forest Act (Act 84 of 1998).
- 3.3.15. A dedicated team is to carry out a faunal "search and rescue", which are to be relocated to a suitably protected natural area prior to the commencement of construction. Any species protected in terms of the Cape Nature and Environmental Ordinance (Ordinance 19 of 1974) which need to be removed or relocated require the necessary permits to be obtained from DEDEAT.

**3.4. Conditions specific to the installation of infrastructure and construction of the development as described in Section 2 of this Environmental Authorisation**

- 3.4.1. A comprehensive stormwater management plan is to be submitted to DEDEAT prior to the commencement of construction. This is to address, amongst others, erosion and siltation prevention. This plan is to include the management of stormwater during construction, as well as the installation of stormwater infrastructure, placement and construction of attenuation ponds, and management thereof after completion of construction.
- 3.4.2. Construction must be in accordance with the amended site layout plan as described in Condition 3.3.2.
- 3.4.3. An updated Traffic Impact Assessment indicating the necessary road upgrades for Phases 5 through to 13 for which the developer will be responsible, must be submitted to DEDEAT prior to the construction of these phases.
- 3.4.4. The Construction Environmental Management Programme (CEMPr) as contained in Part 2 of the consultant's Environmental Impact Assessment Report, dated March 2011, is to be amended and submitted to DEDEAT for approval prior to the commencement of construction. The CEMPr is to include, amongst others:
- 3.4.4.1. Applicable conditions contained in this Environmental Authorisation;
- 3.4.4.2. General principles of environmental management as applicable to construction activities including environmental

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**

CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS

- best practice, erosion prevention and control, minimization of dust, etc.;
- 3.4.4.3. All mitigation measures as contained in Chapters 6, 7 and 8 of the consultant's Environmental Impact Assessment Report, as well as those contained in the Amendment Application Report;
- 3.4.4.4. Method statements for vegetation clearing and all aspects of restoration and rehabilitation;
- 3.4.4.5. The OSMP as contained in Condition 3.3.8;
- 3.4.4.6. All alien invasive species on site are to be removed in a progressive manner, and any such species colonising disturbed ground are to be removed before reaching the seed formation stage;
- 3.4.4.7. Any fauna or avi-fauna on site is to remain undisturbed as far as possible, and shall not be trapped/killed or otherwise caught by any persons;
- 3.4.4.8. A stormwater management and erosion control plan for the construction phase;
- 3.4.4.9. Construction work must be limited to between 07:00 and 17:00 during weekdays. No construction must take place on weekends or public holidays;
- 3.4.4.10. Construction areas are to be clearly demarcated and all construction activities are to be restricted to within this demarcated area;
- 3.4.4.11. Clear stipulations as to who is responsible and accountable for what actions;
- 3.4.4.12. The ECO to report any non-compliance with the provisions of the CEMPr and conditions of this Environmental Authorisation;
- 3.4.4.13. Penalties for any contractor that transgresses the provisions of the CEMPr and conditions of this Environmental Authorisation; and
- 3.4.4.14. A general code of conduct for any contractor that might be carrying out any work on the development site.
- 3.4.5. General principles of environmental management as provided for in Condition 3.4.4.2. must provide for amongst others, the following:
- 3.4.5.1. Management of dust that may be generated during construction activities;
- 3.4.5.2. No cement/concrete mixing to take place on the soil surface. Cement mixers to be placed on large trays to prevent



**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS

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- accidental spills from coming into contact with the soil surface;
- 3.4.5.3. Measures to be taken to minimize soil erosion associated with construction activities;
- 3.4.5.4. 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;
- 3.4.5.5. 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;
- 3.4.5.6. All excess construction material and any waste generated during construction must be removed from site on an on-going basis;
- 3.4.5.7. The contractor must provide adequate waste disposal and sanitation facilities and must ensure that these facilities are properly used and maintained; and
- 3.4.5.8. Clear stipulations as to who is responsible and accountable for what actions.
- 3.4.6. All construction areas must be clearly demarcated and all construction activities must be strictly confined to within such demarcated area.
- 3.4.7. 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 CEMPr.
- 3.4.8. Excavated soil must be stockpiled for use during rehabilitation. Care must be taken not to mix topsoil with subsoil.
- 3.4.9. Gravel, sand and stone used during construction must be obtained from a *bona fide* source.
- 3.4.10. No blanket clearing of vegetation is to occur. Vegetation removal must be done in a progressive manner, and mitigation measures instituted to prevent soil erosion.
- 3.4.11. All disturbed areas must be rehabilitated according the rehabilitation plan included in the OSMP and the CEMPr.
- 3.4.12. All alien invasive species and declared weeds, in terms of the Conservation of Agricultural Resources Act, Act 43 of 1983, are to be systematically eradicated, and any of these species colonising disturbed ground after the completion of construction are to be eradicated and destroyed prior to attaining the seed formation phase. This is to be done in conjunction with the restoration of the site in

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**

## CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS

terms of the OSMP, and is also to commence within 3 months from the date of signature of this Environmental Authorisation.

- 3.4.13. Fairview Suburban Estate Company Limited will be held liable in the event of non-compliance by any contractor associated with this activity.
- 3.4.14. The South African Heritage Resources Agency (SAHRA) must be contacted immediately should any noticeable concentration of heritage resources be discovered during the course of the development.
- 3.4.15. An environmental audit must be carried out by the ECO biannually throughout the course of the development and submitted to the Department.
- 3.4.16. Compliance/non-compliance records must be kept and shall be made available on request from the authorities.

**3.5. Conditions specific to the on-going operation and management of the development as described in Section 2 of this Environmental Authorisation**

- 3.5.1. Necessary measures are to be put in place to institute a Property Owners' Association which is inclusive of all land owners. The Property Owner's Association shall be responsible for the continued implementation of the OSMP as described in Condition 3.3.8, in conjunction a duly appointed and suitably qualified individual to manage this implementation.
- 3.5.2. Notwithstanding the provisions of any of these conditions, all recommendations, guidelines and standard conditions contained in the consultant's Environmental Impact Assessment Report, and the Amendment Application Report, must be adhered to.

**4. 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 19 July 2007;
- The Final Scoping Report and Plan of Study for Environmental Impact Assessment compiled by Geological and Environmental Services titled, "An Environmental Investigation for the Proposed New Housing Development on Remainder of Portion 1082, Fairview: Final Scoping Report" dated April 2008;
- The Final Environmental Impact Assessment Report compiled by Public Process Consultants titled, "Final Environmental Impact Report: Proposed mixed use development of Erf 1082,

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**

CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS

- Fairview, Nelson Mandela Bay Municipality" dated March 2011, and submitted to DEDEAT on 22 March 2011;
- A site visit conducted by Mr Andries Struwig and Ms Nicole Gerber of the Department, together with the consultants, on 23 June 2011;
  - Additional information submitted on 06 July 2011;
  - Acceptance of the Final EIR dated 14 March 2012;
  - The minutes of a meeting held at DEDEAT on 29 May 2012;
  - The Department's letter to the applicant dated 30 May 2012 regarding the procedure to be followed for an amendment application;
  - The Final Amendment Application Report dated 14 September 2012 and received in the Department on 17 September 2012; and
  - An e-mail dated 25 October 2012 from Ms Sandy Wren of Public Process Consultants in reply to a query from the Department regarding the location of a municipal pipeline over the Phase 14 portion of land, whether this pipeline would be affected or affect the development of this portion, and whether comment from the NMBM had been received; The EIA regulations of 2010 and the objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the National Environmental Management Act, Act 107 of 1998.

**5. Key factors considered in making the decision**

- 5.1. The site is located within the urban edge of Port Elizabeth and is currently zoned as Residential 1, Open Space and Community 1. The site will be rezoned to allow for Residential 2, Business and Light Industrial erven as well as a mix of Public and Private Open Space. The mixed use development of the site will be in an infill fashion in keeping with the NMBM SDF objectives and urban densification policy. This will reduce urban sprawl and the need to extend bulk services infrastructure to the periphery of the metro. The development will contribute to the upgrading of the required bulk services. Traffic impacts will also be minimised by upgrading selected roads and intersections associated with the development. All development areas on the site are outside the 1:100 year floodline of the Baakens River.
- 5.2. The development will have a positive effect in terms of job opportunities created both in the construction phase and the operational phase.

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM****CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS**

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- 5.3. Phases 1 to 6, as well as Phases 10 and 13 of the development fall within areas that are transformed and dominated by alien invasives and of low sensitivity. The impacts of development in these areas will be low. However, there are sensitive vegetation types on the site which will be impacted on by the development. Phases 7, 8, 9 and 11 occur in areas where there is Lorraine Transitional Grassy Fynbos (LTGF) which is listed a critically endangered vegetation type, but in these areas the sensitivity ranges from low to moderate due to varying degrees of transformation. Vegetation with a moderate sensitivity within these areas, which requires removal, will be used to restore other degraded areas of the site, including the Public and Private Open Spaces. Intact portions of Lorraine Transitional Grassy Fynbos occur in the area designated as Phase 12. The total area of Phase 12 is approximately 15 hectares of which approximately 1 hectare will be utilised for the development of 10 units. The remainder of this, 14 hectares, will be zoned as Private Open Space and this will be conserved. Private Open Space of approximately 6.14 ha was identified in the EIR to be set aside as Private Open Space to provide a biodiversity offset for the loss of the LTGF in Phase 12. This will lead to the long-term sustainability of both Baakens Grassy Fynbos and LTGF. An Open Space Management Plan will be developed and implemented in terms of Condition 3.3.8 of this Authorisation, which will provide for vegetation management, including the restoration and rehabilitation of the above-mentioned areas; alien vegetation management; fire management; fauna monitoring and management; and stormwater management.
- 5.4. The area of the site to be zoned as Public Open Space is approximately 36.18 hectares, while those areas to be zoned as Private Open Space amounts to approximately 23.49 hectares. Public Open Spaces will be handed over to the NMBM and managed as described in Condition 3.3.3. The Open Space areas are thus approximately 52% of the site. The Private Open Space area indicated in the Amendment Application report for Phase 14 totals 15 126 m<sup>2</sup>, which will add to and ensure a significant off-set for the area of Lorraine Transitional Grassy Fynbos and other intact vegetation that will be lost. The restoration of all these areas zoned as Private Open Space is expected to increase the biodiversity in the restored areas by re-establishing the eco-tone (transition zone) on the Baakens Valley edge to its original condition. This, together with the eradication of alien invasive vegetation, will in turn improve the functionality of this important ecological corridor. A 30 meter buffer will be implemented between all Open Space areas and the construction areas, further limiting the impact on these areas.
- 5.5. The environmental impacts of the limited development on Phase 14 do not differ significantly from those originally assessed in the Final EIR. A further botanical study was conducted during the assessment of impacts for the Amendment Application. It was found that only a portion of the site was transformed and/or degraded. The layout was

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM****CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS**

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thus limited to these areas of transformation, with the remainder being set aside for Private Open Space.

- 5.6. Public participation yielded significant discussions with the NMBM Environmental Sub-Directorate and these discussions also informed the proposed layout, taking into account the NMBM Conservation Assessment and Plan.
- 5.7. Public participation for the Amendment Application included informing all registered I & AP's, as well as advertising the proposed Amendment Application. No objections were raised from any I & AP's. No comment from the NMBM was received by the consultants. It was communicated in the e-mail from the consultants, dated 25 October 2012, that the pipeline would not affect the development of Phase 14, nor would the development of this portion affect the pipeline. Furthermore, it was indicated that there would be no need for the NMBM to relocate this pipeline and that the Authorisation holder, Fairview Suburban Estate Co. Ltd, would grant the NMBM a servitude for the pipeline over this portion of the site.
- 5.8. The Department is of the opinion that, after implementation of the mitigation measures described in the Environmental Impact Assessment Report, as well as the Amendment Application Report, the residual impacts and risks to the environment are acceptable.
- 5.9. The conditions set in this Amended Environmental Authorisation have been designed to ensure that the negative impacts and risks associated with the project are identified, addressed or managed effectively.
- 5.10. In conclusion, it is believed that project implementation will not result in unacceptable environmental impacts.
- 5.11. 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 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.

**6. Appeal of authorisation**

- 6.1. In terms of Regulation 10(2) of the Environmental Impact Assessment Regulations, 2010, you are instructed to notify all registered interested and affected parties, in writing and within 12 (twelve) calendar days of

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**

CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS

the date of this letter, of the Department's decision in respect of your application.

- 6.2. The written notification referred to in Condition 6.1 above must -
- 6.2.1.1. Specify the date on which the Authorisation was issued;
- 6.2.1.2. Inform interested and affected parties of the appeal procedure provided for in Chapter 7 of the NEMA EIA Regulations, 2010; and
- 6.2.1.3. Advise interested and affected parties that a copy of the Environmental Authorisation and reasons for the decision will be furnished on request.
- 6.3. Notice of intention to appeal against the decision contained in this Authorisation must be addressed in writing, to the MEC for Economic Development, Environmental Affairs and Tourism (hereinafter referred to as "the MEC") in terms of Regulation 60(1) of the NEMA EIA Regulations, 2010 and within 20 (twenty) days after the appellant has been notified in terms of Conditions 6.1 and 6.2, of the decision.
- 6.4. The address to which the **original** copies of any such a notice of intention to 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	Beacon Hill, Hockey Close, King Williams Town
In order to facilitate efficient administration of appeals <b>copies</b> of the notice of intention to appeal and any subsequent appeal documentation must also be submitted as follows:	
General Manager, Mr Albert Mfenyana: Environmental Affairs per fax:	[043] 605 7300
Manager Environmental Affairs: Mr. S. Gqalangle per fax:	[043] 605 7300
It is strongly recommended that electronic copies of all appeal documentation also be e-mailed	E-mail addresses will be supplied on request

**ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS AND TOURISM**CHIEF DIRECTORATE: ENVIRONMENTAL AFFAIRS

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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.

**NICOLE GERBER****ENVIRONMENTAL OFFICER: EIM****CACADU REGION**DATE: 01/11/2012**DAYALAN GOVENDER****DEPUTY DIRECTOR: ENVIRONMENTAL AFFAIRS****CACADU REGION**DATE: 01/11/2012