



M 3/6/5

Mr. M. Brokenshire
V&A Waterfront Holdings (Pty) Ltd
PO Box 50001
CAPE TOWN
80001

Tel.: 021 408 7820
Fax.: 086 679 1327

Dear Mr Brokenshire

APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE DEVELOPMENT OF A DOLOS REVETMENT, RECLAMATION OF LAND IN THE SEA AND THE ASSOCIATED MIXED USE DEVELOPMENT ON ERF 173712, GRANGER BAY PRECINCT, VICTORIA & ALFRED WATERFRONT, CAPE TOWN

The appeal lodged against the environmental authorisation ("EA") in the above regard and the responding statement to the appeal on your behalf refer.

After careful consideration of the appeal, as well as supporting documentation received, I have decided in terms of section 43 (6) of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA"), to dismiss the appeal and confirm the abovementioned decision of the competent authority. The abovementioned EA which is confirmed in this appeal decision and the conditions under which the authorisation is granted must be complied with, however Condition E6 and section G are excluded from this authorisation. Conditions E2 and E7 are substituted to read as follows:-

Condition E2

The holder must commence with the listed activities on site within a period of ten (10) years of the date of this appeal decision.

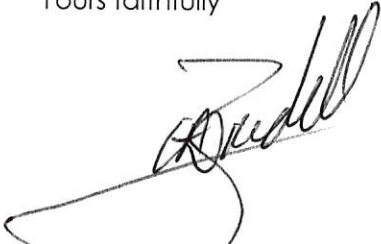
Condition E7

The listed activities, including site preparation, may commence after the issue of this Appeal Environmental Authorisation.

Kindly find attached hereto a copy of my decision to the appellant containing the reasons for my decision.

Your interest in the future of our environment is appreciated.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Anton Bredele', written over a horizontal line.

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

DATE: 10/4/2019

CC. Mr. N Steytler

EAP

Fax: 086 694 6901



M 3/6/5

Mr N Smith
Nicholas Smith Attorney
11 Bree Street
CAPE TOWN
8001

Tel.: 021 425 4256
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Dear Mr Smith

APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE DEVELOPMENT OF A DOLOS REVETMENT, RECLAMATION OF LAND IN THE SEA AND THE ASSOCIATED MIXED USE DEVELOPMENT ON ERF 173712, GRANGER BAY PRECINCT, VICTORIA & ALFRED WATERFRONT, CAPE TOWN

The appeal lodged against the environmental authorisation ("EA") in the above regard on behalf of the Water Club Residential Homeowners Association, refers.

After careful consideration of the appeal, as well as supporting documentation received, I have decided in terms of section 43 (6) of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA"), to dismiss the appeal and confirm the abovementioned decision of the competent authority. The abovementioned EA which is confirmed in this appeal decision and the conditions under which the authorisation is granted must be complied with, however Condition E6 and section G are excluded from this authorisation. Conditions E2 and E7 are substituted to read as follows:-

Condition E2

The holder must commence with the listed activities on site within a period of ten (10) years of the date of this appeal decision.

Condition E7

The listed activities, including site preparation, may commence after the issue of this Appeal Environmental Authorisation.

REASONS FOR THIS APPEAL DECISION:

The reasons for dismissing the appeal and confirming the decision of the competent authority are as follows:

1. Failure to take account the appellant's current occupation and use of the portion of the property ("the wedge")

The Environmental Impact Assessment ("EIA") process for the application commenced in 2013 which included mandatory public consultation. Thus the applicant communicated its intent for development of the 'wedge' in 2013. The occupation of the wedge was acknowledged and noted in the reports submitted to the Department during the application for Environmental Authorisation ("EA").

In terms of the EIA regulations, 2014, an application for EA must only obtain written consent from the land owner or person in control of the land, which is V&A Waterfront Holdings (Pty) Ltd. Regulations 16 and 39 of the EIA regulations, 2014 states as follows:

"16 (1) An application for an environmental authorisation must—

(b) when submitted in terms of regulation 19 or 21, be accompanied by—

(i) unless regulation 39(2) applies, the written consent referred to in regulation 39(1), if the applicant is not the owner or person in control of the land on which the activity is to be undertaken;"

"39 (1) If the proponent is not the owner or person in control of the land on which the activity is to be undertaken, the proponent must, before applying for an environmental authorisation in respect of such activity, obtain the written consent of the landowner or person in control of the land to undertake such activity on that land."

The applicant was within his rights, as the owner of the property, to submit an application in terms of the EIA regulations and put forth an application for consideration of the delegated competent authority and does not require consent from the occupiers of the site.

The occupiers of the site and the applicant have been in discussion regarding the continued use of the site since mid-2016 during which it was communicated to the occupiers of the site that the any lease extension will not extend beyond 31 August 2021.

The leasing of the property and the continued lease negotiations related to the erf is beyond the scope of NEMA and the EIA regulations. Furthermore, the Environmental Authorisation ("EA") does not prohibit the conclusion of any lease agreement nor does it impact on the duration of the extension. It should be noted that EA's have a set validity period during which the authorised activity must be commenced with. Failure to commence within the validity period will require that a new application be lodged for an EA.

2. The contents of the EA; the Director's failure to consider a substantive relevant consideration

The maintenance of the temporary rock revetment at Granger Bay has become extremely expensive to maintain and is regarded as unsustainable by coastal engineers. Without formally engineered defence structures there are no guarantees that storm surges and high seas will not overtop the revetment and cause damage in the vicinity of the Victoria Wharf mall and areas frequented by the public. The steep embankment created by the deposition of fill material, which forms the coastal edge west of Haul Road is unstable and is at risk of failure due to honeycombing, i.e. a form of wave-driven erosion that removes the fine material leaving an unstable fill platform. During 2012, a storm caused considerable damage to this embankment resulting in Haul Road being closed for several months with repairs costing approximately R2 million.

The EIA application included 2 design alternatives and the preferred alternative (authorised) and the No-go alternative. The current use of the property was assessed as part of the No-go Alternative and was found to not fit into the future planning of V&A Waterfront Holdings (Pty) Ltd.

The development proposal presented as the preferred alternative and authorised in the EA comprises of:

- A mixed use development approximately 1.6ha in extent (primarily residential with some retail; private open space; commercial components; and associated infrastructure) on Erf 173712 and a portion of Erf 149294; and
- Associated revetment and land reclamation.

The architecture of the buildings will respond to the receiving environment and is not anticipated to be visually intrusive. Building heights will not exceed 21.5 m or approximately 5 floors, and will be in accordance with the parameters stipulated in the Record of Decision issued by Heritage Western Cape in 2015, which preserves a view arc across Granger Bay. Outside of the view arc, towards Beach Road/Granger Bay Boulevard Ext., buildings may be higher.

The development and expansion of the dolos revetment and reclamation of land in the sea will entail the following:

The existing temporary rock revetment will be upgraded and replaced with a permanent dolos revetment. The new dolos revetment will extend from the existing dolos revetment (which ends at Breakwater Boulevard) for approximately 310m in a straight line across Granger Bay and towards the existing embankment that marks the coastal edge of Granger

Bay. The existing embankment will be replaced with rock revetment for a length of approximately 160m. Approximately 2.4ha of land in the sea will be reclaimed. Approximately 189 340m³ of fill material will be required for the reclamation activities. Fill material will be obtained from the excavations associated with the mixed use development.

A 30m wide coastal seapark and associated infrastructure will be developed and will provide continuous public access from Beach Road to and along the coast for approximately 750m, of which approximately 300m will be within the Granger Bay Precinct. This will include an extension of the existing coastal walkway along the coastal edge of the reclaimed land and associated public amenities.

Access for private vehicles will be gained from Beach Road and Granger Bay Boulevard Extension. The existing Haul Road will be demolished and replaced by a link between Granger Bay Boulevard Extension and Breakwater Boulevard. This link road will be developed over a portion of the reclaimed land, which will provide access to the proposed development. All services required for the proposed development are available.

The final SDP and layout will be determined during the land use application and authorised by the City of Cape Town ("CCT"), which will not exceed the scope of what is authorised in the EA.

The long standing occupation of site by the appellant was considered by the delegated competent during the adjudication of the EIA application and the consideration of the appeal. As stated in the Responding Statement to the appeal, the applicant has not had sight of the agreement between Transnet and the Granger Bay Berth Holders 'Association but has indicated that they are open to discussions regarding the continued access to the Eastern Breakwater for maintenance activities, given the early stage of development.

The occupiers of the site and the applicant have been in discussion regarding the continued use of the site since mid-2016 during which it was communicated to the occupiers of the site that the any lease extension will not extend beyond 31 August 2021. The leasing of the property and the continued lease negotiations related to the erf is beyond the scope of NEMA and the EIA regulations. Furthermore, the Environmental Authorisation ("EA") does not prohibit the conclusion of any lease agreement nor does it impact on the duration of the extension. It should be noted that EA's have a set validity period during which the authorised activity must be commenced with. Failure to commence within the validity period will require that a new application be lodged for an EA.

I am satisfied that the EIA process complied with the legislative requirements as stated in NEMA and the EIA regulations, the alternatives presented and evaluated were reasonable

and feasible, and that sufficient information was available for the delegated competent authority to make an informed decision.

It is reiterated that the negotiations related to the extension of the lease of Erf 173712 is beyond the scope of NEMA and the EIA regulations.

3. The decision-making process

The applicant's EAP's comments were included in the final reports submitted to the Department. All the information on the application file, which included the draft and final EIR formed part of the adjudication of the application.

All the information was reviewed independently during the appeal process and I am satisfied that EIA process complied with all the EIA legislative requirements, that all issues raised were included and considered by the Department.

The zoning of the V&A Waterfront was determined as "Development Zone" in 1993 by the City of Cape Town. The zoning comprises of a basket of rights and a planning approval process known as the 'Package of Plans'. This allows for development proposals to evolve from policy and objectives for a zone/site as a whole (Development Framework) to spatially defined development guidelines for a functional area (Precinct Plan) and then to site specific development proposals (Site Development Plan). Development controls such as setbacks, coverage, building heights, etc. are not predetermined, but are determined according to policies, objectives and design imperatives and at various stages of project development.

The specialist assessments were based on the Precinct Plan depicting the maximum coverage and height. A Development Controls document was also prepared for the site which specifies and limits building heights, and as such a "stepping-down" profile will be implemented in the development. This stepping-down is considered appropriate in terms of urban design.

A site inspection is not a legislated requirement and sufficient information was available on the Departments information base to negate the requirement for a site inspection. A site visit was undertaken by officials of the Sub-directorate: Environmental Appeals Management and concludes that the proposed mixed-use development proposal presented in the Precinct Plan is in-line with primary use in the area.

I concur with the "Package of Plans" approach being implemented in the development and that the final Site Development Plan ("SDP") will not exceed the maximum development envelope authorised in the EA. Furthermore, the development will be subject the Land Use management approval process adjudicated by the municipality during which the SDP will be finalised.

4. Visual impacts

The zoning of the V&A Waterfront was determined as "Development Zone" in 1993 by the City of Cape Town. The zoning comprises of a basket of rights and a planning approval process known as the 'Package of Plans'. This allows for development proposals to evolve from policy and objectives for a zone/site as a whole (Development Framework) to spatially defined development guidelines for a functional area (Precinct Plan) and then to site specific development proposals (Site Development Plan). Development controls such as setbacks, coverage, building heights, etc. are not predetermined, but are determined according to policies, objectives and design imperatives and at various stages of project development.

The specialist assessments were based on the Precinct Plan depicting the maximum coverage and height. A Development Controls document was also prepared for the site which specifies and limits building heights, and as such a "stepping-down" profile will be implemented in the development. This stepping-down is considered appropriate in terms of urban design.

The VIA ratings were based on worst case scenario, and will be in line with the receiving environment and will not extend beyond the current maximum height of the surrounding buildings. Development Controls the height, and Package 5 was reduced to result in a "stepping-down" profile towards the coastline from the approved Phase I buildings.

The statement that the visual rating could more accurately be assessed with detailed plans relates the issue that with more information, the findings of the VIA could be more accurate. The level, extent and the degree of confidence in the assigned rating of the VIA undertaken for the development proposal is the same for an assessment with more detailed plans.

Though the views enjoyed by surrounding residents may be impacted, the interruption is not anticipated to be significant enough to cause loss of a sense of place. The proposed mixed use development does not mean that the entire area and its surroundings will be changed, thereby resulting in a negative impact on the enjoyment of the scenery for both residents and tourists. Additionally, South Africa law does not recognise an inherent right to an existing view from a property.

On 15 July 2015 Heritage Western Cape ("HWC") issued their final comment on the Heritage Impact Assessment, which included the findings of the visual impact assessment. HWC stated that the development is supported subject to the implementation and compliance with the mitigation measures stated by the specialists, including the VIA specialist. The VIA specialist mitigation measures and the Development Controls for the Granger Bay Precinct Plan have been included in the EA and the Environmental Management Programme ("EMPr"). Non-compliance with a condition of the EA and/ or the EMPr may result in criminal prosecution.

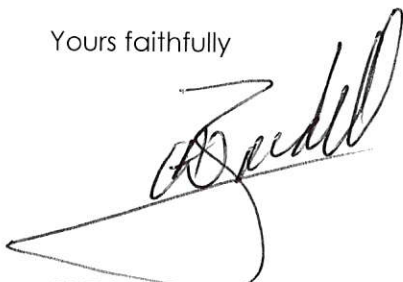
Furthermore, the development will be subject the Land Use management approval process adjudicated by the City of Cape Town during which the SDP will be finalised. The final SDP will be in line with the development approved in the EA and will not exceed the development parameters of the EA. An application for to amend the EA will be required if the development parameters of the EA will be exceeded or is materially different.

A further opportunity will be available for registered interested and/ or affected parties to make representation in the adjudication process.

I am satisfied that sufficient information was available related the potential visual impact of the proposed development to support my decision.

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

Yours faithfully



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

DATE: 10/4/2019

(1) Mr. N Steytler

EAP

Fax: 086 694 6901

(2) Mr. Z. Toefy

DEA&DP

Fax: 021 483 4372



**Western Cape
Government**

Environmental Affairs and
Development Planning

**DIRECTORATE: DEVELOPMENT MANAGEMENT
REGION 1**

REFERENCE: 16/3/1/2/A7/4/3058/12
NEAS REFERENCE: WCP/EIA/0001107/2012
ENQUIRIES: MS. K. ADRIAANSE
DATE OF ISSUE: 2018-04-13

The Director
V&A Waterfront Holdings (Pty) Ltd.
P.O. Box 50001
CAPE TOWN
8001

For attention: Mr. M. Brokenshire

Tel: (021) 408 7820
Fax: (086) 679 1327

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2010: THE DEVELOPMENT OF A DOLOS REVETMENT, RECLAMATION OF LAND IN THE SEA AND ASSOCIATED MIXED USE DEVELOPMENT ON ERF 173712, GRANGER BAY PRECINCT, V&A WATERFRONT, CAPE TOWN.

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 10(2) of the Environmental Impact Assessment Regulations, 2010, you are instructed to ensure, within 12 days of the date of the decision on the application, that all registered interested and affected parties ("I&APs") are provided with access to the decision and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 7 of the Environmental Impact Assessment Regulations, 2010, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

MR. ZA AHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

Copies to: (1) Mr. N. Steytler (Khula Environmental Consultants)
(2) Mr. D. Georgeades (City of Cape Town)

Fax: (086) 694 6901
Fax: (086) 201 1241



REFERENCE: 16/3/1/2/A7/4/3058/12
NEAS REFERENCE: WCP/EIA/0001107/2012
ENQUIRIES: MS. K. ADRIAANSE
DATE OF ISSUE: 2018-04-13

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2010: THE DEVELOPMENT OF A DOLOS REVETMENT, RECLAMATION OF LAND IN THE SEA AND ASSOCIATED MIXED USE DEVELOPMENT ON ERF 173712, GRANGER BAY PRECINCT, V&A WATERFRONT, CAPE TOWN.

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), the NEMA Environmental Impact Assessment ("EIA") Regulations, 2010 and the EIA Regulations, 2014 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to the Preferred Alternative, described in the amended final EIA Report, dated October 2017.

The applicant for this Environmental Authorisation is required to comply with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

V&A Waterfront Holdings (Pty) Ltd.
c/o Mr. M. Brokenshire
P.O. Box 50001
CAPE TOWN
8001

Tel: (021) 408 7820
Fax: (086) 679 1327

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R. 544 of 18 June 2010:</p> <p>Activity Number: 14 Activity Description:</p> <p><i>The construction of structures in the coastal public property where the development footprint is bigger than 50 square metres, excluding</i></p> <ul style="list-style-type: none"> <i>(i) the construction of structures within existing ports or harbours that will not increase the development footprint or throughput capacity of the port or harbour;</i> <i>(ii) the construction of a port or harbour, in which case activity 24 of Notice 545 of 2010 applies;</i> <i>(iii) the construction of temporary structures within the beach zone where such structures will be demolished or disassembled after a period not exceeding 6 weeks.</i> <p>Activity Number: 16 Activity Description:</p> <p><i>Construction or earth moving activities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater, in respect of –</i></p> <ul style="list-style-type: none"> <i>(i) fixed or floating jetties and slipways;</i> <i>(ii) tidal pools;</i> <i>(iii) embankments;</i> <i>(iv) rock revetments or stabilising structures including stabilising walls;</i> <i>(v) buildings of 50 square metres or more; or</i> <i>(vi) infrastructure covering 50 square metres or more –</i> <p><i>but excluding</i></p> <ul style="list-style-type: none"> <i>(a) if such construction or earth moving activities will occur behind a development setback line; or</i> <i>(b) where such construction or earth moving activities will occur within existing ports or harbours and the construction or earth moving activities will not increase the development footprint or throughput capacity of the port or harbour;</i> <i>(c) where such construction or earth moving activities is undertaken for purposes of maintenance of the facilities mentioned in (i)-(vi) above; or</i> <i>(d) where such construction or earth moving activities is related to the construction of a port or harbour, in which case activity 24 of Notice 545 of 2010 applies.</i> 	<p>The proposed development entails the development of a new dolos revetment, coastal seapark and structures in the coastal public property and will have a development footprint bigger than 50m² in extent.</p> <p>The proposed development entails the development of buildings and associated infrastructure within 100m of the high-water mark of the sea.</p>

<p>Activity Number: 18 Activity Description:</p> <p><i>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 of more than 5 cubic metres from:</i></p> <ul style="list-style-type: none"> <i>(i) a watercourse;</i> <i>(ii) the sea;</i> <i>(iii) the seashore;</i> <i>(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- .</i> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving;</i></p> <ul style="list-style-type: none"> <i>(a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or</i> <i>(b) occurs behind the development setback line.</i> 	<p>The proposed development includes 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 of more than 5 cubic metres from the sea.</p>
<p>Activity Number: 43 Activity Description:</p> <p><i>The expansion of structures in the coastal public property where the development footprint will be increased by more than 50 square metres, excluding such expansions within existing ports or harbours where there would be no increase in the development footprint or throughput capacity of the port or harbour.</i></p>	<p>The proposed development entails the expansion of structures in the coastal public property where the development footprint will be increased by more than 50m².</p>
<p>Activity Number: 45 Activity Description:</p> <p><i>The expansion of facilities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater, for –</i></p> <ul style="list-style-type: none"> <i>(i) fixed or floating jetties and slipways;</i> <i>(ii) tidal pools;</i> <i>(iii) embankments;</i> <i>(iv) rock revetments or stabilising structures including stabilising walls;</i> <i>(v) buildings by more than 50 square metres;</i> <i>(vi) infrastructure by more than 50 square metres;</i> <i>(vii) facilities associated with the arrival and departure of vessels and the handling of cargo;</i> <i>(viii) piers;</i> <i>(ix) inter- and sub-tidal structures for entrapment of sand;</i> <i>(x) breakwater structures;</i> <i>(xi) coastal marinas;</i> <i>(xii) coastal harbours or ports;</i> <i>(xiii) structures for draining parts of the sea or estuary;</i> <i>(xiv) tunnels; or</i> 	<p>The proposed development entails the expansion of the existing rock revetment and coastal walkway within 100m of the high-water mark of the sea.</p>

<p>(xv) <i>underwater channels –</i></p> <p><i>where such expansion will result in an increase in the development footprint of such facilities but excluding where such expansion occurs:</i></p> <p>(a) <i>behind a development setback line; or</i> (b) <i>within existing ports or harbours where there will be no increase in the development footprint or throughput capacity of the port or harbour.</i></p>	
<p>Government Notice No. R. 545 of 18 June 2010 -</p> <p>Activity Number: 24 Activity Description:</p> <p><i>Construction or earth moving activities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater, in respect of:</i></p> <p>(i) <i>facilities associated with the arrival and departure of vessels and the handling of cargo;</i> (ii) <i>piers;</i> (iii) <i>inter- and sub-tidal structures for entrapment of sand;</i> (iv) <i>breakwater structures;</i> (v) <i>coastal marinas;</i> (vi) <i>coastal harbours or ports;</i> (vii) <i>structures for reclaiming parts of the sea;</i> (viii) <i>tunnels; or</i> (ix) <i>underwater channels;</i></p> <p><i>but excluding –</i></p> <p>(a) <i>activities listed in activity 16 in Notice 544 of 2010,</i></p> <p>(b) <i>construction or earth moving activities if such construction or earth moving activities will occur behind a development setback line;</i></p> <p>(c) <i>where such construction or earth moving activities will occur in existing ports or harbours where there will be no increase of the development footprint or throughput capacity of the port or harbour; or</i></p> <p>(d) <i>where such construction or earth moving activities takes place for maintenance purposes.</i></p>	<p>The proposed development entails earth moving activities in the sea and within 100m of the high-water mark of the sea in respect of structures for reclaiming parts of the sea.</p>
<p>Government Notice No. R. 546 of 18 June 2010 -</p> <p>Activity Number: 6 Activity Description:</p> <p><i>The construction of resorts, lodges or other tourism accommodation facilities that sleep 15 people or more.</i></p> <p>(d) In Western Cape:</p> <p>i. <i>In an estuary;</i> ii. <i>All areas outside urban areas;</i></p>	<p>The proposed development includes the development of hotels that sleep 15 people or more in an urban area within 1km of the high-water mark of the sea.</p>

<p>iii. In urban areas:</p> <p>(aa) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined;</p> <p>(bb) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined.</p>	
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On 04 December 2014, the Minister of Environmental Affairs promulgated regulations in terms of Chapter 5 of the NEMA, viz, the EIA Regulations 2014 (Government Notice No. R. 982, R. 983, R. 984 and R. 985 in Government Gazette No. 38282 of 04 December 2014). These regulations came into effect on 08 December 2014. On 07 April 2017, the Minister of Environmental Affairs made amendments to the Environmental Impact Assessment ("EIA") Regulations, 2014, published under Government Notice No. 982 in Gazette No. 3822 of 04 December 2014, in terms of sections 24(2), 24(5), 24D and 44 read with section 47A(1)(b) of the NEMA. Please note that the amended Regulations came into effect on 07 April 2017.

The activities listed below are the similarly listed activities in terms of the NEMA EIA Regulations, 2014 (as amended).

<p>Listing Notice 1 of the NEMA EIA Regulations, 2014 (as amended):</p> <p>Activity Number: 19A Activity Description:</p> <p><i>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 of more than 5 cubic metres from—</i></p> <p>(i) the seashore;</p> <p>(ii) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever distance is the greater; or</p> <p>(iii) the sea; —</p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <p>(f) will occur behind a development setback;</p> <p>(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p><i>where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</i></p>	<p>The proposed development entails the infilling or depositing of more than 5m³ of material into the sea for the reclamation of approximately 2.3ha of land.</p>
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<p>Activity Number: 52 Activity Description:</p> <p><i>The expansion of structures in the coastal public property where the development footprint will be increased by more than 50 square metres, excluding such expansions within existing ports or harbours where there will be no increase in the development footprint of the port or harbour and excluding activities listed in activity 23 in Listing Notice 3 of 2014, in which case that activity applies.</i></p>	<p>The proposed development entails the expansion of the existing rock revetment and the coastal walkway in the coastal public property where the development footprint will be increased by more than 50m².</p>
<p>Listing Notice 2 of the NEMA EIA Regulations, 2014 (as amended):</p> <p>Activity Number: 14 Activity Description:</p> <p><i>The development and related operation of—</i></p> <p><i>(i) ...</i> <i>(ii) an anchored platform; or</i> <i>(iii) any other structure or infrastructure — on, below or along the sea bed;</i></p> <p><i>excluding —</i></p> <p><i>(a) development of facilities, infrastructure or structures for aquaculture purposes; or</i> <i>(b) the development of temporary structures or infrastructure where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared.</i></p> <p>Activity Number: 23 Activity Description:</p> <p>The reclamation of an island or parts of the sea.</p> <p>Activity Number: 26 Activity Description:</p> <p><i>Development—</i></p> <p><i>(i) in the sea;</i> <i>(ii) in an estuary;</i> <i>(iii) within the littoral active zone;</i> <i>(iv) in front of a development setback; or</i> <i>(v) if no development setback exists, within a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever is the greater;</i></p> <p><i>in respect of —</i></p> <p><i>(a) facilities associated with the arrival and departure of vessels and the handling of cargo;</i> <i>(b) piers;</i></p>	<p>The proposed development entails the development of a dolos revetment on the sea bed for the reclamation of land.</p> <p>Approximately 2.4ha of land will be reclaimed as part of the proposed development.</p>

<p>(c) inter- and sub-tidal structures for entrapment of sand; (d) breakwater structures; (e) coastal marinas; (f) coastal harbours or ports; (g) tunnels; or (h) underwater channels;</p> <p>but excluding the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p>	
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The abovementioned list is hereinafter referred to as "**the listed activities**".

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

The proposed development entails the establishment of a dolos revetment, reclamation of land in the sea and associated mixed use development on Erf 173712, Granger Bay Precinct, V&A Waterfront, Cape Town.

The mixed use development will comprise of the following:

- A residential component;
- A retail component;
- A commercial component;
- Private open space; and
- Associated infrastructure.

The mixed use development will be approximately 1.6ha in extent and will occur on Erf 173712, Granger Bay.

The development and expansion of the dolos revetment and reclamation of land in the sea entail the following:

The existing temporary rock revetment will be upgraded and replaced with a permanent dolos revetment. The new dolos revetment will extend from the existing dolos revetment (which ends at Breakwater Boulevard) for approximately 310m in a straight line across Granger Bay and towards the existing embankment that marks the coastal edge of Granger Bay. The existing embankment will be replaced with rock revetment for a length of approximately 160m. Approximately 2.4ha of land in the sea will be reclaimed. Approximately 189 340m³ of fill material will be required for the reclamation activities. Fill material will be obtained from the excavations associated with the mixed use development.

A coastal seapark and associated infrastructure will be developed and will provide continuous public access from Beach Road to and along the coast for approximately 750m, of which approximately 300m will be within the Granger Bay Precinct. This will include an extension of the existing coastal walkway along the coastal edge of the reclaimed land and associated public amenities. The coastal seapark will be approximately 30m in width.

Access for private vehicles will be gained from Beach Road and Granger Bay Boulevard Extension. The existing Haul Road will be demolished and replaced by a link between Granger Bay Boulevard Extension and Breakwater Boulevard. This link road will be developed over a portion of the reclaimed land, which will provide access to the proposed development.

All services required for the proposed development are available.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Erf 173712, Granger Bay Precinct, V&A Waterfront and reclamation across Granger Bay and has the following co-ordinates:

Property boundary:

Point	Latitude (S)	Longitude (E)
Erf 173712	33° 54' 7.759" South	18° 24' 59.849" East
Reclamation Start	33° 54' 4.414" South	18° 25' 14.289" East
End	33° 54' 3.801" South	18° 24' 56.95" East

The SG digit code is: C01600000017371200000

Refer to Annexure 1: Site Plan.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Environmental Assessment Practitioner:

Khula Environmental Consultants (Pty) Ltd.
c/o Mr. N. Steytler
8 Andrews Way
KOMMETJIE
7975

Cell: (082) 322 4074

Fax: (086) 694 6901

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the Preferred Alternative described in the amended final EIA Report dated October 2017 on the site as described in Section C above.
2. The holder must commence with the listed activities on site within a period of **ten (10) years** from the date of issue of this Environmental Authorisation.
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
4. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Written notice to the Competent Authority

5. A minimum of 7 (seven) calendar days' notice, in writing, must be given to the Competent Authority before commencement of development activities.
 - 5.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 5.2. The notice must also include proof of compliance with the following conditions described herein:

Conditions: 6, 7, 10, 15, and 16.1.

Notification and administration of appeal

6. The holder must in writing, within 12 (twelve) calendar days of the date of this decision and in accordance with Regulation 10(2)–
 - 6.1. Notify all registered interested and affected parties ("I&APs") of –
 - 6.1.1. the outcome of the application;
 - 6.1.2. the reasons for the decision as included in Annexure 1;
 - 6.1.3. the date of the decision; and
 - 6.1.4. the date of issue of the decision.
 - 6.2. Draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of Chapter 7 of the NEMA EIA Regulations, 2010 detailed in section F below;
 - 6.3. Draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 6.4. Provide the registered I&APs with-
 - 6.4.1. the name of the holder (entity) of this Environmental Authorisation;
 - 6.4.2. the name of the responsible person for this Environmental Authorisation;
 - 6.4.3. the postal address of the holder;
 - 6.4.4. the telephonic and fax details of the holder; and
 - 6.4.5. the e-mail address if any.
 - 6.5. Publish a notice in the newspapers contemplated in Regulation 54(2)(c) and (d), and which newspaper was used for the placing of advertisements as part of the Public Participation Process, that –
 - 6.5.1. informs all I&APs of the decision;
 - 6.5.2. informs all I&APs where the decision can be accessed; and
 - 6.5.3. informs all I&APs that an appeal may be lodged against the decision in terms of Chapter 7 of the NEMA EIA Regulations, 2010.
7. The listed activities, including site preparation, may not commence within 20 (twenty) calendar days of the date of issue of 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 is suspended until such time as the appeal is decided.

Management of activity

8. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved on condition that the following amendments are made to the EMPr, and must be implemented.
 - 8.1. The inclusion of the recommendations of Heritage Western Cape (dated 15 July 2015 and attached as Annexure 2).
 - 8.2. The inclusion of the recommendations of the Visual Impact Assessment (compiled by MLB Architects and Urban Designers in association with Bernard Oberholzer Landscape architect and Environmental Planner and dated October 2017).
 - 8.3. A maintenance management plan for the management of the coastal seapark and the coastline along the reclaimed portion of Granger Bay must be compiled and implemented during the operational phase.
 - 8.4. A copy of the updated EMPr must be submitted to this Directorate prior to the commencement of the operational phase for record and compliance auditing purposes.
9. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

10. The holder must appoint a suitably experienced environmental control officer ("ECO") before the commencement of any land clearing or development activities to ensure compliance with the provisions of the EMPr and the conditions contained in this Environmental Authorisation.
11. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities during the development activities whereafter it must be kept at the office of the applicant, and must be made available to anyone on request.
12. Access to the site referred to in Section C above must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

13. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation and the EMPr and submit Environmental Audit Reports to the Competent Authority. The Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).
 - 13.1. The holder must undertake an environmental audit within 6 (six) months of the date of commencement of the listed activities and submit Environmental Audit Reports to the Competent Authority every 6 (six) months thereafter until the completion of the development activities. A final Environmental Audit Report must be submitted to the Competent Authority within 1 (one) year after the commencement of the operational activities.
 - 13.2. The holder must, within 7 days of the submission of the report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

14. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.
 - 14.1. Heritage remains include: meteorites, archaeological and/or palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.
 - 14.2. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
15. Approval in terms of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (as amended) for the proposed reclamation of land must be obtained prior to the commencement of the reclamation activities. A copy of the approval must be provided to this Department for information purposes.
16. In accordance with the recommendations of the Marine Mammal Specialist Report (compiled by Sea Search Africa and dated May 2014), the following mitigation measures must be implemented:
 - 16.1. A marine mammal observer must be appointed by the holder prior to the commencement of the reclamation activities and the development of the dolos revetment to ensure that no cetaceans are within 500m of the reclamation activities during reclamation activities.
 - 16.2. Reclamation activities and associated development of the dolos revetment must occur between March and July (as far as practically possible) in order to avoid high cetacean presence in the area.
17. In accordance with the recommendations of the Marine Impact Assessment Report (compiled by Anchor Environmental and dated July 2014), the following mitigation measures must be implemented:
 - 17.1. Sediment free coarse fragment rock fill and dolosse must be used for the revetment.
 - 17.2. A type 3 silt curtain must be placed around the area to be reclaimed for the duration of the development phase to contain sediment and minimise the impacts on benthic marine life.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.

3. If the holder does not commence with a listed activity within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:

Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of the NEMA EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.

G. APPEALS

Appeals must comply with the provisions contained in Chapter 7 of the NEMA EIA Regulations, 2010.

1. An appellant must –
 - 1.1. Submit a notice of intention to appeal to the Minister, within 20 (twenty) calendar days of the date of the decision;
 - 1.1.1. if the appellant is an applicant, the appellant must provide each person and organ of state which was a registered interested and affected party in relation to the applicant's application, within 10 days of having submitted the notice with the Minister, with—
 - (a) a copy of the notice lodged with the Minister; and
 - (b) a notice indicating that the appeal submission will be made available on the day of lodging it with the Minister and where and for what period the appeal submission will be available for inspection by such person or organ of state.
 - 1.1.2. if the appellant is a person other than an applicant, the appellant must provide the applicant, within 10 days of having lodged the notice with the Minister, with—
 - (a) a copy of the notice lodged with the Minister; and
 - (b) a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.
 - 1.2. Submit the appeal within 30 (thirty) calendar days after the lapsing of the 20 (twenty) calendar days contemplated in Regulation 60(1), for the submission of the notice of intention to appeal;
 - 1.3. That a responding statement may be made on the appeal within 30 (thirty) calendar days from the date the appeal submission was lodged with the Minister; and

- 1.4. If a respondent introduces any new information not dealt with in the appeal submission of the appellant, the appellant is entitled to submit an answering statement to such new information to the Minister within 30 days of receipt of the responding statement.
2. A person, organ of state or applicant who submits a responding or answering statement in terms of Regulation 63 must within 10 (ten) calendar days of having submitted the responding or answering statement, serve a copy of the statement on the other party.
3. All notice of intention to appeal and appeal forms must be submitted by means of one of the following methods:

By post: Western Cape Ministry of Local Government, Environmental Affairs and
Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Jaap de Villiers (Tel: 021-483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, **CAPE TOWN**, 8001

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

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

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully


MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

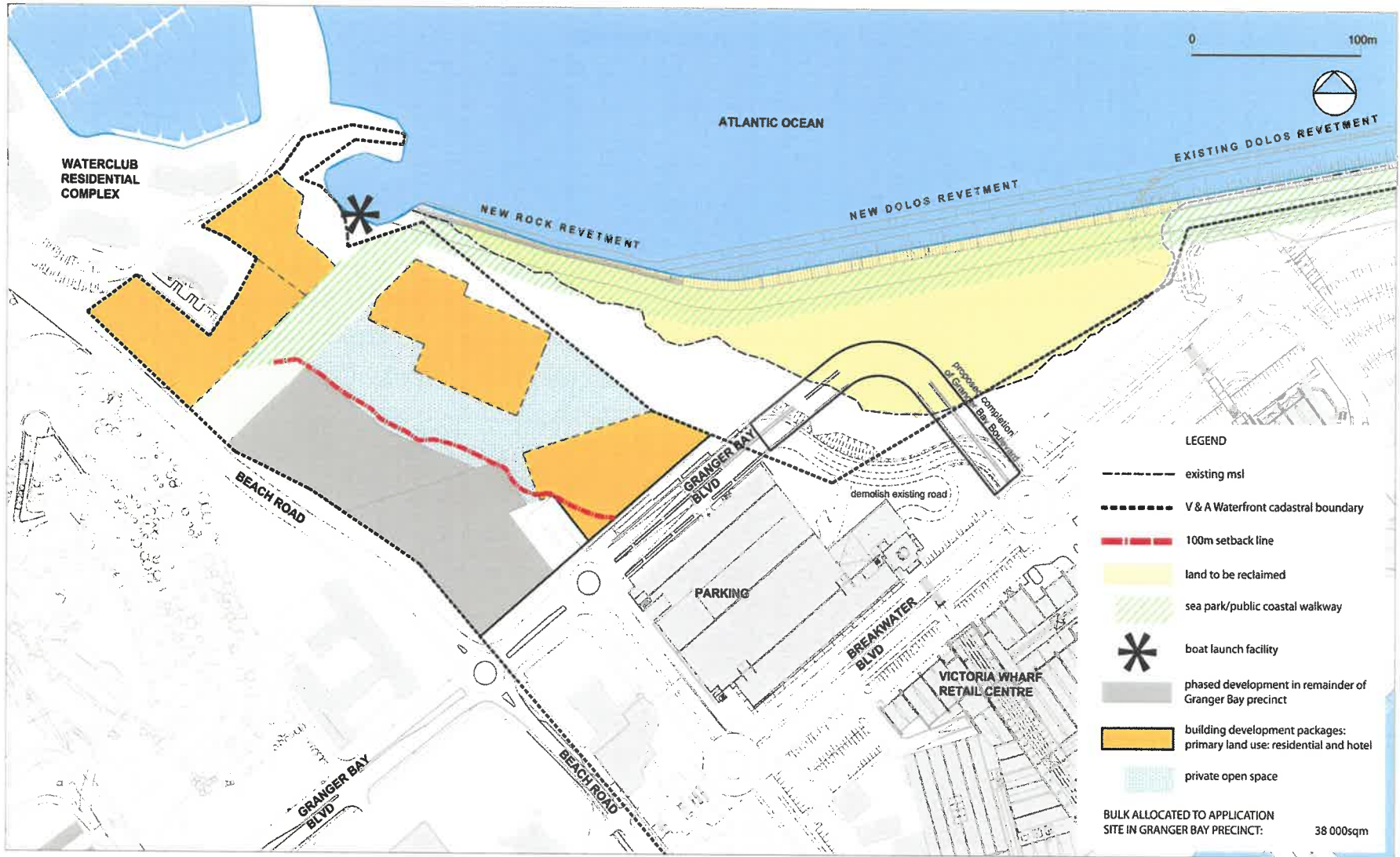
DATE OF DECISION: 13/04/2018

Copies to: (1) Mr. N. Steytler (Khula Environmental Consultants)
(2) Mr. D. Georgeades (City of Cape Town)
(3) Dr. J. Mphepya (DEA: Oceans and Coasts)

Fax: (086) 694 6901
Fax: (086) 201 1241
Fax: (021) 819 2445

ANNEXURE 1: SITE PLAN

Site plan of the proposed development, reclamation of land and associated infrastructure on erf 173712, Granger Bay Precinct, V&A Waterfront.



Project Name
Granger Bay Precinct Plan

Project No
0800.10

Drawing No
NOTIONAL PRECINCT DEVELOPMENT
Preferred Alternative: Dolos revetment with land reclamation

Scale	1:1000@A1	Revision
	1:2000@A3	
Date	12 MAR 13	



ANNEXURE 2: HERITAGE WESTERN CAPE CORRESPONDENCE DATED 15 JULY 2015

Our Ref: HMCAPE TOWN METROPOLITANCAPE TOWN HARBOUR\BREAKWATER DOLOS REVETMENT

Enquiries Guy Thomas

Tel: 021 483 9685

Email: guy.thomas@westerncape.gov.za

Date:

15 July 2015

Case No:

15050401GT0527M

Auto IDs:

2147 - 4170



FINAL COMMENT

In terms of section 38(8) of the National Heritage Resources Act (Act 25 of 1999) and the Western Cape Provincial Gazette 6061, Notice 298 of 2003

Attention: Dr Nicolas Baumann

43 Glen Crescent

Higgovale

Cape Town

8001

CASE NUMBER: 15050401GT0527M

HIA: PROPOSED EXTENSION OF THE BREAKWATER DOLOS REVETMENT ACROSS GRANGER BAY, RECLAMATION OF LAND IN THE SEA AND ASSOCIATED MIXED USE DEVELOPMENT WITHIN THE GRANGER BAY PRECINCT, V & A WATERFRONT

The matter above has reference.

Heritage Western Cape is in receipt of your correspondence on the above matter,

The matter was tabled at the Impact Assessment Committee.

FINAL COMMENT

The Committee supported the proposals contained in the Granger Bay Precinct Plan (with reclamation), option 2, subject to the consultant's recommendations, the mitigation measures proposed in clause 15.3 of the HIA and further subject to the following amendments:

1. The essential mitigation measures and the optional mitigation measures must all be considered essential mitigation measures.
2. The height of the proposed buildings adjacent to the Water Club and all indicated 'A' on the Figure 23 must be moderated by a review of the angle of declination so as to ensure that the remaining view from the fort is protected from cumulative impacts. Structures on the roofs of these buildings must be included in these height restrictions.
3. The future SDP's must be referred back to this Committee for consideration
4. The archaeological survey report must be submitted to HWC for its record.

The following conditions, contained in the consultant's recommendations in the HIA report, are endorsed:

1. The top floor of buildings flanking the view corridor of the main gun placement of Fort Wynyard must have a different architectural treatment, which must be lighter and more fragmented in form and set back from the main structure.
2. The 30m view corridor in front of Fort Wynyard must be treated as a major public space, linking the Sea Point promenade to the Waterfront and be appropriately landscaped.
3. Buildings on either side of this corridor must be staggered to open up the corridor. The top two floors on either side of the view corridor must be set back behind the envelope established by the approved Beach Road development as illustrated in the VIA (Viewpoint 5) .
4. The continuity of the coastal corridor must be ensured for public access and visual amenity

www.capegateway.gov.za/culture_sport

Page 1 of 2



Our Ref: HMICAPE TOWN METROPOLITAN/CAPE TOWN HARBOUR/BREAKWATER DOLOS REVETMENT



Enquiries Guy Thomas
Tel: 021 483 9685
Email: guy.thomas@westerncape.gov.za
Date: 15 July 2015
Case No: 15050401GT0527M
Auto IDs: 2147 - 4170

- (views of mountain and sea) and must be between 20 and 30m wide. Blank, non-active edges and access to underground parking must be kept to a minimum along the promenade.
- Public access to the water's edge via the 30m view corridor must not be impaired in any way. This includes access for fishing boats under the management control of the licensee for the Oceana Boat Club slipway (see DEA&DP permit of 23/10/2014), to ensure that traditional patterns of access for the fishing community are ensured.
 - Gaps between buildings must be established to enable a degree of visual permeability and to maximize potential sea views from Beach Road, as provided for in terms of the approved Granger Bay (Phase 1) Precinct Plan
 - Building forms must be articulated and fragmented. The continuous, potentially monolithic slabs as indicated in the present block diagrams, which represent a worst case scenario, must not be permitted.
 - The building form and architectural character and the spaces between them must be subjected to urban, architectural and landscaping guidelines which must form part of the SDP approval process and which must be incorporated into any conditions of approval at the SDP level.
 - Before construction starts a physical survey must be carried out by a qualified maritime archaeologist to verify if any remains of a wreck are observed on the sea bed. A proton-magnetometer survey must be done to identify the presence of wrecks buried in the sand. If any wreck is found it must be identified, recorded and documented, and, depending on the significance, it must either be removed (if significant) or back filled under the new development after documentation.
 - Shipwrecks are protected under the National Heritage Resources Act (25 of 1999) and a permit for their excavation is required to be obtained from the SAHRA Maritime Unit if any wreck would have to be disturbed.

Terms and Conditions:

- This approval does not exonerate the applicant from obtaining local authority approval or any other necessary approval for the proposed work.
- If any heritage resources, including archaeological material, palaeontological material, graves or human remains, are encountered work must cease and they must be reported to Heritage Western Cape immediately.
- Heritage Western Cape reserves the right to request additional information as required.

Should you have any further queries, please contact the official above and quote the case number above.

Yours faithfully

Dr Errol Myburg
Interim Chief Executive Officer
Heritage Western Cape

Page 2 of 2

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Street Address: Heritage Resources , Training Street, Market Square, Cape Town, South Africa	Postal Address: Heritage Resources , Market Square, Cape Town, South Africa
Tel: 021 422 1111	E-mail: hr@westerncape.gov.za
Street Address: Heritage Resources , Training Street, Market Square, Cape Town, South Africa	Postal Address: Heritage Resources , Market Square, Cape Town, South Africa
Tel: 021 422 1111	E-mail: hr@westerncape.gov.za

ANNEXURE 3: REASONS FOR THE DECISION

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

- a) This application was submitted in terms of the NEMA EIA Regulations, 2010, and was pending at the time of the promulgation of the NEMA EIA Regulations, 2014 (as amended). The listed activities herein authorised may not have been listed under the previous NEMA EIA Regulations, but is now listed in terms of the NEMA EIA Regulations, 2014 (as amended). In accordance with Regulation 53(3) of the NEMA EIA Regulations, 2014 (as amended), these activities may be authorised as if applied for;
- b) The information contained in the Application Form dated 15 October 2012, the final Scoping Report received by the Competent Authority on 31 January 2014, the amended final EIA Report received the Competent Authority on 28 November 2017 and the EMPr submitted together with the amended final EIA Report on 28 November 2017;
- c) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- d) 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);
- e) The comments received from I&APs and responses to these, included in the amended final EIA Report dated October 2017;
- f) The balancing of negative and positive impacts and proposed mitigation measures; and
- g) No specific site visits were conducted. The Competent Authority had sufficient information before it to make an informed decision without conducting a site visit.

All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- fixing a notice board at the site where the listed activities are to be undertaken on 29 August 2013;
- giving written notice to the occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 29 August 2013;
- the placing of a newspaper advertisement in the 'Cape Times', 'Die Burger' and 'The Cape Towner' on 29 August 2013;
- making the draft Scoping Report available to I&APs for public review from 29 August 2013 to 09 October 2013;
- making the final Scoping Report available to I&APs for public review from 22 November 2013 to 13 December 2013;
- making the draft EIA Report available to I&APs for public review from 04 May 2015 to 04 June 2015;
- making the final EIA Report available to I&APs for public review from 15 April 2016 to 17 May 2016; and
- making the amended final EIA Report available to I&APs for public review from 27 October 2017 to 27 November 2017.

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

The Competent Authority concurs with the Environmental Assessment Practitioner's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

The Preferred Alternative (Herewith authorised)

The proposed development entails the establishment of a dolos revetment, reclamation of land in the sea and associated mixed use development on Erf 173712, Granger Bay Precinct, V&A Waterfront, Cape Town.

The mixed use development will comprise of the following:

- A residential component;
- A retail component;
- A commercial component;
- Private open space; and
- Associated infrastructure.

The mixed use development will be approximately 1.6ha in extent and will occur on Erf 173712, Granger Bay.

The development and expansion of the dolos revetment and reclamation of land in the sea entails the following:

The existing temporary rock revetment will be upgraded and replaced with a permanent dolos revetment. The new dolos revetment will extend from the existing dolos revetment (which ends at Breakwater Boulevard) for approximately 310m in a straight line across Granger Bay and towards the existing embankment that marks the coastal edge of Granger Bay. The existing embankment will be replaced with rock revetment for a length of approximately 160m. Approximately 2.4ha of land in the sea will be reclaimed. Approximately 189 340m³ of fill material will be required for the reclamation activities. Fill material will be obtained from the excavations associated with the mixed use development.

A coastal seapark and associated infrastructure will be developed and will provide continuous public access from Beach Road to and along the coast for approximately 750m, of which approximately 300m will be within the Granger Bay Precinct. This will include an extension of the existing coastal walkway along the coastal edge of the reclaimed land and associated public amenities. The coastal seapark will be approximately 30m in width.

Access for private vehicles will be gained from Beach Road and Granger Bay Boulevard Extension. The existing Haul Road will be demolished and replaced by a link between Granger Bay Boulevard Extension and Breakwater Boulevard. This link road will be developed over a portion of the reclaimed land, which will provide access to the proposed development.

All services required for the proposed development are available.

Two design alternatives were identified and considered by the holder.

Design Alternative 1

Design Alternative 1 entailed the armouring of the existing coastal edge of Granger Bay and the establishment of a mixed use development on all available land on Erf 173712 and associated maintenance activities along the coastal edge of Granger Bay.

No land reclamation would be included in this alternative.

The mixed use development would be approximately 1.6ha in extent. Due to the existing unprotected embankment in the precinct and gravel beach to the east, it would be necessary to develop a new rock revetment.

Based on the high costs associated with the disposal of the excess infill material generated from the mixed use development, Design Alternative 1 was not deemed the preferred alternative from a financial perspective.

Design Alternative 2

Design Alternative 2 entailed the establishment of a mixed use development on Erf 173712 and the development of a deep breakwater from Mouille Point out into Granger Bay. The breakwater would be approximately 500m in length and would serve to create a sheltered area within Granger Bay. An extensive marina will be developed in the sheltered area within Granger Bay.

Alternative 2 was not deemed the preferred alternative due to excessive costs and it would exceed the current development rights associated with Erf 173712, Granger Bay.

"No-Go" Alternative

The "No-Go" alternative would result in maintaining the "*status quo*". However, since the proposed development will not result in unacceptable environmental impacts, the "No-Go" alternative was not warranted.

3. Impact Assessment and Mitigation measures

3.1. Activity need and desirability

According to the V&A Waterfront Development Framework, Granger Bay precinct is earmarked for waterfront residential and marina development. One of the objectives of the City of Cape Town's Integrated Development Plan is to ensure that Cape Town continues to grow as a city of opportunities. The proposed development will create employment opportunities and further increase tourism potential. The proposed development is in line with the various planning policies and strategies for the Granger Bay and V&A Waterfront area. The proposed reclamation of land in the sea will provide additional land area for public access to the coast. Associated public amenities and a coastal walkway in the form of a coastal sea park, will be provided to ensure public access to the coast.

3.2. Services/ bulk infrastructure

All services required for the proposed development are available. A signed Heads of Agreement between Transnet, the holder and the City of Cape Town (dated 6 September 1991) and the signed Memorandum of Agreement between Transnet, the holder and the City of Cape Town (dated 31 March 1993) for the provision of services for the greater Waterfront area with a total development bulk of approximately 603 859m² has been provided.

3.3. Impacts on wave action

An assessment of changes in wave conditions (compiled by Dr. G. Diedericks, Mr. L. Terblanche and Prof F. Smit of the University of Stellenbosch and dated April 2014) was undertaken to determine the potential impacts on the coastal environment (specifically whether the waves that reflect off the proposed revetment will adversely impact on the Granger Bay and Table Bay area). According to the specialist report, Granger Bay is relatively well sheltered from offshore waves refracting into the bay. The most exposed area along the Granger Bay coastline is the gravel beach area that is subjected to abrasion and erosion. The specialist simulated wave refraction under various conditions.

The model results were analysed to determine the maximum changes in wave height and direction. The model indicated that a reduction in wave height may occur due to the presence of the dolos revetment and changes in wave height are anticipated to be less than 10cm. It was therefore concluded that the potential impacts of the changes in wave conditions along the coastline will be negligible. No specific mitigation measures were therefore recommended.

3.4. Marine Impacts

A Marine Specialist Impact Assessment Report (compiled by Anchor Environmental and dated July 2014) was undertaken to determine the potential marine impacts associated with the proposed development. The coastline of Granger Bay consists of a rocky/rubble shore and a gravel beach area. This area was previously a rock revetment that has been subjected to abrasion and has eroded to a gravel beach. The rocky shore communities along the coast has a low biomass and species diversity. Low abundance and diversity of biota were found in the subtidal reefs along the coastal edge.

The potential impacts associated with the proposed development includes the permanent loss of subtidal habitat, the permanent loss of water column habitat, the permanent loss of rocky shore habitat, the temporary loss of kelp forest habitat, the temporary suspension of fine sediment in and adjacent to the development site, the temporary impact of noise during development activities and the localised permanent changes in wave dynamics and sediment movement.

The specialist recommended that a type 3 silt curtain be used to contain silt and prevent the smothering of marine life during the reclamation activities. In addition, the specialist recommended the use of sediment free coarse fragment rock fill and dolosse for the development of the revetment. These mitigation measures have been included in this Environmental Authorisation and in the EMPr. The potential marine impacts are anticipated to be of very low negative significance.

3.5. Impacts on Marine Mammals

A Marine Mammal Specialist Report (compiled by Sea Search Africa and dated May 2014) was undertaken to determine the potential impacts on marine mammals associated with the proposed reclamation activities and associated infrastructure. The specialist indicated that there are many species of cetaceans that are known to migrate through the Table Bay area. Specifically, the presence of Heaviside's Dolphins (*Cephalorhynchus heavisidii*), which is the only cetacean endemic to Southern Africa, are known to occur all year round within the Granger Bay area. Whales are known to migrate through the Table Bay area seasonally. The potential marine impacts include direct habitat loss, noise pollution and increased turbidity and potential liberation of contaminants into the water column. Marine mammals have wide variations in hearing ranges. Research suggests that baleen whales are likely to be the most sensitive to sound and likely to be sensitive to low frequency development noise.

The potential impacts on marine mammals were determined to be of very low negative significance. The specialist, however, recommended noise mitigation measures, which have been included in this Environmental Authorisation and in the EMPr.

3.6. National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (as amended) considerations

In terms of Section 7C(3) of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (as amended), an application for reclamation must be submitted to the National Minister for Environmental Affairs for pre-approval prior to any application for an Environmental Authorisation in terms of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).

However, since the application for Environmental Authorisation was submitted to the competent authority prior to the coming into effect of Section 7C(3) of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (as amended), the Department of Environmental Affairs: Oceans and Coasts confirmed (in correspondence dated 24 February 2016) that the holder may conclude the EIA application and submit an application for reclamation to the National Minister of Environmental Affairs for approval prior to the commencement of the reclamation activities.

Further, Section 63 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (as amended) has been taken into account by the Competent Authority. Public access to the coast will be provided as part of the development of the coastal seapark, coastal walkway and associated amenities for public use. The coastal seapark and coastline along the reclaimed portion of Granger Bay will be managed in accordance with a maintenance management plan.

3.7. Heritage / archaeological / built environment

A Notice of Intent to Develop was submitted to Heritage Western Cape ("HWC"). HWC indicated (in their correspondence dated 09 April 2014) that a Heritage Impact Assessment ("HIA") in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), a Visual Impact Assessment along with heritage indicators and an urban design analyses and an archaeological desktop study was required.

A HIA (compiled by Nicolas Baumann Urban Conservation and Planning and dated November 2014) was compiled to determine the potential heritage impacts. According to the HIA, there are no significant heritage resources on the site. However, the site is surrounded by significant heritage resources. Heritage resources that were identified include the Fort Wynyard, the Oceana Powerboat Slipway, local heritage buildings and potential maritime archaeological significance. As part of the Beach Road Precinct development, a Record of Decision was issued by HWC on 22 June 2011 for the proposed development on condition that mitigation measures with respect to the Arc of fire / angle extended Arc C, buildings within the Arc of fire - Arc C, view corridor to the water's edge, public access and spatial field are implemented. These conditions also apply to the Granger Bay Precinct upgrade and have been used to inform the proposed development.

A Visual Impact Assessment ("VIA") (compiled by MLB Architects and Urban Designers in association with Bernard Oberholzer Landscape Architect and Environmental Planner and dated October 2014 and revised March 2015) was compiled and is discussed in section 3.8 below. The findings of the VIA (dated October 2014 and revised March 2015) were included in the HIA (dated November 2014).

A desktop Archaeological Impact Assessment (compiled by ACO Associates and dated June 2014) was undertaken to assess the potential impacts on shipwrecks in the Granger Bay area. The specialist identified 7 (seven) shipwrecks in the Granger Bay area, which may be impacted by the proposed reclamation activities. The specialist indicated that a permit for the excavation of shipwrecks would be required if shipwrecks are encountered during the reclamation activities. The specialist recommended that a physical survey be carried out by a qualified maritime archaeologist to verify if any remains of a wreck can be observed on the sea bed. The specialist's findings were included in the HIA (dated November 2014).

The findings of the HIA (dated November 2014) indicated that the potential impacts on heritage resources will be of medium to high negative significance prior to the implementation of mitigation measures and can be reduced to be of medium negative significance post mitigation.

HWC indicated (in their comment dated 15 July 2015) that they support the proposals contained in the Granger Bay Precinct Plan (i.e. the Preferred Alternative) subject to the implementation of the mitigation measures provided in the HIA (dated November 2014) and certain amendments. HWC's correspondence (dated 15 July 2015) has been included in this Environmental Authorisation and in the EMPr.

3.8. Visual Impacts

A VIA (compiled by MLB Architects and Urban Designers in association with Bernard Oberholzer Landscape Architect and Environmental Planner and dated October 2014 and revised March 2015) was compiled to determine the potential visual impacts associated with the proposed development. Initially, a limitation of the study was that only building envelopes indicating building heights and bulk were available to the VIA specialist with no detail on actual building architectural forms and elevations and no architectural guidelines were available. Based on the available information, the specialist identified a number of sensitive viewpoints that would be potentially obscured by the proposed development. The potential visual impacts were therefore deemed to be of medium to high negative significance post mitigation.

Given that more detailed information became available after the VIA (dated October 2014 and revised March 2015) was completed and that the environmental assessment practitioner highlighted potential methodological errors in which the approved phase 1 Granger Bay development was being dealt with in the VIA (dated October 2014 and revised March 2015), a specialist review VIA was requested the Department.

A review VIA specialist study (compiled by Megan Anderson Landscape Architect and dated November 2016) was therefore undertaken. The review specialist indicated that the VIA (dated October 2014 and revised March 2015) allows the cumulative impact significance rating to affect and increase the impact significant ratings of the direct and indirect impacts. The review specialist largely agreed with the findings of the VIA (dated October 2014 and revised March 2015), except that the assessment of the cumulative impacts should have been described separately to the direct and indirect impacts.

Based on the outcome of the specialist review of the VIA Report (dated November 2016), a revised VIA (compiled by MLB Architects and Urban Designers in association with Bernard Oberholzer Landscape Architect and Environmental Planner and dated October 2017) was undertaken to comparatively assess the potential visual impacts associated with the 2015 development proposal and the preferred alternative provided in 2017. The specialist identified a number of sensitive viewpoints that would be potentially obscured by the proposed development. The potential visual impacts were therefore deemed to be of medium to high negative significance post mitigation for the 2015 development proposal and medium negative significance post mitigation for the preferred alternative. The holder commissioned the preparation of Development Controls (dated 29 September 2017), following comments raised by registered I&APs in the EIA process with respect to the significant impacts of the height and the bulk of buildings. The Development Controls (dated 29 September 2017) indicate a reduced height for the buildings in Package 5, which mitigates the significant impact associated with building height. The VIA specialist mitigation measures and Development Controls for the Granger Bay Precinct Plan (dated 29 September 2017) have been included in this Environmental Authorisation and in the EMPr.

3.9. Traffic Impacts

A Transport Impact Assessment (compiled by Gibb (Pty) Ltd. and dated April 2015) was undertaken to determine the potential traffic impacts. Manual traffic counts were undertaken at various points in the V&A Waterfront to determine the existing traffic count. The future V&A Waterfront developments (i.e. from 2014 to 2026) were also taken into account. It is anticipated that private car use will decrease since public transport services have increased along Beach Road, Granger Bay Boulevard, Breakwater Boulevard and the Clocktower Precinct.

Access for private vehicles will be gained from Beach Road and Granger Bay Boulevard Extension. Access for the existing boat launching facility will be gained from Beach Road. The existing Haul Road will be demolished and replaced by a link between Granger Bay Boulevard Extension and Breakwater Boulevard. This link road will be developed over a portion of the reclaimed land, which will provide access to the proposed development.

In addition, non-motorised transport facilities have also been expanded. The specialist indicated that the modelling results indicate that there is spare capacity in the surrounding road network and that it will continue to operate adequately with the proposed development. The specialist recommended that all minor access points off Haul Road are designed according to the minimum spacing requirements. The recommended mitigation measure has been included in the EMPr.

3.10. Economic Impacts

An Economic Specialist Report (compiled by Independent Economic Researchers and dated December 2014) was undertaken to determine the potential economic impacts. The specialist indicated that direct job opportunities during the development phase would result in approximately 300 employment opportunities in the first year of development, approximately 385 employment opportunities in the second year of development and approximately 574 employment opportunities for the third, fourth and fifth year of development. Property values are anticipated to increase based on the fact that public facilities and open spaces have been incorporated into the proposed development. Property values along the coastal edge east of the site (i.e. near the Water Club) will potentially negatively affected as some sea views may become partially obstructed. However, net positive outcomes are likely for the wider area provided that the mitigation measures of the various specialists are implemented.

3.11. Dust and Noise Impacts

Potential dust and noise impacts associated with the proposed development during the development phase will be mitigated by the implementation of the mitigation measures included in the EMPr.

The development will result in both negative and positive impacts.

Negative Impacts include:

- The loss of marine habitat;
- Potential impacts on marine mammals;
- Potential impacts on heritage resources;
- Potential visual impacts; and
- Potential traffic impacts during the development phase.

Positive impacts include:

- Improved coastal protection along the Granger Bay Precinct coastline;
- The provision of public amenities and access to the coast;
- The potential discovery of shipwrecks;
- Economic growth; and
- Employment opportunities during the development and operational phases of the development.

4. National Environmental Management Act Principles

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

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

5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

You are reminded of your general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: *"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."*

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