



**Western Cape
Government**

Environmental Affairs and
Development Planning

**MINISTRY OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND
DEVELOPMENT PLANNING**

M 3/6/5

Mr Andrew Stuart Rogers
HPF Properties (Pty) Ltd
PO Box 522195
SAXONWORLD
2132

Dear Mr Rogers

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**APPEALS IN TERMS OF THE ENVIRONMENT CONSERVATION ACT, 1989 AGAINST THE REFUSAL
OF THE RECORD OF DECISION FOR THE PROPOSED CONTRUCTION OF ARABELLA COUNTRY
ESTATE PHASE 2 ON PORTION 1 AND REMAINDER OF PORTION 3 OF CALEDON FARM NO. 542,
HERMANUS RIVER, KLEINMOND**

In terms of the Western Cape High Court Order (Case 4009/2008) I have, in terms of section 35 (4) of the Environment Conservation Act, 1989 (Act No. 73 of 1989) ("ECA") and regulation 74 (4) of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") Environmental Impact Assessment ("EIA") Amendment Regulations (Government Notice ("GN") No. R. 543 of 18 June 2010) decided to uphold the appeals submitted against the decision issued on 26 January 2006, by the Director: Integrated Environmental Management (Region B) of the Department of Environmental Affairs and Development Planning ("Department") taken in terms of section 22 of the ECA.

In terms of section 35(4) of the ECA and section 43 of the NEMA, authorisation is granted to the Applicant to undertake the activities listed in section B, which are described in section C, on Portion 1 and the Remainder of Portion 3 of Caledon Farm No. 542, Hermanus River, Kleinmond as specified in section D of this decision, which are subject to compliance with the conditions set out in section G, as set out herein below.

The reasons for this decision are set out in Annexure 1 attached hereto.

A. APPLICANT

The Director
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2132

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B. LIST OF ACTIVITIES AUTHORISED

The activities authorised are identified in Schedule 1 of Government Notice No. R1182 of 5 September 1997, as amended, being:

Item 1(c) – the construction, erection or upgrading of with regard to any substance which is dangerous or hazardous and is controlled by national legislation-

- (i) Infrastructure, excluding road and rails, for the transportation of any such substance; and
- (ii) Manufacturing, storage, handling, treatment or processing facilities for any such substance.

Item 1(d) – the construction, erection or upgrading of roads, railways, airfields and associated structures.

Item 1(k) – the construction, erection or upgrading of reservoirs for public water supply.

Item 1(m) – the construction, erection or upgrading of public and private resorts and associated infrastructure.

Item 2(c) – the change of land use from agricultural or zoned undetermined use or an equivalent zoning to any other land use.

Item 2(e) – the change of land use from nature conservation or zoned open space to any other land use.

In terms of regulation 74(3) of the 2010 EIA Amendment Regulations an application submitted in terms of the previous ECA regulations that is pending in relation to an activity of which a component of the same activity was not listed under the previous ECA notices, but is now listed in terms of section 24(2) of the NEMA, authorisation may be granted for the following activities listed in terms of section 24(2) of the NEMA as if it was applied for:

The activities authorised are identified in GN No. R544 of June 2010 in terms of NEMA, as amended, being:

Activity 10 – the construction of facilities or infrastructure for the transmission and distribution of electricity –

- (i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; or
- (ii) inside urban areas or industrial complexes with a capacity of 275 kilovolts or more.

Activity 9 - The construction of facilities or infrastructure exceeding 1000 metres in length for the bulk transportation of water, sewage or storm water -

- (i) with an internal diameter of 0,36 metres or more; or
- (ii) with a peak throughput of 120 litres per second or more, excluding where:
 - a) such facilities or infrastructure are for bulk transportation of water, sewage or storm water or storm water drainage inside a road reserve; or
 - b) where such construction will occur within urban areas but further than 32 metres from a watercourse, measured from the edge of the watercourse.

Activity 11 - The construction of:

- (i) canals;

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

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

Activity 12 - The construction of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50000 cubic metres or more, unless such storage falls within the ambit of activity 19 of Notice 545 of 2010.

Activity 13 - The construction of facilities or infrastructure for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 but not exceeding 500 cubic metres.

Activity 14 - 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) fixed or floating jetties and slipways;
- (ii) tidal pools;
- (iii) embankments;
- (iv) rock revetments or stabilising structures including stabilising walls;
- (v) buildings of 50 square metres or more; or
- (vi) infrastructure covering 50 square metres or more -

but excluding -

- a) if such construction or earth moving activities will occur behind a development setback line; or
- 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;
- c) where such construction or earth moving activities is undertaken for purposes of maintenance of the facilities mentioned in (i)-(vi) above; or
- d) where such construction or earth moving activities is related to the construction
- e) of a port or harbour, in which case activity 24 of Notice 545 of 2010 applies.

The activity authorised is identified in GN No. R545 of June 2010 in terms of NEMA, as amended, being:

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

except where such physical alteration takes place for:

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

The activities authorised are identified in GN No. R546 of June 2010 in terms of NEMA, as amended, being:

Activity 2 - The construction of reservoirs for bulk water supply with a capacity of more than 250 cubic metres.

In an estuary;

- (i) A protected area identified in terms of NEMPAA, excluding conservancies;
- (ii) All areas outside urban areas;
- (iii) In urban areas:
 - (aa) Areas zoned for use as public open space; and
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.

Activity 4 - The construction of a road wider than 4 metres with a reserve less than 13,5 metres.

In an estuary;

- (i) All areas outside urban areas;
- (ii) In urban areas:
 - (aa) Areas zoned for use as public open space within urban areas; and
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.

Activity 6 - The construction of resorts, lodges or other tourism accommodation facilities that sleep 15 people or more.

In an estuary;

- (i) All areas outside urban areas;
- (ii) In urban areas:
 - (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;
 - (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.

Activity 10 - The construction of facilities or infrastructure for the handling of a dangerous good where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic metres.

- (i) In an estuary;
- (ii) All areas outside urban areas;
- (iii) In urban areas:
 - (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;
 - (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.

Activity 12 - The clearance of an area of 300 square metres or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation.

- a) Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;
- b) Within critical biodiversity areas identified in bioregional plans;
- c) Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuary, whichever distance is the greater, excluding where such removal will occur behind the development setback line or even in urban areas.

Activity 13 - The clearance of an area of 1 hectare or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation, except where such removal of for:

- (1) the undertaking of a process or activity included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), in which case the activity is regarded to be excluded from this list.
- (2) the undertaking of a linear activity falling below the thresholds mentioned in Listing Notice 1 in terms of GN No. 544 of 2010.
 - (i) In an estuary;
 - (ii) Outside urban areas, the following:
 - (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
 - (bb) National Protected Area Expansion Strategy Focus areas;
 - (cc) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;
 - (dd) Sites or areas identified in terms of an International Convention;
 - (ee) Core areas in biosphere reserves;
 - (ff) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;
 - (gg) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined.
 - (iii) In urban areas, the following:
 - (aa) Areas zoned for use as public open space;
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;
 - (cc) Areas seawards of the development setback line;
 - (dd) 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.

Activity 14 - The clearance of an area of 5 hectares or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation, except where such removal of vegetation is required for:

- (1) purposes of agriculture or afforestation inside areas identified in spatial instruments adopted by the competent authority for agriculture or afforestation purposes;

(2) the undertaking of a process or activity included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the activity is regarded to be excluded from this list;

(3) the undertaking of a linear activity falling below the thresholds in Notice 544 of 2010. In an estuary;

(i) Outside urban areas, in:

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

(bb) National Protected Area Expansion Strategy Focus areas;

(cc) World Heritage Sites;

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

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

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

(gg) Core areas in biosphere reserves;

hh) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;

(ii) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined.

(ii) Inside urban areas.

(aa) Areas zoned for use as public open space;

(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;

(cc) Areas seawards of the development setback line or within 100 metres of the high water mark where no setback line.

Activity 16 - The construction of:

(i) jetties exceeding 10 square metres in size;

(ii) slipways exceeding 10 square metres in size;

(iii) buildings with a footprint exceeding 10 square metres in size; or

(iv) infrastructure covering 10 square metres or more where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.

i. In an estuary;

ii. Outside urban areas, in:

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

(bb) National Protected Area Expansion Strategy Focus areas;

(cc) World Heritage Sites;

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

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

- (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;
- (gg) Core areas in biosphere reserves;
- (hh) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;
- (ii) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined.
- iii. Inside urban areas:
 - (aa) Areas zoned for use as public open space;
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;
 - (cc) Areas seawards of the development setback line or within 100 metres of the high water mark where no setback line.

On 4 December 2014, the Minister of Environmental Affairs promulgated regulations in terms of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), viz, the Environmental Impact Assessment ("EIA") Regulations 2014 (Government Notice No. R. 982, R. 983, R. 984 and R. 985 in Government Gazette No. 38282 of 04 December 2014). Please note that these regulations came into effect on 8 December 2014. The activities listed below are the similar listed activities in terms of the NEMA EIA Regulations, 2014.

The activities authorised are identified in Government Notice No. R.983 of 8 December 2014 in terms of NEMA, being:

Activity Number: 11

Activity Description:

The development of facilities or infrastructure for the transmission and distribution of electricity—

- (i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts; or
- (ii) inside urban areas or industrial complexes with a capacity of 275 kilovolts or more.

Activity Number: 13

Activity Description:

The development of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, with a combined capacity of 50000 cubic metres or more, unless such storage falls within the ambit of Activity Number: 16 in Listing Notice 2 of 2014.

Activity Number: 14

Activity Description:

The development of facilities or infrastructure, for the storage, or for the storage and handling, of a dangerous good, where such storage occurs in containers with a combined capacity of 80 cubic metres or more but not exceeding 500 cubic metres.

Activity Number: 17

Activity Description:

Development—

- (i) in the sea;
- (ii) in an estuary;
- (iii) within the littoral active zone;
- (iv) in front of a development setback; or
- (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater; in respect of—
 - (a) fixed or floating jetties and slipways;
 - (b) tidal pools;
 - (c) embankments;
 - (d) rock revetments or stabilising structures including stabilising walls;
 - (e) buildings of 50 square metres or more; or
 - (f) infrastructure with a development footprint of 50 square metres or more —

The activities authorised are identified in Government Notice No. R.984 of 8 December 2014 in terms of NEMA, being:

Activity Number: 15

Activity Description:

The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—

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

Activity Number: 27

Activity Description:

The development of —

- (i) a national road as defined in section 40 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);
- (ii) a road administered by a provincial authority;
- (iii) a road with a reserve wider than 30 metres; or

- (iv) a road catering for more than one lane of traffic in both directions;

but excluding the development and related operation of a road for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010, in which case activity 24 in Listing Notice 1 of 2014 applies.

The activities authorised are identified in Government Notice No. R.985 of 8 December 2014 in terms of NEMA, being:

Activity Number: 2

Activity Description:

The development of reservoirs for bulk water supply with a capacity of more than 250 cubic metres.

- (f) In Western Cape:
- i. A protected area identified in terms of NEMPAA, excluding conservancies;
 - ii. In areas containing indigenous vegetation; or
 - iii. In urban areas:
 - (aa) Areas zoned for use as public open space; or
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.

Activity Number: 4

Activity Description:

The development of a road wider than 4 metres with a reserve less than 13,5 metres.

- (f) In Western Cape:
- i. Areas outside urban areas;
 - (aa) Areas containing indigenous vegetation;
 - (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or
 - ii. In urban areas:
 - (cc) Areas zoned for conservation use; or
 - (dd) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.

Activity Number: 10

Activity Description:

The development of facilities or infrastructure for the storage, or storage and handling of a dangerous good, where such storage occurs in containers with a combined capacity of 30 but not exceeding 80 cubic metres.

(g) In Western Cape:

i. All areas outside urban areas; or

ii. Inside urban areas:

(aa) Areas seawards of the development setback line or within 200 metres from the high-water mark of the sea if no such development setback line is determined;

(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; or

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

Activity Number: 12

Activity Description:

The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

a) In Eastern Cape, Free State, Gauteng, Limpopo, NorthWest and Western Cape provinces:

i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;

ii. Within critical biodiversity areas identified in bioregional plans;

iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback

line on even in urban areas; or

iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning.

C. PROJECT DESCRIPTION, AS AUTHORISED

Alternative 4 comprises of the extension of the existing Arabella Country Estate on Portion 1 and Remainder of Portion 3 of Caledon Farm No. 542, Hermanus River, Kleinmond.

Alternative 4 includes the following (see Appendix A):

- 352 single residential erven with associated infrastructure;
- A 9-hole executive (mashie) golf course;
- Long-drive driving range;
- Golf academy;
- Clubhouse, pro-shop and the Home Owners Association ("HOA") Offices;
- Restaurant and winery;
- Archery range;
- Sports field;
- Public gathering site in the form of a boma;
- A more extensive range of recreational trails within the development footprint and into the adjoining nature areas.

Alternative 4 will cover approximately 86ha of the property's total extent of 427ha and will be rezoned as Residential Zone II. The remainder of the property will be zoned to private nature conservation area.

Integration of Phase 1 and Phase 2 will be enhanced through the relocation of the existing golf clubhouse and offices of the HOA to a site north of the R44. The relocation of the clubhouse will entail a realignment of the golf academy as it relates to the 1st and 18th green. The freed-up space in the existing hotel complex on Phase 1 will be utilized to expand the available conference offerings. The village component of Alternative 4, south of the R44, will be linked directly with Phase 1 through a golf cart boardwalk over the Laughing Waters corridor. The relevant village component will obtain access from the R44 via a new access point.

D. PROPERTY DESCRIPTION AND LOCATION

The property is located on portions of Portion 1 and remainder of Portion 3 of Farm No. 542, Kleinmond. Arabella Country Estate lies approximately 8km east of Kleinmond and 11km south of Bot River, and is roughly bisected by Main Road R44 linking these towns. The Estate lies on the north-western shore of the Bot River Vlei.

Co-ordinates: 34° 18' 25" South
18° 07' 32" East

hereinafter referred to as "the site".

incorrect see original application form pg.1 at end of this document.

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

EnviroAfrica
P.O.Box 5367
HELDERBERG
7135

Tel: (021) 855 5333
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F. SITE VISIT

1. EIA Application:

Date: May 2004

Present: Jaqueta Keet and Yakeen Atwaru of the Department of Environmental Affairs and Development Planning ("DEA&DP") and Jerry Avis of EnviroAfrica.

Date: 24 February 2005

Present: Jaqueta Keet of DEA&DP, Andrew Spinks of Ninham Shand and Jerry Avis of EnviroAfrica.

Date: 25 November 2005

Present: Jaqueta Keet, Zaahir Toefy, Paul Hardcastle, Charl Marais and Anthony Barnes of DEA&DP.

2. Appeal :

Minister's site visit:

Present: Minister Anton Bredell, Marius Durandt, Ayub Mohamed, Jaqueta Keet; Washiela Anthony, Riette Fourie and Michelle Botha from the DEA&DP.

G. CONDITIONS OF AUTHORISATION

1. This authorisation is valid for a period of **five years** from the date of issue of this decision. The holder must commence with the listed activities within the said period or this authorisation lapses and a new application for authorisation must be submitted to the competent authority, unless the holder has lodged a valid application for the amendment of the validity period of this authorisation (i.e. the application must be submitted to the Ministry responsible for environmental affairs in the Western Cape Province), before the expiry of this authorisation. In such instances, the validity period will be automatically be extended ("the period of administrative extension") from the day before this authorisation would otherwise have lapsed, until the amendment application for the extension of the validity period is decided. The listed activity, including site preparation, may not commence during the period of administrative extension.
2. The applicant must, within 12 (twelve) calendar days of the date of the appeal decision, place an advertisement in the newspapers which were used for the placing of advertisements as part of the public participation process, informing interested and affected parties of the appeal decision, the date on which the authorisation was granted and indicate where the decision can be accessed.
3. Seven-calendar day notice, in writing, must be given to the competent authority before commencement of construction activities.
 - 3.1 The notice must make clear reference to the site details.
 - 3.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 2, 13, 17, 18, 19, 20, 21, 23, 25, 26, 39, 41 and 42.
4. No surface or ground water may be polluted due to any activity on the property/site.

5. The holder is responsible for ensuring compliance with the conditions by any person acting on his behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
6. Any changes to, or deviations from the scope of the description set out in section B above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority 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 to apply for further authorisation in terms of the applicable legislation.
7. The applicant must notify the competent authority in writing, within 24 hours thereof if any condition herein stipulated is not being complied with.
8. The draft Environmental Management Programme ("EMP") submitted as part of the supplementary Environmental Impact Report ("EIR") is hereby accepted and must be complied with. An application for amendment to the EMP must be submitted to the competent authority if any amendments are made to the EMP. The EMP must be included in all contract documentation for all phases of implementation.
9. A copy of the environmental authorisation and the EMP must be kept at the site where the listed activities will be undertaken. Access to the site referred to in section C above must be granted and, the environmental authorisation and EMP must be produced to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein. The environmental authorisation and EMP must also be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.
10. The applicant 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. Save that such application for amendment shall not include the personal details of the holder of the environmental authorisation (Where any of the applicant's contact details change, the physical or postal address and/ or telephonic details, the applicant must notify the Ministry in writing as soon as the new details become known to the applicant).

Further, the rights granted by this environmental authorisation are personal rights (i.e. not attached to a property, but granted to a natural or juristic person). As such, only the holder may undertake the activities authorised by the competent authority. Permission to transfer the rights and obligations contained herein must be applied for in the following manner:

- 10.1 The applicant must submit an originally signed and dated application for amendment of the environmental authorisation to the competent authority stating that he wishes the rights and obligations contained herein to be transferred, and including –
 - (a) confirmation that the environmental authorisation is still in force (i.e. that the validity period has not yet expired or the activities were lawfully commenced with);
 - (b) the contact details of the person who will be the new holder;
 - (c) the reasons for the transfer;
 - (d) an originally signed letter from the proposed new holder acknowledging the rights and obligations contained in the environmental authorisation and indicating that he has the ability to implement the mitigation and management measures and to comply with the stipulated conditions.

- 10.2 The competent authority will issue an amendment to the new holder either by way of a new environmental authorisation or an addendum to the existing environmental authorisation if the transfer is found to be appropriate.
11. Non-compliance with a condition of this environmental authorisation or EMP may result in suspension of this environmental authorisation and may render the holder liable for criminal prosecution.
12. Notwithstanding this environmental authorisation, the holder must comply with any other statutory requirements that may be applicable to the undertaking of the listed activities.
13. The holder of the authorisation must appoint a suitably qualified and experienced Environmental Control Officer ("ECO") before commencement of construction activities to ensure that the mitigation measures and conditions of this environmental authorisation are implemented and complied with.
14. The holder of the authorisation must submit an Environmental Audit Report, ("audit reports") to the Minister one (1) year after any construction has been commenced with and one year after any operation has been commenced with.
- 14.1 The audit report must detail compliance with this authorisation and the EMPs relevant to the stage of development.
- 14.2 The establishment of a construction audit programme must inter alia include a checklist of items to be audited, a report on the findings of the audit and a record of performance. Components to be considered must inter alia include site boundaries, site access, no-go areas, site clearance, environmental rehabilitation of all natural areas, stormwater and run-off containment and management, fire management, faunal management, temporary fuel storage, waste management, landscaping, traffic control, visual impact, noise control, dust control, etc.
- 14.3 If the audit report is not submitted, the holder of the authorisation may be given 30 days written notice and may have such an audit undertaken at your expense and may authorise any person to take such measures necessary for this purpose.
15. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains include: archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings; shipwrecks; and graves or unmarked human burials.
- A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.
16. The holder must conclude an agreement for a Contract Nature Reserve with CapeNature for the high and remainder of the medium conservation areas which cover approximately 341 ha of the site. The appropriate level of the relevant stewardship option for the proposed conservation area must be determined in partnership between CapeNature and the holder. This agreement must be signed within 12 months of the date of this authorisation. A copy of the agreement must be submitted to the Department one month after being signed.

17. A suitably qualified horticulturalist/botanist must be appointed before the commencement of construction activities to undertake a search and rescue operation for all bulbs, succulents and any other trans-locatable species of plant which are of conservation concern as advised by the horticulturalist/botanist. Rescued flora must be trans-located to areas that require rehabilitation, or stored and maintained in a nursery until they are required for use in rehabilitation work on the site.
18. A Landscaping Plan must be compiled by a suitably qualified and experienced specialist prior to the commencement of construction activities. The Landscaping Plan must be endorsed by CapeNature and the municipality. The Landscaping Plan must include, but not limited to:
 - 18.1 A nursery of preferred plant species and materials for utilisation in the landscaping of the site.
 - 18.2 The strict prohibition of the use of kikuyu grass anywhere on the site.
 - 18.3 The choice of grasses for use on the fairways and tee boxes of the golf course must be investigated for its non-invasive qualities in consultation with a suitably qualified and experienced botanical specialist.
19. Prior to the commencement of construction activities, the ECO must demarcate the construction areas, all medium and high sensitive areas as mapped in the Botanical Report dated January 2013 (attached as Appendix B), the buffer zones around the Cape Platanna ponds reserve, the wetlands, vleis, ecological corridors and the rocky outcrops determined to be worthy of conservation as per the faunal specialist.

The demarcation fence must comprise of temporary 1.5m high wire mesh with printed notices placed every 20m indicating the no-go areas, all medium and high sensitive areas and buffer areas.
20. An Environmental Rehabilitation Plan must be compiled for the restoration and rehabilitation of all natural areas within the development. The Environmental Rehabilitation Plan must be endorsed by CapeNature and include:
 - 20.1 Removal of all alien invasive vegetation on the property, including kikuyu grass, ryegrass, wild oats and thatching grass;
 - 20.2 Stabilisation of areas of erosion caused by tracks on steep slopes;
 - 20.3 Closing off and rehabilitation of tracks across wetlands and along the shoreline of the Bot River Vlei;
 - 20.4 Timeframes for the restoration and rehabilitation targets;
 - 20.5 Ongoing and regular removal of alien regrowth and seedlings.
21. At least three months prior to the commencement of construction phase of the development the applicant must:
 - 21.1 Undertake a skills audit of the surrounding communities to ascertain the levels and variety of skills available for the construction and operational phases of the development;
 - 21.2 Identify the training requirements in surrounding communities for the construction and operational phases of the development.
 - 21.3 Develop a preferential employment and procurement policy, for the surrounding communities, for use in the planning, construction and operational phases of the development.
 - 21.4 Develop and implement, with the assistance of a registered training provider, an on-going skills development and training programme for residents of the surrounding communities.
 - 21.5 Implement measures to ensure the transportation of employees to and from the surrounding communities to the site during the construction and

- operational phases at reasonably subsidized rates. A copy of the measures must be submitted to the competent authority.
- 21.6 Appoint a full-time community facilitator responsible for:
 - 21.6.1 Liaison between the community representatives, organs of state and the developer;
 - 21.6.2 Ensuring the benefits of the skills development and training programme are known to, and reach, the residents of the surrounding communities;
 - 21.6.3 Ensuring that the employment information and registration office function optimally to fulfil its purpose;
 - 21.6.4 Ensure that the surrounding communities have reasonable access to and use of the sports fields, golf academy and conservation area of the property; and
 - 21.6.5 Ensuring that business and employment opportunities are available during the construction and operational phases of the development are known to all residents of the surrounding communities.
 - 22. The efficacy of the skills development and training programme must be reviewed at six month intervals after the commencement of construction activities by a suitably qualified and experienced economic specialist. The results of the review must be submitted to the competent authority for record purposes.
 - 23. A Stormwater Management Plan must be compiled and submitted to the Municipality for approval before commencement of construction activities. The Stormwater Management Plan must include the following:
 - 23.1 Stormwater must not be conveyed directly into seeps or streams but should be discharged into detention ponds or bio-swales.
 - 23.2 All detention ponds shall be fitted with litter traps to prevent litter from entering natural areas.
 - 23.3 All golf course elements and sports fields shall be located on an impermeable sub-layer with a subsurface drainage system that shall not be allowed to enter natural water bodies directly, save in 1:10 year rain events.
 - 23.4 During the operational phase, run-off from the golf course shall be treated and where possible, recycled for irrigation purposes and shall not be allowed to enter natural water bodies directly, save in 1:10 year rain events.
 - 23.5 All natural water bodies shall be isolated from artificial drainage systems.
 - 23.6 Water quality in all of the dams, detention ponds and any irrigation holding ponds must be monitored to ensure compliance with the general standards of the National Water Act, Act No. 36 of 1998. The monitoring results must be submitted annually to the competent authority.
 - 24. No run-off from the golf course, sports fields, roofs in the housing estate and hardened road surfaces on the site into the Bot River Vlei shall be permitted, other than in the circumstances provided for in the Engineering Report dated March 2012.

Swales must be constructed in order to prevent direct discharge into the Bot River Estuary. A sub-surface drainage system and geo-membranes under the greens that will act as cut-off drains for sub-surface flows must also be installed. These flows can only be discharged into monitoring or retention ponds.
 - 25. A Fire Management Plan must be compiled and approved by the municipality and CapeNature prior to the commencement of construction activities. The Fire Management Plan must include, but not limited to, the following:

- 25.1 The Fire Management Plan must include a burning programme, which must be devised in consultation with a suitably qualified and experienced botanical specialist and CapeNature.
 - 25.2 A long term alien eradication programme which must include target areas for each year, and take the complexities of the dense stand of pine and gum trees into consideration.
 - 25.3 A copy of the Fire Management Plan/revised Fire Management Plan must be submitted to the competent authority for record purposes.
 - 25.4 An application to the relevant fire protection association must be submitted.
 - 25.5 The Fire Management Plan must be reviewed annually and revised accordingly. The revised Fire Management Plan must be submitted for approval to the municipality and CapeNature prior to implementation.
26. A Water Management Plan must be compiled and submitted to CapeNature and the municipality for approval prior to the commencement of construction activities. The Water Management Plan must address:
- 26.1 Use of local indigenous vegetation during landscaping.
 - 26.2 Recycling of backwash water from swimming pools.
 - 26.3 Implementation of water saving devices and technologies in the design and construction of the residential areas.
 - 26.4 Rainwater harvesting from roofs and gutters from all buildings.
 - 26.5 Management of the boreholes in terms of leakages and ensuring that it does not become a source of mineral pollution.
27. Energy saving technology must be included and implemented during the design, construction and operation of the development. These must include, but not limited to:
- 27.1 The use of solar glazing, energy efficient windows and insulation to reduce the need for air-conditioning.
 - 27.2 The use of natural light wherever possible during the day in preference to artificial light.
 - 27.3 The use of low voltage or compact fluorescent lights.
 - 27.4 The use of multiple boilers to permit the minimum amount of water being heated at a time.
 - 27.5 The use of heat controllers in geysers.
28. An integrated waste management approach, which is based on waste minimization and incorporates reduction, recycling, re-use and disposal, where appropriate, must be implemented and employed. Any solid waste must be disposed of at a licensed waste disposal facility in terms of the applicable legislation.
29. No buildings or hardened surfaces must be constructed below the 1:50 year flood line as depicted on the Site Development Plan, except for bridge crossings.
30. No development must occur below the 5m annual mean sea level ("amsl") contour line.
31. A 20m buffer must be maintained around the two ponds where the Cape Platanna occurs, as identified by the faunal specialist.
32. The applicant must include a restrictive condition in the title deed which prevents any development/building/structures encroaching on the 20m buffer around the Cape Platanna ponds from being developed in any way.

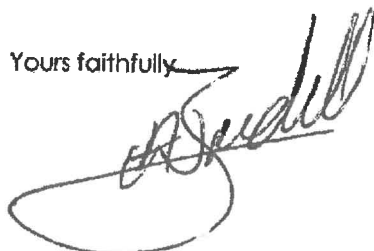
33. The installation of pipelines in the high conservation areas shall be laid by hand in the manner prescribed in the Environmental Management Programme. The excavated area shall be left open for as short a period as possible, but not longer than 72 hours. All excavated soil shall be replaced in a manner that ensures that the topsoil is returned to a surface position.
34. The interior of all ecological corridors must as far as possible be unfenced. Where security barriers are essential, palisade type fencing must be used which allow the free movement of small animals.
35. The developer must accept the decisions made by the relevant authorities related to the artificial breaching of the Bot River estuary and the resulting variability in the water and salinity levels of the estuary.
36. Access to the nature conservation area and Cape Platanna pond reserves by residents and visitors shall only be via defined boardwalks, footpaths or trails. The access points must be determined in consultation with the faunal, botanical and freshwater specialists.
37. The developer must upgrade the six culverts provisionally identified for upgrading. The final identification must be done after the site has been cleared for construction in conjunction with the faunal, freshwater, botanical specialists and consulting engineer. The selection of the culverts must be endorsed by CapeNature and the District Roads Engineer. A list of the culverts, with location details and upgrades required, must be submitted to the Department before the commencement of upgrading activities.
38. The rocky outcrops on the site and a 10m buffer area around them shall be rehabilitated and retained in their natural state.
39. A monitoring programme must be developed for key species inside and outside of the Contract Nature Reserve. The programme must include a species list, conservation status and conservation targets.
40. No additional water abstraction is permitted from the streams to meet the water requirements of Phase 2 of the development.
41. An operational phase EMP ("OEMP") must be developed and implemented. The OEMP must include, but not limited to the following:
 - 41.1 The establishment of a Home Owners Association ("HOA").
 - 41.2 Landscaping of the private residences.
 - 41.3 Domestic animals.
 - 41.4 Access to the ecological corridors, medium and high environmentally sensitive areas.
 - 41.5 The use of herbicides and pesticides.
 - 41.6 Lighting;
 - 41.7 Interaction with the local wildlife, e.g. the chacma baboons.
 - 41.8 Speed limits with the development.
42. An Environmental Monitoring Committee ("EMC") must be established before the commencement of construction activities. As a minimum, include representatives from the developer, the surrounding communities, relevant organs of state, relevant authorities and the Overstrand Municipality.
43. The EMC must be responsible for the following-

- 43.1 Formulating the Terms of Reference and Code of Conduct under which the Committee will operate.
- 43.2 Monitoring the construction and operation of the development.
- 43.3 Reviewing monitoring results from on-going monitoring programmes.
- 43.4 Regular meetings to discuss such issues compliance, auditing and monitoring results.
- 43.5 Conducting site visits every six (6) months during the construction of the development, or as determined.

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.

Yours faithfully



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

DATE OF DECISION: 2/3/2015

Copied to: (1) EnviroAfrica
(2) J Volschenk (Dennis Moss Partnership)

Fax: (021) 855 5338

Fax: (021) 886 5393

ANNEXURE 1: REASONS FOR THE DECISION

The following information *inter alia* was taken into consideration -

- The EIA process undertaken in respect of the original application that culminated in the Record of Decision ("RoD") granted on 26 January 2006 for the establishment of Phase 2 of the Arabella Country Estate Phase 2 on Portion 1 and Remainder of Portion 3 of Caledon Farm No. 542, Hermanus River, Kleinmond.
- The 22 appeals against the Department's decision and 4 letters in support of the Department's decision.
- The appeal decision issued on 10 September 2007, in which the then Minister Ms T Essop upheld the appeals and granted authorization for the Arabella phase 2 development.
- The review proceedings, judgement and the order of the Western Cape High Court (Case No: 4009/2008) of 01 October 2008.
- The Supplementary EIA Reports (2009 - 2014) and the public participation process conducted in respect of the supplementary environmental assessment process undertaken by the applicant.

LEGISLATIVE MANDATE

1. In terms of the relevant legislation, the decision-making powers afforded to the appellate authority are such that the Appeal constitutes a "wide" appeal when classified in administrative law. The appellate authority may, therefore, "confirm, set aside or vary the decision, provision, condition or directive or make any other appropriate decision". The assessment of appeals raises substantive and policy-laden issues and a determination of whether the proposed application will result in a development that is sustainable, that avoids detrimental impacts on the environment, or where it cannot be avoided, ensures mitigation and management of impacts to acceptable levels, and to optimise positive environmental impacts.
2. Section 24 of the Constitution of the Republic of South Africa, 1996 ('the Constitution'), provides:
'24 Environment
Everyone has the right-
(a) to an environment that is not harmful to their health or well-being; and
(b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that-
(i) prevent pollution and ecological degradation;
(ii) promote conservation; and
(iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.'
3. The power of the National Environmental Minister or a provincial MEC to regulate environmental matters is now under the NEMA (a law enacted after the Constitution to give effect to the environmental right in section 24 of the Constitution):
 - 3.1 Section 2 of NEMA lays down certain generally-applicable principles of environmental management which must be applied by persons when deciding whether or not to grant authorisations under section 22 of the ECA. See sections 2(1)(c) and (e) of NEMA, which provide that the NEMA principles:
 - 'serve as guidelines by reference to which any organ of state must exercise any function when taking any decision in terms of this Act or any statutory provision concerning the protection of the environment' (s 2(1)(c)); and
 - 'guide the interpretation, administration and implementation of this Act, and any other law concerned with the protection or management of the environment' (s 2(1)(e)).
 - The NEMA principles include the following:
 - Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably (s 2(2));
 - 'Development must be socially, environmentally and economically sustainable' (s 2(3));
 - sustainable development – a term defined in section 1 of the NEMA as meaning – 'the integration of social, economic and environmental factors into planning, implementation and decision-

making so as to ensure that development serves present and future generations' – 'requires the consideration of all relevant factors . . .' in environmental decision-making (s 2(4)(a));

- 'Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option' (s 2(4)(b)); and
- 'the social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment' (s 2(4)(l)).

3.2 The key legislation that provided the framework and guidelines for undertaking the EIA process includes:

- Environment Conservation Act, Act 73 of 1989
- Schedule 1 of Government Notice No. R1182 of 5 September 1997
- EIA Regulations 2010 as promulgated in terms of the NEMA.
- National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- National Heritage Resources Act, 1999 (Act No. 25 of 1999).
- Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983).
- National Water Act, 1998 (Act 36 of 1998).

EIA PROCESS (2003 – 2006)

1. An Application Form and Scoping Checklist dated 09 April 2003.
2. The draft Scoping Report dated 08 September 2003 (accepted as the final Scoping Report as per request of the Environmental Assessment Practitioner's correspondence dated October 2003).
3. The Environmental Impact Report Volume 1.
4. Environmental Impact Report ("EIR") Volume 1A which included EIR Appendices 1-20, namely:
 - Appendix 1 I&AP List at 2nd Draft EIR stage
 - Appendix 2 DEA&DP Approval of Scoping Report & Plan of Study for EIA
 - Appendix 3 2nd Workshop Reports (25 September 2003) & Open House Report (10 June 2004)
 - Appendix 4 AEF Heydom Report on Biosphere Zonation.
 - Appendix 5 Comments received on 1st Draft EIR (Copies of Original Submissions).
 - Appendix 6 Responses to Comments received on 1st Draft EIR.
 - Appendix 7 Issues Trail of All Comments prior to 1st Draft EIR.
 - Appendix 8 EIA Process Table.
 - Appendix 9 Area Breakdown Structure.
 - Appendix 10 Environmental Management Specifications.
 - Appendix 11 Targeted Procurement Policy.
 - Appendix 12 Supplementary Development Conditions (self imposed by ASAH)
 - Appendix 13 I&AP List after Open House (update of Appendix 1).
 - Appendix 14 Public Participation at 2nd DEIR stage.
 - a) Cover letter of 17th September 2004 (with Exec. Summary & CD)
 - b) Notice of Open House postponement & Comment Period Extension
 - c) Advertisement text for 2nd DEIR for Overstrand Herald & Hermanus Times of 7 October 2004.
 - d) Open House Attendance List.
 - Appendix 15 Response to Comments on 2nd DEIR.
 - a) Response to Open House (19th October 2004) plenary proceedings
 - b) Response to Open House hand written comments received by specialists from I&APs.
 - c) Response to Written Comments on 2nd DEIR.
 - d) I&AP Submissions on 2nd DEIR.

- Appendix 16 Western Cape Department of Agriculture Letter of no objection (23 April 2004).
 - Appendix 17 Invertebrate Report (Harrison, November 2004).
 - Appendix 18 H Aikman Response to Cape Institute for Architecture Comments.
 - Appendix 19 J Harrison Response regarding Location of 5/6 units west of Lekkerwater stream.
 - Appendix 20 Supplementary Economic Report (Urban-Econ) (April 2003).
5. Environmental Impact Report Volume 2 which included the following Specialist Impact Assessments:
- Botanical Survey and Impact Assessment;
 - Economic Impact Assessment;
 - Estuarine Impact Assessment;
 - A survey of the Amphibians in Two Seasonal Ponds;
 - Faunal Impact Assessments;
 - Freshwater Ecological Impact Assessment;
 - Heritage Impact Assessment;
 - Visual and Aesthetic Impact Assessment;
 - Environmental Impact Report Volume 3 which included Specialist Reports;
 - Engineering Report;
 - Flood Runoff and Storm water Management Plan;
 - Borehole Drilling Report;
 - Traffic Impact Assessment;
 - Water Demand Management;
 - Water Supply Study;
 - Development Framework Volume 4 which included-
 - o Development Framework (March 2003);
 - o Development Framework Executive Summary (March 2003);
 - o Land Use Planning Act Application (March 2003).
6. Relevant information contained in the Departmental information base including -
- Guideline for Golf Courses, Golf Estates, Polo Fields and Polo Estates in the Western Cape (2005),
 - Guideline for Resort Developments in the Western Cape (2005).
 - Western Cape Provincial Spatial Development Framework (2005).
7. The principles of sustainable development as underlined in section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).
8. The findings of the independent reviewer as appointed by the Department to undertake an independent review of the Environmental Impact Report submitted for the abovementioned application.

APPEAL PROCESS (2006 – 2008)

1. The appeals for and against the Department's decision.
2. Submissions made at the appeal hearing held on the 30 August 2007 at the Community Hall, Kleinmond.
3. Appeal decision dated 10 September 2007 by former Minister T Essop.
4. The review proceedings, Judgement and the order of the Western Cape High Court 01 October 2008.

SUPPLEMENTARY EIA PROCESS

1. 2009 - 2011

1. On 12 July 2010 the then owner of the property, Arabella South Africa Holdings (Pty) Ltd ("Arabella") requested that the November 2004 EIR and associated specialist reports be updated and supplemented.

2. A final comparative EIR was compiled for the reconsideration of the appeals against the refusal of the application for the proposed construction of Phase 2 of the Arabella Country Estate, Hermanus.
3. The decisions taken by the competent authority on 26 January 2006 and former Minister Essop on 10 September 2007 were based on the November 2004 EIR. The November 2004 EIR assessed two alternatives for Arabella Phase 2, namely Alternative 1 and the then preferred alternative, Alternative 2.
4. The following steps were completed to revise and update the November 2004 EIR:
 - The October 2010 draft EIR was prepared;
 - Aikman Associates completed the Supplementary Heritage Impact Assessment Report (October 2010);
 - Edge Tourism Solutions & Economic Information Services completed the Arabella Phase 2 Socio Economic Specialist Report (March 2010);
 - JAH Environmental Consultancy (in association with the Animal Demography Unit), completed the Arabella Phase 2 Revised Faunal Impact Assessment (March 2011);
 - Nick Helme Botanical Surveys completed the Arabella Phase 2 Revised Botanical Impact Assessment (March 2010);
 - The Freshwater Consulting Group completed the Arabella Phase 2 Revised Ecological Impact Assessment (April 2011);
 - The CSIR, Natural Resources and the Environment, completed the Arabella Phase 2 Revised Bot River Estuary Impact Assessment (April 2011);
 - Arcus Gibb completed the revised and updated the Arabella Country Estate Phase 2 Engineering Services Report (March 2011);
 - A new Arabella Phase 2 layout dated September 2010 was prepared.
5. A new alternative, Alternative 3 was developed based on comments from IAPs and further input from the specialist and the engineers. The development footprint of Alternative 3 was reduced to 114ha, with the residential component covering 58ha while the remaining 56ha are for the golf course. Alternative 3 comprised of:
 - The omission of the environmental centre and the creation of two additional residential erven (by subdividing two larger residential erven envisaged by Alternative 2) bringing the total of residential erven to 352;
 - Provision of a 20m buffer from the edge of the wetlands and river corridors;
 - Widening of the ecological corridors between the fairways;
 - New corridors and a linkage the sensitive south western habitat and the golf course were created;
 - The western residential pocket of the central housing component between the R44 and golf course was redesigned;
 - The eastern corner of the main housing component below the R44 was redesigned;
 - The number of road crossings over watercourses was reduced from five to three;
 - The electrical substation was relocated;
 - All development components below the 5m amsl contour line were eliminated.
6. Alternative 3 was further revised to yield Alternative 3A in response to comments received from CapeNature and the record of decision from Heritage Western Cape ("HWC"). Alternative 3A comprised of the same components as Alternative 3 with the following changes:
 - The western most housing component just below the R44 was redesigned;
 - The housing component in the vicinity of the historical winery below the R44 was redesigned in order to retain the winery;
 - Where possible, all bulk services were relocated to the least sensitive areas.

II. 2011 - 2013

1. On 15 March 2012, I requested the applicant to undertake "a detailed investigation of an alternative layout that is confined only in low sensitive areas of the proposed site as requested by CapeNature on numerous occasions..." following the acknowledgement of the supplementary documents.

2. An additional alternative was developed in response to my letter resulting in Alternative 4 being developed;
3. The respective independent specialists were appointed to undertake comparative assessments between Alternative 3A, Alternative 4 and the No-Go Alternative.
4. The following specialist reports were compiled:
 - Supplementary Heritage Impact Assessment Report (January 2013);
 - Arabella Phase 2 Socio Economic Specialist Report: Alternative 4 (December 2012);
 - Arabella Phase 2 Revised Impact Assessment: Fauna (January 2013);
 - Arabella Golf Estate (Kleinmond) Phase 2: Revised Environmental Impact Assessment: Vegetation (January 2013);
 - Arabella Golf Estate, Phase 2 Revised Freshwater Ecological input to Environmental Impact Assessment (December 2012);
 - A desktop assessment of the potential impacts of the Arabella Country Estate Phase 2 – Alternative 4 on the Bot River Estuary (January 2013);
 - Feasibility Study of the Proposed Arabella Country Estate Phase II, Kleinmond, Western Cape (January 2013);
 - Revised Engineering Services Report (January 2013).

PUBLIC PARTICIPATION

I. EIA process (2003 – 2006)

The public participation process ("PPP") which comprised of:

- Advertisements for the inception of the EIA process were published in the Cape Times, Overstrand Herald, Hermanus Times and Die Burger on 11 April 2003.
- Letters and invitations to the Environmental Issue Gathering Workshop were sent on 6 June 2003.
- Environmental Workshops were held on 10 July 2003 and 25 September 2003.
- The draft Scoping Report for public comment was made available on 8 September 2003 in the Kleinmond Library, Hermanus Library, Arabella, Bot River Community Centre, EnviroAfrica, KOBIO, KBR Co, Friends of the Bot River, WESSA, Botsoc SA (Kogelberg Branch). All relevant authorities received full copies namely: Department of Water Affairs and Forestry ("DWAF"); CapeNature; Heritage Western Cape; Department of Agriculture, District Roads Engineer, Overstrand Municipality, Overberg District Municipality.
- The first draft Environmental Impact Report ("EIR") was made available on 10 February 2004 at Kleinmond Library, Hermanus Library, Arabella, Bot River Community Centre, EnviroAfrica and Rondebosch Library. All relevant authorities received full copies namely: DWAF; CapeNature; Heritage Western Cape ("HWC"); Department of Agriculture, District Roads Engineer, Overstrand Municipality, Overberg District Municipality.
- Open House/Report back meetings were held on 10 June 2004 and 19 October 2004.
- The second draft EIR was made available for public scrutiny in the Kleinmond Library; Hermanus Library; Arabella; Bot River Advice & Development Centre; EnviroAfrica and Rondebosch Library.
- All Interested and Affected Parties (I&APs) received a copy of the Executive Summary of the second draft EIR which were accompanied by a covering letter dated 17 September 2005.
- Advertisements in Afrikaans and English announcing the availability of the second draft EIR for public comment, with the amended dates for the Open House and extended commenting period, were placed in the Overstrand Herald and Hermanus Times of 7 October 2004.

II. Supplementary EIA process (2008 – 2013)

The PPP comprised of the following:

- All previously registered I&APs and authorities were notified of the Draft Comparative EIR;
- A public meeting was held on 20 October 2010.
- The availability of the draft Comparative EIR for public comment/registration of new I&APs was advertised in the Cape Times, Die Burger and Hermanus Times on 31 January 2013 and 01 February 2013;
- Hard copies (and CDs) of the Comparative EIR was made available for public inspection at Kleinmond Library, Hermanus Library, Arabella, Bot Library, EnviroAfrica and Rondebosch Library;
- Hard copies (and CDs) of the draft Comparative EIR were delivered/posted to the various relevant authorities, whilst CDs were posted to various key stakeholders;

- Two additional I&APs registered during the PPP and six comments were received;
- All I&APs and authorities were notified of the availability of the Comparative EIR from 7 June 2013 to 12 July 2013.
- Hard copies (and CDs) of the final Comparative EIR was made available for public inspection at Kleinmond Library, Hermanus Library, Arabella, Bot Library, EnviroAfrica and Rondebosch Library;
- Hard copies (and CDs) of the final Comparative EIR were delivered/posted to the various relevant authorities, whilst CDs were posted to various key stakeholders.

The comments received during the Supplementary EIA process related to:

- Proposed development/site;
- The no-go development option;
- Loss of floral species;
- Ecological corridors;
- Water – Need and extraction;
- Stormwater run-off;
- Bot River Estuary;
- Waste Water;
- Visual Impact;
- Heritage/Visual – landscaping;
- Stewardship;
- Social Impacts;
- Socio-economic impacts;
- Land Use planning issues;
- Agriculture;
- Waste Management.

I am satisfied that the issues and comments raised during the Supplementary EIA process were adequately addressed.

ALTERNATIVES

1. EIA process (2003 – 2006)

The applicant investigated 2 alternative development proposals and the no-go alternative in terms of the existing land use right, i.e. Agriculture. Of the 2 development proposals, alternative 2 was the applicants preferred alternative as it considered the environmental constraints of the site and as such, represented the least impact on the environment, whilst still meeting the objectives of the development.

Alternative 1:

Alternative 1 proposed a development footprint of 146ha, constituting approximately 34% of the site. The residential component covers 77ha while the remaining 69ha was set aside for the golf course. Alternative 1 comprised of the following:

- An 18-hole championship golf course and golf academy, including a driving range, clubhouse and standard golf course amenities;
- 350 residential erven;
- Sports and recreational facilities;
- Private nature reserve;
- Environmental centre;
- Reservoir and purification works;
- Electrical substation;
- Officers, workshops and stables.

Alternative 2:

Alternative 2 was generated in response to the findings of the specialist studies undertaken during the EIA phase. It was identified as the preferred alternative in the November 2004 EIR.

Alternative 2 comprised of the same components as Alternative 1, but the development footprint was reduced to 127ha covering approximately 30% of the site. The residential component covered 68ha while the remaining 59ha was set aside for the golf course.

The main changes from Alternative 1 to Alternative 2 were as follow:

- The northern housing component was redesigned to make provision for the rehabilitation and conservation of the entire eastern ecological corridor, including two narrow bridges across it.
- The impacts of the Laughing Waters and Lekkerwater ecological corridors were mitigated by the reshaping of the golf course.
- Provision was made for a secondary wetland in the eastern corner of the main housing component below the R44.
- The main entrance area was redesigned.
- The western most housing component below the R44 was redesigned.

No-go Alternative:

The No-Go Option was considered unfeasible due to the fact that the site is zoned for agricultural purposes. The applicant stipulated that agriculture on the property is not financially viable and ecologically sustainable.

II. Supplementary EIA process (2008 – 2013)

I requested the applicant to undertake an investigation of an alternative layout that is confined only in low sensitive areas as per CapeNature's request on 15 March 2012.

A new Arabella Phase 2 layout dated September 2010 was prepared in response to comments from IAPs and further input from the specialist and the engineers.

Alternative 3/3A

The development footprint of Alternative 3 was reduced to 114ha, with the residential component covering 58ha while the remaining 56ha reserved for the golf course. Alternative 3 comprised of:

- The omission of the environmental centre and the creation of two additional residential erven (by subdividing two larger residential erven envisaged by Alternative 2) bringing the total of residential erven to 352;
- Provision of a 20m buffer from the edge of the wetlands and river corridors;
- Widening of the ecological corridors between the fairways;
- New corridors and a linkage between the sensitive south western habitat and the golf course were created;
- The western residential pocket of the central housing component between the R44 and golf course was redesigned;
- The eastern corner of the main housing component below the R44 was redesigned;
- The number of road crossings over watercourses was reduced from five to three;
- The electrical substation was relocated; and
- All development components below the 5m amsl contour line were eliminated.

Alternative 3 was further revised to yield Alternative 3A in response to comments received from CapeNature and Heritage Western Cape. Alternative 3A comprised of the same components as Alternative 3. The main changes include:

- The western most housing component just below the R44 was been redesigned;
- The housing component in the vicinity of the historical winery below the R44 has been redesigned in order to retain the winery;
- Where possible, all bulk services have been relocated to the least sensitive areas.

Alternative 4 (Authorised Alternative)

Alternative 4 comprises of the following:

- 352 single residential erven with associated infrastructure;
- A 9-hole executive (mashie) golf course;
- Long-drive driving range;
- Golf academy;
- Clubhouse, pro-shop and the Home Owners Association ("HOA") Offices;
- Restaurant and winery;
- Archery range;
- Sports field;
- Public gathering site in the form of a boma; and
- A more extensive range of recreational trails within the development footprint and into the adjoining nature areas.

Alternative 4 will cover approximately 86ha of the property's total extent of 427ha and will be rezoned as Residential Zone II. The remainder of the property will be zoned from agriculture to private nature conservation area. Only areas of low and medium sensitivity are earmarked for development, no high sensitivity areas or areas within the freshwater corridors will be developed.

Integration of Phase 1 and Phase 2 will be enhanced through the relocation of the existing golf clubhouse and offices of the HOA to a site north of the R44. The relocation of the clubhouse will entail a realignment of the golf academy as it relates to the 1st and 18th green. By freeing up additional space in the existing hotel complex on Phase 1, the proponent aims to expand the conference offerings which could make the hotel a more viable conference destination.

The village component south of the R44 will be linked directly with Phase 1 through a golf cart boardwalk to be established over the Laughing Waters corridor. The relevant village component will obtain access from the R44 via a new access point. The ecological corridors will be established at defined routings through the village. The historic winery (existing stables) will be converted into a wine tasting room and small shop linked to a new restaurant facility to be established adjacent to the designated amphibian reserve. Erven 179 and 180 have been separated to allow for amphibian movement.

ASSESSMENT OF ISSUES

I. Need and Desirability

Arabella Phase 1 is an established and substantial development on approximately 113ha abutting the north-western shore of the Bot River Vlei. Residential sales started in 1996 and were sold out during 2002. The current application is considered as phase 2 of development of the Arabella Country Estate.

The site is approximately 427ha in extent of which approximately 86ha will be set aside for the development of Phase 2 of the Arabella development. The remainder of the site will, approximately 341ha, be zoned as a nature conservation area, rehabilitated where necessary.

It is anticipated that Arabella Phase 2 will afford the medium and high sensitive areas protection formal conservation through a Stewardship Programme Agreement / contract with CapeNature, it will provide employment to the surrounding communities during the construction and operational phases of the develop with skills development and ongoing training and increase the GDP to R8.276 by 2023.

Furthermore, Arabella Phase 1 has had a positive spill-over impact on the clubs in that they attracted more golfers to the region, making the Overstrand area a golfing destination and it anticipated that Arabella Phase 2 will cement this.

II. Faunal Impacts

The revised Faunal Assessment dated January 2013 replaced all previous reports. The Faunal Assessment states that from a conservationist's viewpoint, Arabella Phase 2 is a 'magnificent site' with the potential to be an asset to the adjoining Kogelberg Biosphere Reserve. The approved footprint for Arabella Phase 2 only designates development on the low and medium sensitivity areas. The site is presently degraded with major ecological problems.

The impacts and the significance ratings, associated with development of Alternative 4 for Arabella Phase 2 are:

IMPACT	MITIGATION	STATUS OF IMPACT	SIGNIFICANCE
Destruction of natural habitat	unmitigated	negative	low
	mitigated	negative	low
Fragmentation of natural habitat	unmitigated	positive	medium
	mitigated	positive	high
Degradation of natural habitat as a result of human activity and inadequate management	unmitigated	negative	high
	mitigated	positive	high
On-going decline of populations of threatened and other species	unmitigated	negative	medium
	mitigated	positive	medium
Road mortality	unmitigated	negative	medium
	mitigated	negative	low
Dust pollution	unmitigated	negative	low
	mitigated	negative	low
Pollution of soil and water beyond the sites	unmitigated	negative	high
	mitigated	negative	low
Light pollution beyond the site	unmitigated	negative	medium
	mitigated	negative	low
Alteration of surface and groundwater levels and flows and knock-on effects from run-off and underground structures	unmitigated	negative	medium
	mitigated	negative	low
Poaching of local animals	unmitigated	negative	medium
	mitigated	negative	low
Problem animal scenarios resulting from human interaction with animals	unmitigated	negative	medium
	mitigated	negative	low
Invasion by alien animals	unmitigated	negative	high
	mitigated	negative	low
Cumulative impacts resulting from addition of new development to the district	unmitigated	positive	medium
	mitigated	positive	high
Improved conservation of undeveloped land	unmitigated	positive	medium
	mitigated	positive	high

The Faunal Assessment concluded that "the development proposal assessed (Alternative 4) is a well-considered and well-designed move in the direction of achieving conservation objectives and fulfilling a range of defined environmental responsibilities, especially as it is largely areas of low conservation value that will be affected, and large areas of high value natural habitat that will be positively affected. If the development at Arabella Phase 2 provides the financial means to promote conservation on the property, the development can be considered not only acceptable, but also a necessary step toward achievement of conservation goals. Alternative 4 is markedly superior to all earlier plans and is commendable in its sensitivity to environmental issues."

The significance table indicates that the impacts associated with fauna can be mitigated to acceptable levels and the residual impacts can sufficiently be offset by diligent conservation management and the implementation of conditions of this authorization and EMP. Should the mitigation measures be rigorously implemented and adhered to, it will increase the positive impacts to levels at which the proposed development can be considered positive for indigenous fauna.

III. Botanical Impacts

The development footprint of Alternative 4 will be limited to the low (73% of the development) and medium (17.9% of the development) sensitive areas only. The design of Alternative 4 is cognisant of the biophysical constraints of the site.

Approximately 0.5ha of the high sensitivity vegetation will be impacted upon by the installation of bulk services (underground), which will allow the disturbed area to be rehabilitated.

The revised Botanical Assessment Report dated January 2013 states that without mitigation, Alternative 4 has a lowest botanical impact of all the previous alternatives. Significant efforts have been made by the applicant to minimise or eliminate sources of impact identified by the various specialists during the process.

The significance of the botanical impacts for Alternative 3A, 4 and the 'no-go' alternative are:

Alternative	extent of impact	duration of impact	significance (before mitigation)	significance (after mitigation)
3A	local & regional	long term to permanent	low-medium negative	low negative
4	local & regional	long term to permanent	low negative	low positive
No-go	local	temporary to long term	low negative	low negative

Alternative 4 is a significant improvement over the previous alternatives in terms of the following:

- The overall development footprint has been significantly reduced, resulting in less habitat loss;
- Ecological connectivity is ensured and improved;
- The elimination of the 18-hole golf course will result in less water usage and far less opportunity for associated negative edge effect such as nutrient seepage, drying out along edges, alien plant invasion, etc.;
- Only a single known plant species of conservation concern will be impacted upon as opposed to at least 5 for the other alternatives;
- The disruption of the natural fire regimes is likely to be significantly less important as the development does not intrude into areas of important natural vegetation that require fire.

Thus, Alternative 4 will result in low positive impacts on the site after mitigation and will further provide for the formal conservation through a Stewardship Programme Agreement / contract with CapeNature.

IV. Freshwater Impacts

The areas of the site above the R44 contain numerous undisturbed channelled hill-slope seeps which support a diverse range of wetland plant species and some faunal species. In several places these seeps give rise to seasonal channels that flow across the site and into the Bot River Vlei.

The soil and vegetation on the slopes in the vicinity of the R44 has been significantly disturbed due to agricultural activities, quarrying, forestry, equestrian activities and alien vegetation. In some areas seasonal streams has been channelized primarily through infilling and destabilisation of river banks as a result of alien tree invasion and the redirection of streams into culverts under the R44.

The areas along the western boundary of the site comprises of pristine lowland fynbos that extend into the adjacent Rooisand Nature Reserve with the seasonal Lekkerwater streams widening into broad bands of wetland which meet up with the Bot River Vlei. The Freshwater assessment concluded that that these wetland habitats are in good ecological condition and supports a diverse range of wetland plants with most of the freshwater ecosystems being of high ecological importance, sensitivity and conservation importance.

The significance of the freshwater impacts associated with development has been reduced with Alternative 4 through the location of all golfing greens, fairways, and tee boxes outside of all the mapped freshwater ecosystems and its buffer areas. One sports field encroaches into the buffer area surrounding the dam above the R44 and the freshwater assessment did not consider this as significant.

The assessment of the freshwater impacts associated with the layout of Alternative 4 is:

Nature of impact	status	significance before mitigation	significance after mitigation
Location of buildings on or too close to streams or wetlands	negative	Negligible	none
Location of greens, tee boxes, roughs or fairways on or too close to streams or wetlands	negative	low	low
Stream or wetland crossings for roads, golf cart tracks and bulk services	negative	low to medium	low
Loss of open space between wetlands and streams	negative	low to medium	low to medium

The construction phase impacts are:

Nature of impact	status	significance before mitigation	significance after mitigation
Damage to soil structure, destruction or shade out plants in and around the freshwater ecosystems	negative	low to medium	neutral
Pollution of wetlands and streams	negative	medium	low
Destruction/deterioration of freshwater habitats (foot/vehicular traffic)	negative	low to medium	low to negligible
Destruction/deterioration of freshwater habitats (excavation/infilling of seeps and stream)	negative	low to medium	low to medium
Disturbance of freshwater fauna and flora	negative	low	low
Erosion and sedimentation	negative	low to medium	low
Introduction and spread of alien invasives	negative	low to medium	low

The operational phase impacts are:

Nature of impact	status	significance before mitigation	significance after mitigation
Increased pollution of wetlands/streams (stormwater runoff and irrigation return flow)	negative	low to medium	low
Increased pollution of wetlands/streams (increased quantities of litter)	negative	low	neutral
Loss of connectivity (ecosystems)	negative	low to medium	low
Altered hydrological regimes (affected freshwater ecosystems)	negative	low to medium	low
Desiccation of ecosystems	negative	low to medium	low to negligible
Disturbance of fauna and flora	negative	low	low to negligible
Introduction/spread of alien invasives	negative	medium	low to medium
Increased biodiversity/improved ecosystem functioning	positive	high	n/a

These impacts range from neutral, none, low to low-to-medium negative significance for Alternative 4. Phase 2 of the development will result in increased biodiversity and improved ecosystem functioning the wetlands, streams and dams through the removal of alien vegetation and the ongoing protection and formal conservation of the medium and high through a Stewardship Programme Agreement / contract with CapeNature. Furthermore, Phase 1 and Phase 2 of Arabella will be managed as a whole which is anticipated to ensure that the negative impacts with Phase 1 will be reduced and the freshwater ecosystems will be managed in terms of a catchment approach.

V. Estuarine Impacts

The main negative impacts associated with Phase 2 of the development are:

- Reduced of quality of water entering the Bot River Vlei;
- Reduced quantity of water entering the Bot River Vlei as a result of the abstraction for use of surface water from streams on the estate to meet the demands of the development.

The estuarine assessment determined that a 5m amsl contour line is necessary for the effective planning and management of the Bot River Vlei. This allows that no permanent fixtures associated with the development will be located below the 5m amsl contour. This has been included as a condition of this authorization.

The anticipated impacts associated with the reduced quantity of water entering the Bot River Vlei as a result of the abstraction for use of surface water from streams on the estate to meet the demands of the development is mitigated by the fact that no additional water abstraction will be allowed from streams to meet the water requirements of Phase 2. This prohibition has been included as a condition of this authorization.

The Estuarine Assessment concluded that the design specifications of Alternative 4 include the installation of swales in order to prevent direct discharge into the Bot River Estuary. There will also be a sub-surface drainage system and geo-membranes under the greens that will act as cut-off drains for sub-surface flows. These flows will then be discharged into monitoring or retention ponds. The estuarine specialist stated that these sub-surface drains should be sufficient to ensure that no sub-surface water from the golf course and sporting facilities reach the estuary.

The construction of swales and the retention ponds will also ensure that sediment does not enter into the estuary during the construction phase of the development, especially during the establishment of the fairways. This risk of sediment entering the estuary is further mitigated and governed by the construction phase EMP.

In order to prevent sub-surface flow into the Bot River Estuary, the measures as stated by the estuarine specialist have been included as conditions in the environmental authorisation.

The Estuarine Assessment also confirmed that there is no significant link between the abstraction of groundwater and water levels of the estuary. The Estuarine Assessment Report estimates that groundwater only makes a small contribution to the total freshwater input of the Bot River Estuary. The planned abstraction of groundwater for Arabella Phase 2 will result in a negligible reduction in the overall supply of freshwater to the Bot River Estuary system.

The treatment works design for Arabella Phase 2 allows for the return flow from the exiting monitoring pond as well as the two retention ponds. The retention ponds will have a capacity to accommodate up to the 1:10 year event. The estuarine specialist states that these measures will offer sufficient protection of the estuary against unacceptable nutrient levels. The estuarine specialist further recommends that no wastewater should be discharged into the estuary on a regular basis.

One retaining wall will be constructed along the banks of the Bot River Vlei, above the 5m amsl contour line to prevent erosion and bank.

The significance of the estuarine impacts is:

Nature of impact	Phase	Mitigation	Status	Significance
Reduction of run-off to estuary	construction	no mitigation	negative	medium
	operation	mitigation	negative	high
	construction	no mitigation	negative	low
	operation	mitigation	negative	low-medium
Sub-surface flows from fairways	construction	no mitigation	negative	high
	operation	mitigation	negative	high
	construction	no mitigation	negligible	
	operation	mitigation	negligible	
Flood run-off, stormwater and sewage treatment	construction	no mitigation	negative	low
	operation	mitigation	negative	high
	construction	no mitigation	negligible	
	operation	mitigation	negligible	
Bank stabilization through retaining wall	construction	no mitigation	negative	medium
	operation	mitigation	negative	medium
	construction	no mitigation	limited	
	operation	mitigation	negative	low
Access to Bot River Vlei	construction	no mitigation	negative	low
	operation	mitigation	negative	low
	construction	no mitigation	negative	low
	operation	mitigation	negative	low

On the basis of the findings and recommendations of the estuarine assessment, construction phase EMP and conditions included in this authorization, the significant impacts associated with Alternative 4 can be effectively mitigated and managed.

VI. Heritage

Heritage Western Cape ("HWC") endorsed the findings of the Heritage Specialist (Heritage Impact Assessment 2004) on 15 June 2005, the Supplementary Report (2010) on 31 January 2011 and 24 April 2013.

HWC issued three separate endorsements for the development and has stated in the Record of Decision dated 24 April 2013 that it supports Alternative 4 for Phase 2 of the development.

The specific recommendations made by HWC include:

- Only indigenous vegetation be used in landscaping and a mature Canary Palm (*Phoenix canariensis*), an Monterey cypress (*Cupressus macrocarpa*), the Norfolk Island pine (*Auracaria*)

heterophylla), as well as some mature gum trees near the homestead be retained as roosting sites for birdlife.

- The old winery is to be retained and the outbuildings are to be demolished.

Architecture and Aesthetics

HWC approved the recommendation of the heritage specialist that an architectural design that develops a strong local identity in harmony with the setting of the Overberg be adopted with no building exceeding two storeys in height and the use of the abundant ferricrete in the design and construction of the landscaping style. This has been included in the conditions of authorisation.

Visual Impact

The initial visual assessment dated April 2004 concluded that the impact of the proposed development is expected to be high at distances of less than 100m and to diminish to medium beyond the 500m zone, and that the site is very visible to passing motorists and residential communities. Furthermore, Arabella Phase 2 will have an overall positive impact on the visual character of the area as the *"disordered nature and sense of abandonment can be changed."*

The Supplementary Heritage Impact Assessment Report dated January 2013 confirmed that the revised Alternative 4 differs significantly from the earlier alternatives in that it is a much less extensive development (building footprint is reduced from 113ha to 86ha). From this, the overall visual impact is further reduced. Alternative 4 is more sensitive to the environmental constraints of the site as development will be limited to the low sensitive areas as requested by CapeNature. The layout of the development will extend toward the existing town of Kleinmond and will be subject to strict architectural and Aesthetic considerations, Architectural and Design Guidelines, which include:

- No building can exceed two storeys in height;
- The abundant use of ferricrete in the development in the design and construction of the landscaping style.

HWC issued three separate endorsements for the development and has stated in the Record of Decision dated 24 April 2013 that it supports Alternative 4 for phase 2 of the development. It can therefore be concluded that the heritage impact and visual impact is acceptable. HWC endorsed Alternative 4 for Phase 2 of the Arabella development. Specific heritage conditions have been included in this authorization.

VII. Economic Impacts

Arabella Phase 1 has resulted notable social contributions in terms of its Corporate Social Investments and the establishment of Arabella Community Trust ("ACT") as a result of the Broad Based Black Economic Empowerment Agreement ("BBBEE agreement"). Through this the majority of the employees at Arabella Phase 1 comprises of semi-skilled and unskilled workers largely from the surrounding communities. The key aspects of Arabella Phase 1's economic contribution are its input to the area's GDP, direct spending in the area, direct jobs during the construction and operational phases, the payment of R29.7m direct and indirect taxes in 2009 and a significant amount of procurement locally. Furthermore, Arabella Phase 1 has a positive impact on the profile of the Overberg region as a tourist destination with particular focus on golf.

It is estimated that the construction phase of Phase 2 will, by 2017, contribute R414m to the GDP and by 2023 the total contribution is anticipated to be R8.276bn. The most relevant type of displacement is that the golfers will be drawn away from the existing courses in the area. However, interviews conducted with the captains of the courses, revealed that they did not anticipate any potential negative impacts on their business. It is their opinion that Arabella Phase 1 had a positive spill-over impact on the clubs in that they attracted more golfers to the region, making the Overstrand area a golfing destination.

VIII. Social Impacts

Nine social impacts were identified of which seven were assessed to have a positive impact and two a negative impact. The positive impacts include:

- Improved household livelihoods;
- Improved skills development;

- Improved preferential procurement;
- Improved community facilities;
- Improved community services;
- Improved empowerment; and
- Improves social cohesion.

The social component of the Socio-economic study stated that these impacts are permanent in duration and rated to be of a positive medium significance.

The negative impacts associated with Arabella Phase 2 are the possibility of a population influx of labourers as well as potential job-seekers to the area caused by the perception of job opportunities and also possible deepening social divisions.

Targets in terms of the mandatory percentage of local labour that will be used, skills audits to determine the skills required by the development and the skills that are available and the maximisation of opportunities for the train of unskilled and skilled workers during the construction and the operational phases have been set and included as condition of the environmental approval. All of these targets will be determined in consultation with the local communities.

In order to ensure that the positive impacts materialise and to mitigate the negative impacts, the appointment of a permanent community facilitator has been recommended. With the implementation of a permanent community facilitator, the socio-economic assessment predicts that the positive impacts will be of high significance.

The appointment of a community facilitator has been included as a condition in the authorisation.

IX. Regional and Policy Context

The Overstrand Municipal SDF was amended by the Overstrand Municipality in terms of the designation of the land use and the urban edge, amendment of the Hangklip-Kleinmond SDF, rezoning and subdivision and a review of the said provincial guidelines, Arabella Phase 2 is found to be compliant and in line with the planning for the area. Arabella Phase 2 is considered to be an extension of Arabella Phase 1 and is not anticipated to set a precedent for leapfrogging or denigration of urban edges.

On 29 October 2008, the Mayoral Committee for Infrastructure of the Overstrand Municipality unanimously resolved that the application for the amendment of the Overstrand Municipal Spatial Development Framework ("SDF"), in terms of section 34 of the Local Government: Systems Act 32 of 2000, in order to change the land-use designation of Portion 1 and the Remainder of Portion 3 of the Farm Hermanus River 542 from Conservation-Agriculture Buffer, Core Agriculture and Conservation II be approved to Residential Zone II and Open Space II. This approval is subject to the following:

- Land uses in the Core Urban Area and Conservation II area be strictly limited to those indicated on the approved Site Development Plan for Phase 2;
- The existing urban edge around Phase 1 be amended to include Phase 2; and
- The recommendations of Council in relation to the un-delegated uses be approved by the competent authority (i.e. amendment of the Hangklip-Kleinmond SDF, rezoning of Portion 1 and the Remainder of Portion 3 of the Farm Hermanus 542 in terms of section 17 of the Land Use Planning Ordinance ("LUPO") for Agriculture to Subdivisional Area; subdivision in terms of section 24 of LUPO; approval of the Site Development Plan).

The proposed development will also result in the formal protection and conservation of the high conservation areas and will be managed as a Special Management Area ("SMA") in terms of and ISO 14001 – accredited Environmental Management System ("EMS") (the existing Phase 1 EMS will be extended to cover the entire property). The conservation areas will be formalised through either the Stewardship Programme Agreement or a contract with CapeNature. These open spaces will also be rezoned for conservation purposes. This will in turn help enforce the undertaking of appropriate ecological management of the natural habitats, including ongoing alien vegetation management, which is currently not taking place.

Arabella Phase 1 and Phase 2 are fall within In the transition zone of the Kogelberg Biosphere Reserve. The Kogelberg Biosphere reserve was registered with the United Nations Educational Scientific and Cultural Organisation ("UNESCO") in December 1998 and comprises if three different but associated zones, namely the 'core' or most ecologically sensitive and pristine area where nature conservation is a priority; the 'buffer' or less ecologically sensitive but mostly natural area where recreation and sustainable utilization of natural products are allowed; and the 'transition zone' or least ecologically sensitive area where a great variety of land uses occur , e.g. farms, commercial plantations and towns. In the comment from the Kogelberg Biosphere Reserve Company, it stated that "the development of houses I the buffer zone of the KBR was inconsistent with the guidelines for activities in the biosphere reserve buffer zones, but added that because in its view the part of the area above the R44 where the residential development is proposed should never have been included in the buffer zone, it did not object to the proposed development above the R44."

The developer intends to formally request that the following changes be made to the KBR designations of the property as a whole:

- The residential component, the golf course and associated amenities and sports field be designated as part of the transition zone of the;
- The nature reserve be designated part of the core zone of the KBR.

X. Services

1. Access

Two additional stop-controlled entrances are in included in the development proposal at the R44. These intersections have been endorsed and will be designed to the conditions and specifications of the Western Cape Department of Transport and Public Works.

Currently the R44 acts as a barrier for the free movement of animals between the mountains and the Bot River Vlei. The faunal specialist identified six existing culverts beneath the R44 that should be upgraded in size, layout and position of fencing to ease the movement of animals.

All upgrading measures recommended by the faunal specialist will be submitted to the Western Cape Department of Transport and Public Works for approval once all the development rights obtained.

A condition has been included in this authorisation which requires that a copy of the approval in terms of the road upgrade and the recommendations of the faunal specialist must be submitted to the Ministry before the commencement of construction activities for Phase 2.

2. Water Supply

The current water supply available at Arabella Phase 1 will be upgraded to also service Phase 2. The water supply demand is anticipated to increase from 430 ML for Phase 1 to an estimated 726 ML for both Phase 1 and Phase 2.

The additional 296 ML will be sourced from:

- Run-off from hardened surfaces into the existing 17 ML irrigation dam which will be enlarged to 30 ML (16 ML/yr);
- The interception of sub-soil seepage from the new 9-hole Executive golf course, driving range and activity fields for irrigation (10 ML/yr);
- Treated sewage effluent which will also be used for irrigation (108 ML); and
- The existing boreholes (total capacity of 293 ML/yr, less 185 ML/yr used by Arabella Phase 1) and additional boreholes (total capacity of 54 ML/yr) which will be used for potable water supply and irrigation.

The abstraction of water from the boreholes is anticipated to be sustainable due to the fact that the potential recharge of the regional aquifer system is up to 11 700 ML/yr. The only other significant user of the regional aquifer system is the town of Botrivier which abstract approximately 160 ML/yr.

The abstraction of water from the regional aquifer will require a Water Use License in term of the National Water Act, Act 36 of 1998. The Water Use License forms part of the suite development rights which is required for the development.

3. Water Treatment

The current water treatment works for Arabella Phase 1 will be relocated to the south-eastern corner of Portion 3 adjacent to the R44. The water treatment works' capacity will be increased to 20MI to accommodate Phase 2 as well.

4. Potable Water Storage

The existing 1.6 MI reservoir, servicing Phase 1, will be supplemented with an addition 1 MI reservoir which will be constructed for Phase 2.

5. Water Distribution

Separate systems of underground pipes for potable water, irrigation and fire-fighting will be installed. As far as possible a communal 900mm trench will be used, this will be along the road reserve of the R44. In areas where the rising mains cross ecological corridors and other sensitive areas, the pipes will be attached to the raised golf course pathways or road bridge crossings.

6. Fire Fighting

All fire-fighting infrastructure required for the development will be in accordance with the requirements for Low Risk Group 1 areas. The additional domestic fire protection measure will include high-pressure fire hydrants with appropriate equipment to combat potential wild fires and external infrastructure fires.

Sections of the golf course will also act as a fire break between the urban component and the natural areas.

A Fire Management Plan must be compiled for the development, this has been included as a condition of this authorisation. The Operational Phase Environmental Management System will further address fire management.

7. Sewage

The existing sewage treatment works will be upgraded from a capacity of 0.25 MI/day to 0.64 MI/day. The Waste Management License ("WML") for the upgrade of the existing sewage treatment works in terms of the National Environmental Management: Waste Act, Act 59 of 2008, was obtained on 02 November 2013. The WML was not appealed and the developer must comply with the conditions of the WML.

The irrigation and discharge of treated effluent will comply with the General Standards Requirements set by the Department of Water Affairs. The treated effluent will be chlorinated and conveyed to the main irrigation dam which is part of Phase 1. If dam storage becomes insufficient during flood events (in excess of the 1:10 year event), approximately 25 MI/yr of the treated effluent may be returned to the watercourses.

8. Stormwater and Run-off Water Management

Traditional stormwater drainage systems will be used at all the residential areas. The minor systems will accommodate up to the 1:5 year return period storm event and the major systems will be designed to accommodate up to the 1:10 year return period storm events.

No development will take place in the 1:50 year flood plains in order to maintain the continued functioning of the watercourses.

9. Solid Waste

Source-sorted solid waste will be managed and collected internally by the Home Owners Association and transported to the existing waste management site on Phase 1 where further sorting and compaction will take place. Sorted material will be transported to off-site by recycling operators and the compacted portion will be disposed of at the Karwyderskraal Regional Solid Waste disposal site.

Material suitable for composting will be combined with the dried sludge, from the sewage treatment works, and used as fertilizer on the development.

All of the services required at the development will be managed in terms of the Environmental Management Programme ("EMP") for the construction and operational phases of the development. The EMP has been included as a condition of this authorisation.

CONCLUSION

The initial development as proposed in the November 2004 EIR and the alternative presented for consideration has changed significantly in the Final Comparative Environmental Impact Report that was received in July 2013.

The preferred alternative, Alternative 4, responds to the issues raised by CapeNature and the environmental constraints of the site. Alternative 4 is recommended by all the specialists for approval and provides an opportunity to conserve and manage the high conservation areas.

The specialists agree, that with the implementation of their recommendations, in the long-term the biophysical environment in the area will not be significantly adversely affected and in fact the considerable gains will be made in terms of conservation. The recommendations made by the various specialists have been included as conditions of the environmental authorisation.

As the competent authority I am satisfied that the proposed listed activity will not conflict with the general objectives of the 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, provided that the following is observed:

- Adherence to the NEMA principles
- Compliance with the conditions stipulated in this environmental authorisation, and
- Compliance with the mitigation measures in the EMP.

The faunal assessment identified the following negative impact associated with any development on the site:

- Destruction or degradation of natural habitats;
- Fragmentation of natural habitats and patterns of animal movement;
- The ongoing decline in populations of threatened and other species;
- Road mortalities;
- Dust pollution beyond the building site;
- Pollution of soil and water beyond the building site;
- Light pollution beyond the building site;
- The alteration of surface and groundwater levels and flows;
- Poaching of local wildlife;
- Problem animals.

Some of these impacts are currently taking place.

The faunal assessment however identified the following positive impacts:

- An improvement of the conservation status of undeveloped land;
- The preservation and rehabilitation of the watercourses and associated seeps as faunal habitats and ecological corridors;
- The restoration of the perennial flow in watercourses through removal of alien vegetation;
- The enhancement of the lower reaches of the streams;
- The preservation and rehabilitation of wetland habitats of special significance to threatened amphibians;
- The creation of a continuity of corridors and the promotion of animal movement across the R44 by means of under-passes and improved culvert design;
- The consolidation of core areas of the Kogelberg Biosphere Reserve by means of corridor creation and maintenance;
- The improvement of the long-term conservation status of on-site protected areas through appropriate management and monitoring;
- The improvement of the long-term conservation status of neighbouring protected areas (the Bot River Vlei, Rooisand Nature Reserve and Kogelberg Nature Reserve) through appropriate management and monitoring provided for in a contractual agreement with CapeNature; and

- The promotion of community access to nature areas through the development of well-planned hiking trails.

In terms of botanical impacts, Alternative 4 presents the opportunity to formalise the conservation of the high botanically sensitive areas (open spaces) through either the Stewardship Programme Agreement or a contract nature reserve with CapeNature. These open spaces will also be rezoned for conservation purposes. This will in turn help enforce the undertaking of appropriate ecological management of the natural habitats, including ongoing alien vegetation management, which is currently not taking place.

The Final Comparative Environmental Impact Assessment report further states that the no-go alternative is not the overall preferred option from a botanical perspective. The no-go alternative does not present an opportunity to formally conserve and manage the important habitat remnants on the site.

In terms of the freshwater, the Freshwater Assessment found that the negative impacts associated with Alternative 4 are the least when compared to Alternatives 1, 2, 3 and 3A. The residual impacts associated with Alternative 4 are due to the location of bulk services pipelines in and through the sensitive areas. This is mitigated by the limiting the area of disturbance in the sensitive areas to 0.5ha. The significance of the freshwater impacts associated with development has been markedly reduced with Alternative 4 through the location of all golfing greens, fairways, and tee boxes outside of all the mapped freshwater ecosystems and its buffer areas. One sports field encroaches into the buffer area surrounding the dam above the R44 but the freshwater assessment did not consider this as a significant.

In terms of the Bot River Estuary, the Estuarine Assessment concluded that the design specifications of Alternative 4 include the installation of swales in order to prevent direct discharge into the Bot River Estuary. There will also be a sub-surface drainage system and geo-membranes under the greens that will act as cut-off drains for sub-surface flows. These flows will then be discharged into monitoring or retention ponds. The estuarine specialist stated that these sub-surface drains should be sufficient to ensure that no sub-surface water from the golf course and sporting facilities reach the estuary.

In terms of heritage and associated impacts, HWC issued three separate endorsements for the development and has stated in the Record of Decision dated 24 April 2014 that it supports Alternative 4 for Phase 2 of the development.

The Economic review of the development indicated that the proposed development is anticipated to contribute R414m by 2017 and by 2023 the total contribution is anticipated to be R8.276bn. In addition, interviews conducted with the captains of the courses, revealed that they did not anticipate any potential negative impacts on their business. In fact, it is their opinion that Arabella Phase 1 had had a positive spill-over impact on the clubs in that they attracted more golfers to the region, making the Overstrand area a golfing destination.

In terms of the social impact assessment of the development, nine social impacts were identified of which seven were positive and two were negative. The positive impacts largely related to job creation and the associated benefits to the community and the negative impacts are largely associated with the influx of potential job-seekers. The negative impacts will be mitigated by the appointment of a permanent community facilitator.

In terms of access requirements of the development, two additional stop-controlled entrances are included in the development proposal at the R44. These intersections have been endorsed and will be designed to the conditions and specifications of the Western Cape Department of Transport and Public Works.

In terms of the services required for the development:

- The current water supply available at Arabella Phase 1 will be upgraded to service Phase 2 as well. The water supply demand is anticipated to increase from 430 Ml for Phase 1 to an estimated 726 Ml for both Phase 1 and Phase 2. The additional water will be sourced from run-off, intercepting sub-soli seepage, treated effluent, the existing borehole and an additional borehole.
- The current water treatment works' capacity will be increased to 20Ml to accommodate Phase 2 as well.

- Separate systems of underground pipes for potable water, irrigation and fire-fighting will be installed in a communal 900mm trench along the road reserve of the R44. In areas where the rising mains cross ecological corridors and other sensitive areas, the pipes will be attached to the raised golf course pathways or road bridge crossings.
- All fire-fighting infrastructure required for the development will be in accordance with the requirements for Low Risk Group 1 areas. A Fire Management Plan has been compiled for the development which has been included as a condition of this authorisation.
- The existing sewage treatment works will be upgraded from a capacity of 0.25 Ml/day to 0.64 Ml/day. Approval for the upgrade of the existing sewage treatment works in terms of the National Environmental Management: Waste Act, Act 59 of 2008 was issued on 7 April 2014 by the Department of Environmental Affairs.
- Traditional stormwater drainage systems will be used at all the residential areas. The minor systems will accommodate up to the 1:5 year return period storm event and the major systems will be designed to accommodate up to the 1:50 year return period storm events. No development will take place in the 1:50 year flood plains in order to maintain the continued functioning of the watercourses.
- Source-sorted solid waste will be managed and collected internally by the Home Owners Associated and transported to the existing waste management site on Phase 1 where further sorting and compaction will take place. Sorted material will be transported to off-site by recycling operators and the compacted portion will be disposed of at the Karwyderskraal Regional Solid Waste disposal site.

In terms of the regional and planning context, the Mayoral Committee for Infrastructure unanimously resolved on 29 October 2008 that the application for the amendment of the Overstrand Municipal Spatial Development Framework ("SDF"), in terms of section 34 of the Local Government: Systems Act 32 of 2000, in order to change the land-use designation of Portion 1 and the Remainder of Portion 3 of the Farm Hermanus River 542 from Conservation-Agriculture Buffer, Core Agriculture and Conservation II be approved to Residential Zone II and Open Space II.

All the appointed specialists recommended Alternative 4 for approval.

Comments from other authorities

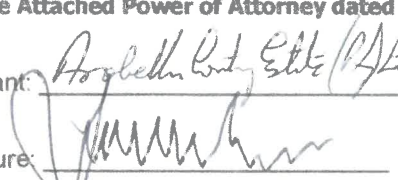
The relevant organs of states such as the Breede-Overberg Catchment Management Agency (01 November 2010), the Department of Agriculture (30 November 2010), CapeNature (25 May 2012), the Department of Transport and Public Works (23 November 2011), Heritage Western Cape (24 April 2013) consulted, endorsed Alternative 4 for development. A WML was issued by the Department of Environmental Affairs on 2 November 2013 which was not appealed. The Kogelberg Biosphere Reserve did not object to Alternative 3 for development in their letter dated 10 December 2010 and Alternative 4 has been assessed to have a less impact.

I am therefore satisfied that, subject to compliance with the conditions contained in the EA, the development will not conflict with the general objectives of integrated environmental management, as 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 development can be mitigated to acceptable levels.



**Application Form and Checklist
in terms of Section 21, 22, 26 and 28A of the
Environmental Conservation Act, 1989
(Act No. 73 of 1989)**

APPLICATION DETAILS

Project Applicant:	Arabella Country Estate (Pty.) Ltd.			
Contact person:	Mr. Riaan Gous			
Postal Address:	P.O. Box 50095, Waterfront, 8002			
Telephone:	021-418 3555	Cell:	082 8833 127	
Email:	gousr@arabella.co.za	Fax:	021-418 2230	
Project title:	Arabella Golf Estate Phase 2 (2003)			
Project location:	Some 8 km east of Kleinmond on the R44.			
Co-ordinates:	Latitude:34..°18.....'25...'' South	
	Longitude:19..°07.....'32...'' East	
Magisterial District:	Caledon			
Name of Property:	Portion 1 and Remainder of Portion 3 of Hermanus River			
Farm/erf name and number	Caledon Farms 542/1 & Remainder 542/3			
Size of Property:	427,4086ha			
Closest City/Town:	Kleinmond	Distance (in km)	8km	
Project Consultant:	Dennis Moss Partnership Inc.			
Contact person:	SW van der Merwe			
Postal Address:	P.O. Box 371, Stellenbosch, 7599			
Telephone:	021-887 0124	Cell:	082 320 1741	
Email:	swvdm@dmp.co.za	Fax:	021-886 5393	
<i>Fill in if applicable</i>	Environmental Consultant	EnviroAfrica		
	Contact person:	Mr Jerry Avis		
	Postal address:	P.O. Box 43, Stellenbosch, 7599		
	Telephone:	021-705 4165	Cell:	083 4493 924
	Email:	info@enviroafrica.co.za	Fax:	021-855 4248
Registered owner/s:	Arabella Country Estate (Pty.) Ltd.			
Contact person:	Mr. Riaan Gous			
Postal Address:	P.O. Box 50095, Waterfront, 8002			
Telephone:	021-418 3555	Cell:	082 8833 127	
Email:	gousr@arabella.co.za	Fax:	021-418 2230	
Local authority/municipality:	Overstrand Local Municipality			
Contact person:	Mr. Riaan Kuchar			
Postal Address:	P.O. Box 20, Hermanus, 7200			
Telephone:	028-313 8087	Cell:	082 9284 191	
Email:	townplan@hermanus.org.za	Fax:	028-312 1894	
Registered owner of mineral rights:	N/A			
Declaration : I hereby declare that I am fully aware of my responsibilities in terms of the EIA Regulations (Government Notice R1183 of 5 September 1997) and that failure to comply with these requirements may constitute an offence in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989): NB: See Attached Power of Attorney dated 13th March 2003				
Applicant:				
	Date:	9/04/2003		
	Place:	Stellenbosch		
Signature:	