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**REFERENCE NO: 14/3/1/A6/36/0679/25**

The Board of Directors  
Oakhurst Lifestyle Estate (Pty) Ltd.  
Postnet Suite 33  
Private Bag X31  
**KNYSNA**  
6570

E-mail: [ianraubenheimer@gmail.com](mailto:ianraubenheimer@gmail.com)

**Attention: Mr. Ian Raubenheimer**

Dear Sir,

**APPEAL LODGED AGAINST THE ENVIRONMENTAL AUTHORISATION ISSUED IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) FOR THE PROPOSED UPGRADE OF THE OAKHURST BRIDGE AND ASSOCIATED INFRASTRUCTURE ON THE REMAINDER OF ERF NO. 2224 AND THE DEVELOPMENT OF A RESIDENTIAL ESTATE ON A PORTION OF ERF NO. 8343, THE REMAINDER OF ERF NO. 2224 AND ERF NO. 2958, HOUT BAY**

1. The appeal lodged in terms of section 43(2) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") against the Environmental Authorisation issued on 24 April 2025 by the Department of Environmental Affairs and Development Planning's Director: Development Management (Region 1) ("Delegated Competent Authority") for the proposed upgrade of Oakhurst Bridge and associated infrastructure on the Remainder Erf No. 2224 and the development of a residential estate on a Portion of Erf No. 8343, Remainder of Erf No. 2224 and Erf No. 2958, Hout Bay ("the Site") refers.

## 2. Empowering Provision -

### 2.1 In terms of section 43(6) of the NEMA:

*"The Minister or an MEC may, after considering such an appeal, confirm, set aside or vary the decision, provision, condition or directive or make any other appropriate decision, including a decision that the prescribed fee paid by the appellant, or any part thereof, be refunded."*

### 2.2 In terms of regulation 3 of the National Appeal Regulations, 2025 (Government Notice No. R. 5985 of 13 March 2025):

*"These regulations are applicable to an appeal against a decision taken in terms of the Act or a specific environmental management Act that is subject to an appeal to the appeal authority in terms of section 43 of the Act."*

3. I have decided in terms of section 43(11)(a) of the NEMA to **dismiss** the Appeal and to **confirm** the abovementioned decision of the Delegated Competent Authority issued on 24 April 2025.

## 4. REASONS FOR THIS APPEAL DECISION:

The reasons for dismissing the Appeal and confirming the decision of the Delegated Competent Authority are as follows:

### 4.1 RESPONSE TO APPEAL GROUND 1: Incomplete or inadequate incorporation of the City's decisions and non-disclosure of the 8 single dwelling units

It should be noted that the heading of the appeal ground as furnished by the Appellant and the content thereof differs and for the purpose of this appeal the contents of the appeal ground is addressed. It is also important to note that the legislative requirements for the City's decisions and the requirements for an EA varies and each is administered in terms of the applicable legislation and legislative requirements. The Appellant is conflating these requirements in this appeal. The CoCT was furnished with all relevant documentation in respect of this Application, comments received were incorporated where relevant and the CoCT indicated that they had no objection to the proposal.

It is concurred with the Delegated Competent Authority that the revised draft Basic Assessment Report explicitly includes the application for the authorised development of eight (8) low-density single-dwelling houses. This revised draft was circulated to all registered I&APs for comment. The

environmental impacts associated with these dwellings were thoroughly assessed within the EIA process, and no unresolved concerns remained. Therefore, an Environmental Authorisation was issued based on a comprehensive review of the submitted Basic Assessment Report ("BAR") and Environmental Management Programme (EMPr).

Page 15 of the revised application clearly indicates the proposal as *"The Applicant proposes changing the approved Site Layout Plan and the inclusion of Erf 2958. Housing opportunities will range from dwelling-houses and apartments for independent functioning residents, to care units for assisted living and residents in need of full-time frail care.*

*The proposed amendment will comprise:*

- 74 Dwelling houses: ranging from two-to-three bedrooms (~0.64ha)
- 8 very low-density single dwelling houses (~13ha)
- 20 two-bedroom and 4 one-bedroom apartments (conventional housing component) (~1.21ha)..."

Although due consideration is given to inputs, guidelines and matters that fall within the competency of the City of Cape Town, each application is considered on its merits with environmental considerations central to decision in respect of the issuance of an environmental authorization.

#### **4.2 RESPONSE TO APPEAL GROUND 2 – Deficient landscaping, screening, and visual mitigation measures**

The conceptual Landscape Management Plan was taken into consideration for the purpose of addressing and mitigating visual impacts as indicated in the September 2022 Addendum to the Oakhurst Visual Impact Assessment ("VIA"). The details of the Landscape Management Plan are outlined on page 7 of the VIA and amongst others, on pages 53 and 54 of the EMPr. All landscaped areas will be designed in conjunction with a registered landscape architect as well as a suitably qualified and experienced botanical specialist.

The aforesaid document indicated that existing large trees and clumps of vegetation as illustrated in the conceptual Landscape Management Plan be retained and protected during the construction activities. It further recommended the erection of temporary shade cloth screens along the eastern boundary and that screening trees/hedges be planted along the boundaries shared with sensitive receptors, in areas where sensitive receptors are affected (Landscape

Architect to re-assess) as soon as the road construction along the boundary is complete and prior to the construction of the buildings.

It is further stated that a hedge and tree border must be planted along the northwestern border to screen the proposed development from the Historic Oakhurst Homestead. Large oak, olive and eucalyptus trees, already surveyed should be retained where possible.

A few trees are indicated but more should be planted immediately north and east of the clubhouse, along roads and parking areas, which would assist in the visual impact of these larger buildings.

Condition 10 of the EA stipulates that *"The draft EMPr dated November 2024 (as compiled by Sillito Environmental Consulting (Pty) Ltd.) and the MMP dated 17 October 2024 (as compiled by BlueScience) are hereby approved and must be implemented."*

These requirements are included in the EMPr – which include the following mitigation measures as proposed by the VIA Specialist:

- "• A hedge and tree border must be planted along the north western border to screen the proposed development from the Historic Oakhurst Homestead.*
- Visually recessive building materials and colours must be used.*
- Large trees, already surveyed should be retained where possible and in accordance with the Landscape Plan.*
- Clumps of indigenous plants that have been surveyed must be retained as per the Landscape Plan.*
- Hedging to provide visual screening for sensitive receptors to the east should be addressed.*
- The construction areas must be fenced off to minimise visual disturbance thereby protecting and retaining trees and other vegetation.*
- Erect temporary shade cloth on boundaries with sensitive receptors such as residential areas to the east. Shade cloth (2m high) must be erected along the eastern boundary to visual screen/protect residential buildings et al on this edge from construction activity.*
- Appropriate mitigation measures must be implemented to minimise dust generation and its effect on the surrounding buildings and dwellings."*

Concerns around the approval of the Landscape Management Plan are outside of the jurisdiction of the Appeal Authority and though a consideration, is also outside the powers of the

Delegated Competent Authority. The approval of the Landscape Management Plan is a municipal competence and will be dealt with by the City of Cape Town. Should the Landscape Management Plan authorised by the City of Cape Town differ from the conceptual Landscape Management Plan as submitted, the holder will have to ensure that the EMPr is amended accordingly.

#### **4.3 RESPONSE TO APPEAL GROUND 3 - Construction phase environmental protection**

The allegation that “no temporary environmental protection measures” have been put in place is not supported.

With respect to the traffic impacts the EA does state that “The internal access road to the construction site will comply with the 5m development setback line and the applicant has committed to avoid the use of access roads within the 5m development setback of the neighbouring properties along Blue Valley Avenue.” Condition 29 of the EA stipulates that “Access roads must be avoided within the 5m development setback of the neighbouring properties along Blue Valley Avenue”. The Appellant may consider this provision as unenforceable however, any non-compliance will be dealt with by means of administrative enforcement and/or criminal enforcement should the need arise.

The following measures are indicated in the EMPr to address noise, dust, and visual intrusion:

Noise:

- “• Working hours shall adhere to those stipulated by the City of Cape Town: 7am to 6pm, Monday to Friday; 7:30am to 1pm Saturday; and no work on Sundays.
- The Contractor must use appropriate, modern equipment, which produces the least noise.
- Any unavoidably noisy equipment must be identified and located in an area where it has least impact.
- The use of noise shielding screens should be considered by the project team as and when required.
- The provisions of SABS 1200A Sub-clause 4.1 regarding “built-up areas” shall apply to all areas within audible distance of residents whether in urban, peri-urban or rural areas.
- No amplified music shall be allowed on site. The use of radios, tape recorders, compact disc players, television sets etc. shall not be permitted unless the volume is

kept sufficiently low so as to avoid any intrusion on members of the public within range.

- The Contractor shall not use sound amplification equipment on site unless for the purposes of site safety and communications and in emergency situations.
- The Contractor will issue ear protection for any noise activities with a noise output of 85 dB or more.
- The Contractor must notify all adjacent property owners/occupants of the proposed development and that noise impacts above 85 dB may occur as a result of the above.
- No noise-generating work is to be conducted outside of approved working hours unless in consultation with the local authority and advised to the adjacent property owners/occupants."

#### Dust:

"Wind-blown dust and sand may generate considerable negative impacts (e.g. reduced visibility for vehicles travelling along adjacent roads and nuisance to neighbours/adjacent erven). The use of water bowsers and wetting down of loose soil areas, as well as the erection of shade netting screens to prevent off-site movement of dust, is required and or other appropriate action to minimise this impact.

- The use of straw stabilisation or mulching of exposed sandy areas may also be considered in consultation with the ECO.
- Vehicle speed limits must not exceed 40km/hr. This will reduce the amount of dust generated around the site.
- Any material being transported to the site in the back of the trucks must be covered.
- Water carts must be used on site should dust levels exceed a nuisance level. Only nonpotable water is to be used for dust suppression.
- A complaints register must be kept on site to record any complaints received and detail how these complaints were addressed.
- Shade cloth must be used for stockpiled materials where required.
- The applicant must comply with the National Dust Regulations (Government Notice R827, 2013) with regard to dust levels produced on site."

#### Visual Intrusion:

- A hedge and tree border must be planted along the north western border to screen the proposed development from the Historic Oakhurst Homestead.
- Visually recessive building materials and colours must be used
- Large trees, already surveyed should be retained where possible and in accordance



with the Landscape Plan.

- Clumps of indigenous plants that have been surveyed must be retained as per the Landscape Plan.
- Hedging to provide visual screening for sensitive receptors to the east should be addressed.
- The construction areas must be fenced off to minimise visual disturbance thereby protecting and retaining trees and other vegetation.
- Erect temporary shade cloth on boundaries with sensitive receptors such as residential areas to the east. Shade cloth (2m high) must be erected along the eastern boundary to visual screen/protect residential buildings et al on this edge from construction activity.
- Appropriate mitigation measures must be implemented to minimise dust generation and its effect on the surrounding buildings and dwellings."

5. In arriving at my decision on the Appeal, it should be noted that I have not responded to each and every statement set out in the grounds of Appeal and/ or Responding Statement, and where a particular statement is not directly addressed, the absence of any response should not be interpreted to mean that I agree with or abide by the statement made.

#### 6. **AMENDMENTS/ EXCLUSIONS TO THE ENVIRONMENTAL AUTHORISATION:**

6.1 Section F of the EA is excluded from the decision.

6.2 The following conditions of the EA are substituted and must be complied with:

### **SECTION E: CONDITIONS**

#### **Condition E3:**

*"The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.*

*This Environmental Authorisation is granted for–*

- (a) A period of five (5) years, from the date of issue, during which period the holder must commence with the authorised listed activities; and*
- (b) A period of ten (10) years, from the date the holder commenced with the authorised listed activities, during which period the authorised listed activities relating to development, must be concluded.."*

**Condition E6:**

"The holder must, in writing, within 14 (fourteen) calendar days of the date of this appeal decision notify all registered Interested and Affected Parties ("I&APs") of –

6.1 The outcome of the appeal;

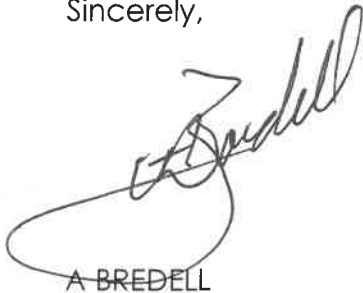
6.2 The reasons for the decision;

6.3 The date of the decision."

7. Since I have discharged my decision-making powers when making this decision and I am thus *functus officio* in this regard. My decision is final and your only recourse, should you still be aggrieved by my decision, is to apply to the Western Cape High Court to review my decision.

Your interest in the future of our environment is appreciated.

Sincerely,



A BREDELL

**WESTERN CAPE MINISTER OF LOCAL GOVERNMENT,  
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 18/8/2025

Cc 1. Zaahir Toefy  
2. Chantel Muller

Director: Development Management  
Sillito Environmental Consulting (Pty) Ltd

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