

Verwysing
Reference
Isalathiso

EG12/2/1-74 – Farm Vyf-Brakkefontein 220/Ptn. 190
of ptn. 109, Mossel Bay (3991)



Navrae
Enquiries
Imibuzo

ELDON VAN BOOM

Datum
Date
Umhla

of issue

30/01/2004

*Departement van Omgewingsake en Ontwikkelingsbeplanning
Department of Environmental Affairs and Development Planning
ISebe leMicimbi yeNdalo esiNgqongileyo noCwangciso loPhuhliso*

The Director
Marracon
PO Box 1630
MOSEL BAY
6500

Attention: Mr Marius Ferreira

Tel : (044) 695 0655
Fax: (044) 695 1967

Dear Sir

**APPLICATION: PROPOSED CHANGE IN LAND USE TO ESTABLISH
RESIDENTIAL ERVEN ON PORTION 190 OF PORTION 109 OF
THE FARM VYF-BRAKKEFONTEIN 220, MOSSEL BAY**

With reference to your application, find below the Record of Decision in respect of this application.

RECORD OF DECISION

A. DESCRIPTION OF ACTIVITY:

The developer proposes to establish 71 single residential erven and three business erven and associated infrastructure, such as roads, water and sewage pipelines, electricity and telecommunication lines on portion 190 of portion 109 of farm Vyf-Brakkefontein 202, Mossel Bay. Each single residential erf will be approximately 1700m² in size of which approximately 1200m² may be used for residential purposes, but only 900m² of this area can be disturbed for the building/dwelling and an enclosed backyard. The developer also proposes to establish three small dams (combined capacity of less than 50 000m³) on the said property.

These are activities identified in Schedule 1 of Government Notice No. R1182 of 5 September 1997, being:

- Item 2 (c) the change in land use from agricultural or undetermined use to any other land use;
- Item 1 (d) the construction or upgrading of roads, railways, airfields and associated structures outside the borders of town planning schemes and
- Item 1 (j) the construction or upgrading of dams, levees or weirs affecting the flow of a river

hereinafter referred to as "the activity".

B. LOCATION:

The proposed development will be located on portion 190 of 109 of the farm Vyf-Brakkefontein 220. The property falls under the administration of the Mossel Bay Municipality. The property is located west of Voorbaai and the national road ("N2") and south of the railway line.

The approximate co-ordinates of the property are:

Latitude: 34° 08' 10" south

Longitude: 22° 05' 00" east

Please refer to Addendum 1 of the final Scoping report dated 23 September 2003 for the location of the property on a 1:50 000 topographical map and Addendum 6 for the proposed layout plan of the development.

C. APPLICANT:

Marracon

Mr. Marius Ferreira

PO Box 1630

MOSSEL BAY

6500

Tel: (044) 695 0655

Fax: (044) 695 1967

D. CONSULTANT:

EcoBound Environmental & Tourism Agency

Mr. Wikus van der Walt

PO Box 10274

George

6530

Tel: (044) 871 4455

Fax: (044) 871 2274

E. SITE VISIT(S):

Date: 21 May 2002

Persons Present: Kirsten Freckleton of the Department of Environmental Affairs & Development Planning ("DEA&DP"), Marius Ferreira (Marracon), Wikus van der Walt (EcoBound), Deleray Viljoen (Delplan) and Francois Johnston (Formador Dertien)

Date: 14 May 2003

Persons Present: Eldon van Boom of the Department Of Environmental Affairs & Development Planning ("DEA&DP")

F. DECISION:

In terms of Sections 22 and by virtue of powers delegated by the Minister in terms of Sections 28 & 33 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), the relevant authority (as defined in GN No R1183 of 5 September 1997, as

amended), hereby grants **authorisation with the conditions** contained in this Record of Decision, for the execution of the activity described above.

This Authorisation has been granted in terms of section 22 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) solely for the purposes of undertaking the activity referred to above, and does not exempt the holder thereof from compliance with any other relevant legislation.

G. CONDITIONS OF AUTHORISATION:

1. The activity, including site preparation, may not commence before the statutory thirty (30) day appeal period expires.
2. One week's notice, in writing, must be given to the Directorate: Environmental Management, (hereinafter referred to as "this Directorate"), before commencement of construction activities.
 - 2.1 Such notice shall make clear reference to the site location details and reference number given above
 - 2.2 The said notice must also include proof of compliance with the following conditions described herein:
Conditions: 1, 5 and 6
3. An integrated waste management approach must be used that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 of the Environment Conservation Act, 1989 (Act No. 73 of 1989).
4. The applicant must implement the mitigation measures as contained in page 5 - 6 of the Vegetation Sensitivity Analysis Report prepared by Mr Ken Coetzee of Conservation Management Services (dated June 2003). These mitigation measures include, but are not limited to the following:
 - 4.1 The development must be confined to areas of lower vegetation sensitivity, especially in areas infested by invasive alien *Acacia cyclops*;
 - 4.2 The undeveloped area (approximately 500m²) of each individual erf, must be rehabilitated so that Thicket and Renosterveld can re-establish itself.
 - 4.3 All invasive aliens, such as *Acacia cyclops*, that occur on the property, must be removed and controlled (also refer to condition 11);
 - 4.4 The applicant must make every attempt NOT to remove the indigenous thicket from the property. In addition, the applicant must ensure the conservation of the remaining indigenous thicket and all indigenous specimens that are to be removed during the construction phase must be relocated on the property or the Western Cape Nature Conservation Board or local Botanical Society must be contacted to inform the relocation process.
 - 4.5 Only locally indigenous trees, shrubs, grasses and herbaceous plants must be planted within the undeveloped areas or open spaces;

- 4.6 All areas disturbed during construction activities (that is, during the installation of associated infrastructure or the building of a house) must be rehabilitated, preferably making use of indigenous vegetation.
- 4.7 Non-vehicular access within the open space areas or undeveloped areas must be formalized, for example, by means of specially designated path networks. Details of the layout and design of this formalized access must be contained within the EMP.
5. Specimens of the rare Renosterveld species, *Bobartia robusta*, that occur on the property must be located and appropriately demarcated prior to the construction phase commencing. These specimens must be protected and must only be removed, and replanted in suitable open space areas on the property, in the event that they will be threatened by the construction of the associated infrastructure or the location of the dwellings.
6. The applicant must appoint a suitably experienced Environment Control Officer before commencement of any land clearing or construction activities to ensure that the mitigation and rehabilitation measures and recommendations referred to in this Record of Decision are implemented and to ensure compliance with the provisions of the construction phase EMP.
7. The applicant must compile and submit an acceptable construction phase Environmental Management Plan ("EMP"). The EMP must:
 - 7.1 Be submitted to this Directorate at least three weeks prior to construction activities commencing. This must be approved prior to any land clearing and construction commencing;
 - 7.2 Describe the level and type of competency required of the Environmental Control Officer, ("ECO");
 - 7.3 Define and allocate the roles and responsibilities of the ECO referred to above;
 - 7.4 Determine the frequency of site visits by the ECO;
 - 7.5 Be included in all contract documentation for the construction phase of the development.
 - 7.6 Furthermore, the EMP must consider planting method, planting locality, planting times, alien vegetation control and wild and domestic animal management.
8. The applicant must submit Environmental Audit Reports, ("audit report"), in consultation with the ECO, to this Directorate.
 - 8.1 The first audit report must be submitted six (6) months after construction of the associated infrastructure of the development has been completed and a second audit report must be submitted six (6) months after the last house has been constructed.
 - 8.2 The audit report must indicate the date on which the construction was completed, and detail compliance with the conditions of this authorisation and the status of the rehabilitation programme.

- 8.3 This Directorate may require remedial action should the audit report reflect that rehabilitation is inadequate.
- 8.4 If the audit report is not submitted, this Directorate may give 30 days written notice and may have such an audit undertaken at the expense of the applicant and may authorise any person to take such measures necessary for this purpose.
9. A self-contained portable chemical toilet must be provided for the use of the construction staff, when ablution facilities are not readily available to the construction staff
10. The applicant and all appointed contractor(s) must adhere to all the relevant Nature Conservation Ordinances of the province and the National Forest Act (Act 84 of 1998).
11. The applicant must control all invasive species that are listed under regulation 15 promulgated under section 29 of the Conservation of Agricultural Resources Act (Act 43 of 1983) on an annual bases.
12. The combined capacity of all three proposed dams must not exceed 50 000m³.
13. The applicant must, within five calendar days of the date of issue of this Record of Decision:
- Inform the relevant local authority as well as all interested and affected parties, ("I & AP's") registered during the Scoping and Impact Assessment processes in writing of the outcome of this application and, if requested, provide copies of this Record of Decision within a reasonable time before expiry of the thirty day appeal period;
 - Include in such information the provisions of Regulation 11 of Government Notice No. R 1183 of 5 September 1997, as amended, which reads as follows:
 - (1) An appeal to the Minister or provincial authority under section 35(3) of the Act must be done in writing within 30 days from the date on which the record of decision was issued to the applicant in terms of regulation 10(1);
 - (2) An appeal must set out all the facts as well as the grounds of appeal, and must be accompanied by all relevant documents or copies of them which are certified as true by a commissioner of oaths.
 - Include the date on which the record of decision was issued to the applicant in terms of regulation 10(1) and the date by which appeals must reach the Minister.
 - Inform all I & AP's that a signed and certified Appeal Questionnaire, obtainable from the Minister's office at tel. (021) 483 4700, email lvdberg@pawc.wcape.gov.za or URL <http://www.westerncape.gov.za/eadp> must accompany the appeal.
 - If the applicant should appeal against this Record of Decision, he must inform all interested and affected persons that such an appeal is being lodged with the Minister and if requested, the applicant/appellant must

provide those persons with reasonable access to a full copy of the appeal within a reasonable time before expiry of the thirty day appeal period.

14. This Directorate must be notified, within 30 days thereof, of any change of ownership and/or project developer, as well as any change of address of the owner and/or project developer.
15. The applicant shall be responsible for ensuring compliance with the conditions contained in the Record of Decision by any person acting on his behalf, including but not limited to, an agent, servant, employee or any person rendering a service to the applicant in respect of the activity, including but not limited to contractors and consultants.
16. The applicant must notify this Directorate and any other relevant authority, in writing, within 24 hours thereof if any condition of this authorisation is not adhered to.
17. Departmental officials shall be given access to the property referred to in B above for the purpose of assessing and/or monitoring compliance with the conditions contained in this Record of Decision, at all reasonable times.

H. RECOMMENDATIONS:

None

I. KEY FACTORS AFFECTING THE DECISION:

Biophysical

Vegetation

The STEP (Subtropical Thicket Ecosystem Planning) project describes the vegetation on portion 190 of portion 109 of the Farm Vyf-Brakkefontein 220 as Herbertsdale Renoster/Thicket Mosaic in which the thicket element occurs in relatively small clumps within the Renosterveld.

According to Mr Ken Coetzee, the Thicket has been replaced in parts by "weedy" shrubs like *Elytropappus rhinocerotis* and *Athanasia trifurcata* in areas where either grazing and/or fires occurred. These "weedy" Renosterveld has become invaded by rooikrans (*Acacia Cyclops*). The "weedy" Renosterveld has in turn replaced the original Thicket.

The two main vegetation units of the mosaic can be described as Renosterveld and Thicket. Firstly, the Renosterveld consists of an open to mid-dense Cupressoid and small-leaved, low shrubland. Typical of this shrubland is the approximate 1m high renosterbos (*Elytropappus rhinocerotis*). The Renosterveld of the study area is very grassy, which could have contributed to a high fire frequency in the past. Although the Renosterveld is almost completely invaded by *Acacia Cyclops* (rooikrans), tiny pockets of the original vegetation persist.

Mr Coetzee identified one Renosterveld species, *Bobartia robusta*, on the site that is classified as rare in the Red Data Lists of South African Plants. Two of these reed-like bulb plants were found in one location. Mr Coetzee postulated that it could be the last remnant of the original Renosterveld that has been lost on the site due to "landscape mismanagement" and past land use practices. He stated that

although only a few plants were found in the study site, it is plentiful in other parts of the Mossel-Bay area, particularly on stony slopes (please refer to condition 11).

Secondly, the Thicket of the study area consists of a low (<3m), dense and impenetrable mix of thorny shrubs, trees and creepers with little herbaceous cover. The Thicket covers a small area of the property (approximately 1ha) and is restricted to the drainage lines. Although a number of these small continuous patches of Thicket occur on the property the drainage lines, it is threatened by the invasion of *Acacia cyclops* that already occur on site.

The Thicket patches are typical of the coastal Dune Thicket and more specifically the Robberg Dune Thicket variety. The Thicket of the affected area appears, however, to conform more typical dune Thicket, as it occurs on deep soils rather than the rocky substrate as is the case with the Robberg variety.

In summary, Mr Coetzee stated that the overall vegetation sensitivity of the property is considered to be low. Most of the development, such as the associated infrastructure and the dwellings, will occur on this less sensitive vegetation that has been altered due to fires, grazing and the invasion of the rooikrans (*Acacia cyclops*). Furthermore, the most sensitive component of the vegetation, the Thicket, will not be disturbed by the development. The three dams planned for the development will be located in parts of the drainage lines that have already been cleared and are predominantly void of the Thicket.

The Thicket is also impacted by invaders, but not to the same extent as the Renosterveld. Small patches of Thicket remain relatively undisturbed and intact. The residential and business development is a relatively low-density development and will allow for the effective management and rehabilitation of the Renosterveld located in the open spaces.

Mr Coetzee observed that in areas where the dense growing *Acacia cyclops* was cleared, the Renosterveld does recover. This suggests that the rehabilitation of some of the Renosterveld plant species is achievable. He also suggest that this proposed development might provide an opportunity to conserve the Thicket and rehabilitate the Renosterveld on the property and that a no-go option might result in the entire infestation of the site by *Acacia Cyclops*.

Mr Coetzee finally surmised that the proposed development would have a low overall impact on the vegetation on the property, provided that mitigatory measures are implemented (please refer to condition 4,5, 7, 10 and 11).

Geomorphology and Geology

According to the geologist, Mr H Hanekom, portion 190 of 109 of farm Vyf-Brakkefontein 220 is located on a south-westerly facing hill that forms part of Hartenbos Hills. A prominent drainage line runs in a southwesterly direction, almost parallel with the edge of the hill. The site is not steep and no dongas were detected possibly due to the dense plant growth. The soil consists of loam to clayish soil, mixed with organic material and in some places with stones derived from adjacent formations.

The entire area is underlain by mudstone interbedded by conglomerates and thin sandstone layers. Pure green mudstone occurs along the railway line in the southeastern part of the property while a grey to light grey mudstone outcrops on the northern and westerly side of the property. Mr Hanekom postulate that the light grey mudstone might underlay, with deviation, the entire property.

The underlying rock structure is representative of the Kirkwood Formation (Uitenhage group) that overlay the Enon Formation in the Mossel Bay area. The clay material in the Kirkwood formation is very pliable with a strong swell characteristic. However, the sandy mudstone that underlay Portion 190 contain very few of the swell-clay-minerals, therefore Mr Hanekom do no predict any problems with the foundations of the buildings, that is, if they follow the required measures when building in clay soils.

Socio-economic/Cultural historic

Mossel Bay has a population of approximately 90 000 people. The establishment of the Mossgas plant (currently known as PetroSA) in 1991 has resulted an economic growth spurt in the Mossel Bay region, which in the past was regarded as a predominantly tourism destination.

Mr Hanekom, did not find any indications on site of anything of cultural or historical significance

Regional/planning context

According to Mr. Cilliers' (the Mossel Bay Municipality) letter dated 14 May 2003, stated that the Mossel Bay/Riversdale-Subregional Structure Plan identified portion 190 of the Farm Vyf-Brakkefontein 220 as an area for future residential development. The Structure Plan has also identified a section to the east of this property as a nature area.

Mr Cilliers also stated that the Mossel Bay Municipality is currently drafting their Spatial Development Framework in which the "infilling" of open spaces within an urban setting is an important component. He also stated that the said property is located between two residential areas and will thus be earmarked for residential "infilling".

The property is currently zoned for agricultural purposes. The surrounding land uses to the north is residential, to the east is smallholdings and to the south a mixture of smallholdings and residential developments.

All services (such as water, sewage and electricity) will be connected with the current Mossel Bay municipal infrastructure. The Mossel Bay Municipality also indicated that they have the capacity to supply these and other services to this development (letter dated 7 August 2002 reference: TD/ALG/JDVE).

Alternatives

The consultant proposed three alternatives, that is, a location alternative, a density alternative and the status quo alternative. The current proposed layout of the residential and infrastructural component of the development was done in consideration of the topography and the vegetation on the property. Considering

that this development can be regarded as a low-density development; i.e. way below the norm of 7,5 erven per hectare (letter dated 26 May 2003 from Formador, paragraph 2), they did not consider a reduction in the number of units as an alternative

The consultant and the developer identified the development of 71 single residential and three-business erven as the preferred option and this was the alternative that the Department has considered for authorisation.

Public Participation

The public participation process entailed the advertisement of the proposed activity in a local newspaper, i.e. "Mossel Bay Advertiser" on 24 May 2002. A poster notice was also placed on site.

Various Interested and Affected Parties ("I&AP's") that included the surrounding landowners, government departments and statutory organisations were contacted for their input. The Department of Water Affairs And Tourism (DWAF), Department of Health, the erstwhile Garden Route Klein Karoo District Municipality, SAHRA and the Botanical Society of South Africa all formally responded and had no objections against the proposed development.

In reviewing the application to authorise the proposed development in terms of the Environment Conservation Act ("ECA"), the Directorate: Environmental Management considered all the correspondence received from I&AP's; before making the recommendation to the Chief Director: Environmental Affairs to approve the development of 71 single residential, three-business erven and three dams on portion 190 of portion 109 of farm Vyf-Brakkefontein 202, Mossel Bay.

J. DURATION AND DATE OF EXPIRY:

This authorisation shall lapse if the activity does not commence within two (2) years of the date of issue of this authorisation.

K. APPEAL:

In terms of Section 35 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), formal, motivated appeals **must be directed within thirty (30) days** of the date of the issuing of this Record of Decision, to:

The Minister of Agriculture, Environmental Affairs and Development Planning
Western Cape Province
Private Bag X9179
Cape Town
8000
Tel: (021) 483 4700
Fax: (021) 483 3890

Appeals must comply with the provisions of regulation 11 of Government Notice No. R. 1183 of 5 September 1997, as amended.

If the appellant is not the applicant, the latter must be informed of the appeal within the appeal period referred to above and must provide the applicant with reasonable access to a full copy of the appeal, if requested.

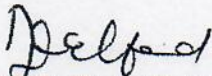
A signed and certified Appeal Questionnaire, obtainable from the Minister's office at tel. (021) 483 4700, email lvdberg@pawc.wcape.gov.za or URL <http://westerncape.gov.za/eadp> must accompany the appeal.

If any condition imposed in terms of this authorisation is not being complied with, the authorisation may be withdrawn after 30 days written notice to the applicant in terms of Section 22(4). Failure to comply with any of these conditions is also an offence and may be dealt with in terms of Sections 29, 30 and 31 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) as well as any other appropriate legal mechanisms.

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

Your interest in the future of our environment is greatly appreciated.

Yours faithfully



DIPOLELO ELFORD
CHIEF DIRECTOR: ENVIRONMENTAL AFFAIRS

DATE OF DECISION: 29/11/04

Fax Copies to: **Wikus van der Walt - EcoBound**
Mr D Cilliers - Mossel Bay Municipality
Mr I Donian - Western Cape Nature Conservation Board, George
Mr Ken Coetzee - Conservation Management Services

Fax: (044) 871 2274
Fax: (044) 691 1912
Fax: (044) 874 1567
Fax: (044) 870 8472

Mail copy to: **Mr Francois Johnston - Formador Dertien**
PO Box 2790, MOSSEL BAY, 6500