



14/3/1/D1/13/0161/16

Mr J S van der Watt
The Manager
Yendor Investments No. 27 CC
P.O. Box 864
PLETTENBERG BAY
6600

Tel.: (044) 533 5398
Email: jaco.vdwatt@gmail.com

Dear Mr van der Watt

APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST ENVIRONMENTAL AUTHORISATION GRANTED FOR THE PROPOSED ESTABLISHMENT OF A WINERY, VINEYARDS, STORAGE DAMS, SUPPORTING INFRASTRUCTURE AND DWELLING UNITS ON PORTION 1 OF THE FARM 247, THE CRAGS, PLETTENBERG BAY.

In terms of section 43(6) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") and Chapter 7 of the Environmental Impact Assessment ("EIA") Amendment Regulations, 2010 (Government Notice ("GN") No. R. 543 of 18 June 2010), I have decided to *uphold the appeal and vary the decision* issued on 10 March 2016 by the Director: Development Management (Region 3) of the Department of Environmental Affairs and Development Planning, taken in terms of the EIA Amendment Regulations, 2010. This appeal Environmental Authorisation ("EA") replaces the EA issued on 10 March 2016.

In terms of section 43(6) of the NEMA, authorisation is granted to the Applicant to undertake the developer's revised preferred alternative in relation to the activities listed in section B below for the proposed establishment of a winery, vineyards, storage dams, supporting infrastructure and dwelling units on Portion 1 of the Farm 247, the Craggs, Plettenberg Bay.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Manager
c/o Mr. J. S. van der Watt
Yendor Investments No 27 CC

P.O. Box 864

PLETTENBERG BAY, 6600

Tel: (044) 533 5398

E-mail: jaco.vdwatt@gmail.com

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Environmental Impact Assessment Regulations Listing Notice 1 of 2010	
Government Notice No. R. 544 of 18 June 2010- Activity Number: 8 The construction of a hatchery or agri-industrial infrastructure outside industrial complexes where the development footprint covers an area of 2000 square metres or more.	Establishment of a winery, cellars and parking facilities on a portion of Portion 1 of the Farm 247, the Craggs.
Government Notice No. R. 544 of 18 June 2010- Activity Number: 11(xi) The construction of infrastructure or structures covering 50 square metres or more, where such construction occurs within a watercourse or within 32 meters of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.	The construction of roads, water storage facilities and pipes within 32 metres from the edge of a watercourse on Portion 1 of the Farm 247, the Craggs. The infrastructure is associated with the establishment of the proposed development. Except for the existing access road, none of the proposed infrastructure will be constructed within a watercourse or cross any of the watercourses.
Environmental Impact Assessment Regulations Listing Notice 3 of 2010	
Government Notice No. R. 546 of 18 June 2010 — Activity Number: 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 vegetation is required for:	Clearance of indigenous vegetation on Portion 1 of the Farm 247, the Craggs for the establishment of a winery, cellars and parking area; a hospitality facility with a landscaped area; residential dwellings; vineyards; and water storage facility and associated roads and infrastructure.

- 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 I in terms of GN No. 544 of 2010.

Northern Cape and Western Cape:

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

<p>development setback line is determined.</p> <p>iii. In urban areas, the following:</p> <p>(aa) Areas zoned for use as public open space;</p> <p>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose;</p> <p>(cc) Areas seawards of the development setback line;</p> <p>(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.</p>	
<p>Government Notice No. R. 546 of 18 June 2010 — Activity Number: 16(iv)</p> <p>The construction of:</p> <p>(i) jetties exceeding 10 square metres in size;</p> <p>(ii) slipways exceeding 10 square metres in size;</p> <p>(iii) buildings with a footprint exceeding 10 square metres in size; or</p> <p>(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.</p> <p>(d) In Western Cape:</p> <p>(i) In an estuary;</p> <p>(ii) Outside urban areas, in:</p>	<p>The construction of roads, water storage facilities and pipes within 32 metres from the edge of a watercourse on Portion 1 of the Farm 247, the Craggs. The infrastructure is associated with the establishment of the proposed development.</p> <p>Except for the existing access road, none of the proposed infrastructure will be constructed within a watercourse or cross any of the watercourses.</p>

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

(bb) National Protected Area Expansion Strategy Focus areas;

(aa) World Heritage Sites;

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

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

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

(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) 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

<p>authority or zoned for a conservation purpose;</p> <p>(cc) Areas seawards of the development setback line or within 100 metres of the high water mark where no setback line.</p>	
<p>Government Notice No. R. 546 of 18 June 2010 —</p> <p>Activity Number: 24(d) The expansion of</p> <p>(a) jetties where the jetty will be expanded by 10 square metres in size or more;</p> <p>(b) slipways where the slipway will be expanded by 10 square metres or more;</p> <p>(c) buildings where the buildings will be expanded by 10 square metres or more in size; or</p> <p>(d) infrastructure where the infrastructure will be expanded by 10 square metres or more</p> <p>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.</p> <p>(d) In Western Cape</p> <p>i. In an estuary; ii. Outside urban areas, in:</p> <p>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>(bb) National Protected Area Expansion Strategy Focus areas;</p>	<p>The establishment of the roads, water storage facilities and pipes may require the expansion of infrastructure within 32 metres from the edge of a watercourse on Portion 1 of the Farm 247, the Craggs. The infrastructure is associated with the establishment of the proposed development.</p> <p>Except for the existing access road, none of the proposed infrastructure will be expanded within a watercourse or cross any of the watercourses.</p>

- (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) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;
 - (ff) Core areas in biosphere reserves;
 - (gg) 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;
 - (hh) Areas seawards of the development setback line or within 1 kilometre from the highwater 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.

The abovementioned list is hereinafter referred to as "the listed activities".

This application was submitted in terms of the NEMA EIA Regulations, 2010, and was pending at the time of the promulgation of the EIA Regulations, 2014 (as amended). In accordance with regulation 53(3) of Government Notice No. R. 326, activities similarly listed in terms of the NEMA EIA Regulations 2014 may be authorised as if applied for. This appeal decision takes into account the relevant amendments to the text of the said regulations promulgated on 7 April 2017.

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

The establishment of vineyards (in a phased manner) on the eastern and western portions of the farm, a winery and cellars, dwelling units (cottages, farm house), water storage facilities and supporting infrastructure, and the clearing of indigenous vegetation on the property. A copy of the layout plan is attached as Annexure 1.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on a portion of Portion 1 of the Farm 247, The Crag within the Bitou municipal area. The property is located approximately 16 km to the north east of Plettenberg Bay. Access to the property is gained off a gravel road which links with the R 102 road leading to Nature's Valley.

Portion 1 of the Farm 247, The Crag is bisected from north to south by an unnamed tributary of the Bobbejaan River and the proposed site is located to the west of the said tributary.

The SG 21 digit code is: C0390000000024700001

Co-ordinates approximate to the centre of the property:

33° 56' 40" South

23° 31' 20" East

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Andrew West Environmental Consultancy

c/o Mr Andrew West

P. O. Box 9187

GEORGE

6530

Tel: (044) 8730228

Fax: (086) 658 0998

E-mail: andrewwest@isat.co.za

The above juristic person is hereinafter referred to as "the EAP".

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with the developers Amended Preferred Alternative.

The establishment of vineyards (in a phased manner) on the eastern and western portions of the farm, a winery and cellars, dwelling units (cottages, farm house), water storage facilities and supporting infrastructure, and the clearing of indigenous vegetation on the property. A copy of the layout plan is attached as **Annexure 1**.

2. The Appeal Environmental Authorisation is valid for a period of five (5) years of the date of this appeal decision within which commencement must occur.

If the holder wishes to extend the validity period of the appeal EA, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of the appeal EA.

The holder is required to submit an application for the amendment of the appeal Environmental Authorisation to the Competent Authority where any detail with respect to the appeal 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).

In assessing whether to grant such approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

The onus is on the holder to verify whether such changes to the Appeal Environmental Authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.

4. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the delegated Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the delegated Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.
5. The holder of the appeal environmental authorisation ("EA") must, within 12 (twelve) calendar days of the date of the appeal decision, place an advertisement in one local newspaper 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.
6. Seven (7) calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.

The notice must also include proof of compliance with the following conditions described herein:

Conditions: 9

Management of activity

7. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended to address the following aspects, and must then be re-submitted to the delegated Competent Authority and approved prior to commencement of construction. The amended EMPr must -
 - 7.1 meet the requirements outlined in Section 24N (2) & (3) of the NEMA;
 - 7.2 detail the frequency of site visits to be made by the ECO to the site;
 - 7.3 an alien vegetation clearing management plan must be incorporated with detailed timeframes with regards to clearing activities including follow up clearing events. This must include any agreements with the South African National Parks ("SANParks");
 - 7.4 detail the fire management plan and requirements from the Fire Protection Agency;
 - 7.5 detail the rehabilitation plan for the natural forest and forest areas;
 - 7.6 detail the management of the conservation use area, including the movement and management of fauna species, including baboons;
 - 7.7 provide specific detail, including designs for the management, treatment and disposal of wastewater, effluent and solid waste facilities;
 - 7.8 include an operational management plan for the agri-industrial activity (i.e. winery and cellars);

- 7.9 provide detail on an integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a landfill licensed in terms of the applicable legislation; and
 - 7.10 the Geographic Information System's shape files (.shp) for the site development plan must be included in an electronic copy of the report submitted to the competent authority in the Hartebeesthoek94 WGS84 co-ordinate system.
8. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

9. The holder must appoint a suitably experienced environmental control officer ("ECO"), before commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
10. A copy of the Appeal Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities.
11. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

12. The holder must, for the period during which the appeal environmental authorisation and EMPr remain valid ensure that the compliance with the conditions of the appeal environmental authorisation and the EMPr, is audited. Further to the above —
 - 12.1 the environmental audit report must be prepared by an independent person;
 - 12.2 the environmental audit report must provide verifiable findings and recommendations for improvement, in a structured and systematic manner, on the performance and compliance of the holder and project against the conditions of authorisation and requirements of the EMPr;
 - 12.3 the holder must submit environmental audit report(s) to the Competent Authority at intervals specified in the approved EMPr;
 - 12.4 the final Environmental Audit Report must be submitted to the Competent Authority within six (6) months from the date of completion of the construction of the development.

Specific Conditions

13. The areas set aside for conservation must be rehabilitated, all invasive species must be removed to allow for the restoration of the local biodiversity to near-natural / enhanced condition to ensure the long-term conservation of the Critical Biodiversity Areas ("CBAs") and the Ecological Support Areas ("ESA"). Further to this—
 - 13.1 the boundaries of the natural land must be clearly delineated on a site development plan and the western boundary must be demarcated on the ground, preferably by means of a fence;
 - 13.2 suitable electric fencing must be erected around the vineyards to keep baboons and other fauna out and to limit habitat fragmentation. This must be done in such a way so that smaller mammals and other fauna can easily move through;
 - 13.3 a surveying of neighbouring properties must be undertaken prior to the commencement of the development to determine the possibility of these species naturally migrating from the neighbouring plant populations on the farm;
 - 13.4 where plants of conservation value occur within the development footprint, these plants must be extracted and replanted in the appropriate corridors;
 - 13.5 the corridor identified by the South African National Parks Board which lies within this portion of the property, must be specifically managed to connect the riverine area with the Garden Route National Park and to promote connectivity in the landscape;
 - 13.6 the holder must implement an appropriate mechanism to set aside this area for a conservation use.
14. No structures shall be established within the watercourses that may impede or divert the flow of water in the watercourse nor may the bed or banks of the watercourse be altered, unless authorised by the Competent Authority.
15. No buildings may be established below the 1:100 year floodline of the watercourses on the property or within 32 meters of the edge of such watercourses.
16. No off stream water storage facilities may be established below the 1:50 year floodline of the watercourses on the property or within 32 meters of the edge of such watercourses.
17. The holder must comply with the following regarding the management and disposal of effluent and sewage from the proposed agri-industrial facility and associated buildings and residences:
 - 17.1 Prior to commencement of the listed activities, the Holder must enter into a service level agreement with the Bitou Municipality regarding the collection and disposal of effluent and sewage. Such an agreement may make provision for an interim service provider to collect and dispose of effluent and sewage;

- 17.2 All sewage must be collected in a conservancy tank system and disposed of at a facility licensed in terms of the applicable legislation;
 - 17.3 Conservancy tanks may not be constructed within the 1:100 year floodline;
 - 17.4 The effluent referenced in the BAR as 'harmful liquids', must be collected and stored in a conservancy tank and must be disposed of at a facility licensed in terms of the applicable legislation;
 - 17.5 Other effluent from the facility ("grey water") must be treated in an internal wastewater treatment system that will be installed by the holder to treat such wastewater. The treated water must be discharged into the off-stream storage facility and stored for irrigation.
 - 17.6 No surface or ground water may be polluted due to any actions on the site related to the authorised activities, as such no effluent from the authorised activities may be discharged into a watercourse.
18. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains include: meteorites, archaeological and/or palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings and/or graves or unmarked human burials including grave goods and/or associated burial material.
19. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains.

F. GENERAL MATTERS

1. Notwithstanding this Appeal EA, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition of this Appeal EA or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with a listed activity within the period referred to in Condition 2, this Appeal EA shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.
4. The manner and frequency for updating the EMPr is as follows;

- 4.1 Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
- 4.2 An application for the amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes or objectives of the EMPr. Such amendment(s) may only be implemented once the amended EMP has been approved by the competent authority.
- 4.3 The onus is however on the holder to confirm the legislative process requirements for the above scenarios at that time.



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Prepared: **Professional Engineer**
 License No. **12345**
 Date: **10/10/2023**
 Project: **PORTION 1 OF THE FARM 207**
 Location: **12345 Main St, Toronto, Ontario**
 Scale: **1:1000**

AMENDED PREFERRED ALTERNATIVE

PORTION 1 OF THE FARM 207
DIVISION OF SYSTEM A

- Legend**
- 1000 sq ft
 - 2000 sq ft
 - 3000 sq ft
 - 4000 sq ft
 - 5000 sq ft
 - 6000 sq ft
 - 7000 sq ft
 - 8000 sq ft
 - 9000 sq ft
 - 10000 sq ft
 - 11000 sq ft
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ANNEXURE 2: REASONS FOR THE DECISION

In reaching the decision, I considered, *inter alia*, the following:

- The information contained in the Application Form (received by the Department on 18 June 2014), the amendments to the Application Form dated 11 November 2015; the EMPr submitted together with the Final Basic Assessment Report ("BAR") dated August 2015 prepared and submitted by the Environmental Assessment Practitioner ("EAP"), Andrew West Environmental Consultancy;
- Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA;
- The comments received from Interested and Affected Parties ("I&APs"), including Organs of State, and responses to these included in the BAR dated 1 September 2015;
- The balancing of negative and positive impacts and proposed mitigation measures; and
- The site visit conducted;
- The Environmental Authorisation;
- The appeal submitted by received from Stadler & Swart Incorporated on behalf of Yendor Investments 27 CC against the partial EA;
- The revised Biodiversity Impact Assessment ("BIA") undertaken during 2017;
- The Economic Viability Assessment ("EVA") undertaken during 2017;
- The public consultation undertaken during 2017; and
- The amended preferred alternative layout plan received on 14 November 2017.
- The revised amended preferred alternative layout plan received on 13 July 2018.

All information presented above was taken into account in the consideration of the Environmental Authorisation and the appeal.

A. LEGISLATIVE MANDATE

1. In terms of the relevant legislation, the decision-making powers afforded to the appellate authority are such that it may, "*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, ensure 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 (Act No. 108 of 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 National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") (a law enacted to give effect to the environmental right in section 24 of the Constitution):

- 3.1 Section 2 of the 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 24 of the NEMA. See section 2(1)(c) and (e) of NEMA, which provide that the NEMA principles:

- 3.1.1 "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" (section 2(1)(c)); and
- 3.1.2 "guide the interpretation, administration and implementation of this Act, and any other law concerned with the protection or management of the environment" (section 2(1)(e)).
- 3.1.3 The NEMA principles include the following:
- 3.1.4 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' (section 2(2));
- 3.1.5 "Development must be socially, environmentally and economically sustainable" (section 2(3));
- 3.1.6 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 (section 2(4)(a));
- 3.1.7 "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" (section 2(4)(b)); and

3.1.8 "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" (section 2(4)(i)).

3.2 The key legislation that provided the framework and guidelines for undertaking the Environmental Impact Assessment ("EIA") process includes:

3.2.1 EIA Regulations, 2010 as promulgated in terms of the NEMA.

3.2.2 EIA Regulations, 2014 as promulgated in terms of NEMA.

3.2.3 National Heritage Resources Act, 1999 (Act No. 25 of 1999).

3.2.4 Western Cape Biodiversity Spatial Plan, 2017.

B. APPEAL REVIEW

1. Current zoning of the property

The vested property rights on the site must be read in conjunction with sections 24(b) and 36 of the Constitution of the Republic of South Africa, 1996 which states:

"Section 24 - Environment

Everyone as the right-

(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."*

and

"Section 36 – Limitation of rights

The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including-

- (1) (a) The nature of the right;*
- (b) The importance of the purpose of the limitation;*
- (c) The nature and extent of the limitation;*
- (d) The relation between limitation and its purpose; and*

(e) *Less restrictive means to achieve the purpose.*

Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights."

The 'Agricultural zoning' of the site does not automatically allow the vested rights to be acted upon as all legislated requirements must be complied with. In order for the proposed activity comprising of a winery, vineyards, storage dams, supporting infrastructure and dwelling units on portion 1 of the Farm 247, the Craggs, Plettenberg Bay to commence, all relevant legislation must be complied with which an EA is one of the requisite permits. I confirm that the requisite EIA process is a requirement in order for the applicant to act on the vested land use rights of the site.

2. Statutory powers of the competent authority

(i) Limitation of powers

The limitation placed on the site by the partial EA was motivated by the fact that the site is located within an area designated as a Critical Biodiversity Area (defined as areas whose safeguarding is critically required in order to meet biodiversity pattern and process thresholds) ("CBA") and an Ecological Support Area (defined as a supporting area or zone required to prevent the degradation of CBAs and protected areas) ("ESA") in the 'Garden Route Biodiversity Sector Plan for George, Knysna and Bitou Municipalities: Supporting land-use planning and decision-making in a CBA and an ESA for sustainable development' Report. An additional environmental constraint was the fact that the site is located within a 'River Freshwater Ecosystem Priority Area' and associated sub-quaternary catchment area which drains in the direction of the Bobbejaan River and in turn, into the Groot River Estuary.

The requirement to rehabilitate an area was borne out of the fact that the eastern side of the property is infested by alien vegetation. The *Conservation of Agricultural Resources Act 1983* (Act No. 43 of 1983) ("CARA") is applicable and the applicant is required to manage invasive alien vegetation on the site whether the development occurs or not.

(ii) Relevant listed activities

Developments within a watercourse or within 32 meters of a watercourse are deemed to have a detrimental impact on the environment which has in turn been provided for in NEMA and the EIA regulations, 2010 in Listing Notice 1 (Government Notice No. R 544), activity 11 (xi) – "The construction of infrastructure or structures covering 50 square metres or more, where such construction occurs within a watercourse or within 32 meters of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line";

and Listing Notice 3 (GN No. R. 546), activity 16 iv –

"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.

(d) In Western Cape:

- (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.

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."

Developments within 32 meters of a watercourse are also included in the listed activities of the EIA Regulations, 2014. As such, these activities were cited and included in the application form and 'Section A' of the BAR dated August 2015 for the proposed development by the Environmental Assessment Practitioner ("EAP") and was included in the list of activities authorised in the partial EA.

I am satisfied that the Department was acting within its mandate of environmental management when it issued the partial EA.

3. Unauthorised and unwarranted dictates of CapeNature

The Department considered the following information during the adjudication of the application for EA:

- the information contained in the Application Form (received by the Department on 18 June 2014);
- the amended Application Form dated 11 November 2015;
- the final BAR dated August 2015 and its appendices which includes the Botanical and Ecological Surveys of Portion 1 of Farm 247 (The Craggs, Bitou Municipality) in Appendix G: Specialist Reports;
- the Environmental Management Programme ("EMP") for the development;
- relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- the comments received from interested and affected parties, including organs of state and the responses thereto;
- the balancing of negative and positive impacts and proposed mitigation measures; and
- the objectives and requirements of relevant legislation, policies and guidelines, including section 2 of NEMA.

CapeNature, as the custodian of biodiversity in the Western Cape, participation and comment was important in the EIA process for the development as the site falls within an area designated as a CBA and ESA in the 'Garden Route Biodiversity Sector Plan for George, Knysna and Bitou Municipalities: Supporting land-use planning and decision-making in CBA's and ESA's for sustainable development' report and the Western Cape Spatial Plan: 2017 (an area classified as a terrestrial CBA is located within the development footprint of the proposed development with the remainder of the site being classified as an ESA).

CapeNature, and in turn the Department was satisfied that there was sufficient motivation to support development on the western section as this area was historically used for farming and grazing. The eastern section, which comprises of heavy infestation of invasive alien plant species but has not been transformed by ploughing. This area was deemed not suitable for development as the site is an important supporting and critical area for maintaining hydrological processes and for the conservation of threatened and protected habitats such as the forests, fynbos and wetlands, regardless of the level of infestation of invasive alien plant species.

A review of the information contained in BAR concludes that the report does not comply with regulation 22(2)(i) which states-

"Content of basic assessment reports

- (i) a description and assessment of the significance of any environmental impacts, including—
- (i) cumulative impacts, that may occur as a result of the undertaking of the activity or identified alternatives or as a result of any construction, erection or decommissioning associated with the undertaking of the activity;
 - (ii) the nature of the impact;
 - (iii) the extent and duration of the impact;
 - (iv) the probability of the impact occurring;
 - (v) the degree to which the impact can be reversed;
 - (vi) the degree to which the impact may cause irreplaceable loss of resources; and
 - (vii) the degree to which the impact can be mitigated"

The Botanical and Ecological Surveys of Portion 1 of Farm 247 (The Craggs, Bitou Municipality) report does not address the requirements of regulation 22(2)(i) of the EIA regulations, 2010 in that it is devoid of any impact assessment or mitigation measures. The BAR nor the Botanical and Ecological Surveys of Portion 1 of Farm 247 (The Craggs, Bitou Municipality) report failed to refute or respond to any of the statements in CapeNature's letter dated 23 April 2015 and 13 November 2015.

Considering the above, I am satisfied The partial EA was based on a risk-averse and cautious approach which takes into account the limits of current knowledge about the consequences of the development on Portion 1 of the Farm 247 the Craggs, Plettenberg Bay.

4. 2017 Biodiversity Impact Assessment

An additional biodiversity impact assessment ("BIA) was undertaken in 2017. The 2017 BIA comprised of various desktop analysis, physical surveys of Portion 1 of the Farm 247, Craggs, Plettenberg Bay and research about the local fynbos. The BIA found that the biodiversity status of the farm has been impacted upon by:

- Historic farming activities;
- Level of alien vegetation invasion;
- The proximity of the farm to the historical pine plantation to the east of the farm;
- The servitude and access road on the farm; and
- A fire that destroyed all vegetation and buildings that were present on the farm.

The CBA located on the farm is classified as being of medium conservation value and development has been avoided in this area and it has been included in the area set aside for conservation. The ecological corridors included in the development, comprising of the watercourses and the CBA on the farm, is designed to prevent fragmentation of the natural habitats. The transformed palustrine habitat, which is located within the mid-eastern hydrological corridor, will not be impacted upon by the development and will be rehabilitated. The

significance of the loss of habitat for both the authorised alternative and the developers revised preferred alternative is rated as low negative (with mitigation).

The BIA found that the authorised alternative and the developers revised preferred alternative will both result in partial loss of habitats, however the plant communities in these areas were found to be of low conservation value due to the presence of alien vegetation, as well as invader seedlings that continuously reoccur which displaces the indigenous vegetation. The significance of the loss of indigenous vegetation for both the authorised alternative and the developers revised preferred alternative is rated as low negative (with mitigation).

The BIA identified more than 250 plant species on the farm and concludes that none of the plant species identified on the farm will become extinct due to development on the site. The BIA found that the species on site are pioneer fynbos that are widely distributed along the Garden Route. The ecological corridors included in the development, has been designed to connect with the existing corridors in the surrounding areas and the Garden Route National Park, which is located to the south of the farm. The only protected tree of significant conservation value, is the *Pittosporum viridiflorum* (Kasuur or Cheesewood as listed on the National Tree list of South Africa). The tree is found within the western section, which will be protected. The significance of the loss of species for both the authorised alternative and the developers revised preferred alternative is rated as low negative (with mitigation).

The construction phase of the development could have a negative effect on ecological processes such as pollination. The proposed ecological corridors will assist in mitigating this impact due to the fact that no construction will occur in these areas and by also allowing the migration processes between natural areas to continue unimpeded. The significance of the loss of ecological processes for both the authorised alternative and the developers revised preferred alternative is rated as low negative (with mitigation).

Currently, the ecological processes (hydrology) and the connection between the ecological corridors located in the north of the farm and the protected areas south of the farm are poorly connected due to heavy alien vegetation infestation. The establishment and management of the ecological corridors (removal of alien vegetation) will ensure that the connectivity is enhanced and maintained. Furthermore, the installation of a culvert underneath the road to the north of the farm will enhance the ecological processes on the farm. The significance of re-establishing connectivity between the north and south of the farm and the surrounding areas for the developers revised preferred alternative is rated as positive high (with mitigation).

The original preferred development footprint has been revised to avoid the terrestrial CBA, thus no CBA will be lost or transformed by the proposed development. Ecological corridors have been included in the site development plan which avoids all the CBA's and aquatic ESA's. The footprint of the vineyards will cover 9.0028 ha and the conservation area will cover approximately 7.6 ha of Portion 1 of the Farm 247, the Craggs, Plettenberg Bay.

Based on the additional information received from the developer and in the light of the fact that no CBA will be transformed or lost, I am satisfied that in light of the developer's revised preferred alternative, the Department's decision must be varied to approve the developer's revised preferred alternative comprising of:

- The establishment of vineyards (in a phased manner on the eastern and western portions of the farm),
- a winery and cellars,
- dwelling units (cottages, farm house), and
- water storage facilities and supporting infrastructure.

I am satisfied that the Department was acting within its mandate of environment management. However, based on the additional information received from the developer and in the light of the fact that no CBA will be transformed or lost, I have varied the Department's decision and approve the developer's revised preferred alternative (as per the Annexure 1 - Layout Plan).

5. Partial approval of Environmental Authorisation

Regulation 25 of the EIA regulations, 2010 states:

"Decision on application

25.(1) A competent authority must—

- (a) within 30 days of accepting a basic assessment report in terms of regulation 24(1), or within 30 days of the lapsing of the 60 days contemplated in regulation 9(2); or*
- (b) if paragraphs (a), (b) or (c) of regulation 24(2) are applicable or if the basic assessment report has been rejected in terms of regulation 24(3), within 30 days of acceptance of the required information, reports, suggestions or comments or the amended basic assessment report, consider the application and basic assessment report and in writing—*
 - (i) grant the authorisation in respect of all or part of the activity applied for; or*
 - (ii) refuse the authorisation in respect of all or part of the activity.*

(2) To the extent that authorisation is granted for an alternative, such alternative must, for the purposes of subregulation (1), be regarded as having been applied for."

The assertion by the appellant that the "Director approved an alternative that did not at all form part of the application or the BAR resulted in the unlawful consequences" is incorrect as the alternative approved in the partial EA is deemed as being applied for in terms of regulation 25(2) of the EIA regulations, 2010.

The alternative listed and authorised in the partial EA was based on the information contained in the BAR which appeared in the public domain, which includes all the comments received from other organs of state.

The draft EMP formed part of the BAR which complied with the EIA regulations, 2010 and is sufficient for the developer's revised alternative.

In the light of the additional information received from the developer and that no CBA will be transformed or lost, I have varied the Department's decision and approve the developer's revised preferred alternative (as per the Annexure 1 - Layout Plan).

6. Environmental Management Programme

The draft EMP formed part of the BAR which complied with the EIA regulations, 2010 and was premised on the fact that Alternative 4 will be authorised.

The partial EA excluded development to the east of the unnamed tributary as depicted on the site development plan for Alternative 4. All development including the farm house, off-stream storage dam, internal roads and vineyards nos. 4, 5, 6, 7, 8, 9 and waste bins which lie to the east of the powerline was excluded.

The management conditions and/ or mitigation measures specified in the draft EMP that related to these excluded areas and their omission from the draft EMP in no way diluted the efficacy or relevance of the draft EMP in so far as it related to the authorised areas in the partial EA.

Based on the revised BIA, I have varied the partial EA to authorise the developer's revised preferred alternative. The existing management conditions and/ or mitigation measures specified in the draft EMP must be adhered to and the draft EMP must be amended in accordance with Condition E7 of this appeal EA.

7. Economic viability of the authorised alternative

The economic viability of the authorised alternative and the developer's revised preferred alternative was assessed during 2017. The Economic Viability Assessment ("EVA") focused on the establishment and operation of the vineyards and excluded the cellar, whose impact was deemed to be equal for both alternatives and considered to be superfluous for the assessment.

The EVA states that the initial capital investment and the establishment of the vineyards, for both alternatives are technically profitable. However, the maximum revenue obtainable from the authorised alternative is limited to just over a quarter of the developer's preferred alternative, and the authorised alternative achieves this significantly later than the developer's preferred alternative. The EVA indicates that the developer's revised preferred alternative is more resilient to lower starting capital and with higher operating profit, debt financing would be more affordable, raising the likelihood of a successful loan application.

In terms of the assessment of the return on investment of the two alternatives, the authorised alternative is anticipated to yield an internal rate of return of (-1.0%), which is below the developer's required rate of return of (11.4%) and that of the preferred alternative's rate of return which is anticipated to be at (7.9%). The EVA found that the authorised alternative's negative rate of return indicates a deterioration of the investment made.

The EVA concludes that the authorised alternative does not present an economically viable option nor does it offer an attractive investment return to the developer in the long run as the 'breakeven' point will not be attained. The EVA recommends that the developer's revised preferred alternative be considered for approval.

I concur with the findings of the EVA and have as such approved developer's revised preferred alternative as per the layout attached as Annexure 1 of this appeal EA.

C. REVIEW OF PROCEDURE FOLLOWED BY THE DELEGATED COMPETENT AUTHORITY

1. Public Participation

The public participation process is regarded to fulfil the process requirements of the EIA Amendment Regulations, 2010. The following Organs of State were consulted with:

Department of Water and Sanitation (DWS)

The DWS had no objection to the proposed development subject to the fulfilment of conditions relating to water resources and water uses.

Western Cape Government ("WCG"); Department of Agriculture ("DOA")

The WCG; DOA had no objection to the proposed development subject to complying with relevant legislation and applying logical planning. The DOA stipulated that the vineyards cannot be established before consent is obtained in terms of the *Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983)* and a positive EA is obtained. Furthermore, the building plans of the cellar may only be approved once the vineyards have been established.

WCG: Department of Health

The WCG: Department of Health confirmed that they have no objection against the proposed development.

CapeNature

Initially, CapeNature objected to the entire proposed development on various grounds relating to biodiversity matters and attaining the management objectives for CBA and ESA and River Freshwater Ecosystem Priority Area ("FEPA"), however, based on further consultation CapeNature has revised its position and has stated that based on the available information and biodiversity informants CapeNature still objects to the proposal to transform the entire property,

however, it can support the transformation of the western extent of the property only (namely the area west of the stream bisecting the property).

During the consultation process undertaken in 2017, for the Biodiversity Impact Assessment and the Economic Viability Assessment, CapeNature confirmed their objection to the developer's preferred layout due to a lack of sufficient information to determine its suitability within an ESA.

I have considered the impacts associated with the authorised alternative and I am satisfied that the impacts on the ESA will be sufficiently mitigated and managed. Currently the ecological processes, in particular hydrology, and the connection between the ecological corridors between the north and south of the farm are poorly connected due to the heavy alien vegetation infestation. The developer's revised layout is cognisant of the sensitive environment, no CBA will be lost or transformed, the ecological corridors have been designed along the watercourses to prevent fragmentation of the natural habitat and the ESA is thus anticipated to be enhanced and maintained. The requirement that specific plant species (determined as being currently absent from the farm), be listed as requiring reintroduction; the surveying of neighbouring properties to determine the possibility of these species naturally migrating from the neighbouring plant populations on the farm has been included as a condition of the Appeal EA (see Condition E13).

South African National Parks Board ("SANParks")

The property abuts the Garden Route National Park, therefore SANParks is an important role-player. SANParks supported the proposed development based on a revised site development plan which includes an 'L-shaped' conservation corridor to connect the riverine area (to be rehabilitated) with the Garden Route National Park and to promote connectivity in the landscape. The revised proposal included the removal of the proposed in-stream dams on the property and no water abstraction will take place from the watercourse (riverine area) that runs through the central corridor. SANParks also supports that the catchment area surrounding the stream be cleared from alien vegetation to contribute to the functionality of the riverine ecological infrastructure and that this be managed as a conservation area.

Eden District Municipality — no comments were received.

Bitou Municipality

The Bitou Municipality provided the following comment regarding engineering services: •
Electricity supply

The applicant is required to ensure that the application to ESKOM for electricity supply is concluded prior to the operation of the facilities.

Water Management

The municipality was concerned about the quality of drinking water that would be supplied to the dwellings. The applicant did submit drinking water quality results, however, the municipality required that water supplied to the dwellings/buildings must meet all the requirements of the latest applicable SANS 241 . The Bitou Municipality require that the Drinking Water Quality results must be submitted to the Municipality on a monthly basis.

Solid Waste Management

The Municipality confirmed that it has the capacity to collect and receive the household waste and packaging material.

Wastewater Management

Treatment and disposal of "harmful liquids" — The Municipality confirmed that it cannot at this stage commit to the collection and treatment of these harmful liquids referred to in the BAR due to its unknown composition. The Developer must whilst the effluent quality is not available make an alternative arrangement with regards to the disposal of the anticipated "harmful liquids".

With reference to the disposal of sewage, the Municipality requires that only a fully sealed conservancy tank is allowed and that their extraction truck or an external service provider may service the tank subject to the provision of access by the applicant.

During a meeting between the Bifou Municipality and the applicant's representative, the Municipality agreed that in terms of the phasing of the proposal (i.e. first establishing the vineyards and then the winery) the need and desirability of such a facility (e.g. winery) was justified due to its context in the area and socio-economic benefit for the area. Furthermore, the establishment of the winery should not be delayed.

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. The issues raised during the subsequent engagement with organs of state to clarify certain aspects were presented to the applicant. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

I have noted the Environmental Assessment Practitioner's responses to the issues raised during the public participation process and included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

Various layout alternatives have been identified and considered during the course of the environmental impact assessment process:

Alternative 1 - "No-Go" Alternative

The No-Go Alternative would imply that no development takes place and according to the EAP the property is left to become more degraded through neglect and uncontrolled spread of invasive alien vegetation. The no-go option could include other activities which are relevant to the zoning of the property, however, other agricultural activities which do not require the clearance of vegetation have not been reported on.

The No-Go Alternative is not considered favourable to the applicant from a socioeconomic point of view as little or no benefit would be gained for the local and district communities without the development of the winery and associated hospitality facilities.

Alternative 2

The alternative entails different vineyards, buildings, as well as two (2) irrigation dams in the watercourse area and a triangular piece of land to the south east of the property for rehabilitation of natural forest.

Alternative 3

This alternative was the result of an iterative planning process and in liaison with SAN Parks. The layout was changed with the removal of the 2 dams from the watercourse and the addition of a larger, L-shaped conservation corridor to facilitate landscape connectivity. The one vineyard has been reduced in size. There are two dwellings (Farm manager's house and cottage), a labourer's cottage, winery with storage dam and the necessary infrastructure.

Alternative 4 (previously authorised in part)

This layout was a further result in response to input from the Organs of State. The layout was changed with the removal of the 2 dams from the watercourse and the addition of a larger, L-shaped conservation corridor to facilitate landscape connectivity. The one vineyard was been reduced in size. There were also two dwellings (Farm manager's house and cottage), a labourer's cottage, winery with 2 storage dams of 5,000m³ each with the necessary infrastructure. **THIS ALTERNATIVE IS NO LONGER AUTHORISED.**

Authorised Alternative in this appeal process

Based on the BIA and EVA in 2017, the revised developer's amended preferred alternative, which avoids all CBAs, comprises of (Annexure 1):

- The establishment of vineyards (in a phased manner on the eastern and western portions of the farm),

- a winery and cellars,
- dwelling units (cottages, farm house),
- water storage facilities and supporting infrastructure
- an L-shaped conservation corridor to facilitate landscape connectivity.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The provincial spatial development framework ("PSDF") identifies vineyards as intensive agricultural activities and states that "permanently cultivated intensive agricultural land (vineyards, etc.) can, in their own right, contribute to the unique character of the Province". This supports the assertion that the proposed activities will not negatively impact on the rural character of the area. The PSDF also recognises the importance of agriculture in the Western Cape: "Agriculture is one of the five main pillars of the Western Cape Economy, especially with respect to employment generation."

Agriculture and food processing in particular were identified as being important economic drivers in the Garden Route area by the PSDF. The impact of tourism in the area was also recognised by the PSDF and it highlights the "need to develop 24/7 200 economy by attracting permanent residents and move away from tourism boom and bust seasonal cycles". The proposal is therefore in line with the policies of the PSDF.

The proposed winery and associated vineyards will expand the agricultural practices in the area, especially since the property is not currently being used productively, therefore agricultural activities will be augmented rather than compromised. There will also be no compromise to the rural landscape and no additional services will be required from the municipality.

3.2 Planning context

The property is located outside the urban edge of Plettenberg Bay and the proposal is therefore in line with the urban edge policy since agriculture and agricultural processing are recognised as non-urban activities.

The municipal memorandum included within the Bitou SDF (2013) states the following of the Kurland / Craggs area: "*Kurland and The Craggs have a well-defined tourism character, with numerous accommodation establishments on small holdings and farms. It also has timber and brick yards, dairies and a winery, which give it a different, service industrial character.*" Bitou's economy rests largely on tourism and some agriculture and the necessary support sectors for these economic drivers.

The Bitou SDF also identifies that the intensive agricultural land in Craggs / Kurland area should be protected and the more productive use encouraged. The proposal involves the use of the property for more intensive agricultural purposes, and the strengthening of tourism uses linked to this (i.e. a wine tasting facility) and is therefore considered to be in line with the Bitou SDF (2013).

3.3 Biophysical and Biodiversity Impacts

The property is located in a rural area that is predominantly characterised by low density small holding development to the north thereof. The property's south-eastern boundary abuts the Garden Route National Park and pine plantations in the north.

The property is fairly flat and consists of indigenous vegetation with two watercourse/natural drainage systems that run through the property in a north-south direction.

The majority of the property is characterised by indigenous vegetation with invasive alien plant species, but it has not been transformed by ploughing. The recent removal of alien invasive plant species on the property has shown promising results in restoring the land and natural vegetation.

The property has registered water rights from a water source on the neighbouring property. The registered amount for use is 10 000 cubic metres. No new water abstraction or abstraction points need to be established for the proposed development.

3.4 River Freshwater Ecosystem Priority Area ("FEPA"):

The property falls within a FEPA and associated sub-quadernary catchment area draining towards the Bobbejaan River which ultimately flows into the Groot River and Groot Estuary via small watercourse tributaries draining through it. Both the Bobbejaan River and Groot River are regarded to be largely natural. The Bobbejaan River's present ecological status ("PES") is a Class B.

Currently, the ecological processes (hydrology) and the connection between the ecological corridors located in the north of the farm and the protected areas south of the farm are poorly connected due to heavy alien vegetation infestation. The establishment and management of the ecological corridors (removal of alien vegetation), as included in the alternative authorised in this appeal EA, will ensure that the connectivity is enhanced and maintained. Furthermore, the installation of a culvert underneath the road to the north of the farm will enhance the ecological processes on the farm. The input from SANParks regarding the incorporation of the 'L-shaped' conservation corridor to connect the riverine area with the Garden Route National Park and to promote connectivity in the landscape was an informant to the layout of the ecological corridors on the farm.

3.5 Engineering services

The services for the proposed development (i.e. service infrastructure for sewerage disposal, solid waste disposal) will be supplied and managed by the Bitou Municipality subject to a service level agreement.

Electricity supply will be obtained directly from ESKOM, and it is not foreseen that the proposed development will cause significant impacts in this regard.

A conservancy tank system will be utilised to collect sewage and 'harmful liquids' (as referenced in the BAR), from the respective facilities on the property. The collection of the harmful liquids will be collected by a service provider which will dispose thereof at an appropriately licenced facility. The disposal of such effluent will be done by a service provider until such time as the Bitou Municipality determines whether their facility can receive the type of effluent. The sewage will be collected by the Bitou Municipality (or a service provider) and disposed of at the municipal waste water treatment facility.

Other effluent from the winery and hospitality ("grey water") must be treated in an internal wastewater treatment system that will be installed by the applicant to treat such wastewater. The treated water will be discharged into the off-stream storage facility and stored for irrigation. No effluent will be discharged in a watercourse.

3.6 Socio-economic

Employment opportunities are anticipated during the construction phase resulting in temporary job opportunities for a determined period of time. The aforementioned as well as the capital investment are deemed to have from an economic point of view a positive socio-economic impact on the local community.

3.7 Cumulative impacts

The cumulative impacts to be experienced during the operational phase include:

- a capital contribution toward the Bitou Municipality;
- the proposal will provide a tourist facility;
- unwanted alien invasive plants will be systematically removed, making way for a connecting conservation use corridor. Accordingly, if this objective is not achieved the development will promote the loss of biodiversity;
- the development will provide work opportunities, without compromising or negatively impacting on potentially sensitive environments;
- contamination of land may take place if the agri-industrial activity is not managed according to an operational plan and industry norms.

4. National Environmental Management Act Principles

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

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

The development will result in both negative and positive impacts.

Negative Impacts:

Indigenous vegetation will have to be removed to provide for cultivated land. This will lead to a loss of biodiversity, however, the implementation of a conservation corridor and the exclusion all CBA from the development footprint is expected to reduce the impact on biodiversity and the overall impact should be mitigated to an acceptable level.

Positive impacts:

A positive socio-economic impact is anticipated in terms of an increase in employment opportunities both during construction and operational phases of the development that may boost the local economy.

Alien invasive plant species will be removed from the property and riparian area of the tributaries to the Baboon River and these areas rehabilitated back to the natural state with active ongoing management.

Water availability will increase when alien invasive species are removed.

Biodiversity management objectives will be promoted within identified sensitive areas.

5. Conclusion

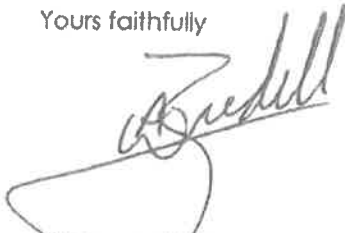
In view of the above, the NEMA principles, compliance with the conditions stipulated in this appeal EA, and compliance with the EMP, I am satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National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

DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully



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

DATE: 14/9/2018

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