

EIA REFERENCE NUMBER: 16/3/3/1/D1/6/0014/20
NEAS REFERENCE: WCP/EIA/0000960/2021
DATE OF ISSUE: 14 MARCH 2022

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: THE PROPOSED RIVERBANK MAINTENANCE AT SAN MARINO, ERF 586, KEURBOOMSTRAND, PLETTENBERG BAY

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

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to **the Preferred Alternative**, described in the Final Basic Assessment Report ("FBAR"), dated 5 November 2021 as prepared and submitted by *HillLand Environmental*, the appointed environmental assessment practitioner ("EAP").

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

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

SAN MARINO HOMEOWNERS ASSOCIATION
% Mr L.Q. van Staden
P.O. Box 1303
Plettenberg Bay
6600

Mobile: 081 355 3284
E-mail: stadens@telkomsa.net
Website: <http://www.sanmarino.co.za/>

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Environmental Impact Assessment Regulations Listing Notice 1 of 2014, Government Notice No. 983 of 4 December 2014	
<p>Activity Number: 12 Activity Description:</p> <p>The development of—</p> <ul style="list-style-type: none"> (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; <p>where such development occurs—</p> <ul style="list-style-type: none"> (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; — <p>excluding—</p> <ul style="list-style-type: none"> (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies; (dd) where such development occurs within an urban area; (ee) where such development occurs within existing roads, road reserves or railway line reserves; or (ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared. 	<p>The proposal will entail the development of floating jetties and the replacement of the current riverbank stabilisation structures that will exceed 100 m² within the Keurbooms River Estuary.</p>
<p>Activity Number: 15 Activity Description:</p> <p>The development of structures in the coastal public property where the development footprint is bigger than 50 square metres, excluding—</p> <ul style="list-style-type: none"> (i) the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (ii) the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (iii) the development of temporary structures within the beach zone where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or (iv) activities listed in activity 14 in Listing Notice 2 of 2014, in which case that activity applies. 	<p>The proposal will entail the development of floating jetties and the replacement of the current riverbank stabilisation structures that exceed 50 m² within the Keurbooms River Estuary and Coastal Public Property (CPP).</p> <p>The jetty is regarded as falling into the CPP and will provide restricted public access and replace the current moorings and access to moored boats.</p>
<p>Activity Number: 17 Activity Description:</p> <p>Development—</p> <ul style="list-style-type: none"> (i) in the sea; (ii) in an estuary; (iii) within the littoral active zone; (iv) in front of a development setback; or 	<p>The proposal will entail the development of floating jetties and the replacement of the current riverbank stabilisation structures that will exceed 50 m² within the Keurbooms River Estuary.</p>

<p>(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;</p> <p>in respect of—</p> <p>(a) fixed or floating jetties and slipways;</p> <p>(b) tidal pools;</p> <p>(c) embankments;</p> <p>(d) rock revetments or stabilising structures including stabilising walls; or</p> <p>(e) infrastructure or structures with a development footprint of 50 square metres or more —</p> <p>but excluding—</p> <p>(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or</p> <p>(dd) where such development occurs within an urban area.</p>	
<p>Activity Number: 19</p> <p>Activity Description:</p> <p>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p>	<p>The proposed works will require movement of the existing material in the bank to remove the existing timber walls and then fill the sandbags and install them at the new proposed slope. Pumping of mobile sand from the system to complete the work will be required (as per specialist recommended area). Bank shaping will be required to achieve the new slope. The bulk of this sand moved will come from the existing bank and estuarine system and is part of the normal erosion and accretion within the estuary.</p>
<p>Activity Number: 19A</p> <p>Activity Description:</p> <p>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—</p> <p>(i) the seashore;</p> <p>(ii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater; or</p> <p>(iii) the sea; —</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p>	<p>The proposed works will require movement of the existing material in the riverbank to remove the existing timber walls and then fill the sandbags and install them at the new proposed slope. Pumping of mobile sand from the system to complete the work will be required (as per specialist recommended area). Bank shaping will be required to achieve the new slope. The bulk of this sand moved will come from the existing bank and estuarine system and is part of the</p>

<p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p>	<p>normal erosion and accretion within the estuary.</p>
<p>Activity Number: 54</p> <p>Activity Description:</p> <p>The expansion of facilities—</p> <p>(i) in the sea;</p> <p>(ii) in an estuary;</p> <p>(iii) within the littoral active zone;</p> <p>(iv) in front of a development setback; or</p> <p>(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;</p> <p>in respect of—</p> <p>(a) fixed or floating jetties and slipways;</p> <p>(b) tidal pools;</p> <p>(c) embankments;</p> <p>(d) rock revetments or stabilising structures including stabilising walls; or</p> <p>(e) infrastructure or structures where the development footprint is expanded by 50 square metres or more,</p> <p>but excluding—</p> <p>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(bb) where such expansion occurs within an urban area.</p>	<p>The replacement of the vertical timber pole retaining walls with a sandbag and reno-mattress bank protection will see the expansion of the physical footprint of the structures by more than 50m².</p>
<p>Environmental Impact Assessment Regulations Listing Notice 3 of 2014, Government Notice No. 985 of 4 December 2014</p>	
<p>Activity Number: 14</p> <p>Activity Description:</p> <p>The development of—</p> <p>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or</p> <p>(ii) infrastructure or structures with a physical footprint of 10 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;</p> <p>excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour</p> <p>i. Western Cape</p>	<p>The installation of floating jetties and bank stabilisation measures (larger than 10 m²) on the Keurbooms River to replace the existing moorings.</p>

<p>i. Outside urban areas:</p> <ul style="list-style-type: none"> (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 listed 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; or (hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined. 	
<p>Activity Number: 23 Activity Description:</p> <p>The expansion of—</p> <ul style="list-style-type: none"> (i) dams or weirs where the dam or weir is expanded by 10 square metres or more; or (ii) infrastructure or structures where the physical footprint is expanded by 10 square metres or more; <p>where such expansion occurs—</p> <ul style="list-style-type: none"> (a) within a watercourse; (b) in front of a development setback adopted in the prescribed manner; or (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse; <p>excluding the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p> <p>i. Western Cape</p> <p>i. Outside urban areas:</p> <ul style="list-style-type: none"> (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 listed 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; or 	<p>The replacement of the vertical timber pole retaining walls with a sandbag and reno-mattress bank protection will result in the expansion of the physical footprint of the current retaining structure.</p>

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

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

The Holder is herein authorised to undertake the following activity that includes the listed activities as it relates to the replacement of existing creosote timber poles and mooring buoys with the development of a sloping stepped sandbag foundation with vegetated reno-mattresses within the Keurbooms River Estuary at the San Marino complex.

The proposed riverbank design will tie in with the existing embankment upgrade at *Blue Waters River Estate* and *Silverstreams River Estate* (located downstream from San Marino) and as such, will result in homogeneous riverbank protective measures with existing boat moorings on controlled floating jetty structures.

The authorisation is for the Preferred alternative which entails the infilling, depositing, excavation and moving of sand of more than 5m³ within 100 metres of the highwater mark of the estuary and the construction of structures and infrastructure for the purpose of:

The replacement of the existing creosote timber poles and vertical riverbank retaining wall with a different designed retaining structure consisting of a structure that will consist of a sloping stepped sandbag foundation covered by reno-mattress construction which will be re-vegetated with indigenous vegetation that occurs naturally in the intertidal zone of the estuary (based on natural zonation). The reno-mattress will extend approximately 2-3 m beyond the line of the existing retaining wall sloping downwards into the estuary, meeting the bed of the estuary (approximately 2 m beyond the line of the existing retaining wall). The toe of the reno-mattress will extend approximately 2.5 m further into the estuary to the floating jetty walkway running parallel to the riverbank (adjacent to the existing SANRAL slipway). The downstream bank will tie in with the bank stabilisation at Blue Water River Estate.

The existing 19 moorings (buoy anchor) will be replaced with a floating jetty with mooring for 19 boats which will be accessed by a gang plank from the shore. The jetty will be anchored to a 6 m long CCA treated timber pole (or suitable alternative) which will be driven into the sand bed (depth of 4 m). The 4 m x 0.7 m "fingers" of the jetty will be spaced 5 m apart extending into the estuary with the walkway removing the necessity to walk in the intertidal zone to access the boats.

The works must be done in accordance with the design by MOSOMO (dated April 2019) Drawing number 949-San Marino-2 (Annexure 2).

C. SITE DESCRIPTION AND LOCATION

San Marino (Erf 586) is located on the eastern bank of the Keurbooms River (Estuary) in Plettenberg Bay. The activities will be conducted on the eastern bank of the river in front of San Marino.

Coordinates of the works to be undertaken at San Marino:

Position:	Latitude (South)	Longitude (East)
Middle Point	34° 0' 40.68"	23° 24' 14.4"

SG digit code of Erf 586: C03900040000058600000

Refer to Annexure 1: Locality Plan of this Environmental Authorisation.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

HILLAND ENVIRONMENTAL

% Ms Cathy Avierinos

P.O. Box 590

GEORGE

6530

Tel: 044 889 0229

E-mail: cathy@hilland.co.za

Website: www.hilland.co.za

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **30 September 2030**:
2. The non-operational component (construction phase) of the Environmental Authorisation is subject to the following:
 - 2.1 The Holder must start with the physical implementation of all the authorised listed activities on the site within 24-months from the date of issue.
 - 2.2 The Holder must conclude the physical implementation of all the authorised listed activities on the site by **31 March 2027**.
 - 2.3 The holder must finalise the post construction rehabilitation and monitoring requirements within a period of 6-months from the date the development activity (construction phase) is concluded.

Note: Failure to complete the post construction rehabilitation and monitoring requirements at least six-months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.

3. The post-construction and maintenance component (operational phase) of this Environmental Authorisation is granted until **31 March 2030** during which period maintenance to the reno-mattresses and jetties and monitoring requirements and reporting must be finalised.

Note: The maintenance monitoring requirements should be completed at least six (6) months prior to expiry of the validity period of an environmental authorisation to ensure the Holder is able to comply with the environmental auditing requirements in time.

Failing which, this Environmental Authorisation shall lapse, unless the environmental authorisation is amended in accordance with the relevant process contemplated in the Environmental Impact

Assessment Regulations promulgated under the National Environmental Management Act, 1998 (Act no. 107 of 1998).

4. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with the Preferred Alternative described in the FBAR dated 5 November 2021 on the site as described in Section C above.

This Environmental Authorisation is only for the implementation of the Preferred Alternative for the site which entails:

The Holder is herein authorised to undertake the following activity that includes the listed activities as it relates to the replacement of existing creosote timber poles and mooring buoys with the development of a sloping stepped sandbag foundation with vegetated reno-mattresses within the Keurbooms River Estuary at the San Marino complex.

The proposed riverbank design will tie in with the existing embankment upgrade at Blue Waters River Estate and Silverstreams River Estate (located downstream of San Marino) and as such, will result in homogeneous riverbank protective measures with existing boat moorings on controlled floating jetty structures.

The authorisation is for the Preferred alternative which entails the infilling, depositing, excavation and moving of sand of more than 5m³ within 100 metres of the highwater mark of the estuary and the construction of structures and infrastructure for the purpose of:

The replacement of the existing creosote timber poles and vertical riverbank retaining wall with a different designed retaining structure consisting of a structure that will consist of a sloping stepped sandbag foundation covered by reno-mattress construction which will be re-vegetated with indigenous vegetation that occurs naturally in the intertidal zone of the estuary (based on natural zonation). The reno-mattress will extend approximately 2-3 m beyond the line of the existing retaining wall sloping downwards into the estuary, meeting the bed of the estuary (approximately 2 m beyond the line of the existing retaining wall). The toe of the reno-mattress will extend approximately 2.5 m further into the estuary to the floating jetty walkway running parallel to the riverbank (adjacent to the existing SANRAL slipway). The downstream bank will tie in with the bank stabilisation at Blue Waters River Estate.

The existing 19 moorings (buoy anchor) will be replaced with a floating jetty with mooring points for 19 boats which will be accessed by a gang plank from the shore. The jetty will be anchored to a 6 m long CCA treated timber pole (or suitable alternative) which will be driven into the sand bed (depth of 4 m). The 4 m x 0.7 m "fingers" of the jetty will be spaced 5 m apart extending into the estuary with the walkway removing the necessity to walk in the intertidal zone to access the boats.

The works must be done in accordance with the design by MOSOMO (dated April 2019) Drawing number 949-San Marino-2 (Annexure 2).

5. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
6. 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.

7. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

Notification and administration of appeal

8. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 8.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 8.1.1. the decision reached on the application;
 - 8.1.2. the reasons for the decision as included in Annexure 3;
 - 8.1.3. the date of the decision; and
 - 8.1.4. the date when the decision was issued.
 - 8.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;
 - 8.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 8.4. provide the registered I&APs with the:
 - 8.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 8.4.2. name of the responsible person for this Environmental Authorisation,
 - 8.4.3. postal address of the Holder,
 - 8.4.4. telephonic and fax details of the Holder,
 - 8.4.5. e-mail address, if any, of the Holder,
 - 8.4.6. contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
 - 8.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
 - 8.6. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Written notice to the Competent Authority

9. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
 - 9.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 9.2. The notice must also include proof of compliance with the following conditions described herein:
Conditions no.: 8, 11 and 13.
 - 9.3. Seven calendar days' notice, in writing, must be given to the Competent Authority on the commencement of any maintenance activities to any structures during the period that the environmental authorisation is valid.
10. Seven calendar days' written notice must be given to the Competent Authority on completion of the construction activities.

Management of activity

11. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended and submitted to this Department prior to commencement of any activities on the site:
 - 11.1. The EMPr must be amended to incorporate the following —
 - 11.1.1. Incorporate all the conditions given in this Environmental Authorisation;
 - 11.1.2. All monthly ECO reports to be submitted to the competent authority.
12. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

13. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
14. The ECO must—
 - 14.1. be appointed prior to commencement of any works (i.e. removal and movement of soil);
 - 14.2. ensure compliance with the EMPr and the conditions contained herein;
 - 14.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
 - 14.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
15. A copy of the 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 and be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.
16. 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

17. The Holder must, for the period during which the environmental authorisation and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.
18. The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, must adhere to the following programme:
 - 18.1. Auditing during the non-operational phase (construction activities):
 - 18.1.1. During the period which the development activities have been commenced with on site, the Holder must ensure annual environmental audit(s) are undertaken and the Environmental Audit Report(s) submitted annually to the Competent Authority.

- 18.1.2. A final Environmental Audit Report for the construction phase (non-operational component) must be submitted to the Competent Authority within **three (3) months** of completion of the post construction rehabilitation and monitoring requirements.
- 18.2. Auditing during the operational phase (post construction and maintenance activities):
- 18.2.1. During the post-construction and maintenance phase, the Holder must ensure annual environmental audit(s) are undertaken following the completion of the construction phase/post construction rehabilitation and monitoring requirements and such Environmental Audit Report(s) must be submitted annually to the Competent Authority.
- Note:** The final auditing requirements should be completed and submitted at least three months prior to expiry of the validity period of the environmental authorisation to ensure the Holder is able to comply with all the environmental auditing and reporting requirements and for the competent authority to be able to process it timeously.
19. The Environmental Audit Report(s), must–
- 19.1. be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;
- 19.2. provide verifiable findings, in a structured and systematic manner, on–
- 19.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
- 19.2.2. the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
- 19.3. identify and assess any new impacts and risks as a result of undertaking the activity;
- 19.4. evaluate the effectiveness of the EMPr;
- 19.5. identify shortcomings in the EMPr;
- 19.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
- 19.7. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
- 19.8. indicate the date on which the maintenance/ rehabilitation was commenced with and the progress of the rehabilitation;
- 19.9. include a photographic record of the site applicable to the audit; and
- 19.10. be informed by the ECO reports.
20. The Holder must, within 7 calendar days of the submission of the audit report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

21. 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 may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

Heritage remains include: meteorites, archaeological and/or paleontological 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; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the Holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

Amendment of Environmental Authorisation and EMPr

2. If the Holder does not start with all listed activity and exceed the threshold of the listed activity within the period referred to in Section E, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

Where a validity period has been specified for operational aspects, the onus is on the Holder to ensure the activities are always undertaken in terms of a valid environmental authorisation.

If the Holder wishes to extend a validity period specified in the Environmental Authorisation, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of such a period.

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.
 - (b) It is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity if the competent authority has not granted an Environmental Authorisation for the undertaking of the activity.
3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, the Competent Authority may request information 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 environmental authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note: An environmental authorisation may be amended or replaced without following a procedural requirement contained in the Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially

4. The manner and frequency for updating the EMPr is as follows:
 - (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
 - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMPr has been approved by the competent authority.

The onus is however on the Holder to confirm the legislative process requirements for the above scenarios at that time.

5. Where an amendment to the impact management outcomes of an EMPr is required before an environmental audit is required in terms of the environmental authorisation, an EMPr may be amended on application by the Holder of the environmental authorisation.

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is granted for a set period from date of issue, during which period all the listed activities must be commenced with and concluded, including the post-construction rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

The validity period and conditions of the environmental authorisation has been structured to promote the effective administration of the environmental authorisation and guidance has been provided to ensure the compliance thereof within the validity period, for example:

- ❖ Failure to complete the post construction rehabilitation and monitoring requirements at least six months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.
 - ❖ Failure to complete the final auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements and may result in the competent authority not being able to process the audit timeously.
8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (**i.e. 8, 11 and 13**). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.

9. In the event that the Environmental Authorisation should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.
10. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs including any Organ of State with interest in the matter; and
 - 1.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAAdmin.George@westerncape.gov.za
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision and any registered I&AP including any Organ of State with an interest in the matter; and
 - 2.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAAdmin.George@westerncape.gov.za
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the Appeal Administrator at the address listed below:

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

By facsimile: (021) 483 4174; or

By hand: Appeal Administrator

Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Administrator at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. GAVIN BENJAMIN
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION3)
WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: **14 MARCH 2022**

FOR OFFICIAL USE ONLY:

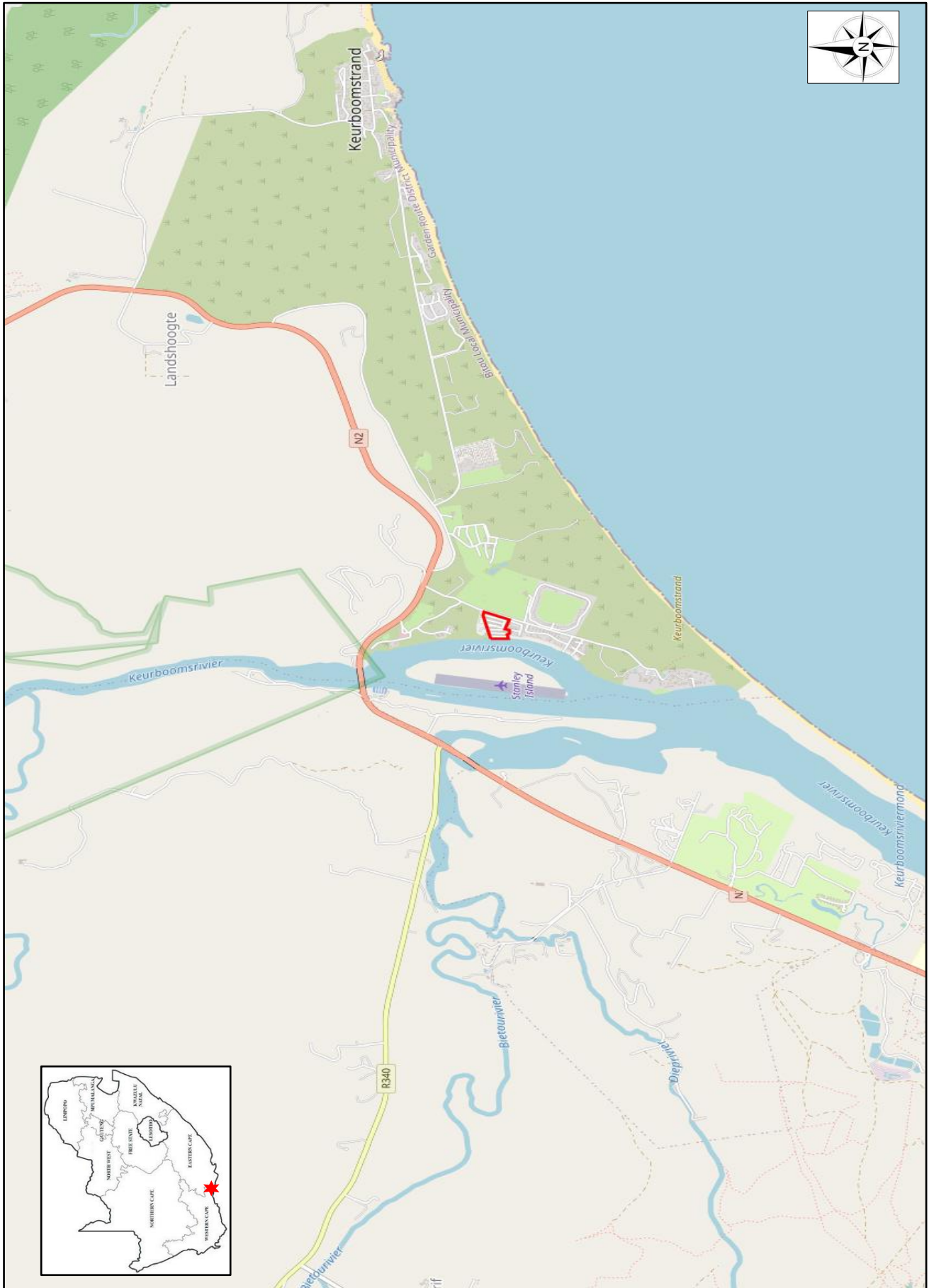
EIA REFERENCE NUMBER:

16/3/3/1/D1/6/0014/20

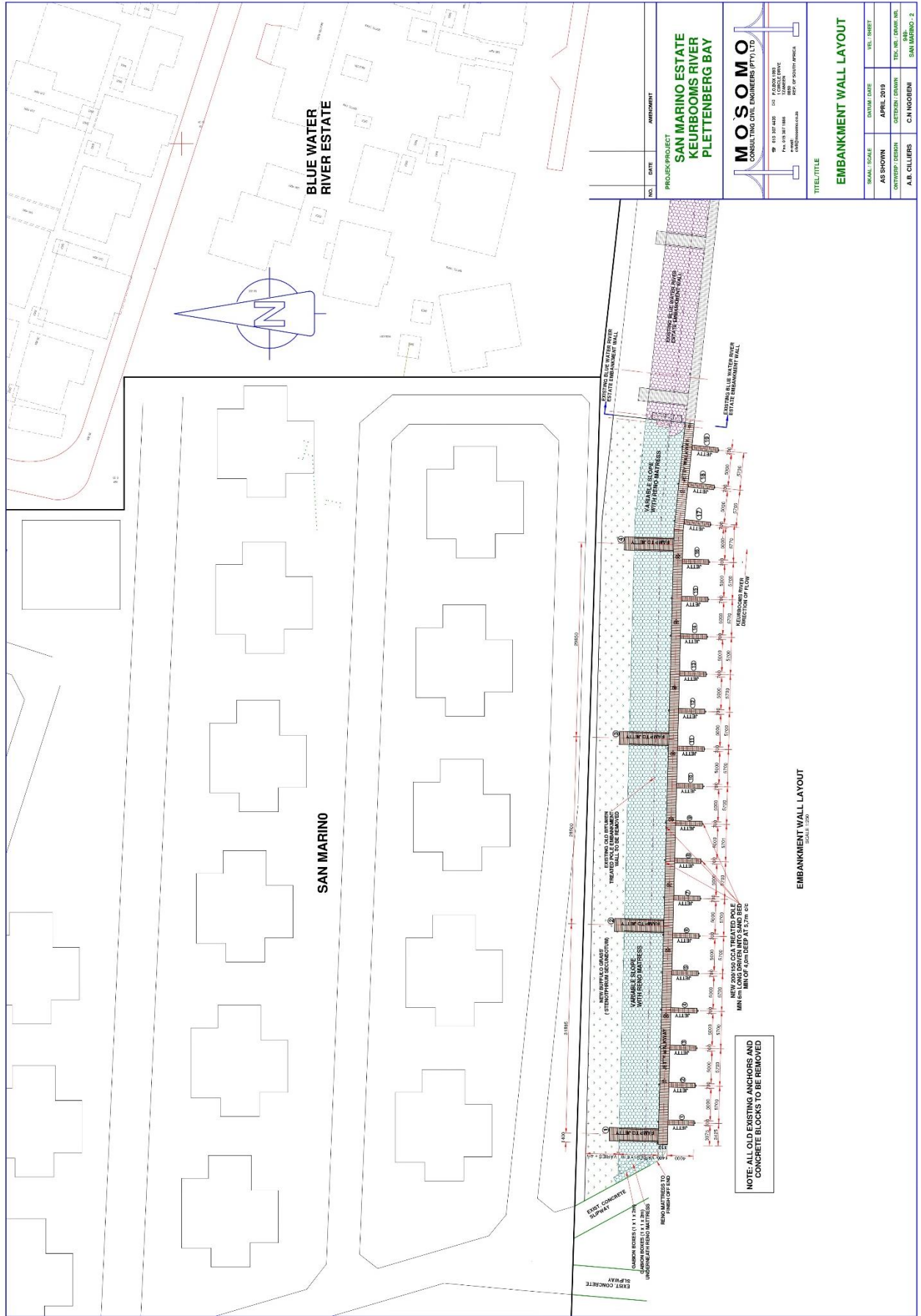
NEAS REFERENCE:

WCP/EIA/0000960/2021

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE DEVELOPMENT PLANS



ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form received on 6 August 2021, the Final Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 5 November 2021;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the FBAR dated 5 November 2021;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) A site inspection was not conducted by the Directorate as the case officer knows the area and the environment aspects of the site.

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

1. Public Participation

A public participation process was undertaken, and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulation 2014 for public involvement. The public participation process was performed in accordance with the Public Participation Plan agreed to by this Department.

The following Organs of State provided comment on the proposal:

- ❖ *Bitou Municipality;*
- ❖ *Department Forestry, Fisheries and Environment – Oceans and Coasts Section;*
- ❖ *Breede-Gouritz Catchment Management Agency;*
- ❖ *Heritage Western Cape; and*
- ❖ *CapeNature.*

The following registered I&APs provided comment:

- ❖ *Strandmeer HOA Trustees*
- ❖ *Plettenberg Bay Community Environmental Forum*
- ❖ *Mr. David Scott*
- ❖ *Mr Werner Illenberger*

All the comments and issues raised by the respective *Organs of State and I&APs* that were captured in the Basic Assessment Report were responded to by the EAP. The Competent Authority is satisfied with the responses from the EAP to the I&APs comments and concerns.

2. Alternatives

Development proposal (Herewith Approved):

The Holder is herein authorised to undertake the following activity that includes the listed activities as it relates to the replacement of existing creosote timber poles and mooring buoys with the development of a sloping stepped sandbag foundation with vegetated reno-mattresses within the Keurbooms River Estuary at the San Marino complex.

The proposed riverbank design will tie in with the existing embankment upgrade at Blue Waters River Estate and Silverstreams River Estate (located downstream of San Marino) and as such, will result in homogeneous riverbank protective measures with existing boat moorings on controlled floating jetty structures.

The authorisation is for the Preferred alternative which entails the infilling, depositing, excavation and moving of sand of more than 5m³ within 100 metres of the highwater mark of the estuary and the construction of structures and infrastructure for the purpose of:

The replacement of the existing creosote timber poles and vertical riverbank retaining wall with a different designed retaining structure consisting of a structure that will consist of a sloping stepped sandbag foundation covered by reno-mattress construction which will be re-vegetated with indigenous vegetation that occurs naturally in the intertidal zone of the estuary (based on natural zonation). The reno-mattress will extend approximately 2-3 m beyond the line of the existing retaining wall sloping downwards into the estuary, meeting the bed of the estuary (approximately 2 m beyond the line of the existing retaining wall). The toe of the reno-mattress will extend approximately 2.5 m further into the estuary to the floating jetty walkway running parallel to the riverbank (adjacent to the existing SANRAL slipway). The downstream bank will tie in with the bank stabilisation at Blue Waters River Estate.

The existing 19 moorings (buoy anchor) will be replaced with a floating jetty with mooring for 19 boats which will be accessed by a gang plank from the shore. The jetty will be anchored to a 6 m long CCA treated timber pole (or suitable alternative) which will be driven into the sand bed (depth of 4 m). The 4 m x 0.7 m "fingers" of the jetty will be spaced 5 m apart extending into the estuary with the walkway removing the necessity to walk in the intertidal zone to access the boats.

The works must be done in accordance with the design by MOSOMO (dated April 2019) Drawing number 949-San Marino-2 (Annexure 2).

"No-Go" Alternative

The no-go alternative entails the replacement of the existing timber wooden retaining wall and no change to the mooring system will be done.

According to the estuarine specialist, the no-go alternative will result in the ongoing trampling of the eelgrass beds and benthic sediment habitat as users need to wade through estuarine habitat to reach the moored boats. As such, it will have an ongoing negative impact on the estuarine habitat. Additionally, only the replacement of the timber retaining wall will not remove the risk of structural failure and associated impacts and no improvement on the water quality will occur.

3. Impact Assessment and Mitigation Measures

3.1 Activity Need and Desirability

The existing structure at Blue Waters Estate is in need of replacement due to instability and the wood decaying / disintegrating. The proposed design is considered a better environmental alternative as to replacing the retaining structure with heavily treated wood. In addition, it will give the riverbank a natural appearance and also allow for the re-establishment of a riparian buffer of natural vegetation, which will ultimately prevent erosion of the riverbank. This will directly benefit landowners in terms of protection of their property/assets. It will further benefit society in general through the ecological services of the riparian zone restoration.

3.2 Biophysical Impacts

Aquatic environment:

A specialist estuarine assessment was conducted by *Confluent Environmental* and the findings of this report indicates that given the minor to negligible impacts on aquatic biota and the high potential for recovery, the cumulative impact of the bank and jetty upgrade on the greater Keurbooms Estuary is likely to be positive overall. Improved bank stabilization and flood protection over the existing vertical retaining wall design will reduce the potential for flood damage and erosion at the San Marino Estate which is of benefit to the broader Keurbooms system. Also, the enhanced biodiversity and ecological connectivity associated with the development of a riparian buffer established with indigenous plants will occur.

3.3 Aspects related to coastal activities:

When any listed activities are to be carried out within the coastal zone which require an environmental authorisation in terms of the NEMA, the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (NEM:ICMA) provides for additional criteria which must be considered when evaluating an application for an activity which will take place within the coastal zone.

In terms of the NEM:ICMA, specifically Sub-section 15(2) which deals with measures affecting erosion and accretion, *"No person may construct, maintain or extend any structure, or take other measures on coastal public property to prevent or promote erosion or accretion of the seashore except as provided for in this Act, the National Environmental Management Act or any other specific environmental management Act."*

A portion of the proposed development along San Marino waterfront occurs within the Coastal Public Property (CPP) but it will be limited to the toe of the reno-mattress structure and the addition of the floating jetties. The design was set back as far as possible into the existing riverbank to minimise the impact on the estuary and also to tie in with the same designed structure at the neighbouring estate, Blue Waters River Estate. As such, both of the structures are designed to protect the CPP in terms of erosion protection that will be offered by the reno-mattress and the protection of the intertidal riparian and re-established indigenous vegetation (biodiversity) offered by the addition of the floating jetties.

The information which has been provided in the Final BAR and specialist study, has satisfactorily addressed the additional aspects which should be considered in terms of s63(1) of NEM:ICMA. The Specialist has also adequately demonstrated the likely impact of coastal environmental processes on the proposed activity which is a specific aspect to be considered in this decision in terms of section 63 of the NEM:ICMA.

The Keurbooms-Bitou Estuarine Management Plan (draft 2021) was consulted to ensure that the proposed development is in line with the objectives highlighted in said plan.

3.4 Heritage / Archaeological Aspects

Heritage Western Cape (HWC) confirmed that no further impact assessment or action will be required. The competent authority is satisfied that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of the National Heritage Resources Act, 1999 and the comments and recommendations of the relevant heritage resources authority with regard to the proposed development have been taken into account.

3.5 Other Impacts

No other impacts of significance are anticipated for the area that has been authorised in this Environmental Authorisation.

Considering the findings of the impact assessment and proposed mitigation measures to address the aforementioned impacts this Department is satisfied that the activity will not negatively impact on the receiving environment, subject to strict implementation of conditions of this EA and the mitigation measures proposed in the EMPr.

4. Scope and Validity Period of authorisation

This environmental authorisation does not define specific operational aspects other than maintenance to the structures that will be developed. The environmental authorisation's validity period has been granted for a period of eight and a half (8.5) years, during which period the construction activities and maintenance activities must commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit reports for the non-operational phase (construction phase) and the operational phase. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase. The Holder is required to commence, substantially implement the proposal and conclude the construction phase within a period of 5 years after the environmental authorisation is issued. This is in order to limit the impact on the environment the FBAR reported that the duration of the impact to the environment would be less than 5 years. Prolonging the conclusion of the construction, knowingly increases the extent and duration of the impact to the system.

Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years. Any further maintenance actions which need to be performed to keep the structures or system functioning or in service on the same location, capacity and footprint may be proposed in terms of a management plan (i.e. MMP) and defined or adopted by the competent authority for maintenance purposes.

5. 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.

6. Conclusion

After consideration of the information and factors listed above, the Department made the following findings:

- (a) The identification and assessment of impacts are detailed in the FBAR dated 5 November 2021 and sufficient assessment of the key identified issues and impacts have been completed.
- (b) The procedure followed for the impact assessment is adequate for the decision-making process.

- (c) The proposed mitigation of impacts identified and assessed, curtails the identified negative impacts.
- (d) The EMPr proposed mitigation measures for the pre-construction, construction and rehabilitation phases of the development and were included in the FBAR. The mitigation measures will be implemented to manage the identified environmental impact during the construction phase.

Due consideration is also given to the person's duty of care described in Section 28 of NEMA:

“Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment”.

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

----- **END** -----