



**EIA REFERENCE NUMBER:** 16/3/3/1/D1/14/0002/19  
**NEAS REFERENCE:** WCP/EIA/0000561/2019  
**ENQUIRIES:** Ms Jessica Christie  
**DATE OF ISSUE:** **25 SEP 2019**

The Director  
PROUD HERITAGE PROPERTIES 309 (PTY) LTD  
P.O. Box 4985  
**TYGER VALLEY**  
7536

Attention: Mr. F. le Roux

Tel: 021 948 3502  
E-mail: francois@devmark.co.za

Dear Sir

**NOTICE OF DECISION: 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 PLETTENBERG MANOR WETLAND REHABILITATION, BIRD-HIDE AND BOARDWALK CONSTRUCTION PROJECT ON PORTION 3 OF THE FARM MATJESFONTEIN No. 304, PLETTENBERG BAY.**

1. With reference to the aforementioned application, the Department hereby notifies you of its decision to **grant Environmental Authorisation in respect to the activity applied for**, attached herewith together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014, you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: Mr Jonathan Kingwill (EAP) E-mail: jonathan@bluepebble.biz  
Ms Anje Taljaard (Bitou Municipality) E-mail: ataljaard@plett.gov.za



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## 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 PLETTENBERG MANOR WETLAND REHABILITATION, BIRD-HIDE AND BOARDWALK CONSTRUCTION PROJECT ON PORTION 3 OF THE FARM MATJESFONTEIN No. 304, 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 June 2019 as prepared and submitted by the environmental assessment practitioner, *Bluepebble Sustainability Services*.

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

The Director  
Proud Heritage Properties 309 (Pty) Ltd  
% Mr. Francois le Roux  
P.O. Box 4985  
TYGER VALLEY  
7536

Tel: (021) 948 3502  
Fax: (086) 459 3214  
E-mail: francois@devmark.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
<b>Government Notice No. 983 of 4 December 2014 -Listing Notice 1</b>	
<p>Activity Number: <b>12(ii)(a) &amp; (c)</b>            Activity Description:</p> <p>The development of—</p> <ul style="list-style-type: none"> <li>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</li> <li>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</li> </ul> <p>where such development occurs—</p> <ul style="list-style-type: none"> <li>(a) within a watercourse;</li> <li>(b) in front of a development setback; or</li> <li>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</li> </ul> <p>excluding—</p> <ul style="list-style-type: none"> <li>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> <li>(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;</li> <li>(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;</li> <li>(dd) where such development occurs within an urban area;</li> <li>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</li> <li>(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.</li> </ul>	<p>The development of infrastructure within the wetland and within 32 metres from the watercourse. The new infrastructure will be restricted to the development of a boardwalk and a bird-hide.</p>
<p>Activity Number: <b>19</b>            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>The infilling or depositing of material of more than 10 cubic metres into; or the dredging, excavation, removal or moving of soil, sand, pebbles or rock of more than 10 cubic metres from the</p>

<p>(a) will occur behind a development setback;  (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;  (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;  (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or  (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>wetland associated with the proposal will be restricted to the:  (a) rehabilitation of the wetland;  (b) removal of alien invasive plant species ("AIS");  (c) removal of a berm as well as;  (d) construction of the boardwalk, and  (e) construction of a bird-hide.</p>
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**Government Notice No. 985 of 4 December 2014 -Listing Notice 3**

<p>Activity Number: <b>14(ii)(a) &amp; (c) i(hh)</b>  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  (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;  (b) in front of a development setback; or  (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  i. Outside urban areas:  (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;</p>	<p>The boardwalk and bird-hide are defined as infrastructure and will be constructed with the watercourse/wetland, or within 32m of the watercourse/wetland and in the estuarine functional zone.</p>
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<p>(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>	
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The abovementioned list is hereinafter referred to as “**the listed activities**”.

The Holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development and development footprint area:

The proposed rehabilitation of the wetland will involve the removal of alien invasive plant species (AIS) as well as the removal and movement of soil and rubble of more than 10 cubic metres in the wetland area. In addition, a boardwalk of approximately 900 square metres in size and a bird-hide of approximately 30 square metres in size, referred to as infrastructure, will be constructed in the wetland.

**C. SITE DESCRIPTION AND LOCATION**

The project site is situated on the Remainder of Portion 3 of the Farm Matjiesfontein 304, Keurboomstrand, Plettenberg Bay, and lies on the edge of the Tshokwane wetland area which forms part of the Plettenbeg Manor estate which is currently still under construction. The portion of the property where the activities will take place has been zoned as Open Space II and for the purpose of this environmental authorisation this portion of the property which contains the wetland (and bank thereof) is regarded to be for a conservation use.

The town of Plettenberg Bay lies approximately 6 kilometres south west of the site.

The coordinates of the wetland that will be rehabilitated and the construction of the boardwalk and bird-hide is:

34° 00' 42.00" South                      23° 24' 45.36" East

SG digit codes: RE/3/304:                      C03900000000030400003

Refer to Annexure 1: *Locality Plan* and Annexures 2: *Site Development Plan* of this Environmental Authorisation.

The above is hereinafter referred to as “**the site**”.

**D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)**

BLUEPEBBLE SUSTAINABILITY SOLUTIONS  
% Mr. Jonathan Kingwill  
Postnet Suite 41  
Private Bag X31  
KNYSNA  
6570

Cel:                      082 777 0705  
Fax:                      086 553 8837  
E-mail:                  jonathan@bluepebble.biz  
Website:                www.bluepebble.biz

## E. CONDITIONS OF AUTHORISATION

### **Scope and Validity Period of authorisation**

1. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with the Preferred Alternative described in the Final Basic Assessment Report ("FBAR") (dated June 2019 as prepared and submitted by the EAP) 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 rehabilitation of the wetland which will involve the removal of alien invasive plant species as well as the removal and movement of soil and rubble of more than 10 cubic metres in the wetland area. In addition, a boardwalk of approximately 900 square metres in size and a bird-hide of approximately 30 square metres in size, referred to as infrastructure, will be constructed in the wetland.*

2. This Environmental Authorisation is granted for the period from date of issue until **31 September 2024**, the date on which the activities will be deemed to be concluded at the site.

Further to the above, the Environmental Authorisation is subject to the following:

- 2.1. The Holder must start with the physical implementation of all the authorised listed activities prior to 31 September 2021 and at least exceed the described threshold of each listed activity at the site by this specified date.
- 2.2. The post construction rehabilitation and monitoring requirements must be finalised at the site within a period of 12-months from the date the development activities (construction phase) are concluded; but by no later than 31 September 2024.

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).

3. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
4. 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.
5. 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**

6. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–

- 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
  - 6.1.1. the decision reached on the application;
  - 6.1.2. the reasons for the decision as included in Annexure 4;
  - 6.1.3. the date of the decision; and
  - 6.1.4. the date when the decision was issued.
- 6.2. 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;
- 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
- 6.4. provide the registered I&APs with the:
  - 6.4.1. name of the Holder (entity) of this Environmental Authorisation,
  - 6.4.2. name of the responsible person for this Environmental Authorisation,
  - 6.4.3. postal address of the Holder,
  - 6.4.4. telephonic and fax details of the Holder,
  - 6.4.5. e-mail address, if any, of the Holder,
  - 6.4.6. 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).
- 6.5. 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.
- 6.6. 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**

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
  - 7.1. The notice must make clear reference to the site details and EIA Reference number given above.
  - 7.2. The notice must also include proof of compliance with the following conditions described herein:  
**Condition no.: 6, 8 and 10.**

#### **Management of activity**

8. The draft or 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 Competent Authority and approved at a minimum of 30 days prior to commencement of construction.
  - 8.1. meet the requirements outlined in Section 24N (2) & (3) of the National Environmental Management Act, 1998 (Act no 107 of 1998, as amended);
  - 8.2. meet the requirements as set out in Appendix 4 of the NEMA EIA Regulations 2014;
  - 8.3. the impact management actions and outcomes must be clearly distinguished and included in the EMPr. This involves inter alia, the information contained in the method statement can be included in the EMPr and removes the need for numerous method statements.
  - 8.4. The section dealing with ECO's must be amended to include that an ECO must be appointed during the construction and rehabilitation phases of the development and a monitoring schedule

must be detailed in the EMPr. This must highlight the frequency during initial works in the wetland, which must be weekly, and then gradually decreasing to bi-monthly etc. In addition, with an ECO appointed, the appointment of an ESA is unnecessary.

- 8.5. All ECO monthly compliance reports must be submitted to this Department, for attention the Competent Authority, the Directorate Development Management (Region 3) or relevant successor.
  - 8.6. A map at an appropriate scale must be included that shows the “No-Go” areas and the work yard during construction of the boardwalks and the bird-hide.
  - 8.7. The work yard must be limited to an area within the estate.
  - 8.8. incorporate an environmental auditing and monitoring schedule detailing the frequency of auditing compliance with environmental authorisation and environmental management programme and submission of environmental audit reports to the Competent Authority during the construction and the end of the rehabilitation phase. Be reminded that there is a difference between compliance monitoring and auditing as in terms of Appendix 7 of the NEMA EIA Regulations, 2014.
  - 8.9. Where the project's construction phase will extend beyond a single year, the schedule must make provision for annual environmental auditing and reporting, as well as for a final environmental audit on completion of the project;
  - 8.10. Incorporate all the conditions given in this Environmental Authorisation;
9. The EMPr must be included in all contract documentation for all phases of implementation.

### **Monitoring**

10. The Holder must appoint a suitably experienced environmental control officer (“ECO”), for the duration of the construction and rehabilitation phases of implementation contained herein.
11. The ECO must–
  - 11.1. be appointed prior to commencement of any works in the wetland (i.e. removal and movement of soil and / or rubble or construction activities commencing);
  - 11.2. ensure compliance with the EMPr and the conditions contained herein;
  - 11.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
  - 11.4. remain employed until all development activities are concluded and the post construction rehabilitation and monitoring requirements are finalised.
12. 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.
13. 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**

14. The Holder must, for the period during which the environmental authorisation and EMPr remain valid—
  - 14.1. ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited;
  - 14.2. undertake annual environmental audit(s) during the construction phase, and the Holder must submit these Environmental Audit Report(s) to the Competent Authority.
  - 14.3. the final construction phase Environmental Audit Report(s) must be submitted to the Competent Authority within three (3) months of completion of construction activities.
  
15. The Environmental Audit Report, must –
  - 15.1. be prepared and submitted to the Competent Authority, by an independent person (not the ECO), with the relevant environmental auditing expertise;
  - 15.2. provide verifiable findings, in a structured and systematic manner, on—
    - 15.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
    - 15.2.2. 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.
  - 15.3. identify and assess any new impacts and risks as a result of undertaking the activity;
  - 15.4. evaluate the effectiveness of the EMPr;
  - 15.5. identify shortcomings in the EMPr;
  - 15.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
  - 15.7. 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;
  - 15.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
  - 15.9. include a photographic record of the site applicable to the audit; and
  - 15.10. be informed by the ECO reports.
  
16. 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**

17. 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 activities and exceed the threshold of each listed activity within the period referred to in Section G, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

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. Failure to comply with all the peremptory conditions (i.e. 6, 7, 8 or 10) prior to the physical implementation of the activities (including site preparation) is an offence. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and may be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
8. 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.
9. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

### **G. APPEALS**

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

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, any Organ of State with interest in the matter as well as the decision-maker (i.e. the Competent Authority that issued the decision, namely the Director: Development Management (Region3)). -
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, any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision, namely the Director: Development Management (Region3).
3. The Holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&APs 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 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: Attention: Mr Marius Venter (Tel: 021 483 2659)  
Room 809  
8<sup>th</sup> 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 [Marius.Venter@westerncape.gov.za](mailto:Marius.Venter@westerncape.gov.za).

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail [DEADP.Appeals@westerncape.gov.za](mailto: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)**

DATE OF DECISION: 25/09/2019

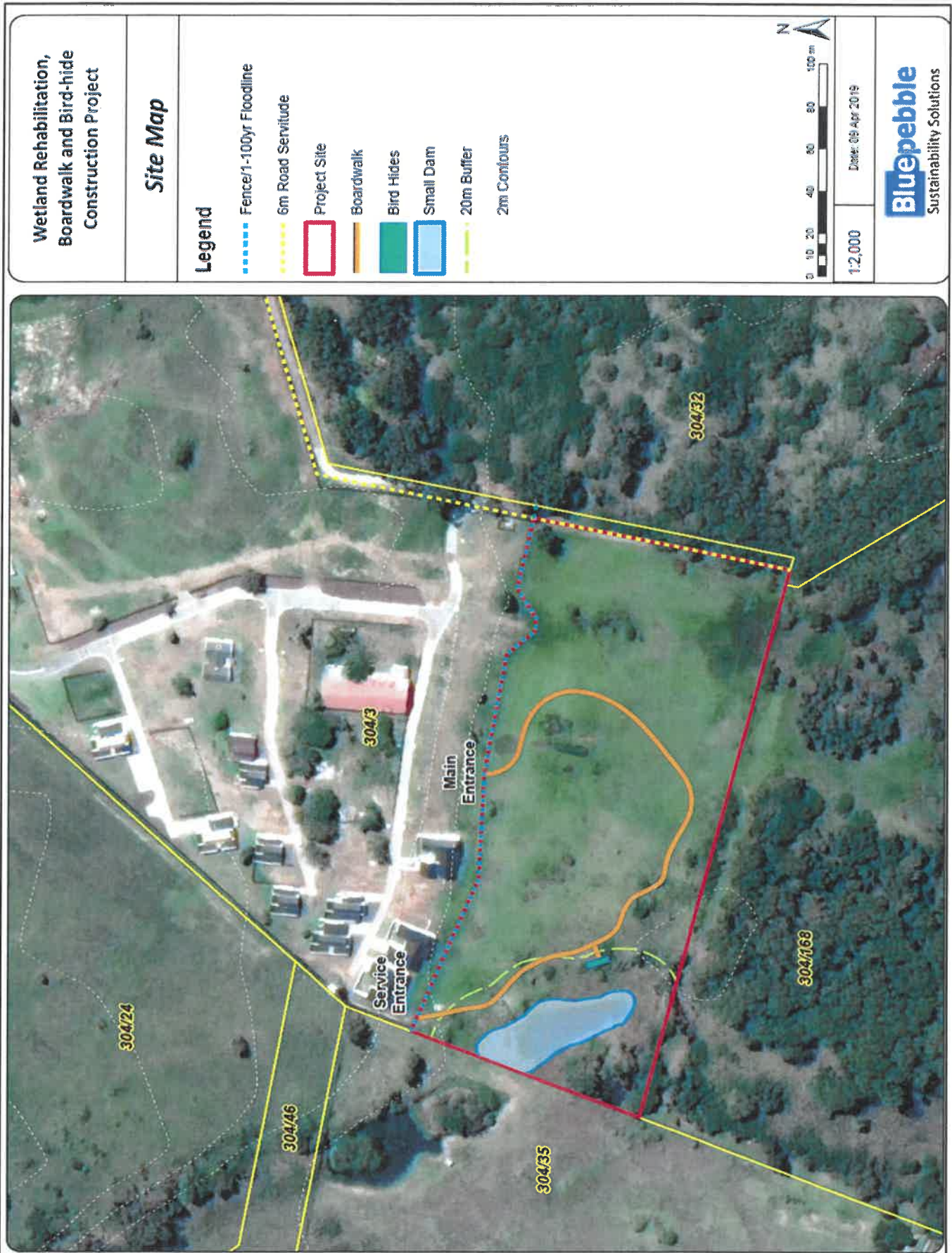
**FOR OFFICIAL USE ONLY:**

**EIA REFERENCE NUMBER:** 16/3/3/1/D1/14/0002/19  
**NEAS REFERENCE:** WCP/EIA/0000561/2019

ANNEXURE 1: LOCALITY MAP



**ANNEXURE 2: SITE DEVELOPMENT PLAN FOR THE REHABILITATION OF THE WETLAND AND CONSTRUCTION OF THE BOARDWALK AND BIRD-HIDE**



## 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 1 February 2019, the Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 14 June 2019;
- 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) and section 63 of National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);
- d) The comments received from I&APs and responses to these, included in the FBAR dated June 2019;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) Appropriate information was made available in the report to understand the environmental and spatial context and the case officer is familiar with the area.
- g) A site inspection was conducted by Ms Jessica Christie from the Directorate Development Management (Region 3) on 17 May 2019.

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

The public participation process included:

- identification of and engagement with interested and affected parties (I&APs);
- fixing a notice board at the site and at the site on 25 January 2019;
- giving written notice to the owners and occupiers of land adjacent to the site and any alternative site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 25 January 2019;
- the placing of a newspaper advertisement in the 'CXpress' on 30 January 2019; and
- making the draft Basic Assessment Report available to I&APs for public review from 31 January 2019 to 1 March 2019.

The following Organs of State provided comment on the proposal:

- ❖ *CapeNature*
- ❖ *Breede Gouritz Catchment Management Agency*
- ❖ *Bitou Municipality*

General Public / Interested & Affected Parties (I&APs) included:

- ❖ *Plettenberg Bay Community Environment Forum*
- ❖ *BirdLife SA*

All the comments and issues raised by the respective *Organs of State* that were captured in the Basic Assessment Report were responded to by the EAP. The Directorate: Development Management (Region 3) is not satisfied with the responses provided by the EAP to these other organs of state.

### 2. Alternatives

Preferred Alternative (Herewith Approved): The proposed rehabilitation of the wetland will involve the removal of alien invasive plant species as well as the removal and movement of soil and rubble of more than 10 cubic metres in the wetland area. In addition, a boardwalk of approximately 900 square

metres in size and a bird-hide of approximately 30 square metres in size, referred to as infrastructure, will be constructed in the wetland.

Design Alternatives: Various designs were considered and include dirt path, paved path or raised boardwalk. Due to the area being a wetland, the boardwalk option is considered the only viable option.

Technology Alternatives: Various eradication methods were considered, including hand removal, use of herbicides, mechanical removal and the use of a bulldozer. The use of a mechanical mower (bossie-kapper), tractor and plough to loosen the topsoil to support the removal of Kikuyu and herbicides are considered the only practical manner to eradicate the Kikuyu.

"No-Go" Alternative: The "no-go" alternative implies a continuation of the current situation or the status quo.

A description of other alternatives which were considered was provided by the EAP as well as a motivation for not further considering the alternatives that were found not feasible and reasonable.

Although land owners are obliged to clear alien, the single obstacle for all landowners is the budget to do so. This project is funded through the project development budget from The Plettenberg Manor development project.

### **3. Impact Assessment and Mitigation Measures**

#### **3.1 Activity need and desirability**

This project forms part of the residential development within the urban edge. It falls within the floodplain and through rehabilitation, will improve flood attenuation, ecological infrastructure and climate change resilience. The proposed bird-hide and boardwalk will not significantly impact on or be significantly impacted on by the known low velocity flood events on this site. It also forms an ideal recreational use and nature conservation area.

Investment into ecological infrastructure is highly lacking at the local level and this project provides an example of what can be achieved through wetland rehabilitation and recreational use and appreciation for the Tshokwane wetland area.

#### **3.2 Biophysical Impacts**

The project is located in a low-lying area and a portion of the site forms part of the Tshokwane Wetland Area, while the remainder falls below the 1:100 flood line and thus functions as flood attenuation. The site has characteristic cover sands and is transformed and a highly impacted landscape. The impact of the boardwalk and bird-hide is deemed as insignificant. Operational impacts of boardwalks and bird-hides to water quality are minor, and, in combination with the proposed rehabilitation plans for the wetland, results in an overall positive impact to wetland habitat and hydrological connectivity.

#### **3.3 Biodiversity**

Given the current degraded nature of the wetland, the influence of the construction phase impacts on the drivers of aquatic ecological health, are considered to be largely negligible.

#### **3.4 Other Impacts**

No significant cultural, historical features, noise and visual impacts have been identified.



#### 4. Scope and Validity of the Environmental Authorisation

This environmental authorisation does not define specific operational aspects, including ongoing alien invasive species/AIS eradication as well as bird-hide and boardwalk maintenance. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the non-operational or construction phase. The environmental authorisation's validity period has been granted for a period of 5-years, during which period the development activities must commence and be concluded. The period which has been granted is regarded to be adequate to construct the proposed infrastructure and achieve the goal to restore the low-lying area of the wetland to a Category B/C wetland, being largely natural and moderately modified. The Holder is required to substantially implement the development within a period of 24-months after the environmental authorisation is issued. A period of 12-months is specified for the final monitoring and post-construction rehabilitation to be completed after the construction phase is finalised.

#### 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

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.

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