



REFERENCE: 16/3/3/1/D1/5/0007/18
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 20 NOV 2018

The Chairman
Silverstream Estate Home Owners Association (HOA)
PO Box 348
PLETTENBERG BAY
6600

Attention: Mr. Albert Boni

Tel: (044) 535 9016
Email: albertboni@gmail.com

Dear Sir

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: PROPOSED RIVER BANK MAINTENANCE AT SILVERSTREAM ESTATE ERF 508, 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 (**EA**) to the applicant to undertake the listed activities specified in section B below with respect to the preferred alternative, described in the Basic Assessment Report ("BAR"), dated August 2018.

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 Chairman
% Mr. Albert Boni
Silverstream Estate Home Owners Association (HOA)
PO Box 348
PLETTENBERG BAY
6600

Tel: (044) 535 9016
 Email: albertboni@gmail.com

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. 983 of 4 December 2014 - Activity Number: 12 Activity Description: The development of – (i) Dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres in size (ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs— (a) within a watercourse; (b) in front of a development setback; or (c) if a development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;- excluding— (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 a harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (cc) where 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; or (ee) where such development occurs within existing roads or road reserves.</p> <p>The development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</p>	<p>The proposal includes the establishment of a floating jetty and replaced river bank protection with a footprint greater than 100 square metres. The area occurs within the built up Urban area of the Keurbooms river bank as the estuary if not considered to be "non-urban"</p>

<p>Activity Number: 17 Activity Description: Development— (i) in the sea; (ii) in an estuary; (iii) within the littoral active zone; (iv) in front of a development setback; or (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; in respect of— (a) fixed or floating jetties and slipways; (b) tidal pools; (c) embankments; (d) rock revetments or stabilising structures including stabilising walls; or infrastructure or structures with a development footprint of 50 square meters or more— but excluding— (aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (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; (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 (dd) where such development occurs within an urban area.</p>	<p>The proposal includes the establishment of a floating jetty within part of the Keurbooms Estuary. Although the proposed works fall within the existing built up Urban Area of Plettenberg Bay, the Estuary and banks of the Keurbooms River are treated as non-urban therefore, this listing applies.</p>
<p>Activity Number: 19 Activity Description: 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; but excluding where such infilling, depositing, dredging, excavation, removal or moving— (a) will occur behind a development setback;</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 sand bags and install them at the new proposed slope. Pumping of sand from the system to complete the work will be required. Bank shaping will be required to achieve the net slope as per the diagram. A maximum of 400m³ of sand will be moved to reshape the bank. The bulk of this sand moved will come from the existing bank and river system. The removal / movement could be considered as maintenance purposes and be undertaken in terms of a maintenance</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>management plan, however, for the adjacent properties it has been considered necessary to obtain an EA and not follow the MMP route.</p>
<p>Activity Number: 19A Activity Description: 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) <u>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</u></p> <p>(iii) the sea; —</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(f) will occur behind a development setback;</p> <p>(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>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 sand bags and install them at the new proposed slope. Pumping of sand from the system to complete the work will be required. Bank shaping will be required to achieve the new slope as per the diagram. A maximum of 400m³ of sand will be moved to reshape the bank. The bulk of this sand moved will come from the existing bank and river system. The removal / movement could be considered as maintenance purposes and be undertaken in terms of a maintenance management plan, however, for the adjacent properties it has been considered necessary to obtain an EA and not follow the MMP route.</p>

<p>Activity Number: 54 Activity Description: The expansion of facilities— (i) in the sea; (ii) in an estuary; (iii) within the littoral active zone; (iv) in front of a development setback; or (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; in respect of— (a) fixed or floating jetties and slipways; (b) tidal pools; (c) embankments; (d) rock revetments or stabilising structures including stabilising walls; or (e) [buildings where the building is expanded by 50 square metres or more; or] [[f]] infrastructure or structures where the development footprint is expanded by 50 square metres or more, but excluding— (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 (bb) where such expansion occurs within an urban area.</p>	<p>The replacement of the vertical timber pole retaining walls with a sand bag and reno-mattress bank protection will see expansion of the physical footprint. The area occurs within the built up Urban area of the Keurbooms river bank, however all activities that take place within the estuary are included for authorisation as the estuary is considered to be “non-urban”.</p>
<p>Government Notice No. 985 of 4 December 2014 - Activity Number: 14 Activity Description: The development of— (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; where such development occurs— (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; excluding the development of infrastructure or structures within</p>	<p>The replacement of the vertical timber pole retaining walls with a sand bag and reno-mattress bank protection will see expansion of the physical footprint. The area occurs within the built up Urban area of the Keurbooms river bank, however all activities that take place within the estuary are included for authorisation as the estuary is considered to be “non-urban”.</p>

<p>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> <p>(aa) A protected area identified in terms of NEMPAA excluding conservancies;</p> <p>(bb) National Protected Area Expansion Strategy Focus areas;</p> <p>(cc) World Heritage Sites;</p> <p>(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;</p> <p>(ee) Sites or areas listed in terms of an international convention;</p> <p>(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>(gg) Core areas in biosphere reserves; or</p> <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.</p>	
<p>Activity Number: 23</p> <p>Activity Description:</p> <p>The expansion of—</p> <p>(i) dams or weirs where the dam or weir is expanded by 10 square metres or more; or</p> <p>(ii) infrastructure or structures where the physical footprint is expanded by 10 square metres or more;</p> <p>where such expansion occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback adopted in the prescribed manner; 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 expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p> <p>a. Western Cape</p> <p>i. Outside urban areas:</p>	<p>The replacement of the vertical timber pole retaining walls with a sand bag and reno-mattress bank protection will see expansion of the physical footprint of the structure. The area occurs within the built up Urban area of the Keurbooms river bank, however all activities that take place within the estuary are included for authorisation as the estuary is considered to be "non-urban"</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. 	
--	--

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:

Alternative 1 (Preferred alternative)

This alternative entails a replacement of the existing Creosote Treated Timber retaining structure with a sand bag and reno-mattress sloped retention bank. The design is to be set back into the existing riverbank with the toe of the reno-mattress meeting the bed of the estuary at approximately the foot of the existing creosote retaining wall. The tie-in points with neighbouring properties are to be fixed and the final layout of the riverbank should see the establishment of a natural curved structure and not a straight line (thus some portions of the reno-mattress will be positioned further into the estuary to achieve this but should endeavour to be as close to the position of the current retaining wall as possible). The sloped bank is to be re-vegetated with indigenous riparian vegetation as per the specifications included in the Environmental Management Programme (EMPr).

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Erf 508 and small portions of Coastal Public Property (CPP) for the existing mooring poles and floating jetties at the following co-ordinates:

The SG digit code is: C03900040000050800000

The co-ordinates for the site boundary are: 34° 00 '50.009"23° 24' 12.961

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

HillLand Environmental
% Ms. C. Avierinos
PO Box 590
GEORGE
6530

Tel: (044) 889 0229

Fax: 086 542 5248

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the preferred alternative described in the BAR dated August 2018 on the site as described in Section C above.
2. The Environmental Authorisation is valid for a period of **eight years** from the date of issue within which commencement must occur and the construction phase must be concluded within ten **(10) years** from the date of issue of this Environmental Authorisation.
3. Stablisation of the sloped riverbank must commence once the maintenance and replacement of the current timber retaining wall is required.
4. The holder shall be responsible for ensuring compliance with the conditions of this EA 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.

Written notice to the Competent Authority

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.
 - 6.1 The notice must make clear reference to the site details and EIA Reference number given above.

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

Conditions: 7, 8, and 9

Notification and administration of appeal

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
- 7.1 notify all registered Interested and Affected Parties (“I&APs”) of –
 - 7.1.1 the decision reached on the application;
 - 7.1.2 the reasons for the decision as included in Annexure 3;
 - 7.1.3 the date of the decision; and
 - 7.1.4 the date when the decision was issued.
 - 7.2 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;
 - 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 7.4 provide the registered I&APs with the:
 - 7.4.1 name of the holder (entity) of this Environmental Authorisation,
 - 7.4.2 name of the responsible person for this Environmental Authorisation,
 - 7.4.3 postal address of the holder,
 - 7.4.4 telephonic and fax details of the holder,
 - 7.4.5 e-mail address, if any, of the holder,
 - 7.4.6 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. The listed activities, including site preparation, must not commence within 39 (thirty-nine) calendar days from the date of issue of this Environmental Authorisation. 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).

Monitoring of the activity

9. The holder must appoint a suitably experienced environmental control officer (“ECO”) for the duration of the construction phase of implementation contained herein.
10. The ECO must–
- 10.1 be appointed prior to commencement of any construction activities commencing;
 - 10.2 ensure compliance with the EMPr and the conditions contained herein;
 - 10.3 keep record of all activities on site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO, and where applicable the ESO;
 - 10.4 compile and submit a written environmental compliance monitoring report to the Competent Authority once a month for the duration of the period in which the

construction, rehabilitation and post-construction monitoring requirements are finalised.

Note: The monthly Environmental Compliance Monitoring Report(s) prepared by the ECO differ from Environmental Audit Report(s) required in condition 18 below;

- 10.5 remain employed until all development activities are concluded and the post construction and monitoring requirements are finalised.
 - 10.6 inspect the site at least twice-a-month, unless an Environmental Site Officer (ESO) is employed, in which case the frequency of site inspections by the ECO may be reduced to once a month.
11. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request.
 12. Access to the site referred to in Section C above 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

13. The holder must, for the period during which the environmental authorisation and EMPr remain valid—
 - 13.1 ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited;
 - 13.2 during the construction phase, the holder must undertake annual environmental audit(s) and submit these Environmental Audit Report(s) to the Competent Authority.
 - 13.3 the final construction phase Environmental Audit Report must be submitted to the Competent Authority within **six (6) months** of completion of construction;
 - 13.4 the environmental audit report must be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise;
14. The Environmental Audit Report, must –
 - 14.1 provide verifiable findings, in a structured and systematic manner, on—
 - 14.1.1 the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 14.1.2 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.
 - 14.1.3 identify and assess any new impacts and risks as a result of undertaking the activity;
 - 14.1.4 evaluate the effectiveness of the EMPr;
 - 14.1.5 identify shortcomings in the EMPr;
 - 14.1.6 identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 14.1.7 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;

- 14.1.8 indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
- 14.1.9 include a photographic record of the site applicable to the audit; and
- 14.1.10 be informed by the ECO reports.

- 15. The holder must, within 7 days of the submission of the audit report to the Competent Authority, notify all potential and registered I&APs of the submission.

Operational aspects

- 16. The holder must, for as long as the facility is operational, ensure compliance with the conditions of the environmental authorisation and provisions of the EMPr, in so far as it relates to the operational phase.

Specific Conditions

- 17. No surface or ground water may be polluted due to any actions on the site related to the authorised activities and no effluent may be discharged into any watercourse.
- 18. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.
- 19. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.

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.
- 2. Non-compliance with a condition of this Environmental Authorisation or any provision of the EMPr may render the holder liable to criminal prosecution.
- 3. If the holder does not commence with a listed activity within the period referred to in Section E, Condition 2, 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 the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of the Environmental Authorisation.

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation may 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.

4. The holder is required to submit an application for amendment of the Environmental Authorisation to 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 grant such approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

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

5. The manner and frequency for updating the EMPr is as follows:
Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.

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 or objectives of the EMPr. Such amendment(s) may only be implemented once the amended EMP 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.

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 and the decision-maker i.e. the Competent Authority that issued the decision. -
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&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.

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 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 Jaap de Villiers (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 Jaap.DeVilliers@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 Jaap.DeVilliers@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



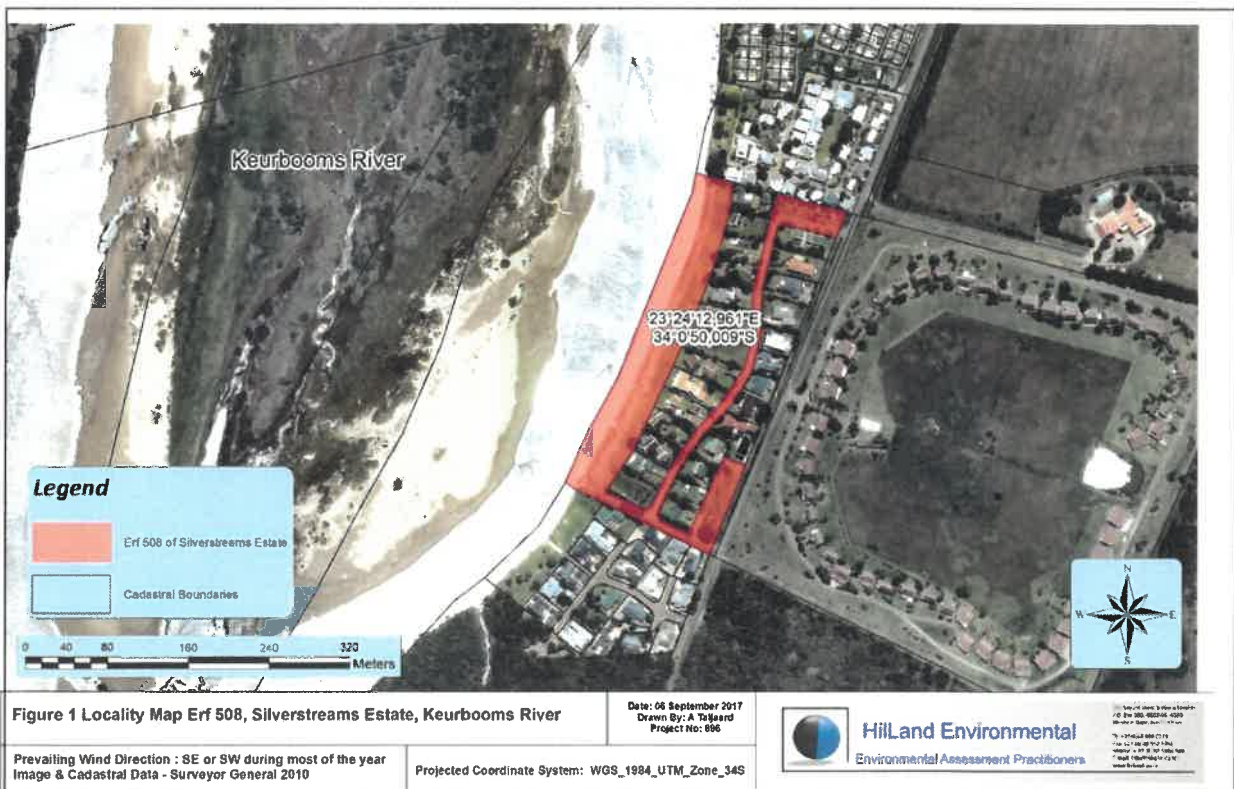
MR. GAVIN BENJAMIN
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)

DATE OF DECISION: 20/11/2018

Copied to: Ms. A. Taljaard/ Ms. C. Avierinos (HillLand Environmental)

Fax: 086 542 5248

ANNEXURE 1: LOCALITY MAP



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 by this Department on 11 May 2018, the Basic Assessment Report dated August 2018 and received by this Department on 10 August 2018, as well as the EMPr submitted together with the aforementioned BAR;
- b) All 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 BAR dated 10 August 2018;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) Information gathered from the site visit that was conducted on :

Date/s: 10 October 2018

Attended by: Shireen Pullen and Harriet van Schalkwyk (DEA&DP)
Cathy Avierinos and Inge Delpont (HillLand Environmental)

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 I&APs;
- fixing a notice board on 6 November 2017 at the site and any alternative site where the listed activities are to be undertaken;
- 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 26 October 2017 and 11 June 2018;
- the placing of a newspaper advertisement in the *Plett Herald* on 31 August 2018; and
- Distribution of the Pre-Application Basic Assessment Report for public review and comment. I&APs had a 30-day comment period (26 October 2017 – 27 November 2017) to submit their comments on the proposal. These comments have been included and responded to in Section 5.1 of the BAR.
- The draft Basic Assessment Report was available for public review and comment. I&APs had a 30-day comment period (11 June 2018 – 12 July 2018) to submit comment on the proposal.

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

The Competent Authority concurs with the Environmental Assessment Practitioner's responses to the issues raised during the public participation process and as such has included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

The following alternatives were considered for the proposed Riverbank Protection:

Alternative 1 (Preferred alternative)

This alternative entails the replacement of the timber retaining structure with a sand bag and reno-mattress sloped retention bank. The proposal is that the structure is to be set back into the existing riverbank with the toe of the reno-mattress meeting the bed of the estuary at approximately the foot of the existing creosote retaining wall. The sloped bank will be re-vegetated with indigenous riparian vegetation in accordance with the provisions in the Environmental Management programme submitted as part of the Basic Assessment Report.

This alternative is seen as the best practicable environmental alternative and is being recommended for all similar situations and for situations where existing walls or protection measures require maintenance or replacement as per the Keurbooms-Bitou Estuarine Management Plan (Draft, May 2017). This Department concurs that the proposal is in line with the management objectives of the aforementioned plan, which relates to land use and infrastructure management on privately owned land to prevent erosion, siltation of the estuary and damage during flood events. The BAR submits that the Silverstream area has been designated as a wake-free zone and falls within the management category of bank stabilization, which confirms that the proposal is in line with the specific management zones of the estuary as indicated in the said plan.

Alternative 2

This alternative entails the replacement of the existing timber retaining structure with a sand bag and reno-mattress sloped retention bank within a portion of the estuary. This is to be revegetated with riparian vegetation: advantage - allows for the removal of the Creosote treated timber poles from the system and allows for the creation of a riparian habitat. However, disturbance to a greater portion of the estuarine habitat (Zostera beds etc) will take place and the work method of removing the vertical supporting structures and excavating out to place the bags creates a temporarily unstable situation susceptible to erosion. This is therefore not the preferred alternative.

Alternative 3

This alternative entails the repair of the existing Creosote treated timber poles with polywood poles. This will take away the opportunity to remove the vertical bank and restore vegetation and a riparian habitat and is therefore not the preferred alternative.

Alternative 4 (No-Go Alternative)

This alternative entails replacing the existing Creosote treated timber poles as and when they rot with new Creosote treated timber poles. This means that the creosote will continue to be leaching into the Estuary.

The following alternatives were considered for the jetties:

Alternative 1 (preferred alternative):

This alternative entails attaching a floating jetty to each of the existing mooring poles. This will allow for easy access onto the boats on the mooring poles without having to walk through the riparian vegetation to reach it or trampling the intertidal zone. This is therefore the preferred alternative as it will allow for the establishment of the planted indigenous vegetation and no further disturbance to the intertidal riparian vegetation. The attachment of the jetties is to be

on the inside of the existing mooring poles (on the riverbank side) with the relocation of these poles to the inner riverbank upon installation of the jetty and as such should not result in boats being moored much further into the estuary – the only addition is the access to the moored boats.

Alternative 2

This alternative entails the attachment of a fixed jetty to each of the existing mooring poles. This is however not the preferred alternative as fixed jetties can't take tidal flow levels into account, so it has to be built high enough to be above the spring tide high tide level. This is not the preferred alternative, as it would also require more structural support to withstand the changing conditions in the river and it would be difficult to access boats at low tide when the height difference between the top of the jetty and the boat sitting on the low water level would be greatest.

Alternative 3 (No-Go)

This alternative implies that no expansion of the existing mooring pole infrastructure takes place and the structure stays as is. This means that the trampling and disturbance of the re-established indigenous vegetation along the created sloped embankment through boat users accessing the mooring poles and continual disturbance to the intertidal riparian vegetation.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

According to the BAR the proposed maintenance 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.

According to the Plettenberg Bay Estuary Management Plan, Cape Nature would prefer that the existing creosote treated structures be replaced. This Department concurs with this as creosote treated poles are already severely rotten. The need to remove all the Creosote treated timber retaining structures from the system over time would provide uniform river bank protection for this estuary and be replicated elsewhere. 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.

3.2 Estuarine Specialist Report

The findings of this report indicates that the operational phase of the proposed development is likely to result in a number of positive impacts related to bank stabilisation, mitigation against floods, water quality and the method of accessing moored boats. Although negative impacts are expected to occur, these are unlikely to be permanent and there is strong evidence to suggest that recovery will occur in the short term (1 to 5 years). Based on these findings and the fact that the creosote treated timber poles has its own negative impacts on the system, this Department is of the opinion that the proposed activity will positively contribute towards stabilising the river bank and also prevents further deterioration of the water quality in the system and as such has decided to approve the preferred alternative.

3.3 Site

The Silverstream Estate is situated on the eastern bank of the Keurbooms Estuary. This estuary is a permanently open system and feeds into what is known as the Keurbooms Lagoon, which is separated from the sea by a prominent berm, prior to it flowing out to sea.

The BAR submits that the river bank is currently stabilised using a retaining wall constructed of creosoted timber poles and boats are attached to mooring poles situated approximately 7.5 m from the edge of the retaining wall. Access to boats is via stairs leading directly into the estuary, resulting in foot traffic directly over the inter-tidal zone. The entire bank is devoid of any riparian vegetation and consists of kikuyu lawn. Patches of eelgrass (*Zostera capensis*) grow along the length of the river bank, largely restricted to the intertidal zone and margins of the subtidal zone.

3.4 Socio-economic

According to the BAR the proposal will have no significant or positive socio-economic impact, except for the temporary employment opportunities that will be created for the individuals who will form part of the construction team. This Department concurs with this statement as the nature of the proposed activity will only require construction labour for the duration of the construction phase.

3.5 Cumulative impacts

According to the BAR the proposed maintenance measures will prevent further erosion of the riverbank and ultimately result in the removal of creosote timber poles from the estuarine system. It will also allow for the re-establishment of a small riparian buffer of indigenous vegetation along the riparian zone, as the floating jetty will help prevent or minimise access or trampling over the *Zostera* beds.

4. National Environmental Management Act Principles

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

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- identify, predict and evaluate the actual and potential impact on the environment, socio-economic conditions and cultural heritage, the risks and consequences and alternatives and options for mitigation of activities, with a view to minimising negative impacts, maximising benefits, and promoting compliance with the principles of environmental management set out in Chapter 2 of NEMA.
- ensure that the effects of activities on the environment receive adequate consideration before actions are taken in connection with them;
- ensure adequate and appropriate opportunity for public participation in decisions that may affect the environment;
- ensure the consideration of environmental attributes in management and decision-making which may have a significant effect on the environment; and

- identify and employ the modes of environmental management best suited to ensuring that a particular activity is pursued in accordance with the principles of environmental management set out in section 2.
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

The development will result in both negative and positive impacts.

According to the BAR the negative impacts include soil disturbance during excavations and disturbance to *Zostera* beds below the low water mark. This will be short term and mitigated by strict adherence to the provisions in the EMPr and search and rescue activities, prior to construction activities commencing.

The proposed installation of the reno-matress structure in combination with the floating jetty will be a benefit to the biodiversity and will have a positive impact on the riverbank, because of the potential for revegetation of the riparian and intertidal interface using vegetation according to the salinity gradient of the natural zonal pattern. This will allow for the establishment of an Ecological Support Area as indicated in the Cape Farm Mapper replacing the current kikuyu lawn embankment.

The floating jetty and timber walkways towards the jetty to access boats will remove the impact of trampling on the intertidal zone and the newly vegetated river bank.

There will be no negative impact on terrestrial vegetation as there is none at present. The revegetation of the new slope will see a positive impact on terrestrial vegetation. There will be no long term negative impact on submerged aquatic vegetation, short term construction disturbance may take place as the new toe is installed. No work will take place below the intertidal zone and as such there will be no change to the current subtidal *Zostera* beds. There is likely to be an improvement in the intertidal vegetation as the floating jetty will remove all trampling effect from the area and the reno-matresses in the intertidal zone act as support areas for new colonisation of submerged aquatic plants.

5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the provisions of the 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** -----