



**EIA REFERENCE NUMBER:** 16/3/3/1/D6/28/0000/19  
**NEAS REFERENCE:** WCP/EIA/0000548/2019  
**ENQUIRIES:** Ms Jessica Christie  
**DATE OF ISSUE:** **28 JUN 2019**

The Municipal Manager  
Mossel Bay Municipality  
PO Box 25  
**MOSSSEL BAY**  
6500

**Attention: Mr. P. Myburgh**

Tel: 044 606 5000  
Fax: 044 606 5062  
E-Mail: [pmyburgh@mosselbay.gov.za](mailto:pmyburgh@mosselbay.gov.za)

Dear Sir

**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 INSTALLATION OF EROSION CONTROL MITIGATION MEASURES TO THE WESTERN BANK OF THE GREAT BRAK ESTUARY, ADJACENT TO THE PUBLIC BRAAI AREA AND CURRENT CARPARK AT SOUTHERN CROSS, THE DEMOLITION AND INITIAL REMOVAL OF THE NORTHERN HALF OF THE EXISTING CARPARK ON FARM 305 AND REMAINDER ERF 1308, GREAT BRAK RIVER**

1. With reference to the aforementioned application, the Department hereby notifies you of its decision to **grant Environmental Authorisation in respect of a part of 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 John Sharples (SES)	E-mail: <a href="mailto:john@sesc.net">john@sesc.net</a>
	Mr Michael Bennett (SES)	E-mail: <a href="mailto:michael@sesc.net">michael@sesc.net</a>
	Mr W. Manual (Mossel Bay Municipality)	E-mail: <a href="mailto:wmanual@mosselbay.gov.za">wmanual@mosselbay.gov.za</a>



**EIA REFERENCE NUMBER:** 16/3/3/1/D6/28/0000/19  
**NEAS REFERENCE:** WCP/EIA/0000548/2019  
**ENQUIRIES:** Ms Jessica Christie  
**DATE OF ISSUE:** 28 JUN 2019

## 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 INSTALLATION OF EROSION CONTROL MITIGATION MEASURES TO THE WESTERN BANK OF THE GREAT BRAK ESTUARY, ADJACENT TO THE PUBLIC BRAAI AREA AND CURRENT CARPARK AT SOUTHERN CROSS, THE DEMOLITION AND INITIAL REMOVAL OF THE NORTHERN HALF OF THE EXISTING CARPARK ON FARM 305 AND REMAINDER ERF 1308, GREAT BRAK RIVER**

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 **a part of the Preferred Alternative**, described in the Final Basic Assessment Report ("FBAR"), dated 4 March 2019 as prepared and submitted by the environmental assessment practitioner, *Sharpley Environmental 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 Municipal Manager  
Mossel Bay Municipality  
% Mr. P. Myburgh  
Private Bag X25  
MOSSSEL BAY  
6500

Tel: (044) 606 5000  
Fax: (044) 606 5062  
E-mail: [pmyburgh@mosselbay.gov.za](mailto:pmyburgh@mosselbay.gov.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)(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 for the rehabilitation of a part of the current parking area that will be removed (1340 square metres) and will be landscaped along the embankments of the Great Brak River.</p>
<p>Activity Number: <b>17(iii)(d) and 17(v)(d)</b>                      Activity Description:</p> <p>Development—</p> <ul style="list-style-type: none"> <li>(i) in the sea;</li> <li>(ii) in an estuary;</li> <li>(iii) within the littoral active zone;</li> <li>(iv) in front of a development setback; or</li> <li>(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;</li> </ul> <p>in respect of—</p> <ul style="list-style-type: none"> <li>(a) fixed or floating jetties and slipways;</li> <li>(b) tidal pools;</li> <li>(c) embankments;</li> <li>(d) rock revetments or stabilising structures including stabilising walls; or infrastructure or structures with a development footprint of 50 square metres or more —</li> </ul> <p>but excluding—</p> <ul style="list-style-type: none"> <li>(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</li> </ul>	<p>The development of infrastructure for the rehabilitation of a part of the current parking area that will be removed (1340 square metres) and will be landscaped along the embankments of the Great Brak River estuary.</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: <b>18</b> Activity Description:</p> <p>The planting of vegetation or placing of any material on dunes or exposed sand surfaces of more than 10 square metres, within the littoral active zone, for the purpose of preventing the free movement of sand, erosion or accretion, excluding where —</p> <p>(i) the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation undertaken in accordance with a maintenance management plan; or</p> <p>(ii) such planting of vegetation or placing of material will occur behind a development setback.</p>	<p>The planting of vegetation and placing material on sand on the banks of the Great Brak River Estuary for the rehabilitation of a part of the current parking area that will be removed (1340 square metres) and landscaped.</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>(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 erosion protection measures will require the cutting/shaping of the estuary banks along the length of the parking area in excess of 10 cubic metres.</p>
<p>Activity Number: <b>19A(ii)</b> 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>(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>The proposed erosion protection measures will require the cutting/shaping of the estuary banks along the length of the parking area in excess of 5 cubic metres.</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>	
<b>Government Notice No. 985 of 4 December 2014 -Listing Notice 3</b>	
<p>Activity Number: <b>14(ii)(c)</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</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>The establishment of the grass bank will amount to a physical footprint of more than 10 square metres within the estuary and is located outside the urban edge, within the estuarine functional zone.</p>

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 development consists of only a part of Phase 1 of the proposed development which entails the removal of the northern section (1340 square metres) of the existing carpark and the installation of soft erosion measures as an erosion control mitigation measure, in the form of bio jute and grass-covered soil and the construction of a section of boardwalk across the existing access to the beach located on Farm, No. 305, Great Brak, Mossel Bay, as depicted in Annexure 2 of this Environmental Authorisation.

### C. SITE DESCRIPTION AND LOCATION

The portion of the Suiderkruis beach area and the estuary where the activities will take place is located on a portion of the Remainder of Farm 305, Mossel Bay. This portion of the Remainder of Farm 305 is characterised by coastal landforms such as coastal dunes, littoral active zone, the estuary and estuary bank, a sand spit, all of which form the western portion of the estuary mouth. The site is located on the western bank of the estuary and adjacent coastal dunes and the Great Brak Estuary Mouth floodplain. The site and existing parking, is located adjacent to the intersection of Suiderkruis Road and Orion Drive, which intersection is located directly to the west of the site. The site is situated approximately 600-800 metres south-east of the N2 and 2 kilometres south east of the town of Great Brak River

The parking area that will be rehabilitated is situated at coordinates:  
34° 03' 20.95" South 22° 14' 11.25" East

SG digit codes: RE/305: C05100000000030500000

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)**

SHARPLES ENVIRONMENTAL SERVICES CC

% Mr. John Sharples

P. O. Box 9087

GEORGE

6530

Tel: (044) 873 4923

Fax: (044) 874 5953

E-mail: john@sesc.net

Website: www.sesc.net

#### **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 June 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:

- 1.1. The Holder must start with the physical implementation of all the authorised listed activities prior to **30 June 2021** and exceed at least the described threshold of each listed activity by this specified date at the site.
- 1.2. 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 30 June 2025.

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).

2. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to a part of the Preferred Alternative described in the FBAR dated 4 March 2019 on the site as described in Section C above.

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

The development consists of the removal of the northern section (1340 square metres) of the existing carpark and the installation of soft erosion measures as an erosion control mitigation measure, in the form of bio jute and grass-covered soil and the construction of a section of boardwalk across the existing access to the beach located on Farm, No. 305, Great Brak, Mossel Bay, as depicted in Annexure 2 of this Environmental Authorisation.

3. The holder must adopt and implement the following development parameters; restrictions and measures to the proposed development. The revised proposal and layout plan must be submitted to the competent authority for approval prior to site preparation or construction activities commencing on site.

The following must be addressed, namely—

- 3.1. The scope of the environmental is limited to the development of part of Phase 1 as described in 2 above and restricted to the area depicted in Annexure 2 of this Environmental Authorisation.
- 3.2. The remainder of Phase 1, which includes the proposed development of the new grass block parking of 2230 square metres in extent for 68 parking spaces and the associated boardwalks, may not be implemented and must be excluded from the development plan.
- 3.3. The entire Phase 2, which entails the removal of the remainder of the current carpark and the construction of an additional 16740 square metres area to the proposed new carpark area as well as the development of an additional 180-meter long boardwalk, may not be implemented and must be excluded from the development plan.
4. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
5. 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.
6. 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***

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 4;
    - 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).
- 7.5. 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.
- 7.6. 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**

8. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of site clearance activities.
- 8.1. The notice must make clear reference to the site details and EIA Reference number given above.
  - 8.2. The notice must also include proof of compliance with the following conditions described herein: **Condition no.: 7, 9, 10 and 12.**

#### **Management of activity**

9. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended to address the following aspects. The amended EMPr must—
- 9.1. meet the requirements outlined in Section 24N (2) & (3) of the National Environmental Management Act, 1998 (Act no 107 of 1998, as amended);
  - 9.2. meet the requirements as set out in Appendix 4 of the NEMA EIA Regulations 2014;
  - 9.3. amend the EMPr to reflect the changes made to the proposal in this Environmental Authorisation;
  - 9.4. a clear distinction must be made between the portions of the EMPr that deal with operational and non-operational (construction phase) aspects and the respective periods for where the environmental authorisation be valid.
  - 9.5. 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 operational phase;
  - 9.6. 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;
  - 9.7. Incorporate all the conditions given in this Environmental Authorisation.
10. The amended EMPr must be re-submitted to the Competent Authority and approved by the Competent Authority prior to the physical activities commencing on the site.



The Holder must ensure the competent authority is able to process the amended EMPr in time and should submit the amended EMPr at least three months prior to the commencement of the listed activities.

11. The EMPr must be included in all contract documentation for all phases of implementation.

### **Monitoring**

12. The Holder must appoint a suitably experienced environmental control officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.

13. The ECO must—

- 13.1. be appointed prior to commencement of any vegetation clearing or construction activities commencing;
- 13.2. ensure compliance with the EMPr and the conditions contained herein;
- 13.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
- 13.4. remain employed until all development activities are concluded and the post construction rehabilitation and monitoring requirements are finalised.

14. 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.

15. 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**

16. The Holder must, for the period during which the environmental authorisation and EMPr remain valid—

- 16.1. ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited;
- 16.2. undertake annual environmental audit(s) during the construction phase, and the Holder must submit these Environmental Audit Report(s) to the Competent Authority.
- 16.3. the final construction phase Environmental Audit Report(s) must be submitted to the Competent Authority within three (3) months of completion of construction activities.

17. The Environmental Audit Report, must –

- 17.1. be prepared and submitted to the Competent Authority, by an independent person, **not the ECO**, with the relevant environmental auditing expertise;
- 17.2. provide verifiable findings, in a structured and systematic manner, on—

- 17.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
  - 17.2.2. 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.
- 17.3. identify and assess any new impacts and risks as a result of undertaking the activity;
  - 17.4. evaluate the effectiveness of the EMPr;
  - 17.5. identify shortcomings in the EMPr;
  - 17.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
  - 17.7. 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;
  - 17.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
  - 17.9. include a photographic record of the site applicable to the audit; and
  - 17.10. be informed by the ECO reports.
18. 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**

19. The approved activities including site camp and storage areas, must be restricted to the site and existing parking area. The areas where the boardwalks and new parking area have been proposed (as described for Phase 1 and Phase 2) must be treated as "No-Go areas".

The No-Go areas must be demarcated, remain undisturbed and may not be impacted on by the construction activities (including the clearance/disturbance of vegetation) for the duration of this Environmental Authorisation.

20. Access to the beach must be restricted to the existing pathway leading from the existing parking area which crosses the coastal dunes. No new pathways to the beach area must be established from the parking area or the existing ablution facilities.
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 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 Jaap de Villiers (Tel: 021 483 3721)  
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 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 (REGION3)**

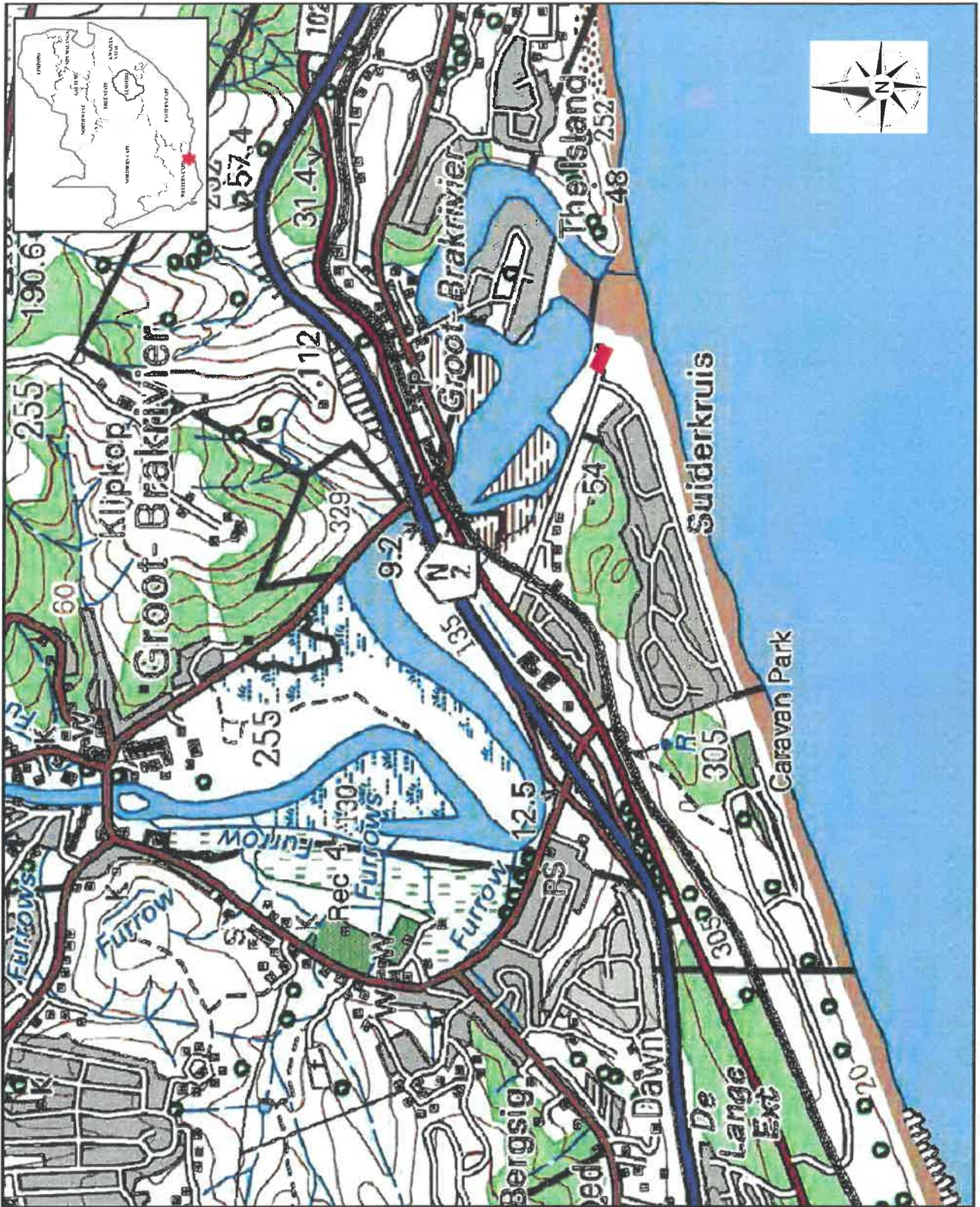
DATE OF DECISION: 28/06/2019

**FOR OFFICIAL USE ONLY:**

**EIA REFERENCE NUMBER:** 16/3/3/1/D6/28/0000/19  
**NEAS REFERENCE:** WCP/EIA/0000548/2019

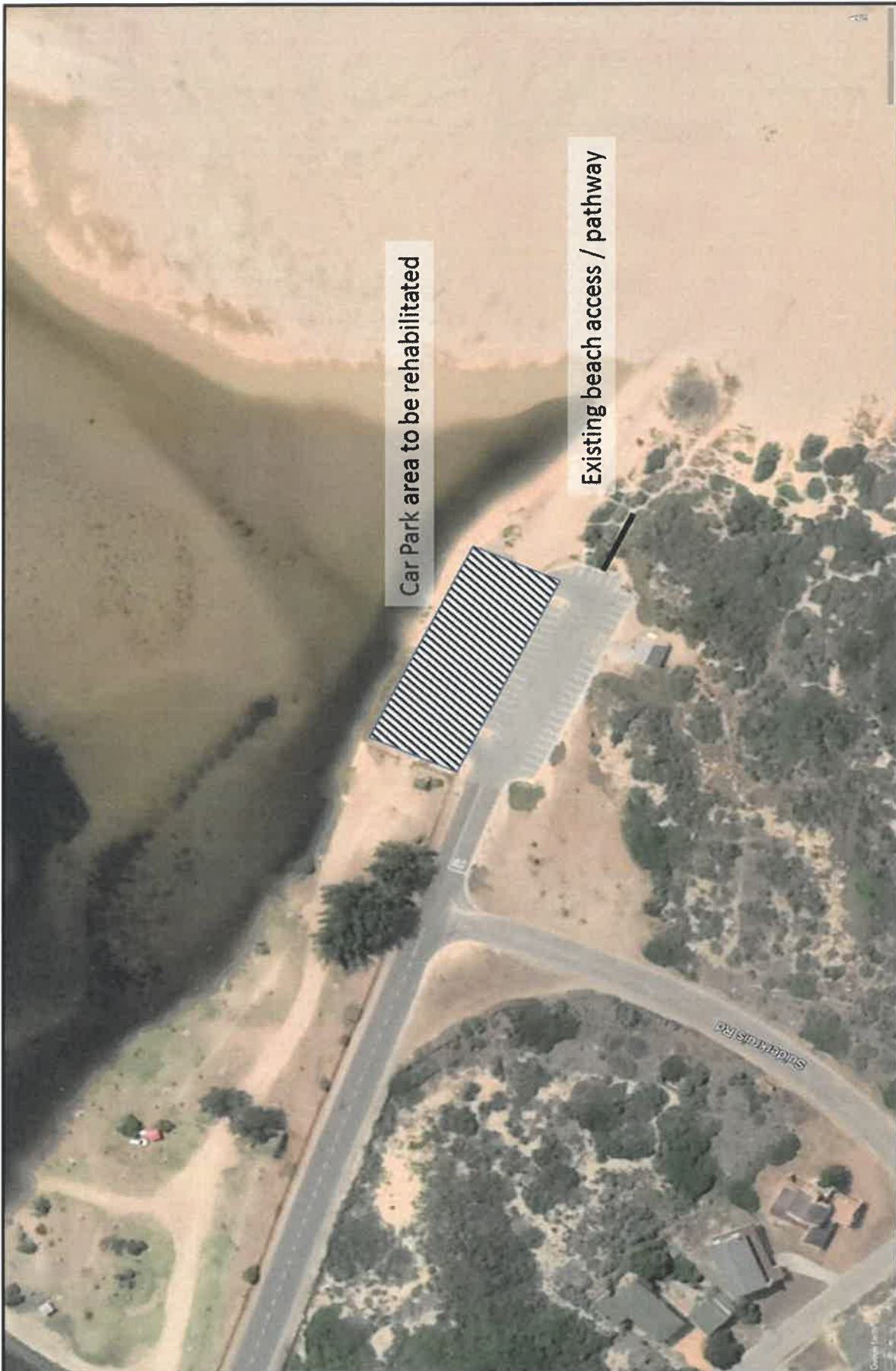


ANNEXURE 1: LOCALITY MAP





**ANNEXURE 2: SITE DEVELOPMENT PLAN FOR THE REHABILITATION OF THE CAR PARK AND COASTAL ACCESS POINT TO GAIN ACCESS TO THE BEACH**





## 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 17 January 2019, the Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 6 March 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 4 March 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.

A Pre-Application site inspection was held on 5 October 2017 and attended by representatives from Sharples Environmental Services, a representative from Lyners Consulting Engineers, Ms Jessica Christie, Mr Francois Naudé and Mr Danie Swanepoel from DEA&DP and representatives from the Mossel Bay Municipality.

A site inspection was also conducted by officials 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. Legislative Aspects

The listed Activity no. 12 of Listing Notice 3 (GN. R.985 of 4 December 2014, as amended 17 April) has not been authorised as no vegetation will be removed for the rehabilitation of the car park and the construction of a section of boardwalk will not result in the removal of more than 300 square metres.

### 2. 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 4 October 2018;
- 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 14 September 2018;
- the placing of a newspaper advertisement in the 'Mossel Bay Advertiser' on 4 October 2018; and
- making the draft Basic Assessment Report available to I&APs for public review from 23 January 2019 to 22 February 2019.

The following Organs of State provided comment on the proposal:

❖ *National Department of Environmental Affairs: Integrated Coastal Management (DEA)*

The following key aspects were raised by this State Department:

The DEA noted that the Mossel Bay Municipality did not fully engage in the assessment of plausible alternatives and advised that further assessment of alternatives be undertaken. The DEA also stated that a second boardwalk near the eastern border to the project scope should be added (i.e. the existing access route, refer to Annexure 2 of this EA). DEA also required that the boardwalk to be wheelchair friendly.

The DEA also recommended that the vegetation to be planted on the section of the car park to be rehabilitated must be locally indigenous grass and the site must be kept clear of alien invasive species.

❖ *WCG: Department of Environmental Affairs – Biodiversity and Coastal Management*

The following key aspects were raised by this State Department:

The proposed site is located within the estuarine functional zone of the Groot Brak River Estuary as well as the Coastal Protection Zone (CPZ) as delineated at the 10 metre contour line around the estuary. Development in areas that are in close proximity to the coast and in such sensitive ecological areas are usually discouraged but as the proposed development aims to facilitate and promote access to the coastal public property, the proposal is considered to be in keeping with the purpose of the CPZ.

This Directorate notes the comment of the Directorate Biodiversity and Coastal Management; however, it must be kept in mind that there are existing facilities there that provide access to the coastal public property that are under threat from coastal erosion. In the present state of the facilities, no access is affected.

Another aspect is that the proposal for the new car park falls within the 20-year erosion risk zone and will be subjected to erosion in future and as such, phase 2 of the proposal is not supported as it may negatively impact the integrity of the dune and reduce the ecological functioning thereof subjecting it to increase risk of erosion. It was further recommended that consideration be given to formalising the generalised informal access point and parking area on Orion Drive as identified in the Eden District Coastal Access Audit Report.

❖ *CapeNature*

Key aspects highlighted by this organ of state were:

CapeNature questioned the need for additional parking located adjacent to a dune system and asked if there are not more feasible and cheaper options available e.g. widening of Duine Street and Orion Drive and place parallel parking adjacent to the existing road. This would have a smaller footprint and reduce habitat fragmentation. In addition, it was stated that the boardwalks should go through already disturbed areas.

CapeNature also stated that even though the property may have undergone a level of disturbance, it can't be used as a motivation for developing within a Critical Biodiversity Area (CBA) or Ecological Support Area 2 (ESA 2).

❖ *General Public Concerns / Interested & Affected Parties (I&APs)*

A key aspect from I&APs were that they felt it to be unnecessary expenditure of funds for the proposed expansion of the car park as the area is only over crowded during the festive season; mainly around New Years.

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. However, not all issues raised by organs of state and other I&APs were adequately addressed and/or incorporated in the development proposal. Some significant negative environmental risks and impacts were identified by these organs of state which required further assessment. The Directorate: Development Management (Region 3) is not satisfied with the responses provided by the EAP to these other organs of state.

### 3. Alternatives

#### Preferred Alternative A (Herewith Approved in part):

The proposed development consists of the removal of the northern section (1340 square metres) of the existing carpark and the installation of soft erosion measures as an erosion control mitigation measure, in the form of bio jute and grass-covered soil on Farm, No. 305, Great Brak, Mossel Bay, as depicted in Annexure 2 of this Environmental Authorisation.

Only part of the of the proposed installation of erosion control measures and the proposed construction of a new car park have been approved. The proposal was described as:

*The development proposal was for a completely new carpark to the south-south-west of the current carpark; the removal of the northern half of the current carpark and replace it with a grass-covered embankment with bio jute in a phased approach, namely the initial removal of the northern portion of the current carpark and replacement with bio jute and grass-covered soil in phase 1, with initial new carpark area of 2230 square metres and then followed by the complete removal and rehabilitation of the remainder of the current carpark and addition of 1670 square metres in the form of a new carpark area, during phase 2. In addition, boardwalks were also proposed from the new car park to cross the dune system and also leading to the existing car park.*

Only the removal / rehabilitation of the northern section of the car park has been authorised as more feasible alternatives suggested were not considered nor assessed. This aspect was not only recommended by this Department but also the National Department of Environmental Affairs: Oceans and Coasts.

This "Eden District Coastal Access Audit Report" concluded in 2018 identified the Suiderkruis Parking Area and coastal access pathway as a formal coastal access point and beach access. It must be noted that the Mossel Bay Municipality participated in the coastal access audit and were informed of the outcome of the report. The development of a boardwalk along this existing pathway was not considered or assessed as an alternative in the application, as such the construction of such a facility does not form part of this authorisation. However, such a boardwalk need only be constructed to the top of the dune at the existing beach access and it is not deemed necessary to construct such a boardwalk right down to the beach as an adequate development setback from the high-water mark of the sea must be observed.

A further reason to limit the development of Phase 1, was the consideration of access to service the existing ablution facility. This facility makes use of a conservancy tank system which must be accessible to the service vehicles. Maintaining formal access to service the ablution facility, via the existing parking area, is deemed an important measure to address a significant risk.

#### Alternative B:

This alternative carpark location is to the south-south-west of the existing carpark. Development of this specific location would require the same as phase 1 of the preferred Alternative but with additional erosion measures, namely rip raps, to be installed in phase 2.

However, the removal of the current carpark would be only the northern half thereof, with the proposed new carpark area not being increased either. Subsequently, rip raps are to be constructed in place of the removed portion of the current carpark. The removed portion of carpark area would initially be re-vegetated and made into a natural recreational area, which would then be subsequently replaced by the erosion mitigation measures.

The erosion mitigation control protection offered by this alternative is more extensive and much larger in size than Alternative A. This alternative has the effect that the area retains a similar "sense of place" and visual aesthetic during the first phase but is changed once the rip rap is constructed.

It requires minimal removal of vegetation, as the proposed demolition is of an existing carpark and the new carpark location is a flat, vegetated area, adjacent to Orion Drive and approximately 65m from the current carpark's entrance and exit to Suiderkruis Road. This alternative has more financial burdens associated with it, as the extensive erosion mitigation control measures mean that the installation costs of the revetments will be a hurdle.

#### "No-Go" Alternative

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

This alternative proposes that nothing be done and because of a decision to accept this alternative, would result in the carpark continuing to erode and the likelihood of a hazardous risk to health and safety of users of the area increasing, as will the likelihood of increased pollutant material be deposited into the estuary and river mouth and the subsequent alteration in flow dynamics and sedimentation alignment. This would mean that the erosion mitigation control measures would need to be implemented in the future in any event, with the potential of legal action following damage to person(s) and/or property, for instance, as a result of a catastrophic bank collapse or flooding event.

In addition to this, the continued short-wave action on the seaward side of the current carpark would also contribute to the erosion thereof and exacerbate it. Thus, it would potentially place a much larger financial burden placed on the municipality should the status quo be chosen.

The competent authority concurs with the suggestion made by the specialist that an alternative site be considered for the proposed new parking area, namely the triangular lawn area in the corner between the existing parking and Suiderkruis Road (i.e. situated south of the intersection of Suiderkruis Road and Orion Drive). This option has not been assessed and no reasons were provided why this option was eliminated prior to the assessment.

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

### **4.1 Activity need and desirability**

Although not specifically cited, reference is made to the development of parking areas in the Western Cape Spatial Development Framework, and the proposal was to increase the parking spaces available near the existing Great Brak Estuary Mouth Public Braai Area. The proposal would have increased the number of parking bays at the beach for public recreational use (Great Brak Public Braai Area, Great Brak Estuary and the Great Brak Beach) and ensured that if a flood or high

rainfall event washed sections of the existing parking area away, there should still be ample parking and access available for recreational use for the local and surrounding communities and for visitors to the area during high peak season times. However, as noted by various comments by I&APs, the availability of parking is only a problem at New Year's times.

In the Specialist Report, mention was made to utilise an already disturbed area to construct parking without having to move into the dune area (i.e. situated south of the intersection of Suiderkruis Road and Orion Drive). This alternative was not considered by the applicant and disregarded, the reason for this was not clarified.

It is acknowledged that the proposal to construct a new parking area at the proposed location is in response to informal feedback from organs of state, but, the EIA process requires all reasonable and feasible alternatives to be assessed. In this regard, it is not clear from the assessment that the alternative parking area suggested by the specialist and an alternative access to the beach, was indeed included and can therefore not be considered at this point in time.

The ablution facility makes use of a conservancy tank system which is currently serviced from the existing parking area. Although this access point would remain during the Phase 1 development, it is evident that this aspect was not considered should the proposed Phase 2 development be implemented. The Phase 2 development does not show how access will be obtained by the service vehicle or that a waterborne sewage solution / sewer-pipes will be installed. It is therefore necessary to maintain the formal access to the ablution facility.

In this proposal, it was not clear how the mitigation hierarchy was applied to the impact assessment.

The increased effects of climate change, sea level rise and the increase in storm surges in the coastal environment are reasons for the Department to take a more cautious approach with regard to considering development along the coast. In addition, the WCG: DEA&DP Biodiversity and Coastal Management unit stated that the proposed new car park falls within the 20-year erosion risk zone and will be subjected to erosion in future and as such, phase 2 of the proposal was not supported as it may negatively impact the integrity of the dune and reduce the ecological functioning thereof subjecting it to increase risk of erosion. The development is likely to be significantly prejudiced by dynamic coastal processes.

#### 4.2 Biophysical Impacts

During the removal of the northern part of the parking area (next to the estuary) and the rehabilitation thereof will require the removal and excavation of sand and rubble causing exposure of sand to the elements that could result in localised erosion. The assessment indicated that the impact could be deemed acceptable with mitigation. The impacts associated with this portion of the proposed development are deemed acceptable. However, the likely biophysical impacts and risks associated with the development of the remaining part of Phase 1 and the proposed Phase 2 activities, including those impacts of the activities on coastal processes and vice versa, are not regarded to be acceptable. The information provided in the Basic Assessment Report identifies the portion of land to form part of the Coastal Protection Zone (CPZ). The requirements of Section 63 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (NEM:ICMA) specifically those related to biophysical aspects, as well as the purpose of the Coastal Protection Zone (CPZ), are not adequately met. Therefore, with careful consideration of these aspects, a risk averse and cautious approach has been applied.

### 4.3 Biodiversity

The portion of the property consists of areas delineated as Critical Biodiversity Area (CBA) for terrestrial, aquatic and estuarine systems. CBA regions are delineated areas that are in a natural condition that are required to meet biodiversity targets, for species, ecosystems or ecological processes and infrastructure (*Western Cape Biodiversity Spatial Plan, 2017* refers). The area also contains Ecological Support Areas (ESA), although these are classified as degraded and are areas that are not essential for meeting biodiversity targets, they do play an important role in supporting the functioning of CBAs, and are often vital for delivering ecosystem services.

The Western Cape Biodiversity Spatial Plan, 2017, identifies the vegetation units within the affected area to consist of *Cape Seashore Vegetation* (ecosystems threat status: *Least Threatened*, well protected) and *Groot Brak Dune Strandveld* (ecosystems threat status: *Endangered*, not Protected).

The portion of the property is located in a highly sensitive location, with a confluence of CBAs and where dune stability may be compromised by the construction of an additional parking areas and boardwalks within the extent of a stabilised dune system.

Due to only part of the proposal being authorised, it is anticipated that less than 100 square metres of the area mapped as a Critical Biodiversity Area (CBA) Aquatic will be physically affected by the proposed removal of the northern portion of the car park and the rehabilitation of the embankment. In addition, it is not anticipated that the integrity of the CBA will be compromised by the project as no activity will be occurring within the Groot Brak River Estuary nor the clearance of an endangered ecosystem.

### 4.4 Socio-economic Impacts

The development of Phase 1 and Phase 2 of the carpark may be regarded to be in the interest of the whole community; however, members of the community have questioned the need and desirability of the entire project especially in light of the projected cost thereof.

The proposed development is situated within coastal public property and although it may enhance the coastal public property and coastal access, in light of the expected cumulative impacts of expanding the parking area this portion of the proposed development is regarded to be inconsistent with the objective of conserving the coastal public property for the benefit of current and future generations; whereas the part of Phase 1 which has been approved, will indeed conserve the public property for future generations.

### 4.5 Other Impacts

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

## 5. Scope and Validity of the Environmental Authorisation

This environmental authorisation does not define specific operational aspects. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase. A period of 12-months is specified for the final monitoring and post-construction rehabilitation to be completed after the construction phase is finalised. 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 Holder is required to substantially implement the development within a period of 24-months after the environmental authorisation is issued.

## 6. 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.

## 7. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with an approved EMP, 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 -----