



**REFERENCE:** 16/3/3//1/D1/13/0004/18  
**ENQUIRIES:** Shireen Pullen  
**DATE OF ISSUE:** 17 SEPTEMBER 2018

Ms. Saskia Vogel  
PO Box 2532  
**PLETTENBERG BAY**  
6600

**Attention: Ms. S. Vogel**

Tel: (044) 553 5194  
Email: pa@ts.org

Dear Madam

### 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 (AS AMENDED): PROPOSED SINGLE RESIDENTIAL DWELLING (HOUSE VOGEL) AND ACCESS ROAD ON ERF 2103, PIESANG VALLEY, PLETTENBERG

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 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activity specified in section B below with respect to Alternative 1 (Preferred Alternative), described in the Final Basic Assessment Report (BAR), dated 1 June 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

% Ms. Saskia Vogel  
PO Box 2532  
**PLETTENBERG BAY**  
6600

Tel: (044) 553 5194  
Email: pa@ts.org

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><b>Listing Notice 1</b>  <b>Activity Number:</b>  <b>Activity Description:</b>                      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> <ul style="list-style-type: none"> <li>(a) will occur behind a development setback;</li> <li>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</li> <li>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</li> <li>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</li> <li>(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.</li> </ul> <p><b>Activity Number 19A</b>  <b>Activity Description:</b>                      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> <ul style="list-style-type: none"> <li>(i) the seashore;</li> <li>(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</li> <li>(iii) the sea; —</li> </ul> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <ul style="list-style-type: none"> <li>(f) will occur behind a development setback;</li> <li>(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;</li> <li>(h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</li> <li>(i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</li> <li>(j) 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.</li> </ul>	<p><b>The proposed development includes the construction of an access route across a remnant tidal channel, which will result in the moving and infilling of more than 10 cubes of soil/sand.</b></p> <p><b>The proposed single residential dwelling is proposed within 100m of the high water mark of the Piesang River Estuary and therefore will result in the moving or infilling of more than 5 cubic metres of sand/soil from the estuary/</b></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 activity as it relates to the proposed development:

**Alternative 1 (Preferred Alternative)**

The proposal entails the moving or infilling of sand/soil from an estuary or within 100 metres from an estuary to construct the following:

- a double storey dwelling and basement with a footprint of ±1300m<sup>2</sup>
- Decking / boardwalks for dwelling area ±815m<sup>2</sup>
- Access and parking areas of ±1780m<sup>2</sup>
- A pavilion for entertaining guests of ±125m<sup>2</sup>
- Decking / boardwalk for pavilion of ±135m<sup>2</sup>;
- Gatehouse of ±124m<sup>2</sup>;
- Guard house of ±23m<sup>2</sup>.

Approximately 10% of the property will be transformed by the proposed development. The rest of the property will be rehabilitated botanically as well as aquatically. The rehabilitation of the remnant tidal channel will significantly improve the functioning of the system and will support the management objectives of the Ecological Support Area 2. The preferred alternative will be undertaken approximate to the site development plan contained in Annexure 2 of this authorisation.

**C. SITE DESCRIPTION AND LOCATION**

The site where the authorised listed activity will be undertaken is known as Erf 2103 and is located off the Piesang Valley Road and adjacent to the Piesang Valley River.

Erf 2103 is divided west / east by the Piesang Valley Road and a remnant tidal channel associated with the Piesang River estuary. The piece of ground to the south of the road has a small dwelling on it. The site is very gently sloping to the north, draining into the Piesang River, which flows along the northern boundary of the site. Vehicular access to the site is via the municipal tarred road along the southern boundary.

The authorized activities will take place on approximately 10 percent of the property.

The site has the following co-ordinates:

Point	Latitude (S)	Longitude (E)
Centre of the dwelling	34° 03' 36.94" South	23° 21' 49.45" East
Pavilion	34° 03' 41.33" South	23° 21' 49.15" East
Deck/boardwalk	34° 03' 40.69" South	23° 21' 49.43" East
Access road starting point	34° 03' 42.86" South	23° 21' 50.82" East
Access Road Mid-point	34° 03' 39.68" South	23° 21' 50.98" East
Access Road end-point	34° 03' 37.06" South	23° 21' 51.00" East

The SG digit code is: C03900080000210300000

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

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

## D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Cape EAPrac (Pty) Ltd  
c/o Mrs. Melissa Mackay  
PO Box 2070  
**GEORGE**  
6530

Tel: 044 874 0365  
Fax: 044 874 0432

## E. CONDITIONS OF AUTHORISATION

### Scope of authorisation

1. The holder is authorised to undertake the listed activity specified in Section B above in accordance with and restricted to Alternative 1 as described in the Basic Assessment Report (BAR) dated 1 June 2018 on the site as described in Section C above.
2. The holder must commence with the listed activity on site within a period of three **(3) years** from the date of issue of this Environmental Authorisation.
3. The Environmental Authorisation is granted for a period of five **(5) years** from the date of issue of this authorisation and the development (listed activity) must be implemented and concluded prior to the validity period lapsing.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
5. The authorised listed activities will take place on the site as described in Section C above, and be limited to approximately 10% of the property. The remainder of property will remain undeveloped.
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.

### Written notice to the Competent Authority

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.
  - 7.1 The notice must make clear reference to the site details and EIA Reference number given above.
  - 7.2 The notice must also include proof of compliance with the following conditions described herein:  
Conditions: 8, 10, 13, 26, and 27

### Notification and administration of appeal

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

- 8.1 notify all registered Interested and Affected Parties ("I&APs") of –
    - 8.1.1 the outcome of the application;
    - 8.1.2 the reasons for the decision as included in Annexure 3;
    - 8.1.3 the date of the decision; and
    - 8.1.4 the date when the decision was issued.
  - 8.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 detailed in Section F below;
  - 8.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
  - 8.4 provide the registered I&APs with:
    - 8.4.1 the name of the holder (entity) of this Environmental Authorisation,
    - 8.4.2 name of the responsible person for this Environmental Authorisation,
    - 8.4.3 postal address of the holder,
    - 8.4.4 telephonic and fax details of the holder,
    - 8.4.5 e-mail address, if any, of the holder,
    - 8.4.6 the 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.
9. The listed activity, including site preparation, may 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.

### **Management of activity**

10. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
11. The EMPr must be included in all contract documentation for all phases of implementation.
12. Non-compliance with the EMPr constitutes non-compliance with the environmental authorization.

### **Monitoring**

13. The holder must appoint a suitably experienced environmental control officer ("ECO") for the duration of the construction phase of implementation contained herein.
14. The ECO must–
  - 14.1 be appointed prior to commencement of any construction activities commencing;
  - 14.2 ensure compliance with the EMPr and the conditions contained herein;
  - 14.3 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;
  - 14.4 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;

  - 14.5 remain employed until all development activities are concluded and the post construction and monitoring requirements are finalised.

- 14.6 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.
15. The holder may appoint a suitably experienced environmental site officer (ESO) to function in conjunction with and provide support to the ECO.  
The Environmental Site Officer (ESO) must–
- 15.1 be appointed prior to commencement of any construction activities commencing;
  - 15.2 ensure compliance with the EMPr and the conditions contained herein;
  - 15.3 inspect the site and project daily;
  - 15.4 keep record of all activities on site; problems identified; transgressions noted and a task schedule of tasks undertaken by the contractor and ESO. This information must be provided to the ECO and incorporated in the monthly compliance monitoring report; and
  - 15.5 remain employed until all development activities are concluded and the post construction and monitoring requirements are finalised.
16. 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.
17. 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

18. The holder must, for the period during which the environmental authorisation and EMPr remain valid—
- 18.1 ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited;
  - 18.2 during the construction phase, the holder must undertake annual environmental audit(s) and submit these Environmental Audit Report(s) to the Competent Authority.
  - 18.3 The final construction phase Environmental Audit Report must be submitted to the Competent Authority within **six (6) months** of completion of construction;
  - 18.4 the environmental audit report must be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise;
19. The Environmental Audit Report, must –
- 19.1 provide verifiable findings, in a structured and systematic manner, on–
    - 19.1.1 the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
    - 19.1.2 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.
  - 19.2 identify and assess any new impacts and risks as a result of undertaking the activity;
  - 19.3 evaluate the effectiveness of the EMPr;
  - 19.4 identify shortcomings in the EMPr;
  - 19.5 identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
  - 19.6 indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
  - 19.7 indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
  - 19.8 include a photographic record of the site applicable to the audit; and
  - 19.9 be informed by the ECO reports.

20. 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.

### **Specific Conditions**

21. Construction activities must remain outside of the 20 - meter wetland buffer.
22. The proposed water crossing must be designed in such a manner that will improve the flow of water between the main channel e.g. increasing the size of the culverts and placing them lower. This will reinstate some of the tidal flows, improving the available habitat and quality of the water.
23. The proposed culvert must be sized to accommodate connectivity between the wetlands or water course so that it does not result in back flooding, but to also allow for the potential rehabilitation of the central wetland area on the property.
24. Only indigenous plant species that are consistent with the identified ecosystem type must be used in the re-vegetation process. The species list mentioned in this BAR must be used as a guide.
25. All mobile toilets erected for the purposes of construction personnel must be situated outside the 1:100 year floodline.
26. All "no-go areas" must be clearly demarcated, prior to construction activities commencing.
27. A search and rescue mission must be undertaken by an independent suitably qualified Botanist, before commencement of construction and a list of these plants must be maintained. All conservation worthy vegetation must be translocated outside the construction area and be used during landscaping for areas around the building footprint. A list of these plants and where they are translocated to must be submitted to this Department upon rescue.
28. All alien invasive vegetation and old building rubble must be removed from the property in accordance with the provisions of the approved EMP.
29. Vegetation clearing must occur in parallel with the construction progress to minimize erosion and/or run-off. Large tracts of bare soil will either cause dust pollution or quickly erode and then cause sedimentation in the lower portions of the catchment.
30. No stockpiling must be allowed in the wetland area.
31. 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.
32. Heritage remains include: meteorites, archaeological and/or palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.
33. 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 activity.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with a listed activity applied for within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the 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 Competent Authority prior to the expiry date of the Environmental Authorisation.
4. The holder must 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. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:  
Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of GN No. R.982 of 4 December 2014 (as amended) or any relevant legislation that may be applicable at the 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  
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



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

DATE OF DECISION: 17/09/2018

CC: (1) Ms. M. Mackay  
(2) Mr. C. Schliemann

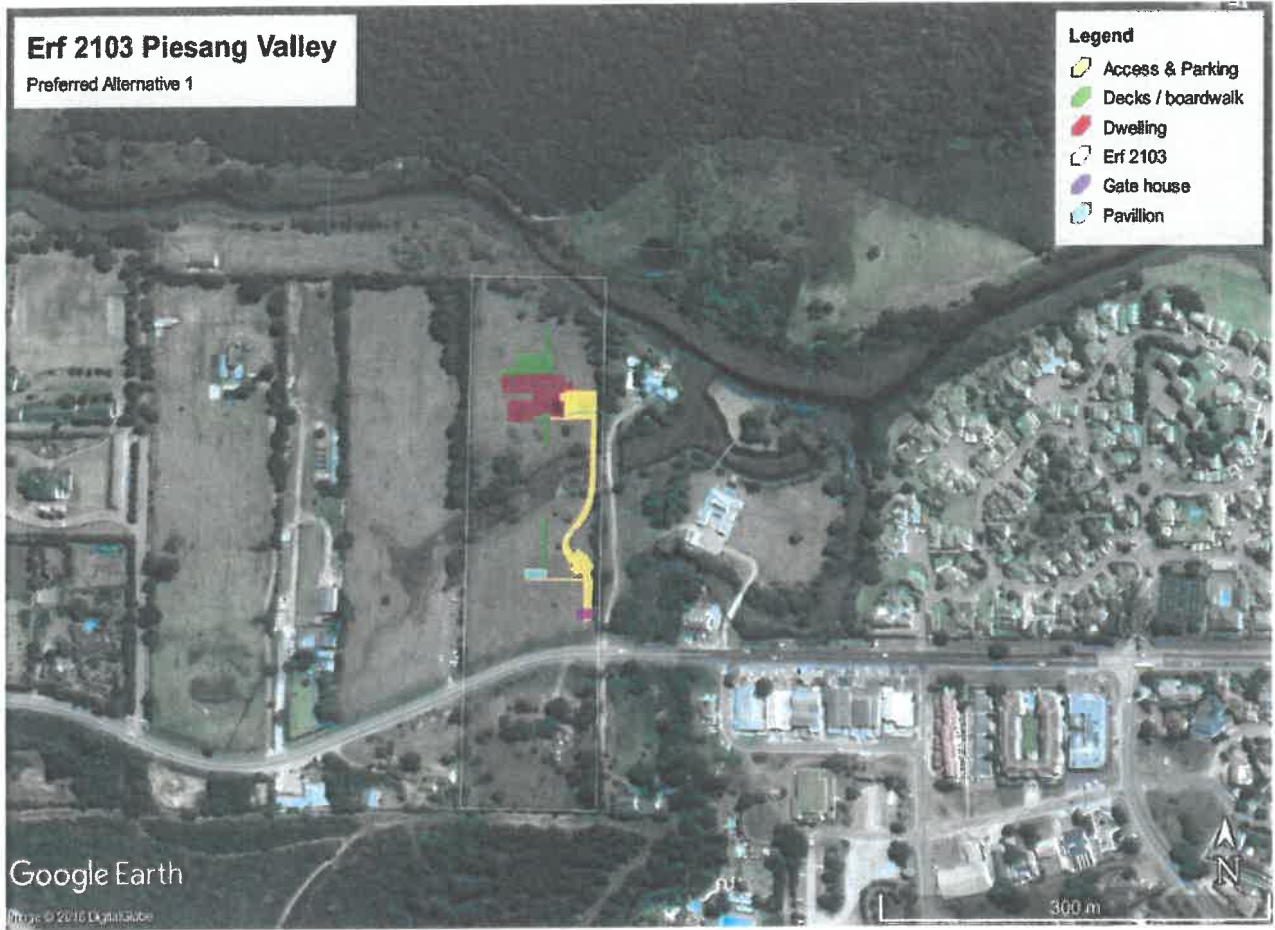
CapeEAPrac (EAP)  
Bitou Municipality (Planning)

Fax: 044 874 0432  
Fax: 086 659 7354

**ANNEXURE 1: LOCALITY MAP**



ANNEXURE 2: SITE PLAN



### **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 22 March 2018, the Basic Assessment Report received by the Department on 1 June 2018 and the EMPr submitted together with the Basic Assessment Report;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from Interested and Affected Parties (I&APs) and responses to these, included in the Basic Assessment Report dated 1 June 2018;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and

No site visits were conducted as the Competent Authority had sufficient information before it to make an informed decision without having to conduct a site visit.

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

#### **1. Public Participation**

A thorough Public Participation Process (PPP) was conducted in accordance with Regulation 41 of the NEMA EIA Regulations, 2014 and included the following:

- identification of and engagement with I&APs;
- fixing a notice board on 22 March 2018 at the site where the listed activity is to be undertaken;
- giving written notice on 20 November 2017 to the owners and occupiers of land adjacent to the site and any alternative site where the listed activity is to be undertaken, the municipality and ward councilor, and the various organs of state having jurisdiction in respect of any aspect of the listed activity);
- the placing of a newspaper advertisement in the 'Knysna-Plett Herald' on 22 March 2018;
- making the draft Basic Assessment Report available to I&APs for public review from 23 March 2018 for 30 days;
- the notification of I&APs regarding the availability of the final BAR on 30 May 2018; and
- making available copies of all reports to authorities or any other stakeholders.

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 included in this Environmental Authorisation and in the EMPr to adequately address the concerns raised by I&APs. No objections against the proposal were received from any authorities, however, one objection was received from an adjacent property owner (erf 2123).

The Breede Gouritz Catchment Management Agency (BGCMA) indicated that because the property falls within an estuary, no water use is triggered in terms of the National Water Use Act of 1998 (Act No 36 of 1998). Comments were requested from this Department's Coastal Management but no comment was received.

CapeNature did not object against the proposed development but raised concerns regarding flooding. The concerns were addressed by the EAP and the Consulting Engineers.

Notwithstanding the above, the Competent Authority is satisfied with the Environmental Assessment Practitioner's responses to the issues raised during the public participation process and has included appropriate mitigation measures and conditions in this Environmental Authorisation and the EMPr to ensure that all concerns and potential impacts are adequately addressed and mitigated.

## 2. Alternatives

No site alternatives were considered as the applicant owns the property and therefore it is the only site that was considered by the applicant for the development proposal. However, two location alternatives for the proposed development within the subject property were considered. In addition, the following alternatives were assessed.

### Alternative 1 (Preferred Alternative herewith authorised)

This alternative entails the construction of a single residential dwelling and associated infrastructure consisting of the following:

- Double storey dwelling with basement with a footprint of  $\pm 1300\text{m}^2$
- Decking / boardwalks for dwelling area  $\pm 815\text{m}^2$
- Access and parking areas of  $\pm 1780\text{m}^2$
- A pavilion for entertaining guests of  $\pm 125\text{m}^2$
- Decking / boardwalk for pavilion of  $\pm 135\text{m}^2$ ;
- Gatehouse of  $\pm 124\text{m}^2$ ;
- Guard house of  $\pm 23\text{m}^2$ .

This alternative was informed by the input or findings of the aquatic specialist, in particular with respect to the 20m buffers on the degraded tributary and the Piesang River.

### Alternative 2

This alternative entails the construction of a single residential dwelling and associated infrastructure consisting of the following:

- Double storey dwelling with basement with a footprint of  $\pm 1300\text{m}^2$
- Decking / boardwalks for dwelling area  $\pm 835\text{m}^2$
- Access and parking areas of  $\pm 1780\text{m}^2$
- A pavilion for entertaining guests of  $\pm 130\text{m}^2$
- Decking / boardwalk for pavilion of  $\pm 51\text{m}^2$ ; and
- Gatehouse of  $\pm 40\text{m}^2$ .

This was the first conceptual proposal. Although this alternative covers a slightly smaller development footprint on the property, no consideration was given to site specific environmental attributes that are potentially sensitive to any form of disturbance.

### No-go Alternative

This alternative entails maintaining the status quo. This means that there will be no development of the property and grazing will continue. This is not the applicant's preferred alternative as this will not give effect to the rights that the applicant has to construct a house on his property.

## 3. Impact Assessment and Mitigation measures

### 3.1 The site

#### 3.1.1 Vegetation

According to the BAR the vegetation type on site has been identified as endangered Garden Route Shale Fynbos across the majority of the property with a band of South Outeniqua Sandstone Fynbos with a conservation status of vulnerable along the northern end of the property.

Due to the extent of grazing on the site, only trees and shrubs relating to these vegetation types remained in certain places on the property and have become more "landscaped" than natural. There are no remnants of this vegetation types within the development areas.

#### 3.1.2 Aquatic environment

According to the BAR the property has an unnamed tributary crossing from west to east which enters into the Piesang River to the north. The river at this point is considered to be estuarine due to its salinity levels and tidal nature. The Wetland Assessment mentions that all the wetland types found within the study area form an important network of corridors and are extremely valuable for bird and fish species within the study area.

According to CapeNature, the perennial Piesang River passes adjacent to the property and the estuary is a Freshwater Ecosystem Priority Areas (FEPAs) and the proposed development will result in the destruction of a small portion of habitat classified as Ecological Support Area (ESA) 2. The proposed road access will impact approximately 390m<sup>2</sup> of the ESA 2, along an existing dirt route. The BAR however submits that rehabilitation of the remnant tidal channel will significantly improve the functioning of the system and will support the management objectives of the ESA 2.

### 3.2 Geotechnical

According to the geotechnical report the site is potentially suitable for residential development, but there are some significant geotechnical constraints, such as loose soils, shallow groundwater table and the close proximity to the Piesang River, which may affect designs and construction costs. However, specific recommendations pertaining to earthworks, foundations, driveways/parking and drainage have been offered in the report for consideration by the civil/structural engineers on how to mitigate and remedy this.

### 3.3 Wetland Assessment

According to the wetland assessment, all of the observed aquatic features showed a high degree of impact due to the land uses and land reclamation that has taken place over a period of time. Furthermore, the Present Ecological State (PES) of the systems is critically modified, while the Ecological Importance and Sensitivity for these systems were also rated Moderate even with the impacts that are existing within or adjacent to the freshwater wetland areas.

The wetland assessment concluded that the existing culvert between Erf 2103 and Erf 4369 is completely insufficient to allow water to pass through the tidal channel. It was recommended that improvements be made to this culvert, which will ultimately improve the integrity of the channel.

### 3.4 Floodline

The part of the property north of Piesang Valley Road where the development is proposed, is below the 1:100-year flood line. When the surveyor was requested to provide a floodline report, the 2014 flood level information was obtained and it was felt that no further study was required as the information is still relevant. This study was used by the surveyor to identify the footprint for the dwelling that has the least potential for flooding on the property. The report estimates 1:100 year flooding as reaching 4.03m above msl. The design and placement of the dwelling has taken this into account. Restoration Concept, berms and copses will be created to mimic the natural ecosystem and this will improve the resilience of the area.

### 3.5 Lease Agreement in terms of the Seashore Act

A lease agreement will be applied for from CapeNature once authorisation is obtained or building plan approval is granted from the Bitou Municipality. It was thus decided to wait for the EIA and planning processes before initiating any further action on the lease agreement.

### 3.6 Planning context

The property is situated inside the urban edge of Plettenberg Bay and has been identified by the Keurbooms Environs Local Area Spatial Plan ("LASP") for gap-housing and has also been adopted and approved as part of the SDF. However, the applicant wishes to develop his property by constructing his primary dwelling and to rehabilitating and managing the area on their own initiative without any need to enter into agreements with outside parties (CapeNature).

### 3.7 Need and Desirability

The proposed development is in line with the current zoning (Agriculture I) and allows for a single residential dwelling on the property. The property also falls within the urban edge and an area identified for Gap Housing in the 2013 Spatial Development Framework. However, the property is in private ownership and the applicant would like to develop its' own property by constructing his residential house on the property.

The BAR further notes that the proposed development will provide a series of temporary job opportunities during the construction phase. According to the BAR the proponent also intends to harvest water and install solar power so as not to be completely dependent on municipal services. In light of the latter the proposal also aims to give effect to the concept or principle of sustainable development.

### 3.8 Services

According to the Services report most of the municipal services are already available for connection. However, if required, a service agreement with regard to water and sewer will be entered into by the developer and the Municipality. If any increase in demand is required, augmentation fees and capital contribution in this regard will be calculated and be payable in accordance with Council's policy. The BAR and Services Report further submits that the applicant also intends to harvest water and install solar power so as not to be completely dependent on municipal services.

### 3.9 Cumulative Impacts

According to the BAR the cumulative impacts associated with the development proposal includes:

Possible Negative Impacts:

- Loss of moderate potential agriculture; and
- Loss of property identified in the 2013 SDF for Gap Housing.

Possible Positive Impacts:

- Rehabilitation of the unnamed tributary of the Piesang River
- Restoration of significantly transformed land adjacent to the Piesang River
- Additional revenue for the municipality

### 3.10 Stormwater Management

According to the EMPr most stormwater related impacts may lead to damage to both the environment and the construction activities. The EMPr states that the construction aspects of the stormwater management plan must be implemented before other construction work commences.

- The proposed culvert will be sized to accommodate connectivity between the wetlands/watercourse so that it does not result in back flooding.
- Best Management Practices in Stormwater Management will be implemented.
- Roads and parking areas will make use of the Sustainable Urban Design (SUDS) principles to minimise hard surface runoff and allow permeability.
- The principles of Low Impact Development (LID) in the design of the drainage systems will be applied.
- Rainwater tanks to be installed to assist in the management of stormwater, especially from roofs.

### 3.11 Socio-economic

The BAR submits that the proposed development will provide the nearby communities with temporary and permanent employment opportunities.

### 3.12 Waste Management

According to the BAR an Integrated Waste Management approach will be followed, which is based on avoidance, waste minimization, reduction, re-use, recycling and disposal where

appropriate. Only approved waste disposal methods will be allowed. The Contractor shall ensure that all site personnel are instructed in the proper disposal of all waste.

### 3.13 Impacts

The BAR submits that most negative impacts associated with the proposed development will occur mainly during the construction phase. These impacts include noise nuisance, erosion, visual impacts and possible cultural/heritage impacts. However, all these impacts are considered insignificant, if the mitigation measures contained in the EMPr are strictly implemented and adhered to. The loss of indigenous vegetation is also a negative impact associated with the clearance of the proposed development site, however, adherence to the EMPr provisions and conditions of this authorization will ensure that the anticipated impacts are insignificant.

The development will result in both negative and positive impacts, however, all negative impacts will be managed effectively with the strict implementation of the mitigation measures contained in the EMPr and compliance with the conditions of the environmental authorisation.

## 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:

- ***Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably.***  
The fact that the property's zoning allows for the construction of a primary dwelling, implies that the applicant has the right to construct his dwelling on the property, subject to obtaining the necessary approvals. The proposal is to live permanently on the property, whilst restoring the majority of the land from the currently transformed state to a more natural state.
- ***Sustainable development requires the consideration of all relevant factors including the following:***
  - ***That the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;***  
The preferred alternative has been developed by taking into consideration the specialist studies, avoiding any sensitive areas and ensuring that impacts are kept as low as possible. The intention to restore the majority of the property from its current degraded state to a more natural state supports the sustainability of the proposal.
  - ***That pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied;***  
The preferred alternative has been aligned to utilise disturbed areas as far as possible and avoid sensitive areas identified by the specialists.
  - ***That the disturbance of landscapes and sites that constitute the nation's cultural heritage is avoided, or where it cannot be altogether avoided, is minimised and remedied;***  
The preferred alternative is complimentary to the existing environment and has no negative impacts on the cultural heritage of the area.
  - ***That waste is avoided, or where it cannot be altogether avoided, minimised and re-used or recycled where possible and otherwise disposed of in a responsible manner;***  
Waste management must be practised as per the EMPr and in accordance with Best Practise Principles for a single residential dwelling within an urban area.



- **That the use and exploitation of non-renewable natural resources is responsible and equitable, and takes into account the consequences of the depletion of the resource;**  
The use of land has considered the loss of vegetation and impacts on the estuarine environment and this impact has been deemed low significance.
  - **That the development, use and exploitation of renewable resources and the ecosystems of which they are part do not exceed the level beyond which their integrity is jeopardised;**  
The current environmental state of the property is deemed to be degraded and the remainder of the property will benefit positively by means of rehabilitation and restoration.
  - **That a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions;**  
The specialist studies and the impact predictions for the development are based on current knowledge and expertise.
  - **That negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied.**  
The preferred alternative was informed by specialist input and aimed at avoiding significant negative impacts wherever possible.
- **Environmental management must be integrated. Acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option.**  
The preferred alternative has been determined based on specialist input and taking into consideration existing land uses the preferred alternative was identified to be the best practicable environmental option.
  - **Environmental justice must be pursued so that adverse environmental impacts shall not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.**  
The positive impacts associated with the restoration of the majority of the property benefits the ecological system associated with the Piesang River, thereby initiating an improvement that will benefit neighbouring properties.
  - **Equitable access to environmental resources, benefits and services to meet basic human needs and ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination.**  
The rights of the property allow for construction of a single residential dwelling which benefits the applicant, whilst the commitment to restore the remainder of the property spreads the benefits beyond the property.
  - **Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle.**  
The environment must be considered by the applicant for the duration of the life span of the development. This will be achieved by means of an EMP covering construction, operation and decommissioning. This includes the ongoing maintenance of the property, removal of alien vegetation within the cadastral boundaries and protection of threatened and protected species.
  - **The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured.**  
This process meets the requirements for participation by interested and affected parties.

- **Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognizing all forms of knowledge, including traditional and ordinary knowledge.**  
All inputs and issues raised by interested and affected parties were taken into account in the decision-making process.
- **Community wellbeing and empowerment must be promoted through environmental education, the raising of environmental awareness, the sharing of knowledge and experience and other appropriate means.**  
The sharing of the information obtained during this investigation, as well as the input from interested and affected parties is aimed at ensuring that all relevant parties have access to all information and are able to improve their awareness of the impacts associated with this development.
- **The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated and decisions must be appropriate in the light of such consideration and assessment.**  
All relevant information presented in the BAR was considered, assessed and evaluated and taken into account in the decision-making process.
- **Decisions must be taken in an open and transparent manner, and access to information must be provided in accordance with the law.**  
All correspondence with and information provided to the competent authority is available to anyone who requests it. The decision by DEA&DP and all relevant information, including the reasons for the decision will be communicated to all interested and affected parties.
- **There must be intergovernmental co-ordination and harmonisation of policies, legislation and actions relating to the environment.**  
All relevant state departments and organs of state were consulted as part of the public participation process to promote and encourages intergovernmental co-ordination in terms of policies, legislation, actions and strategies relating to the environment.
- **Global and international responsibilities relating to the environment must be discharged in the national interest.**  
The assessment criteria and the specialist assessment utilised global mechanisms and best practise when determining the impacts and their significance.
- **The environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage.**  
The restoration of the remainder of the property to a more ecological functional system will improve the immediate and surrounding environment, particularly the Piesang River.
- **Sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, estuaries, wetlands and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure.**  
The preferred alternative and access roads will avoid disturbance of sensitive areas wherever possible. The aquatic specialist has confirmed that the impacts associated with the single residential dwelling is low, as the restoration of the remainder of the property will lead to overall improvement of the current status of the property.

**In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation and compliance with the EMPr, the Competent Authority is satisfied that the proposed listed activity 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 activity can be mitigated to acceptable levels.**