



EIA REFERENCE NUMBER: 16/3/3/2/D1/14/0003/18
NEAS REFERENCE: WCP/EIA/0000416/2018
ENQUIRIES: Ms Jessica Christie
DATE OF ISSUE: **25 SEP 2019**

The Municipal Manager
Bitou Municipality
PO Box 26
PLETTENBERG BAY
6600

Attention: Mr. Mark Fourie

Tel: (044) 501 3224
Fax: (086) 536 1245
E-mail: mfourie@plett.gov.za

Dear Sir

NOTICE OF DECISION: APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): PROPOSED MIXED USE DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE ON NEW HORIZONS, PORTION 3,20,42 & 44 OF THE FARM HILLVIEW NO 437, A BULK SEWER PIPELINE ON PORTIONS 24, 25 & RE/2/437 OF FARM HILLVIEW NO. 437 AND A BULK WATER PIPELINE INFRASTRUCTURE IS PROPOSED ON RE/5143, RE/4513, ERF 4511, RE/5925, RE/8912 AND RE/40/437, PLETTENBERG BAY

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

Yours faithfully

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

Ms. Anje Taljaard
Mr John Sharples / Ms Betsy Ditcham
DEA&DP: DDF (Mr André Oosthuizen)

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ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): PROPOSED MIXED USE DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE ON NEW HORIZONS, PORTION 3,20,42 & 44 OF THE FARM HILLVIEW NO 437, A BULK SEWER PIPELINE ON PORTIONS 24, 25 & RE/2/437 OF FARM HILLVIEW NO. 437 AND A BULK WATER PIPELINE INFRASTRUCTURE IS PROPOSED ON RE/5143, RE/4513, ERF 4511, RE/5925, RE/8912 AND RE/40/437, PLETTENBERG BAY

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

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to **the Preferred Alternative**, described in the Final Environmental Impact Assessment Report ("FEIAR"), report no. 6/PREAPP/DSR/NEWHORIZONS/08/17 dated May 2019 as prepared and submitted by the environmental assessment practitioner, *Sharples Environmental Services cc.*

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
Bitou Municipality
% Mr. Mark Fourie
PO Box 26
PLETTENBERG BAY
6600

Tel: (044) 501 3224
Fax: 089 536 1245
E-mail: mfourie@plett.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
Government Notice No. 983 of 4 December 2014 -Listing Notice 1	
<p>Activity Number: 12(ii)(a) & (c) Activity Description:</p> <p>The development of—</p> <ul style="list-style-type: none"> (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; <p>where such development occurs—</p> <ul style="list-style-type: none"> (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; <p>excluding—</p> <ul style="list-style-type: none"> (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies; (dd) where such development occurs within an urban area; (ee) where such development occurs within existing roads, road reserves or railway line reserves; or (ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared. 	<p>The proposed mixed-use development is located within 32m from various watercourses situated on the site and the bulk water, sewage and storm water infrastructure are all proposed to be within 32m from watercourses or be within a watercourse.</p>
<p>Activity Number: 19 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> <ul style="list-style-type: none"> (a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies; (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or 	<p>The infilling or depositing of material of more than 10 cubic metres into; or the dredging, excavation, removal or moving of soil, sand, pebbles or rock of more than 10 cubic metres from the wetland associated with the proposal will be restricted to the development of the proposed bulk sewer outfall and bulk water pipelines which will cross the watercourses.</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>Activity Number: 27 Activity Description:</p> <p>The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</p> <p>(i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p>	<p>More than 20 hectares of indigenous vegetation will be cleared for the development of the mixed-use development.</p>
<p>Activity Number: 28 (ii) Activity Description:</p> <p>Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</p> <p>(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;</p> <p>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>The proposed mixed-use development, comprising of a mix of residential development (i.e. low and middle-income housing), retail and commercial development, schooling facilities, community hall, places of worship, a park and Public Open Spaces exceeding 5 hectares in size, is to be developed certainly on agricultural land.</p>
<p>Government Notice No. 984 of 4 December 2014 -Listing Notice 2</p>	
<p>Activity Number: 15 Activity Description:</p> <p>The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—</p> <p>(i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p>	<p>More than 20 hectares of indigenous vegetation will be cleared for the development of the mixed-use development.</p>
<p>Government Notice No. 985 of 4 December 2014 -Listing Notice 3</p>	
<p>Activity Number: 4 Activity Description:</p> <p>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p>i. Western Cape</p> <p>i. Areas zoned for use as public open space or equivalent zoning;</p> <p>ii. Areas outside urban areas;</p> <p>(aa) Areas containing indigenous vegetation;</p> <p>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p>	<p><i>The development of internal roads of 4 metres and wider in areas containing indigenous vegetation.</i></p>

(aa)	Areas zoned for conservation use; or	
(bb)	Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.	

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 proposal is to develop approximately 1600 erven on Portions 3, 20, 42 and 44 of the Farm Hillview No 437 comprising of a mix of low and middle-income housing, retail and commercial properties, schooling facilities, community hall, places of worship, a park and Public Open Spaces. A bulk sewerage and bulk water pipeline will be constructed that will cross watercourses. This proposal will result in the clearance of more than 20 hectares of indigenous vegetation, the transformation of agricultural land, the development of roads, the construction of infrastructure and structures within a watercourse or within 32 metres of a watercourse and the excavation, infilling or removal of sand or soil from a watercourse.

C. SITE DESCRIPTION AND LOCATION

The project site falls on the north-western edge of the Plettenberg Bay and lies directly north of the N2 highway. The city centre of Plettenberg Bay is approximately 2-kilometres south east of the site.

A mixed land-use development is proposed on Portions 3, 20, 42 and 44 of the Farm Hillview No 437 Plettenberg Bay and linear activities (i.e. a bulk outfall sewer pipeline and bulk water pipelines) will be associated with this development. The route of the bulk sewer pipeline will run from the north-eastern corner of the site to the existing Waste Water Treatment Works (WWTW) in a southerly direction mainly following the contour line and it is proposed to cross a tributary of the Bitou River. The bulk water pipelines will be placed mainly in road reserves; however, one of the bulk water pipelines will cross a watercourse on its route to the Kwanokathula upper reservoir.

The coordinates of the centre points of the farm portions for the proposed for development are:

Portion 3 of the Farm 437:	34°	02'	30.80" South	23°	20'	08.63" East
Portion 20 of the Farm 437:	34°	02'	34.15" South	23°	20'	16.67" East
Portion 42 of the Farm 437:	34°	02'	24.02" South	23°	20'	24.86" East
Portion 44 of the Farm 437:	34°	02'	24.02" South	23°	20'	32.25" East

SG digit codes for the properties:

Proposed Mixed Use Development:

Portion 3 of the Farm 437:	C03900000000043700003
Portion 20 of the Farm 437:	C03900000000043700020
Portion 42 of the Farm 437:	C03900000000043700042
Portion 44 of the Farm 437:	C03900000000043700044

Proposed Bulk Outfall Sewer Pipeline Route:

Portion 24 of the Farm 437:	C03900000000043700024
Portion 25 of the Farm 437:	C03900000000043700025
Portion 2 of the Farm 437:	C03900000000043700002

Proposed Bulk Water Pipeline Route:

RE/5143:	C03900080000514300000
RE/4513:	C03900080000451300000
Erf 4511:	C03900080000451100000
RE/5925:	C03900080000592500000
RE/8912:	C03900080000891200000
RE/40/437:	C03900000000043700040

Refer to Annexure 1 for the Locality Plan and Annexures 2A, 2B and 2C for Site Development Plans 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

% Ms Betsy Ditcham

P.O. Box 443

MILNERTON

7435

Tel: 021 554 5195

Fax: 086 575 2869

E-mail: info@sescs.net

Website: www.sescs.net

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with the Preferred Alternative described in the FEIAR dated May 2019 on the site as described in Section C above.

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

The proposal is to construct approximately 1 600 erven on Portion 3, 20, 42 and 44 of the Farm Hillview No 437 comprising of a mix of residential (i.e. low and middle-income housing opportunities), retail and commercial properties, schooling facilities, community hall, places of worship, a park and Public Open Spaces. A bulk sewerage and bulk water pipeline will be constructed that will cross watercourses. This proposal will result in the clearance of more than 20 hectares of indigenous vegetation, the transformation of agricultural land, the development of roads, the construction of infrastructure and structures within a watercourse or within 32 metres of a watercourse and the excavation, infilling or removal of sand or soil from a watercourse.

2. This Environmental Authorisation is granted for the period from date of issue until **30 September 2024**, the date on which the activities will be deemed to be concluded at the site.

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

- 2.1. The Holder must start with the physical implementation of all the authorised listed activities prior to 31 October 2021 and exceed at least the described threshold of each listed activity by this specified date at the site.

2.2. The post construction rehabilitation and monitoring requirements must be finalised at the site within a period of 12-months from the date the development activities (construction phase) are concluded; but by no later than 30 September 2024.

Failing which, this Environmental Authorisation shall lapse, unless the environmental authorisation is amended in accordance with the relevant process contemplated in the Environmental Impact Assessment Regulations promulgated under the National Environmental Management Act, 1998 (Act no. 107 of 1998).

3. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
4. The Holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the Holder.
5. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

Notification and administration of appeal

6. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1. the decision reached on the application;
 - 6.1.2. the reasons for the decision as included in Annexure 4;
 - 6.1.3. the date of the decision; and
 - 6.1.4. the date when the decision was issued.
 - 6.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;
 - 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 6.4. provide the registered I&APs with the:
 - 6.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 6.4.2. name of the responsible person for this Environmental Authorisation,
 - 6.4.3. postal address of the Holder,
 - 6.4.4. telephonic and fax details of the Holder,
 - 6.4.5. e-mail address, if any, of the Holder,
 - 6.4.6. contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
 - 6.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.

6.6. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Written notice to the Competent Authority

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.

7.1. The notice must make clear reference to the site details and EIA Reference number given above.

7.2. The notice must also include proof of compliance with the following conditions described herein:

Condition no.: 6, 8, 10 and 17.

Management of activity

8. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended to address the following aspects, and must then be re-submitted to the Competent Authority and approved prior to undertaking the development on site, including site preparation .

The holder must submit the amended EMPr to the Competent Authority at least 90-days prior to the activities commencing on the site (including site preparation). Failure to lodge the amended EMPr at least 90-days prior to the commencement of the activities on site may result in the competent authority not being able to process the EMPr and approve the amended document in time.

The amended EMPr must *inter alia*:

8.1. meet the requirements outlined in Section 24N (2) & (3) of the National Environmental Management Act, 1998 (Act no 107 of 1998, as amended);

8.2. meet the requirements as set out in Appendix 4 of the NEMA EIA Regulations 2014;

8.3. The inclusion of an Integrated Waste Management Plan that identifies the roles and responsibilities of the relevant role players (that will be responsible for the management (i.e collection, disposal and recycling) of the different types of waste (e.g. cardboard, metal, plastic, wood, saw dust, green waste) that will be generated by the proposed development and waste contractors that will be responsible for the installation and cleaning of the chemical toilets that will be established and used during the construction phase of the proposed development.

8.4. a map at an appropriate scale which superimposes the proposed activity, its associated structures, and infrastructure on the environmental sensitivities of the preferred site, indicating any areas that should be avoided, including buffers;

8.5. a detailed implementation programme for the development of the mixed land-use development and development parameters;

8.6. the development parameters for the development of low and middle-income housing opportunities must specify the development standard and final design for each residential erf and the level of housing opportunities that will be provided at each erf (i.e. serviced erven only; serviced and building platform; development fully serviced erf with top structures, etc.).

8.7. provide the waypoints for the linear activities (i.e. bulk outfall sewer pipeline and bulk water pipelines). The waypoints must be in a tabular format with co-ordinates taken at 100-meter intervals along the route and at each watercourse crossing;

8.8. the inclusion of an alien management plan for the removal and active management of alien invasive vegetation plant species ("AIS") on the properties during the non-operation phase.

- 8.9. the inclusion of a wetland rehabilitation plan as submitted to the Breede Gouritz Catchment Management Agency;
 - 8.10. incorporate an environmental auditing and monitoring schedule detailing the frequency of auditing compliance with environmental authorisation and environmental management programme and submission of environmental audit reports to the Competent Authority during the construction and the end of the rehabilitation phase. Be reminded that there is a difference between compliance monitoring and auditing as in terms of Appendix 7 of the NEMA EIA Regulations, 2014.
 - 8.11. where the project's construction phase will extend beyond a single year, the schedule must make provision for annual environmental auditing and reporting, as well as for a final environmental audit on completion of the project;
 - 8.12. Incorporate all the conditions given in this Environmental Authorisation;
9. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

10. The Holder must appoint a suitably experienced environmental control officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
11. The ECO must—
 - 11.1. be appointed prior to commencement of any works commencing on the site;
 - 11.2. ensure compliance with the EMPr and the conditions contained herein;
 - 11.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
 - 11.4. remain employed until all development activities are concluded and the post construction rehabilitation and monitoring requirements are finalised.
12. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.
13. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

14. The Holder must, for the period during which the environmental authorisation and EMPr remain valid—
 - 14.1. ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited;
 - 14.2. undertake annual environmental audit(s) during the construction phase, and the Holder must submit these Environmental Audit Report(s) to the Competent Authority.
 - 14.3. the final construction phase Environmental Audit Report(s) must be submitted to the Competent Authority within three (3) months of completion of construction activities.

15. The Environmental Audit Report, must –

- 15.1. be prepared and submitted to the Competent Authority, by an independent person, **not the ECO or EAP**, with the relevant environmental auditing expertise;
- 15.2. provide verifiable findings, in a structured and systematic manner, on–
 - 15.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 15.2.2. the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
- 15.3. identify and assess any new impacts and risks as a result of undertaking the activity;
- 15.4. evaluate the effectiveness of the EMPr;
- 15.5. identify shortcomings in the EMPr;
- 15.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
- 15.7. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
- 15.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
- 15.9. include a photographic record of the site applicable to the audit; and
- 15.10. be informed by the ECO reports.

16. The Holder must, within 7 calendar days of the submission of the audit report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

17. Final designs of the development and infrastructure (including linear activities) must be submitted to this Directorate prior to any commencement of construction. The designs must include all the designs of the infrastructure's watercourse crossings.
18. All low and middle-income housing opportunities must be completed within the specified validity period. Where the development standard for low and middle-income housing opportunities include the development of top-structures, such structures must be developed within the specified validity period.
19. The Public Open Space (POS) areas surrounding the proposed development footprint (i.e. situated on the northern, eastern and south-eastern sides) which have been excluded from development due to steep slopes and watercourses in valleys, must be utilised for a conservation use.

Furthermore, within the specified validity period, these POS areas must –

- 19.1. be appropriately zoned for a conservation use;
 - 19.2. cleared of alien invasive plant species.
20. 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, 10 or 17) prior to the physical implementation of the activities (including site preparation) is an offence. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and may be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
- 8. In the event that the Environmental Authorisation should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.
- 9. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

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

- 1. An appellant (if the Holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the Holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter as well as the decision-maker (i.e. the Competent Authority that issued the decision, namely the Director: Development Management (Region3)). -
- 2. An appellant (if NOT the Holder of the decision) must, within 20 (twenty) calendar days from the date the Holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and

- 2.2 Submit a copy of the appeal to the Holder of the decision, any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision, namely the Director: Development Management (Region3).
3. The Holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&APs and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:
- By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
CAPE TOWN
8000
- By facsimile: (021) 483 4174; or
- By hand: Attention: Mr Marius Venter (Tel: 021 483 2659)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001
- Note:** For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to Marius.Venter@westerncape.gov.za.
5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully



MR. GAVIN BENJAMIN
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION3)

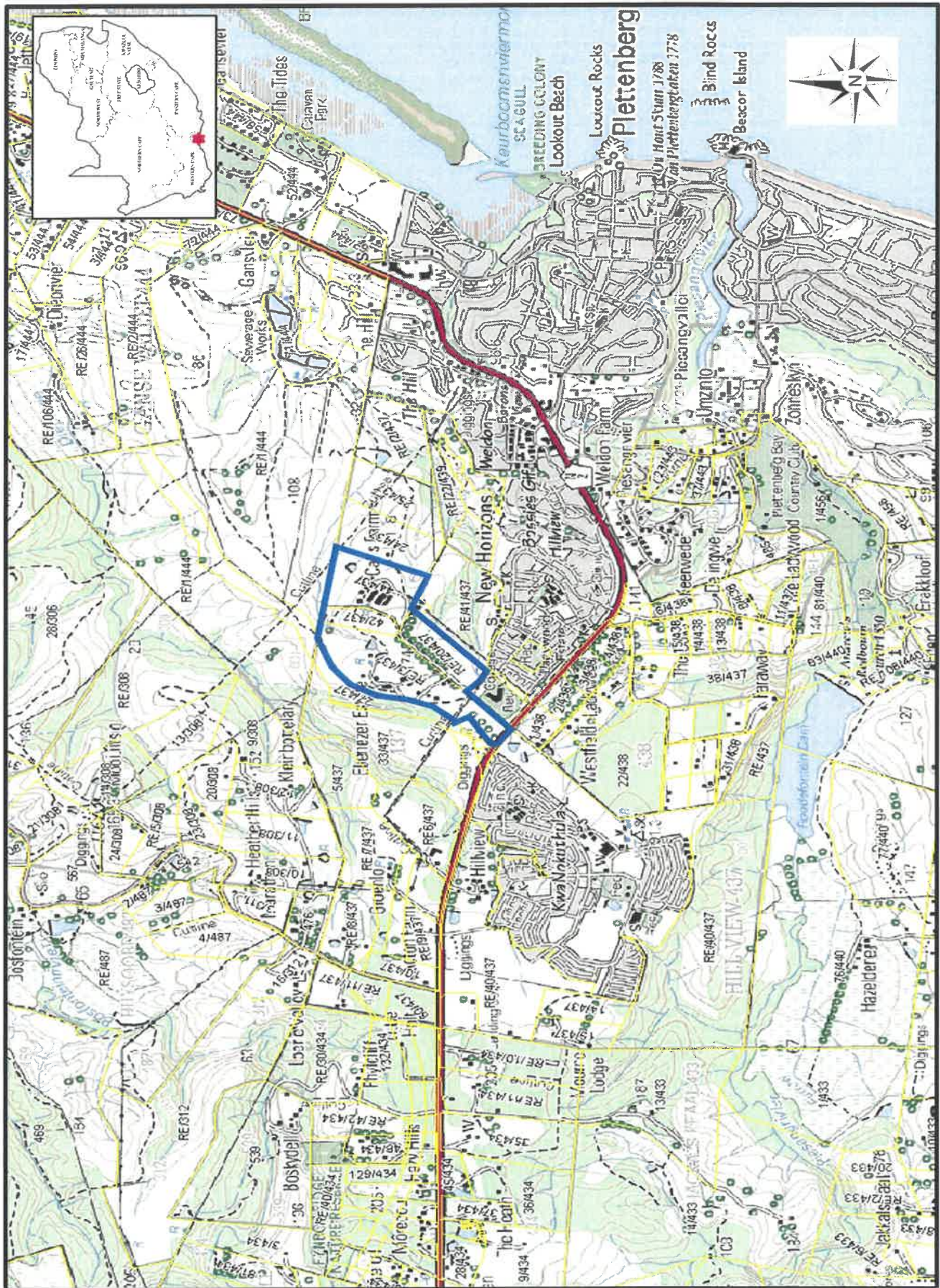
DATE OF DECISION: 25/09/2019

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/2/D1/14/0003/18

NEAS REFERENCE: WCP/EIA/0000416/2018

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2A: SITE DEVELOPMENT PLAN FOR THE PROPOSED MIXED USE DEVELOPMENT



ANNEXURE 2C: SITE DEVELOPMENT PLAN / ROUTE FOR THE PROPOSED BULK WATER PIPELINES

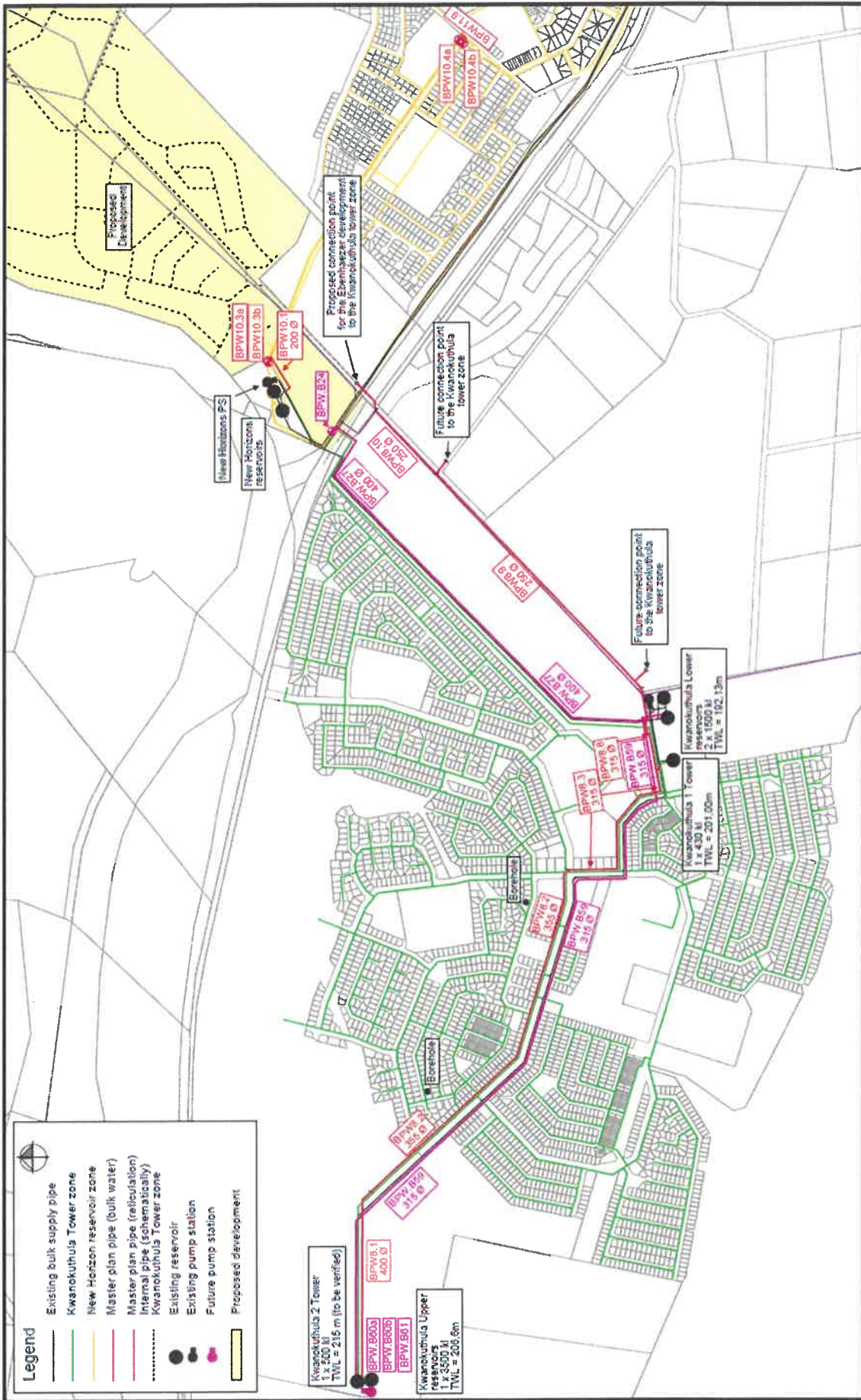


Figure 2
Proposed Development
Ebenhaezer Housing
Water Master Plan



March 2017
Ebenhaezer housing development, Plettenberg Bay



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 21 May 2018, the Final Environmental Impact Assessment Report (FEIAR) and EMPr submitted together with the FEIAR on 13 May 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 FEIAR dated May 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.

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 Requirements

Upon considering all the information provided within the Environmental Impact Assessment Report, Activity 12 and 14 of Listing Notice 3 (GN. R985, 4 December 2014, as amended 7 April 2017) is not authorised as a bioregional plan has not yet been adopted by this Department and subsequently not applicable to this application.

The application was suspended twice in accordance with Regulation 14 to deal with matters related to compliance with the legislative requirements of the Environmental Impact Assessment Regulations, 2014. The first instance was related to the correct reckoning of days, whereas the second suspension was related to the synchronisation of Water Use License Application and the EIA application. In both instances the matters could be resolved.

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 2 August 2017;
- 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 1 June 2018;
- the placing of a newspaper advertisement in the 'CXpress' on 2 August 2017 and the "Knysna-Plett Herald" on 3 August 2017; and
- making the draft Scoping Report available to I&APs for public review from 1 June 2018 to 3 July 2018; and the Draft Environmental Impact Assessment Report available for public review from 15 January 2019 to 14 February 2019 and the Revised Environmental Impact Assessment Report from 22 March 2019 to 23 April 2019.

The following Organs of State provided comment on the proposal:

- ❖ WCG: Department of Human Settlements
- ❖ Department of Environment, Forestry and Fisheries – Forestry Section
- ❖ CapeNature
- ❖ SANRAL
- ❖ WCG: Department of Health
- ❖ Garden Route District Municipality
- ❖ WCG: Department of Agriculture
- ❖ Breede Gouritz Catchment Management Agency
- ❖ Bitou Municipality

- ❖ General Public / Interested & Affected Parties (I&APs) included:
 - Neighbouring Property Owners
 - Landowners
 - Indalo Conservancy

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

3. Alternatives

Preferred Alternative (Herewith Approved):

The proposal is to construct approximately 1600 erven on Portion 3, 20, 42 & 44 of the Farm Hillview No 437 comprising of a mix of low and middle-income housing, retail and commercial properties, schooling facilities, community hall, places of worship, a park and Public Open Spaces. A bulk sewerage and bulk water pipeline will be constructed that will cross watercourses. This proposal will result in the clearance of more than 20 hectares of indigenous vegetation, the transformation of agricultural land, the development of roads, the construction of infrastructure and structures within a watercourse or within 32 metres of a watercourse and the excavation, infilling or removal of sand or soil from a watercourse.

Other Alternatives:

The site layout plan was specifically designed to avoid the Critical Biodiversity Area ("CBA") areas. In addition, the natural freshwater resources and drainage channels were specifically avoided and provided with a 32m buffer area. The man-made artificial dams of apparent low environmental sensitivity (not defined as watercourses) were however not avoided. Slopes that are greater than 1:4 were also avoided.

Social amenities and facilities were provided for on the layout plan and were specifically provided according to the guidelines in the Development Parameters for the provision of facilities within settlements in the Western Cape.

This location for the housing was chosen as an ideal location because it is the only site abutting Plettenberg Bay that is suitable for a large number of residential stands. Most importantly the entire site is located within the Plettenberg Bay Urban Edge and has been specifically set aside and planned for to be a future extension of the existing New Horizons node in various Municipal Planning Frameworks, including the Spatial Development Framework ("SDF"), Integrated Development Plan ("IDP") and the Coming Together Initiative.

The current housing situation in Bitou is that there are no alternative vacant sites within the urban edge that can be compared to investigate which site is the preferred site. Almost all sites adjacent to

Plettenberg Bay and the existing rural settlements, infrastructure, transport services etc are proposed to be infilled by subsidized housing given the phenomenal rate of population increase in Bitou and dire need to meet the housing demand.

"No-Go" Alternative

The "no-go" alternative implies a continuation of the current situation or the status quo. This will result in on-going protesting regarding housing in the area and the backlog of housing needs increasing exponentially.

4. Impact Assessment and Mitigation Measures

4.1 Activity need and desirability

The Bitou Local Municipality has experienced phenomenal population growth over the past two decades. The key challenges associated with this rate of population growth are the need for additional housing opportunities and the need for additional infrastructure services and bulk infrastructure. This development proposal speaks directly to both of these key needs in the municipal region.

The need for housing in Kwanokuthula, Plettenberg Bay and New Horizons is estimated at more than 5000 units. The IDP states that there are more than 8 000 households in need of housing in the whole Bitou area. This development of approximately 1 600 erven will make a significant contribution towards meeting this need. Together with large infill sites in Kwanokuthula and Qolweni, it will form an integrated town area while other settlements where housing is provided are more remote from the work opportunities.

The proposed development is compatible with and supports the key principles and objectives contained in the relevant key land use planning and policy documents that pertain to the Western Cape and Bitou area, including the Western Cape Provincial Spatial Development Framework (2014), Bitou Local Municipality Integrated Development Plan 2016/ 2017 and the Bitou Local Municipality Spatial Development Framework (2013). The entire proposed development is also located within the Urban Edge. The proposed site has therefore been identified as a desirable site location for housing development.

4.2 Biophysical Impacts

According to the ESRI Spatial Database on the Western Cape Department of Agriculture's Cape Farm Mapper spatial tool maps shows that approximately 60% of the site is a Class 3: Moderate Potential Arable Land Agricultural Potential, despite being located within the urban edge of Bitou. Most of portion 44 and portion 20 are classes as Class 7: Non- arable: Grazing; Woodland or Wildlife.

The area proposed for development is relatively flat with the exception of some smaller valleys formed by tributaries of the Bitou River on the northern and eastern extent of the study area. The hills slope steeply to the north and east, into the tributaries of the Bitou River.

Most of the artificial dams / impoundments on the properties "standalone" dams with no stream inflow or outflow. These are not defined as a "watercourse" (in terms of the definition of a "watercourse" in the National Water Act and in NEMA) as these are small man-made farm storage dams that have no inflow or outflow of water and therefore have a limited ecosystem services function.

4.3 Biodiversity

The CBA map indicates areas of land as well as aquatic features which must be safeguarded in their natural state if biodiversity is to persist and ecosystems are to continue functioning. The WCBF for the

area indicates that for most of the site the land cover has been transformed by urban development and little to no natural habitat remains that is worthy of conservation (on the mixed-use development site). However, the area where the proposed bulk sewer pipeline is proposed is located in a Critical Biodiversity Area. The steep slopes of the hillside and the river corridors adjacent to the site (north steep slopes) where natural vegetation still remains are mapped as CBAs.

All storm water from the proposed site will flow into rivers, wetlands and estuaries and it is therefore important to manage the storm water flow off site and ensure continual rehabilitation of the wetlands and rivers that are likely to be polluted by waste as a result of a low-cost housing development of this nature, in this location.

The Botanical Impact Assessment undertaken by Mark Berry (2016) explains that the study site is located in a typical fynbos environment on the Southern Cape coastal plain. This is confirmed by the presence of characteristic fynbos species, such as *Leucadendron salignum*, a few *Erica* species and *Restio triticeus*.

The Botanical Impact Assessment further explains that the study site is largely transformed and covered with grass (lawns and paddocks), alien trees (mostly planted), farm buildings and dwellings (Portion 3, 20 and 44). Some of the buildings are utilised for light industrial purposes, while one of the smallholdings is home to a horse riding school. Significant areas are still covered with moderate to good quality fynbos (Portion 42), notably in the north-western half of the site extending northwards towards the northern boundary. Due to the lack of a regular fire regime, the fynbos is mostly senescent (woody), with certain species becoming dominant. It is possible that some of this fynbos could be regrowth on old fallow land, which could have led to the dominance of certain *Erica* species. The latter could also be the result of senescence. Fynbos regrowth is regularly mowed on Portion 3 of the Farm 437.

4.4 Heritage Aspects

The analysis of the archaeology and palaeontology found that the impact significance on heritage resources would be low. The visual impact statement found that the visual impact would be moderate which would be reduced with mitigatory measures such as tree planting. The analysis of the cultural landscape and built environment found that there were no features or structures of significance.

4.5 Social Aspects

The development is compatible with and supports the key principles and objectives contained in the relevant key land use planning and policy documents that pertain to the area. The development will provide 1 600 residential units will enable the Bitou Municipality to address the current housing backlog in the area. This represents a significant social benefit. The establishment of schools (primary and secondary), early childhood development centres, community hall, sports fields, public open spaces, places of worship and space for retail and business activities will further enhance these benefits.

5. Scope and Validity of the Environmental Authorisation

This environmental authorisation does not define specific operational aspects. Notwithstanding the view of the EAP that the activities do include operational aspects, such aspects were not clearly demonstrated in the FEIAR or recommendations made by the EAP. The operational issues identified in the draft EMPr are not regarded to be reasonable considerations to warrant specific operational aspects within this authorisation. 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 EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

----- END -----