



REFERENCE NUMBER: 14/2/1/3/D1/15/0008/16

ENQUIRIES: Moe'mina Hoosain

BY REGISTERED MAIL

The Managing Director
JC Pine Mills
PO Box 2294
PLETTENBERG BAY
6600

Tel: (071) 518 8734
Email: jcpinemills@hotmail.com

Attention: Mr Varoll

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): THE UNLAWFUL CONSTRUCTION AND OPERATION OF A SAWMILL AND KILN ON THE REMAINDER OF FARM BUFFELSRIVIER NO. 288, PLETTENBERG BAY

With reference to your application dated 1 April 2016 and the revised application dated 29 September 2016, submitted in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

ENVIRONMENTAL AUTHORISATION

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with the

Preferred Alternative as described in the Environmental Impact Report ("EIR") dated 29 March 2017.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

JC Pine Mills
PO Box 2294
PLETTENBERG BAY
6600

Cell: (071) 518 8734

Email: jcpinemills@hotmail.com

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

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Government Notice No. R. 983 of 8 December 2014 Activity Number: 12 Activity description: <i>The development of-</i> <i>(i) canals exceeding 100 square metres in size;</i> <i>(ii) channels exceeding 100 square metres in size;</i> <i>(iii) bridges exceeding 100 square metres in size;</i> <i>(iv) dams, where the dam, including infrastructure and water surface area,</i>	The unlawful activity entails the construction of a sawmill and associated infrastructure, namely, an office, portal frame shed, kiln, water boiler, uncovered wood storage area.

<p>exceeds 100 square metres in size;</p> <p>(v) weirs, where the weir, including infrastructure and water surface area, exceeds 100 square metres in size;</p> <p>(vi) bulk storm water outlet structures exceeding 100 square metres in size;</p> <p>(vii) marinas exceeding 100 square metres in size;</p> <p>(viii) jetties exceeding 100 square metres in size;</p> <p>(ix) slipways exceeding 100 square metres in size;</p> <p>(x) buildings exceeding 100 square metres in size;</p> <p>(xi) boardwalks exceeding 100 square metres in size; or</p> <p>(xii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs-</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; -</p> <p>excluding-</p> <p>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(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;</p> <p>(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;</p> <p>(dd) where such development occurs within an urban area; or</p> <p>(ee) where such development occurs within existing roads or road reserves.</p> <p><u>Similarly listed in Government Notice No. R. 327 of 7 April 2017</u></p> <p>Activity Number: 12</p> <p>Activity description: The development of—</p> <p>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</p> <p>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p>	<p>storage area for equipment, jojo tank and septic tank.</p> <p>The sawmill is located within an unnamed tributary of the Buffels River and was constructed within 32m of an existing instream dam.</p> <p>The sawmill processes alien invasive trees into timber planks, which are sold to surrounding industries (local or provincial).</p> <p>The footprint of the unlawful activity is approximately 10 000m².</p>
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<p>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</p> <p>excluding—</p> <p>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(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;</p> <p>(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;</p> <p>(dd) where such development occurs within an urban area;</p> <p>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</p> <p>(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>	
<p>Government Notice No. R. 983 of 8 December 2014</p> <p>Activity Number: 19</p> <p>Activity description:</p> <p>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from-</p> <p>(i) a watercourse;</p> <p>(ii) the seashore; or</p> <p>(iii) 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 but excluding where such infilling, depositing, dredging, excavation, removal or moving-</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken accordance with a maintenance management plan; or</p> <p>(c) falls within the ambit of activity 21 in this</p>	<p>A sawmill was constructed within an unnamed tributary of the Buffels River and was constructed within 32m of an existing instream dam. The unnamed tributary is classified as an artificial channelled valley-bottom wetland in terms of the National Freshwater Ecosystem Priority Areas ("NFEPA") Map.</p>

<p><i>Notice, in which case that activity applies.</i></p> <p><u>Similarly listed in Government Notice No. R. 327 of 7 April 2017</u></p> <p>Activity Number: 19</p> <p>Activity description: <i>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <ul style="list-style-type: none"> <i>(a) will occur behind a development setback;</i> <i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i> <i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i> <i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i> <i>(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.</i> 	
<p>Government Notice No. R. 983 of 8 December 2014</p> <p>Activity Number: 27</p> <p>Activity description: <i>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-</i></p> <ul style="list-style-type: none"> <i>(i) the undertaking of a linear activity; or</i> <i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i> <p><u>Similarly listed in Government Notice No. R. 327 of 7 April 2017</u></p> <p>Activity Number: 27</p> <p>Activity description: <i>The clearance of an area of 1 hectares or more,</i></p>	<p>The unlawful construction of a sawmill and associated infrastructure has resulted in the clearance of approximately 1.1ha of indigenous riparian vegetation.</p>

<p>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</p> <p>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p>	
<p>Government Notice No. R. 984 of 8 December 2014</p> <p>Activity Number: 6</p> <p>Activity description:</p> <p><i>The development of facilities or infrastructure for any process or activity which requires a permit or licence in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent, excluding</i></p> <p>(i) activities which are identified and included in Listing Notice 1 of 2014;</p> <p>(ii) activities which are included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or</p> <p>(iii) the development of facilities or infrastructure for the treatment of effluent, wastewater or sewage where such facilities have a daily throughput capacity of 2000 cubic metres or less.</p> <p><u>Similarly listed in Government Notice No. R. 325 of 7 April 2017</u></p> <p>Activity Number: 6</p> <p>Activity description:</p> <p><i>The development of facilities or infrastructure for any process or activity which requires a permit or licence or an amended permit or licence in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent, excluding—</i></p> <p>(i) activities which are identified and included in Listing Notice 1 of 2014;</p> <p>(ii) activities which are included in the list of waste management activities published in terms of</p>	<p>The operation of the sawmill and kiln requires an air emissions license in terms of the National Environmental Management: Air Quality Act, 2004 (Act no. 39 of 2004).</p>

<p>section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies;</p> <p>(iii) the development of facilities or infrastructure for the treatment of effluent, polluted water, wastewater or sewage where such facilities have a daily throughput capacity of 2 000 cubic metres or less; or</p> <p>(iv) where the development is directly related to aquaculture facilities or infrastructure where the wastewater discharge capacity will not exceed 50 cubic metres per day.</p>	
<p>Government Notice No. R. 984 of 8 December 2014</p> <p>Activity Number: 28</p> <p>Activity description:</p> <p>Commencing of an activity, which requires an atmospheric emission license in terms of section 21 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), excluding</p> <p>(i) activities which are identified and included in Listing Notice 1 of 2014;</p> <p>(ii) activities which are included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies; or</p> <p>(iii) the development of facilities or infrastructure for the treatment of effluent, wastewater or sewage where such facilities have a daily throughput capacity of 2000 cubic metres or less.</p> <p><u>No longer listed in terms of the EIA Regulations, 2014, as amended on 7 April 2017</u></p>	
<p>Government Notice No. R. 985 of 8 December 2014</p> <p>Activity Number: 12</p> <p>Activity description:</p> <p>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is</p>	<p>The unlawful construction of a sawmill and associated infrastructure has</p>

<p>required for maintenance purposes undertaken in accordance with a maintenance management plan.</p> <p>(a) In Eastern Cape, Free State, Gauteng, Limpopo, North West and Western Cape provinces:</p> <p>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on even in urban areas; or</p> <p>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning.</p> <p><u>Similarly listed in Government Notice No. R. 324 of 7 April 2017</u></p> <p>Activity Number: 12</p> <p>Activity description:</p> <p>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p>	<p>resulted in the clearance of approximately 1.1ha of indigenous riparian vegetation.</p>
<p>Government Notice No. R. 985 of 8 December 2014</p> <p>Activity Number: 14</p> <p>Activity description:</p> <p>The development of-</p> <p>(i) canals exceeding 10 square metres in size ;</p> <p>(ii) channels exceeding 10 square metres in size;</p> <p>(iii) bridges exceeding 10 square metres in size;</p> <p>(iv) dams, where the dam, including infrastructure and water surface area exceeds 10 square metres in size;</p> <p>(v) weirs, where the weir, including infrastructure and water surface area exceeds 10 square metres in size;</p>	<p>The unlawful activity entails the construction of a sawmill and associated infrastructure, namely, an office, portal frame shed, kiln, water boiler, uncovered wood storage area, storage area for equipment, jojo tank and septic tank. The footprint of the unlawful activity is approximately</p>

<p>(vi) bulk storm water outlet structures exceeding 10 square metres in size;</p> <p>(vii) marinas exceeding 10 square metres in size;</p> <p>(viii) jetties exceeding 10 square metres in size;</p> <p>(ix) slipways exceeding 10 square metres in size;</p> <p>(x) buildings exceeding 10 square metres in size;</p> <p>(xi) boardwalks exceeding 10 square metres in size; or</p> <p>(xii) infrastructure or structures with a physical footprint of 10 square metres or more;</p> <p>where such development occurs</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;</p> <p>excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p> <p><u>Similarly listed in Government Notice No. R. 324 of 7 April 2017</u></p> <p>Activity Number: 14</p> <p>Activity description:</p> <p>The development of—</p> <p>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or</p> <p>(ii) infrastructure or structures with a physical footprint of 10 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse; excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p>	<p>10 000m². The sawmill is located within an unnamed tributary of the Buffels River and was constructed within 32m of an existing instream dam.</p>
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The abovementioned list is hereinafter referred to as "the listed activities".

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Remainder of Farm Buffelsrivier No. 288, Plettenberg Bay

The SG digit code is C03900000000028800000

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33 ° 56 ' 41.54 " South	23 ° 28 ' 50.85 " East
2	33 ° 56 ' 24.69 " South	23 ° 29 ' 17.67 " East
3	33 ° 57 ' 19.94 " South	23 ° 28 ' 31.62 " East
4	33 ° 57 ' 13.62 "South	23 ° 29 ' 14.51 " East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33 ° 57 ' 07.63 "South	23 ° 29 ' 04.69 "East
2	33 ° 57 ' 07.54 "South	23 ° 29 ' 08.04 " East
3	33 ° 57 ' 13.38 "South	23 ° 29 ' 04.88 "East
4	33 ° 57 ' 13.38 "South	23 ° 29 ' 05.87 "East

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

Herein-after referred to as "the site".

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")

Eco Route Environmental Consultancy

c/o Ms Samantha Robertson

Office 14, Forest Lodge Complex,

SEDGEFIELD

6573

Tel: (044) 343 2232

Fax: (086) 402 9562

Email: samantha@ecoroute.co.za

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The unlawful activity entails the construction of a sawmill and associated infrastructure, namely, an office, portal frame shed, kiln, water boiler, uncovered wood storage area, storage area for equipment, jojo tank and septic tank. The footprint of the unlawful activity is approximately 10 000m². The sawmill was constructed within 32m of an existing instream dam.

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section C above, in accordance with and restricted to the Preferred Alternative described in the EIR dated 29 March 2017, on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision for continuation of commencement of the listed activities.
3. 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.
4. Any changes to, or deviations from the scope of the alternative described in Section F 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.

PART II

Written notice to the competent authority

5. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of construction activities.

5.1 The notice must make clear reference to the site details and 24G Reference number given above.

5.2 The notice must also include proof of compliance with conditions of 5, 6 and 7.

PART III

Notification and administration of an 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 outcome of the application;

6.1.2 the reasons for the decision as included in Annexure 3;

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 Appeals Regulations, 2014* detailed in Section I 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:

6.4.1 the 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; and

6.4.6 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 *National Appeal Regulations, 2014*.

7. The listed activities, including site preparation, may not commence within 34 (thirty-four) 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.

PART IV

Management of the activity/development

8. The draft Environmental Management Programme ("EMPr") compiled by Eco Route Environmental Consulting dated January 2017, submitted as part of the application for environmental authorisation, must be amended to include the recommendations of the following documents:

8.1 The Freshwater Specialist Opinion of August 2016;

8.2 The Draft Riparian Rehabilitation Plan of October 2016;

8.3 The Guideline to the Stormwater and Erosion Plan of January 2017; and

8.4 The Vegetation Sensitivity Analysis of August 2016

9. The amended EMPr must be submitted to this Department for approval within **three (3) months** of the date of issue of this environmental authorisation.

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

PART V

Monitoring

11. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") before continuation of commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.

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 activity/ies, and must be made available to anyone on request, including a publicly accessible website (if applicable).

13. Access to the site referred to in Section D 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.

PART VI

Auditing

14. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and submit Environmental Audit Reports to the competent authority on a bi-annual basis and/or upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

The holder must, within 7 (seven) days of the submission of the 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).

PART VII

Activity/ Development Specific Conditions

15. 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 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.

16. A qualified archaeologist and/or paleontologist 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.

H. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, 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 must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application, but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid

pending the finalisation of the amendment application.

(3) It is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the competent authority has not granted an environmental authorisation for the undertaking of the activity.

4. The holder 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* 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 the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –

- 1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –

- 2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and

the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and 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. This appeal and responding statement must be submitted to the address listed below:

By post: Attention: Jaap de Villiers
Western Cape Ministry of Local Government, Environmental Affairs &
Development Planning
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Jaap de Villiers (Tel: 021-483 3721)
Room 809, 8th floor Utilitas Building
1 Dorp Street, Cape Town, 8000; or

By e-mail: Jaap.DeVilliers@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator 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 the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, the Municipality, 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.

Yours faithfully



ADV. CHARMAINE MARÉ
DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: 19 September 2018

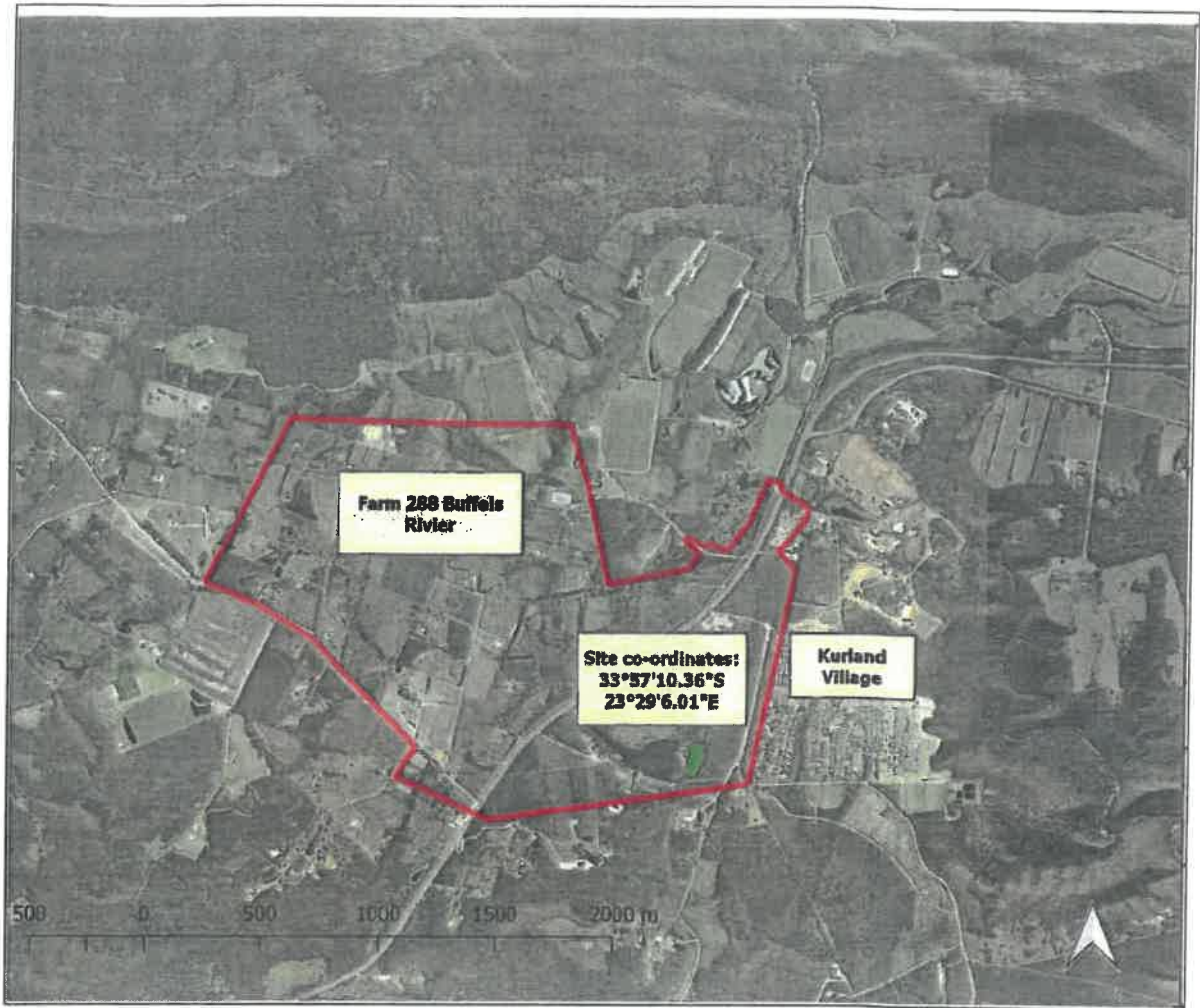
CC:(1) S. Robertson (Eco Route Environmental Consultancy)

Fax: (086) 402 9562
Email: samantha@ecoroute.co.za

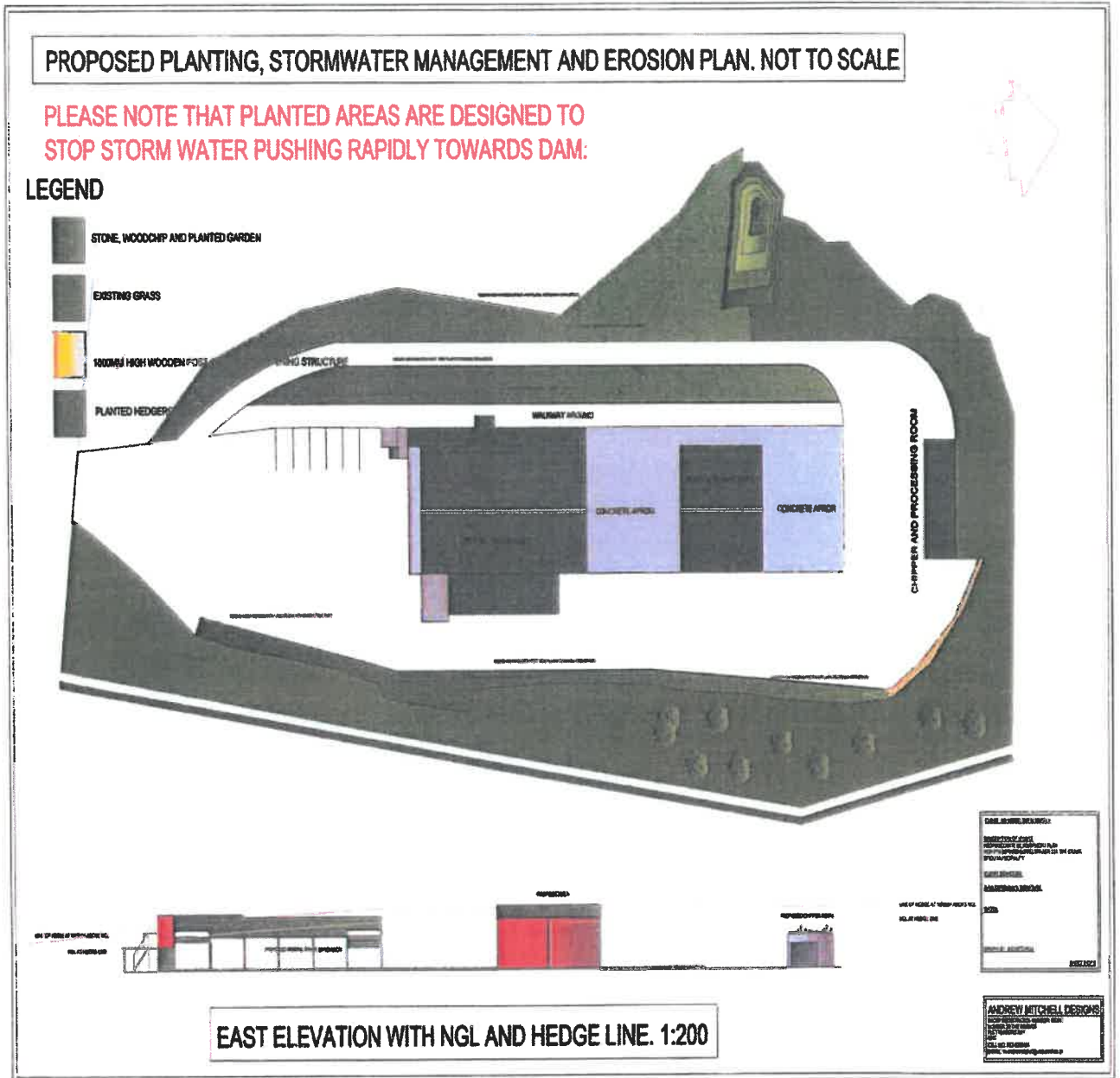
(2) C. Basson (Bitou Municipality)

Fax: (044) 533 6198
Email: cbasson@plet.gov.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



FOR OFFICIAL USE ONLY:

S24G REFERENCE:

14/2/1/3/D1/15/0008/16

ANNEXURE 3: REASONS FOR THE DECISION

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R150 000 (One hundred and Fifty thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 1 April 2016 and the revised application dated 29 September 2016, Environmental Impact Assessment ("EIA") Report dated 29 March 2017 and the EMPr dated January 2017, submitted together with the EIA report.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- f) The site visit conducted on:
Date: 20 April 2017
Attended by: Zaidah Toefy and Moe'mina Hoosain.
- g) The appeal decision on the 24G administrative fine dated 6 July 2018.

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 which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- identification of and engagement with I&APs.
- fixing a notice board at the site where the listed activities unlawfully commenced on Minor Road 7220.
- the placing of a newspaper advertisement in the **Knysna-Plett Herald** on 6 October 2016 and **Cxpress** on 5 October 2016.
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities were undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 7 October 2016 and 19 January 2017, respectively.
- I&APs were afforded the opportunity to provide comments on the draft and final EIRs on 7 October 2016 and 19 January 2017, respectively.
- I&APs were afforded the opportunity to provide comments on additional information (Water Heater Emissions Report) on 14 February 2017.

Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- CapeNature
- The Directorate: Waste Management Licencing
- The Directorate: Development Management (Region 3)
- The Department of Transport and Public Works
- Heritage Western Cape
- Eden District Municipality
- Breede-Gouritz Catchment Management Agency

- Western Cape Department of Agriculture
- Western Cape Department of Health

CapeNature emphasized that the mitigation measures and recommendations of the EIR must be adhered to. The rehabilitation of the riparian area was viewed as a positive proposal. The landowner's responsibilities, with regards to alien clearing and possible permit requirements for such clearing on the property, was highlighted.

The Directorate: Waste Management Licencing stated that the type and estimated amount of waste produced during the construction phase must be provided. The EAP responded that the applicant has no record of this. However, the site was measured and material quantities were calculated, which revealed that a very small quantity of construction waste was disposed of.

It was requested that the amount of untreated sawdust that is provided to the surrounding community be quantified and that proof of delivery be retained by the facility. The EAP responded that the operation produces approximately 20m³ (or less) of waste per day, approximately 5-7m³ of which contains sawdust. The remaining waste consists of hard timber which is taken by the local brickyard and the residents of Kurland. The sawdust is also provided to local businesses in the area. Proof of delivery will be retained by the facility.

The thresholds waste pertaining to the National Norms and Standards for the Storage of Waste in terms of Government Notice No. 926 of the *National Environmental Management: Waste Act, 2008*, were provided to the applicant/EAP.

The Directorate: Development Management (Region 3) highlighted certain aspects to be included in the Stormwater Management Plan pertaining to runoff and the provision of services by the Bitou Municipality. In addition, recommendations made by the specialist in the Water Heater Emissions Report must be strictly implemented. The recommendations made by Eden District Municipality to decrease the current noise levels at the sawmill, were supported.

The Department of Transport and Public Works stated that they were not provided the opportunity to comment on the land use application for temporary departure. The

EAP responded that the land use applications were submitted by Beacon Survey and that all queries must be directed to them.

Heritage Western Cape stated that there is no reason to believe that the proposed sawmill and kiln will impact on heritage resources.

Eden District Municipality (EDM) provided requirements pertaining to drinking water, ablution facilities, domestic waste, stormwater, sawdust pollution. With regards to noise impacts, EDM recommended that the plant can be enclosed by acoustic covers and that the facility use sound absorbing material. It was also recommended that air emissions and noise impact tests should be conducted on a yearly basis to ensure compliance with the relevant legislation. The applicant was advised of the requirement for an Air Emissions License (AEL) in terms of the *National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004)*.

The Breede-Gouritz Catchment Management Agency (BGCMA) acknowledged an application for a Water Use License application.

The Department of Agriculture had no comments on the application.

The Western Cape Department of Health stated that there must be an adequate supply of potable water for domestic use. Sewage must be contained in the conservancy tank and removed by Bitou Municipality. Furthermore, it was stated that the disposal of untreated sewage as well as excessive smoke emanating from the kiln, is not permitted. The same applies to the treatment of wood with chemicals without consent. Dust, noise pollution, surface water and groundwater pollution must also be prevented. Lastly, the Environmental Management Programme ("EMPr") must address nuisance and environmental pollution on site.

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

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

2.1 Site Alternatives

The site chosen for the activity has existing access for large vehicles and for the efficient gathering and collection of alien plant timber. The site utilises an existing access road and is strategically placed to reduce visual impacts from Minor Road 7220.

2.2 Activity Alternatives

No activity alternatives exists as the sawmill services the needs of the timber industry with timber planks.

2.3 Design/Layout Alternatives

An environmental noise survey was undertaken by SafeTech and the Eden District Municipality. Both assessments recommended that the sawmill reduce its noise impacts by enclosing machinery and the plant with acoustic covers and sound absorbing material. It was advised that machines should be fitted with silencers to reduce the level of noise produced.

2.4 Technology Alternatives

2.4.1 Wood-drying with a water heater (Preferred Alternative)

-This alternative makes use of waste wood by-products of the sawmill. This is preferred as it reduces the amount of waste wood stored on site and reduces the risk of fires. This is particularly important since the Craggs area is prone to fires.

-A water heater allows for a quicker turnaround time as opposed to solar heater drying.

-The quality of the finished product is easily controlled and kept consistent as opposed to solar drying, which could split and warp the wood (low quality product).

The disadvantage of using a water heater to dry wood is its impact on air quality. However, according to the Water Heater Emissions Report dated 11

January 2016, particulate emissions from the water heater will have minimal effect on the receiving environment.

2.4.2 Wood-drying with a solar kiln

This alternative is not preferred as it the drying takes longer than the alternative water heater.

2.4.3 Utilising wet wood to operate the water heater

The operation of the water heater currently utilizes wet wood from the sawmill as fuel. However, this has resulted in elevated levels of particulate matter (PM) emissions.

2.4.4 Utilising dry wood to operate the water heater (Preferred Alternative)

This alternative entails using dry wood to operate the water heater, as it will decrease PM emissions. This alternative is preferred as recommended in the Water Heater Emissions Report dated 11 January 2016.

2.5 The option of not implementing or continuing with the activity ("No-Go" Alternative)

The "no-go" alternative entails ceasing the activity and abandoning the establishment and operation of the sawmill facility. This alternative is not preferred as JC Pine Mills intends to service the needs of the timber industry. If the land is to be cultivated according to its original zoning of Agriculture, the land would need to be rehabilitated and the relevant authorisations would be required. The site chosen for the activity has existing access for large vehicles and for the efficient gathering and collection of alien plant timber. The site utilises an existing access road and is strategically placed to reduce visual impacts from Minor Road 7220.

3. **Environmental Impact Assessment (EIA) and Mitigation Measures**

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

3.1. Activity Need and Desirability

According to the EIR, the sawmill was developed to rehabilitate the farm and the surrounding area, whilst simultaneously providing a service to the timber

industry. The activity also creates approximately forty (40) permanent employment opportunities. According to the Bitou Municipality Integrated Development Plan ("IDP") (2012-2017), one of the priority projects within each of the industry categories is "Agriculture: *Establishment of a sawmill and development of forestry and milling industry in the municipal area*". The sawmill also supplies offcuts of wood to the local community.

3.2. Regional/ Planning Context

The property is currently zoned as Agriculture Zone I. An application for a temporary departure has been made to Bitou Local Municipality as the activity is classified as Light Industrial. The development is situated outside the urban edge, according to the Bitou Local Municipal Spatial Development Framework, 2013 ("SDF"), and the Western Cape Provincial Spatial Development Framework, 2009. Land use in the area consists primarily of natural and agricultural use. The closest urban development is the Kurland village and the town of Plettenberg Bay.

The development was not provided for in the municipality's infrastructure planning. The site has been earmarked for affordable/low income housing within the Kurland area. However, this is dependent on an agreement between the landowner and the municipality.

3.3. Physical/Geographical impacts

The unlawful activity has resulted in the loss of vegetation, soil compaction/hardened areas and increased runoff rates. According to the Freshwater Specialist Opinion dated August 2016, the site has been subjected to disturbance during the construction of the dam as well as farming activities and grazing prior to the construction of the sawmill. During times of heavy rainfall, a significant amount of stormwater flows from the sawmill site into the dam. According to the EIR, runoff is collected from roofs.

Stormwater runoff from the sawmill site can result in a decrease in water quality downstream of the site and an increase in turbidity of the water. Loss of riparian vegetation around the site may result in erosion and sedimentation into the dam. According to the Guideline to the Stormwater Management Plan dated January 2017, the risk of soil erosion must be mitigated by planting gardens, or by

utilising swales. The design for this site makes use of stone, woodchip and planted gardens. No walls, fences, or machinery and equipment may obstruct or encroach on the adjacent watercourse.

3.4. Freshwater Impacts

The unlawful activity resulted in the loss of riparian vegetation associated with the unnamed tributary of the Buffels River. The dam area is classified as an artificial National Freshwater Ecological Priority Area ("NFEPA") wetland and consists of Tsitsikamma Sandstone Fynbos vegetation (conservation status as 'Least Threatened'). At the time of the freshwater assessment, the tributary was classified as a Critical Biodiversity Area with the dam falling within the Critical Biodiversity Area buffer. The classification of the site has since changed to that of an Ecological Support Area. The channelled valley-bottom wetland has significance from an ecological perspective and it is held that wetland FEPAs in a good ecological condition should be managed to maintain this condition. Those ecosystems currently in average ecological condition should be rehabilitated to the best attainable ecological state.

The area surrounding the sawmill is heavily infested with alien invasive species such as Black wattle (*Acacia Mearnsii*) and Luisboom (*Solanum mauritianum*). The original watercourse of the Buffels River has been extensively modified from its original state by former farming and quarrying activities, followed by the construction of the dam. According to the Freshwater Specialist Opinion dated August 2016, the site was in a largely modified state, prior to construction of the sawmill.

It was recommended that the riparian zones of the streams (20m buffer area) within the farm should be rehabilitated (to remove alien invasive plants) and re-vegetated with suitable vegetation, to prevent any further degrading of the lower freshwater system.

3.5. Biodiversity Impacts

A Vegetation Sensitivity Analysis of August 2016 concluded that the area is heavily infested with alien invasive plants, and that the artificial dam has secured higher ecological importance. It was recommended that appropriate soil erosion control measures be implemented. In addition, effluent must be

controlled, to avoid adversely affecting surrounding freshwater ecosystems. A draft Riparian Rehabilitation Plan dated October 2016 was compiled by Eco Route Environmental Consultancy for implementation.

3.6. Visual Impacts / Sense of Place

The operation of the sawmill is not visible from the N2 and is at a lower elevation than Minor Road 7220. During the operational phase, the sawmill facility has a permanent visual impact from an aerial view. The facility is in keeping with the sense of place as the surrounding area is zoned for light industry and agriculture.

3.7. Noise Impacts

An Environmental Noise Survey was conducted by Safe Tech on 24 November 2015 identified the following noise sources: production operations from the sawmill, noise from the chipper plant at the sawmill, vehicular traffic from the N2 and Forest Hall road, farm activities (grass cutting, tractors) and grinding/metal-working noise from the nearby township. The dominant noise source was found to be the chipper plant. A noise complaint was received from a winery located approximately 600m from the chipper plant.

Noise readings were taken during the day while the plant was operational as well as when the plant was not operational. The assessment found that the operation of the sawmill is not a disturbing noise, as defined in the *Western Cape Noise Control Regulations, 2013*. However, in order to reduce noise impacts from operations, it was recommended that the chipper be installed in a permanent structure. This would serve to reduce the noise levels on the property boundary, especially the north eastern portion in close proximity to Kurland Village.

The Eden District Municipality conducted a noise survey on 29 September 2016. Results revealed that noise levels were affected by the westerly wind blowing towards the facility. It was recommended that noise impacts be mitigated by acoustic covers and the use of sound-absorbing material. Noise control can be achieved by proper design, layout and suitable materials. Following the noise assessments, the use of the chipper plant was decommissioned.

3.8. Air Quality Impacts

On 1 December 2015, Yellow Tree Consulting conducted air emissions testing at the facility. The sawmill facility triggers a listed activity under Subcategory 9.5: *Wood burning, drying and the production of manufactured wood products*, and requires an Air Emissions License ("AEL") in terms of the *National Environmental Management: Air Quality Act, 2004*. JC Pine Mills is currently in the process of obtaining an AEL.

According to the Water Heater Emissions Report dated 11 January 2016, the combustion of waste wood to raise energy is mainly confined to industries where wood is available as a by-product. In addition to providing energy to these industries, the combustion of waste wood alleviates solid waste disposal requirements at a municipal level.

Particulate Matter ("PM") emissions from the water heater (used for the drying of wood) at JC Pine Mills were 189 mg/Nm³ and only marginally exceeded the limit of 150 mg/Nm³. The small size of the water heater and the fact that PM emissions only marginally exceeded the limit indicates that the water heater at JC Pine Mills does not contribute significantly to air pollution in the area. However, it was noted that sawdust around the site causes dust pollution and small-scale health impacts. The Water Heater Emissions Report made recommendations to be implemented for the operational phase.

3.9 Waste Impacts

According to the EIR, no wood is disposed of. The operation produces approximately 20m³ or less of waste per day (sawdust and mostly hard timber) which is supplied to neighbouring industries (the local brickyard) and the residents of Kurland Village.

It was noted in the Freshwater Specialist Opinion dated August 2016, that the area west of the sawmill (adjacent to the dam) is also currently used as a dumping area for unused equipment and machinery parts. According to the EMPr, all equipment that is being stored on the banks of the dam need to be removed and stored appropriately within a designated equipment area.

The client has stated that no chemicals are used on site. A septic tank system is used for effluent generated on site. The effluent (approximately 5000L) is regularly collected by Bitou Local Municipality.

4. Socio-economic Impacts

The present development would benefit the expansion of Kurland village by providing employment opportunities should the municipality decide to implement BNG Housing in the area.

5. Services/ Bulk Infrastructure

Sewage collection services are provided by the municipality. Power supply is provided by Eskom and water is sourced mostly from rainwater. New, energy efficient machinery is being used at the facility.

6. **NEMA 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.

The development will result in both negative and positive impacts.

Negative Impacts:

- Loss of indigenous riparian vegetation;
- Further degradation of the freshwater system;
- Increased stormwater runoff;
- Increased risk of soil erosion; and
- Noise and dust pollution

Positive impacts:

- Employment opportunities have been created for the local community;
- The sawmill processes alien invasive trees into usable, non-treated wood; and
- The local community is supplied with waste wood for use as fire food.

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 listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

END