



**REFERENCE:** 16/3/3/1/D6/3/0003/23  
**ENQUIRIES:** Shireen Pullen  
**DATE OF ISSUE:** 14 AUGUST 2023

The Board of Directors  
Orbaai (Pty) Ltd  
PO Box 1889  
**MOSSEL BAY**  
6600

**Attention: Ms. Dianne Orban**

Cell: 0769442710

Email: [dianne@oatrael.co.za](mailto:dianne@oatrael.co.za)

Dear Madam

## ENVIRONMENTAL AUTHORISATION

### APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: PROPOSED ORBAAI VILLAGE ON A PORTION OF PORTION 31 OF FARM BUFFELSFONTEIN 250, BOGGOMS BAY, MOSSEL 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 Basic Assessment Report ("FBAR"), dated 8 May 2023 as prepared and submitted by Cape EAPrac (Pty) Ltd, the appointed Environmental Assessment Practitioner ("EAP") on 8 May 2023.

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 Board of Directors  
Orbaai (Pty) Ltd  
Ms. Dianne Orban  
PO Box 1889  
**MOSSEL BAY**  
6600

Cell: 0769442710  
 Email: dianne@oatravel.co.za

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

**B. LIST OF ACTIVITIES AUTHORISED**

| Listed Activities  | Activity/Project Description  |
|--|---|
| <b>Environmental Impact Assessment Regulations Listing Notice 1 of 2014,<br/>           Government Notice No. 983 of 4 December 2014</b>   |   |
| <p>Activity Number: <b>27</b><br/>           Activity Description:<br/> <i>The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i><br/>           (i) <i>the undertaking of a linear activity;</i><br/>           (ii) <i>or maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>  | <p>The proposal will result in the clearance of approximately 1 hectare of Canca Limestone Fynbos vegetation. This is for the erven and road infrastructure. The ultimate final disturbance area of the proposed development (including the existing sandpiper development and the existing reservoir will cumulatively result in the permanent disturbance area of 2,2 hectares of the property. The rest of the property will remain "agriculture".</p> |
| <b>Environmental Impact Assessment Regulations Listing Notice 3 of 2014,<br/>           Government Notice No. 985 of 4 December 2014</b>   |   |
| <p>Activity Number: 4<br/>           Activity Description:<br/> <i>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</i><br/>           i. <i>Western Cape</i><br/>             i) <i>Areas zoned for use as public open space or equivalent zoning;</i><br/>             ii) <i>Areas outside urban areas;</i><br/>             iii) <i>Areas containing indigenous vegetation;</i><br/>             iv) <i>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</i><br/>             v) <i>Inside urban areas:</i><br/>               a) <i>Areas zoned for conservation use; or</i><br/>               b) <i>Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</i></p> | <p>The internal roads network will comprise of roads that may exceed 4m in width allowing for passing bays.</p>   |

The abovementioned list is hereinafter referred to as "**the listed activities**".

The Holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development and development footprint.

The proposal entails the development of a residential estate consisting of the following:

- 12 single residential properties of approximately  $\pm 757\text{m}^2$  each, with a single storey dwelling house on each property;
- Private open space to retain natural vegetation with provision for fire breaks and internal minor corridor in a nodal layout;
- 3 guestrooms to be added to the existing Sandpiper Leisure Centre (tourist facility);
- Internal narrow gravel roads with passing spaces;
- Firebreaks inside the development footprint, as well as the inclusion of firewise landscaping to reduce the risk of fire; and
- Main access will only be via Bonito Street (existing access to Sandpiper Centre).

The development will be implemented approximate to the site development plan contained in Annexure 2 of this authorisation.

### C. SITE DESCRIPTION AND LOCATION

The property is largely vacant and, except for the water tower, servitude roads, primary dwelling and existing Sandpiper Leisure Centre. The property is located along the northern boundary of Boggomsbaai and is surrounded by two farms (north & west), Kleinbos eco-estate on the east and residential homes on the south. The Boggomsbaai Golf Course borders the property to the West.

Access to the proposed development will be via Bonito Street (existing access to SandPiper Centre).

The coordinates of the centre of the proposed development footprint site:

| Latitude (S)         | Longitude (E)       |
|----------------------|---------------------|
| 34° 15' 42.11" South | 21° 54' 34.31" East |

SG 21 Digit code: C05100000000025000031

Refer to Annexure 1: Locality Plan and Annexure 2 of this Environmental Authorisation.

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

### D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Cape EAPrac (Pty) Ltd  
% Ms Louise-Marie van Zyl  
P.O. Box 2070  
GEORGE  
6530

Tel: 044 874 0365  
E-mail: [louise@cape-eaprac.co.za](mailto:louise@cape-eaprac.co.za)  
Website: [www.cape-eaprac.co.za](http://www.cape-eaprac.co.za)

## **E. CONDITIONS OF AUTHORISATION**

### ***Scope and Validity Period of authorisation***

1. This Environmental Authorisation is granted for–
  - 1.1 A period from the date of issue until **28 August 2028**, during which period the holder must commence with the authorised listed activities; and
  - 1.2 A period from the date the holder commenced with an authorised listed activities until **28 August 2038**, during which period the authorised listed activities must be concluded, including all post construction rehabilitation and monitoring requirements at the site.
2. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with a part of the Preferred Alternative, as described in Section C above.

The proposal entails the development of a residential estate consisting of the following:

- 12 single residential properties of approximately ±757m<sup>2</sup> each, with a single storey dwelling house on each property;
- Private open space to retain natural vegetation with provision for fire breaks and internal minor corridor in a nodal layout;
- 3 guestrooms to be added to the existing Sandpiper Leisure Centre (tourist facility);
- Internal narrow gravel roads with passing spaces;
- Firebreaks inside the development footprint, as well as the inclusion of firewise landscaping to reduce the risk of fire; and
- Main access will only be via Bonito Street (existing access to Sandpiper Centre).

The development will be implemented approximate to the site development plan contained in Annexure 2 of this authorisation.

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:

#### **Conditions Number: 6, 9 & 11**

8. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities of the—
  - 8.1. bulk internal service infrastructure (i.e. internal roads; water, electricity reticulation and bulk storm water); and
  - 8.2. final phase of the construction of the units.

### **Management of activity**

9. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended to incorporate the following —
  - 9.1 All the conditions contained in this Environmental Authorisation.
  - 9.2 The submission of monthly compliance reports to this Directorate by the Environmental Control Officer.
  - 9.3 A section dealing with the management and demarcation of the No-Go area's (including the open space areas) that must clearly state how the areas will be demarcated prior to any earthworks / commencement of construction;
  - 9.4 An alien invasive vegetation clearing plan detailing timelines for the phased clearing and follow-up schedule for the property.
  - 9.5 The need to include the following Resource Conservation Measures in all sales agreements:
    - 9.5.1 All units must be fitted with a rainwater tank with a minimum capacity of 10 000 liters for the collection and storage of rainwater from roofs.
    - 9.5.2 Rainwater collected from roofs must receive preferential use in the irrigation of gardens or other outdoor requirements.
    - 9.5.3 All units must be fitted with and use low flow showerheads, tap aerators and dual-flush toilets.
    - 9.5.4 All units must be fitted with solar or gas geysers for hot water.
    - 9.5.5 All units must be fitted with and use energy-efficient lighting and environmentally friendly heating designs.
  - 9.6 The amended EMPr must be submitted to the Competent Authority and be approved, prior to the construction activities commencing on site.
10. The EMPr must be included in all contract documentation for all phases of implementation of the development.

## Monitoring

11. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), for the duration of the construction and rehabilitation phases.
12. The ECO must–
  - 12.1. be appointed prior to commencement of any works (i.e. removal and movement of soil and / or rubble or construction activities commencing;
  - 12.2. ensure compliance with the EMPr and the conditions contained herein;
  - 12.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
  - 12.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
13. 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 a website, such documents must be made available on such publicly accessible website.
14. 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

15. The Holder must, for the period during which the environmental authorisation and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited;
16. The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, must adhere to the following programme:
  - 16.1. During the period which the activities have been commenced with on site until the construction of the bulk internal service infrastructure (i.e. internal roads; water-, sewer-, electricity reticulation and bulk storm water) has been completed on site, the Holder must undertake annual environmental audit(s) and submit the Environmental Audit Report(s) to the Competent Authority.

A final Environmental Audit Report must be submitted to the Competent Authority within **three (3)** months of completion of the construction of bulk internal services and the post construction rehabilitation and monitoring requirements thereof.

- 16.2. During the period the development of the residential units (i.e. construction of units) is undertaken, the Holder must ensure that environmental audit(s) are performed regularly and submit these Environmental Audit Report(s) to the Competent Authority.

During this phase of the development, the frequency of the auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr **may not exceed intervals of 5-years.**

**Note:** The final auditing requirements should be completed at least three months prior to expiry of the validity period of the environmental authorisation to ensure the Holder is able to comply with all the environmental auditing and reporting requirements and for the competent authority to be able to process it timeously.

17. The Environmental Audit Report(s), must –

- 17.1. be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;
  - 17.2. provide verifiable findings, in a structured and systematic manner, on–
    - 17.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
    - 17.2.2. the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
  - 17.3. identify and assess any new impacts and risks as a result of undertaking the activity;
  - 17.4. evaluate the effectiveness of the EMPr;
  - 17.5. identify shortcomings in the EMPr;
  - 17.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
  - 17.7. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
  - 17.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
  - 17.9. include a photographic record of the site applicable to the audit; and
  - 17.10. be informed by the ECO reports.
18. The Holder must, within 7 calendar days of the submission of the audit report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

### **Specific Conditions**

19. A search and rescue mission for plants and animals must be undertaken, prior to commencement of construction activities on site. All rescued species must be relocated to the natural areas on the rest of the property, which will not be developed.
20. A vegetation buffer must be maintained between the existing residential erven along Whale Street and the closest erven within the development. A setback from the Medium sensitive area closest to the reservoir as indicated by orange area in (Annexure 3) must also be maintained at all times. No development is allowed in these areas.
21. Fencing around the property must allow for the migration of animals as recommended by CapeNature.
22. 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.
  - (c) An environmental authorisation may be amended where it relates to a change of ownership or transfer of rights and obligations.
  - (d) On application, if the competent authority decides to grant environmental authorisation, the competent authority may issue a single environmental authorisation or multiple environmental authorisations in the name of the same or different applicants covering all aspects for which authorisation is granted.
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. This Environmental Authorisation is granted for a set period from the date of issue, during which period all the listed activities must be commenced with and concluded, including the post-construction rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

The validity period and conditions of the environmental authorisation has been structured to promote the effective administration and implementation of the environmental authorisation and guidance has been provided to ensure the compliance thereof within the validity period, for example:

- ❖ Failure to submit the revised EMPr to the Competent Authority at least 90-days prior to the construction activities commencing on site, may result in the competent authority not being able to process / review the revised EMPr prior to the intended date of commencement.
  - ❖ Failure to complete the post construction rehabilitation and monitoring requirements at least six months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.
  - ❖ Failure to complete the auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements and may result in the competent authority not being able to process the audit timeously.
8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e. 6 & 11 of Section E). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
  9. 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.
  10. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

### **G. APPEALS**

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

- 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
  - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
  4. The appeal and the responding statement must be submitted to the Appeal Administrator at 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:                     Appeal Administrator  
Attention: Mr Marius Venter (Tel: 021 483 3721)  
Room 809  
8<sup>th</sup> Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

**Note:** For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za).

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Administrator at: Tel. (021) 483 3721, E-mail [DEADP.Appeals@westerncape.gov.za](mailto: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. ZAAIR TOEFY**  
**DIRECTOR: DEVELOPMENT MANAGEMENT**

DATE OF DECISION: 14 AUGUST 2023

Copies to: Ms. L. van Zyl  
Mr. E. Kruger

Cape EAPrac  
Mossel Bay Municipality

Email: [louise@cape-eaprac.co.za](mailto:louise@cape-eaprac.co.za)  
Email: [ekruger@mosselbay.gov.za](mailto:ekruger@mosselbay.gov.za)

**FOR OFFICIAL USE ONLY:**

**EIA REFERENCE NUMBER:** 16/3/3/1/D6/3/0003/23

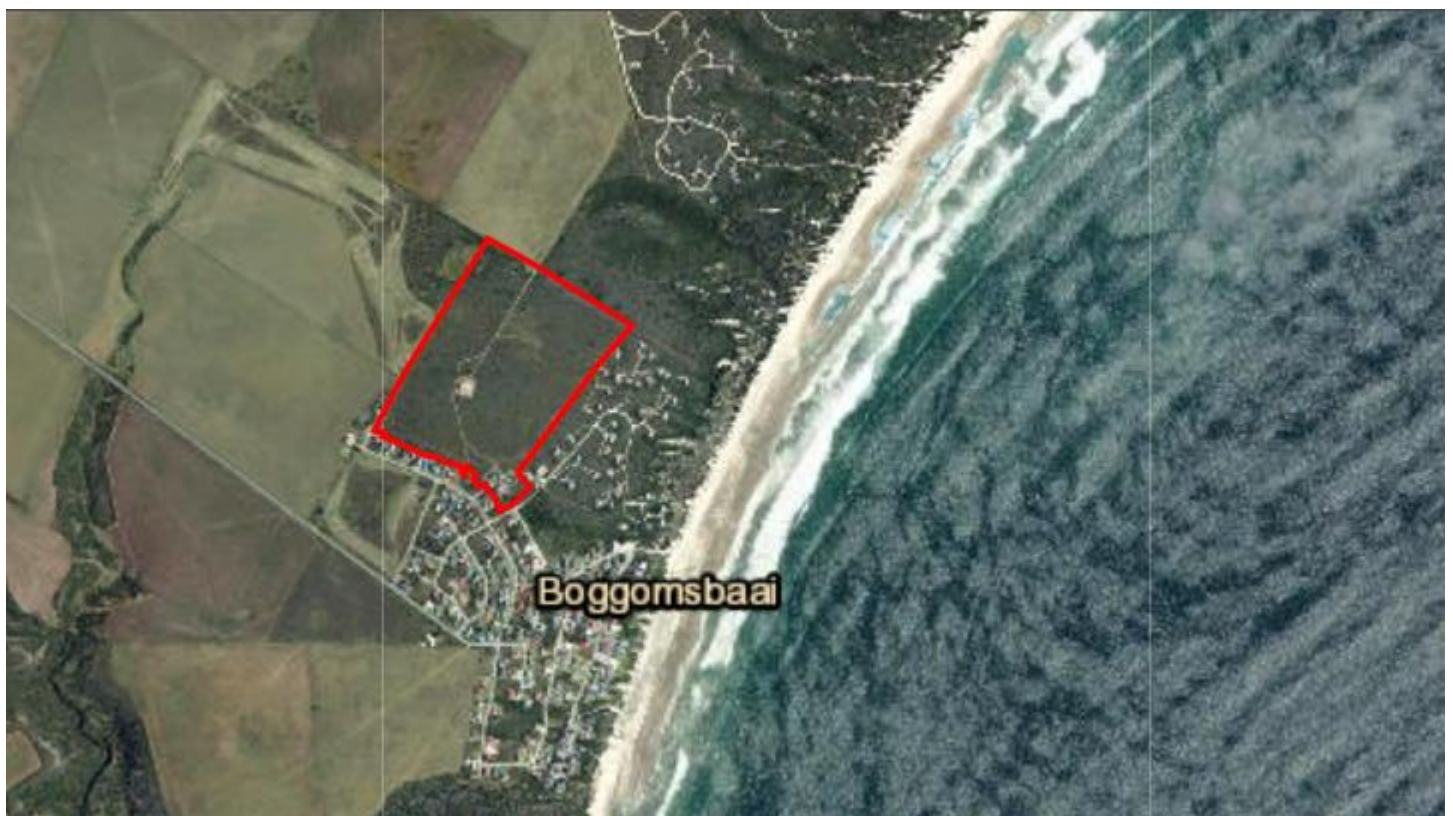
**NEAS REFERENCE:** WCP/EIA/0001225/2023

ANNEXURE 1

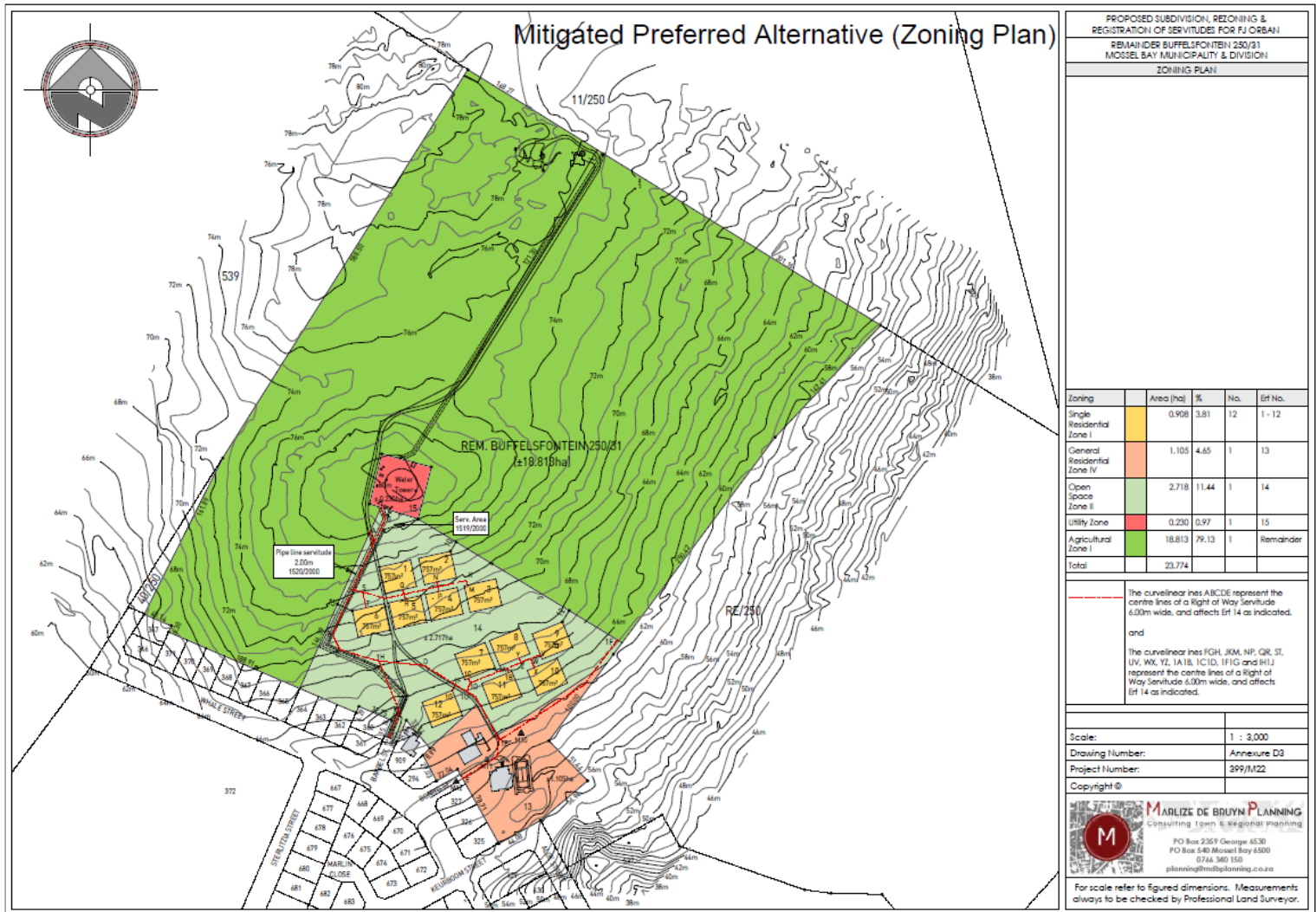
LOCALITY MAP: BOGGOMS BAY



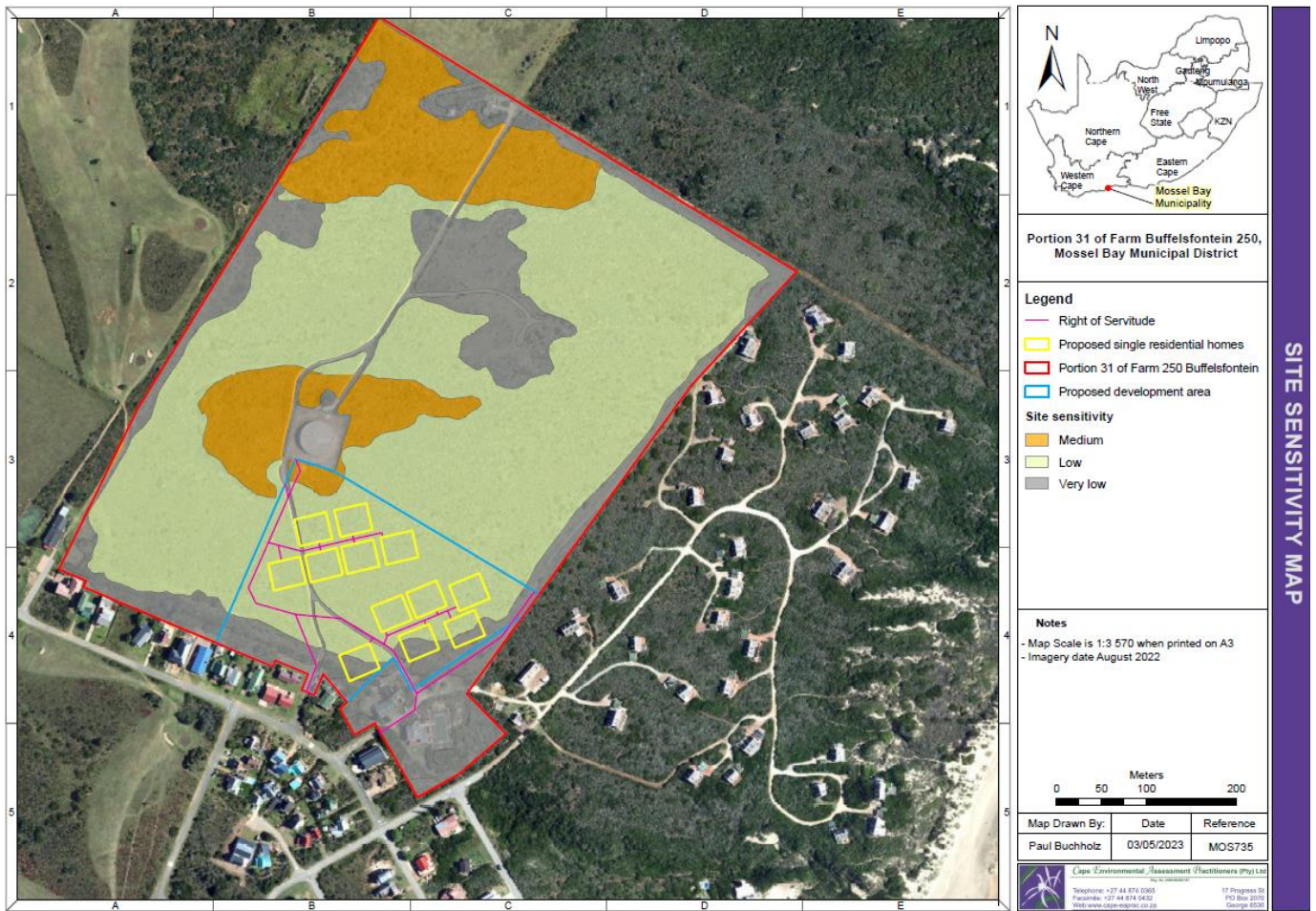
LOCALITY MAP: SITE



## ANNEXURE 2: SITE DEVELOPMENT PLAN



**ANNEXURE 3: SITE SENSITIVITY MAP INDICATING MEDIUM SENSITIVITY AND SETBACK TO BE MAINTAINED**



## ANNEXURE 4: 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 30 January 2023, the Final Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 08 May 2023;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the FBAR dated 08 May 2023;
- e) The balancing of negative and positive impacts and proposed mitigation measures;
- f) Adequate/Sufficient information was made available in the report to understand the environmental and spatial context and the case officer is familiar with the area; and
- g) The observations that were made during the site inspection conducted on 14 June 2023 by the EAP, Ms. Shireen Pullen and Ms. Dorien Werth from this Directorate.

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

### 1. Public Participation

A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulation 2014 for public involvement. The public participation process included:

- Identification of and engagement with interested and affected parties (I&APs) including organs of state which have jurisdiction in respect of the activity to which the application relates;
- Fixing a notice board at the site on 17 February 2023;
- 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.
- Site Notices were placed on the site calling for I&APs to register and review the DBAR;
- Notices were given to the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 16 February; and
- The placing of a newspaper advertisement in the 'Mossel Bay Advertiser' on 17 February 2023, to inform I&APs regarding the availability of the draft BAR between 20 February 2023 until 22 March 2023.

The following Organs of State provided comment on the proposal:

- Breede-Gouritz Catchment Management Agency (BGCMA)
- South African Civil Aviation Authority (SACAA)
- CapeNature
- Heritage Western Cape
- Department of Agriculture
- Garden Route District Municipality
- Mossel Bay Municipality
- Department of Transport: Provincial Roads
- Department of Forestry

According to the Final BAR CapeNature raised some concerns regarding fire regime and fragmented nature of the initial alternative, together with the requirement of buffer zones between the medium sensitivity vegetation and the proposed development. All these inputs were taken into account in the design and development of the preferred alternative. CapeNature's concern regarding the site being located in the coastal risk zone and within the coastal corridor is noted. However, there is already development located seaward of the proposed site and therefore this Directorate is of the opinion that the proposed development will not have a significant negative impact on the coastal corridor.

Furthermore, the botanical specialist also found that the proposed development (low density) is deemed acceptable from a botanical perspective. According to the specialist the internal corridor links to the remainder of the property and the setback from the development envelope boundary endorses fire breaks to ensure that the remnant Fynbos on the larger property can still be exposed to ecological and/or controlled burning in support of Fynbos diversity. The preferred alternative includes firebreaks and a micro-corridor between cluster node 1 - 6 & 7 - 12, which will enable controlled burning to ensure species diversity and Fynbos regeneration.

The community also raised concerns regarding the business component, the general residential component, the already restricted access to the coast, pressure on existing services, safety, impacts on property values traffic etc. However, all of these concerns were captured in the Basic Assessment Report and responded to by the EAP with the inclusion of appropriate mitigation measures in the EMP to adequately address the concerns. The Mossel Bay Municipality also confirmed availability of services for the proposal. Traffic volumes is anticipated to be low during most of the year, but will increase during peak hours and holiday season. According to the Final BAR the proposal is only for 12 additional units and the volume of traffic associated with this low number of houses is not deemed significant. Exclusion of the business node and flats as part of the proposal also guarantee that the traffic impact of the proposed development will be insignificant. The fact that there are two access points to the proposed development will also alleviate potential traffic impacts. This Directorate is satisfied that the mitigation measures proposed will effectively address the concerns raised by I&APs to ensure that the impacts on the receiving environment will be insignificant.

## 2. Consideration of Alternatives

### Initial Alternative

This alternative entailed the establishment of a housing development and associated infrastructure on a portion of portion 31 of Farm Buffelsdrift 250, Boggoms Bay. Access would be via the existing municipal roads namely Barbel and Bonito Streets. The proposal also included an on-site sewage system (home digesters) with provision for landscaping and irrigation with grey water via small individual on-site artificial wetlands. The development entails the following:

- Approximately 13 Single residential erven
- Open Space III Erf
- A Business Zone III Erf to make provision for limited convenience & personal services for residents and visitors. It is proposed to add a few flats in accordance with the provisions of this zoning (minimum of 3 units).
- General Residential Zone V: For the expansion of the existing Sandpiper Leisure Centre (tourist facility) by the addition of 4 guest rooms to the facility
- An erf for existing municipal water reservoir that provides municipal water to Boggomsbaai and surrounds.

Numerous objections were received against the business and flats components of the development. These included amongst others, increase in traffic, crime and safety. The lay-out of this alternative was also changed to be more clustered to adhere to inputs from CapeNature and to avoid the highly sensitive vegetation.

### Preferred Alternative

This alternative entailed the establishment of a housing development and associated infrastructure on a portion of portion 31 of Farm Buffelsdrift 250, Boggoms Bay. The development will consist of the following:

- 12 single residential properties of approximately  $\pm 757\text{m}^2$  each, with a single storey dwelling house on each property;
- Private open space to retain natural vegetation with provision for fire breaks and internal minor corridor in a nodal layout;
- 3 guestrooms to be added to the existing Sandpiper Leisure Centre (tourist facility);



- Internal narrow gravel roads with passing spaces;
- Firebreaks inside the development footprint, as well as the inclusion of Firewise landscaping to reduce the risk of fire; and
- Road access is proposed via Bonito Street (existing SandPiper access).

According to the assessment done, this is the best practicable environmental option. This Directorate is in agreement with this alternative, hence this authorisation.

The development will be implemented approximate to the site development plan contained in Annexure 2 of this authorisation.

### **“No-Go” Alternative**

The option of not implementing the activity means that no development will be established and none of the impacts, positive or negative, associated with the construction of the development will be experienced. This is not the preferred alternative for the applicant.

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

### 3.1 Activity need and desirability

The BAR submits that according to the 2022 Spatial Development Framework (SDF) the proposed site is located within the delineated 'urban edge'. Initially, the proposal included some erven outside the designated 'urban edge', however, these were excluded before the application was submitted to this Department for consideration. Furthermore, the preferred alternative was also reduced in size and footprint to ensure that the proposed development is in line with forward planning frameworks.

### 3.2 Impact on the Environment

According to the BAR the preferred alternative has been modified to avoid the medium sensitive areas closest to the municipal reservoir and to allow for an internal minor corridor, as well as space to accommodate boundary fire breaks. Despite this, the development will result in the loss of 1.4ha of ESA 1 habitat. The site falls within a Least Threatened Ecological Threat Status (Canca Limestone Fynbos). No aquatic features will be affected by the proposal. The area will be buffered with open space area between the dwellings that must be maintained. The site is not located in a high-risk area that contains flood lines and steep slopes. The fire risk of natural vegetation is to be mitigated through fire breaks within the property boundary along the western and northern boundaries and fire landscaping.

Patches of thicket were found on the property (remnants of the original natural vegetation). These areas contain a diversity of woody plant species & a protected tree species (*Sideroxylon inerme* – protected under the National Forest Act). These areas fall outside the preferred development footprint. The botanical assessment found two plant species of conservation concern on the property, but outside the development footprint. These species will therefore not be affected by the proposed development. Although the site is located within the coastal protection zone, cognisance must be taken of the fact that there is already development located on the seaward side of the proposed development.

The preferred mitigated alternative has been modified to avoid the medium sensitive areas closest to the municipal reservoir and allows for an internal minor corridor as well as space to accommodate boundary fire breaks.

### 3.3 Biophysical Impacts

The Botanical specialist input found that the proposal will lead to the loss of 1,4 hectares secondary habitat within Ecological Support Area (ESA) and also compromise fire management requirements for ecological processes over time. It also found that the proposal may lead to invasion by alien invasive plant species through incorrect landscaping over time. The units are positioned within the areas deemed to have Low and very Low ecological sensitivity with the remaining thicket areas that will not be affected by the development activities. All of these impacts could however be reduced by the implementation of the mitigation measures incorporated in the EMP and in the conditions of this authorisation.

### 3.4 Services

The BAR submits that the proposed development will implement resource conservation measures as part of the development in the form of rainwater storage tanks and solar panels, use of gas stoves/gas geysers or heat pumps and re-use of treated grey water for landscaping, to reduce pressure on existing municipal services. The Municipality also confirmed sufficient capacity available in the municipal services network to accommodate the development proposal.

Each unit be equipped with its own small sewage biodigester that will separate black and grey water. The filtered grey water will be further polished through on-site artificial wetlands per erf and can be re-utilised for limited landscaping for each home.

### 3.5 Biodiversity

The Terrestrial Biodiversity Assessment concludes that most of the development footprint is within an Ecological Support Area and any habitat therefore has ecological value in terms of supporting ecosystem function in the area. Notwithstanding this, the specialist also found that the habitat on site was found to be secondary and natural parts of the site have Low sensitivity in terms of the Terrestrial Biodiversity Theme, as calculated using Site Ecological Importance.

It furthermore explains that most of the development site consists of secondary and/ or degraded areas, including areas invaded by alien invasive shrubs. There is a patch of dune thicket adjacent to the development site, dominated by milkwood trees, but this falls outside the proposed development footprint. These thicket areas have been designated as having HIGH sensitivity. Secondary vegetation directly affected by the proposed development has low sensitivity. The remaining degraded areas are designated as having very low sensitivity. This department is satisfied that the proposed development is entirely within areas mapped as degraded or secondary that have low biodiversity value and sensitivity. No development is proposed on the remainder of the agricultural land that is located outside of the municipal urban edge and it is recommended that these areas be left undeveloped and managed as a conservation area.

### 3.6 Heritage / Archaeological Aspects

According to the BAR the proposed development is approximately 400m from the sandy beach. The closest rocky coast is 3km to the south. According to the heritage study no Later Stone Age shell middens are anticipated, and no shell fragments were observed. The closest recorded Middle Stone Age site to the study area is 3km north of the site and located in the sand dunes. The survey did not record any dense scatters of stone artefacts, and it is likely that the stone artefacts found around the site is not deemed sensitive from a heritage/archaeological/palaeontological perspective. This was confirmed by Heritage Western Cape in their decision dated 21 February 2023.

Considering the above, the view is held that the applicant has adequately considered the heritage and archaeological aspects and that the proposed development will not result in significant negative impact on any heritage resources. The competent authority is satisfied that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of the National Heritage Resources Act, 1999.

### 3.7 Other Impacts

According to the BAR no other impacts of significance were identified and anticipated.

## 4. Scope and Validity Period of authorisation

This environmental authorisation does not define specific operational aspects. The applicant has indicated that the construction of services will commence within 5 years from the date of issue of this environmental authorisation. Since the construction of units would take a little longer, a period of 10 years is granted for the construction of the units. The final environmental audit for the installation of services must be submitted within 3 months of the completion of the installation of services and every 5 years thereafter until the last house is constructed. Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years.

## 5. 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.

## 6. Conclusion

After consideration of the information and factors listed above, the Department made the following findings:

- (a) The identification and assessment of impacts that are detailed in the FBAR dated 8 May 2023 is sufficient.
- (b) The procedure followed for the impact assessment is adequate for the decision-making process.
- (c) The proposed mitigation of impacts identified and assessed, curtails the identified negative impacts.
- (d) The proposed mitigation measures included in the EMPr for the pre-construction, construction and rehabilitation phases of the development is considered adequate.

***In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the mitigation measures contained in the EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.***

----- END -----