

EIA REFERENCE NUMBER: 16/3/3/1/D1/6/0000/22
NEAS REFERENCE: WCP/EIA/0001030/2022
DATE OF ISSUE: 2022/08/02

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: THE PROPOSED ACTIVITIES AT ARCH ROCK ON PORTION 5 OF THE FARM 296, KEURBOOMSTRAND

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 11 April 2022 as prepared and submitted by *Cape EAPrac (Pty) Ltd.*, the appointed environmental assessment practitioner ("EAP").

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

KEURBOOMS ROCK (PTY) LTD.
% Mr. I.T. de Waal
Unit 207, 2nd Floor, The Village Square, Oxford Street
DURBANVILLE
7551

Tel: 021 020 0444
E-mail: Terry@babylonstoren.com

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
Environmental Impact Assessment Regulations Listing Notice 1 of 2014, Government Notice No. 983 of 4 December 2014	
<p>Activity Number: 19A 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> <ul style="list-style-type: none"> (i) the seashore; (ii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater; or (iii) the sea; — <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <ul style="list-style-type: none"> (a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies; (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies. 	<p>The demolition and construction of the new units will require the infilling, excavation, removal and moving of sand of more than 5 cubic metres within 100 metres from the high-water mark of the sea. Approximately 1650m³ of excavated material will be generated where some will be used as backfill under the new units.</p>
<p>Activity Number: 19A Activity Description:</p> <p>The expansion of facilities—</p> <ul style="list-style-type: none"> (i) in the sea; (ii) in an estuary; (iii) within the littoral active zone; (iv) in front of a development setback; or (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater; <p>in respect of—</p> <ul style="list-style-type: none"> (a) fixed or floating jetties and slipways; (b) tidal pools; (c) embankments; (d) rock revetments or stabilising structures including stabilising walls; or (e) infrastructure or structures where the development footprint is expanded by 50 square metres or more, <p>but excluding—</p> <ul style="list-style-type: none"> (aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; or (bb) where such expansion occurs within an urban area 	<p>The modification of the resort units will increase the development footprint by 130m².</p>

The abovementioned list is hereinafter referred to as “**the listed activity**”.

The Holder is herein authorised to undertake the following activity that includes the listed activity as it relates to the infilling, excavation, removal and moving of sand of approximately 1650m³ cubic metres within 100 metres from the high-water mark of the sea and the expansion of structures where the development footprint is expanded by 130m² for the construction of a new resort units at Arch Rock, Keurboomstrand.

The proposed modification of the resort must be done in accordance with the design by Malherbe Rust Architects (dated July 2020) Drawing number 102 REVA (See Annexure 2).

C. SITE DESCRIPTION AND LOCATION

Portion 5 of the Farm Arch Rock no. 296 falls adjacent to the built-up area of Keurboomstrand in Plettenberg Bay. The restaurant, *Enrico's*, is to the west of the site. Access is from Lower Hill street in Keurboomstrand.

Coordinates of the site:

Position:	Latitude (South)	Longitude (East)
Middle Point	34° 00' 11.08"	23° 27' 42.85"

SG digit code of Portion 5 of the farm Arch Rock 296: C03900000000029600005

Refer to Annexure 1: Locality Plan 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.
(also known as CAPE EAPRAC ENVIRONMENTAL CONSULTANTS)
% Mrs Louise-Mari van Zyl or Mrs Melissa Mackay
P.O. Box 2070
GEORGE
6530

Tel: 044 874 0365
E-mail: louise@cape-eaprac.co.za | mel@cape-eaprac.co.za
Website: www.cape-eaprac.co.za

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **31 May 2030**:
2. The construction phase of the Environmental Authorisation is subject to the following:
 - 2.1 The Holder must start with the physical implementation of all the authorised listed activities on the site by **1 April 2027**.

2.2 The Holder must conclude the physical implementation of all the authorised listed activities on the site by **31 August 2029**.

2.3 The holder must finalise the post construction rehabilitation and monitoring requirements within a period of 3-months from the date the development activity (construction phase) is concluded, but by no later than **30 November 2029**

Note: Failure to complete the post construction rehabilitation and monitoring requirements at least six (6) 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.

3. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with a part of the Preferred Alternative described in the FBAR dated 18 March 2022 on the site as described in Section C above.

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

The Holder is herein authorised to undertake the following activity that includes the listed activity as it relates to the infilling, excavation, removal and moving of sand of approximately 1 650m³ cubic metres within 100 metres from the high-water mark of the sea and the expansion of structures where the development footprint is expanded by 130m² for the construction of a new resort units at Arch Rock, Keurboomstrand.

The refurbishment / modification of the resort must be done in accordance with the design by Malherbe Rust Architects (dated July 2020) Drawing number 102 REVA (See Annexure 2).

4. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").

5. The Holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the Holder.

6. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

Notification and administration of appeal

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

7.1. notify all registered Interested and Affected Parties ("I&APs") of –

7.1.1. the decision reached on the application;

7.1.2. the reasons for the decision as included in Annexure 3;

7.1.3. the date of the decision; and

7.1.4. the date when the decision was issued.

- 7.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;
- 7.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
- 7.4. provide the registered I&APs with the:
 - 7.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 7.4.2. name of the responsible person for this Environmental Authorisation,
 - 7.4.3. postal address of the Holder,
 - 7.4.4. telephonic and fax details of the Holder,
 - 7.4.5. e-mail address, if any, of the Holder,
 - 7.4.6. contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
- 7.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
- 7.6. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Written notice to the Competent Authority

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

Management of activity

10. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended and submitted to this Department for approval prior to commencement of any activities on the site:
 - 10.1. The EMPr must be amended to incorporate the following —
 - 10.1.1. All the conditions given in this Environmental Authorisation;
 - 10.1.2. The frequency of the ECO site visits must be increased to be bi-monthly once the top structures are being constructed; and
 - 10.1.3. All monthly ECO reports to be submitted to the competent authority.
11. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

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

13. The ECO must–
 - 13.1. be appointed prior to commencement of any works (i.e. removal and movement of soil);
 - 13.2. ensure compliance with the EMPr and the conditions contained herein;
 - 13.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
 - 13.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
14. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.
15. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

16. The Holder must, for the period during which the environmental authorisation and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.
17. 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:
 - 17.1. Auditing during the non-operational phase (construction activities):
 - 17.1.1. During the period which the development activities have been commenced with on site, the Holder must ensure annual environmental audit(s) are undertaken and the Environmental Audit Report(s) submitted annually to the Competent Authority.
 - 17.1.2. A final Environmental Audit Report for the construction phase (non-operational component) must be submitted to the Competent Authority within **three (3) months** of completion of the construction phase, including the post construction rehabilitation and monitoring requirements, but by no later than 28 February 2030.
18. The Environmental Audit Report(s), must–
 - 18.1. 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;
 - 18.2. provide verifiable findings, in a structured and systematic manner, on–
 - 18.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 18.2.2. 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.
 - 18.3. identify and assess any new impacts and risks as a result of undertaking the activity;

- 18.4. evaluate the effectiveness of the EMPr;
 - 18.5. identify shortcomings in the EMPr;
 - 18.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 18.7. 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;
 - 18.8. indicate the date on which the maintenance/ rehabilitation was commenced with and the progress of the rehabilitation;
 - 18.9. include a photographic record of the site applicable to the audit; and
 - 18.10. be informed by the ECO reports.
19. 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

20. The Holder must adopt and implement the following development parameters and design restrictions, unless environmental authorisation is obtained from the competent authority prior to the implementation of such structures/activities, namely:
- 20.1. No stabilising structures (i.e. gabion) or rock revetment may be developed or expanded on the property or the coastal public property without environmental authorisation from the relevant competent authority;
 - 20.2. No new boardwalk may be constructed/developed leading to the beach or the existing structure expanded without environmental authorisation from the relevant competent authority; and
 - 20.3. Only maintenance may be done to the existing structures (i.e. existing vegetated stabilising wall and boardwalk) and where applicable such maintenance must be undertaken done in accordance with a maintenance management plan.

Whereas—

“*maintenance*” means actions performed to keep a structure in service on the same location, capacity and footprint; and

“*maintenance management plan*” means a management plan for maintenance purposes defined or adopted by the competent authority.

21. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the Holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

Amendment of Environmental Authorisation and EMPr

2. If the Holder does not start with the listed activity and conclude the activity within the period referred to in Section E, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

If the Holder wishes to extend a validity period specified in the Environmental Authorisation, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of such a period.

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.
 - (b) It is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity if the competent authority has not granted an Environmental Authorisation for the undertaking of the activity.
3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, the Competent Authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

The onus is on the Holder to verify whether such changes to the environmental authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note: An environmental authorisation may be amended or replaced without following a procedural requirement contained in the Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially

4. The manner and frequency for updating the EMPr is as follows:
 - (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
 - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMPr has been approved by the competent authority.

The onus is however on the Holder to confirm the legislative process requirements for the above scenarios at that time.

5. Where an amendment to the impact management outcomes of an EMPr is required before an environmental audit is required in terms of the environmental authorisation, an EMPr may be amended on application by the Holder of the environmental authorisation.

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is granted for a set period from date of issue, during which period the listed activity 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 of the environmental authorisation and guidance has been provided to ensure the compliance thereof within the validity period, for example:

- ❖ Failure to complete the post construction rehabilitation and monitoring requirements at least three 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 final 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. **7, 10** and **12**). 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 including any Organ of State with interest in the matter; and
 - 1.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:

Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAAdmin.George@westerncape.gov.za

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 and any registered I&AP including any Organ of State with an interest in the matter; and
 - 2.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAadmin.George@westerncape.gov.za
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
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to 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 or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully

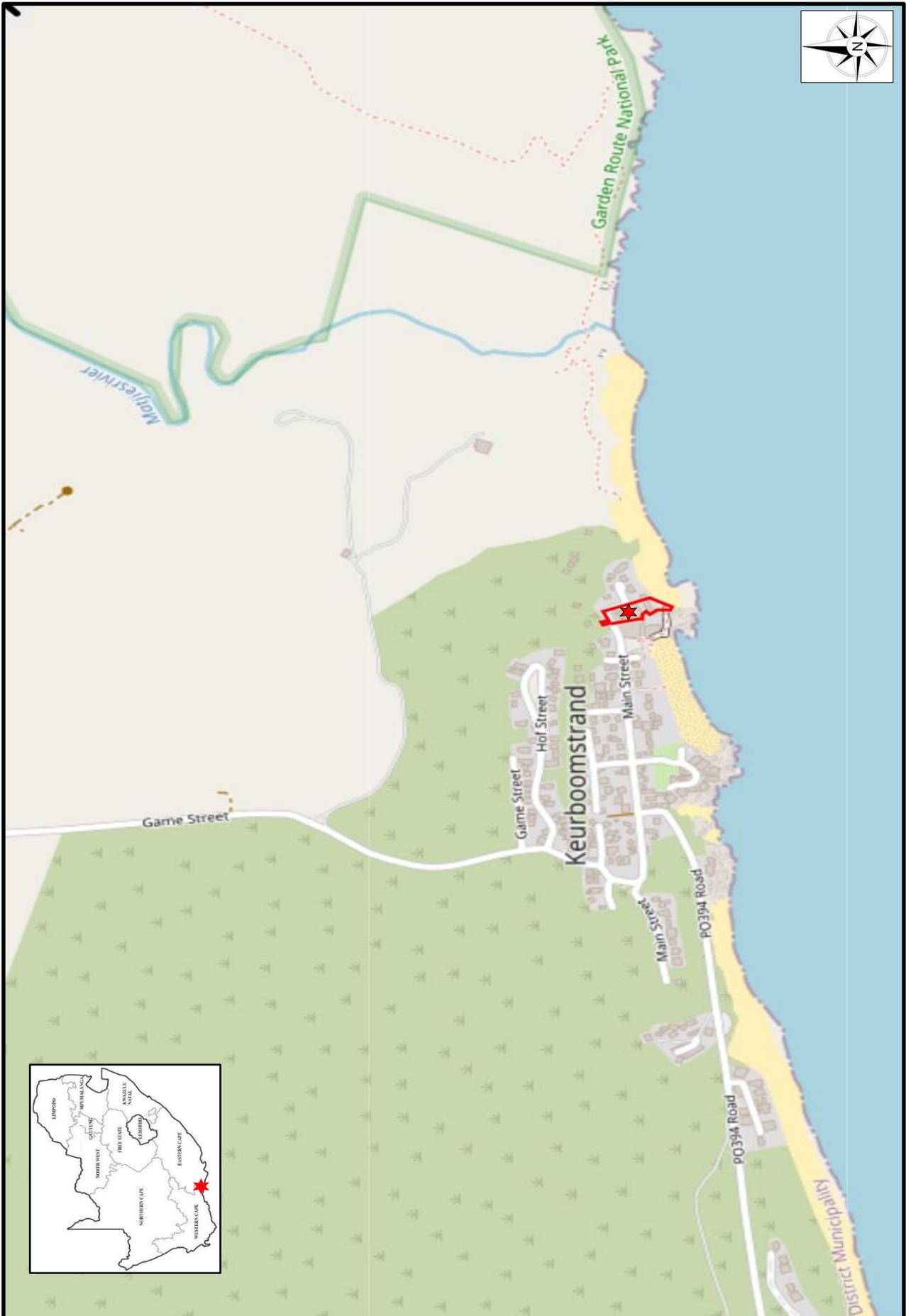
MR. GAVIN BENJAMIN
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION3)
WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: **02 AUGUST 2022**

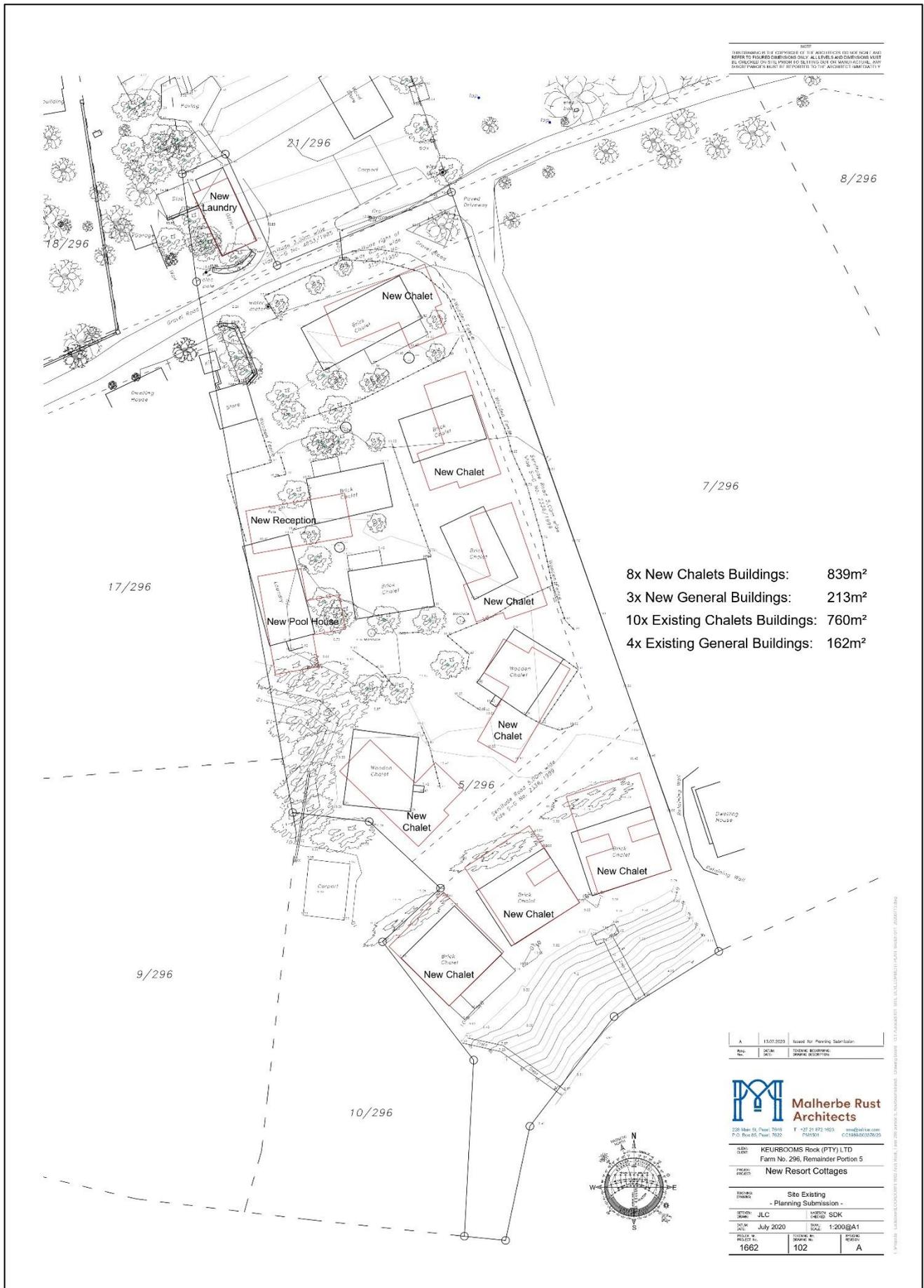
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EIA REFERENCE NUMBER: 16/3/3/1/D1/6/0000/22
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ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE DEVELOPMENT PLAN



NOTE:
 THE DRAWING IS THE PROPERTY OF THE ARCHITECTS. FOR USE ONLY AS REFERRED TO IN THE CONTRACT. ALL RIGHTS AND OBLIGATIONS MUST BE CHECKED IN THE POWER OF ATTORNEY OR MANDATE. ANY RIGHTS RESERVED MUST BE REFERRED TO THE ARCHITECT'S OFFICE.

- 8x New Chalets Buildings: 839m²
- 3x New General Buildings: 213m²
- 10x Existing Chalets Buildings: 760m²
- 4x Existing General Buildings: 162m²

A	13.07.2020	Issued for Planning Submission
Rev.	DATE	REVISIONS/DESCRIPTION

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 226 Main St, Cape Town | P.O. Box 65, Cape Town 7922
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CLIENT: KEURBOOMS Rock (PTY) LTD
 Farm No. 296, Remainder Portion 5
 PROJECT: New Resort Cottages

DRAWING: Site Existing - Planning Submission -		
DESIGN: JLC	CHECKED: SDK	
DATE: July 2020	SCALE: 1:200@A1	
PROJECT NO: 1662	DRAWING NO: 102	ISSUE NO: A



ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, *inter alia*, the following:

- a) The information contained in the Application Form received on 25 January 2022, the Final Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 11 April 2022;
- 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 11 April 2022;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) A site inspection was conducted by officials from the Directorate on the 4 August 2021.

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 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 was performed in accordance with the Public Participation Plan agreed to by this Department.

The following Organs of State provided comment on the proposal:

- ❖ *Department of Forestry, Fisheries, and the Environment (DFFE) Oceans & Coasts (O&C) Branch;*
- ❖ *Bitou Municipality;*
- ❖ *CapeNature; and*
- ❖ *WCG: Department of Agriculture.*

No other I&APs provided comment on the proposal.

All the comments and issues raised by the respective *Organs of State* that were captured in the Basic Assessment Report were responded to by the EAP. The Competent Authority is satisfied with the responses from the EAP to the I&APs comments and concerns.

2. Alternatives

Development proposal (Herewith Approved –Alternative 1):

The Holder is herein authorised to undertake the following activity that includes the listed activity as it relates to the infilling, excavation, removal and moving of sand of approximately 1650m³ cubic metres within 100 metres from the high-water mark of the sea and the expansion of structures where the development footprint is expanded by 130m² for the construction of a new resort units at Arch Rock, Keurboomstrand.

The refurbishment / modification of the resort must be done in accordance with the design by Malherbe Rust Architects (dated July 2020) Drawing number 102 REVA (See Annexure 2).

No other alternatives were considered as it is an existing resort which the applicant owns and a number of the existing units will be demolished and reconstructed.

"No-Go" Alternative

This alternative retains the current approved layout and design that is on the site. There are 10 chalets on the site that accommodate 26. The chalets are of mixed design and materials and are somewhat outdated. The applicant is proposing implementing the preferred Alternative 1 to replace this layout.

3. Impact Assessment and Mitigation Measures

3.1 Activity Need and Desirability

The project site is located on Portion 5 of Farm Arch Rock no. 296, Keurboomstrand, within the Bitou municipal area. The site is zoned Resort 1. The current activities on the site are associated with ten (10) holiday units. The proposed development will not involve any changes in the current land uses or activities on the site and will be implemented in terms of the existing resort zoning.

3.2 Biophysical Impacts

The proposed modification to the existing resort does not pose significant impacts on any areas identified as CBA or ESA. The refurbishment / modification of the resort units will not impact on the conservation status of *Garden Route Shale Fynbos*; with vegetation on site found to be of a Low Terrestrial Biodiversity Sensitivity and of Medium Plant Species Sensitivity. The refurbishment of the facilities at the property will retain most of the locally indigenous tree species as they afford shade and shelter for avifauna and sense of place of the area.

3.1 Aspects related to coastal activities:

When any listed activities are to be carried out within the coastal zone which require an environmental authorisation in terms of the NEMA, the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (NEM:ICMA) provides for additional criteria which must be considered when evaluating an application for an activity which will take place within the coastal zone.

In terms of the NEM:ICMA, specifically Sub-section 15(2) which deals with measures affecting erosion and accretion, *"No person may construct, maintain or extend any structure, or take other measures on coastal public property to prevent or promote erosion or accretion of the seashore except as provided for in this Act, the National Environmental Management Act or any other specific environmental management Act."* The proposal does not include the extension of any structures that will prevent erosion of the seashore (i.e. expansion of the stabilising wall).

The information which has been provided in the Final BAR and specialist study, has satisfactorily addressed the additional aspects which should be considered in terms of s63(1) of NEM:ICMA. The Specialist has also adequately demonstrated the likely impact of coastal environmental processes on the proposed activity which is a specific aspect to be considered in this decision in terms of section 63 of the NEM:ICMA.

3.2 Heritage / Archaeological Aspects

Heritage Western Cape has confirmed that no further heritage studies were required. 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 and the comments and recommendations of the relevant heritage resources authority with regard to the proposed development have been taken into account.

3.3 Other Impacts

No other impacts of significance are anticipated for the area that has been authorised in this Environmental Authorisation.

Considering the findings of the impact assessment and proposed mitigation measures to address the aforementioned impacts this Department is satisfied that the activity will not negatively impact on the receiving environment, subject to strict implementation of conditions of this EA and the mitigation measures proposed in the EMPr.

4. Scope and Validity Period of authorisation

This environmental authorisation does not define specific operational aspects. The environmental authorisation's validity period has been granted for a period of eight (8) years, during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit reports for the construction phase. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase.

Important milestones and dates:

- 1 April 2027, the date by which the Holder must have started with the physical implementation of all the authorised listed activities on the site.
- 31 August 2029, the last date by which the non-operational aspects (construction phase) of the environmental authorisation must be concluded by. The construction phase may be concluded at a sooner date, depending on the execution of the implementation plan.
- A period of 3-months is specified for the final monitoring and post-construction rehabilitation to be completed after the construction phase is finalised, but by no later than 30 November 2029. Failure to complete the post construction rehabilitation and monitoring requirements at least six (6) 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.
- The final environmental audit must be submitted to the Competent Authority within three (3) months of completion of the post construction rehabilitation and monitoring requirements being completed, but by no later than 28 February 2030.

Where the development activities (construction phase) and post construction rehabilitation and monitoring requirements are only concluded in November 2029, the Holder must ensure that a minimum period of three (3) months be set aside for the Competent Authority to administrate the final audit report. Therefore, the final Environmental Audit report must be submitted to the Competent Authority by no later than 28 February 2030.

- 31 May 2030, the end-date of the Environmental Authorisation's validity period and the date by which all construction rehabilitation and monitoring requirements, will be deemed to be concluded at the site.

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 are detailed in the FBAR dated 11 April 2022 and sufficient assessment of the key identified issues and impacts have been completed.
- (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 EMPr proposed mitigation measures for the pre-construction, construction and rehabilitation phases of the development and were included in the FBAR. The mitigation measures will be implemented to manage the identified environmental impact during the construction phase.

Due consideration is also given to the person's duty of care described in Section 28 of NEMA:

“Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment”.

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

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