



REFERENCE: 16/3/3/1/D2/29/0018/24
NEAS REFERENCE: WCP/EIA/0001462/2024
DATE OF ISSUE: 14 November 2024

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION (EA) IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): THE PROPOSED HEROLDS BAY STORMWATER INFRASTRUCTURE, ERVEN 326, 318, AND 139, HEROLDS BAY, GEORGE

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 (Alternative 1)**, described in the Final Basic Assessment Report ("FBAR"), 08 August 2024 as prepared by your appointed registered Environmental Assessment Practitioner ("EAP"), Ms. Louise-Mari van Zyl (EAPASA No: 2019/1444) of Cape Environmental Assessment Practitioners (Pty) Ltd (Cape EAPrac).

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

George Municipality
c/o Johannes Franciscus Koegelenberg
P.O. Box 19
George
6530

Cell: 071 603 4132
Email: rldaniels@george.gov.za

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Environmental Impact Assessment Regulations Listing Notice 1 (Government Notice No. 983 of 4 December 2014 (as amended))</p>	
<p>Activity Number: 12 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 100 square meters; or (ii) infrastructure or structures with a physical footprint of 100 square meters or more:</p> <p>(a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; -</p> <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 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>Approximately 250 square meters of the stormwater structure will be located within the 32m buffer area of the watercourse which is located directly to the south-west of the site.</p>
<p>Environmental Impact Assessment Regulations Listing Notice 3 (Government Notice No. 985 of 4 December 2014 (as amended))</p>	
<p>Activity Number: 12 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>	

i. Western Cape

(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;

(ii). Within critical biodiversity areas identified in bioregional plans;

(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 erven in urban areas;

(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; or

(v). On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.

The proposal will require the clearance of more than 300m² of indigenous vegetation in a threatened ecosystem with a threat status of Critically Endangered (CR) namely: Garden Route Granite Fynbos.

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

The Holder is herein authorised to undertake the following alternative Preferred Alternative (Alternative 1) that includes the listed activities as it relates to the development and development footprint area:

The formalisation of a municipal stormwater channel that passes through Erven 326, 318 and a small portion of Erf 139 Herolds Bay. The formalisation will entail the following:

● **Erf 326**

- A subsoil drain will be installed on Erf 326 which will collect runoff from higher lying erven (Erven 125 and 327).
- A 2m high gabion basket wall will be constructed along the southern boundary of Erf 326. This gabion basket will tie in with an existing retaining wall just outside the south-western corner of Erf 326.
- The subsoil drain will run underneath the gabion structures where it will be tied in at a reconstructed and enlarged catchpit structure.
- The crossing pipe which extends underneath Voëlklip street will be upgraded to a 750mm diameter pipe.

● **Erf 318 and a portion of Erf 139**

- A stepped gabion basket channel and associated infrastructure will be constructed on Erf 318 and a small portion on Erf 139 to control erosion and stormwater runoff. The western section of this gabion channel will be further extended to the west to provide additional support to the boundary wall of Erf 319. Furthermore, the outlet of the gabion basket channel will be on Erf 139, approximately 2m beyond an existing sewer line. In addition, a stilling basin will be constructed at this outlet.

This EA will be implemented in accordance with the Site Development Plan attached as Annexure 2 to this EA.

C. SITE DESCRIPTION AND LOCATION

The proposed formalisation of the municipal stormwater channel will be on Erf 139, Erf 318 and Erf 326 Herolds Bay, George Municipality, Western Cape Province. Erven 326, 318 and a small portion of Erf 139 are zoned as Public Open Space and are owned by the George Municipality. The site can be accessed via Voëklip Street.

Site Coordinates:

Position:	Latitude (South)	Longitude (East)
Starting point	34° 02' 59.90"	22° 23' 58.90"
Middle point	34° 03' 01.32"	22° 23' 59.27"
End point	34° 03' 02.72"	22° 23' 58.72"

SG digit code:

Erf Number	SG digit code
Erf 326	C02700040000032600000
Erf 318	C02700040000031800000
Erf 139	C02700040000013900000

Refer to Annexure 1: Locality Plan and Annexure 2: Site Development Plan (SDP) of this Environmental Authorisation.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Ms. Louise-Mari van Zyl
EAPASA No: 2019/1444
E-mail: louise@cape-eaprac.co.za

Cape Environmental Assessment Practitioners (Cape EAPrac)
P.O. Box 2070
George
6530
Tel: (044) 874 0365
E-mail: info@cape-eaprac.co.za
Webpage: <https://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 **30 November 2029** (validity period), during which period the Holder must ensure that the—
 - (a) physical implementation of all the authorised listed activities, is started with and concluded;

- (b) construction, monitoring and reporting requirements are undertaken at the site and submitted to the Competent Authority in time to allow said authority to process such documents timeously;
- (c) post construction rehabilitation and monitoring requirements is undertaken and completed;
- (d) environmental auditing requirements are complied with; and that such auditing is finalised in time to allow the competent authority to be able to process the environmental audits timeously within the specified validity period.

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

2. The Holder is authorised to undertake the listed activity specified in Section B above in accordance with the Preferred Alternative (Alternative 1) described in the FBAR dated 08 August 2024 on the site as described in Section C above. Formalisation may only take place on the area identified and depicted on the Site Layout Map (Annexure 2) of this Environmental Authorisation.
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 preferred 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

5. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 5.1. notify all registered Interested and Affected Parties (“I&APs”) of –
 - 5.1.1. the decision reached on the application;
 - 5.1.2. the reasons for the decision as included in Annexure 3;
 - 5.1.3. the date of the decision; and
 - 5.1.4. the date when the decision was issued.
 - 5.2. 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;
 - 5.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 5.4. provide the registered I&APs with the:
 - 5.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 5.4.2. name of the responsible person for this Environmental Authorisation,
 - 5.4.3. postal address of the Holder,
 - 5.4.4. telephonic and fax details of the Holder,
 - 5.4.5. e-mail address, if any, of the Holder,
 - 5.4.6. 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).

- 5.5. 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.
- 5.6. 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

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
- 6.1. The notice must make clear reference to the site details and EIA Reference number given above.
- 6.2. The notice must also include proof of compliance with the following conditions described herein:
Conditions: 5, 8, and 10.

Management of activity

7. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is herewith approved in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2014 (as amended).
8. The EMPr must be updated to incorporate all the conditions contained in this Environmental Authorisation and all those measures for the avoidance, management, mitigation, monitoring, rehabilitation and reporting as identified in this Environmental Authorisation additional to those contained in the approved EMPr.

The updated EMPr must be re-submitted to the Competent Authority prior to commencement of the construction activities.

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

Monitoring

10. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), prior to commencement of any works (i.e., removal and movement of soil) and for the duration of the clearance and rehabilitation phases of the implementation contained herein.
11. The ECO must–
- 11.1. be appointed prior to commencement of any works (i.e. removal and movement of soil);
- 11.2. ensure compliance with the EMPr and the conditions contained herein;
- 11.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
- 11.4. remain employed until all the development activities are concluded, and the post development/implementation rehabilitation and monitoring requirements are finalised.
12. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.

13. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Environmental Auditing

14. 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.
15. The frequency of auditing of compliance with the conditions of the environmental authorisation and compliance with the provisions of the EMPr, must adhere to the following programme:

- 15.1. During the period which the activities have been commenced with on site and post construction rehabilitation and monitoring requirements have been completed, the Holder must ensure annual environmental audit(s) are undertaken and the Environmental Audit Report(s) submitted annually to the Competent Authority.

- 15.2. 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 post construction rehabilitation and monitoring requirements.

Note: The final auditing requirements must 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.

16. The Environmental Audit Report(s), must –
 - 16.1. 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;
 - 16.2. provide verifiable findings, in a structured and systematic manner, on–
 - 16.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 16.2.2. 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.
 - 16.3. identify and assess any new impacts and risks as a result of undertaking the activity;
 - 16.4. evaluate the effectiveness of the EMPr;
 - 16.5. identify shortcomings in the EMPr;
 - 16.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 16.7. 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;
 - 16.8. indicate the date on which the maintenance/ rehabilitation was commenced with and the progress of the rehabilitation;
 - 16.9. include a photographic record of the site applicable to the audit; and

16.10. be informed by the ECO reports.

17. 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

18. 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.
3. 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.
4. 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.

5. 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.

6. 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

7. 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).
8. This Environmental Authorisation is granted for a set period from date of issue, during which period all the listed activities must be commenced with and concluded, including the post-development 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.
9. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e., 5, 8, and 10). 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.
 10. 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.

11. 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;
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;
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

DIRECTOR: DEVELOPMENT MANAGEMENT

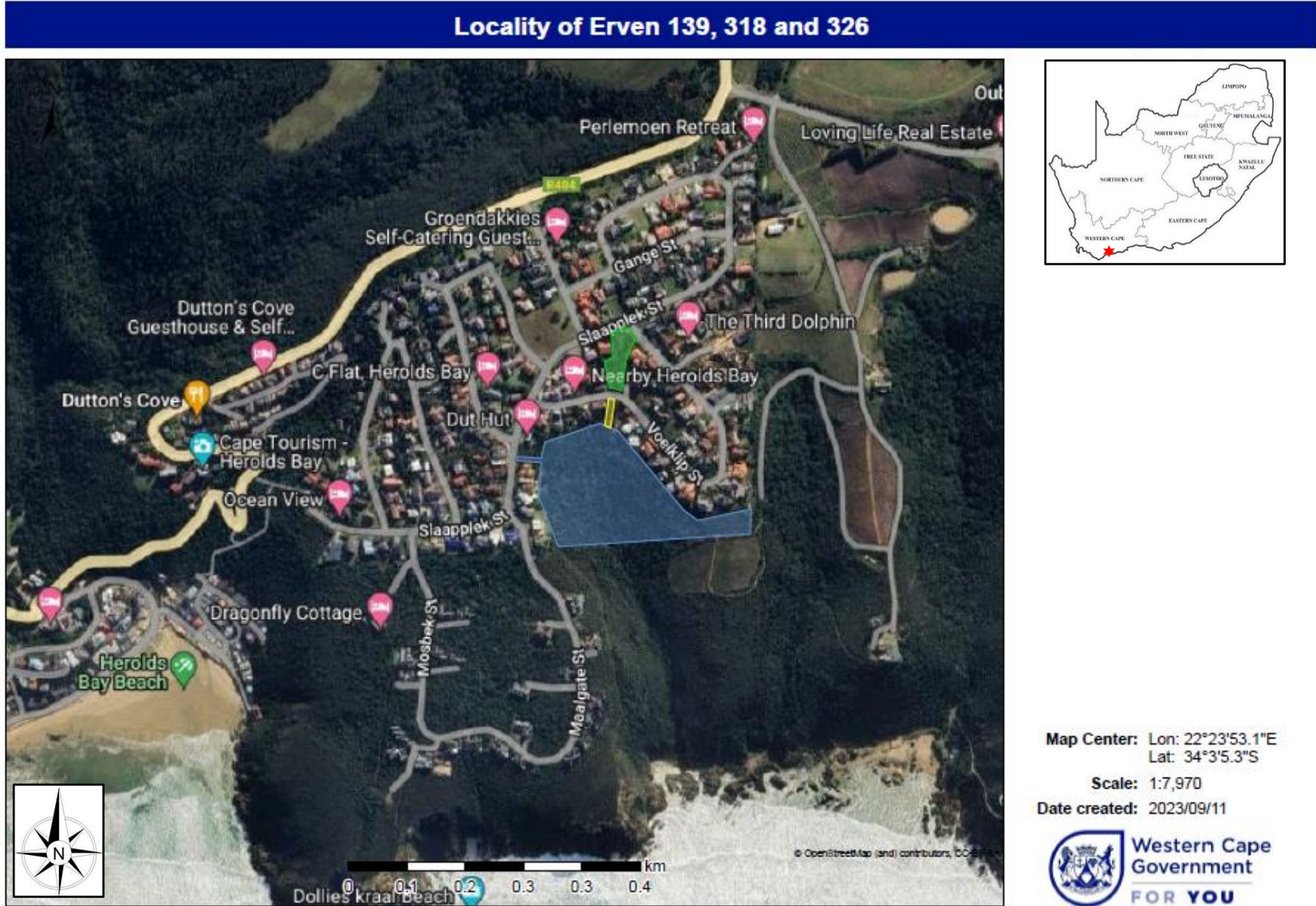
WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: **14 NOVEMBER 2024**

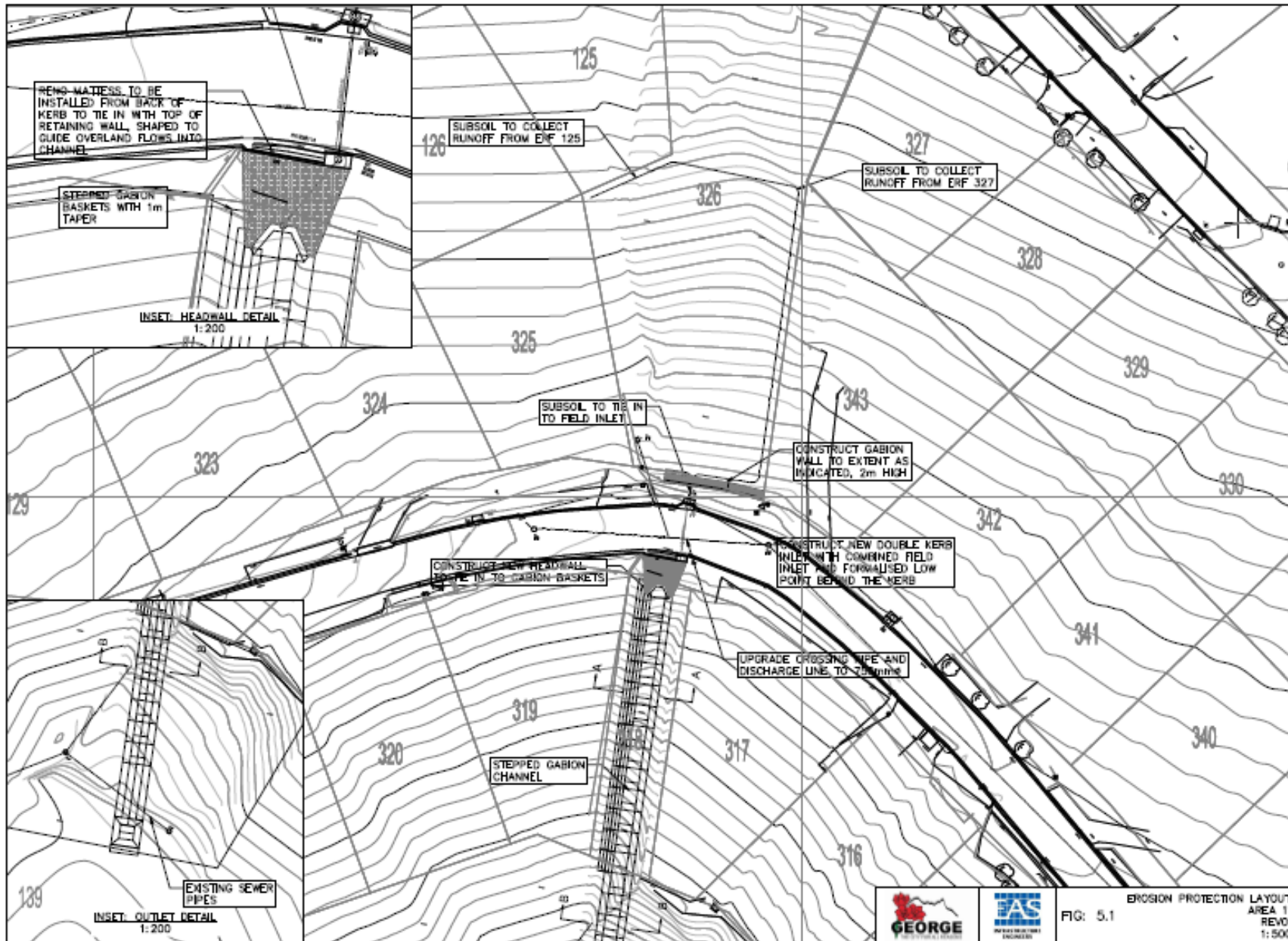
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EIA REFERENCE NUMBER: 16/3/3/1/D2/29/0018/24
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ANNEXURE 1: LOCALITY MAP

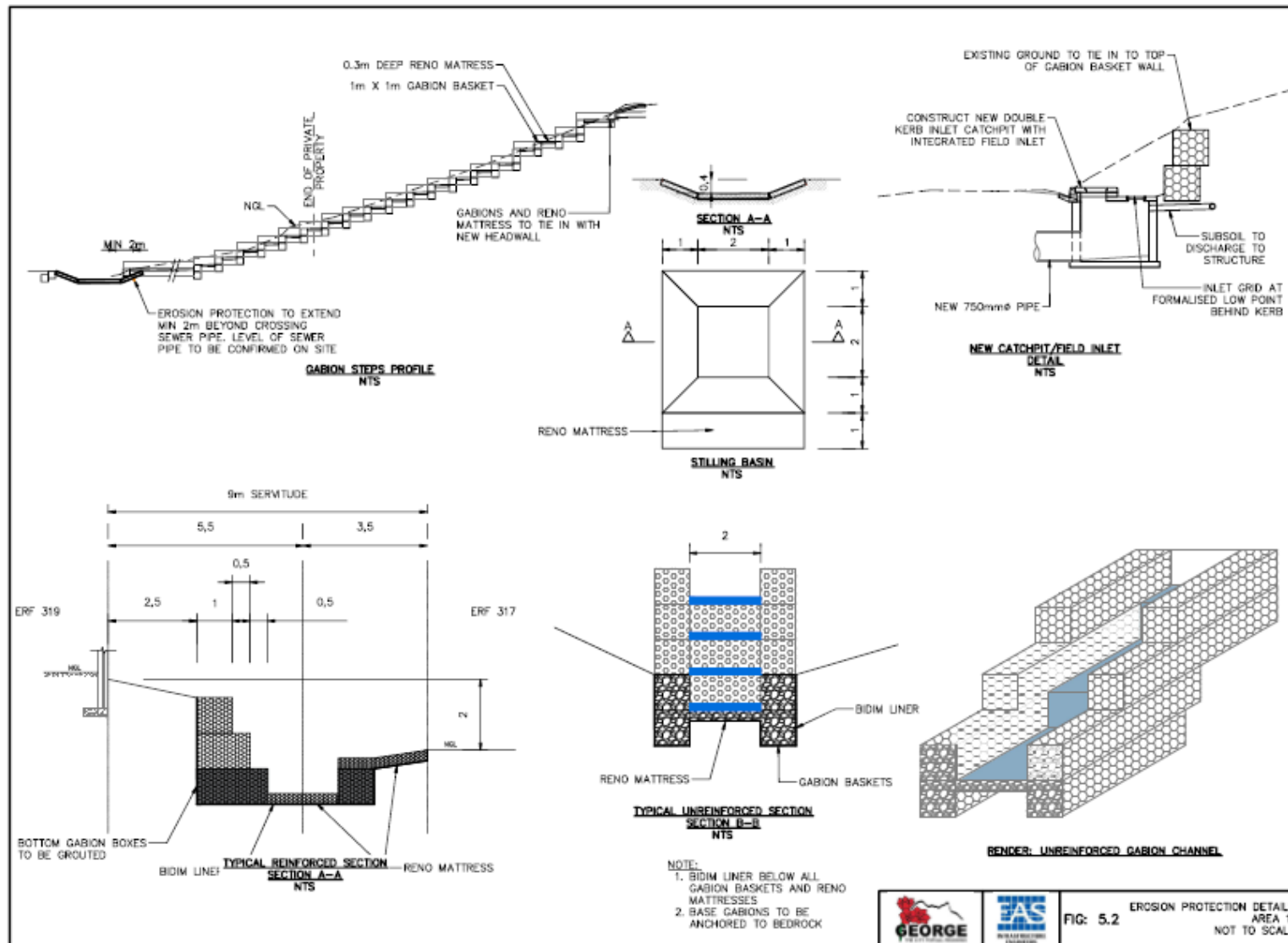


ANNEXURE 2: SITE DEVELOPMENT PLAN - PREFERRED ALTERNATIVE (ALTERNATIVE 1)





EROSION PROTECTION LAYOUT
AREA 11
FIG: 5.1
REV01
1:500

ANNEXURE 2: SITE DEVELOPMENT PLAN (CONTINUED)



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 14 May 2024, the Final Basic Assessment Report (FBAR) and EMPr dated 08 August 2024;
- 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 August 2024;
- e) The balancing of negative and positive impacts and proposed mitigation measures.

The Department had sufficient information at its disposal to understand the environmental and spatial context and the case officer is also familiar with the site and surrounding area. All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. 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:

- a) 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;
- b) fixing a notice board at the sites on 30 May 2024;
- c) giving written notice to the owners and occupiers of land adjacent to the site and any alternative site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 24 May 2024;
- d) the draft BAR was made available for comment from 31 May 2024 until 01 July 2024;
- e) the placing of a newspaper advertisement in the 'George Herald' on 30 May 2024.

The following Organs of State provided comment on the proposal:

- a) Cape Nature ("CN")
- b) Breede Olifants Catchment Management Agency (BOCMA)
- c) Heritage Western Cape

Cape Nature ("CN")

CN stated that the proposed works will improve the Ecological Support Area ("ESA") condition and that CN supports the proposal. In addition, CN recommended that a suitable location for search-and-rescue should be determined prior to the plant removal.

Breede Olifants Catchment Management Agency ("BOCMA")

BOCMA indicated that the proposal will trigger water uses in terms of the National Water Act, 1998. Therefor the Aquatic Specialist did apply for a water use authorisation and the application will be processed as General Authorisation ("GA").

Heritage Western Cape

Heritage Western Cape raised no objections and confirmed that the proposal does not trigger any of the activities listed in terms of Section 38(i) of the National Heritage Resources Act 1999 (Act 25 of 1999) ("NHRA").

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

(a) Location Alternative

No location alternatives were considered. The motivation provided for not considering other location alternatives was deemed acceptable.

(b) Design Alternative

Design Alternative 1 (Preferred Alternative – herein authorised).

The preferred activity entails the formalisation of an existing municipal stormwater channel through Erven 326, 318 and 139, Herold Bay. This formalisation will consist of the following:

Erf 326

- A subsoil drain which will be installed on Erf 326 to collect stormwater runoff from higher lying erven.
- A 2m high gabion basket wall that will be constructed just outside the southern boundary of Erf 326, and
- The subsoil drain will run underneath the gabion structures where it will be tied in at a reconstructed and enlarged catchpit structure.
- The crossing pipe which extends underneath Voëlklip street will be upgraded to a 750mm diameter pipe.

Erf 318 and a portion of Erf 139

- It is proposed to construct a stepped gabion basket channel and associated infrastructure (reno mattresses, retaining walls) on Erf 318 and on a small portion of Erf 139, to control erosion and stormwater runoff. The western section of this gabion channel will be further extended to the west provide additional support to the boundary wall of Erf 319. Furthermore, the outlet of the gabion basket channel will be on Erf 139, approximately 2m beyond an existing sewer line. A stilling basin will be constructed at this outlet to further reduce stormwater energy and to minimise erosion of the slope.

(c) "No-Go" or No-activity Alternative

With this alternative the adjacent properties will continue to be at risk and because the erosion takes place on Municipal land. With the consideration of the extent of the erosion along these erven and the risk that the erosion poses to the environment, human life and the neighbouring properties, it is evident that stormwater runoff must be addressed with the area specifically. The "no-go" option is therefore not deemed the best practicable environmental option.

3. Impact Assessment and Mitigation Measures

3.1. Activity Need and Desirability

The timing is correct for the proposed formalisation because it is crucial to manage stormwater runoff from higher lying even to prevent further damage to the properties boundary walls and this formalisation will also prevent erosion down slope. In addition, this proposal will prevent further degradation of habitat. Furthermore, this formalisation is desirable as the location is site-specific, at the point of highest risk, and dictates where the activity must be implemented. The location of this site is within neighbouring properties and natural habitat being at risk further. This Directorate has considered the timing and placing of this proposal as well and found it to be acceptable.

3.2. Provincial Spatial Development Framework ("PSDF")

The proposed formalisation is in line with the PSDF as the proposal aligns with "Policy R1: Protect Biodiversity and Ecosystem Services" of the Western Cape PSDF (2014). This proposal will prevent further erosion of and subsequent degradation to the habitat. According to the Terrestrial Biodiversity & Terrestrial Plant Species Report (30 January 2024) this proposal will assist the Terrestrial Biodiversity to recover enough to become a healthy Ecological Support Area ("ESA"). Therefore, it is essential that this proposed stormwater infrastructure should be implemented to avoid any further degradation of the ecosystem. This Directorate is in agreement that the proposal is aligned with the PSDF.

3.3. Spatial Development Framework ("SDF")

According to the information submitted to this Directorate it is noted that the development proposal will be in line with the SDF which states the following: "*Policy D2 (manage watercourses so that they remain in a natural state or present ecological status is improved or at least does not deteriorate)*". This Directorate agrees that the proposed activity will address the erosion problem and will reduce the energy of stormwater discharge and subsequently reduce impacts to the watercourse further down the slope.

3.4. Surface Water

Based on the information provided to this Directorate in the Final Basic Assessment Report (Dated 08 August 2024) there will be no aquatic biodiversity impacts as a result of the construction of the gabion channel. Furthermore, the proposal is aligned with the management objectives of SWSS and will result in improved protection of the natural watercourses further down slope. This Directorate is in agreement that the construction of the gabion channel will reduce the current impact on water-related services by allowing for the continued delivery of surface runoff without further degradation to the Critical Biodiversity Area ("CBA") habitat further down slope.

3.5. Botanical & Biodiversity Impacts

According to the Terrestrial Biodiversity & Terrestrial Plant Species Report (30 January 2024), the vegetation on site may be classified as *Groot Brak Dune Strandveld*. The terrestrial biodiversity sensitivity of the proposed development footprint on Erven 326 and 318 is "low" due to the level of degradation that has already occurred on the site from the erosion. The proposed development footprint of the gabion channel is also within a very small section of Erf 139 where the CBA and Critically Endangered habitat which is currently being degraded. Therefore this Directorate is in agreement that the proposed development will have a "low" impact.

3.6. Fauna

Based on the information provided to this Directorate it is noted that the *Knysna Warbler* is unlikely to occur within the study area and the *A. Montanus* is not known from the area and the habitat

is also no suitable for this species. Therefore this Directorate is in agreement that the impacts on fauna will be "low".

3.7. Heritage

According to the Heritage Specialist, the proposed stormwater infrastructure on Erven 139, 318 and 326 Herold's Bay, George in terms of the National Environmental Management Act (Act No. 107 of 1998, as amended) and Environmental Impact Regulations, 2014, do not trigger any of the development activities listed in terms of Section 38(1) of the National Heritage Resources Act, 1999 (Act 25 of 1999) ("NHRA").

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.

3.8. 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 Directorate is satisfied that the activity will not negatively impact on the receiving environment, subject to the strict implementation of the conditions of this EA and the mitigation measures contained in the EMPr.

4. Scope and Validity Period of authorisation

The applicant has indicated that the construction activities (non-operational aspects) should be completed within a five (5) year period, by 30 November 2029. The validity period of the environmental authorisation has been granted for a period of five (5) years from the date of issue, 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. 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:

- a) the effects of decisions on all aspects of the environment to be taken into account;
- b) 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;
- c) the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- d) the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and

- e) the selection of the best practicable environmental option.

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 08 August 2024 can be regarded as a sufficient assessment of the key identified issues and impacts.
- (b) The procedure followed for the impact assessment is considered 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.

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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