



EIA REFERENCE NUMBER: 16/3/3/1/D1/13/0001/25

NEAS REFERENCE: WCP/EIA/0001627/2025

DATE OF ISSUE: 13 November 2025

REFUSAL OF 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 RESIDENTIAL DEVELOPMENT ON PORTION 91 OF THE FARM MATJES FONTEIN NO. 304, KEURBOOMSTRAND

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

A. 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 **refuses Environmental Authorisation** to the applicant to undertake the listed activities specified in section C below with respect to the *proposed residential development on Portion 91 of the Farm Matjes Fontein No. 304 in Keurboomstrand, Plettenberg Bay*, described in the Final Basic Assessment Report ("FBAR"), dated 30 July 2025, as prepared and submitted by Ms. Joclyn Marshall of *Eco Route Environmental Consultancy*, the appointed environmental assessment practitioner ('EAP').

The applicant for this Environmental Authorisation is required to comply with the conditions set out in Section F below.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Managing Director
% Mr. Stephanus Roux
FAMILY ROUX EIENDOMME (PTY) LTD
PO Box 12670
QUEENSWOOD
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The abovementioned applicant is the holder of this Environmental Authorisation (hereinafter referred to as "**the applicant**").

C. LIST OF ACTIVITIES REFUSED

Listed Activities:
Environmental Impact Assessment Regulations Listing Notice 1 of 2014 (Government Notice No. 983 of 4 December 2014, as amended)
<p>Activity Number: 12 Activity Description:</p> <p>The development of—</p> <ul style="list-style-type: none">(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or(ii) infrastructure or structures with a physical footprint of 100 square metres or more; <p>where such development occurs—</p> <ul style="list-style-type: none">(a) within a watercourse;(b) in front of a development setback; or(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; <p>excluding—</p> <ul style="list-style-type: none">(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;(dd) where such development occurs within an urban area;(ee) where such development occurs within existing roads, road reserves or railway line reserves; or(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.
<p>Activity Number: 27 Activity Description:</p> <p>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—</p> <ul style="list-style-type: none">(i) the undertaking of a linear activity; or(ii) maintenance purposes undertaken in accordance with a maintenance management plan.
<p>Activity Number: 28 Activity Description:</p> <p>Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</p> <ul style="list-style-type: none">(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;

excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.

Environmental Impact Assessment Regulations Listing Notice 3 of 2014,
Government Notice No. 985 of 4 December 2014 (as amended)

Activity Number: 4

Activity Description:

The development of a road wider than 4 metres with a reserve less than 13,5 metres.

i. Western Cape

- (i) Areas zoned for use as public open space or equivalent zoning;
- (ii) Areas outside urban areas;
 - (aa) Areas containing indigenous vegetation;
 - (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or
- (iii) Inside urban areas:
 - (aa) Areas zoned for conservation use; or
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.

Activity Number: 12

Activity Description:

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.

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.

Activity Number: 14

Activity Description:

The development of—

- (i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or
- (ii) infrastructure or structures with a physical footprint of 10 square metres or more;

where such development occurs—

- (a) within a watercourse;
- (b) in front of a development setback; or

(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;

excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.

i. Western Cape

(i) Outside urban areas:

- (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
- (bb) National Protected Area Expansion Strategy Focus areas;
- (cc) World Heritage Sites;
- (dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;
- (ee) Sites or areas listed in terms of an international convention;
- (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;
- (gg) Core areas in biosphere reserves; or
- (hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.

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

The applicant is herein **refused environmental authorisation** to undertake the following alternative and the listed activities applied for, as it relates to the development:

The proposal entails the development of a residential development consisting of 60 residential erven. The development footprint of the erven is approximately 29 471m² with an internal road network of approximately 12 013m². The communal Open Space Zone II area within the proposed development will be approximately 9 642m² of landscapes gardens and stormwater infiltration pond systems. Bulk service infrastructure will consist of a sewage package plant for treatment of sewage, while potable water will be obtained from the existing watermain along Keurboomstrand Road. The proposed development would have the following components:

- 60 general Residential Zone I (Group Housing) erven with an average size of 500m²;
- 1 Transport Zone III erf (private road);
- 2 Transport Zone II erven (public road to accommodate the existing divisional road that traverses the southern boundary of the property and the old National Road that traverses the northern section of the property);
- 2 Open Space Zone II erven (conservation area which will include the sensitive forest area and buffer zones); and
- 4 Open Space Zone II erven (communal open space that will include private streets and services and landscaped gardens).

The proposed development would be implemented approximate to the Subdivision Plan (Drawing No: SUB/91/304/005) dated 22 October 2024, drafted by Planning Space Town and Regional Planners.

D. SITE DESCRIPTION AND LOCATION

The listed activities were to take place on Portion 91 of the Farm Matjes Fontein No. 304 in Keurboomstrand, Plettenberg Bay. The property can be accessed directly from Main Road 394 (MR394) which connects with the N2 National Road via Divisional Road 1888 (DR1888). The site is approximately 1.8km west of Keurboomstrand.

Coordinates of the site:

Latitude (S)			Longitude (E)		
34°	00'	21.04"	23°	26'	12.43"

SG digit code of the properties

Property	Surveyor General 21-digit Code
Portion 91 of the Farm Matjes Fontein No. 304	C03900080001019000000

Refer to Annexure 1 of this Environmental Authorisation for the Locality Plan.

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

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Ms. Joclyn Marshall

EAPASA Registration No: 2022/5006

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Note: At the time of issuing this decision, the EAP was no longer in the employ of Eco Route Environmental Consultancy, hence the use of an e-mail address different to that address listed in the application from.

F. LEGISLATIVE REQUIREMENTS

1. In accordance with regulation 46 of the NEMA EIA Regulations, 2014, an applicant may not submit an application which is substantially similar to a previous application that has been refused, unless any appeals on that refusal have been finalised or the time period for the submission of an appeal has lapsed.
2. The applicant must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 2.1. notify all registered Interested and Affected Parties ('I&APs') of –
 - 2.1.1. the outcome of the application;
 - 2.1.2. the reasons for the decision as included in Annexure 2;
 - 2.1.3. the date of the decision; and
 - 2.1.4. the date when the decision was issued.
 - 2.2. 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, 2025 detailed in Section G below;
 - 2.3. draw the attention of all registered I&APs to the manner in which they may access the decision;

- 2.4. provide the registered I&APs with:
 - 2.4.1. the name of the holder (entity) of this Environmental Authorisation,
 - 2.4.2. name of the responsible person for this Environmental Authorisation,
 - 2.4.3. postal address of the holder,
 - 2.4.4. telephonic and fax details of the holder,
 - 2.4.5. e-mail address, if any, of the holder,
 - 2.4.6. 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 National Appeals Regulations, 2025.

G. APPEALS

1. Appeals must comply the *National Appeal Regulations, 2025* (Government Notice No. R. 5985 in Government Gazette No. 52269 of 13 March 2025). Please note the provisions of Regulations 1(2) & (3) of the *National Appeal Regulations, 2025* when calculating the period of days.
2. The holder (applicant) of this decision must submit an appeal to the Appeal Administrator, any registered Interested and Affected Parties (I&AP's) and the decision maker (Competent Authority who issued the decision) within 20 calendar days from the date this decision was sent by the decision maker.
3. The I&AP's (not the holder of this decision) must submit an appeal to the Appeal Administrator, the holder (applicant) of the decision and the decision maker within 20 calendar days from the date this decision was sent to the registered I&AP's by the holder (applicant) of the decision.
4. All appeals submitted must:
 - 4.1. be in writing in the appeal form obtainable from the Departmental website;
 - 4.2. include supporting documents referred to in the appeal; and
 - 4.3. include proof of payment of the prescribed non-refundable appeal fee, if prescribed.
5. The holder (applicant) of the decision must:
 - 5.1. notify registered I&AP's and affected organs of state of any appeal received, and make the appeal available to them, within 5 calendar days after the 20-day appeal period ends.
 - 5.2. Submit proof of this notification to the Appeal Administrator within 5 calendar days after sending the last notification.
6. The applicant, where applicable, the decision-maker, or any person notified under regulation 4 of the *National Appeal Regulations, 2025* may submit a Responding Statement within 20 calendar days from the date they received the appeal, in the form obtainable from the Department website to the Appeal Administrator and to the appellant, where the appellant is not the applicant.
7. Appeals, Responding Statements and supporting documents must be submitted to the Appeal Administrator by means of one of the following methods:
 - 7.1. **By e-mail:** DEADP.Appeals@westerncape.gov.za or
 - 7.2. **By hand** where that person submitting does not hold an electronic mail account:
Attention: Mr Marius Venter
Room 809, 8th Floor Utilitas Building,

1 Dorp Street, Cape Town, 8001

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Administrator via email or to the address listed above.

A prescribed appeal form, responding statement form as well as assistance regarding the appeal processes is obtainable from the relevant website of the appeal authority: <http://www.westerncape.gov.za/eadp> or the office of the Minister at: Tel. (021) 483 3721 or email DEADP.Appeals@westerncape.gov.za

Documents to be submitted 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

Your interest in the future of our environment is appreciated.

Yours faithfully

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

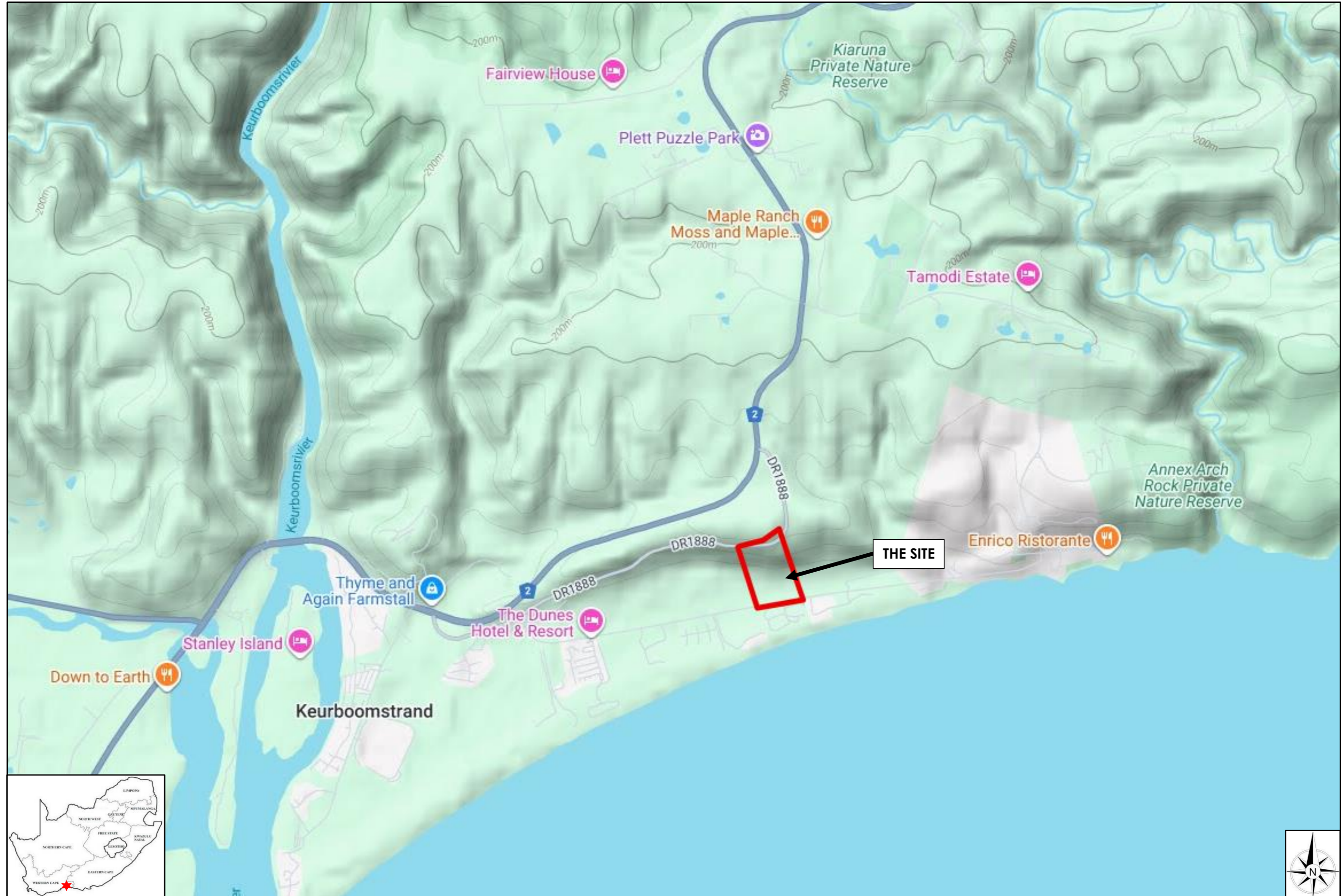
DATE OF DECISION: 13 NOVEMBER 2025

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/1/D1/13/0001/25

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ANNEXURE 1: LOCALITY MAP OF PORTION 91 OF THE FARM MATJES FONTEIN NO. 304, KEURBOOMSTRAND



ANNEXURE 2: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form dated 6 March 2025 as received by this Department on 6 March 2025; the Final Basic Assessment Report ('FBAR'), dated 30 July 2025, as prepared and submitted by the appointed EAP, Ms. Joclyn Marshall of *Eco Route Environmental Consultancy*, and the Environmental Management Programme ('EMPr') submitted together with the FBAR on 30 July 2025.
- b) Relevant information contained in the Departmental information base.
- c) The comments received from I&APs and responses to these, included in the BAR submitted on 30 July 2025.
- d) The balancing of negative and positive impacts and proposed mitigation measures; and
- e) Appropriate information was made available in the report to understand the environmental and spatial context.
- f) 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).
- g) The site inspection undertaken by the decision-maker, Mr. Gavin Benjamin and Messrs. Danie Swanepoel, Francois Naudé and Steve Kleinhans from the Directorate: Development Management (Region 3) on 14 August 2025.

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

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 of two site notices on the boundary of the site;
- 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 on 8 May 2023 of the availability of the pre-application BAR, on 20 March 2025 of the availability of the DBAR, and on 25 June 2025 on the availability of the revised DBAR;
- giving written notice to the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 8 May 2023 of the availability of the pre-application BAR, on 20 March 2025 of the availability of the DBAR, and on 25 June 2025 on the availability of the revised DBAR;
- the placing of an advertisement in the local newspaper, the Knysna-Plett Herald on 4 May 2023 regarding the availability of the pre-application BAR; and
- making the pre-application BAR, DBAR and revised DBAR available to I&APs for public review and comment for periods of 30 days respectively.

The following State Departments / Organs of State were notified and provided an opportunity to comment on the proposal. Whereas (*) indicates that comment was provided:

- *Western Cape Government: Department of Agriculture (*)*

- Western Cape Government: Department of Environmental Affairs & Development Planning
 - Directorate: Development Management (Region 3) (*)
 - Directorate: Biodiversity and Coastal Management (*)
- Western Cape Government: Department of Infrastructure
 - Chief Directorate Road Planning (*)
- Western Cape Government: Department of Health
- National Department of Forestry, Fisheries and the Environment
 - Branch: Forestry Management (*)
 - Branch: Oceans and Coasts (*)
 - Branch: Biodiversity & Conservation
 - Branch: Protected Areas, Planning and Management Effectiveness
- Department of Water and Sanitation
- South African National Roads Agency
- South African National Parks
- Breede-Olifants Catchment Management Agency ("BOCMA") (*)
- CapeNature (*)
- South African Civil Aviation Authority (*)
- Heritage Western Cape (*)
- Garden Route District Municipality;
- Bitou Municipality;
 - Bitou Municipality: Planning and Development (*);
 - Ward Councillor: Ward 2

Most of the comments received from I&AP's indicated their objection to the proposed development. The objections relate to the foreseen impacts of the proposed development *inter alia* violations in respect of the zoning and Spatial Development Plan, risk to the environment, flooding, negative impact on Keurboomstrand's intrinsic value and character, municipal service infrastructure concerns, accessibility and affordability.

The comments and issues raised by the respective *Organs of State* and *Interested and Affected Parties (I&APs)* that were captured in the Basic Assessment Report were responded to by the EAP. The Competent Authority has considered these responses but is not satisfied with all the responses provided by the EAP to those I&APs and certain of the other organs of state.

2. Alternatives

Layout Alternative 1

This alternative entails the establishment of a residential development consisting of approximately 73 group housing erven with an average size of approximately 375m². The houses will vary in size but will be built in a similar style to create a harmonious development.

This is not the applicant's preferred alternative as there were several objections from local residents that expressed their concern about the density of the alternative

Layout Alternative 2

This alternative entails the establishment of a residential development consisting of 19 single residential units. This layout was prepared to comply with the guidelines contained in the Keurbooms and Environs Local Area Spatial Plan (2013), which specifies parameters for development within the Keurboomstrand area. These parameters are based on the following bio-physical constraints which determine that no development should be considered:

- below the 1:50 and 100: year flood lines;
- on any slopes with a gradient steeper than 1:4;

- below the 4.5m coastal setback line;
- within the 100m high water mark setback; and
- within the Tshokwane Wetland system.

This alternative is not the applicant's preferred alternative, and it has been motivated not to be financially viable and will not reach the affordability levels for the intended target market. This alternative was not assessed in the BAR as it is not considered a feasible alternative.

Preferred Layout Alternative

This alternative entails the development of a residential development consisting of 60 residential erven. The development footprint of the erven is approximately 29 471m² with an internal road network of approximately 12 013m². The communal Open Space Zone II area within the proposed development will be approximately 9 642m² of landscapes gardens and stormwater infiltration pond systems.

This is the applicant's preferred alternative as it addresses all of the above parameters as specified in the Keurbooms River and Environs Local Area Spatial Plan 2013 ('LASP'), except for the 4.5m coastal setback line. According to the applicant, it has been proven through specialist studies that the area below the 4.5m contour line plays no role in the functionality of the wetland system.

"No-Go" Alternative:

The No-go option is the option of not undertaking the proposed project or alternatives and can be used as a baseline from which impacts can be compared. According to the applicant a vacant site does not generate any revenue; its continued underutilisation is likely to have a negative impact on the local community. The proposed development is anticipated to improve the quality of life for residents. The lack of development on the site results in an opportunity cost—reflecting the benefits foregone by selecting the "no-go" alternative. As an economic principle, opportunity cost highlights the trade-offs inherent in decision-making. In this context, it signifies the loss of the projected socio-economic opportunity. Not proceeding with the project would result in missed economic opportunities.

3. Key Factors affecting the decision:

In reaching its decision to refuse the proposed development, this Department took *inter alia* the following into account:

3.1 *National Environmental Management Principles and other relevant legislative considerations:*

The following National Environmental Management Act 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) have contributed towards the decision making process related to the current application for environmental authorisation:

Development must be socially, environmentally and economically sustainable.

- Sustainable development requires the consideration of all relevant factors including the following:
 - that a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions;

- That the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
 - that pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
 - that negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied.
- Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option.
 - The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured.
 - Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognising all forms of knowledge, including traditional and ordinary knowledge.
 - The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment.
 - Sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, estuaries, wetlands, and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure.

3.2 Availability of municipal services

When considering an application which includes *inter alia* residential components, it is standard practice that a competent authority require that the applicant or appointed EAP consult the relevant local authority (i.e. the Bitou Municipality) and obtain written comment / confirmation regarding the available municipal engineering services for the proposed development.

(a) Sewage disposal and treatment

It has been reported that in order to accommodate the proposed development in the existing sewer system the following network upgrades are required (1) 5 400m x 355mm diameter upgrade of the existing Aventura pumpstation rising main (2) 1 800mm x 315mm diameter upgrade to the Matjiesfontein pumpstation rising main. Furthermore, it has also been reported that the Gansevallei Wastewater Treatment Works ('WWTW') currently does not have the capacity to accommodate the sewage generated by the proposed development until such time that upgrades to the Gansevallei WWTW have been completed.

In order to address the matter, the proposal includes the development of a wastewater package plant to treat the sewage that will be generated by the residential development. The facility would have the throughput capacity to treat 30 kilolitre ('kl') sewage per day and would be a containerised bio-reactor plant which treats the sewage to the Special Limit effluent quality in terms of the National Water Act, Act 36 of 1998.

The treated effluent from the package plant is proposed to be irrigated on the property. In this regard a Water Use License Application ('WULA') was submitted to the Department of Water and Sanitation ('DWS'), and a Water Use License ('WUL') for Sections 21(c), 21(i) and 21(e) of the NWA on 1 October 2025 for *inter alia* the engaging in a controlled activity

(irrigation of land) where a maximum of 22.5m³ per day can be irrigated and a total of 8 212m³ per year has been authorised. Please note that this approval was obtained after the FBAR had been submitted for consideration, and it is also important to highlight that the Bitou Municipality requires that the facility be decommissioned once the municipal service infrastructure has been upgraded and in place to fully service the development. The latter is relevant to the need and desirability of developing such a facility.

(b) Potable water supply

The proposed development falls within the Matjiesfontein Reservoir Distribution Zone. It has been reported that there is sufficient capacity in the existing reticulation system and reservoir; however, there is insufficient capacity in the bulk water mains to service the proposed development. In order to accommodate this development in the existing system, it is required to (i) replace an abandoned 300mm diameter asbestos cement pipeline with a new 3.6km long, 400mm diameter pipeline, (ii) replace the existing 150mm diameter bulk pipeline with a new 0.9km long, 400mm diameter pipeline and replace the existing 150mm diameter bulk pipeline with a new 1km long, 355mm diameter pipeline.

However, the required assessments have not been undertaken for the above upgrades and were not reported on in the BAR. According to the applicant the detailed pipeline route investigations and specific requirements such as materials and methods are not yet available to assess and could not be incorporated in the BAR. It has also been reported that the applicant for the upgrades to the bulk water pipelines is the Bitou Municipality who will take responsibility for the required process. It has also been reported that the implementation of the upgrades is entirely dependent of the availability of funding (developer contributions, as well as council funding where applicable) and no timeframe can be guaranteed for such implementation.

The consultation process highlighted this important gap in information, as well as the distinct possibility that this application may result in incremental decision-making. This is one of the key failures of the application. In this regard, it is not lawful to grant an environmental authorisation subject to further environmental impact assessment being carried out on important components of the development, after the authorisation has been granted. This principle also applies to a situation where the Competent Authority has knowledge that further environmental impact assessment will need to be carried out for important components upon which a development relies. The latter is also fundamentally linked to the consideration of cumulative impacts. This Department does not support incremental decision-making, and such an administrative action would be open to legal review and is not enabled by an empowering provision in law. Furthermore, even if the development of the pipelines does not require environmental authorisation, the lack of information and gap in knowledge requires that a risk averse and cautious approach be followed in the decision-making process, and the decision to refuse certain aspects of the application are further founded on the requirements of being procedurally correct and fair.

3.3 Alignment with the Bitou Municipality Spatial Development Framework, municipal policy documents, and integrated development plan (IDP)

(a) Bitou Municipality Spatial Development Framework 2021

The Bitou Municipality Spatial Development Framework ('SDF') was approved by Council Resolution C/6/16/03/22 on 31 March 2022. The SDF seeks to address spatial, environmental and socio-economic issues confronting the municipality. The SDF also assists the municipality to efficiently manage current spatial development processes and pressures and strategically prepare for projected future developments in the municipal area.

In this regard, the SDF has delineated the urban edge to contain lateral settlement sprawl as a growth management instrument. The urban edge is the proposed limit for expansion of any urban node beyond which development should not occur unless the land is already provided with or can connect directly to existing municipal services infrastructure.

In respect of the subject property, the urban edge has been delineated along the bottom of the steep northern slope and follows the estuarine functional zone ('EFZ') which is topographically delineated by the 5m contour above mean sea level. The applicant's preferred alternative is partially located below the 5m contour and therefore within the delineated EFZ. However, notwithstanding this discrepancy, according to the Bitou Municipality, the proposed development is consistent with the SDF.

(b) Keurbooms River and Environs Local Area Spatial Plan 2013 ('LASP')

The LASP identifies the southern, flatter part of the property as "transformed area" and "no natural remaining", while northern, steeper portion of the property has been identified as highly sensitive. According to the BAR the LASP identified development nodes for certain properties, with a gross density of 12 units per hectare of the identified transformed footprint. It is reported that these nodes were identified by excluding areas with one or more of the following constraints:

- below the 1:50 and 100: year flood lines;
- on any slopes with a gradient steeper than 1:4
- below the 4.5m coastal setback line;
- within the 100m high water mark setback; and
- within the Tshokwane Wetland system.

According to the applicant, the preferred alternative adheres to all the above parameters, except for the 4.5m coastal setback line. If the 4.5m setback line is taken into account, only 1.6ha of the 6ha of transformed on the property can be developed, and at density of 12 units per hectare, a maximum of 19 units can be developed on the property. According to the applicant this is not financially viable, and it does not effectively utilise the available transformed areas.

(c) Bitou Municipality Integrated Development Plan 2022-2027 (IDP)

It is also important to consider the IDP as it provides the context and means of how the SDF can or will be implemented. Notwithstanding the municipal services infrastructure projects that are listed in the current IDP (as updated for 2025/2026), it is not apparent that the projects relevant to the development proposal on this site, have reached a stage where they can be readily implemented as they still require final planning and design, and even authorisations/licences in terms of the relevant environmental legislation promulgated under the National Environmental Management Act, 1998 (Act No. 107 of 1998, as amended) ("NEMA") or other Specific Environmental Management Acts (as detailed in NEMA).

3.4 Alignment with environmental policy documents and informants

(a) Western Cape Biodiversity Spatial Plan 2023

Consideration has been given to the Western Cape Biodiversity Spatial Plan 2023 ('WCBSP'), which was adopted by the Western Cape Minister of Local Government, Environmental Affairs and Development Planning in terms of section 34(2)(c) of the Western Cape Biodiversity Act, Act 6 of 2021, on 13 December 2024. According to this plan the site on the property earmarked for development has not been assigned a category (i.e. No Natural Remaining), apart from an area mapped Critical Biodiversity Area 1: Aquatic ('CBA1').

According to the Plant, Animals and Terrestrial Biodiversity Assessment, the area mapped as CBA1 consists almost entirely as secondary vegetation containing a mixture of shrubs and weeds that indicates that it is in various stages of post-disturbance development. It is reported that the entire area was once cultivated but has gone through various iterations of being cleared and somewhat recovering. To this end, it is evident that the site may still be able to recover to some form of natural vegetation should any anthropogenic activities, apart from the legal requirement to manage and eradicate alien invasive vegetation, be excluded from the site.

(b) *Estuarine Functional Zone*

The Estuarine Functional Zone ('EFZ') is defined as "the area in and around an estuary which includes the open water area, estuarine habitat (such as sand and mudflats, rock and plant communities) and the surrounding floodplain area, as defined by the area below the 5m topographical contour (referenced from the indicative mean sea level)". As reported in the BAR, the preferred alternative is located below the 5m contour as the Aquatic Biodiversity Impact Assessment found that the EFZ corresponds with the grazed area where the dominant plant species are *Brusvigia orientalis* (candelabra flowers), *Stenotaphrum secundatum* (Buffalo Grass), *Mesembryanthemum spp.* (ice plants), *Romulea spp.* (Froetangs), *Carprobrotus sp.*, *Searsia crenata* (Dunekraaibessie), *Salvia aurea* (brown sage), and *Massonia longipes* (coastal hedgehog lily). The assessment indicates that these species are typically associated with coastal sandy habitats but that they are not strictly associated with estuarine systems associated with coastal sandy beaches. Furthermore, it is reported that no estuarine species from any of the tidal habitats including saltmarsh and supra-tidal vegetation were identified at the site.

(c) *Coastal Management Lines*

The project on the delineation of the Coastal Management Lines ('CML') for the Garden Route District, was commissioned in 2016 to ensure that development is regulated in a manner appropriate to risks and sensitivities in the coastal zone. The use of CMLs is a particularly important response to the effects of climate change, as it involves both a quantification of risks and proactive planning for future development (Royal Haskoning DHV, 2018).

The proposed development is located seaward of the CML as well as inside the Coastal Protection Zone ('CPZ'). It must be stated that the principal purpose of the CML is to protect coastal public property, private property and public safety; determine features that should be protected under the coastal protection zone; and preserve the aesthetic values of the coastal zone. The purpose of the CPZ includes *inter alia* to protect people, property and economic activities from risks arising from dynamic coastal processes, including the risk of sea-level rise.

Notwithstanding the above, the property is not affected by tidal influences; however, according to the Aquatic Biodiversity Impact Assessment, one of the development risks associated with the EFZ relates to flooding which can be exacerbated by climate change and associated sea level rise. It has been reported that the property is located on the edge of the 1:100-year flood line. However, the Aquatic Biodiversity Impact Assessment acknowledges that the frequency of 100-year flood events is increasing due to climate change. When this coincides with sea-level rise and high tide events, it is not impossible that minor flooding could affect the low-lying part of the property. In addition, it must also be emphasised that the severity of coastal and inland storms is also expected to increase. It is therefore highly likely that the lower part of the property will be flooded in the future.

3.5 Activity Need and Desirability:

Need and desirability must be consistent with the principles of sustainability as contained in Section 2 of the NEMA. In this context, EIA's play an important role by evaluating the need and desirability of development proposals, appropriateness of alternatives and cumulative implications. These aspects are integrally linked and must be informed by the strategic context within which the site / proposal is situated.

According to the applicant the Plettenberg Bay area historically has had very little housing opportunities. This has been exacerbated by the influx of people ('semigration') from other provinces which has led to demand outstripping supply and increases in the average prices of houses. To fill some of this demand the applicant intends to offer houses and properties at an approximate price range of R2.5m and R3m marketed as "affordable housing" to cater for the so called middle class. However, the applicant acknowledges that this may still be beyond the means of many but that it does present an opportunity for certain families to attain homeownership.

Notwithstanding the above, the need and desirability of a proposal of this nature must also consider the availability of municipal service infrastructure to accommodate the proposed development at this point in time. In this regard, it has been reported that the Bitou Municipality cannot accommodate the proposed development within its water and sewage networks due to upgrades requirements and indicated in paragraph 3.2 above. While the competent authority may have been able to consider the required infrastructure upgrades in the application, the necessary assessment of the impact of such upgrades were not considered and assessed in the BAR.

In light of the above, the need and more so, the desirability of the proposed development was not adequately demonstrated in the application/BAR.

4. Conclusion

In view of the above, the competent authority is of the opinion that the proposal will conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA. The competent authority applied a risk-averse and cautious approach with respect to this development proposal and the foreseen impacts (including cumulative impacts) and sustainability of the proposal.

----- **END** -----