

Navrae  
Enquiries N. Green (Environmental Officer)  
Imibuzo

Verwysing  
Reference

Datum

Date 02 November 2011

Isuku



Mr. Flippie Bezuidenhout  
P/Bag X3  
Kleinmond  
7195

Dear Mr. Bezuidenhout

**PROPOSED SUBDIVISION OF ERF 3451, BETTY'S BAY**

Thank you for the opportunity to comment with regard to this application.

Environmental Management Services has received correspondence from the Department of Environmental Affairs and Development Planning with respect to NEMA Listed Activities and the proposed subdivision of properties.

According to the DEA&DP the intended subdivision of a property does not trigger any listed activity with respect to construction of buildings or infrastructure. The Department is therefore of the opinion that a Basic Assessment Report is not required prior to the subdivision of the property, even though construction rights would be afforded to the owner in the case of a successful subdivision application and that the owners of the new property would be required to engage in a Basic Assessment process prior to the submission of their building plans for approval.

In the case of Erf 3451, construction of buildings and infrastructure within 100 m of the high water mark of the sea has commenced in the absence of an Environmental Authorisation from the Department of Environmental Affairs. A Section 24G (illegal activity) case has been opened and is being investigated by the Department of Environmental Affairs and Development Planning.

DEA&DP is the competent authority with respect to S24G cases and as such, authorization of activities on the erf or any action pertaining to this case lies within the jurisdiction of the provincial department. Environmental Management Services can not deliver positive comments with respect to the subdivision application if there are already illegal activities on the property.

Privaatsak X3  
KLEINMOND  
7195

Tel. (028) 271 8420  
Fax. (028) 271 4100

Private Bag X3  
KLEINMOND  
7195

Environmental Management Services is of the opinion that Section 28 NEMA should prevail with respect to any subdivision application within any sensitive environment such as the coastal zone, wetlands or Critically Endangered ecosystems.

It is recommended that this application should be forwarded to the provincial planning department for comment, with respect to the S24G case that is registered against this property.

Please do not hesitate to contact this office if there are any further enquiries.

Kind regards,

Neville Green  
Environmental Officer  
Hangklip – Kleinmond Administration

On behalf of

Mr. Stephen Muller  
Director Infrastructure & Planning



Network Infrastructure Provisioning

Telkom SA SOC Limited  
P.O Box X6  
Maitland 7404

P Bezuidenhout

Tel +27 (21) 414-5614  
Fax +27 (088) 021 414-5614  
E-mail williamL@telkom.co.za  
Enquiries Ilhaam Peters

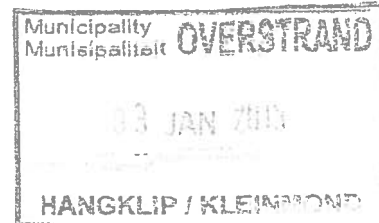
Our Ref: WBBY0891/12  
Your Ref: KBB3451 (1875)

FILE NO:	EL 3451-BB
SCAN NO:	
COLLABORATOR NO:	423925

20 December 2012

Attention: P Bezuidenhout

OVERSTRAND MUNICIPALITY  
HANGKLIP-KLEINMOND ADMINISTRATION  
Private Bag X3  
KLEINMOND  
7195



Dear Sir/Madam

**RE: WAYLEAVE APPLICATION: PROPOSED SUBDIVISION OF ERF 3451,  
BETTY'S BAY**

With reference to your letter dated 26 October 2012.

I hereby inform you that Telkom approves the proposed work indicated on your drawing in principle. This approval is valid for 12 months only, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions:

As per supplied sketches it would appear as if Telkom SA LTD infrastructure **would not be affected**. However, care should still be taken should it become evident that there is in fact Telkom network present at the actual sites.

Please notify Telkom immediately should you locate any Telkom plant not indicated.

**Our representative for this area is Graham Willemse who can be contacted at telephone number 0800200888 at least 48 hours before commencement of work.**

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.



Should Telkom SA infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Telkom SA LTD rights remain reserved.

Yours faithfully

A handwritten signature in black ink, appearing to read "Ron Bruiners".

Ron Bruiners  
Operations Manager  
Wayleave Management: Western Region



<b>TELKOM PLANT NOT AFFECTED</b>		
If any plant not indicated exists and information or supervision is required please contact this office at least 48 hours before any work commences.		
<b>GRAHAM WILLEMSE</b>		<b>TEL: 080 020 0888</b>
<u>Reference number</u> WWIP_WBBY0891_12	<u>Marked Up</u> E. Burg	<u>Date</u> 12/18/2012



*P Bezuidenhout*

**OVERSTRAND MUNICIPALITY**  
Private Bag X3  
**KLEINMOND**  
7195

**Date:**  
07.02.2013

**Enquiries:**  
Mr. Nickey de Koker  
Tel: 021 980 3667  
Fax: 021 980 3053

**Attention: P. Bezuidenhout**

**PROPOSED SUBDIVISION OF ERF 3451 BETTY'S BAY.**

**YOUR REF:** KBB 3451 (1875)

**OUR REF:** 01735/12

I refer to your letter dated 26 October 2012 and include the following drawing, indicating existing Eskom 11kV / LV underground services with the exception of possible LV / streetlight services: (O.H. Lines)

- **Drawing Number: Wayleave Request: 01735/12**

Eskom has no objection to the proposal provided that the following requests are adhere to:

1. Should it be necessary to relocate / support or protect any of the existing Eskom services, at least 3 months notice in writing is required and the costs will be for the account of the Developer / Applicant.
2. Eskom's right on the properties not to be affected.
3. All services indicated on included drawing to be verified on site.
4. Enclosed find a copy of the **Occupational Health and Safety Act ( Act No. 85 of 1993)**
5. Note: (i) Included drawing indicates Eskom services in the vicinity and is for information/ planning only and should not be issued.
  - (ii)(a) This is not an approval for applicant to undertake any work in close proximity of Eskom's services in proposed area as indicated on included drawings.
  - (b) Formal application must be made to Eskom, Land Development, P.O. Box 222, Brackenfell, 7561 – Attention: Esack Daware.
  - (iii)(a) Proposed development falls in the Eskom Area of Supply and will therefore be part of the Eskom Network.
  - (b) Any information regarding supply and standards should be referred to Isaac Mmushi (Project Engineering – Bellville Office – Tel: 021 915 2802)
  - (iv) Should you require any further information please contact Nickey de Koker, Land Development, Brackenfell – Tel: (021) 980 3667.

Yours faithfully

  
**Nickey de Koker**  
**LAND DEVELOPMENT (BRACKENFELL)**

FILE NO:	EL 3451-BB
SCAN NO:	
COLLABORATOR NO:	463130

**Western Region**  
Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA  
Tel +27 86 003 7566 www.eskom.co.za



## ESKOM (WESTERN REGION)

---

### **OCCUPATIONAL HEALTH AND SAFETY ACT (Act No 85 of 1993) WITH REGULATIONS**

#### D16 (7) Excavations

"The builder or excavator shall ascertain as far as possible the location and nature of underground services likely to be affected by the excavation and take such steps as may be necessary to prevent danger to persons".

### **THE ELECTRICITY ACT (Act No 41 of 1987)**

#### Section 27 (3) : Offences and Penalties

"Any person who without legal right (the proof of which shall be upon him) cuts or damages or interferes with any apparatus for generating, transmitting or distributing electricity, shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000,00 or to imprisonment for a period not exceeding twelve months".





DIRECTORATE: ENVIRONMENTAL GOVERNANCE  
SUB-DIRECTORATE: RECTIFICATION

REFERENCE NUMBER: 14/2/1/E2/1/Erf 3451, Betty's Bay

ENQUIRIES: Kayleen Marhota



TP- A Theat Christoop

BY REGISTERED MAIL

The Owner  
P. O. Box 1752  
HERMANUS  
7200

FILE NO:	EL 3451 BB
SCAN NO:	ERF 3451
COLLABORATOR NO:	881197

Tel.: (028) 312 1734  
Fax: (086) 508 3249  
email: luckhoffabraham@gmail.com

Attention: Mr. Abraham Luckhoff

Dear Sir

**APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") FOR THE UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: UNLAWFUL CONSTRUCTION OF A RESIDENTIAL DWELLING WITHIN 100m OF THE HIGHWATER MARK OF THE SEA ON ERF 3451, BETTY'S BAY**

With reference to your application of September 2013 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

### ENVIRONMENTAL AUTHORISATION

#### A. DECISION

By virtue of the powers conferred by section 24 and section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (GN No. R.982 of 4 December 2014), the Competent Authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with Alternative 1 as described in the Environmental Impact Report ("EIR") dated 12 May 2014.

TP 2 MAR 2016

1 Dorp Street, Cape Town, 8001  
Tel: +27 483 2067 fax: +27 21 483 4033

Private Bag X9086, Cape Town, 8000

[www.westerncape.gov.za/eacd](http://www.westerncape.gov.za/eacd)

13 MAR 2016

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

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

## B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Owner

c/o Mr. Abraham Luckhoff

P. O. Box 1752

**HERMANUS**

7200

Tel.: (028) 312 1734

Fax: (086) 508 3249

Email: luckhoffabraham@gmail.com

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

## C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R544 of 18 June 2010 –</p> <p><b>Activity Number: 16</b></p> <p>Activity Description:  <i>"Construction or earth moving activities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea"</i></p>	<p>The partial constructed a residential dwelling in accordance with approved Municipal plans and a three metre wide access track extending to the dwelling.</p>

<p>or an estuary, whichever is the greater, in respect of –</p> <ul style="list-style-type: none"> <li>(i) fixed or floating jetties and slipways;</li> <li>(ii) tidal pools;</li> <li>(iii) embankments;</li> <li>(iv) rock revetments or stabilizing structures including stabilizing walls;</li> <li>(v) <b>buildings of 50 square metres or more; or</b></li> <li>(vi) <b>infrastructure covering 50 square metres or more –</b></li> </ul> <p>but excluding</p> <ul style="list-style-type: none"> <li>(a) if such construction or earth moving activities will occur behind a development setback line; or</li> <li>(b) where such construction or earth moving activities will occur within existing ports or harbours and the construction or earth moving activities will not increase the development footprint or throughput capacity of the port or harbor;</li> <li>(c) where such construction or earth moving activities is undertaken for purpose of maintenance of the facilities mentioned in (i)-(vi) above; or</li> <li>(d) where such construction or earth moving activities is related to the construction of a port or harbor, in which case activity 24 of Notice 545 of 2010 applies."</li> </ul>	<p>The structure has a total footprint of 132m<sup>2</sup>, however when excluding the steep area, the footprint is 114m<sup>2</sup>. The foundations and some side walls have been completed.</p> <p>Bulk service connections exist on the property and internal reticulation will stretch approximately 22 meters between an existing structure and the new dwelling.</p>
<p>Government Notice No. R544 of 18 June 2010 –</p> <p><b>Activity Number: 18</b></p> <p>Activity Description:          "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</p>	<p>The partial constructed a residential dwelling in accordance with approved Municipal plans and a three metre wide access track extending to the dwelling.</p>

<p>rock or more than 5 cubic metres from:</p> <p>(i) a watercourse;</p> <p>(ii) the sea;</p> <p>(iii) the seashore;</p> <p><b>(iv) 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 –</b></p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving;</p> <p>(a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or</p> <p>(b) occurs behind the development setback line."</p>	<p>The structure has a total footprint of 132m<sup>2</sup>, however when excluding the steep area, the footprint is 114m<sup>2</sup>. The foundations and some side walls have been completed.</p> <p>Bulk service connections exist on the property and internal reticulation will stretch approximately 22 meters between an existing structure and the new dwelling.</p>
--	---

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

#### D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Erf 3451, Betty's Bay.

The SG digit code is: C01300020000345100000

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 21' 37.73" South	18° 58' 01.84" East

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

Herein-after referred to as "the site".

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

PHS Consulting

c/o Ms. Michelle Kruger

P. O. Box 1752

**HERMANUS**

7200

Tel.: (028) 312 1734

Fax: (086) 508 3249

Email: [phsconsult@telkomsa.net](mailto:phsconsult@telkomsa.net)

**F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN**

The partial construction of a residential dwelling in accordance with approved Municipal plans, with a footprint of 132m<sup>2</sup>, and a three metre wide access track extending to the new dwelling. The foundation and some side walls have been completed and bulk service connections exist.

**G. CONDITIONS OF AUTHORISATION**

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

**PART I****Scope of authorisation**

1. The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to Alternative 1 described in the EIR of May 2014 on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision.

3. The development must be concluded within **five years** from the date of continuation of the first listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
5. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

## **PART II**

### **Written notice to the Competent Authority**

6. Seven (7) calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.
  - 6.1 The notice must make clear reference to the site details and 24G Reference number given above.
  - 6.2 The notice must also include proof of compliance with conditions 7, 8, 9, 10 and 11.

## **PART III**

### **Notification and administration of an 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 outcome of 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 Appeals Regulations, 2014* detailed in Section I 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:

- 7.4.1 the 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; and
- 7.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.

8. The listed activities, including site preparation, may not commence within 34 (thirty four) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

#### **PART IV**

##### **Management of the activity/development**

9. The Construction Environmental Management Programme ("EMPr") compiled by PHS Consulting and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

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

**PART V****Monitoring**

11. The holder must appoint a suitably experienced Environmental Control Officer ("ECO"), before commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request.
13. Access to the site referred to in Section D must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

**PART VI****Auditing**

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

**PART VII****Activity/ Development Specific Conditions**

15. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

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

16. A qualified archaeologist and/or paleontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
17. In terms of section 13 of the *National Environmental Management: Integrated Coastal Management Act, Act 24 of 2008* any coastal land below the high-water mark of the sea is automatically defined as coastal public property ("CPP"). Thus any structure, such as the part of the fence that is below the high water mark is restricting access to the CPP. The section of the fence that is within the CPP must be removed.

#### H. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with a listed activity within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority at least **three months** prior to the expiry date of the Environmental Authorisation.

Note that:

(1) in terms of regulation 28(2) of the *EIA Regulations, 2014* failure to lodge an application for amendment at least **three months prior** to the expiry of the validity period of the Environmental Authorisation may result in the lapsing of the Environmental Authorisation, due to the Competent Authority being unable to process the application for amendment within this period;

(2) it is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the Competent Authority has not granted an Environmental Authorisation for the undertaking of the activity.

4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:

Amendments to the EMPr, must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

## I. APPEALS

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

1. An appellant (if the holder) must –

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

maker within 20 (twenty) calendar days from the date the holder was notified by the Competent Authority of this decision.

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

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

3. The holder (if not the appellant), the decision-maker, I&APs and Organ of State must submit their responding statements, if any, to the Appeal Authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.

4. This appeal and responding statement must be submitted to the address listed below:

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

By facsimile:           (021) 483 4174; or

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

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

**Note:** You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to Jaap.DeVilliers@westerncape.gov.za.

5. A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail [Jaap\\_DeVilliers@westerncape.gov.za](mailto:Jaap_DeVilliers@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.

#### J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

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

#### K. DISCLAIMER

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

Yours faithfully

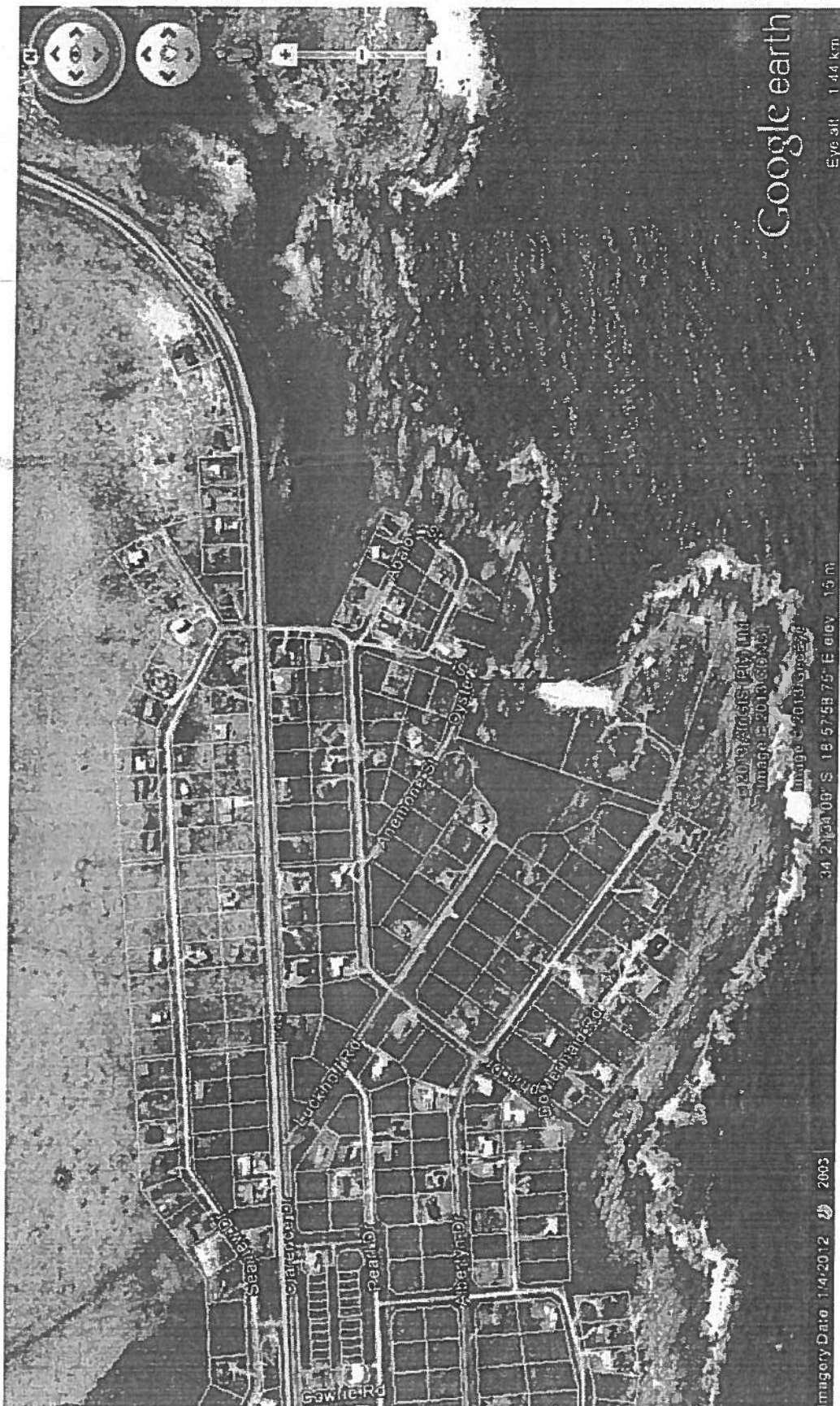
  
\_\_\_\_\_

**ZAIDAH TOEFY**

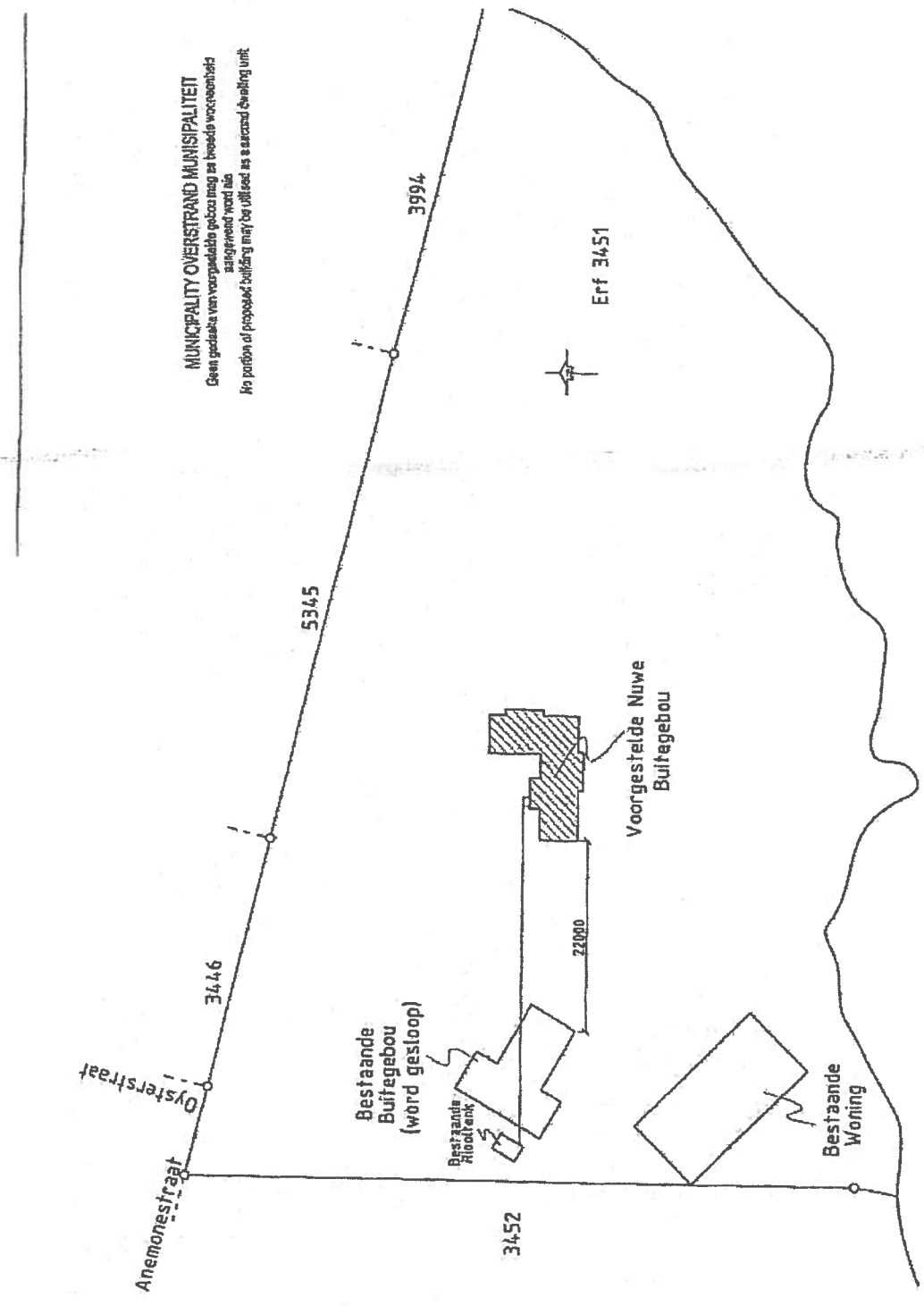
**ACTING DIRECTOR: ENVIRONMENTAL GOVERNANCE**

DATE OF DECISION: 25 SEPTEMBER 2015

ANNEXURE 1: LOCALITY MAP



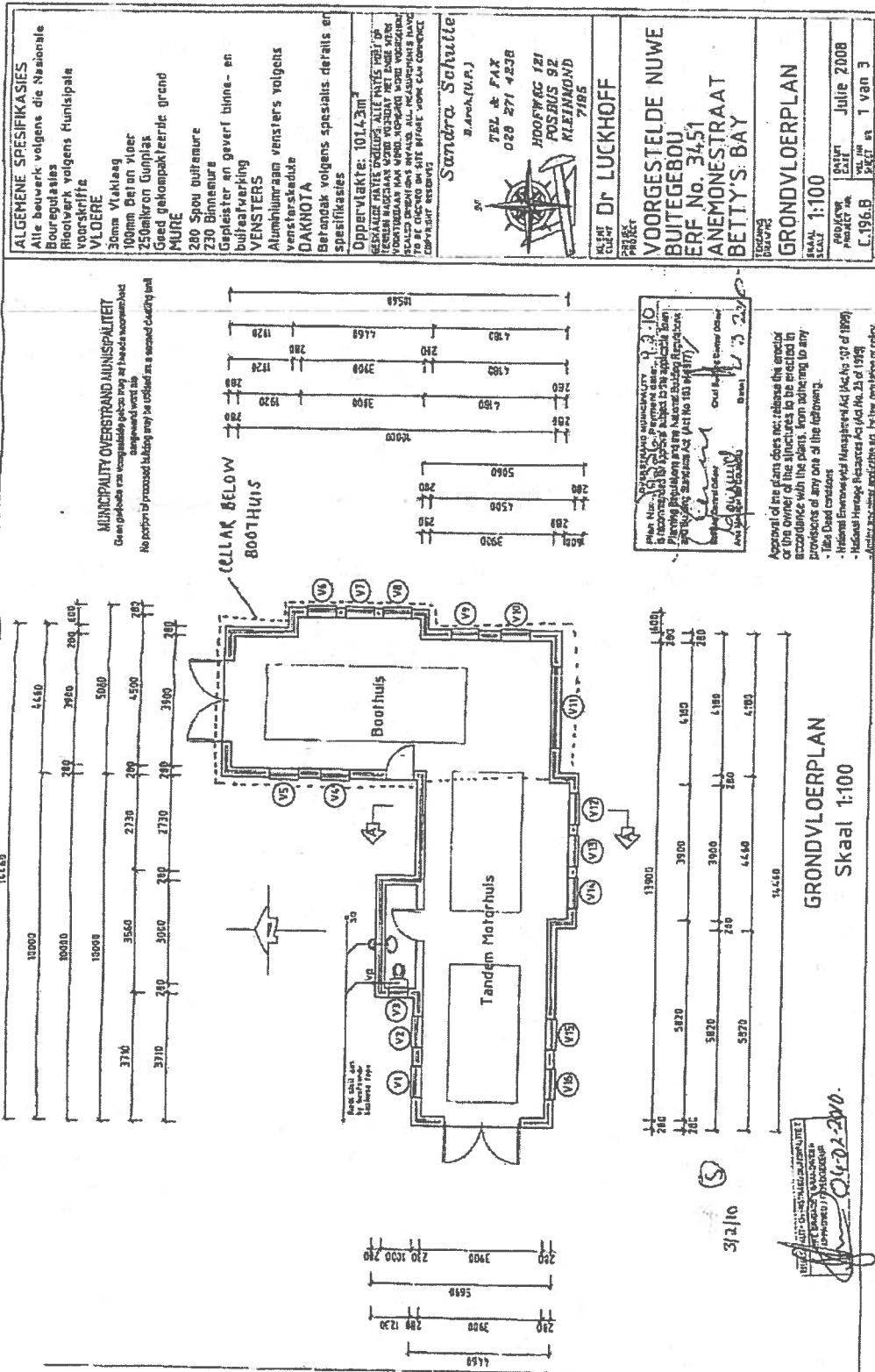
ANNEXURE 2: SITE PLAN AND BUILDING PLAN



**MUNICIPALITY OVERSTRAND MUNICIPALITEIT**  
 Geen goeieke vir verspreidde geboue mag as tweede woonreghheid  
 aangevrae word nie  
 No portion of proposed building may be utilized as a second dwelling unit

5  
 3/2/10  
 [Signature]

TERREINPLAN  
 Skaal 1:500



**FOR OFFICIAL USE ONLY:****S24G REFERENCE:**

14/2/1/E2/1/ERF 3451, BETTY'S BAY

**ANNEXURE 3: REASONS FOR THE DECISION**

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R10 000 (Ten thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

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

- a) The information contained in the application form of September 2013 and received by the Competent Authority on 17 September 2013, the Environmental Impact Report (EIR) received by the Competent Authority on 12 May 2013, the Environmental Management Programme submitted together with the EIR and the additional information dated 25 July 2014 and the Adhoc Setback Line report for Erf 3451 of January 2015.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from interested and affected parties and the responses provided thereto.
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- f) The site visit conducted on -  
Date/s: 28 May 2014

Attended by: Ziyaad Allie (official from the Sub-Directorate: Rectification),  
leptieshaam Bekko, Careñ George and Kishan Sankar (officials  
from this Department's Coastal Impact Management unit).

All information presented to the Competent Authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the Competent Authority, were the most significant reasons for the decision is set out below.

### 1. Public Participation Process

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

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

- Written notice was provided in the form of letters in both English and Afrikaans. Notices were distributed to the neighbours and inhabitants, competent authorities and ratepayers associations on 06 January 2014.
- Relevant organs of state were notified of the activities and provided an opportunity to provide comment 06 January 2014.
- Interested and Affected Parties ("I&APs") were recorded and maintained in a register.
- A Comments and Response Report was compiled and all concerns were addressed.

#### Consultation with Organs of State in terms of section 24O of the NEMA

The following Organs of State provided comment on the application:

- Overberg District Municipality
- DEA&DP: Coastal Impact Management

The Overberg District Municipality stated that they have no objection to the development and that it should be noted that provision should be made for future coastal processes and future sea level rise.

This Department's Coastal Impact Management ("CIM") provided comment and stated that the Department is undertaking a project which is delineating coastal management/ setback lines, in terms of Section 25 of the *National Environmental Management: Integrated Coastal Management Act (Act No. 24 of 2008)* ("ICM Act"), in the Overberg District. The project has demarcated risk zones for the coastline, and is based on information and current projections of sea level rise of 20cm, 50cm and 100cm. The structure on Erf 3451, Betty's Bay, falls just outside of the current modelled risk zones. The CIM re-iterated that due to the close proximity to the coast and risk zones, the property may still be at risk should an unusually high storm event occur.

It is further stated that the CIM recommends that appropriate mitigation measures be implemented in order to reduce the risk to the structure.

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

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

## 2. Alternatives

### 2.1 Location Alternatives

#### Alternative 1 (Herewith authorized)

The partial constructed a residential dwelling in accordance with approved Municipal plans and a three metre wide access track extending to the dwelling. The structure has a 132m<sup>2</sup> footprint and the foundations and some side walls have been completed. Bulk service connections exist on the property

and internal reticulation will stretch approximately 22 meters between an existing structure and the new dwelling.

The preferred alternative involves completing the structure, since impacting another location on the site or elsewhere would result in further disturbance and potential impacts.

#### Alternative 2

Alternative 2 involves applying for a larger coastal building of 240m<sup>2</sup>, since the applicant has already initiated the process. This alternative would result in further disturbance and potential impacts.

#### 2.2 "No-Go" Alternative

The no-go alternative was considered however, this is not the preferred option. This would mean that the structure would have to be removed and the site rehabilitated. The land owner would then not be able to construct on the property.

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

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

#### 3.1. Regional/ Planning Context

The property is located within the Betty's Bay residential area and is zoned for residential use. The building plans were approved by the Kleinmond Municipality and construction subsequently commenced upon approval.

The amended *Overstrand Zoning Scheme (November 2013)* allows for a residential erf to have two residential dwellings and one uninhabited outbuilding not exceeding 120m<sup>2</sup>. The second dwelling may be 120m<sup>2</sup>, excluding non-covered areas such as stoeps and verandas. The plans approved by the Kleinmond Municipality indicated that the partially built dwelling will replace an existing old outbuilding. The structure has a total footprint of 132m<sup>2</sup>, however when excluding the stoep area, the footprint is 114m<sup>2</sup>.

### 3.2. Services/ Bulk Infrastructure

Existing bulk service infrastructure exists on the property since the Municipality already services the Erf. Internal reticulation will connect the new dwelling to an existing structure on the property.

### 3.3. Biodiversity Impacts

The site is located within 100m of the high water mark of the sea, within an embayment. The structure faces the east and is not exposed to the direct open ocean and dominant south western winter swells and extreme storm events. It is located on a rocky shore 6-8 meter above the sea cliffs. The site forms part of the Betty's Bay urban system with houses along the coastline.

The vegetation which occurs on the site is *Overberg Dune Strandveld* and is in good condition; however, the structures had an impact on the direct footprint of the property.

The site is situated within an Ecological Support Area, which is an important supporting area for maintaining coastal processes; however, the site is within an urban area. The applicant voluntarily opted to adopt a "tread the earth lightly concept" to ensure minimal environmental degradation by ensuring controlled construction and limited vegetation removal. The applicant has ensured that the building and associated activities have very limited impact on the surrounding vegetation.

### 3.4. Ad-hoc Setback-line Basic Assessment for a house on 3451, Betty's Bay

The *Ad-hoc Setback-line Basic Assessment for a house on 3451, Betty's Bay* report determined the safety and placement of the structure, taking into account the present conditions and coastal engineering principles.

The partially constructed house is sited close to the rocks relatively high above the sea and on a level similar to that of the other houses on the property. It is constructed at a level of about 7-8m Mean Sea Level ("MSL"), which is about 3-4m higher than the existing splash level. The rocky coastline indicates that the coastline should be stable.

The area where the property is located is in a small "cove" which means it is partially protected from the main south westerly swells which would reduce wave height and resultant splash levels.

The assessment concluded that the site is at or above the level of similar shore-front properties along this coastline. When considering the possibility of damage due to sea storm flooding as a result of changes in sea conditions and future storms, there is no reason to consider the structure at to be at a higher risk than other properties along this stretch of coastline.

The assessment also concluded that the rocky coastline will provide protection against possible future erosion. The level of the rock at the partially constructed structure would prevent overwash during the expected 1:100 year storm events which is estimated to be at about 6m MSL. Expected storms as a result of potential sea level rise will increase the overwash to maximum levels of 8m MSL in the next 50 years and even 10m MSL in the next 100 years.

The structure at approximately 7-8m MSL is already sited higher than the presently expected overwash of the 100 year storm. The partially sheltered location will be safe against the 100 year storm.

#### 4. NEMA Principles

The National Environmental Management Principles (set out in section 2 of the NEMA), which apply to the actions of all Organs of State, serve as guidelines by reference to which any Organ of State must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;

- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

The development will result in both negative and positive impacts.

Negative Impacts:

The site is located within 100m of the high water mark of the sea, however, it is located within a bay and the structure faces the east and is not exposed to the direct open ocean and dominant south western winter swells and extreme storm events.

The site is situated within an Ecological Support Area, which is an important supporting area for maintaining coastal processes; however, the site is within an urban area.

Positive impacts:

Although the site is situated within an Ecological Support Area, the site is within an urban area and the structures only had an impact on the direct footprint of the property.

The applicant also voluntarily opted to adopt a "tread the earth lightly concept" and has ensured that the building and associated activities have very limited impact on the surrounding vegetation. Any building rubble generated during the remainder of the construction phase will be disposed of at a Municipal landfill site.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

---

END