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**REFERENCE:** 16/3/3/5/D1/13/0003/21  
**ENQUIRIES:** Shireen Pullen  
**DATE OF ISSUE:** **9 March 2022**

The Director

Tanaka Foundation NPC

Registration no: 2020/181609/08

59 Maplin Drive

**PLETTENBERG BAY**

6600

**Attention: Ms Kirsten Falk**

Cell: 076 435 7464

Email: [kirstenkia@hotmail.com](mailto:kirstenkia@hotmail.com)

Dear Madam

#### **ADDENDUM TO THE ENVIRONMENTAL AUTHORISATION**

**APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION (EA) REF: 16/3/3//1/D1/13/0004/18 ISSUED ON 17 SEPTEMBER 2018 FOR THE PROPOSED DEVELOPMENT ON ERF 2103, PIESANG VALLEY, PLETTENBERG BAY, BITOU MUNICIPALITY**

1. With reference to the above application, this Department hereby notifies you of its decision to **grant** amendment of the Environmental Authorization issued on 17 September 2018 (DEA&DP Reference Number: 16/3/3//1/D1/13/0004/18).
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014, you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarized in the attached amendment of the Environmental Authorisation.

Yours faithfully

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**Gavin Benjamin**

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copies to:

Ms. Melissa Mackay

Ms. Anje Taljaard

EAP (Cape EAPrac)

Bitou Municipality

Email: [me@cape-eaprac.co.za](mailto:me@cape-eaprac.co.za)

Email: [ajitajaard@bitou.gov.za](mailto:ajitajaard@bitou.gov.za)



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

### **A. DECISION**

1. 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 in terms of Part 2 of Chapter 5 of the Environmental Impact Assessment Regulations, 2014,

herewith **grants** amendment of the Environmental Authorization issued on 17 September 2018 (DEA&DP Reference Number: 16/3/3//1/D1/13/0004/18).

2. The Environmental Authorisation issued on 17 September 2017 is amended as set out below:

2.1 The substitution of Section A with the following:

The Director  
% Ms Kirsten Falk  
Tanaka Foundation NPC  
Registration no: 2020/181609/08  
59 Maplin Drive  
**PLETTENBERG BAY**  
6600

Cell: 076 435 7464

Email: [kirstenkia@hotmail.com](mailto:kirstenkia@hotmail.com)

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

2.2 In Section B of the Environmental Authorisation, the substitution of the last three paragraphs with:

"The holder is herein authorised to undertake the moving or infilling of sand/soil from an estuary or within 100 metres from an estuary to construct the following:

- Rehabilitation Centre of  $\pm 60\text{m}^2$ ;
- 10 x Kennel dog huts (2m x 3m each) with a footprint of approximately  $6\text{m}^2$  within 10 x 10m fencing each (total area of approximately  $1000\text{m}^2$ );
- 3 x Kennel dog huts (2m x 3m each) with a footprint of approximately  $6\text{m}^2$  within 5x5m fencing each (total area of approximately  $75\text{m}^2$ );
- A training centre of approximately  $110\text{m}^2$ ;
- 2 x Cottages with a footprint of approximately  $76\text{m}^2$ ;
- Access and parking of approximately  $1780\text{m}^2$ .

The proposed development will have a coverage of approximately  $3101\text{m}^2$  and all structures will be raised above ground on stilts, including the dog kennels. Access to the proposed development will be via the municipal tarred road along the southern boundary of the property.

The proposed development will be undertaken approximate to the site development plan contained in Annexure 1 of this amended authorisation."

2.3 In section C the deletion of the table.

2.4 In section E of the Environmental Authorisation, the substitution of Condition 1 with the following: "The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the description contained in Section B and Site Development Plan attached to the Final Part 2 Amendment Report by CapeEAPrac dated 30 September 2021, subject to the conditions of authorisation.

2.5 All the remaining conditions in the Environmental Authorisation issued on 17 September 2018, Reference Number: 16/3/3//1/D1/13/0004/18, remains unchanged and is still in force.

## **B. 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 7 June 2021, the Final Impact Report (FIR) and EMPr submitted on 07 October 2021;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Need and Desirability;
- 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 F amendment Impact Report received by this Department on 07 October 2021;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) All relevant information that was made available in the report to understand the environmental and spatial context and the case officer is familiar with the 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:

- The draft Impact Report was made available from 23 August 2021 until 21 September 2021
- The Department of Agriculture, the Civil Aviation Authority, the Directorate: Coastal Management of this Department, CapeNature and Gouritz Catchment Management Agency (BGCMA) were notified.

- Numerous objections were raised against the proposed amendment. However, this Department is satisfied that all the comments and issues raised by I&APs and respective Organs of State were adequately captured and responded and addressed in the Impact Report.

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

### **2.1 Need and Desirability**

On 18th September 2018 this Department issued an Environmental Authorisation (EA) for the construction of a single residential dwelling on the northern portion of the property. The EA includes permission for an access road crossing the tidal channel. Municipal building plans pertaining to works permitted in terms of the EA have been approved by Bitou Municipality and remain valid. However, in the meantime, the owner decided to no longer construct the approved house. The reason for the change is that Ms Vogel and her family have relocated all their business and personal interests out of South Africa and no longer envisage building a residence on this property. As a passionate supporter of animal rights, she will be providing the property to the tenants to establish and run the centre.

### **2.2 The Site**

Erf 2103 consists of a lower-lying northern portion that extends from the Piesang Valley Road towards the southern bank of the Piesang River and consists of previously cultivated agricultural pastures presently used for grazing purposes while the higher-lying southern portion of Erf 2103 (the site) is situated directly south of the Piesang Valley Road. The exact location of the development footprint on the site is indicated in Annexure 1 of this Addendum to the EA. The site consists of a relatively flat upper section and with moderate (4%) slopes to the north and east as illustrated through mapping of 5m contours and slope classification. There are no natural water courses or drainage lines traversing this portion of Erf 2103.

### **2.3 Freshwater**

According to the updated wetland specialist report, various water bodies dominated the regional and study area landscape. All of the observed aquatic features showed a high degree of impact due to the land uses and land reclamation that has taken place over a period of time. Thus, the Present Ecological State of the systems were considered to be critically modified, while the Ecological Importance and Sensitivity for these systems were also rated Moderate even with the impacts that are existing within or adjacent to the freshwater wetland areas. It is important to note that all the wetland types found within the study area form an important network of corridors and are extremely valuable for bird and fish species within the study area.

Based on the potential impacts addressed in the DWS Risk Assessment Matrix, with proper design and mitigation and avoidance the wetland area, all impacts were rated as low. This assumes that

the channel areas will be excluded from the development footprint and the growth of indigenous species must be promoted, either through planting or establishing terrestrial habitats or reinstatement of natural hydrological variability (proper sizing of road culvert crossing). This was taken into account in the amended layout.

## **2.4 Traffic**

The traffic impact statement for the amended proposal found that the impact of the proposed development on the surrounding road network is acceptable and can be supported from a transportation engineering point of view. However, it poses conditions that access to Erf 2103 and Erf 4369 should be combined to form one single point of ingress/egress and that this combined section of road should be at least 30m long. This is incorporated into this amended environmental authorisation as one of the conditions of approval. The traffic statement further indicated that the position of the combined access to the northern section of Erf 2103 and Erf 4369, must be aligned with the combined access to Erf 2104 and the Southern section of Erf 2103 and that no development should be allowed to take place within the road reserve. This has been incorporated in the conditions of approval.

## **2.5 Biophysical Impacts**

The proposed development areas are outside of any areas identified as CBA, and they remain outside of the 20m buffer that the wetland specialist placed on the remnant tidal channel that crosses the property. The approved development has a basement level where the amendment is proposing structures on stilts. This significantly minimises the need for excavation and any impacts on resulting from the proposed amendment.

## **2.6 Noise Impacts**

According to the FIR, ERF 2103 is located amidst private residences as well as a buzzing business district. The FIR submits that the proposed land is surrounded by eateries, gardening centres, hardware & building shops, furniture shops, a sporting shop, a horse-riding school, a private school, etc. all of which contribute to the noise levels in the area. Key existing noise factors are currently traffic, kids at school, social gatherings at eateries and dogs barking at neighbouring residence. The Tanaka Foundation has consulted with several animal welfare facilities including PAWS in Plettenberg Bay and KAWS in Knysna who confirmed that the vast majority of the time, there is very little noise coming from the animals. KAWS is located inside the urban edge of Knysna with residential areas within 500m to the north and south of its location. It is a much larger facility than that proposed on Erf 2103 Piesang Valley. The following mitigation measures will be implemented:

- Limiting the number of dogs accommodated in the care facility to no more than 20 (including puppies) at a time.
- Providing vegetated/landscape buffers along the perimeters of the facility
- Providing 24 hour / 7 days a week supervision

- Limiting activities to standard business days and times
- Adapting several animal kennels for isolation with noise control

According to the FIR Tanaka will further have professional dog trainers to hand in order to assist with challenging cases (e.g. potential 'barkers'), will stock anti-bark collars to use if/when necessary and are determined to create a natural, home like, peaceful, stress free environment for the animals in our care. This will also include daily exercise, play time and routine in order to encourage well balanced and happy dogs that have no need to bark excessively. Further, the rehabilitation facility is specifically located in the back area of the land (a significant distance from any human movements) with minimal, controlled activity in order to avoid dog excitement and barking.

## C. CONDITIONS

1. The applicant must, in writing, within **14 (fourteen)** calendar days from the date of the Department's decision –
  - 1.1 notify all registered interested and affected parties registered in the previous EIA process of –
    - 1.1.1 the outcome of the application;
    - 1.1.2 the reasons for the decision;
    - 1.1.3 the date of the decision; and
    - 1.1.4 the date of issue of the decision;
  - 1.2 draw the attention of all registered interested and affected parties registered in the previous EIA process to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 (as amended) in section D below;
  - 1.3 draw the attention of all registered interested and affected parties registered in the previous EIA process to the manner in which they may access the decision.
2. The recommendations and monitoring guidelines contained in section 6 of the updated wetland assessment done by EnviroSci (Pty) Ltd must be adhered to and strictly implemented.
3. The following conditions stipulated in section 11 of the Traffic Impact Statement compiled by Urban Engineering (Pty) Ltd regarding access to the proposed amended development must be implemented and strictly adhered to:
  - 3.1 Access to Erf 2103 and Erf 4369 should be combined to form one single point of ingress/egress. This, combined section of road should be at least 30 m long.
  - 3.2 The position of the combined access to the northern section of Erf 2103 and Erf 4369, must be aligned with the combined access to Erf 2104 and the Southern section of Erf 2103.



- 3.3 All accesses and internal roads should be designed to allow safe egress during periods of high flood levels.
- 3.4 No development should be allowed to take place within the road reserve.
4. A search and rescue mission must be undertaken by an independent suitably qualified Botanist, before commencement of construction and a list of these plants must be maintained. All conservation worthy vegetation must be translocated outside the construction area and be used during landscaping for areas around the building footprint. A list of these plants and where they are translocated to must be submitted to this Department upon rescue.
5. Vegetation clearing must occur in parallel with the construction progress to minimize erosion and/or run-off. Large tracts of bare soil will either cause dust pollution or quickly erode and then cause sedimentation in the lower portions of the catchment.
6. If during ground clearance or construction, any archaeological material or human graves are uncovered, work in that area should be stopped immediately and the ECO should report this to Heritage Western Cape (Tel: 021 483 9689). The heritage resource may require inspection by the heritage authorities, and it may require further mitigation in the form of excavation and curation in an approved institution.
7. All structures and infrastructure, except the access road and municipal services that must cross the watercourse/wetland, must be limited to the area outside of the 20m buffer area. The Animal Daycare area may not encroach on the 20m buffer area. The site development plan must be amended accordingly.
8. The holder of the environmental authorisation must within thirty (30) calendar days of the issue of this amendment decision, provide the competent authority with written proof of compliance with condition 1 above.

## **D. APPEALS**

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
- 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and

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

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

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.

## A. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this Addendum to 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

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**MR. GAVIN BENJAMIN**

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)**

DATE OF DECISION: **07 MARCH 2022**

**Copies:**

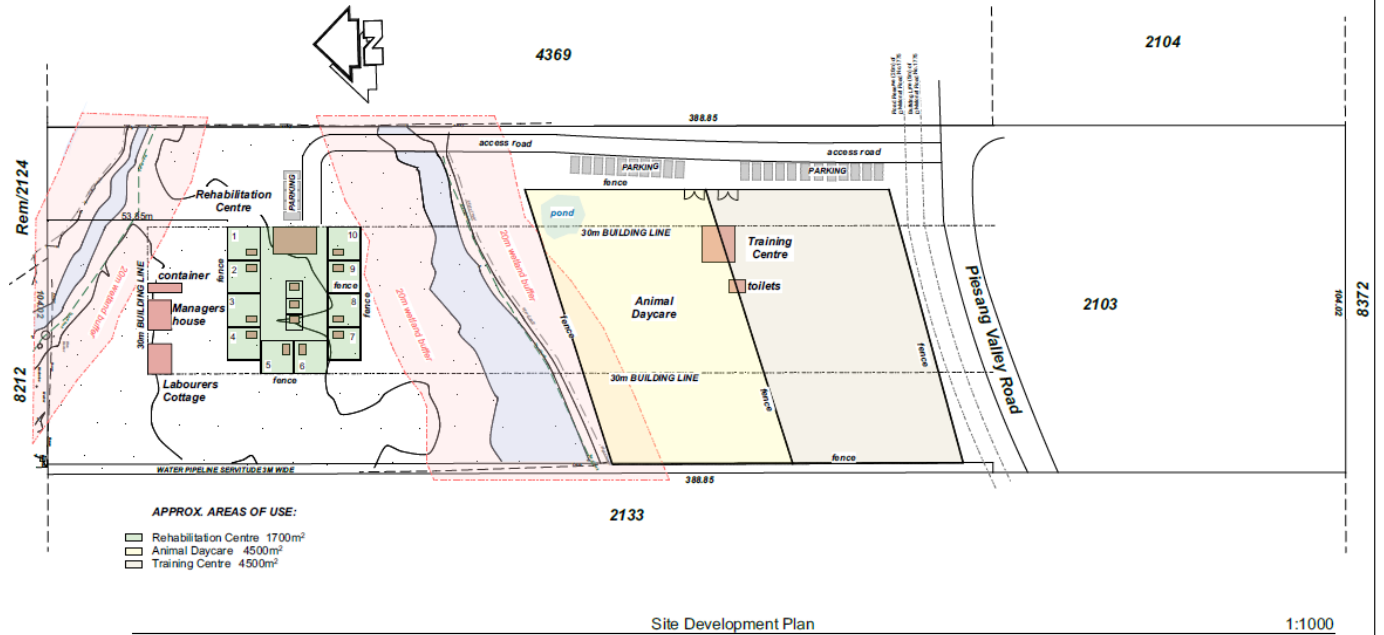
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EIA REFERENCE NUMBER:      16/3/3/5/D1/13/0003/21  
NEAS REFERENCE:      WCP/EIA/AMEND/0000545/2021

## ANNEXURE 1: SITE DEVELOPMENT PLAN



ERF 2103, Piesang Valley, Plettenberg Bay  
DEVELOPMENT PROPOSAL FOR  
TANAKA FOUNDATION  
"THE HAPPY PLACE"

paper size: A3

dNA  
ARCHITECTURAL DESIGN SOLUTIONS