



REFERENCE: 14/2/1/2/E2/31/0010/17

ENQUIRIES: Ziyaad Allie

The Owner
10 Avenue Fresnaye
CAPE TOWN
8005

REGISTERED MAIL

Tel: (021) 434 6771

Email: nicky@ryanmail.co.za

Attention: Nicolette Ryan

Dear Madam

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITIES: UNLAWFUL CLEARING OF INDIGENOUS VEGETATION AND THE CONSTRUCTION OF AN ACCESS ROAD ON PORTION 148 OF FARM HANGKLIP NO. 559, PRINGLE BAY

With reference to your application dated 31 May 2017 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 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with the Implemented Location as described in the Environmental Impact Report ("EIR") dated 23 September 2017.

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

Nicolette Ryan
 10 Avenue Fresnaye
 CAPE TOWN
 8005

Tel: (021) 434 6771
 Email: nicky@ryanmail.co.za

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. R. 983 of 4 December 2014</p> <p>Activity Number: 17</p> <p>Activity Description: "Development- (i) in the sea; (ii) in an estuary; (iii) within the littoral active zone; (iv) in front of a development setback; or (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an</p>	<p>The activities undertaken entail the clearance of vegetation for the establishment of an access road of 356m x 3m = 1068m².</p> <p>The road establishment was undertaken as part of a proposed dwelling site of 350m² thereby giving a total clearance area of 1418m².</p> <p>The dwelling site is situated north of a milkwood tree thicket that lies adjacent</p>

<p>estuary, whichever is the greater; in respect of-</p> <p>(a) fixed or floating jetties and slipways;</p> <p>(b) tidal pools;</p> <p>(c) embankments;</p> <p>(d) rock revetments or stabilising structures including stabilising walls;</p> <p>(e) buildings of 50 square metres or more;</p> <p>or</p> <p>(f) infrastructure with a development footprint of 50 square metres or more - but excluding-</p> <p>(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared; or</p> <p>(dd) where such development occurs within an urban area."</p>	<p>to the estuarine functional zone of the Buffels River estuary and is within 80m of the estuary.</p>
<p>Government Notice No. R. 983 of 4 December 2014</p> <p>Activity Number: 18</p> <p>Activity Description:</p> <p>"The planting of vegetation or placing of any material on dunes or exposed sand surfaces of more than 10 square metres, within the littoral active zone, for the purpose of preventing the free movement of sand, erosion or accretion, excluding where -</p> <p>(i) the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation undertaken in accordance with a</p>	<p>The activities undertaken entail the clearance of vegetation for the establishment of an access road of 356m x 3m = 1068m².</p> <p>The road establishment was undertaken as part of a proposed dwelling site of 350m² thereby giving a total clearance area of 1418m².</p> <p>The proposed dwelling is still to be built, the dwelling footprint including the courtyard will be 26m x 25m or 650m² in extent.</p> <p>A 3m strip will also be cleared around the dwelling site for walkways, garden and lawn and will also act as a firescape.</p> <p>The total house precinct will be</p>

<p><i>maintenance management plan; or</i> <i>(ii) such planting of vegetation or placing of material will occur behind a development setback."</i></p>	<p>approximately 1000m², an increase of 650m² over the current dwelling footprint of 350m². The proposed dwelling area as well as the cleared road footprint will result in a total footprint of 2068m² for the site.</p>
<p>Government Notice No. R. 983 of 4 December 2014 Activity Number: 19 Activity Description: <i>"The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from-</i> (i) a watercourse; <i>(ii) the seashore; or</i> <i>(iii) 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 but excluding where such infilling, depositing, dredging, excavation, removal or moving-</i> <i>(a) will occur behind a development setback;</i> <i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan; or</i> <i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies."</i></p>	<p>The road establishment traverses a wetland and has thus resulted in the removal of more than 5 cubic metres of material from a watercourse. The dwelling site is situated north of a milkwood tree thicket that lies adjacent to the estuarine functional zone of the Buffels River estuary and is within 80m of the estuary.</p>
<p>Government Notice No. R. 985 of 4 December 2014 Activity Number: 12 Activity Description: <i>"The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan."</i> <i>(i) within any critically endangered or</i></p>	<p>The activities undertaken entail the clearance of vegetation for the establishment of an access road of 356m x 3m = 1068m². The road establishment was undertaken as part of a proposed dwelling site of 350m² thereby giving a total clearance area of 1418m². The proposed dwelling is still to be built, the dwellings footprint including the courtyard will be 26m x 25m or 650m² in extent.</p>

<p>endangered ecosystem listed in terms of section 52 of the NEM:BA 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;</p> <p>(ii) within critical biodiversity areas identified in bioregional plans;</p> <p>(iii) within the littoral active zone or 100 metres inland from high 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; or</p> <p>(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."</p>	<p>A 3m strip will also be cleared around the dwelling site for walkways, garden and lawn and will also act as a firescape. The total house precinct will be approximately 1000m², an increase of 650m² over the current dwelling footprint of 350m².</p> <p>The proposed dwelling area as well as the cleared road footprint will result in a total footprint of 2068m² for the site.</p>
<p>As similarly listed in Government Notice No. 327 of 07 April 2017 -</p> <p>Activity Number: 17</p> <p>Activity Description: "Development in the sea;</p> <p>in an estuary; within the littoral active zone; in front of a development setback; or if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;</p> <p>in respect of—</p> <p>(a) fixed or floating jetties and slipways;</p> <p>(b) tidal pools;</p> <p>(c) embankments;</p> <p>(d) rock revetments or stabilising structures including stabilising walls; or infrastructure or structures with a development footprint of 50 square metres or more- but excluding- (aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p>	<p>As above</p>

<p>(bb) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or</p> <p>(dd) where such development occurs within an urban area."</p>	
<p>As similarly listed in Government Notice No. 327 of 07 April 2017 -</p> <p>Activity Number: 18</p> <p>Activity Description:</p> <p>"The planting of vegetation or placing of any material on dunes or exposed sand surfaces of more than 10 square metres, within the littoral active zone, for the purpose of preventing the free movement of sand, erosion or accretion, excluding where —</p> <p>(i) the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation undertaken in accordance with a maintenance management plan; or</p> <p>(ii) such planting of vegetation or placing of material will occur behind a development setback."</p>	<p>As above</p>
<p>As similarly listed in Government Notice No. 327 of 07 April 2017 -</p> <p>Activity Number: 19</p> <p>Activity Description:</p> <p>"The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving— will occur behind a</p>	<p>As above</p>

<p><i>development setback; is for maintenance purposes undertaken in accordance with a maintenance management plan; falls within the ambit of activity 21 in this Notice, in which case that activity applies; occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies."</i></p>	
<p>As similarly listed in Government Notice No. 324 of 07 April 2017 - Activity Number: 12 Activity Description: <i>"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. <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;</i> ii. <i>Within critical biodiversity areas identified in bioregional plans;</i> iii. <i>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 or even in urban areas;</i> iv. <i>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</i></p>	<p>As above</p>

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

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

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Portion 148 of Farm Hangklip No. 559, Caledon.

The SG digit code is: C01300000 0000 55900 148

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 20' 19.45" South	18° 49' 50.30" East
2	34° 20' 06.04" South	18° 49' 55.65" East
3	34° 20' 06.46" South	18° 50' 04.66" East
4	34° 20' 22.54" South	18° 50' 12.93" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 20' 17.85" South	18° 49' 52.84" East
2	34° 20' 17.85" South	18° 49' 52.84" East
3	34° 20' 14.41" South	18° 49' 57.94" East
4	34° 20' 19.00" South	18° 49' 58.11" 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")

Duncan Heard Environmental Conservation
c/o Mr Duncan Heard
12 Sepia Avenue, Vermont
ONRUSRIVIER
7201

Tel: (028) 316 3386
Fax: (086) 513 4462
Email: Duncanheard@telkomsa.net

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The activities undertaken entail the clearance of vegetation for the establishment of an access road of 356m x 3m = 1068m². The road establishment was undertaken as part of a proposed dwelling site of 350m² thereby giving a total clearance area of 1418m². The proposed dwelling is still to be built and the dwellings footprint including the courtyard will be 26m x 25m or 650m² in extent. A 3m strip will also be cleared around the dwelling site for walkways, garden and lawn and will also act as a firescape. The total house precinct will be approximately 1000m², an increase of 650m² over the current dwelling footprint of 350m². The proposed dwelling area as well as the cleared road footprint will result in a total footprint of 2068m² for the site.

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 implemented alternative described in the EIR dated 23 September 2017 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 and 9.1

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 draft Environmental Management Programme ("EMPr") of September 2017 compiled by Duncan Heard and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

9.1 The declaration of acceptance by relevant parties on page 2 of the EMPr must be signed and submitted to the Department prior to the commencement of any activities on site.

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

PART V

Monitoring

11. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request, including a publicly accessible website (if applicable).
12. 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

13. 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 and 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

14. 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.

15. A qualified archaeologist and/or palaeontologist 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.
16. The recommendations contained in the Fresh Water Specialist input of December 2017 must be adhered to.
17. The recommendations made by CapeNature in their letter dated 06 February 2018 must be adhered to.

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 continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, 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 must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application, but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.

(3) 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, other than those mentioned above, 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 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 or URL <http://www.westerncape.gov.za/eadp>.

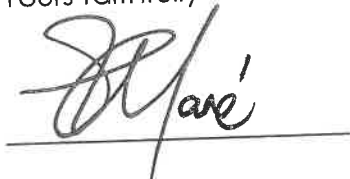
J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

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



ADV. CHARMAINE MARÉ

DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: 9 April 2018

Copied to: (1) Mr. Duncan Heard (EAP)

(2) Rhett Smart (CapeNature)

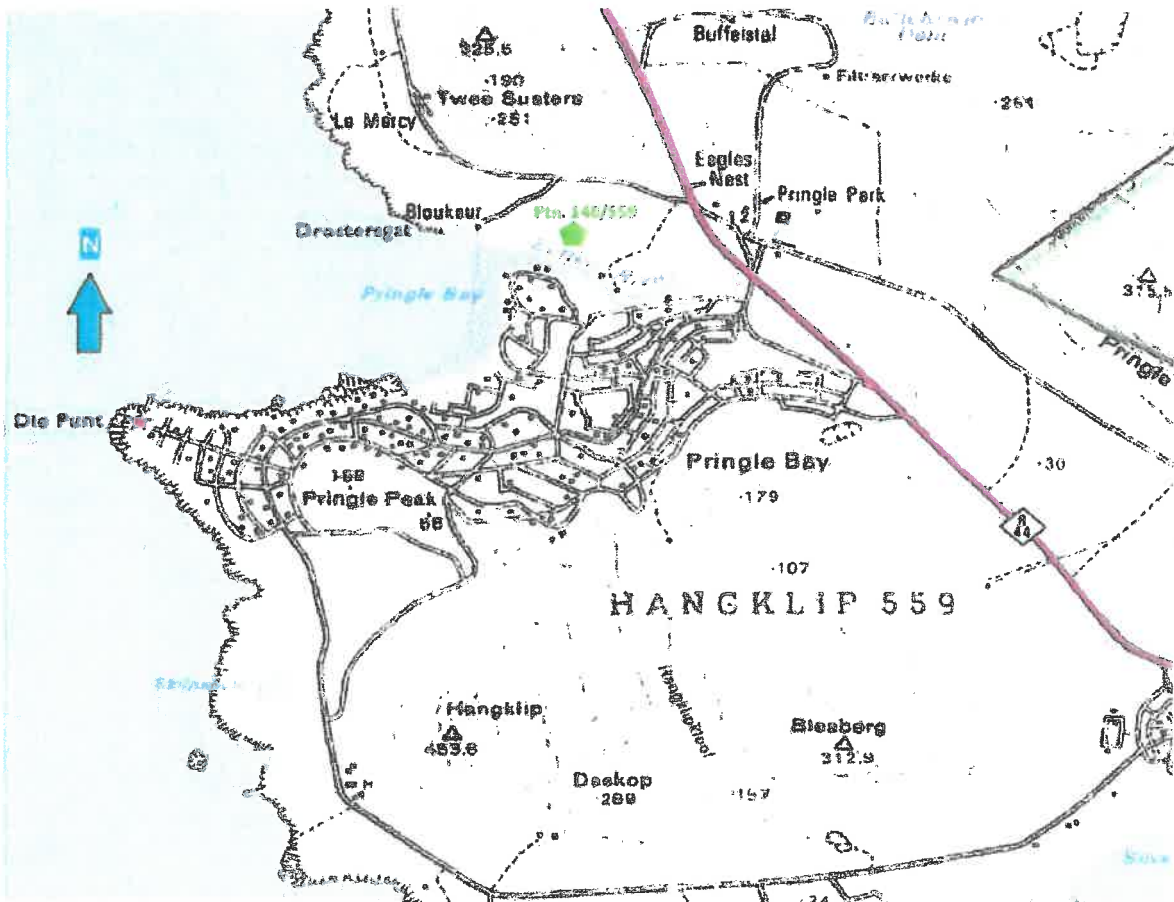
Fax: (086) 513 4462

Email: duncanheard@telkomsa.net

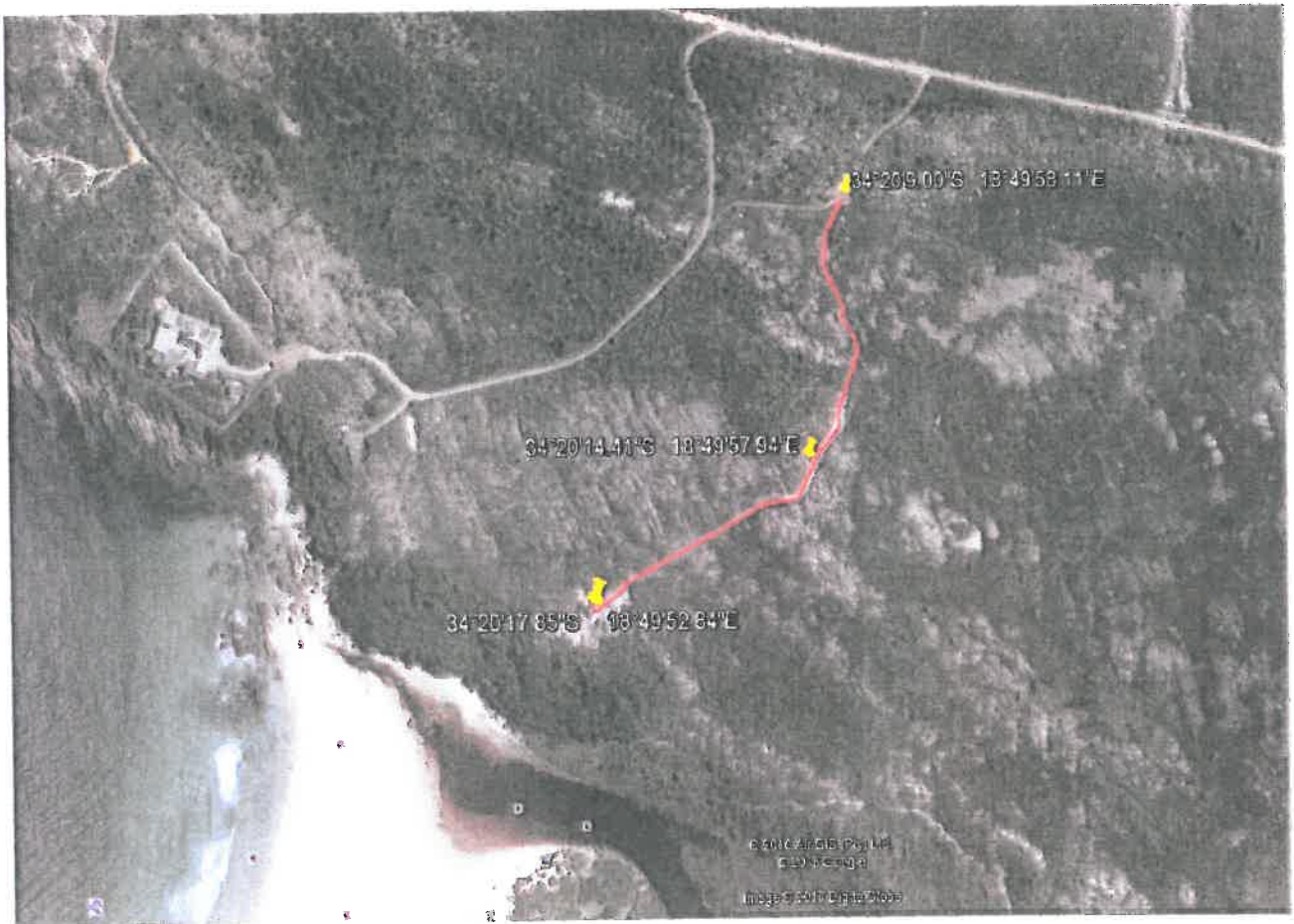
Fax: (021) 866 1523

Email: rsmart@capenature.co.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN INDICATING ROAD ALIGNMENT



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 R25 000 (Twenty-five 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 dated 31 May 2017, Environmental Impact Report ("EIR") dated 23 September 2017, the EMPr submitted together with the EIR, and the Freshwater Specialist Input of December 2017.
- 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 ("I&APs") 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: 12 October 2017
Attended by: Officials from this Department

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:

- An advertisement was placed in the **Overstrand Herald** newspaper on 27 July 2016;
- A site notice was erected;
- Letters were sent to interested and affected parties (I&APs) and the municipal ward councillor; and
- I&APs were afforded the opportunity to provide comments on the draft and final EIRs.

1.1 Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- Breede Gouritz Catchment Management Agency ("BGCMA");
- CapeNature;
- Heritage Western Cape ("HWC"); and
- Overstrand Municipality.

A summary of the comments received follows below:

BGCMA

The BGCMA stated that the proposed dwelling is within a regulated area and requires authorisation of the water use before construction takes place. Furthermore, the BGCMA made reference to the disposal of sewerage and it must comply with Section 22 of the *National Water Act, 1998 (Act 36 of 1998)*.

CapeNature

CapeNature stated that since the building of the dwelling had not commenced, the location must be selected on a footprint which will have the least environmental impacts, particularly when it is within a highly sensitive, pristine and biodiverse environment such as in this case. Retaining the current road alignment is considered acceptable based on the information provided. As the road is already in existence, it is recommended that in additional operational phase measures for road maintenance are included in the Environmental Management

Plan, or alternatively included as separate conditions. It must be ensured that the road is maintained such that impacts on the surrounding environment are minimized. Disturbance beyond the width of the road (such as turning circles) must be rehabilitated. No materials which may pollute run-off may be utilized in the maintenance of the road, taking into consideration the nutrient poor soils of the surroundings. Erosion must be prevented and measures taken to address this must be appropriate and not result in secondary impacts. CapeNature is satisfied with the information provided as the areas within which potential other alternative footprints could have been located have been adequately compared to the proposed footprint. Based on this information, we are satisfied that the most suitable location has been chosen from a biodiversity perspective as well as taking into consideration non-biodiversity impacts. In conclusion, CapeNature is satisfied that there is sufficient information provided in order to take a decision regarding the application and supports the implementation of the mitigation measures proposed in the freshwater specialist study.

The EAP responded by stating that the site was selected as it was previously disturbed and it offers the best site alternative for: Reducing the visual impact, least exposure to the SE wind and wind driven fires. Furthermore, the EAP stated that the new access road traverses the shortest possible route, avoiding sensitive habitats.

HWC

No objection to the activities undertaken as the activities will have no impact on heritage resources.

Overstrand Municipality

The Overstrand Municipality stated that no further development, including clearing should take place until the S24G application process has been finalised and a basic assessment report has been submitted to DEA&DP culminating in an Environmental Authorisation from DEA&DP.

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 Site Alternatives

Implemented Alternative 1 (Herewith authorised)

The clearance of vegetation for the establishment of an access road of 356m x 3m = 1068m². The road establishment was undertaken as part of a proposed dwelling site of 350m² thereby giving a total clearance area of 1418m². The proposed dwelling is still to be built and the dwelling footprint, including the courtyard will be 26m x 25m or 650m² in extent. A 3m strip will also be cleared around the dwelling site for walkways, garden and lawn and will also act as a firescape. The total house precinct will be approximately 1000m², an increase of 650m² over the current dwelling footprint of 350m². The proposed dwelling area as well as the cleared road footprint will result in a total footprint of 2068m² for the site. The dwelling site occurs on an area which was previously disturbed, is located within the Overberg Dune Strandveld; which is of lower conservation value than other vegetation types occurring on the site; and would have a lower fire risk.

2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

The "no-go" alternative would entail rehabilitating both, the road and the dwelling site. According to the EIR, this would serve no purpose in assisting to conserve and protect biodiversity on the property. As stated in the EIR, should these areas have to be rehabilitated, it would mean that the landowner would have to build a dwelling and access road on another area on the property – further destroying more natural fynbos vegetation. The landowner, according to the zoning rights, may build a dwelling on the property to which an access road would be required. The Geotechnical study included in the EIR and dated 02 February 2017 has, shown that the dwelling site is suitable to erect a dwelling, provided that type foundations are used, and care is taken during construction to not unnecessarily remove a much greater amount of vegetation than required for the dwelling's footprint. The road is completed and is critically important to achieve access to the dwelling site on the property and has been appropriately

aligned to avoid important natural features and no evidence can be found to show that any plant species has been irreversibly impacted in terms of the whole 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. Activity Need and Desirability

The property has been zoned as *Rural Zone 2: Conservation Usage* by the Overstrand Municipality. This zoning has no restriction on internal vehicle tracks or roads and allows for a dwelling to be constructed.

3.2. Regional/ Planning Context

The activities are in line with the Integrated Development Plan ("IDP") and the Spatial Development Framework ("SDF"). The property's zoning aligns with the holder's intention to build a dwelling on the property, to provide access to the dwelling and to conserve the rest of the property. According to the EAP, the Overstrand Municipality has adopted a Strategic Environmental Management Framework ("SEMF"), which refers to this area as the Cape Hangklip Ecological Corridor and describes it as follows: *"This Environmental Management Focus Area is a catchment (mountains) to coast corridor which contains Endangered and Critically Endangered vegetation types as well as seepage and riparian wetland systems. Most of the corridor forms the buffer zone between the core and transitional zones of the Kogelberg Biosphere Reserve. This visually sensitive corridor is also an important tourist route between the Cape Town Metropole and the Whale Coast Route destinations such as Hermanus. Detailed planning and development solutions are required to assist landowners to exercise their primary development rights, whilst conserving this sensitive environment."*

The relatively low development impact on the property and the applicant's intention to conserve the natural vegetation on the rest of the property is therefore aligned with Overstrand's SEMF.

3.3. Cumulative

There is an existing vehicle track with an approximate total length of 200m and width of 3m. Therefore, the total area of the existing vehicle track is 600m². The

newly made vehicle track is 356m long x 3m wide with an area of 1068m² while the site cleared for the dwelling thus far is approximately 350m². To accommodate the planned dwelling precinct a further 650m² must still be cleared. On completion of the new intended development, 2668m² or 1,24% of the total property will be impacted without any significant impact on the biodiversity. The holder intends to conserve the remaining 215563ha of the property.

3.4. Biophysical Impacts

The activities undertaken on site has resulted in the permanent transformation and removal of vegetation. The completed activities and the activities still to be completed will result in a total of 2068m² of vegetation being removed.

3.5. Biodiversity Impacts

The property is mostly covered with near pristine fynbos which had existing development impact of 600m² (existing road). The new development has and will impact on an additional 2068m² of the property classified as a Critical Biodiversity Area ("CBA"), except the dwelling site which is classified as an Ecological Support Area ("ESA"). This amounts to an additional impact on 0,96% of the property, and according to the EIR, no evidence exists of any significant negative impact on the total biodiversity of the property.

The dwelling site is located in a previously cleared area; is not demarcated as a wetland but rather terrestrial in nature, however it is still demarcated within an ESA and the rest of the property within a CBA. Furthermore, according to the Fresh Water Specialist Input ("FWSI"), the following impacts have occurred as a result of the activities undertaken on site:

- The entire area cleared for the road and for the proposed house is within the controlled zone, i.e. within 500m of a wetland.
- The site of the proposed house does not fall within a wetland, but it abuts a small dune slack wetland directly.
- The road runs adjacent to one small depression wetland and bisects a hillslope seep.

Wetland 1

Potential impacts: This wetland may be affected by sedimentation due to windblown sand from the site cleared for construction of the proposed house

during the construction phase. It may also undergo changes in hydrology due to the construction of hardened surfaces within its catchment.

Wetland 2

Potential impacts: This wetland may be marginally affected by hardening of the road adjacent to the wetland which may increase runoff into the wetland slightly, but this would be a marginal difference due to the scale of the change and the shallow slopes involved.

Wetland 3

Potential and actual impacts: Approximately 490m² of this wetland has been cleared of vegetation for the access road. The hydrology may also be adversely affected by construction of the road. The road may obstruct surface flow, although this will be largely mitigated against. Soil compaction under the road may also restrict subsurface flow substantially. A pre-existing road on the neighbouring property to the west also traverses wetland 3, and has been in place for at least 12 years. The hydrology of wetland 3 appears to have remained largely intact as wetland conditions continue on the downstream side of this road. This suggests that the impact of the proposed road on hydrology of wetland will be limited.

The FWSI concluded by stating that the site chosen for the house is terrestrial and previously disturbed. It is not recommended that the location of the proposed house be changed as this will incur additional endangered critically endangered vegetation clearing. The FWSI further stated that it is doubtful whether an access route to the house site may be found that does not traverse wetland 3, as it crosses the entire erf from east to west.

3.6. Visual / Sense of Place

The proposed dwelling and the already constructed access road is in keeping with the surrounding land use and is within the applicant's land use rights in terms of the zoning of the property: *Rural Zone 2*. Furthermore, the activities undertaken does not negatively impact on the affected area's sense of place or heritage. Apart from the residential site and the access road, the rest of the property is undisturbed and the holder intends to conserve the fynbos vegetation on the property.

3.7. Bulk services/infrastructure

The new vehicle track development is a private road which gives access to the applicant's new residence site which was cleared. The road and site clearing is aligned to the Zoning of the property and therefore did not require provision in the municipal infrastructure planning apart from the servicing of the conservancy tank if approval is obtained for the house.

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.

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.

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Addressee	Start Time	Time	Prints	Result	Note
*00865134462	09-04 16:29	00:05:12	002/026	OK	
*00218661523	09-04 16:47	00:00:56	000/026	No Ans	

Note TMR:Timer Tx, POL:Polling, ORG:Original Size Setting, FME:Frame Erase Tx, DPP:Page Separation Tx, MIX:MixeD Original Tx, CALL:Manual Tx, CSAC:CSAC, FWD:Forward, PC:PC-FAX, BND:Double-Sided Binding Direction, SP:Special Original, FCODE:F-Code, RTX:Re-Tx, RLV:Relay, MBX:Confidential, BUL:Bulletin, SIP:SIP Fax, IPADR:IP Address Fax, I-FAX:Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF, TEL: Rx from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer, Refuse: Receipt Refused, Busy: Busy, M-Full:Memory Full, LOUR:Receiving length over, POU:Receiving page over, FIL:File Error, DC:Decode Error, MDN:MDN Response Error, DSN:DSN Response Error, PRINT:Compulsory Memory Document Print, DEL:Compulsory Memory Document Delete, SEND:Compulsory Memory Document Send.



Western Cape Government

DIRECTORATE: ENVIRONMENTAL GOVERNANCE
SUB-DIRECTORATE: RECTIFICATION

REFERENCE: 14/2/1/2/E2/31/0010/17

ENQUIRIES: Ziyaad Allie

REGISTERED MAIL

The Owner
10 Avenue Fresnaye
CAPE TOWN
8005

Tel: (021) 434 6771
Email: nicky@ryanmail.co.za

Attention: Nicolette Ryan

Dear Madam

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"); UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITIES: UNLAWFUL CLEARING OF INDIGENOUS VEGETATION AND THE CONSTRUCTION OF AN ACCESS ROAD ON PORTION 148 OF FARM HANGKLIP NO. 559, PRINGLE BAY

With reference to your application dated 31 May 2017 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 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with the Implemented Location as described in the Environmental Impact Report ("EIR") dated 23 September 2017.

Nabeelah Khan

From: Ziyaad Allie
Sent: 09 April 2018 02:44 PM
To: Nicky Ryan
Cc: Duncan Heard; Nabeelah Khan; Rhett Smart
Subject: Section 24G application Environmental Authorisation- Farm Hangklip, Pringle Bay
Attachments: Enviromental_Authorisation_Portion_148_Farm_Hangklip_Pringle_Bay.pdf

Good day

Please find the attached Environmental Authorisation for for the section 24G application for Portion 148, Farm Hangklip 559 Pringle Bay attached.

Kind regards

Ziyaad Allie

Specialised Environmental Officer
Sub- Directorate: Rectification
Directorate: Environmental Governance
Department of Environmental Affairs and Development Planning

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