



**REFERENCE:** 16/3/3/5/E2/40/1002/22

**DATE:** 04 March 2022

Ms Lizani Lewis  
1449 Lynx Avenue  
**VERMONT**  
7201

Cell: 082 467 8839

E-mail: Liz.lewis.sa@gmail.com

Dear Madam

**APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND PART 1 OF THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 30 SEPTEMBER 2020: THE RESIDENTIAL DEVELOPMENT ON ERF NO. 1449, VERMONT.**

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** the amendment of the Environmental Authorisation issued on 30 September 2020 (DEA&DP Ref.: 16/3/3/1/E2/40/1013/20) attached herewith, together with the reasons for the decision.
2. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarised in the attached amended EA.

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Cc: (1) Ms Michelle Naylor (Lornay Environmental Consulting)  
(2) Ms Liezl de Villiers (Overstrand Municipality)  
(3) Mr Rhett Smart (CapeNature)

E-mail: michelle@lornay.co.za  
E-mail: ldevilliers@overstrand.gov.za  
E-mail: rsmart@capenature.co.za

**EIA REFERENCE:** 16/3/3/5/E2/40/1002/22  
**NEAS REFERENCE:** WCP/EIA/AMEND/0000581/2022  
**DATE:** 04 March 2022

## ENVIRONMENTAL AUTHORISATION

### APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND PART 1 OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 30 SEPTEMBER 2020: THE RESIDENTIAL DEVELOPMENT ON ERF NO. 1449, VERMONT.

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

#### A. DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Department herewith **grants** the amendment of the Environmental Authorisation ("EA") issued on 30 September 2020 (DEA&DP Ref.: 16/3/3/1/E2/40/1013/20) in terms of Part 1 of the EIA Regulations, 2014.

The EA is amended as set out below:

#### 1. Decision:

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to Layout Alternative 2 described in the Basic Assessment Report ("BAR"), dated March 2020.

Is amended to read:

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants the amendment of the Environmental Authorisation** to the applicant to undertake the listed activities specified in section B with respect to Layout Alternative 2 as described in the Amendment Application Form, dated 20 January 2022.

#### 2. Activities Authorised in Section B:

The holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development:

This alternative entails a residential development of 22 077m<sup>2</sup> in size on Erf No. 1449 in Vermont consisting of the following:

- 31 residential erven consisting of Residential Zone 1: Single Residential and General Residential: Town Housing units.
- 4 Open Spaces and 1 Transport Zone.

Is amended to read:

The holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development:

This alternative entails a residential development of 22 077m<sup>2</sup> in size on Erf No. 1449 in Vermont consisting of the following:

- 30 residential erven consisting of Residential Zone 1: Single Residential and General Residential: Town Housing units.
- 3 Public Open Spaces and 1 Transport Zone.

### **3. Condition 1 in Section E: Conditions of Authorisation:**

The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to Layout Alternative 2 described in the BAR dated March 2020 on the site as described in Section C above.

Is amended to read:

The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to Layout Alternative 2 as described in the Amendment Application Form dated 20 January 2022 on the site as described in Section C above.

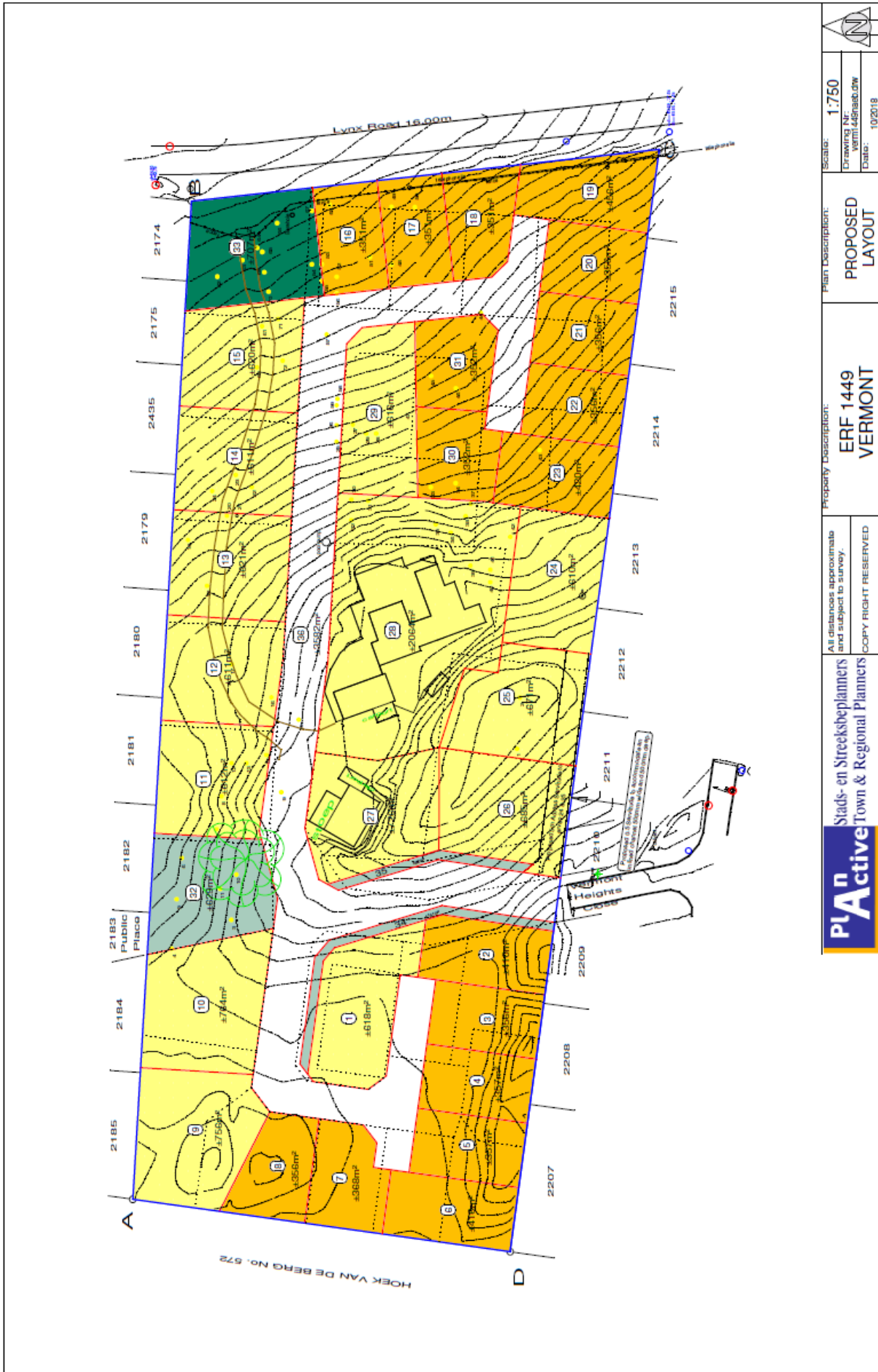
### **4. Condition 9 in Section E: Conditions of Authorisation:**

The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.

Is amended to read:

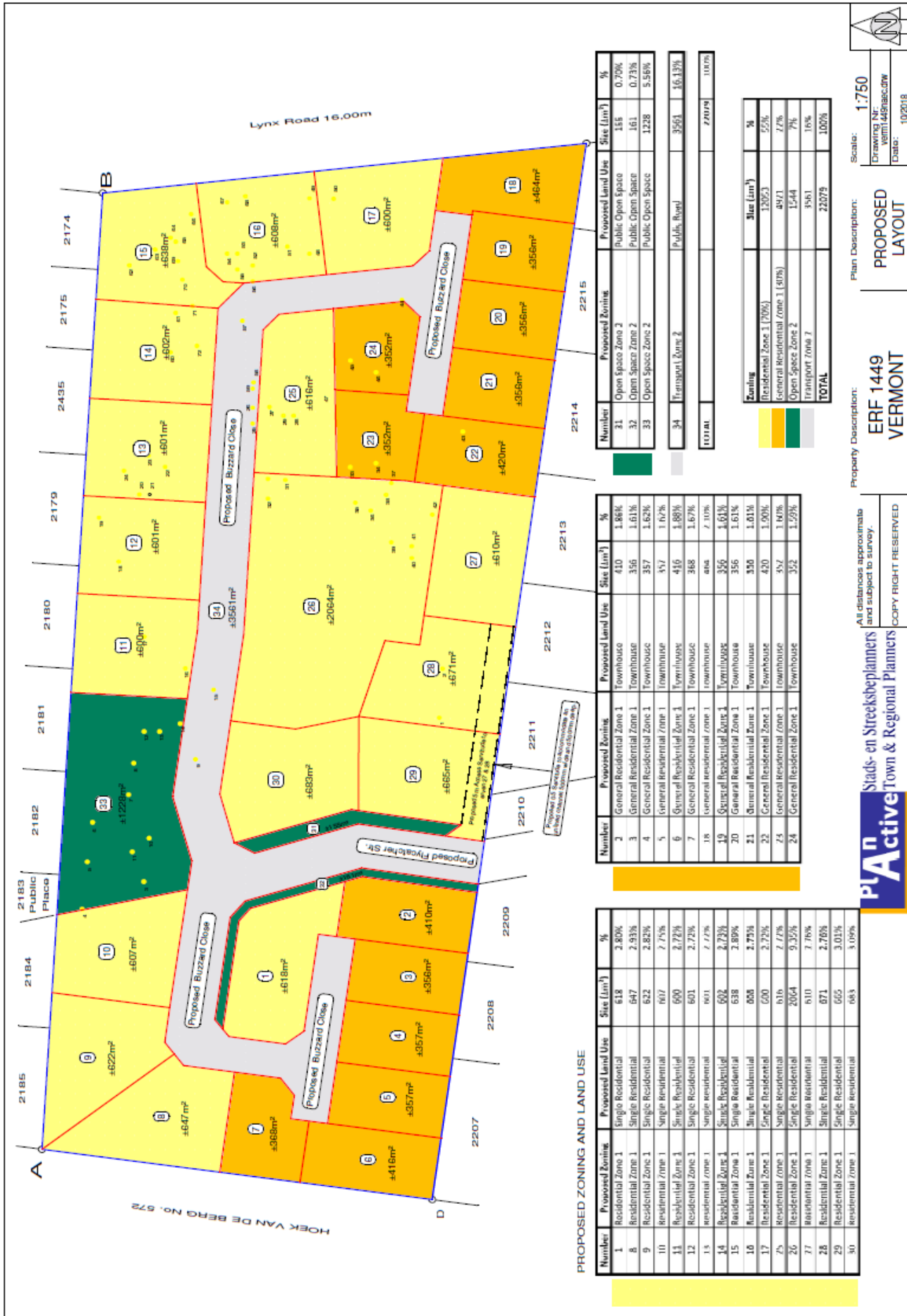
The amended Environmental Management Programme ("EMPr") submitted as part of this amendment application is hereby approved and must be implemented.

5. Annexure 2: Site Plan:



<p>Scale: 1:750</p> <p>Drawn by: wami@stnab.co.za</p> <p>Date: 10/2018</p>	<p>Plan Description:</p> <p><b>PROPOSED LAYOUT</b></p>	<p>Property Description:</p> <p><b>ERF 1449 VERMONT</b></p>	<p>All distances approximate and subject to survey.</p> <p><b>COPY RIGHT RESERVED</b></p>	<p><b>PIAn</b> Stads- en Streekspeplanners Town &amp; Regional Planners</p>

Is replaced with:



PROPOSED ZONING AND LAND USE

Number	Proposed Zoning	Proposed Land Use	Size (m <sup>2</sup> )	%
1	Residential Zone 1	Single Residential	618	2.80%
8	Residential Zone 1	Single Residential	647	2.93%
9	Residential Zone 1	Single Residential	622	2.82%
10	Residential Zone 1	Single Residential	607	2.75%
11	Residential Zone 1	Single Residential	600	2.72%
12	Residential Zone 1	Single Residential	601	2.72%
15	Residential Zone 1	Single Residential	601	2.72%
14	Residential Zone 1	Single Residential	602	2.72%
15	Residential Zone 1	Single Residential	638	2.89%
16	Residential Zone 1	Single Residential	608	2.75%
17	Residential Zone 1	Single Residential	600	2.72%
25	Residential Zone 1	Single Residential	616	2.77%
26	Residential Zone 1	Single Residential	2064	9.35%
27	Residential Zone 1	Single Residential	610	2.76%
28	Residential Zone 1	Single Residential	671	2.98%
29	Residential Zone 1	Single Residential	665	3.01%
30	Residential Zone 1	Single Residential	683	3.09%

Number	Proposed Zoning	Proposed Land Use	Size (m <sup>2</sup> )	%
2	General Residential Zone 1	Townhouse	410	1.86%
3	General Residential Zone 1	Townhouse	356	1.61%
4	General Residential Zone 1	Townhouse	357	1.62%
5	General Residential Zone 1	Townhouse	517	2.34%
6	General Residential Zone 1	Townhouse	416	1.88%
7	General Residential Zone 1	Townhouse	388	1.76%
18	General Residential Zone 1	Townhouse	404	1.84%
19	General Residential Zone 1	Townhouse	356	1.61%
20	General Residential Zone 1	Townhouse	356	1.61%
21	General Residential Zone 1	Townhouse	420	1.90%
23	General Residential Zone 1	Townhouse	357	1.62%
24	General Residential Zone 1	Townhouse	352	1.59%

Number	Proposed Zoning	Proposed Land Use	Size (m <sup>2</sup> )	%
31	Open Space Zone 2	Public Open Space	155	0.70%
32	Open Space Zone 2	Public Open Space	161	0.73%
33	Open Space Zone 2	Public Open Space	1228	5.58%

Number	Proposed Zoning	Proposed Land Use	Size (m <sup>2</sup> )	%
34	Transport Zone 2	Public Road	3561	16.13%
<b>TOTAL</b>			<b>22079</b>	<b>100%</b>

Zoning	Size (m <sup>2</sup> )	%
Residential Zone 1 (20%)	12053	55%
General Residential Zone 1 (40%)	4971	22%
Open Space Zone 2	1544	7%
Transport Zone 2	3561	16%
<b>TOTAL</b>	<b>22079</b>	<b>100%</b>

Property Description: ERF 1449 VERMONT  
 Plan Description: PROPOSED LAYOUT  
 Scale: 1:750  
 Drawing Nr: vermi1449a2.dwg  
 Date: 10/2018

PLA'n Stads- en Streekebeplanners  
 ActiveTown & Regional Planners  
 All distances approximate and subject to survey.  
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## 6. Layout Alternative 2 (Preferred and herewith authorised)

This alternative comprises of:

- 31 residential erven consisting of Residential Zone 1: Single Residential and General Residential: Town Housing units.
- 4 Open Spaces and 1 Transport Zone.

This alternative is 22 077m<sup>2</sup> in size and was preferred since the layout takes the position of the Milkwood trees present on the site into consideration and strategically places the Open Spaces in areas where the Milkwood trees are most dense. All the Milkwood trees on the site were mapped with a GPS by the botanist, which also informed the placement of the erven, allowing incorporation of the Milkwood trees into the design of the development.

Is amended to read:

This alternative comprises of:

- 30 residential erven consisting of Residential Zone 1: Single Residential and General Residential: Town Housing units.
- 3 Public Open Spaces and 1 Transport Zone.

This alternative is 22 077m<sup>2</sup> in size and was preferred since the layout accommodates the requirement from the Overstrand Municipality to change the open space from Private Open Space to Public Open Space. One large Public Open Space was created on Erf No. 33 with a development footprint of 1228m<sup>2</sup>. Erf No. 33 contains a high number of Milkwood trees, several of which are large and very old. According to the Ecologist, Joel Lewis the creation of the large Public Open Space in a more protected area within the development will prevent further destruction and better conservation of the Milkwood trees present on the site. In addition, all the Milkwood trees on the site were mapped with a GPS by the botanist during the initial basic assessment process, which also informed the placement of the erven, allowing incorporation of the Milkwood trees into the design of the development.

## 7. Biophysical Impacts

The site is predominantly characterised by indigenous vegetation, namely Overberg Dune Sandveld vegetation, which is classified as a least threatened vegetation type and White Milkwood trees, which are a protected tree species in terms of the National Forests Act, 1998 (Act No. 84 of 1998). According to the letter dated 13 July 2018 from the Botanist, Amida Johns, 72 Milkwood trees are present on the site. Each Milkwood tree was mapped so that it could be overlaid on the site plan. The preferred alternative, herewith authorised, was derived taking into consideration the position of the Milkwood trees present on the site and strategically places the Open Spaces in areas where the Milkwood trees are most dense. The erven have also been placed in such a way to incorporate the Milkwood trees into the design to achieve the minimal removal of Milkwood trees across the entire site. The comment from CapeNature, dated 21 April 2020, confirmed that they have no objection to the proposed development and that a permit from the Department of Environment, Fisheries and Forestry for the removal of this protected tree species (including partial removal) will be required. This was addressed in Condition 17 of this Environmental Authorisation.

According to the Freshwater Risk Assessment dated 27 February 2020 and compiled by Nick Steytler for EnviroSwift, no watercourses are present on the site and the site is not hydrologically linked to the mapped wetlands to the north-east comprising part of the Vermont salt pan system. There is a link with the ephemeral drainage line to the south-east of the site but due to the minimal catchment area of this watercourse occurring within the site and the limited development that will occur within this catchment area (only an access road), a low risk class was calculated for the development of the road. To ensure that the drainage that could potentially be impacted by the access road remains unaffected, an

unlined channel will be constructed along the southern side of the access road to Erven 24, 25 and 26 to intercept stormwater runoff and promote groundwater recharge. This channel forms part of the site plan that is herewith authorised.

Is amended to read:

The site is predominantly characterised by indigenous vegetation, namely Overberg Dune Sandveld vegetation, which is classified as a least threatened vegetation type and White Milkwood trees, which are a protected tree species in terms of the National Forests Act, 1998 (Act No. 84 of 1998). According to the Ecologist, Joel Lewis the preferred layout alternative will prevent further destruction and better conservation of the Milkwood trees. The presence and maintenance of several large and old milkwood trees on Erf No. 33 is beneficial since it will ensure their recruitment and population stability over time. The Ecologist further stated that a single consolidated public open space is of higher conservation value than two smaller open spaces, particular for fauna. The comment from CapeNature, dated 16 August 2021, confirmed that they have no objection to the amendment, that they agree with the findings of the Ecologist and that a permit from the Department of Forestry, Fisheries and Environment for the removal of this protected tree species (including partial removal) will be required. This was addressed in Condition 17 of this Environmental Authorisation.

According to the Freshwater Risk Assessment dated 27 February 2020 and compiled by Nick Steytler for EnviroSwift, no watercourses are present on the site and the site is not hydrologically linked to the mapped wetlands to the north-east comprising part of the Vermont salt pan system. There is a link with the ephemeral drainage line to the south-east of the site but due to the minimal catchment area of this watercourse occurring within the site and the limited development that will occur within this catchment area (only an access road), a low risk class was calculated for the development of the road. To ensure that the drainage that could potentially be impacted by the access road remains unaffected, an unlined channel will be constructed along the southern side of the access road to Erven 27, 28 and 29 to intercept stormwater runoff and promote groundwater recharge. This channel forms part of the site plan that is herewith authorised.

## **B. REASONS FOR THE DECISION**

In reaching its decision, the Department took, inter alia, the following into consideration:

1. The amendment applied for is in terms of Part 1 of the EIA Regulations, 2014 and will not change the scope of the EA issued on 30 September 2020.
2. The amendment does not trigger any new listed activities in terms of the EIA Regulations, 2014 as defined in Listing Notices 1, 2 and 3 published in Government Gazette No. 40772.
3. The amendment will not result in an increased level or nature of the impacts that were considered and assessed during the initial application for environmental authorisation.
4. The amendment accommodates the requirement from the Overstrand Municipality to change the open space from Private Open Space to Public Open Space.
5. According to the Ecologist, Joel Lewis the amendment will prevent further destruction and ensure better conservation of the Milkwood trees.
6. The comment from CapeNature, dated 16 August 2021, confirmed that they have no objection to the amendment.

7. The environment and the rights and interests of interested and affected parties ("I&APs") will not be adversely affected by the decision to amend the Environmental Authorisation.

### C. CONDITIONS

1. All other conditions contained in the EA issued on 30 September 2020 (Attached as Annexure A), remain unchanged and in force.

### 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 the 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>.

## **E. DISCLAIMER**

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this EA 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. ZAAHIR TOEFY**  
**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**

**DATE OF DECISION: 04 MARCH 2022**

Cc: (1) Ms Michelle Naylor (Lornay Environmental Consulting)  
(2) Ms Liezl de Villiers (Overstrand Municipality)  
(3) Mr Rhett Smart (CapeNature)

E-mail: [michelle@lornay.co.za](mailto:michelle@lornay.co.za)  
E-mail: [ldevilliers@overstrand.gov.za](mailto:ldevilliers@overstrand.gov.za)  
E-mail: [rsmart@capenature.co.za](mailto:rsmart@capenature.co.za)

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## ANNEXURE A: ENVIRONMENTAL AUTHORISATION ISSUED ON 30 SEPTEMBER 2020

**REFERENCE:** 16/3/3/1/E2/40/1013/20  
**NEAS REFERENCE:** WCP/EIA/0000737/2020  
**ENQUIRIES:** Bernadette Osborne  
**DATE OF ISSUE:** **30 SEPTEMBER 2020**

## **ENVIRONMENTAL AUTHORISATION**

### **APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: THE PROPOSED RESIDENTIAL DEVELOPMENT ON ERF NO. 1449, VERMONT.**

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

#### **DECISION**

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to Layout Alternative 2 described in the Basic Assessment Report ("BAR"), dated March 2020.

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

#### **A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION**

Lizani Lewis  
PO Box 1390  
**HERMANUS**  
7200  
Tel: (028) 316 4152  
E-mail: [Liz.lewis.sa@gmail.com](mailto:Liz.lewis.sa@gmail.com)

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

## B. ACTIVITIES AUTHORISED

Listed Activity	Project Description
<p><b>Listing Notice 1 –</b>  <b>Activity Number: 27</b>  <b>The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation,</b> except where such clearance is required for –</p> <ul style="list-style-type: none"> <li>(i) The undertaking of linear activity; or</li> <li>(ii) Maintenance purposes undertaken in accordance with a maintenance management plan.</li> </ul>	<p>The development will entail the clearance of more than 1 hectare of indigenous vegetation.</p>
<p><b>Listing Notice 3 –</b>  <b>Activity Number: 12</b>  <b>The clearance of an area of 300 square metres or more of indigenous vegetation</b> except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p> <p><b>(i) Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. <b>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;</b></li> <li>ii. Within critical biodiversity areas identified in bioregional plans;</li> <li>iii. Within the littoral active zone or 100 metres inland from the high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on even in urban areas;</li> </ul>	<p>Milkwood trees are present on the site and some of them will have to be cleared. Western Cape Milkwood Forest is classified as an endangered ecosystem in terms of Section 52 of the Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).</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; or</p> <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.</p>	
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The abovementioned activities are hereinafter referred to as **"the listed activities"**.

The holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development:

This alternative entails a residential development of 22 077m<sup>2</sup> in size on Erf No. 1449 in Vermont consisting of the following:

- 31 residential erven consisting of Residential Zone 1: Single Residential and General Residential: Town Housing units.
- 4 Open Spaces and 1 Transport Zone.

### C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Erf No. 1449, Vermont, and has the following co-ordinates:

	Latitude (S)	Longitude (E)
Co-ordinates:	34° 24' 49.51" South	19° 08' 50.29" East

The SG digit code is: C013 0023 00001449 00000

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

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

### D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Lornay Environmental Consulting  
c/o Ms Michelle Naylor  
PO Box 1990  
**HERMANUS**  
7200

Cell: (083) 245 6556

E-mail: michelle@lornay.co.za

## **E. CONDITIONS OF AUTHORISATION**

### **Scope of authorisation**

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to Layout Alternative 2 described in the BAR dated March 2020 on the site as described in Section C above.
2. The holder must commence with the listed activities on the site within a period of **five years** from the date issue of this Environmental Authorisation.
3. The development must be concluded within **ten years** from the date of commencement of the listed activities.
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 B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

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

6. Seven 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 EIA Reference number given above.
  - 6.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 7, 8, 11 and 17

### **Notification and administration of 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 F 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,
    - 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 2014 National Appeals Regulations.
8. The listed activities, including site preparation, may not commence within 20 (twenty) 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.

### **Management of activities**

- 9. The draft or Environmental Management Programme ("EMPr") 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.

### **Monitoring**

- 11. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the provisions of 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, including a publicly accessible website.
13. Access to the site referred to in Section C above 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.

## **Auditing**

14. In terms of Regulation 34 of the NEMA 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. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014.

The holder must undertake an environmental audit every six months for the duration of the construction phase and submit Environmental Audit Reports to the Competent Authority every year during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within three months after all the residential erven have been established.

The holder must, within 7 days of the submission of each of the above-mentioned reports to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

## **Specific Conditions**

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 palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts 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 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.
17. A copy of the permit for the removal of Milkwood trees from the National Department of Agriculture, Forestry and Fisheries must be submitted to the Department for record purposes prior to the commencement of construction activities or removal of trees, whichever occur first.
18. Only the Milkwood trees identified for removal should be removed and the remainder of the Milkwood trees must be protected during the construction and operational phase of the development.

## **F. GENERAL MATTERS**

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with the listed activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that 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 in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
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.

## G. APPEALS

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

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 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 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 2659)  
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>.

## H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully



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**MR. ZAAHIR TOEFY**  
**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**  
**DATE OF DECISION: 30 SEPTEMBER 2020**

Cc: (1) Michelle Naylor (Lornay Environmental Consulting) E-mail: [michelle@lornay.co.za](mailto:michelle@lornay.co.za)  
(2) Liezl de Villiers (Overstrand Municipality) E-mail: [ldevilliers@overstrand.gov.za](mailto:ldevilliers@overstrand.gov.za)  
(3) Rhett Smart (CapeNature) E-mail: [rsmart@capenature.co.za](mailto:rsmart@capenature.co.za)  
(4) Rafeeq Le Roux (Breedde-Gouritz Catchment Management Agency) Email: [rleroux@bgcma.co.za](mailto:rleroux@bgcma.co.za)



# ANNEXURE 1: LOCALITY MAP

Erf 1449 Vermont



Scale: 1:18 056  
Date created: February 18, 2019

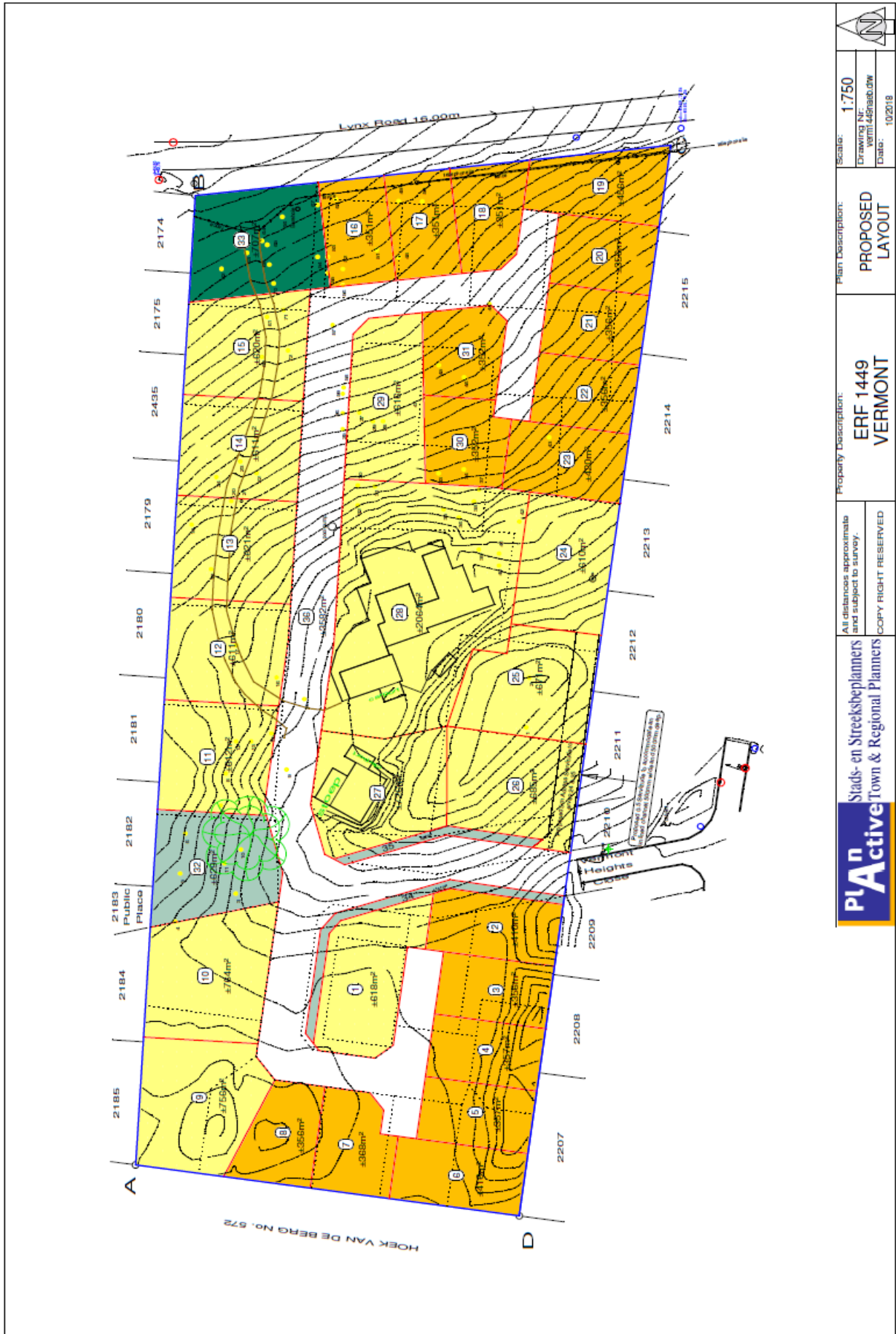
Compiled with CapeFarmMapper



Western Cape  
Government  
Agriculture



# ANNEXURE 2: SITE PLAN



	Scale: 1:750
	Drawing No: werm1449a0b.dwg Date: 10/2018
Plan Description:	PROPOSED LAYOUT
Property Description:	ERF 1449 VERMONT
All distances approximate and subject to survey.	
	COPY RIGHT RESERVED
Stads- en Streeksbeplanners Town & Regional Planners	

### **ANNEXURE 3: REASONS FOR THE DECISION**

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

- a) The information contained in the Application Form and letter dated March 2020, the draft Basic Assessment Report received by the Department on 16 March 2020, the EMPr submitted together with the final Basic Assessment Report on 10 July 2020;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the Basic Assessment Report received on 10 July 2020; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

No site visits were conducted. The Competent Authority had sufficient information before it to make an informed decision without conducting a site visit.

All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

#### **1. Public Participation**

The public participation process included:

- identification of and engagement with I&APs;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities is to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 18 April 2019;
- the placing of a newspaper advertisement in the '*Hermanus Times*' on 18 April 2019;
- a notice board was placed at the entrance of the site where the listed activities will be undertaken; and
- making the pre-application draft Basic Assessment Report ("BAR") available to I&APs for public review from 17 April 2019 and the in-process draft BAR from 16 April 2020.

The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements and the comments raised and responses thereto were included in the comments and response report.

Specific alternatives, management and mitigation measures have been considered in this Environmental Authorisation and EMPr to adequately address the concerns raised.

## 2. Alternatives

### Layout Alternatives

#### Layout Alternative 1

This alternative comprises of:

- 30 residential erven consisting of Residential Zone 1 and 2 erven.
- 1 Transport Zone and 4 small Open Spaces.

This alternative is 22 079m<sup>2</sup> in size and was not preferred since it does not take into consideration the position of the Milkwood trees present on the site.

#### Layout Alternative 2 (Preferred and herewith authorised)

This alternative comprises of:

- 31 residential erven consisting of Residential Zone 1: Single Residential and General Residential: Town Housing units.
- 4 Open Spaces and 1 Transport Zone.

This alternative is 22 077m<sup>2</sup> in size and was preferred since the layout takes the position of the Milkwood trees present on the site into consideration and strategically places the Open Spaces in areas where the Milkwood trees are most dense. All the Milkwood trees on the site were mapped with a GPS by the botanist, which also informed the placement of the erven, allowing incorporation of the Milkwood trees into the design of the development.

#### No-go Alternative

This alternative presents the *status quo*, which means the land remains as is and no further development takes place. This alternative was not preferred for the following reasons:

- There is currently a high demand for housing in the Overstrand area, and particularly in Vermont.
- The erf is one of the last undeveloped erven in the area.
- The erf is a residential erf located within the built-up residential area.
- Infill development is preferred, where vacant erven are developed prior to expansion of suburbs and towns, resulting in ribbon development along the coast.

## 3. Impact Assessment and Mitigation measures

### 3.1 Activity need and desirability

The site is located within the residential suburb of Vermont. The development is in line with the Overstrand Spatial Development Framework and the surrounding land use. The erf is part of the original General Plan for the area and is earmarked for residential purposes. The site is one of the last undeveloped erven in the area and there is currently a high demand for housing in Vermont.

### 3.2 Biophysical Impacts

The site is predominantly characterised by indigenous vegetation, namely Overberg Dune Sandveld vegetation, which is classified as a least threatened vegetation type and White Milkwood trees, which are a protected tree species in terms of the National Forests Act, 1998 (Act No. 84 of 1998). According to the letter dated 13 July 2018 from the Botanist, Amida Johns, 72 Milkwood trees are present on the site. Each Milkwood tree was mapped so that it could be overlaid on the site plan. The preferred alternative, herewith authorised, was derived taking into consideration the position of the Milkwood trees present on the site and strategically places the Open Spaces in areas where the Milkwood trees are most dense. The erven have also been placed in such a way to incorporate the Milkwood trees into the design to achieve the minimal removal of Milkwood trees across the entire site. The comment from CapeNature, dated 21 April 2020, confirmed that they have no objection to the proposed development and that a permit from the Department of Environment, Fisheries and Forestry for the removal of this protected tree species (including partial removal) will be required. This was addressed in Condition 17 of this Environmental Authorisation.

According to the Freshwater Risk Assessment dated 27 February 2020 and compiled by Nick Steytler for EnviroSwift, no watercourses are present on the site and the site is not hydrologically linked to the mapped wetlands to the north-east comprising part of the Vermont salt pan system. There is a link with the ephemeral drainage line to the south-east of the site but due to the minimal catchment area of this watercourse occurring within the site and the limited development that will occur within this catchment area (only an access road), a low risk class was calculated for the development of the road. To ensure that the drainage that could potentially be impacted by the access road remains unaffected, an unlined channel will be constructed along the southern side of the access road to Erven 24, 25 and 26 to intercept stormwater runoff and promote groundwater recharge. This channel forms part of the site plan that is herewith authorised.

#### Negative Impacts:

The development will have a negative biophysical impact due to the loss of natural vegetation. This will however be mitigated to an acceptable level through the preferred alternative and implementation of the EMPr.

#### Positive impacts:

The development will provide housing in the area and job opportunities will be created during the construction and operational phases.

## 4. National Environmental Management Act Principles

The National Environmental Management Principles (set out in section 2 of the NEMA, which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must

guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- 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.

## 5. Conclusion

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 proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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