

EIA REFERENCE NUMBER: 16/3/3/1/D5/19/0011/22
NEAS REFERENCE: WCP/EIA/0001156/2022
DATE OF ISSUE: 23 FEBRUARY 2023

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 DEVELOPMENT OF AN ECO ESTATE ON ERF 220, STILL BAY EAST

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 **Alternative 3**, described in the Final Basic Assessment Report ("FBAR"), dated 18 October 2022, as prepared and submitted by *HillLand Environmental cc*, the appointed environmental assessment practitioner ("EAP").

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

The Managing Director
Mr. Craig Thorne
STILL BAY NATURE RESORTS CC
PO Box 308
STILL BAY
6674

Tel: 083 441 9900
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The abovementioned applicant is the holder of this Environmental Authorisation (hereinafter referred to as "**the Holder**").

B. LIST OF ACTIVITY/IES AUTHORISED

Listed Activities	Activity/Project Description
Environmental Impact Assessment Regulations Listing Notice 1 of 2014, Government Notice No. 983 of 4 December 2014 (as amended)	
<p>Activity Number: 27</p> <p>Activity Description:</p> <p>The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</p> <ul style="list-style-type: none"> (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan. 	<p>The proposal will require the clearance of more than 1ha of indigenous vegetation on Erf 220, Still Bay East for the development of the 20 dwelling units.</p>
Environmental Impact Assessment Regulations Listing Notice 3 of 2014, Government Notice No. 985 of 4 December 2014 (as amended)	
<p>Activity Number: 4</p> <p>Activity Description:</p> <p>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p>i. Western Cape</p> <ul style="list-style-type: none"> i. Areas zoned for use as public open space or equivalent zoning; ii. Areas outside urban areas; <ul style="list-style-type: none"> (aa) Areas containing indigenous vegetation; (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or iii. Inside urban areas: <ul style="list-style-type: none"> (aa) Areas zoned for conservation use; or (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority. 	<p>The proposed development will require the development of the new access road which has a small section wider than four metres. This is also to allow for the establishment of passing bays as indicated on the Site Layout Plan, included Annexure 2 of this environmental authorisation.</p>
<p>Activity Number: 12</p> <p>Activity Description:</p> <p>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.</p> <p>i. Western Cape</p> <ul style="list-style-type: none"> 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 	<p>The proposed development will require the removal of indigenous vegetation within ecosystems listed as Critically Endangered Gouritz Valley Thicket and Endangered Hartenbos Dune Thicket. The vegetation to be removed will exceed 300m² in extent.</p>

<ul style="list-style-type: none"> 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 on erven 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> v. <i>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.</i> 	
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The abovementioned list is 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:

The proposed development entails the establishment of a residential eco-estate consisting of twenty (20) units, each with building footprint of between 300m² and 350m² located on Erf 220 in Still Bay East. Furthermore, each unit will be located within a demarcated disturbance zone / development footprint area of 700m² which will include the dwelling, associated infrastructure, indigenous garden and fire management area. The remainder of Erf 220 ("the property") will be managed for a conservation use in terms of a Stewardship Agreement: Biodiversity Agreement with CapeNature and will be appropriately rezoned to a Nature Conservation Area in terms of the relevant Hessequa Municipality By-Law on Land Use Planning (e.g., *Open Space Zone III in terms of the 2015 By-law*).

In addition to the above, the following associated infrastructure and engineering services will be developed:

- ❖ Internal access roads to the dwelling units will be provided by means of existing 2.5m-wide internal tracks which will be improved but will not be widened to exceed a width of four (4) metres, except for passing bays that will be established at designated points to allow vehicles to pass one another.
- ❖ A short section of the access road off the R305/MR332 will be upgraded in line with the requirements of the Western Cape Government: Department of Transport and Public Works.
- ❖ Electricity supply to the proposed development will be developed off-grid. Electricity will be generated by means of solar energy and gas.
- ❖ Sewage disposal will be by means of conservancy tanks to be serviced by a honeysucker and disposed of at a licenced wastewater treatment facility for treatment.
- ❖ Potable water for the proposed development will be obtained via a connection to the existing municipal bulk water pipeline on the property and supplemented by harvesting and storing rainwater at each dwelling.

The proposal will be implemented in accordance with the Site Layout Plan prepared by HillLand Environmental cc (Alternative 3; Project No: 1082; Date: 26 August 2022) attached in Annexure 2 of this Environmental Authorisation.

C. SITE DESCRIPTION AND LOCATION

The proposed development will be located on Erf 220, Still Bay East, which is located approximately 2.5km from the Still Bay Central Business District. Access to the site is gained off the R305/MR332 approximately 1km north of the Goukou River Bridge.

Coordinates of the site:

Latitude (S)			Longitude (E)		
34°	20'	53.40"	21°	24'	57.57"

SG digit codes:

C06400050000022000000

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

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

HILLAND ENVIRONMENTAL CONSULTANTS CC

% Inge Delpont | Cathy Avierinos

Tel: (044) 889 0229

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George

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E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **28 February 2033** (validity period), during which period the Holder must ensure that the—
 - (a) physical implementation of all the authorised listed activities and including development of dwelling units, is started with and concluded;
 - (b) construction, monitoring and reporting requirements are undertaken at the site and submitted to the Competent Authority in time to allow said authority to process such documents timeously;
 - (c) post construction rehabilitation and monitoring requirements is undertaken and completed;
 - (d) the operational aspects associated with the conservation area is in accordance with the approved management plan and to the satisfaction of the relevant authorities; and
 - (e) environmental auditing requirements are complied with; and that such auditing is finalised in time to allow the competent authority to be able to process the environmental audits timeously within the specified validity period.

Failing which, this Environmental Authorisation shall lapse, unless the environmental authorisation is amended in accordance with the relevant process contemplated in the Environmental Impact Assessment Regulations promulgated under the National Environmental Management Act, 1998 (Act no. 107 of 1998).

2. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with the preferred alternative described in the FBAR, dated August 2022, on the site as described in Section C above.

This Environmental Authorisation is only for the implementation of the *Alternative 3* which entails:

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

The proposed development entails the establishment of a residential eco-estate consisting of twenty (20) units, each with building footprint of between 300m² and 350m² located on Erf 220 in Still Bay East. Furthermore, each unit will be located within a demarcated disturbance zone / development footprint area of 700m² which will include the dwelling, associated infrastructure, indigenous garden and fire management area. The remainder of Erf 220 ("the property") will be managed for a conservation use in terms of a Stewardship Agreement: Biodiversity Agreement with CapeNature and will be appropriately rezoned to a Nature Conservation Area in terms of the (*i.e. Open Space Zone III*).

In addition to the above, the following associated infrastructure and engineering services will be developed:

- ❖ Internal access roads to the dwelling units will be provided by means of existing 2.5m-wide internal tracks which will be improved but will not be widened to exceed a width of four (4) metres, except for passing bays that will be established at designated points to allow vehicles to pass one another.
- ❖ A short section of the access road off the R305/MR332 will be upgraded in line with the requirements of the Western Cape Government: Department of Transport and Public Works.
- ❖ Electricity supply to the proposed development will be developed off-grid. Electricity will be generated by means of solar energy and gas.
- ❖ Sewage disposal will be by means of conservancy tanks to be serviced by a honeysucker and disposed of at a licenced wastewater treatment facility for treatment.
- ❖ Potable water for the proposed development will be obtained via a connection to the existing municipal bulk water pipeline on the property and supplemented by harvesting and storing rainwater at each dwelling.

The proposal will be implemented in accordance with the Site Layout Plan prepared by HillLand Environmental cc (Alternative 3; Project No: 1082; Date: 26 August 2022) attached in Annexure 2 of this Environmental Authorisation.

3. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr") relevant to the application.
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.

Notification and administration of appeal

6. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1. the decision reached on the application;
 - 6.1.2. the reasons for the decision as included in Annexure 3;
 - 6.1.3. the date of the decision; and
 - 6.1.4. the date when the decision was issued.
 - 6.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;
 - 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 6.4. provide the registered I&APs with the:
 - 6.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 6.4.2. name of the responsible person for this Environmental Authorisation,
 - 6.4.3. postal address of the Holder,
 - 6.4.4. telephonic and fax details of the Holder,
 - 6.4.5. e-mail address, if any, of the Holder,
 - 6.4.6. contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
 - 6.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the holder notifies the registered I&APs of this decision.
 - 6.6. 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 (i.e. the listed activities, including site preparation), must not commence until the appeal is decided.

Written notice to the Competent Authority

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities on site.
 - 7.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 7.2. The notice must also include proof of compliance with the following conditions described herein:
Condition no.: 6, 9, 10 and 19
 - 7.3. Seven calendar days' notice, in writing, must be given to the Competent Authority on the commencement of any maintenance activities in the watercourses during the period that the environmental authorisation is valid.
8. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities.

Management of activity/activities

9. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended and submitted for approval to the Competent Authority:

- 9.1. The amended EMPr must —
 - 9.1.1. incorporate all the conditions given in this environmental authorisation;
 - 9.1.2. include a detailed Site Layout Plan with surveyed positions depicting of the 700m² disturbance zones;
 - 9.1.3. ensure that the relevant figures are substituted for the approved development layout plan (Annexure 2) to avoid confusion;
 - 9.1.4. detail how the internal roads indicated on the Site Layout Plan will be demarcated so as to limit the road width to 4m and prevent tread creep; and
 - 9.1.5. Include an Open Space Management Plan for the management of the conservation area. The plan must address, but not be limited to the following:
 - the ongoing removal and control of alien invasive species;
 - the prevention and control of erosion; and
 - fire management and the establishment of firebreaks
 - 9.1.6. be submitted to the Competent Authority at least 60 days prior to the commencement of any activities on site.

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

Monitoring

10. The Holder must appoint a suitably experienced environmental control officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
11. The ECO must—
 - 11.1. be appointed prior to commencement of any works (i.e. removal and movement of soil and / or rubble or construction activities commencing;
 - 11.2. ensure compliance with the EMPr and the conditions contained herein;
 - 11.3. keep record of all activities on the site; problems identified; transgressions noted, and a task schedule of tasks undertaken by the ECO;
 - 11.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
12. 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 be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.
13. Access to the site (referred to in Section C) 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.

Environmental Auditing

14. The Holder must, for the period during which the environmental authorisation and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.
15. The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the relevant management plan, must adhere to the following programme:
 - 15.1. Auditing of the non-operational aspects of the proposed development:
 - 15.1.1. The holder must undertake annual environmental audit(s) of the environmental authorisation and approved EMPr and submit such Environmental Audit Report(s) to the Competent Authority within 30-days of completion of the report.
 - 15.1.2. The final construction phase Environmental Audit Report must be submitted to the Competent Authority within ninety (90) days of completion of construction activities;
 - 15.2. Auditing of the operational aspects of the proposed development:
 - 15.2.1. the holder must ensure the audit(s) of the operational aspects as included in the Open Space Management Plan and submit such audit to the Competent Authority.
 - The frequency of the auditing of compliance with the relevant conditions of the environmental authorisation and of compliance with the Open Space Management Plan must adhere to the following schedule: 1st audit report to be submitted to the Competent Authority by no later than 28 February 2028
 - 2nd audit report to be submitted to the Competent Authority by no later than 31 July 2032. This audit report must also specify whether the management of the open space may continue in terms of the Conservation Management Plan which forms part of the Stewardship Programme: Biodiversity Agreement with CapeNature whereafter the environmental authorisation may be considered concluded pending the outcome of review of the audit report by the Competent Authority.
16. The Environmental Audit Report, must –
 - 16.1. be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;
 - 16.2. provide verifiable findings, in a structured and systematic manner, on–
 - 16.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 16.2.2. the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
 - 16.3. identify and assess any new impacts and risks as a result of undertaking the activity;
 - 16.4. evaluate the effectiveness of the EMPr;
 - 16.5. identify shortcomings in the EMPr;
 - 16.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;

- 16.7. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
 - 16.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
 - 16.9. include a photographic record of the site applicable to the audit; and
 - 16.10. be informed by the ECO reports.
17. The Holder must, within 7 calendar days of the submission of the audit report 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

18. The Holder must finalise the post construction rehabilitation and monitoring requirements within a period of 3-months from the date the development activity (construction phase) is concluded at each of the respective sites.

Note: Failure to complete the post construction rehabilitation and monitoring requirements at least three-months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.

19. Prior to commencing with the proposed development, the Holder must submit proof to the Competent Authority that the development and identified open space on the Site Development Plan in Annexure 2 of the Environmental Authorisation, has been signed into the CapeNature Stewardship Programme: Biodiversity Agreement for the conservation of the natural area.
20. The holder must adopt and implement the following development parameters; restrictions and measures to the proposed development.
- 20.1. The area that may be transformed must be restricted to the development footprint for the 20 dwelling units and the associated infrastructure including internal roads.
This may be supported by means of a residential spot zoning, while the remainder of Erf 220 should be zoned *Open Space III* for a conservation purpose.
- 20.2. The clearance of vegetation for each dwelling unit must be limited to the surveyed disturbance footprint and which must not exceed 700m² in extent. The clearance of vegetation outside the development footprint / disturbance area for each unit is not permitted and no buffer area outside the disturbance area is allowed.
- 20.3. The clearance of indigenous vegetation along the internal road network (i.e. road verges and designated passing bays) must be limited to a buffer of 1-metre wide or less, as measured from the edge of the outer edge of the road surface.
- 20.4. Only indigenous vegetation occurring locally within the relevant mapped ecosystem may be used for gardening / landscaping purposes. No landscaping must be allowed outside the dwelling disturbance footprint.
- 20.5. Prior to commencing with the proposed development, the Holder must ensure that an ecological burn has been implemented on the entire property. Such an ecological burn must be implemented with the input from the local Fire Protection Agency and CapeNature.

20.6. The edges of the internal road network, including the designated passing bays, must be clearly demarcated to prevent tread creep. Except for the short access road off the R305/MR332 (i.e. bell mouth), the width of the internal roads may not exceed four (4.0) metres in width.

20.7. Any security fencing must be aligned to the perimeter of the individual development footprint areas. The security fencing may not be installed within or around the conservation area, unless approved by the Competent Authority.

21. 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 may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

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; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.

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 activity.

Amendment of Environmental Authorisation and EMPr

2. If the Holder does not start with the listed activities and exceed the thresholds of the listed activities within the period referred to in Section G, this Environmental Authorisation shall lapse for those activities, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

If the Holder wishes to extend a validity period specified in the Environmental Authorisation, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of such a period.

Note:

(a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.

(b) It is an offence in terms of Section 49A(1)(a) of 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.

3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, the Competent Authority may request information 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.

The onus is on the Holder to verify whether such changes to the environmental authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note: An environmental authorisation may be amended or replaced without following a procedural requirement contained in the Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially

4. The manner and frequency for updating the EMPr is as follows:
 - (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
 - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMPr has been approved by the competent authority.

The onus is however on the Holder to confirm the legislative process requirements for the above scenarios at that time.

5. Where an amendment to the impact management outcomes of an EMPr is required before an environmental audit is required in terms of the environmental authorisation, an EMPr may be amended on application by the Holder of the environmental authorisation.

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is subject to compliance with all the peremptory conditions (Conditions 6, 7, 9, 10 & 19). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
8. In the event that the Environmental Authorisation should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.
9. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

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;
 - 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; and
 - 1.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Zaahir.Toefy@westerncape.gov.za
Gavin.Benjamin@westerncape.gov.za; and
DEADPEIAadmin.George@westerncape.gov.za
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.
 - 2.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Zaahir.Toefy@westerncape.gov.za
Gavin.Benjamin@westerncape.gov.za; and
DEADPEIAadmin.George@westerncape.gov.za
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 Appeal Administrator at 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: Appeal Administrator
Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th 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.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Administrator at: Tel. (021) 483 3721, E-mail 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

DIRECTOR: DEVELOPMENT MANAGEMENT
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

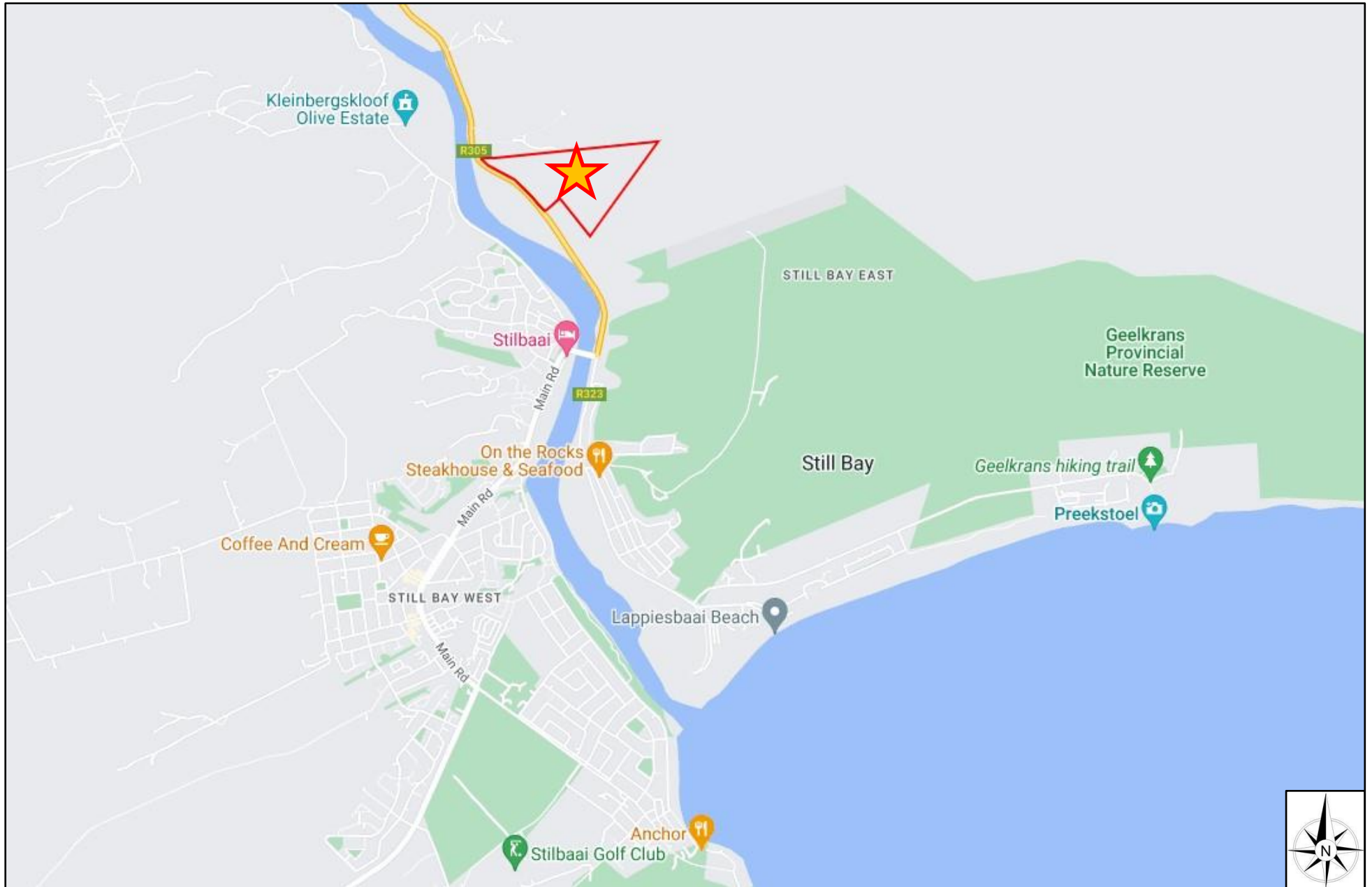
DATE OF DECISION: 23 FEBRUARY 2023

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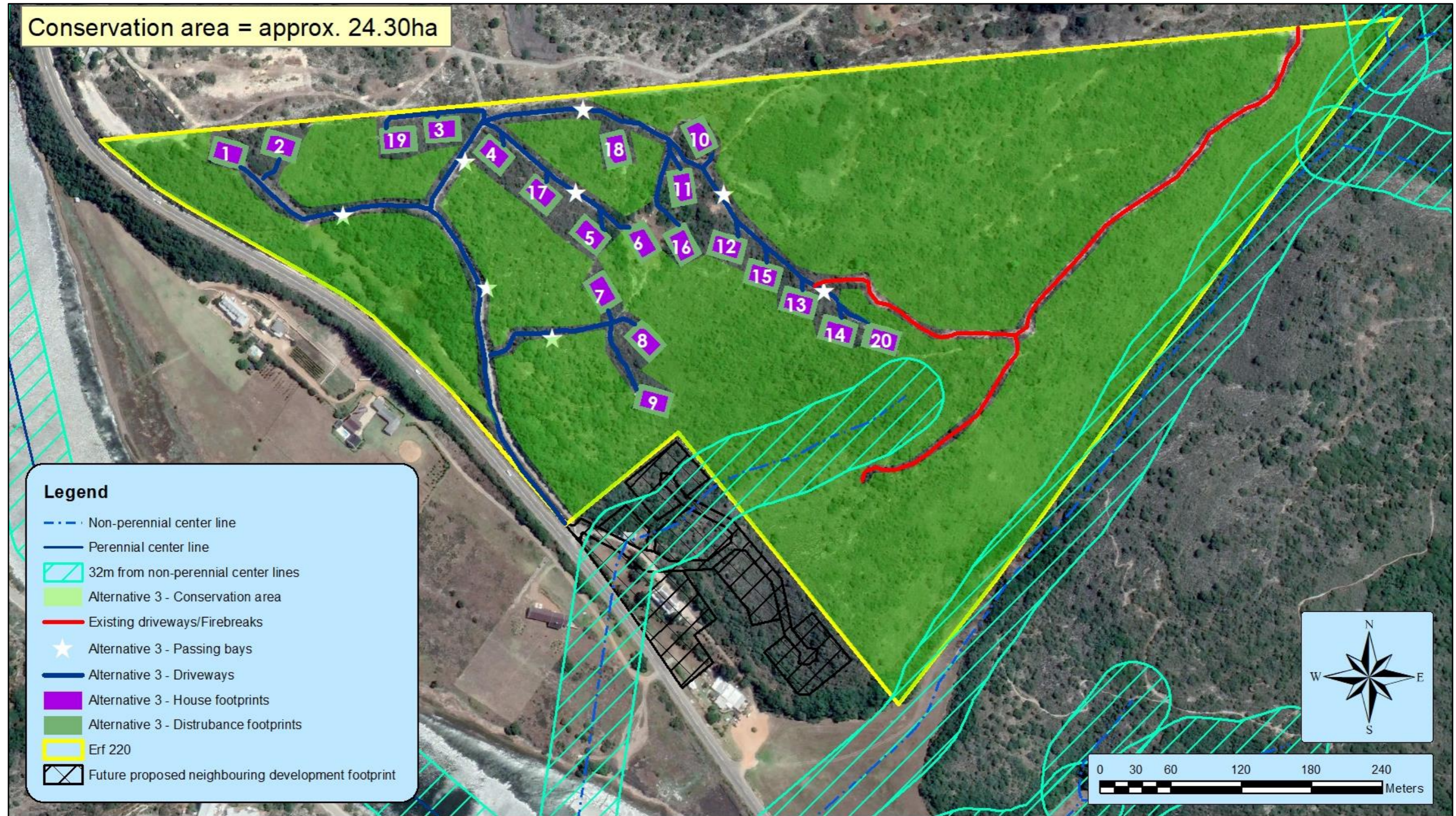
EIA REFERENCE NUMBER: 16/3/3/1/D5/19/0011/22


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ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: DEVELOPMENT LAYOUT PLAN FOR THE PROPOSED ECO ESTATE ON ERF 220, STILL BAY EAST



<p>Alternative 3 - Environmental sensitivities map</p>	<p>Date: 26 August 2022 Project No: 1082 Drawn By: I. Delpont</p>	 <p>Hiland Environmental Environmental Assessment Practitioners</p> <p>166 Mountview, Victoria Heights P.O.Box 590 - George, 6530 - Western Cape, South Africa Tel: +27 (0) 44 889 0229 Fax: +27 (0) 44 889 0228 Mobile: +27 (0) 82 5545 265 Email: info@hilland.co.za www.hilland.co.za</p>
<p>Aerial Image - Google Earth 2021 Cadastral Data- Surveyor General 2019 5m Contours - NGI 2007 Watercourses - NGI 2009</p>	<p>Projected Coordinate System: GS_1984_UTM_Zone_34S</p>	<p>Hiland Environmental (Pty) Ltd 166 Mountview Farm, Victoria Heights P.O.Box 590 - George, 6530 - Western Cape - South Africa www.hilland.co.za Mobile: +27 (0) 825586589 - Office: +27 (0) 44 8890229 - Fax: +27 (0) 86 5425248</p>

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, dated 11 April 2022, received on 11 April 2022, the Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 18 October 2022;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, 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 FBAR submitted on 18 October 2022;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) Appropriate information was made available in the report to understand the environmental and spatial context.
- g) The site visit undertaken on 28 July 2022 by Mr. Craig Thorne and Messrs. Francois Naudé and Steve Kleinhans from the Directorate: Development Management (Region 3).

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. Legislative Requirements

Revised National List of Ecosystems that are threatened and in need of protection (Government Notice No. 2747 of 18 November 2022):

On 18 November 2022 the Minister responsible for Forestry Fisheries and the Environment gazetted the revised list of ecosystems that are threatened and in need of protection (Government Notice No. 2747 of 18 November 2022. According to this revised list the ecosystems on Erf 220, Still Bay East have been mapped as Gouritz Valley Thicket and Hartenbos Dune Thicket, which has threat statuses of Critically Endangered and Endangered, respectively.

In this regard, the Department is satisfied that the BAR and specialist Terrestrial Biodiversity Impact Assessment have adequately considered and assessed the loss of indigenous vegetation within the Critically Endangered Gouritz Valley Thicket and Endangered Hartenbos Dune Strandveld ecosystems. The nature of the proposed development is also to conserve the natural habitat on the property which is to be undertaken in terms of a Stewardship Programme: Biodiversity Agreement between the landowner / Homeowners Association and CapeNature.

2. Public Participation

The public participation process included:

- identification of and engagement with interested and affected parties (I&APs) including organs of state which have jurisdiction in respect of the activity to which the application relates;
- fixing notice boards at the entrance to the site in May 2022;
- giving written notice to the owners and occupiers of land adjacent to the site and any alternative site where the listed activities are to be undertaken, the municipality and ward

councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 6 May 2022);

- the placing of a newspaper advertisement in the “South Cape Forum” on 6 May 2022; and
- making the Draft Basic Assessment Report available to I&APs for public review and comment from 6 May to 6 June 2022, the revised BAR from 27 July to 29 August 2022; and the second revised BAR from 12 September to 13 October 2022. The BAR was made available at the following link: <https://hilland.co.za/public-processes/eco-estate/>

The following State Departments / Organs of State provided comment on the proposal:

- ❖ *Breede-Gouritz Catchment Management Agency*
 - *The BGCMA indicated that if the activity is located within the regulated area of a watercourse and poses a “quantum risk” to resource quality, then water use authorisation is required. The EAP responded that there is no “quantum risk” posed on any of the identified water resources and no activities are proposed within 32m or within the riparian areas of the watercourses.*
 - *The BGCMA acknowledged the EAPs response and provided no further input.*
- ❖ *Heritage Western Cape*
 - *HWC required the compilation of a Heritage Impact Assessment with specific reference to Archaeological Impact Assessment and Palaeontological Impact Assessment. The HIA was subsequently included as part of the BAR.*
 - *To address the comment a HIA was compiled and submitted to HWC.*
 - *The matter was tabled at Impact Assessment Committee on 20 July. The HIA was subsequently approved on 22 July 2022.*
- ❖ *CapeNature*
 - *CapeNature supports the clustered development proposal depicted by Alternative 3 as it provides a larger and more continuous area of no development in the eastern section of the property and preferred in terms of fire management.*
 - *Satisfied that the property can be considered in terms of the CapeNature Stewardship Programme: Biodiversity Agreement.*
 - *The Stewardship Management Plan must include a budget for the effective management of the site. The budget must be used to calculate a conservation levy which must be compulsory for all homeowners.*
 - *Supports the Conservation Management Plan (with minor amendments) submitted as part of the BAR.*
- ❖ *National Department of Forestry, Fisheries and the Environment - Western Cape Forestry;*
 - *Forestry Western Cape requested that indigenous forest patches as well as protected trees be incorporated into the development proposal through detailed surveying, retained / protected and indicated as no-go areas.*
 - *The number of units must be reduced to achieve above goals and units located in disturbed areas in order to retain indigenous forest patches as well as protected / indigenous trees;*
 - *10m to 30m buffer be allowed between the indigenous forest / vegetation ecotones and the developmental proposal.*
- ❖ *Western Cape Government: Department of Agriculture*
 - *The DoA indicated that the proposed development falls within the urban edge and noted that according to the Agricultural Compliance Statement that the property has a low agricultural production value.*

- Therefore, the DoA has no objection to the proposed development.
- ❖ *Western Cape Government: Department of Transport and Public Works*
 - The DTPW provided approval of the designs for the proposed upgrades to the access off Main Road 332, subject to conditions stipulated in Point 2 of the letter (Ref: TPW/CFS/RP/LUD/REZ/SUB-16/89 (Job 27317)), dated 2 December 2021.
 - Design approval is only valid for two years.
- ❖ *Hessequa Municipality: Technical Services*
 - Confirmed that potable water can be supplied by means of a 300mm diameter connection of the bulk water pipeline on the property; however, the developer will be responsible for the installation of bulk infrastructure, including booster pump and also maintain the booster pump.
 - Indicated that the refuse will be collected at the entrance gate;
 - Supports the proposed internal road width of less than 4m on condition that the developer supplies the municipality with a 1000ℓ honey sucker and that the cost of the suction tanker will be for the developer.
- ❖ *Hessequa Municipality: Development Planning*
 - Confirmed that the property is located within the urban edge of Still Bay East and that the development density earmarked by the municipality is 25 dwelling units per hectare. Any density lower than aforementioned is considered low.
 - The density of the proposed development is 0.596 du/ha, but can be accommodated on the property since the development is located on the urban fringe.
 - The municipality indicated that the proposed zonings i.e. Single Residential Zone I spot zonings and Open Space Zone III are acceptable.

All the comments and issues raised by the respective *Organs of State and Interested and Affected Parties (I&APs)* that were captured in the Basic Assessment Report were responded to by the EAP. The Competent Authority is satisfied with the responses provided by the EAP to these other organs of state and I&APs.

3. Alternatives

Alternative 1: Applicant's Preferred Alternative:

The proposed development entails the establishment of an eco-estate consisting of twenty (20) units, each with development footprint of between 300m² and 350m² on Erf 220 in Still Bay East. Furthermore, each unit will be located within a demarcated disturbance zone of 700m² which will include the dwelling, associated infrastructure, indigenous garden and fire management area. The remainder of Erf 220 ("the property") is proposed to be rezoned to *Open Space III* (Nature Conservation Area) and will be managed in terms of a Stewardship Agreement: Biodiversity Agreement with CapeNature.

Access to the dwelling units will be provided by means of 2.5m-wide existing internal tracks which will be improved but will not be widened to exceed a width of four metres. Passing bays will be established at designated points to allow vehicle to pass one another. The access road off the R305/MR332 will be upgraded in line with the requirements of the Western Cape Government: Department of Transport and Public Works.

The proposed development aims to be off grid with electricity being supplied by means of solar and gas, sewage disposal will be by means of single dwelling package plants or conservancy tanks to be

serviced by a honeysucker. Water for the proposed development will be obtained via a connection to the existing municipal bulk water pipeline on the property and supplemented by rainwater harvesting.

The proposal will be implemented approximate to the Site Layout Plan prepared by HillLand Environmental cc (Alternative 1; Project No: 1082; Date: 24 May 2022).

Alternative 2:

The proposed development entails the establishment of an eco-estate consisting of twenty (20) units individual Agriculture Zone II (small-holding) properties. Each property will have a dwelling unit with a development footprint of between 300m² and 350m² on Erf 220 in Still Bay East. Furthermore, each unit will be located within a demarcated disturbance zone of 700m² which will include the dwelling, associated infrastructure, indigenous garden and fire management area. Each individual property owner needs to enter into a Stewardship Agreement with CapeNature to converse the remainder of their property.

Access to the dwelling units will be provided by means of 2.5m-wide existing internal tracks which will be improved but will not be widened to exceed a width of four metres. Passing bays will be established at designated points to allow vehicle to pass one another. The access road off the R305/MR332 will be upgraded in line with the requirements of the Western Cape Government: Department of Transport and Public Works.

The proposed development aims to be off grid with electricity being supplied by means of solar and gas, sewage disposal will be by means of single dwelling package plants or conservancy tanks to be serviced by a honeysucker. Water for the proposed development will be obtained via a connection to the existing municipal bulk water pipeline on the property and supplemented by rainwater harvesting.

The proposal will be implemented approximate to the Site Layout Plan prepared by HillLand Environmental cc (Alternative 2; Project No: 1082; Date: 20 May 2022).

Alternative 3 (Herewith Approved):

The proposed development entails the establishment of a residential eco-estate consisting of twenty (20) units, each with building footprint of between 300m² and 350m² located on Erf 220 in Still Bay East. Furthermore, each unit will be located within a demarcated disturbance zone / development footprint area of 700m² which will include the dwelling, associated infrastructure, indigenous garden and fire management area. The remainder of Erf 220 ("the property") will be managed for a conservation use in terms of a Stewardship Agreement: Biodiversity Agreement with CapeNature and will be appropriately rezoned to a Nature Conservation Area in terms of the (*i.e. Open Space Zone III*).

In addition to the above, the following associated infrastructure and engineering services will be developed:

- ❖ Internal access roads to the dwelling units will be provided by means of existing 2.5m-wide internal tracks which will be improved but will not be widened to exceed a width of four (4) metres, except for passing bays that will be established at designated points to allow vehicles to pass one another.
- ❖ A short section of the access road off the R305/MR332 will be upgraded in line with the requirements of the Western Cape Government: Department of Transport and Public Works.
- ❖ Electricity supply to the proposed development will be developed off-grid. Electricity will be generated by means of solar energy and gas.

- ❖ Sewage disposal will be by means of conservancy tanks to be serviced by a honeysucker and disposed of at a licenced wastewater treatment facility for treatment.
- ❖ Potable water for the proposed development will be obtained via a connection to the existing municipal bulk water pipeline on the property and supplemented by harvesting and storing rainwater at each dwelling.

The proposal will be implemented in accordance with the Site Layout Plan prepared by HillLand Environmental cc (Alternative 3; Project No: 1082; Date: 26 August 2022) attached in Annexure 2 of this Environmental Authorisation.

"No-Go" Alternative

The No-Go Alternative entails that the proposed eco resort with 20 dwelling units will not be developed. According to the applicant since the property is located within the urban edge of Still Bay East, future pressure for conventional housing at 25 dwelling units per hectare (du/ha) as is the norm within the urban edge. The property is approximately 30ha and can therefore be developed for approximately 720 dwelling units should future urban development be applied for on the property.

4. Impact Assessment and Mitigation Measures

4.1 Activity Need and Desirability

The proposed development is for the establishment of an eco resort consisting of 20 dwelling units on Erf 220, Still Bay East, which is currently zoned *Agriculture Zone I*. However, the property is located within the urban edge (urban fringe) of the Hessequa Municipality. As such, the property is earmarked for future urban expansion.

According to the information in the BAR, future development pressure may allow for a gross density of 25 du/ha (i.e. approximately 720 dwelling units). Density below 25du/ha is considered 'low' by the Hessequa Municipality. However, the gross density of the proposal is 0.596 du/ha, which the Hessequa Municipality considers as very low. It must be highlighted that the proposed development is on the perimeter of the current urban edge as depicted in the Still Bay's current SDF, and the development can be regarded as a spatial transition area between the built-up area of the settlement and its rural hinterland. Although the density may be regarded as 'very low', the Hessequa Municipality: Development Planning indicated that property could accommodate the proposed development.

Furthermore, the proposed development aims to conserve the natural vegetation on the property. In this regard, the proposed 20 dwelling units will be established on 20 *Single Residential Zone I* spot zonings, while the remainder of the property will be zoned *Open Space Zone III*. According to the Hessequa Municipality this type of development can be accommodated at this location as the property is located on the urban fringe.

4.2 Botanical and terrestrial biodiversity aspects

The proposed development is for a residential eco-estate where the main aim is to combine a residential type development with an area where the natural vegetation is conserved on the property. In this regard a Terrestrial Biodiversity Impact Assessment was undertaken to inform the BAR. According to the assessment the property contains two threatened plant species which occur in small numbers and four Near Threatened plant species that are common throughout the site. With reference to Point 1 above, it must be noted that the revised list of threatened ecosystems in need of protection was gazetted and came into effect on 18 November 2022. This list includes Gouritz Valley Thicket (Critically Endangered) and Hartenbos Dune Thicket (Endangered) which were not included in the previous gazetted list. However, the BAR and specialist Terrestrial Biodiversity Assessment have both considered the loss of threatened vegetation and is of the opinion that the proposed development of Erf 220 will not result in significant loss of indigenous vegetation.

Furthermore, the aim of the proposed development is to conserve the majority of the property and establish an eco-estate. This will assist with the conservation target for the two identified ecosystems. Alien invasive species dominates one area on the property with medium to low densities in other areas. However, the applicant has commenced with alien invasive control which also reduced the fuel load of the property.

A Butterfly Survey was also commissioned due to the information produced by the Screening Tool Report, which indicates that there are four species that may be present on the property. The survey identified a potential three species which may potentially occur on the property. However, only one species of conservation concern could be verified, which was located in the north-eastern section of the property.

As described in Point 2 (Alternatives) above, various layout proposals have been included in the BAR. The applicant's preferred layout (i.e. Alternative 1) is a less clustered proposal, which results in more fragmentation and makes connectivity more difficult. In terms of fire management, it is also more difficult to manage. The applicant was requested to consider a more clustered layout (i.e. Alternative 3). This layout results in less fragmentation and provides for a more continuous conservation area which will be better to manage in terms of fire. This has been confirmed by the various specialists and while not the applicant's preferred alternative, the applicant has indicated that Alternative 3 is still viable in terms of the proposed development.

According to the applicant the proposed dwelling units will be placed in areas that have been previously disturbed and which is close to the existing tracks on the property. The remainder of the property will be rezoned to *Open Space Zone III*. In order to conserve and manage the eco-estate the applicant has approached CapeNature for an agreement in terms of the CapeNature Stewardship Programme for the conservation of the natural vegetation and habitat on the property. Based on the merits of the proposed development and the conservation considerations, CapeNature is satisfied that a Biodiversity Agreement can be considered for the proposed development and conservation area to improve the ecological condition of the natural areas. In this regard a Conservation Management Plan ("CMP") which include fire management and an alien species removal plan has been drafted and included in the BAR. The CMP is supported by CapeNature and will be included in the Stewardship agreement. The applicant indicated that he is willing to manage the property in terms of this Biodiversity Agreement and Conservation Management Plan.

In light of the above, the Department is of the considered view that the proposed development will result in net-positive biodiversity impacts if the Conservation Management Plan is implemented, and the dwelling units limited to the previously disturbed footprint on the property.

4.3 *Heritage / Archaeological Aspects*

A description of the heritage related issues and risks that were identified during the environmental impact assessment process, as well as an assessment of the significance of each issue and risk, cumulative impacts of the proposed development and levels of acceptable change have been considered.

In this regard, a Notice of Intent to Develop was submitted to the relevant heritage authority i.e. Heritage Western Cape ("HWC"), which required that a Heritage Impact Assessment be conducted to inform the application. A HIA was undertaken which did not identify any surface occurrences of significant heritage resources of prehistoric or historic origin. In this regard, the HIA concluded that no further archaeological, built environment or visual studies are justified. The HIA noticed no fossil bones or marine shells in the calcrete outcrops. Furthermore, the HIA indicates that the construction

excavations are in the Wankoe formation (Wankoe Fm.) which has not been a known source of fossil bones, while intersection of marine shell beds are easily mitigated. Therefore, the HIA concludes that there is a possibility that fossil bone finds can be encountered in the Wankoe Fm., but that it is of low likelihood.

The HIA further confirmed that colonial period ruin, a mixed modern and colonial period rubbish dump associated with the ruin, old road (part of the development), natural spring and dam (in transformed state and old brick and plaster reservoir are present on site. However, the HIA found these to be of low significance and Not Conservation Worthy.

In considering the above, the view is held that the applicant has adequately considered the heritage and archaeological aspects and that the proposed development will not result in significant negative impact on the on heritage and archaeological aspects.

4.4 Visual aspects

Due to the location of the proposed development on the side of a hill a Visual Impact Assessment was undertaken to assess the visual impact of the proposed development on the surrounding environment. The assessment was supported by photomontages of the Alternatives 1 and 3 as described in the BAR.

According to the VIA, the proposed development will be partially visible from the Main Road 332, the residential areas on the western bank of the Goukou River and the Goukou River Bridge towards the Still Bay CBD. The impact will be mitigated implementing the Architectural Design Guidelines for the Thorne Hill Eco Estate, submitted as part of the VIA, which include guideline for finishes and form.

Based on the information provided in the photomontages the Department is of the considered view that Alternative 3 will have less visual impact on the surrounding environment as the proposed development is more clustered than Alternative 1. Furthermore, Alternative 3 avoids the ridgeline on the eastern side of the property. Furthermore, the visual impact will be reduced by the implementation of the architectural design guideline for the proposed development.

4.5 Other impacts

No other significant dust, noise and odour impacts have been identified.

5. Scope and Validity of the Environmental Authorisation

The environmental authorisation includes operational aspects. In this regard, the following distinction has been made:

- Scope and validity of the non-operational aspects:

The environmental authorisation's validity period for the non-operational aspects has been granted for a period of ten (10) years, during which period the construction activities, including the dwelling units, must commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit reports for the construction phase. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase.

- Scope and validity of the operational aspects:

The environmental authorisation's validity period for the operational aspects has been granted for a period of 10 years, commencing simultaneously with the validity period for the non-operational aspects. This has been duly considered in light of the proposed Biodiversity Agreement which the

landowner will enter with CapeNature for the long-term conservation of the natural habitat on the property. In this regard the holder must submit audit reports to the Competent Authority as stipulated herein. Should the Competent Authority be satisfied that the non-operational aspects have been concluded and the operational aspects can be managed in terms of the Biodiversity Agreement and associated management plans in conjunction with CapeNature, may the environmental authorisation be considered concluded by 28 February 2033.

Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years.

6. 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.

7. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with an approved 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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