

EIA REFERENCE NUMBER: 16/3/3/1/D5/9/0016/22
NEAS REFERENCE: WCP/EIA/0001105/2022
DATE OF ISSUE: 12 December 2022

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 RESORT UNITS ON PORTION 12 OF THE FARM RIET VALLEY NO. 452, GOURITSMOND

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 **a part of the preferred alternative**, described in the Final Basic Assessment Report ("FBAR"), dated August 2022, as prepared and submitted by *EnviroWorks*, 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. J.P. Visser
SILVERSPOT INVESTMENTS ONE CC
The George Municipality
PO Box 23
GOURITSMOND
6696

Tel: 082 456 9923
E-mail: boesmanzicht@gmail.com

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 hectares 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 entails the development of tourist accommodation units within a development footprint exceeding one hectare.</p>
<p>Activity Number: 28</p> <p>Activity Description:</p> <p>Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development—</p> <ul style="list-style-type: none"> (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare; <p>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>The proposal is a mixed and commercial development (farming and resort) on land currently zoned and used for agriculture and small-scale game farming. The development footprint exceeds one hectare.</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>A new access road to the western cluster will be established off DR1522. This access will be wider than four metres. The area where the access road will be developed consists of indigenous vegetation.</p>

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 activity as it relates a part of the development:

The proposal entails the development of four (4) tourist accommodation units on Portion 12 of the Farm Riet Valley No. 452 near Gouritzmond. Each unit will have a footprint of 175m² with a new proposed access off Divisional Road 1522. Furthermore, a new internal gravel road network will be developed, with no road crossing the wetland. Water for the proposed development will be supplied by an existing spring on the property with a maximum usage of 15 000ℓ/day. Sewage handling will be by means of conservancy tanks which will be emptied by the Hessequa Municipality as and when required while electricity generation will be by means of solar panels.

The preferred alternative is herewith **approved in part** and is limited to the development of the four units closest to the wetland within the eastern node. Refer to Annexure 2 of this environmental authorisation in this regard.

C. SITE DESCRIPTION AND LOCATION

The proposed development will be located on Portion 12 of the Farm Riet Valley No. 452 near Gouritzmond. Access to the site is gained via by travelling approximately 3km in a westerly direction on Divisional Road 1522 from Gouritzmond.

Coordinates of the site:

Latitude (S)			Longitude (E)		
34°	21'	55.28"	21°	50'	59.57"

SG digit codes:

C06400000000045200012

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

Refer to Annexure 2 for the development footprint of this Environmental Authorisation.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

ENVIROWORKS

% Mr. Michael Leach

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Century City

7446

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Tel: (086) 198 8895

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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 **31 January 2028** (validity period), during which period the Holder must ensure that the—
 - (a) physical implementation of all the authorised listed activities is started with and concluded at the sites (each respective site);
 - (b) construction monitoring and reporting requirements are undertaken at the sites 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 at the sites; and
 - (d) environmental auditing requirements are complied with for the sites; 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.
2. The construction phase of the Environmental Authorisation is subject to the following:
 - 2.1. 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.

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).

3. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with a part of 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 *part of the preferred alternative* which entails:

The proposal entails the development of four (4) tourist accommodation units on Portion 12 of the Farm Riet Valley No. 452 near Gouritzmond. Each unit will have a footprint of 175m² with a new proposed access off Divisional Road 1522. Furthermore, a new internal gravel road network will be developed, with no road crossing the wetland. Water for the proposed development will be supplied by an existing spring on the property with a maximum usage of 15 000ℓ/day. Sewage handling will be by means of conservancy tanks which will be emptied by the Hessequa Municipality as and when required while electricity generation will be by means of solar panels.

The preferred alternative is herewith **approved in part** and is limited to the development of the four units closest to the wetland within the eastern node. Refer to Annexure 2 of this environmental authorisation in this regard.

4. This Environmental Authorisation may only be implemented in accordance with the approved Environmental Management Programme ("EMPr").
5. 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.
6. 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

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 decision reached on 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 Appeal Regulations, 2014 (as amended) detailed in Section G 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 the:
 - 7.4.1. 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. 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).
 - 7.5. 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.
 - 7.6. 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

8. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities on site.
 - 8.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 8.2. The notice must also include proof of compliance with the following conditions described herein:
Condition no.: **7; 10.1.3; 11; 12; and 24.2**

9. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities.

Management of activity/activities

10. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is herewith **approved**, subject to the following amendments:

10.1. The amended EMPr must —

10.1.1. incorporate all the conditions given in this environmental authorisation;

10.1.2. include an updated site layout plan which is limited to four tourist accommodation units and new proposed access road within a development footprint; and

10.1.3. be submitted to the Competent Authority prior to physically undertaking the activity.

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

Monitoring

12. The Holder must appoint a suitably experienced environmental control officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.

13. The ECO must—

13.1. be appointed prior to commencement of any works (i.e. removal and movement of soil and / or rubble or construction activities commencing;

13.2. ensure compliance with the EMPr and the conditions contained herein;

13.3. keep record of all activities on the site; problems identified; transgressions noted, and a task schedule of tasks undertaken by the ECO;

13.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.

14. 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 a website, such documents must be made available on such publicly accessible website.

15. 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

16. 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.

17. The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, must adhere to the following programme:

17.1. Auditing during the non-operational phase (construction activities):

17.1.1. During the period which the development activities have been commenced with on the sites, the Holder must ensure annual environmental audit(s) are undertaken and the Environmental Audit Report(s) submitted annually to the Competent Authority.

17.1.2. A final Environmental Audit Report for the construction phase (non-operational component) must be submitted to the Competent Authority within **three (3) months** of completion of the construction phase.

18. The Environmental Audit Report, must—

18.1. 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;

18.2. provide verifiable findings, in a structured and systematic manner, on—

18.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and

18.2.2. 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.

18.3. identify and assess any new impacts and risks as a result of undertaking the activity;

18.4. evaluate the effectiveness of the EMPr;

18.5. identify shortcomings in the EMPr;

18.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;

18.7. 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;

18.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;

18.9. include a photographic record of the site applicable to the audit; and

18.10. be informed by the ECO reports.

19. 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

20. The proposed development must be restricted to four units only, as per the proposed layout of the cluster in Annexure 2 of this Environmental Authorisation.

21. No additional amenities (e.g. swimming pools, restaurant, parking areas, etc.) are allowed within the development footprint without approval from the Competent Authority.

22. No development activities must be allowed within a 32-metre buffer area from the edge of the wetland/watercourse which crosses the property from north to south.

23. No development activities must be undertaken within 10-metres of the shell midden identified in Figure 6.1 of the Heritage Impact Assessment dated February 2021, compiled by CTS Heritage.

24. The following recommendations of Heritage Western Cape (HWC), as detailed in the letter (Case No: 21030910SB0309E), dated 14 October 2021, must be implemented. This must address *inter alia*:
- 24.1. Architectural Guidelines:
The architectural guidelines must be adhered to in the design of the new structures and roads:
 - (a) the new structures must be sensitive to the natural context and must be appropriately coloured to blend into the surrounding vegetation;
 - (b) darker, duller colours must be used that can disguise the infrastructure in the landscape;
 - (c) development is limited to single story dwellings, set low in the landscape;
 - (d) existing architectural typologies should be referenced in the design of the new structures, but not copied; and
 - (e) road infrastructure should not be tarred but left gravel and should be kept to the minimum scale possible.
 - 24.2. The landowner must enter into a Heritage Agreement with HWC in terms of section 42 of the National Heritage Resources Act (Act 25 Of 1999) ("NHRA") to ensure the long-term preservation and management of the significant heritage resources located within this property.
 - 24.3. If any unmarked Khoisan, or battlefield graves are uncovered or exposed during bulk earthworks, these must immediately be reported to the contracted archaeologist, or Heritage Western Cape.
 - 24.4. If any archaeological material is found outside the 15m buffer around the midden then test excavations will be required.
 - 24.5. The final SDP must be submitted to HWC prior to undertaking the activity.
25. 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 E, 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 granted for a set period from date of issue, during which period the listed activities must be commenced with and concluded, including the post-construction rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

The validity period and conditions of the environmental authorisation has been structured to promote the effective administration of the environmental authorisation and guidance has been provided to

ensure the compliance thereof within the validity period, for example the following milestones should not be missed:

- Failure to submit the revised EMPr to the Competent Authority at least 90-days prior to the construction activities commencing on site, may result in the competent authority not being able to process / review the revised EMPr prior to the intended date of commencement.
- Failure to complete the post construction rehabilitation and monitoring requirements at least six 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.
- Failure to complete the final auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements and may result in the competent authority not being able to process the audit timeously.
- 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.

Note: It is advised that if any of the milestones as indicated above, might not be achieved, the Holder must consider extending the validity period through an amendment process.

8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (7; 10.1.3; 11; 12; and 24.2). 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.
9. 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.
10. 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 and copied to
Gavin.Benjamin@westerncape.gov.za
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 and copied to
Gavin.Benjamin@westerncape.gov.za /
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

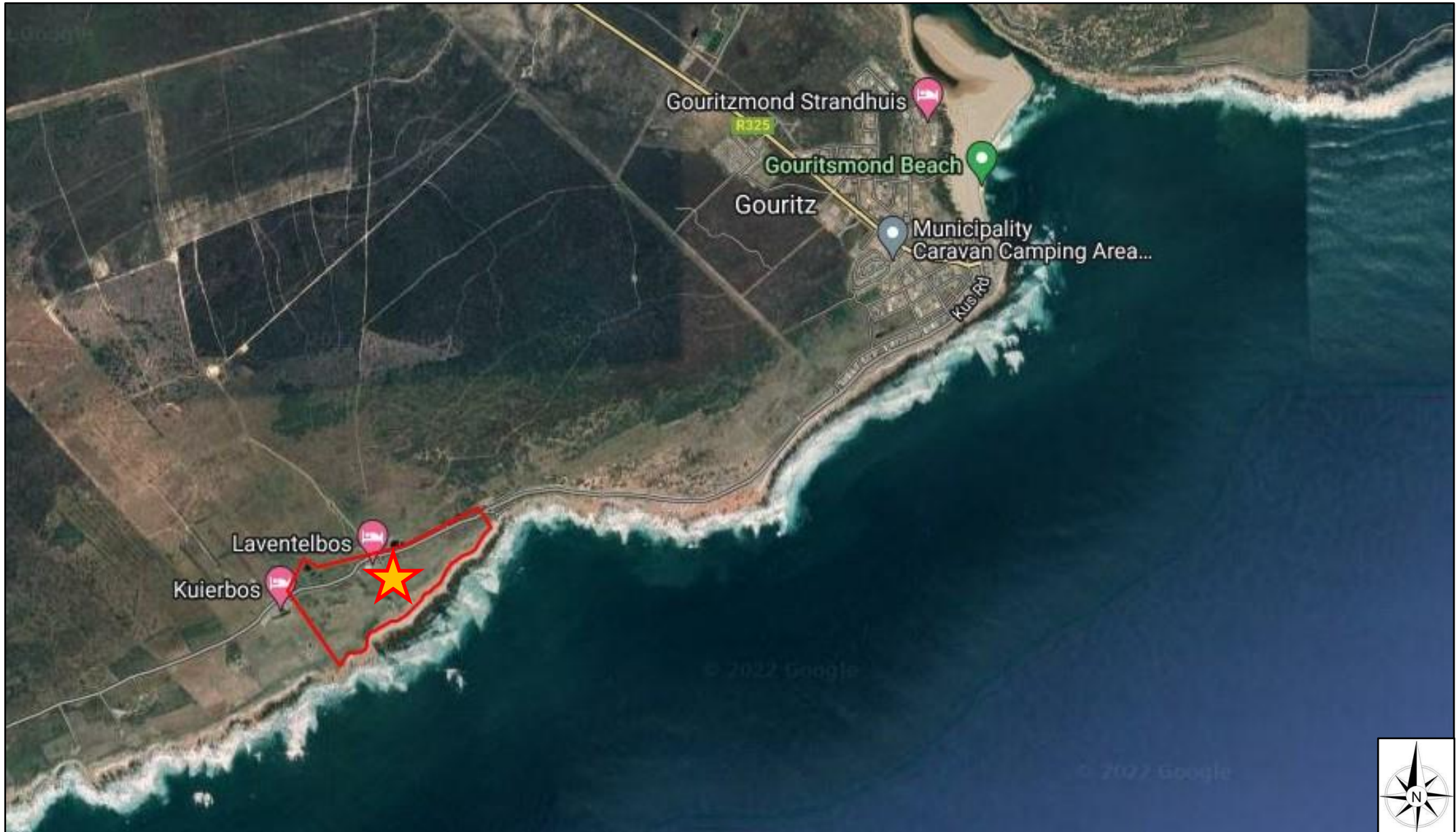
DIRECTOR: DEVELOPMENT MANAGEMENT
WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 12 DECEMBER 2022

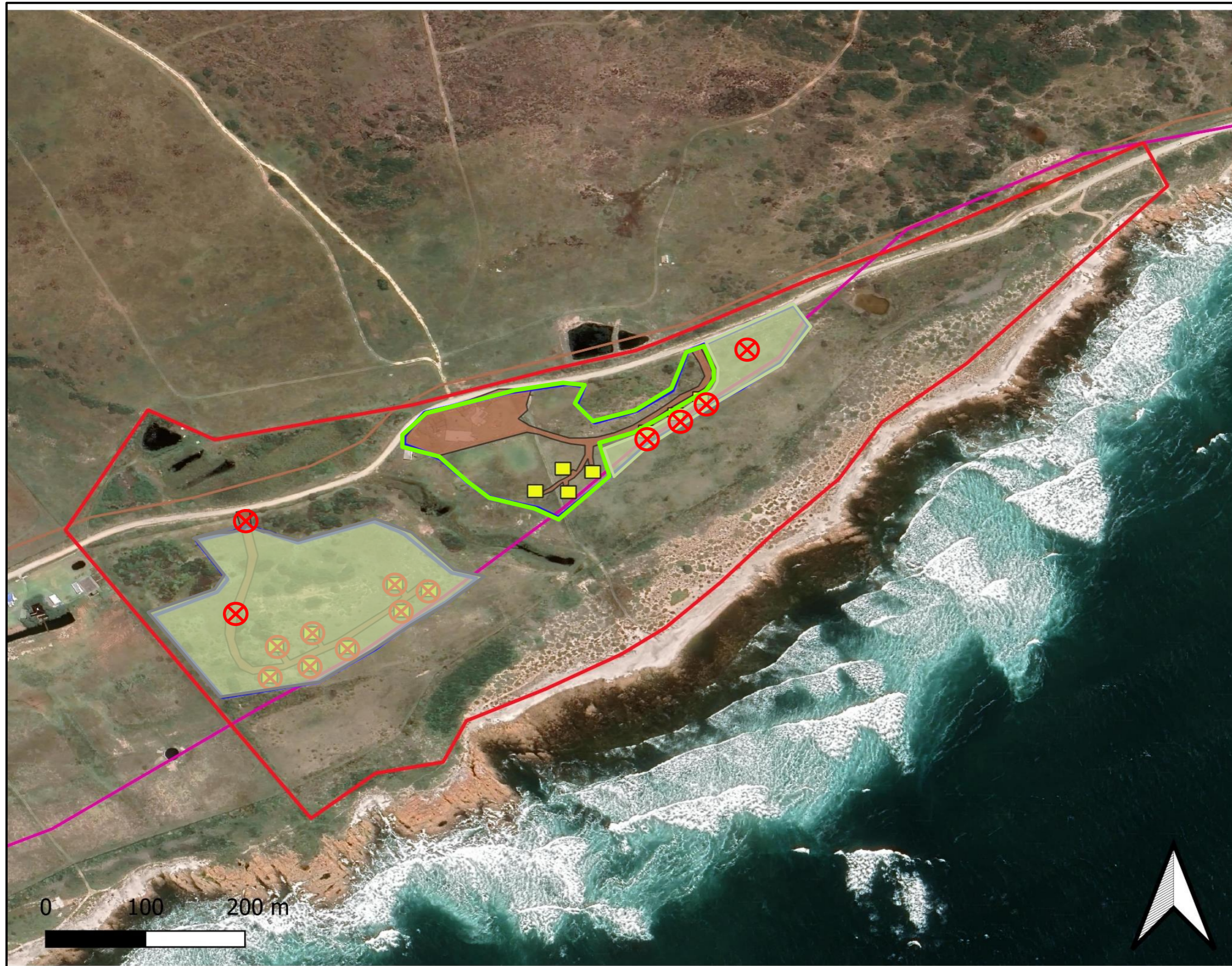
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ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: DEVELOPMENT FOOTPRINT / LAYOUT PLAN FOR RESORT ON PORTION 12 OF THE FARM RIET VALLEY NO. 452



Legend:

Alternative 1 (Preferred Layout)

- Chalets
- Developable Area
- Farm Portion
- Internal Roads
- Hessequa_CML
- Roads**
- S
- Excluded from development X

Date: August 2022
 Datum: WGS 84
 Scale: 1:4000

Prepared by:



Prepared for:

Silverspot Investments One CC.

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 May 2022, received on 26 May 2022, the Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 26 August 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 26 August 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 visits undertaken on 28 July 2022 by Mr. J.P. Visser and Messrs. Francois Naudé and Steve Kleinhans from the Directorate: Development Management (Region 3), and by Mr Zahir Toefy on 7 December 2022.

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. Other relevant legislative considerations

The listed activities not authorised in this Environmental Authorisation are:

- Listing Notice 1 (GN No. R983 of 4 December 2014, as amended) Activities 12, 17, 19 and 19A:
Reason – These activities were considered in the application for environmental authorisation as they are triggered by Alternative 2. Alternative 2 has not been authorised in the application for environmental authorisation.
- Listing Notice 3 (GN No. R985 of 4 December 2014, as amended) Activity 6:
Reason – the proposed units are located outside the 5km buffer areas of the Kanon Private Nature Reserve (declared on 8 October 1971) and Die Duine Private Nature Reserve (declared on 18 October 1991). Furthermore, the Western Cape Biodiversity Spatial Plan (2017) has not been adopted by the Minister Local Government, Environmental Affairs and Development Planning; therefore, the geographical area identified in the application is not triggered until the Minister has adopted the bioregional plan.
- Listing Notice 3 (GN No. R985 of 4 December 2014, as amended) Activity 12:
Reason – These activities were considered in the application for environmental authorisation as they are triggered by Alternative 2. Alternative 1, which is approved in this environmental authorisation, is not located within the specified geographical areas.
- Listing Notice 3 (GN No. R985 of 4 December 2014, as amended) Activity 14:
Reason – This activity was considered in the application for environmental authorisation as it is triggered by Alternative 2. Alternative 2 has not been authorised in the application for environmental authorisation.

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 during the pre-application phase on 29 July 2021 at the site, the Gouritzmond General Store and Post Office; and during the application phase on 20 June 2022 at the site entrance, the Gouritzmond General Store and Post Office.
- 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 29 July 2021 (pre-application phase) and 17 June 2022 (application phase);
- the placing of a newspaper advertisement in the "Mossel Bay Advertiser / Suid-Kaap Forum" on 30 July 2021 (pre-application phase) and 17 June 2022 (application phase); and
- making the pre-application Basic Assessment Report and Draft Basic Assessment Report available to I&APs for public review and comment from 30 July to 31 August 2021 and 17 June to 18 July 2022, respectively. The BAR was made available at the following link: <https://envioworks.co.za/p15/projects/public-participation.html>

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

- **DEA&DP Directorate: Biodiversity and Coastal Management:**
 - *This Department's Sub-Directorate: Coastal Management is satisfied that the applicant considered all the relevant guidelines to inform the proposal;*
 - *The Directorate is satisfied that the preferred alternative avoids the most sensitive areas, create less internal roads, avoids the wetland, chalets will be placed further away from the high-water mark as well as the LAZ and landward of the CML. As such, the Directorate does not object to the rezoning of the subject area or the proposed development.*
 - *Furthermore, the Directorate indicates that the proposed mitigation measures as stipulated in the EMP are appropriate and practical and should be strictly adhered to.*
- **National Department of Forestry, Fisheries and the Environment: Oceans and Coasts**
 - *The DFFE: Oceans and Coasts supports preferred alternative 1 due to the minimal risk it poses on the environment. Furthermore, the alternative also demonstrates consideration of climate vulnerability risks and takes cognisance of sensitive areas such as the wetland, heritage features, etc.*
- **CapeNature**
 - *From a terrestrial biodiversity and coastal setback perspective, CapeNature is satisfied that the preferred layout adequately addresses these aspects.*
 - *CapeNature has raised concern regarding sewage disposal and water provision.*
 - *Sewage disposal will be by means of conservancy tanks to be emptied by the Hessequa Municipality; however, there are concerns regarding the capacity of the wastewater treatment works.*
 - *Water provision will be by means of an existing spring with an existing pump system; however, tests indicate that the water is not suitable for human consumption.*
- **Breede-Gouritz Catchment Management Agency:**
 - *The BGCMA provided confirmation that the water use activities can be generally authorised in terms of Section 40 of the National Water Act, Act No. 36 of 1998 and that the required registration must be submitted.*

- *Heritage Western Cape:*
 - *Heritage Western Cape required the compilation of a Heritage Impact Assessment which was subsequently included as part of the BAR.*
 - *HWC preferred Alternative 1 on condition that the likely shell midden mapped in Figure 6.1 HIA is avoided and development is limited to the heavily grazed areas mapped in Figure 6.2 of the HIA*
 - *HWC provided architectural guidelines as specified in Point 3 of the letter dated 14 October 2021:*
 - *The new structures must be sensitive to the natural context and must be appropriately coloured to blend into the surrounding vegetation;*
 - *Darker, duller colours must be used that can disguise the infrastructure in the landscape;*
 - *Development is limited to single story dwellings, set low in the landscape;*
 - *Existing architectural typologies should be referenced in the design of the new structures, but not copied; and*
 - *Road infrastructure should not be tarred but left gravel and should be kept to the minimum scale possible*
 - *Furthermore, the landowner must enter into a Heritage Agreement with HWC in terms of section 42 of the NHRA to ensure the long-term preservation and management of the significant heritage resources located within this property.*

- *Western Cape Government: Department of Agriculture*
 - *The WCG: Dept. Agriculture responded and registered that it has no objection to the proposed development.*

- *Western Cape Government: Department of Transport and Public Works*
 - *The DTPW reviewed the Traffic Impact Statement prepared by Techso Smart Solutions and notes that both accesses (east and west of the wetland) to the proposed development nodes conform to the Department's shoulder sight distances for passenger vehicles, whilst targeting to achieve that for single unit trucks too.*
 - *The Department has no objection to the issuing of an environmental authorisation, provided that the Department is offered an opportunity to comment on the land use application.*

- *Western Cape Government: Department of Economic Development and Tourism*
 - *The WC:DEDAT supports the proposed development and envisage a positive impact in promoting domestic tourism, increasing the region's tourism potential and the positive impact the development will have on the economy of the region.*

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: Preferred Alternative

The proposal entails the development of fifteen (15) resort units on Portion 12 of the Farm Riet Valley No. 452 near Gouritzmond. The property will be rezoned from Agriculture Zone I to Resort Zone to accommodate the proposed development. The property was historically farmed and consists mostly of irrigated lands.

Each unit will have a footprint of 175m² with access off Divisional Road 1522. Furthermore, a new internal gravel road network will be developed, with no gravel road crossing the wetland. Water for the proposed development will be supplied by an existing spring on the property with a maximum usage of 15 000ℓ/day. Sewage handling will be by means of conservancy tanks which will be emptied by the Hessequa Municipality as and when required while electricity generation will be by means of solar panels.

The proposal will be implemented as two development clusters, namely an eastern cluster with seven units and a western cluster with eight units. This alternative avoids impacts on the wetland, the likely shell midden and is limited to the previously transformed / disturbed areas on the property.

However, with due consideration of the layout and clustering, this proposal is regarded to constitute a linear type of development along the coastline. With regard to proposed development and spatial planning aspects associated with the proposal, the Department is of the opinion that the proposed development is not in line with the planning framework applicable to the proposal and the cumulative impacts associated with development, which does not conform to the relevant spatial parameters, is not justified and must be avoided. The information presented for this alternative has not demonstrated that the cumulative impacts can be avoided or even mitigated to an acceptable level.

Part of the Preferred Alternative (Herewith Approved):

The proposal entails the development of four (4) tourist accommodation units on Portion 12 of the Farm Riet Valley No. 452 near Gouritzmond. Each unit will have a footprint of 175m² with a new proposed access off Divisional Road 1522. Furthermore, a new internal gravel road network will be developed, with no road crossing the wetland. Water for the proposed development will be supplied by an existing spring on the property with a maximum usage of 15 000ℓ/day. Sewage handling will be by means of conservancy tanks which will be emptied by the Hessequa Municipality as and when required while electricity generation will be by means of solar panels.

With due consideration of the planning framework relevant to the proposed development, the preferred alternative is herewith **approved in part** and is limited to the development of the four units closest to the wetland within the eastern node. Refer to Annexure 2 of this environmental authorisation in this regard.

Alternative 2:

The proposal entails the development of fifteen (15) resort units on Portion 12 of the Farm Riet Valley No. 452 near Gouritzmond. The property will be rezoned from Agriculture Zone I to Resort Zone to accommodate the proposed development. The property was historically farmed and consists mostly of irrigated lands.

Each unit will have a footprint of 175m² with access off Divisional Road 1522. Furthermore, a new internal gravel road network will be developed, with a crossing over the wetland. Furthermore, the units on the eastern cluster will be located seaward of the Coastal Management Line and closer to the likely shell midden identified in the HIA. Water for the proposed development will be supplied by an existing spring on the property with a maximum usage of 15 000ℓ/day. Sewage handling will be by means of conservancy tanks which will be emptied by the Hessequa Municipality as and when required while electricity generation will be by means of solar panels.

The proposal will be implemented as two development clusters, namely an eastern cluster with seven units and a western cluster with eight units.

This alternative requires a formalised crossing over the wetland and the eastern cluster is located closer to the likely shell midden identified in the HIA. This alternative is not supported due to the foreseen impacts.

Furthermore, with due consideration of the planning aspects associated with the proposal, the Department is of the opinion that the proposed development is not in line with the planning framework relevant to the proposal. The cumulative impacts associated with development which does not conform to the spatial planning proposals is not justified and needs to be avoided. The information presented for this alternative has not demonstrated that the cumulative impacts can be avoided or even mitigated to an acceptable level.

"No-Go" Alternative

This alternative implies that the proposed resort and associated infrastructure are not developed. According to the applicant this alternative was considered but due to the positive socio-economic impacts to the applicant and the Gouritzmond Community and the low environmental impact, the No-Go alternative is considered undesirable to the applicant.

4. Impact Assessment and Mitigation Measures

4.1 Activity 'need and desirability'

A description of the need in desirability of the proposed development has been included in the BAR. This report creates the impression that the proposal is a result of an agreement (2013) between the Hessequa Municipality and the applicant where the applicant donates a portion of land to the Hessequa Municipality for the management of coastal access in return for development rights on the subject property. Notwithstanding the aforementioned, development agreements or contractual obligations have no bearing on the formal legislative processes defined in terms of the applicable planning and environmental legislation, all of which would have to be addressed before any development of this nature could be considered. In this regard, this Department is obliged to consider the proposal in the current context. Therefore, the following:

Hessequa Municipal Spatial Development Framework (2017)

According to the Hessequa Municipal Spatial Development Framework (2017) ("MSDF") the subject property falls outside the identified urban edge of the nearest town, namely Gouritzmond. In terms of the Hessequa Zoning Scheme the property is zoned Agriculture Zone I and falls within a Buffer 1 and Agriculture Core in terms of the Municipal Spatial Planning Categories. The MSDF identifies the coastal zone as one of the key natural resources in light of tourism and recreational facilities. While tourism is key to the economy of Gouritzmond, the MSDF specifically notes that linear development along the coastline should not be permitted or encouraged. In this regard, the BAR highlights that the proposed development could be considered a linear development but argues that the development is relatively short in length. Furthermore, the applicant is of the opinion that the proposed development is clustered to form nodes; therefore, not strictly ribbon development. The Department differs from this view and is of the considered view that the proposed development is considered ribbon-like development along the coastal line, even though it may be set back behind the draft Coastal Management Line ('CML').

Furthermore, the BAR indicates that the proposed development will constitute a development along the coastline outside the urban boundary, a development which is restricted in the MSDF. However, according to the BAR the proposed development supports a key economic driver of the Hessequa Local Municipality, namely tourism, on land that is of moderate agricultural potential but of high value for tourism. The BAR therefore argues that the proposed development may align with the MSDF. However, the BAR does not address the fact that a development that is not in line with the MSDF will

require an amendment of the SDF or an application to deviate from the MSDF based on site specific circumstances.

In light of the above, the Department is of the considered view that the proposed resort development on agricultural zoned land, outside the urban edge identified for the town of Gouritzmond is not in line with the MSDF.

The Western Cape Land Use Planning Guideline for Rural Areas, 2019

The applicant was specifically advised to consider the principles of the Western Cape Land Use Planning Guidelines for Rural Areas, March 2019. Key considerations in terms of the above is Spatial Planning Categories, Rural Accommodation and Tourist and Recreational Activities.

In this regard, the property is approximately 30ha in extent and is currently zoned Agriculture Zone I. In terms of the guideline properties smaller than 50ha in size are not accommodated for, since only the additional dwelling density model should be used for those properties (i.e. 1 unit per 10ha with a maximum of five units), with the exception of one additional unit that can be allowed in all cases irrespective of the size of the agricultural land unit. This implies that a rezoning to resort zone should not be entertained for properties of which the size is less than 50ha.

In light of the above, the Department is of the considered view that the proposed development of 15 units (or even the possibility of 10-units as mentioned in the BAR) is not justified. The development parameters described in the Western Cape Land Use Planning Guidelines for Rural Areas, March 2019 and the cumulative impacts associated with the type of development exceeding said parameters, are deemed unacceptable. As such a risk-averse and cautious approach must be applied, which takes into account the limits of current knowledge about the consequences of decisions and actions. Therefore, in keeping with the provisions of the guideline the Department considers the specific development parameters as set out in Chapter 10 of the guideline appropriate for properties under 50ha in extent (i.e. based on the size of the property), four units should be accommodated.

4.2 Botanical and terrestrial biodiversity aspects

A description of the botanical 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 support of the above, the applicant commissioned a Botanical and Terrestrial Impact Assessment. According to the assessment the development site is already transformed as a result of previous agricultural activities on the property. This has been duly considered and corroborated by the Departmental officials during the site inspection on 28 July 2022.

In light of the above, this Department is of the considered opinion that Alternative 1 and by implication, the part of Alternative 1 will not result in significant impact on botanical and terrestrial biodiversity aspects.

4.3 Aquatic aspects

A description of the aquatic 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 wetland bisects the property. As such, an Aquatic Assessment was commissioned to inform the BAR. The initial development proposal included two clusters on each side of the property

which is linked via a gravel road through the wetland. The assessment classifies the wetland as a seep with channelled outflow wetland.

The proposal initially indicated that this is an existing crossing which will be formalised by means of a culvert. However, the Department advised that an alternative be considered to avoid the impact on the wetland by considering an access to the western cluster off Divisional Road 1522. This was duly considered by the applicant which formed the basis for the preferred alternative. Furthermore, during the site visit undertaken on 28 July 2022 the Departmental officials observed that the existing crossing is a narrow pathway used by the grazing animals on the property, this was confirmed by the owner during the site visit on 28 July 2022.

Furthermore, in line with this environmental authorisation the western node will not be developed, As such, the impact on the wetland will be avoided by the approved development (i.e. four units).

Based on the above and with due cognisance of the findings of a Traffic Impact Statement and subsequent comment from the relevant authority (discussed later), the Department duly considered the impact on the crossing on the wetland and is of the considered opinion that the impact can and should be avoided.

4.4 *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, namely Heritage Western Cape ("HWC"), which required that a Heritage Impact Assessment be conducted to inform the application. A HIA was compiled by CTS Heritage which found that there is a likely shell midden located on the property (Figure 6.1 of the HIA). The comment on the HIA by HWC stipulated that impacts on the midden must be avoided. This comment was addressed by the applicant by placing the proposed units further north (away from the midden). It is therefore this Department's considered view that the development of the four units will avoid the shell midden located on the property.

In considering the above, the view is held that the applicant has adequately considered the heritage and archaeological aspects and that the approved development will not result in significant negative impact on the on heritage and archaeological aspects if the recommendations HWC and the measures contained in the Environmental Management Programme are implemented and adhered to.

4.5 *Coastal aspects*

Due to the location of the property along the coast, consideration was given to the impact of the proposed development on the coastal process and also the impact on the coastal processes (including sea level rise) on the proposed development. Furthermore, the proposed development was borne from an agreement with the Hessequa Municipality and the applicant who also owns a different portion of land for the acquisition of that land in order to provide coastal access to the public and to manage the coastal land.

The sites fall within the coastal protection zone as defined in Section 16 of the Integrated Coastal Management Act, 2008. The coastal protection zone includes, amongst others, the following:

- Any rural land unit that is situated within one kilometre (1000 metres) of the HWM which is zoned as agricultural or undetermined.
- Any land that would be inundated (submerged or covered) by a 1:50 year flood or storm event.
- Any coastal wetland, lake, lagoon or dam which is situated completely or partially within a land unit situated within 1000 metres of the HWM that was zoned for agricultural.

The proposed development layout has had various iterations since the initial enquiry was submitted. With due consideration of the relevant legislation, various planning documents and projects, this Department is of the view that the four units as approved in this environmental authorisation aligns with the purposes of the relevant legislation, various planning documents and projects. Specific reference is made to the Garden Route Coastal Management Line Project, Coastal Access Audit for the Garden Route District and the Department's Provincial Coastal Management Programme with specific reference to Priority Area 1 which is the promotion of social and economic development; Priority Area 3 which is the facilitation of coastal access; Priority Area 4 in terms of climate change, dynamic coastal processes and planning for resilient communities; Priority Area 5 which focusses on land and marine-based sources of pollution and waste by minimising the impacts of pollution on the coastal zone.

In light of the above, this Department is of the opinion that the applicant has adequately addressed the coastal processes related aspects in respect of proposal.

4.6 *Traffic: Access to development clusters*

As discussed in 4.3 above in order to avoid impact on the wetland (due to the development of a proposed internal road between the two cluster of units), this Department advised that consideration be given to an additional access off DR1522 west of the wetland. A Traffic Impact Statement (TIS) was commissioned by the applicant to address the issue. According to the TIS the existing land use has a low trip generation and the proposed development should also generate low volume of trips, approximately 5 per hour trips when fully occupied, which will have a negligible impact on traffic. Comment on the TIS from the relevant authority indicates that based on the findings and recommendations of the assessment that both accesses (existing and additional access) can be allowed off DR1522.

Furthermore, with due consideration of the limited development (four units only) it is this Department's considered view that the traffic generation will be less than the calculated trips of the TIS.

In light of the above, this Department is of the considered opinion that the traffic related issues have been adequately addressed and that the impact on the traffic will be negligible.

4.7 *Agriculture*

An agricultural compliance statement confirmed the site to be of "medium" agricultural sensitivity, as classified by the DFFE Screening Tool. Deep grey sandy soils are predicted for the area, which was further confirmed by site pictures taken. These soils have a low water holding capacity which will limit crop production. Fernwood soils, which can be classified as wetland, were also identified and are good soil for agriculture. These should be used for agriculture. The study however reasoned that the proposed development will not significantly impact agricultural activities and that it should be allowed, subject to recommendations.

Notwithstanding the agriculture compliance statement, as the foundation of the Western Cape's rural economy, the approach to Agriculture is to: promote consolidation of farming landscapes and prevent their fragmentation; provide for land and agrarian reform; improve the economic viability of

farming by facilitating diversification of agricultural production; promote enterprise opportunities within the food system and promote sustainable farming practices. Important considerations in this regard is:

- Large scale resorts and tourist and recreation facilities that detract from the functionality and integrity of productive farming landscapes should not be allowed. Although this proposal does not clearly fall into the category of a '*large scale tourist facility*' the proposed development far exceeds the norm for the land unit and is regarded to be a linear development along the coastline.
- Only activities that are appropriate in a rural context, generate positive socio-economic returns, and do not compromise the environment or ability of the municipality to deliver on its mandate should be accommodated. The long-term impact on the municipality (resources and financial); agricultural activities, production and sustainability, risk and finances; and the scenic, heritage and cultural landscape should be considered when decisions are taken. The latter aspects have contributed to this decision.

4.8 Other impacts

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

5. Scope and Validity of the Environmental Authorisation

This environmental authorisation does not define specific operational aspects. The environmental authorisation's validity period has been granted for a period of five (5) years, during which period the construction activities 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.

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 as approved can be mitigated to acceptable levels.

----- **END** -----