



**EIA REFERENCE:** 16/3/3/2/E2/15/1037/19  
**NEAS REFERENCE:** WCP/EIA/0000609/2019  
**DATE OF ISSUE:** 21 JULY 2020

The Trustees  
Afdakrivier Trust  
P. O. Box 104  
**HERMANUS**  
7200

**Attention: Mr. S. Delport**

Cell: (082) 326 7144

Fax: (086) 664 0563

Dear Sir

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): PROPOSED MIXED-USE DEVELOPMENT ON A PORTION OF THE REMAINING EXTENT OF PORTION 21 AND A RESERVOIR ON PORTION 23 OF THE FARM AFDAKS RIVIER NO. 575, BETWEEN HAWSTON AND FISHERHAVEN**

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

**MR. ZAAHIR TOEFY**  
**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Ms. M. de Villiers (Cornerstone Environmental Consultants)  
(2) Ms. P. Aplon (Overstrand Municipality)  
(3) Mr. R. Smart (CapeNature)  
(4) Mr. D. Hendriks (Overstrand Municipality)  
(5) Mr. C. van der Walt (Department of Agriculture)  
(6) Mr. A. September (Heritage Western Cape)

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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 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in Section B below with respect to the Preferred Alternative, described in the Environmental Impact Assessment Report ("EIAR"), dated December 2019.

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**

Afdaksrivier Trust

% Mr. S. Delport

P. O. Box 104

**HERMANUS**

7200

Cell: (082) 326 7144

Fax: (086) 664 0563

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

## B. LIST OF ACTIVITIES AUTHORISED

Listed activities	Activity/Project Description
<p>EIA Regulations Listing Notice 1 of 2014: Activity Number 9: The development of infrastructure exceeding 1 000 metres in length for the bulk transportation of water or storm water—</p> <p><b>(i) with an internal diameter of 0,36 metres or more;</b> <b>or</b> <b>(ii) with a peak throughput of 120 litres per second or more;</b></p> <p>excluding where—</p> <p>(a) such infrastructure is for bulk transportation of water or storm water or storm water drainage inside a road reserve or railway line reserve; or</p> <p>(b) where such development will occur within an urban area.</p>	<p>The final design of the stormwater pipelines for the proposed development will either have an internal diameter that exceeds 0,36m or will have a peak throughput of 120 litres per second.</p>
<p>Activity Number 11: The development of facilities or infrastructure for the transmission and distribution of electricity—</p> <p><b>(i) outside urban areas or industrial complexes with a capacity of more than 33 but less than 275 kilovolts;</b> or</p> <p>(ii) inside urban areas or industrial complexes with a capacity of 275 kilovolts or more;</p> <p>excluding the development of bypass infrastructure for the transmission and distribution of electricity where such bypass infrastructure is —</p> <p>(a) temporarily required to allow for maintenance of existing infrastructure;</p> <p>(b) 2 kilometres or shorter in length;</p> <p>(c) within an existing transmission line servitude; and</p> <p>(d) will be removed within 18 months of the commencement of development.</p>	<p>As part of the proposed development, two substations with a 66kV and 11kV capacity respectively, will be installed.</p>
<p>Activity Number 12 The development of—</p> <p>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</p> <p><b>(ii) infrastructure or structures with a physical</b></p>	<p>Structures and infrastructure that forms part of the proposal, will be constructed within a watercourse and within 32m of a watercourse.</p>

<p><b>footprint of 100 square metres or more;</b></p> <p>where such development occurs—</p> <p><b>(a) within a watercourse;</b></p> <p>(b) in front of a development setback; or</p> <p><b>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</b></p> <p>excluding—</p> <p>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</p> <p>(dd) where such development occurs within an urban area;</p> <p>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</p> <p>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</p>	
<p>Activity Number 19: The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>a) will occur behind a development setback;</p> <p>b) is for maintenance purposes undertaken in accordance with a maintenance</p>	<p>The minor ephemeral watercourse in the southern section of the site is proposed to be incorporated into the stormwater management of the site. As such, erosion protection will be required in the drainage line as part of the stormwater management and more than 10m<sup>3</sup> of material is required to be moved within the minor ephemeral watercourse.</p>

<p>management plan;</p> <p>c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p>	
<p>Activity Number 24: The development of a road—</p> <p>(i) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010; or</p> <p><b>(ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres;</b></p> <p>but excluding a road—</p> <p>(a) which is identified and included in activity 27 in Listing Notice 2 of 2014;</p> <p>(b) where the entire road falls within an urban area; or</p> <p>(c) which is 1 kilometre or shorter.</p>	<p>The proposed roads that will provide access to the various portions of the development will have road reserves that range between 20m to 33m. These roads will all be located outside of an urban area.</p>
<p>Activity Number 28: 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> <p>(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or</p> <p><b>(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;</b></p> <p>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>The proposed development is a mixed-use development that will be located outside of an urban area and will be larger than 1ha.</p>
<p>EIA Regulations Listing Notice 2 of 2014: Activity Number 15: The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such</p>	<p>More than 20ha of indigenous vegetation will be cleared as part of the proposed development.</p>

<p>clearance of indigenous vegetation is required for—</p> <p>(i) the undertaking of a linear activity; or</p> <p>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p>	
<p>Activity Number 27: The development of a road—</p> <p><b>(iii) with a reserve wider than 30 metres;</b> or</p> <p>(iv) catering for more than one lane of traffic in both directions;</p> <p>but excluding a road—</p> <p>(a) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010, in which case activity 24 in Listing Notice 1 of 2014 applies;</p> <p>(b) which is 1 kilometre or shorter; or</p> <p>(c) where the entire road falls within an urban area.</p>	<p>The main road, that will run through the proposed development, will have a road reserve that will be 32m wide.</p>
<p>EIA Regulations Listing Notice 2 of 2014: Activity Number 2: The development of reservoirs, excluding dams, with a capacity of more than 250 cubic metres.</p> <p><b>i. Western Cape</b></p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. In areas containing indigenous vegetation; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for use as public open space; or</p> <p>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.</p>	<p>Two new reservoirs with a combined capacity of 9,5MI will be constructed as part of the proposed development.</p>
<p>Activity Number 4: The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p><b>i. Western Cape</b></p> <p>i. Areas zoned for use as public open space or equivalent zoning;</p>	<p>Roads wider than 4m with a road reserve less than 13,5m will be constructed within areas comprising indigenous vegetation.</p>

<ul style="list-style-type: none"> <li>ii. Areas outside urban areas; <ul style="list-style-type: none"> <li>(aa) Areas containing indigenous vegetation;</li> <li>(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</li> </ul> </li> <li>iii. Inside urban areas: <ul style="list-style-type: none"> <li>(aa) Areas zoned for conservation use; or</li> <li>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</li> </ul> </li> </ul>	
<p>Activity Number 12: 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><b>i. Western Cape</b></p> <ul style="list-style-type: none"> <li>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;</li> <li>ii. Within critical biodiversity areas identified in bioregional plans;</li> <li>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line or even in urban areas;</li> <li>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or</li> <li>v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</li> </ul>	<p>The proposed development will require the clearance of more than 300m<sup>2</sup> of critically endangered and endangered indigenous vegetation.</p>

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

The holder is herein authorised to undertake the development in respect of the following alternative:

The proposed development, including associated infrastructure, includes the following:

- The subdivision of Portion 21 of the Farm Afdaks Rivier No. 575 in to two Portions (Portion A and B). Portion A will be kept as an agricultural unit of approximately 514ha and Portion B will be subdivided into 13 separate portions, to establish a mixed-use development. A total of 2 914 residential units will be catered for within the development. The 13 portions will consist of the following zones:
  - General Residential 1 and 2;
  - Single Residential;
  - General Business 2;
  - Open Space 3;
  - Community 1;
  - Transport Zone 1; and
  - Agriculture 1.
- The construction of two new reservoirs, one of which will be located on Portion 21 and the second one on Portion 23 of Farm Afdaks Rivier No. 575.
- Access roads and internal roads will be constructed.
- Bulk water and stormwater, as well as sewer pipelines will be installed.
- The existing mining area on the property has been excluded from the development proposal.

### C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on the Portions 21 and 23 of Farm Afdaks Rivier No. 575, between Hawston and Fisherhaven, at the following co-ordinates:

Proposed mixed-use development- Portions 1:

Latitude (S)	Longitude (E)
34° 21' 35.53"	19° 08' 07.83"
34° 21' 50.21"	19° 08' 33.93"
34° 21' 44.63"	19° 08' 34.72"
34° 21' 42.48"	19° 08' 34.71"
34° 21' 21.73"	19° 08' 04.81"

Proposed mixed-use development- Portions 2 - 11:

Latitude (S)	Longitude (E)
34° 23' 01.03"	19° 08' 29.00"
34° 23' 13.42"	19° 08' 33.69"
34° 23' 10.24"	19° 08' 42.15"
34° 23' 06.54"	19° 08' 44.83"
34° 23' 04.24"	19° 08' 48.49"
34° 23' 02.59"	19° 08' 49.59"
34° 22' 53.20"	19° 08' 49.22"



34° 22' 49.70"	19° 08' 52.12"
34° 22' 46.00"	19° 08' 52.66"
34° 22' 43.21"	19° 08' 54.30"
34° 22' 35.44"	19° 09' 02.36"
34° 22' 31.98"	19° 09' 04.68"
34° 22' 28.39"	19° 09' 12.27"
34° 22' 13.12"	19° 08' 49.82"
34° 22' 05.56"	19° 08' 42.69"
34° 22' 01.52"	19° 08' 36.61"
34° 22' 02.53"	19° 08' 35.79"
34° 22' 07.21"	19° 08' 31.88"
34° 22' 59.47"	19° 08' 19.75"
34° 22' 08.06"	19° 08' 45.69"

New 6MI Reservoir:

Latitude (S)	Longitude (E)
34° 22' 33.94"	19° 08' 15.83"

New 3,5MI Reservoir:

Latitude (S)	Longitude (E)
34° 22' 15.28"	19° 08' 57.10"

The SG digit code is: C01300000000057500021  
C01300000000057500023

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

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

#### D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Cornerstone Environmental Consultants (Pty) Ltd  
% Ms. M. de Villiers  
P. O. Box 12606  
Die Boord  
**STELLENBOSCH**  
7613

Tel.: (021) 887 9099  
Fax: (086) 435 2174

#### E. CONDITIONS OF AUTHORISATION

##### Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with, and restricted to, the Alternative 6 in the EIAR dated December 2019 at the site as described in Section C above.

2. The holder must commence with the listed activities on site within a period of **10 years** from the date of issue of this Environmental Authorisation.
3. All phases of the development must be concluded within **20 years** from the date of commencement of the first listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
5. Any changes to, or deviations from the scope of the alternative described in Section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information, in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

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

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities. The notice must:
  - 6.1 make clear reference to the site details and EIA Reference number given above; and
  - 6.2 include proof of compliance with the following conditions described herein:

Conditions: 7, 8, 11, 19 and 20

#### **Notification and administration of appeal**

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision—
  - 7.1 notify all registered Interested and Affected Parties ("I&APs") of –
    - 7.1.1 the outcome of the application;
    - 7.1.2 the reasons for the decision as included in Annexure 3;
    - 7.1.3 the date of the decision; and
    - 7.1.4 the date when the decision was issued.
  - 7.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 (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; and
  - 7.4 provide the registered I&APs with:
    - 7.4.1 the name of the holder (entity) of this Environmental Authorisation;
    - 7.4.2 name of the responsible person for this Environmental Authorisation;
    - 7.4.3 postal address of the holder;

- 7.4.4 telephonic and fax details of the holder;
- 7.4.5 e-mail address, if any, of the holder; and
- 7.4.6 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).

- 8. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notifies the registered I&APs of this decision. 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.

### **Management of activity**

- 9. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
- 10. The EMPr must be included in all contract documentation for all phases of implementation.

### **Monitoring**

- 11. The holder must appoint a suitably experienced environmental control officer ("ECO"), before commencement of any construction activities (on each portion to be developed), to ensure compliance with the EMPr and the conditions contained herein.
- 12. The ECO must conduct fortnightly compliance monitoring inspections during the construction phase. Monthly Environmental Compliance Reports must be compiled and quarterly Environmental Compliance Reports must be submitted to the Competent Authority for the duration of the construction phase. The final Environmental Compliance Report must be submitted to the Competent Authority within six months after construction has been complete.
- 13. A copy of the Environmental Authorisation, EMPr and compliance monitoring reports must be kept at the site of the authorised activity.
- 14. 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.

### **Auditing**

- 15. The holder must ensure that environmental auditing is undertaken in accordance with Regulation 34 in terms of the NEMA EIA Regulations, 2014 (as amended) to determine compliance with the conditions of the Environmental Authorisation and the EMPr. The Environmental Audit Reports must be submitted to the Competent Authority every **six (6)** months during the construction phase. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The final Environmental Audit Report must be submitted to the Competent Authority within six months after operation of the final phase of the development commenced.

The holder must, within 7 days of the submission of an environmental audit report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report immediately available to anyone on request and on a publicly accessible website (where the holder has such a website).

### **Specific Conditions**

16. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

17. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
18. The development may only discharge sewage to the Hawston Waste Water Treatment Works ("WWTW") once Overstrand Municipality confirms that upgrading of the Hawston WWTW has been completed. Confirmation from the Overstrand Municipality with regards to the completion of the upgrades to the Hawston WWTW must be provided to this Department prior to the discharge of sewage to the WWTW.
19. The development footprint must be clearly demarcated prior to the commencement of clearing and/or construction activities. All areas outside the demarcated area must be regarded as "no-go" areas.
20. A search and rescue exercise for Species of Conservation Concern ("SCC"), within the development footprint must be implemented prior to commencement of site clearing activities. All SCC that have been rescued must be replanted either through translocation or propagation by seed and/or cuttings into the open space areas within the development. Proof of the search and rescue of SCC must be provided to the Department prior to clearance and/or construction activities commencing.
21. The applicant must set aside the areas depicted in Figure 7 of the Botanical Impact Assessment, for conservation purposes. The conservation area must be included in CapeNature's stewardship programme. The stewardship agreement must be concluded within a period of five (5) years from the date of this Environmental Authorisation. A copy of the stewardship agreement must be submitted to this Department.

## **F. GENERAL MATTERS**

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with the listed activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:  
Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of the EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.

## **G. APPEALS**

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

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date on which notification of the decision was sent to the holder by the Competent Authority –
  - 1.1. submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
  - 1.2. submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date on which 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 Organs of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organs of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:

By post:                    Western Cape Ministry of Local Government, Environmental Affairs and  
Development Planning  
Private Bag X9186  
CAPE TOWN  
8000

By facsimile:            (021) 483 4174; or

By hand:                    Attention: Mr Marius Venter (Tel: 021 483 2659)  
Room 809  
8<sup>th</sup> Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

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

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 2659, E-mail [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.

## H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully



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**MR. ZAAHIR TOEFY**

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

**DATE OF DECISION: 21 JULY 2020**

CC: (1) Ms. M. de Villiers (Cornerstone Environmental Consultants)  
(2) Ms. P. Aplon (Overstrand Municipality)  
(3) Mr. R. Smart (CapeNature)  
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(5) Mr. C. van der Walt (Department of Agriculture)  
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Email: dhendriks@overstrand.gov.za  
Email: corvdw@elsenburg.com  
Email: Andrew.September@westerncape.gov.za



## ANNEXURE 1: LOCALITY MAP



Figure 1: Location of the proposed development (yellow polygon).



## ANNEXURE 2: SITE DEVELOPMENT PLAN

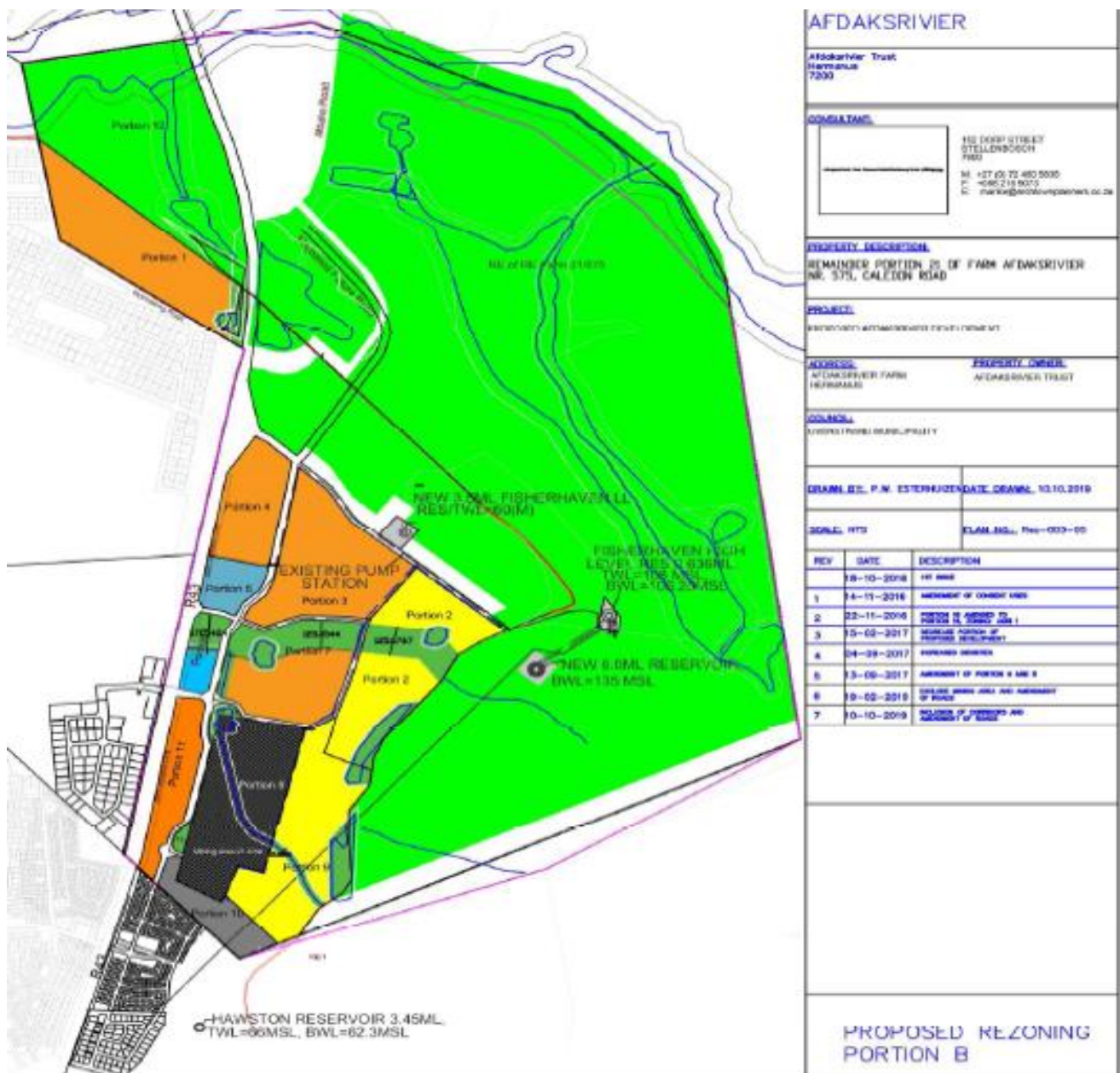


Figure 2: Proposed development layout, including corridors.

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

In reaching its decision, the Competent Authority considered, amongst others, the following:

- a) The information contained in the Application Form dated 17 October 2017, the final EIAR dated December 2019 and the EMPr submitted together with the final EIAR;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of NEMA;
- d) The comments received from I&APs and responses to these, included in the EIAR dated December 2019; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

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

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

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

The public participation process included:

- identification of and engagement with I&APs;
- the placing of a newspaper advertisement in the 'Hermanus Times' on 27 October 2016, 7 December 2017 and 6 June 2019;
- giving written notice to the owners and occupiers of land adjacent to the 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 7 December 2016, 16 November 2017, 7 December 2017, 29 and 30 May 2019, 3 and 7 June 2019 as well as on 18 and 22 October 2019;
- fixing a notice board at the site where the listed activities are to be undertaken on 3 June 2019;
- making the pre-application draft Scoping Reports ("SR") available to I&APs for public review from 7 December 2016 and 16 November 2017 and the in-process draft SR from 3 June 2019; and
- making the draft EIAR available to I&APs for public review from 22 October 2019.

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

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

## 2. Alternatives

Five (5) alternatives (excluding the Preferred Alternative) were investigated for the proposed development of a mixed-use development comprising of retirement villages, flats, single residential units, a hospital, and business erven, as well as the associated infrastructure. These alternatives are discussed below:

- The establishment of a mixed-use development that will provide 4 440 residential units across 15 development portions within the property. The various zones for the 15 development portions include: General Residential 1; Single Residential and General Business 2.
- The subdivision of the property into Portion A (remainder of the property) and Portion B (16 portions) to establish a mixed-use development that will provide 2 770 residential units, with lower densities over the development portions outside of the urban edge. The various zones for the site include: General Residential 1 and 2; Single Residential; Rural 1; Community 1; General Business 2; Transport 2 and Agriculture 1 (Portion A and Portion 16).
- The subdivision of the property into Portion A (remainder of the property) and Portion B (15 portions), with the establishment of a mixed-use development on Portion B. The development will provide 3 012 residential units within the 15 portions targeted for development. The zones for the portions include: General Residential 1 and 2; Single Residential; Rural 1; Community 1; General Business 2; Transport 2 and Agriculture 1 (Portion A and Portion 16).
- The subdivision of the property into Portion A (remainder of the property) and Portion B (12 portions), with the establishment of a mixed-use development on Portion B. The development will provide 3 267 residential units within the 12 portions targeted for development. The zones for the portions include: General Residential 1 and 2; Single Residential; Rural 1; Community 1; General Business 2; Transport 2; Rural and Agriculture 1 (Portion A).
- The subdivision of the property into Portion A (remainder of the property) and Portion B (11 portions), with the establishment of a mixed-use development on Portion B. The development will provide 2 984 residential units within the 11 portions targeted for development. The mining area does not form part of the proposal. The zones for the portions include: General Residential 1 and 2; Single Residential; Rural 1; Community 1; General Business 2; Transport 2 and Agriculture 1 (Portion A).

However, these options were screened out for the following reasons:

- Areas of high to very high botanical sensitivity would be impacted.
- Wetlands would be impacted by the proposal.
- The additional traffic impacts would require significant upgrades to the R43, which in turn would result in high developer contributions for the required upgrades.
- The density of the proposal was too high.
- The Department of Agriculture was not in favour of the development of areas outside the approved urban edge on land zoned for agriculture.

### Preferred Alternative (Herewith Authorised):

The proposal entails:

- The subdivision of Portion 21 of the Farm Afdaks Rivier No. 575 in to two Portions (Portion A and B). Portion A will be kept as an agricultural unit of approximately 514ha and Portion B will be

subdivided into 13 separate portions, to establish a mixed-use development. A total of 2 914 residential units will be catered for within the development. The 13 portions will consist of the following zones:

- General Residential 1 and 2;
  - Single Residential;
  - General Business 2;
  - Open Space 3;
  - Community 1;
  - Transport Zone 1; and
  - Agriculture 1.
- The construction of two new reservoirs, one of which will be located on Portion 21 and the second one on Portion 23 of Farm Afdaks Rivier No. 575.
  - Access roads and internal roads will be constructed.
  - Bulk water, stormwater, as well as sewer pipelines will be installed.
  - The mining area has been excluded from the development.

This alternative is preferred because it avoids sensitive botanical and freshwater features, provision is made for two biological conservation corridors within the site and the additional traffic anticipated will not require significant upgrades to the local road network.

#### "No-Go" Alternative

The option of not developing the site was considered and is not preferred because the opportunity to develop underutilised land that is within the urban edge will not materialise. The opportunity to provide residential opportunities will be lost and both temporary and permanent employment opportunities will not be created.

### **3. Impact Assessment and Mitigation measures**

#### 3.1 Activity Need and Desirability

According to the Overstrand Spatial Development Framework ("SDF"), the site is located within the approved urban edge. The Overstrand Integrated Development Framework and Growth Management Strategy have earmarked the development area as a core urban development area and the future growth area of Greater Hermanus. The site has also been identified for urban infill development. The proposal seeks to use underutilised land within the urban edge for residential purposes to provide residential opportunities within the area. The development will include erven for business purposes, which enables an opportunity for residents to reside close to a place of employment. Furthermore, the proposed development will create employment opportunities in both the construction and operational phases.

#### 3.2 Biodiversity and Biophysical Impacts

According to the Botanical Impact Assessment dated 23 September 2019, compiled by Mr. N. Helme of Nick Helme Botanical Surveys, the vegetation within the areas where the development will take place comprise of Overberg Sandstone Fynbos, Elim Ferricrete Fynbos and Hangklip Sand Fynbos. These are ecosystems listed as critically endangered and endangered, in terms of Section 52 of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEMBA").

Approximately 95% of the site has been heavily disturbed in the past by various forms of agriculture, quarrying and plantations. Many areas are impacted by invasive alien vegetation. The highest plant diversity within the undisturbed Overberg Sandstone Fynbos is located along the eastern fringe of the study area and has been largely excluded from the area to be developed. No pristine original patches of Hangklip Sand Fynbos remain on site, because all have been previously cultivated and / or is subjected to sand mining. Additionally, there are no good examples of Elim Ferricrete Fynbos remaining on the site, due to heavy disturbance. Previously sand mined areas in some cases have undergone passive rehabilitation and a moderate level of indigenous plant diversity has returned. However, other areas are dominated by invasive alien vegetation. One major and one minor ecological corridor connecting the upper slopes of the site to the lower areas adjacent to the R43 have been incorporated into the development layout. Furthermore, through the implementation of the specialist recommendations and the EMPr (accepted in Condition 9), as well as Conditions 19, 20 and 21, the impacts on indigenous vegetation will be mitigated.

According to the Freshwater Impact Assessment dated November 2019, compiled by Ms. L. Day of Liz Day Consulting, the farm as a whole includes extensive watercourses of high importance and sensitivity. However, four watercourses are affected by the proposed development, i.e. a section of a seep/wetland; a minor watercourse and two artificial wetlands/dams. The seep/wetland is densely invaded by invasive alien vegetation, which may have impacted the extent of the wetland. The artificial dams located on Portion 1 and 2 of the development have been excluded from the development. Additionally, the artificial wetlands within the mining area will be retained as part of the stormwater management of the site. Through the implementation of the specialist recommendations and the EMPr (accepted in Condition 9), impacts on the watercourses will be limited.

### 3.3 Archaeological Impact Assessment

According to the Archaeological Impact Assessment dated November 2016, compiled by Mr. J. Kaplan of the Agency for Cultural Resource Management, a handful of early, middle and late stone age resources were recorded in an old farm track, a stock pile adjacent to a dam and alongside the existing sand mine. The resources recorded on the site were graded as having low significance because of the isolated nature and disturbed context in which they were found. Through the implementation of the specialist recommendations and the EMPr (accepted in Condition 9), impacts on the archaeological resources will be mitigated.

### 3.4 Heritage Impact Assessment

According to the Heritage Impact Assessment dated September 2019, compiled by Mr. G. Jacobs of ARCON Architects & Heritage Consultants, there are no places, buildings and/or structures of cultural significance, nor other historical elements or townscapes present on the site. The surrounding scenic landscape is not particularly sensitive to potential development, since the site does not significantly contribute to the character of the surrounding landscape, due to the depressed position within the landscape. The proposed development will therefore not impact negatively on heritage resources. Through the implementation of the specialist recommendations and the EMPr (accepted in Condition 9), impacts on the heritage resources will be limited.

### 3.5 Traffic Impact Assessment

According to the Traffic Impact Assessment dated 4 October 2017 and the Addendum dated 19 September 2019, compiled by Ice Group (Pty) Ltd, access will be gained from the R43 opposite China Marais Avenue (Fisherhaven) and opposite the George Viljoen Street (Hawston). Both intersections will be upgraded to be in line with the Overstrand Transport Plan and will operate at acceptable levels of service. Through the implementation of the road and intersection upgrades, as



per the specialist recommendations, and the EMPr (accepted in Condition 9), the anticipated traffic impacts can be managed effectively.

### 3.6 Sewage

Currently there is only capacity for Portion 1 of the proposed development at the existing Hawston WWTW. However, Overstrand Municipality will upgrade the WWTW from its current 1 000m<sup>3</sup>/day capacity to 2 000m<sup>3</sup>/day. An agreement to this effect has been reached between the holder and the Overstrand Municipality. The implementation of the upgrade to the WWTW is dependent on the development implementation schedule. This upgrade would not require environmental authorisation, as confirmed in the Department's correspondence dated 22 November 2019. Furthermore, as stated in Condition 18, the development may not discharge sewage before the upgrading of the Hawston WWTW has been completed.

The development will result in both negative and positive impacts.

#### **Negative Impacts:**

- The proposed development will result in loss of natural vegetation.
- Impacts on watercourses are anticipated but will be minimised through the incorporation of the conservation areas and in terms of the approved EMPr.
- There will be an increase in noise and dust impacts during the construction phase.

#### **Positive impacts:**

- The proposal will develop underutilised land within the urban edge for urban development.
- Additional residential opportunities will be made available within the greater Hermanus area.
- Temporary employment opportunities will be created during the construction phase.
- A search and rescue for SCC will be implemented within the development footprint prior to commencement of clearing and/or construction activities. All SCC that have been rescued will be replanted into the open space areas within the development.
- The applicant will set aside areas depicted in Figure 7 of the Botanical Impact Assessment, for conservation purposes. The conservation area will be included in CapeNature's stewardship programme.

## **4. National Environmental Management Act Principles**

The NEMA Principles (set out in Section 2 of the NEMA, which apply to the actions of all Organs of State, serve as guidelines by reference to which any Organ of State must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;

- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

## 5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMP, 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 NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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