



24G Application: 14/2/4/2/2/E4/5/0001/20

ENVIRONMENTAL AUTHORISATION

The Owner
Portion 1 Farm 964
PO BOX 271
CALEDON
7230

Cell: 083 273 8367
Email: chummywp@gmail.com

Attention: Mr Wessel Johannes Du Toit

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: UNLAWFUL ESTABLISHMENT OF TOURISM ACCOMMODATION AND ASSOCIATED INFRASTRUCTURE ON PORTION 1 OF FARM 964, CALEDON

With reference to your application received by the Department in January 2020 and the subsequent signed declaration by the applicant dated 23 July 2021 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

ENVIRONMENTAL AUTHORISATION

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C as described in the application and environmental assessment of January 2020.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Wessel Johannes Du Toit
P.O. BOX 271
CALEDON
7230

Cell: 083 273 8367
Email: chummywp@gmail.com

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

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R386 of 2006 – Activity Number: 1(m) Activity Description: <i>"The construction of facilities or infrastructure, including associated structures or infrastructure, for (m) any purpose in the one in ten-year flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including -(i) canals;</i></p>	<p>Development of the tourism accommodation ('resort') commenced in approximately 2008. Some of the initial infrastructure associated with the resort were constructed within 32m of a watercourse.</p>

<p>(ii) channels; (iii) bridges; (iv) dams; and (v) weirs</p>	
<p>Government Notice No. R386 of 2006 – Activity Number: 16(b) Activity Description: “The transformation of undeveloped, vacant or derelict land to - (a) establish infill development covering an area of 5 hectares or more, but less than 20 hectares; or (b) residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare.”</p>	<p>The area used for the resort was undeveloped and previously used as a sheep grazing area</p>
<p>Government Notice No. R544 of 18 June 2010 – Activity Number: 11 Activity Description: “The construction of: (i) canals; (ii) channels; (iii) bridges; (iv) dams; (v) weirs; (xi) infrastructure or structures covering 50 square metres or more where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.”</p>	<p>Additional infrastructure relating to the tourism facility was constructed during 2010 and 2014, this includes the dam and bridge.</p>
<p>Government Notice No. R544 of 18 June 2010 – Activity Number: 18 Activity Description: “The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from: a watercourse;</p>	<p>Additional infrastructure relating to the tourism facility was constructed during 2010 and 2014, this includes the dam and bridge.</p>
<p>Government Notice No. R544 of 18 June 2010 – Activity Number: 23</p>	

<p>Activity Description: "The transformation of undeveloped, vacant or derelict land to – (i) residential, retail, commercial, recreational, industrial or institutional use, inside an urban area, and where the total area to be transformed is 5 hectares or more, but less than 20 hectares, or (ii) residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares;</p>	<p>The area used for the resort was previously used as a sheep grazing area</p>
<p>Government Notice No. R546 of 18 June 2010 – Activity Number: 6 Activity Description: "The construction of resorts, lodges or other tourism accommodation facilities that sleep 15 people or more. (d) In Western Cape: i. In an estuary; ii. All areas outside urban areas; iii. In urban areas: (aa) Areas seawards of the development setback line or within 1 kilometre from the high-water mark of the sea if no such development setback line is determined; (bb) Areas on the watercourse side of the development setback line or within 100 metres from the edge of a watercourse where no such setback line has been determined."</p>	<p>The resort can sleep more than 15 people, and is located within 100m of a watercourse</p>
<p>Government Notice No. R546 of 18 June 2010 – Activity Number: 12 Activity Description: "The clearance of an area of 300 square metres or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation. (a) Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004"</p>	<p>Although the site was transformed, some indigenous vegetation clearance did take place.</p>
<p>Government Notice No. R546 of 18 June 2010 –</p>	

<p>Activity Number: 13 Activity Description: "The clearance of an area of 1 hectare or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation, (a) Critical biodiversity areas and ecological support areas as identified in systematic biodiversity plans adopted by the competent authority."</p>	<p>Although the site was transformed, some indigenous vegetation clearance did take place.</p>
<p>Government Notice No. 327 of 2017- Activity Number: 12 Activity Description: "The development of— (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs— (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse"</p>	<p>Additional overnight tourism accommodation was constructed after 2014</p>
<p>Government Notice No. 327 of 2017- Activity Number: 19 Activity Description: "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 (i) a watercourse"</p>	<p>Some construction works took place within the watercourse</p>
<p>Government Notice No. 327 of 2017- Activity Number: 27 Activity Description:" The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation"</p>	<p>The majority of the site on which the resort is now established was a sheep grazing camp and therefore completely transformed. It is estimated that some indigenous vegetation would have required removal as the resort was</p>
<p>Government Notice No. 327 of 2017- Activity Number: 28 Activity Description: "Residential, mixed, retail, commercial, industrial or</p>	

<p><i>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: (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"</i></p>	<p>The site is located outside the urban area and is larger than 1ha</p>
<p>Government Notice No. 324 of 2017- Activity Number: 6 Activity Description: "The development of resorts, lodges, hotels or hospitality facilities that sleeps 15 people or more. (i) Western Cape: i. Inside a protected area identified in terms of NEMPAA; ii. Outside urban areas; (aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or (bb) Within 5km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve; - excluding the conversion of existing buildings where the development footprint will not be increased."</p>	<p>Development of an overnight tourism accommodation facility that sleeps more than 15 people.</p>
<p>Government Notice No. 324 of 2017- Activity Number: 12 Activity Description: "The clearance of an area of 300 square metres or more of indigenous vegetation (i) within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004"</p>	<p>The vegetation of the area and site upon which the resort has been established is classified as Western Ruens Shale Renosterveld which is critically endangered. Whilst a large majority of the site was transformed upon establishment of the resort, so indigenous vegetation would have been removed as the resort was established</p>
<p>Government Notice No. 324 of 2017- Activity Number: 14 Activity Description: "The development of (i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or (ii)</p>	<p>A dam which exceeds 10 square metres was constructed.</p>

infrastructure or structure with a physical footprint of 10 square metres or more where such development occurs (a) within a watercourse (b) in front of a development setback or (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse."

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

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Portion 1 of Farm 964, Caledon.

The SG digit code is: C01300000000096400001

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 20' 23.92" South	19° 40' 49.17" East
2	34° 19' 45.41" South	19° 42' 00.11" East
3	34° 20' 17.24" South	19° 42' 07.12" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 19' 58.5" South	19° 41' 36.82" East
2	34° 19' 54.41" South	19° 41' 41.29" East
3	34° 19' 58.32" South	19° 41' 44.70" East
4	34° 20' 02.83" South	19° 41' 37.56" East

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan and Aerial Image

Herein-after referred to as "the site".

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (“EAP”)

Lornay Environmental Consultants

C/o Ms Michelle Naylor

P.O. Box 1990

HERMANUS

7200

Cell: (083) 245 6556

Email: michelle@lornay.co.za

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The landowner commenced activities in 2008. Prior to the establishment of the resort the area was used as a grazing camp for sheep and consisted of grass. The site has been developed into a tourism accommodation facility (resort). The resort offers a mix of accommodation including camping sites, guest units and tented cabins. Ablution facilities are provided for day users and campers. A variety of entertainment facilities are provided such as indoor and outdoor pools, super slides, jungle gyms, touch farm, games hall, braai lapa and restaurant. The access road to the resort site was existing prior to the commencement of the development, internal minor roads around the resort were established, these are jeep track and single lane gravel roads. The total resort area is approximately 3ha. The footprints of the infrastructure amount to approximately 3351m².

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to the implemented Alternative described in the

application and assessment report of January 2020 on the site as described in Section D above and Annexure 2 - Areal image and Site Plan.

2. 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.
3. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

PART II

Notification and administration of an appeal

4. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 4.1 notify all registered Interested and Affected Parties (“I&APs”) of –
 - 4.1.1 the outcome of the application;
 - 4.1.2 the reasons for the decision as included in Annexure 3;
 - 4.1.3 the date of the decision; and
 - 4.1.4 the date when the decision was issued.
 - 4.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* detailed in Section I below.
 - 4.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
 - 4.4 provide the registered I&APs with:
 - the name of the holder (entity) of this Environmental Authorisation;
 - 4.4.2 name of the responsible person for this Environmental Authorisation;
 - 4.4.3 postal address of the holder;
 - 4.4.4 telephonic and fax details of the holder;
 - 4.4.5 e-mail address, if any, of the holder; and
 - 4.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.

5. The listed activities, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

PART III

Management of the activity/development

6. The draft Environmental Management Programme ("EMPr") of January 2020 compiled by Lornay Environmental Consultants and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

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

PART IV

Monitoring

8. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") or site agent where appropriate, before continuation of commencement of any land clearing or construction/development activities to ensure compliance with the EMPr and the conditions contained herein.

9. 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 activity/ies, and must be made available to anyone on request, including a publicly accessible website (if applicable).

10. Access to the site referred to in Section D must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

PART V

Auditing

11. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation and the EMPr and submit Environmental Audit Reports to the competent authority upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

PART VI

Activity/ Development Specific Conditions

12. 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.

13. 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.
14. The recommendations made in the Freshwater Specialist Assessment compiled by EnviroSwift dated 19 February 2019 must be implemented.
15. A wetland and drainage line rehabilitation plan should be provided in accordance with the freshwater ecological assessment. This must be submitted within 6 months of the date of this Environmental Authorisation, for approval by this Department.

16. The holder must ensure implementation of the rehabilitation plan. Records of implementation must be kept for compliance monitoring purposes and be made available to this Department upon request.
17. The recommendations made in the Botanical Assessment compiled by Fynbos Ecoscapes dated 04 November 2020 must be implemented.
18. The holder must enter into a conservation easement with the Overberg Renosterveld Conservation Trust. As part of this easement, no further removal of indigenous vegetation may take place on the property. All the remaining Renosterveld on the property must be conserved.
19. A copy of the conservation easement must be submitted within 3 months of date of issue of this Environmental Authorisation, for approval this Department.
20. The holder must ensure implementation of the easement. Records of implementation must be kept for compliance monitoring purposes and be made available to this Department upon request.

H. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

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

4. The manner and frequency for updating the EMPr is as follows:

Amendments to the EMPr must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

I. APPEALS

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

1. An appellant (if the holder) must –

1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –

2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and Organ of State must submit their responding statements, if any, to the Appeal Authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.

4. This appeal and responding statement must be submitted to the address listed below -

By post: Attention: Marius Venter
Western Cape Ministry of Local Government, Environmental Affairs &
Development Planning
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)
Room 809, 8th floor Utilitas Building
1 Dorp Street, Cape Town, 8000; or

By e-mail: DEADP.Appeals@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

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

Yours faithfully

ADV. CHARMAINE MARÉ

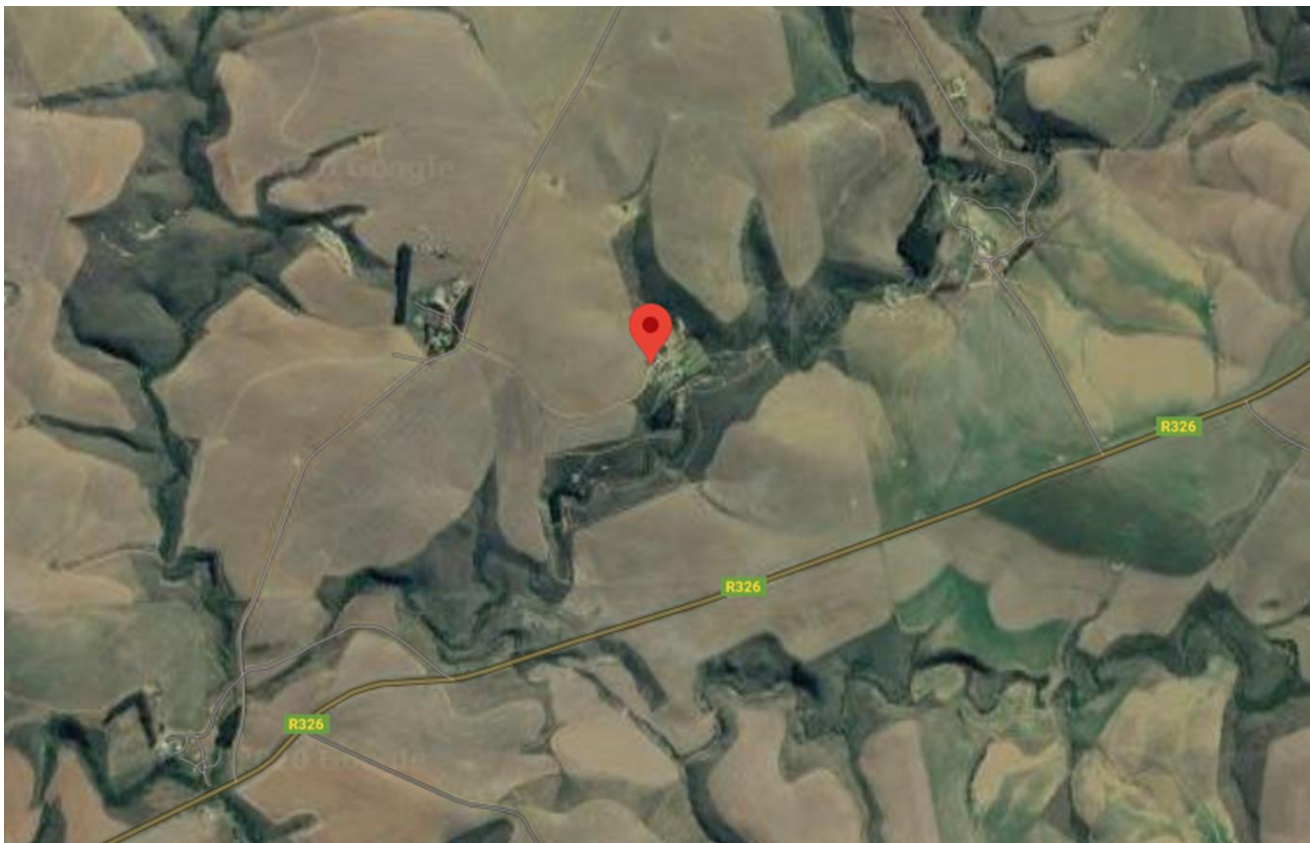
DIRECTOR: ENVIRONMENTAL GOVERNANCE

Copy to: (1) Michelle Naylor (Lornay Environmental Consulting (EAP))
(2) Fahd Said (DEA&DP-Enviro-Law Enforcement Region 2)

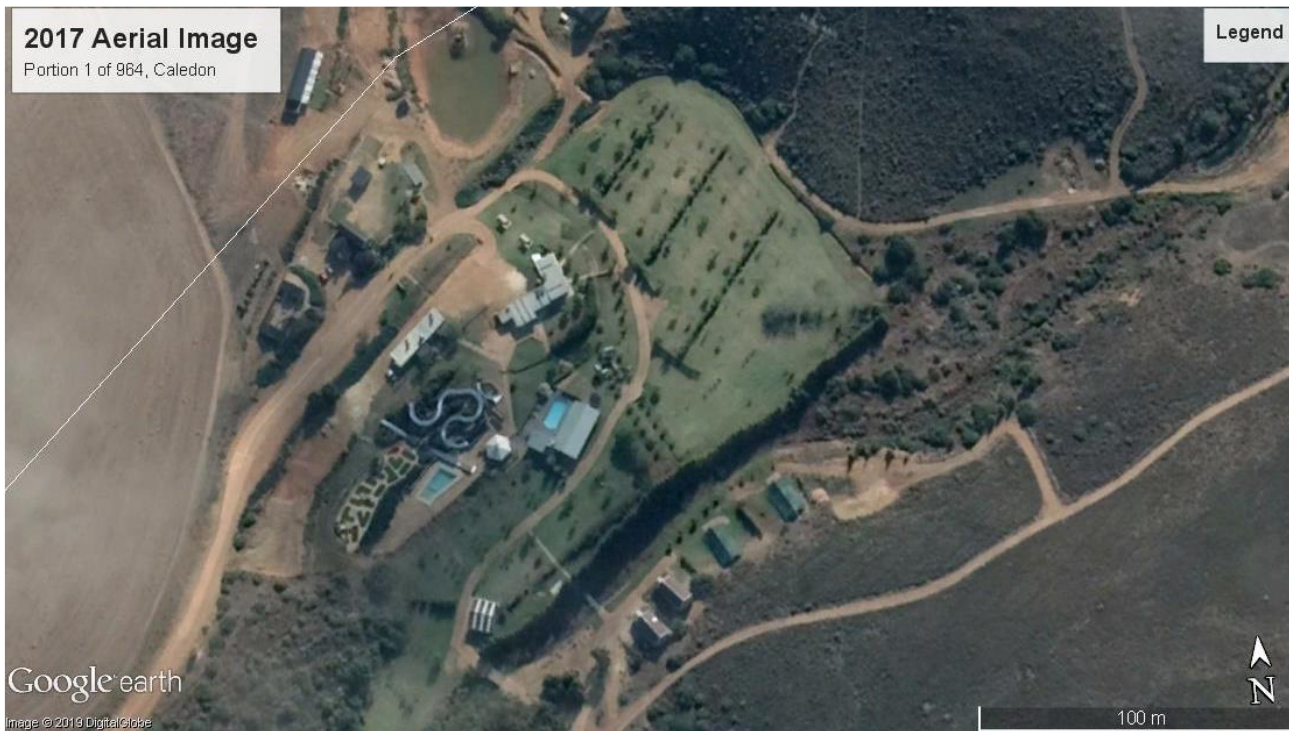
Email: michelle@lornay.co.za

Email: Fahd.said@westerncape.gov.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: AERIAL IMAGE AND SITE PLAN



2017 Aerial Image
Portion 1 of 964, Caledon

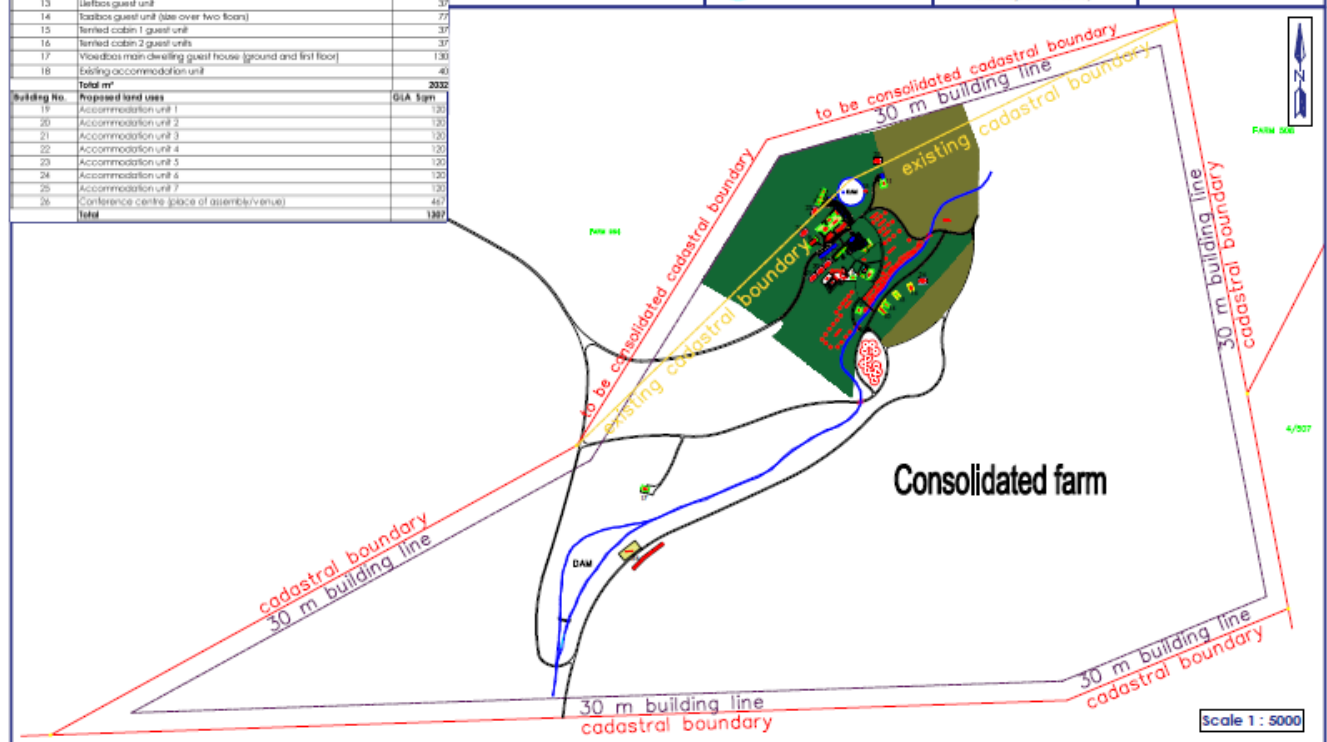
Legend

Building No.	Existing land uses	GIA Sqm
1	Ablution block, spa and store	154
2	Ablution block 2	43
3	Restaurant, lecture/conference room, kitchen and staff dwelling unit	619
4	Games hall and cloak	189
5	Break kapa	46
6	Staff unit 1 (ground and first floor)	70
7	Staff unit 2 (ground and first floor)	70
8	Store garage and stoep	77
9	Vloedbos zoo (only farm animals)	137
10	Doringbos guest units (size over two floors)	93
11	Lyfhoop guest units (size over two floors)	93
12	Saaihos guest unit	31
13	Laifos guest unit	37
14	Taalbos guest unit (size over two floors)	77
15	Tented cabin 1 guest unit	37
16	Tented cabin 2 guest units	37
17	Vloedbos main dwelling guest house (ground and first floor)	130
18	Existing accommodation unit	46
Total		2332
Building No.	Proposed land uses	GIA Sqm
19	Accommodation unit 1	130
20	Accommodation unit 2	130
21	Accommodation unit 3	130
22	Accommodation unit 4	130
23	Accommodation unit 5	130
24	Accommodation unit 6	130
25	Accommodation unit 7	130
26	Conference centre (place of assembly/venue)	447
Total		1387

Plan 3.1: SDP Consolidated farm

Based on drawings by
DE corrie de swardt

Tel: 029 313 1411
Email: admin@wrappgroup.co.za
Plan prepared in June 2019
File number 19/72
35 Duiker Street, Hermanus, 7200
Plan prepared by: RealEstate Jankie
All distances are approximate and subject to a survey



FOR OFFICIAL USE ONLY:

S24G REFERENCE: 14/2/4/2/2/E4/5/0001/20

ENFORCEMENT REFERENCE: 14/1/1/E2/9/3/3/0401/18

ANNEXURE 3: REASONS FOR THE DECISION

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R25 000 (Twenty-five thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form of January 2020 and the subsequent signed declaration by the applicant dated 23 July 2021.
- b) The Environmental Management Programme ("EMPr") of January 2020 submitted together with the application.
- c) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- d) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- e) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- f) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- g) The site visit conducted on
Date/s: 09 December 2020
Attended by: Officials from this Department.

All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- An advertisement was placed in the Theewaterskloof Gazette newspaper on 3 September 2020;
- A site notice was erected;
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor;
- I&APs were afforded the opportunity to provide comments on the application.

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

The following organs of state provided comment on the application:

- Breede Gouritz Catchment Management Agency ("BGCMA")
- CapeNature
- Overberg District Municipality

A summary of their comments follows below.

BGCMA

The BGCMA stated that they have no objection against the proposed subdivision, consolidation, consent use and rezoning but that the S24G process should first be concluded. Services like potable water, sewage handling, electricity and ruse removal are in place for the property / resort. Potable water would be provided by Overberg Water and sewage be dealt with by means of 2 large septic tanks. For any future / planned / extended development, the BGCMA encouraged the applicant / owner to rather install conservancy tanks and enter into a service level agreement (for the pumping of these tanks) with the Theewaterskloof Municipality.

The BGCMA further stated that the flood line determination, done by DAVIGRO explains that the development is located above the 1:100-year flood line and that the vehicular bridge is capable of passing the 1:100 year flood. The report, however, explains that an instream dam is present on the property, further downstream. This dam seems to have been constructed between 2006 and 2009. If this is the case, the dam has been constructed outside of the qualifying period (1996 – 1998/1999) (for determination of historic water use) and thus, cannot

be declared as Existing Lawful Use. The capacity of the dam, source and volume of water stored are also unknown. No water use registration exists for the property and no determination of historic water use (by means of Validation and Verification study) exists.

CapeNature

CapeNature stated that with regards to the impact on natural vegetation, the report indicates that the footprint that was developed was already transformed through historical activities. While the majority of the development is located on the transformed (or highly disturbed) footprint referred to, which correlates with a patch of Critical Biodiversity Area 2, there is a significant component of the development which took place on areas which appear to be natural vegetation. A freshwater assessment was undertaken which identified the presence of the non-perennial watercourse at the base of the valley, with an associated unchanneled valley bottom wetland in the section adjacent to the main complex, and a northern tributary. In addition, there is a larger in-stream dam and two smaller dams which were built subsequent to the initiation of the resort development and hence included in the consideration of this application. The natural freshwater features were evaluated using the WET-Health methodology with the present ecological state moderately – largely modified (C-D) and ecological importance and sensitivity moderate – marginal/low.

The recommendations of the freshwater assessment are that the development can remain in place, provided that an extensive list of mitigation measures is implemented. The wetland offset calculator was applied and based on the outcomes on site wetland rehabilitation is recommended and satisfies the wetland offset requirements. A wetland and drainage line rehabilitation plan which details the on-site wetland rehabilitation requirements is recommended. CapeNature agrees with the recommendations of the freshwater assessment. CapeNature further stated that the botanical assessment confirms that there is intact Critically Endangered Western Rûens Shale Renosterveld present on site and based on the evidence available, there was 0.5 ha of this vegetation type cleared. The historical Google Earth imagery provides the necessary evidence supplemented by the site assessment of the current situation and these findings are supported. The vegetation which was lost is rated of very high conservation value.

With regards to the proposed mitigation, CapeNature agrees with the determination that rehabilitation is not a feasible mitigation as Renosterveld has a low restoration potential and it will not be possible to return the areas which have been cleared and developed to the original state. The proposed mitigation is to secure the remainder of the Renosterveld on the property by signing up into a conservation easement with the Overberg Renosterveld Conservation Trust. CapeNature supports this proposed mitigation and proposes that this can

be considered as a biodiversity offset. If the biodiversity offset policy and guidelines (both provincial and national) are applied, the offset ratio for the loss of habitat would be the highest ratio of 1:30, whereby the extent of habitat that must be secured must be the amount of habitat lost multiplied by 30. According to the botanical assessment there is 133 ha of remaining renosterveld which can be secured. The amount of renosterveld available far exceeds these ratios and therefore meets these requirements. We would however strongly recommend that the entire extent of remaining renosterveld is secured. Another core principle of biodiversity offsets is the polluter pays principle as contained within NEMA, whereby the applicant is responsible for costs associated with the mitigation. In conclusion, CapeNature supports the findings and recommendations of the botanical assessment. We recommend that the applicant should provide proof of an agreement to enter into an easement, including the extent of the area to be conserved. This can then be considered as an offset and taken into account in the calculation of the administrative fine as mitigation. The other proposed mitigations should also be implemented. CapeNature further requested that a wetland and drainage line rehabilitation plan should be provided in accordance with the freshwater ecological assessment.

Overberg District Municipality ("ODM")

The ODM raised concerns of the operational impacts that the activities may pose on the receiving environment. The ODM also questioned the impacts that may occur/occurred during the construction phase of the activity on the listed critically endangered ecosystem (Western Ruens Shale Renosterveld) and what mitigation measures have been put in place to avoid further degradation of this ecosystem on the property.

The EAP responded by stating that various mitigation and management recommendations have been included in the 24G report, Freshwater Report and Management Plan – these measures will guide operations and reduce or eliminate impacts that have been identified during the 24G process. The majority of the resort is located on old sheep grazing camps as per the aerial photographs contained in the report – therefore limited vegetation removal was applicable to the development of the resort.

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

2.1 Activity Alternatives

Alternative 1 (Herewith authorised)

Site to remain as is and function as a resort with the recommended mitigations measures to be implemented and operational activities to be undertaken in line with requirements of NEMA and the *National Water Act, 1998 (Act 36 of 1998)*. This entails the establishment of a resort into a tourism overnight accommodation facility (resort). The resort offers a mix of accommodation including camping sites, guest units and tented cabins. Ablution facilities are provided for day users and campers. A variety of entertainment facilities are provided such as indoor and outdoor pools, super slides, jungle gyms, touch farm, games hall, braai lapa and restaurant. The access road to the resort site was existing prior to the commencement of the development, internal minor roads around the resort were established, these are jeep track and single lane gravel roads. The total resort area is approximately 3ha. The footprints of the infrastructure amount to approximately 3351m².

Design/Layout Alternative

No design or layout alternatives exist.

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

The option of ceasing the activity and rehabilitating the site is considered as the No-go alternative. This is considered unfeasible as the resort was largely established on transformed land and rehabilitation of Renosterveld has a low restoration potential, thus it will not be possible to return the areas which have been cleared and developed to the original state.

3. Environmental Impact Assessment (EIA) and Mitigation Measures

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

3.1. Activity Need and Desirability and Regional Planning Context

The activity does not fall within the permitted land use, the property is zoned as Agriculture. A land use application has been submitted for the operation of the resort.

3.2. Services/ Bulk Infrastructure

The property is located outside the urban area and prior to the development of the resort, the site was already serviced and therefore the extension of services to the resort site took place. There is no impact envisaged on municipal infrastructure.

3.3. Biophysical and Biodiversity Impacts

The site is situated within the Southern Coastal Belt Ecoregion. It is furthermore within the Breede Water Management Area ("WMA"), in the Overberg West quaternary catchment. The site lies within the natural range of a critically endangered terrestrial vegetation type, Western Ruens Shale Renosterveld and also a critically endangered wetland vegetation type, East Coast Shale Renosterveld (National Freshwater Ecosystem Priority Area, 2011) ("NFEPA"). Two wetlands were identified just within a 500m radius of the resort's disturbance footprint in the NFEPA (2011) wetland layer and the Western Cape Biodiversity Spatial Plan (2017) identified wetland Critical Biodiversity Areas ("CBA") within the footprint and within 500m of the disturbance footprint of the resort.

Construction phase impacts:

- Sedimentation due to the release of sediment associated with excavations and/or infilling within and near the main wetland or non-perennial drainage lines;
- Water quality impairment due to the release of contaminants into the main wetland or non-perennial drainage lines (e.g., when pouring cement) and as a result of accidental spills of chemicals and fuel; and
- Loss of biota wherever infilling of watercourses took place while constructing the resort and its associated infrastructure.
- Loss of wetland habitat due to the impoundment of the northern drainage line which caused desiccation of the historical unchanneled Valley Bottom Wetland below it;
- Loss of riparian habitat as a result of upgrading the large dam downstream of the resort which caused inundation of upstream riparian areas associated with the non-perennial drainage line;
- Disturbance to wetland and riparian habitat as a result of a number of activities undertaken by the landowner (e.g., construction of bridges and ad hoc infilling and levelling of campsites) within or in close proximity to the site's watercourses;

- Alteration of flow regime as a result of clearing of vegetation which would have reduced the catchment roughness and impoundment of drainage lines (including diversion of the northern drainage line below the lower dam) which would have altered the flow regime of receiving watercourses.

Operational phase impacts

- Alteration of the flow regime of the northern tributary as a result of impoundment, abstraction and diversion of flows as well as to the main non-perennial drainage line as a result of the upgrading the storage capacity of the large dam. Secondly, the unchanneled Valley Bottom Wetland would have also been affected as a result of this altered flow regime as it receives flows from the northern tributary;
- Increased stormwater run-off from hard surfaces causing an alteration in flow in all the receiving watercourses;
- Water quality impairment as a result of the discharge of effluent (including sewage) from the resort directly into the non-perennial drainage line and discharge of grey water (wash-water from ablutions and swimming pool backwash) into the unchanneled Valley Bottom Wetland;
- Erosion, particularly channel incision downstream of the resort caused by the reshaping of the un-channelled Valley Bottom Wetland and the resultant sediment loading of the non-perennial drainage line; and
- Loss of biota in the un-channelled Valley Bottom Wetland, main non-perennial drainage line and large dam as a result of the impairment of water quality from point source discharges.

3.4. Visual / Sense of Place

The resort site is located within an agricultural landscape, away from any human settlements. It is not visible from the regional road R326 and therefore does not have any visual or sense of place impacts.

4. NEMA Principles

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

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the competent authority is satisfied that the listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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