



VERMAAKLIKHEID DEVELOPMENT - S24G Application (May 2024)

Date	Comment	I&AP	Response	Respondent
Screening Tool Report				
Monday, 06 May 2024	CapeNature provided inputs on the desktop information in our comments on the background information document. The screening tool results indicate very high sensitivity for aquatic biodiversity and terrestrial biodiversity, high sensitivity for animal species and medium sensitivity for plant species. The site sensitivity verification report indicates that the terrestrial biodiversity, animal species and plant species themes are addressed in the biodiversity assessment and the aquatic biodiversity theme addressed in the estuary report.	Rhett Smart (Cape Nature)	Agreed	EnviroAfrica
Aquatic Environment Report				
Monday, 06 May 2024	The aquatic environment report provides a description of the Duivenhoks River Estuary and the broader environment, including reference to the Duivenhoks Estuarine Management Plan (Western Cape Government 2019), relative national ecological importance and present ecological state. The Duivenhoks River Estuary is stated to be of high ecological importance. The mapping of aquatic ecosystems is not interrogated with no delineation of aquatic features undertaken. The estuarine functional zone of the Duivenhoks River Estuary is defined as the 5 m contour which is considered to be a good proxy for the true extent of estuarine influence. Floodlines are being determined for estuaries as a more accurate delineation of the estuarine functional zone and has been undertaken for the Breede River Estuary, but has not yet been undertaken for the Duivenhoks River Estuary to our knowledge. As the Duivenhoks River Estuary is mainly open to the sea, the floodlines will be primarily influenced by rainfall events and is not influenced by the damming effect when estuaries are closed. As stated above, a channelled valley bottom wetland is mapped encroaching on to the site, however the mapping in the terrestrial biodiversity compliance statement indicating the separation of the wetland and thicket by the public road is supported as opposed to the mapping of the NWM where the wetland extends up the slope into the thicket. There are no structures within this area regardless.	Rhett Smart (Cape Nature)	Noted. Agreed	EnviroAfrica
	The jetty and access path are located within the estuarine functional zone and the impact is considered to have been negligible. We wish to note that while the development already exists, the purpose of an impact assessment for a NEMA Section 24G process is to assess the impacts which have already been incurred as a result of the activities undertaken, not impacts associated with future activities (unless the development is partially complete). As indicated previously, the jetty requires a lease from CapeNature in terms of the Sea Shore Lease for structures below the high water mark of the sea. The criteria for the Sea Shore Lease are assessed concurrently with the NEMA process. In this regard, we wish to advise that the jetty needs to adhere to the requirements of the CapeNature policy for structures below the high water mark. While the jetty is already in existence we request further information on the dimensions of the structure. The policy requires inter alia that jetties are: not longer than 6 m and where there is a reedbed, do not extend further than 1 m beyond the reedbed; gangways should not be wider than 1,5 m; and the front platform should not be larger than 3 m x 4 m. It is noted that the jetty is not a traditional wooden jetty and the design will be taken into account in the assessment of the Sea Shore Lease.		The jetty consists of the following: fixed structure (1,2m wide x 2,5m long)(does not protrude past the reeds). Portable floating cubes/dock - not fixed to the ground (1,5m wide x 6m long). Mr Gersh will be applying for a Sea Shore Lease and will be contacting CapeNature	Mr Gersh/ EnviroAfrica
	The services for the resort are assessed. Potable water is obtained from a spring on a neighbouring property and electricity is a connection to the Eskom grid. The sewage provision is from a soak-away system. CapeNature recommends that there is investigation of an alternative method of sewage provision which has less risk of pollution of surface water and groundwater, such as serviced conservancy tanks or a mini package plant.		Noted. The current system is maintained and good working order. Capacity requirements are minimal due to the small amount of users. Additional or alternative methods will be investigated, however, it must be noted that there are no serviced septic tank services in Vermaaklikheid area. The nearest supply town is 43km, it is simply not feasible	Mr Gersh/ EnviroAfrica
	The impact assessment tables assess the impacts in the operational phase which is agreed with, however the impacts as a result of the developments is not included. However it is stated elsewhere that the impact of the jetty was negligible as noted above.		The impact from the jetty is considered negligible.	EnviroAfrica
Access				
Saturday, 04 May 2024	As proof the concrete slipway and concrete poles constructed on my property by Mr Gersh, to gain access to the river. I removed these structures (Slipway and posts) from my property, rehabilitated the area and fenced my property to prevent further illegal access through my property. My concern that if the development is approved by the municipality, guests will access my property to gain access to the river, this became a reality. Mr Gersh stated that he intends to respect the boundaries of his neighbours and that he knows that structures in the river is prohibited. According to his communication via his architect he will utilise the public river access point adjacent to Puntjie. It is clear that Mr Gersh did not honour his word. Coincidentally a portion of his pumphouse is on my property. His boatshed was built in my property. After removal of the above- mentioned structures on my property Mr Gersh constructed another structure on the property of the Borain family to allow his guests river access. These structures were erected within a wetland area. I was informed by Mr Gersh that he will employ the services of Cape Nature to assist and approve the construction of a jetty. Why then is the jetty included in the S24G application. Mr Gersh placed a blank poster onto the jetty structure. Was this to give the impression that an official application was underway.	Pierre Burger (Neighbour)	See Mr Gersh's response document	EnviroAfrica

Disturbance				
Saturday, 04 May 2024	<p>Apart from guests in very close proximity to my house I have to entertain drones flying over my property on numerous occasions, looking into my rooms and on occasion nearly been hit by them. On another occasion a drone was hovering meters away in front of my stoep disrespecting my privacy. I understand that the coastal area from Bredasdorp to Port Nolloth drones are banned because of the helicopter squadron. Drones are also prohibited to fly over conservation areas being the Duivenhoks river. Mr Gersh has been asked on occasion to supply documents permitting him or his clients to fly drones over my property.</p> <p>He advertises his accommodation as dog friendly, leaving myself to listen to dogs barking and howling throughout the night. Currently we have serious noise pollution from guests and dogs due to the close proximity of the development. This is really annoying and not in line with him stating that he intends respecting the ethics and values of the area.</p> <p>I understand that no jet skis are allowed on any estuary within the Hessequa municipality. I was visiting my farm on the 22nd of November 2022 and noticed a Jetski at Mr Gersh's illegal access point to the river. Guests staying at Feather and Thorn took part in unlawful activities. Hessequa law enforcement was notified but no further feedback or response was received. The Jet skis were removed on Friday the 25th of November 2022 when his guests left. It is very clear that Mr Gersh don't have the ability to control or monitor guests to abide to rules and regulations.</p>	Pierre Burger (Neighbour)	See Mr Gersh's response document	EnviroAfrica
Biodiversity				
Monday, 06 May 2024	<p>The botanical and terrestrial biodiversity compliance statement indicates that the vegetation occurring within the footprint of the resort consists of Wetlands Albany Thicket (Valley-bottom) rather than Canca Limestone Fynbos as mapped according to the 2018 National Biodiversity Assessment (NBA). However, there is no vegetation type by the name of Wetlands Albany Thicket in the 2018 NBA. One of the major changes to the 2018 NBA from the original 2006 National Spatial Biodiversity Assessment was a complete revision of the mapping of the Albany Thicket biome, which adopted the mapping of the Subtropical Thicket Ecosystem Programme (STEP) (Dayaram et al 2018). One of the new vegetation types included is Hartenbos Dune Thicket which occurs to the east of the current mapping of Canca Limestone Fynbos, which was previously all mapped as Canca Limestone Fynbos.</p> <p>The total development footprint is 257 m² which is below the threshold of 300 m² for the clearing of indigenous vegetation in a critically endangered or endangered ecosystem or within 100 m of the estuarine functional zone. The classification of the vegetation type therefore does not have a bearing on the listed activities triggered. However, the classification of the vegetation on site does have a bearing in terms of assessing the impacts.</p> <p>The classification of the vegetation as thicket is supported, and we wish to query if this would be best classified as Hartenbos Dune Thicket (listed as endangered) or Gouritz Valley Thicket (listed as critically endangered) which replaced Southern Cape Valley Thicket (Dayaram et al 2018). It is assumed that the classification as "Wetlands Albany Thicket (Valley-bottom)" is due to the results of the aquatic biodiversity theme from the screening tool which flagged wetlands Albany Thicket (Valley-bottom) as a feature of very high sensitivity. This feature is as a result of the National Wetland Map (NWM) which mapped the wetland inland of the estuarine functional zone as a channelled valley-bottom wetland within the Albany Thicket bioregion which encroaches slightly on to the property according to the NWM.</p>	Rhett Smart (Cape Nature)	Noted. Agreed	EnviroAfrica
	<p>The thicket vegetation is considered to be in a good condition with low levels of alien invasive species. Canca Limestone Fynbos is confirmed to be present on site, however it only occurs further upslope of the resort footprint and was not impacted. The design of the resort development aimed to result in minimal disturbance to the indigenous vegetation, with the buildings surrounded by the thicket vegetation. Thicket is not a fire-driven or fire-prone vegetation type, therefore it is possible to maintain the natural vegetation in close proximity to the buildings without presenting a significant fire risk. It is however recommended that measures are in place to prevent fire from the fynbos areas encroaching into the thicket areas. The public road is defined as the boundary between the thicket vegetation and the reedbed which is an aquatic ecosystem. No plant species of conservation concern were recorded</p>		Noted, agreed	EnviroAfrica
	<p>The faunal species flagged in the screening tool as high or medium sensitivity are evaluated in terms of the likelihood of occurrence on the site with regards to habitat requirements. CapeNature supports the findings and recommendations. The only one of these species considered likely to occur on site is the African Marsh Harrier (Circus ranivorus) which could occur within the reedbeds, however the disturbance as a result of the jetty and path was very small relative to the full extent of the reedbeds in the area. We wish to note however that the Species Protocol requires that other faunal species of conservation concern that may potentially be present that are not flagged in the screening tool should be identified.</p>		Noted. Please see the amended Terrestrial Biodiversity Statement Appendix H1).	EnviroAfrica
	<p>The impact assessment in Table 10 requires further explanation, including a description of the colour coding. The cumulative impact is assessed to be medium/low negative. The sensitivity is also evaluated to be medium/low. We wish to however highlight that the sensitivity only evaluates the receiving environment, whereas the impact assessment evaluates the activity in relation to the receiving environment. In this regard we wish to motivate that the receiving environment is relatively sensitive, however the nature of the development is low impact with minimal disturbance and therefore did not have an impact of high significance. However, we will rely on the clarification provided by the specialist which must inform the outcome of the application, including the calculation of the administrative fine.</p>		Noted. Please see the amended Terrestrial Biodiversity Statement Appendix H1).	EnviroAfrica
General				

Saturday, 04 May 2024	<p>Please also allow me to comment on your second paragraph in your executive summary "the main house and associated facilities have been in the family for several decades" is false information unless 10years is referred to as several decades. Google earth shows that the first structure, a store, was developed in 2012. His first building plans (see image below) was approved in December 2013. If one assume that he started construction of the main house after his plans were approved, the main house and associated structures would be in the family for less than a decade.</p> <p>You also state that he more recently and unwittingly added more housing for holidaymakers and upgraded the resort without the required environmental authorization. The previous statement is a blatant lie since it is well documented in the comments and response report (comment dated 26 February 2024), that he mentioned to one of the I&AP's (his co-owner of portion 9 of Farm 499) that he explained that some or parts of his buildings are unlawful. The 100m higwater setback line was indicated on his building plans submitted in 2013. Mr Gersh is not known to be uninformed and was aware of the 100m highwater setback line. In Mr Gersh's application to the Hessequa municipality for building line departures he claimed that he could not measure due to topography and vegetation making it difficult, which states that he was aware of the 100m highwater setback and building lines.</p> <p>To summarise: Mr Gersh communicated the following to myself: 1. He sought advice of the municipality in terms of site location before making this application. 2. He has no intention to run a guest house or tourism initiatives and that the sole intention of the development is for his personal use. It was under this pretence that the building plans was approved by the municipality. 3. Mr Gersh acknowledged that his property does not border the river and that a river structure like a jetty is prohibited.</p> <p>The following was communicated through his architect: 4. The owner is developing the property as a holiday house for himself and his family. 5. The owner intends to use the public river access point adjacent to puntjie.</p> <p>All of the above concerns unfortunately became reality and my rights as a neighbour was not respected and not considered. 1. If Mr Gersh sought advice from the municipality why did he apply for building line departures from the municipality in 2023? Surely the municipality would have given him the correct advice in terms of building line restrictions. The municipality would also advise him to choose a different development site since the property is 220ha.</p> <p>2. If Mr Gersh had no intention of running a guest house or tourism initiatives why would he apply for consent use for tourist accommodation in a recent application to the Hessequa municipality?</p> <p>3. If Mr Gersh knew that his property doesn't border the river, why would he pour illegal concrete to gain river access on my property? When Mr Gersh and his guests couldn't access the river via my property he constructed a jetty, walkway and floating structure in a wetland area on the farm of the Borain family. He clearly had the intention to develop as close to the river as he can and to have access to the river.</p> <p>4. If Mr Gersh developed the property as a holiday house for himself and his family, why did the municipality allow him to run a guest house illegally for several years.</p> <p>5. If the owner Mr Gersh intended to access the river from the public access point adjacent to Puntjie, why did he access the river through my property and currently via the Borain families farm? Mr Gersh did not honour his word and did not respect farm boundaries.</p>	Pierre Burger (Neighbour)	See Mr Gersh's response document	EnviroAfrica
Environmental Management Programme				
Monday, 06 May 2024	In conclusion, CapeNature recommends that there are aspects which need to be addressed in the specialist reports, however there is sufficient information in order to make a decision regarding the application. We wish to note that there is no Environmental Management Programme provided, which we recommend should be compiled including all necessary mitigation measures incorporating the jetty policy requirements.	Rhett Smart (Cape Nature)	Noted. The Environmental Management Programme was included as Appendix I.	EnviroAfrica
Concluding Remarks				
Monday, 06 May 2024	<p>We wish to note that according to Google Earth imagery, activities have taken place on the neighbouring property 27/499 which appear to have required environmental authorisation, including clearing of indigenous vegetation for an olive orchard and construction of a large building in close proximity to the estuary. CapeNature is not aware of environmental approvals for this property and we recommend that there is investigation of these activities by the competent authority.</p> <p>CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.</p>	Rhett Smart (Cape Nature)	Noted. The neighbouring property does not belong to the Applicant, Mr Gersh.	EnviroAfrica
Saturday, 04 May 2024	<p>I do have a problem with the guest house, a stone throw from my house, and within earshot of Mr Gersh and his guests. Not something one would expect living on a farm. Mr Gersh had the opportunity to build a guest house on the remainder of the 220ha property with fantastic views of the river and surrounding areas. Mr Gersh decided to develop at the closest point to the river. 90% of the development is over the building line restrictions and 90% of the development is within 100m from the highwater mark.</p> <p>I am of the opinion that he premeditated the establishment of a guest house and to place the guesthouse close to the river to gain access to the river for his guests. His decision caused the development to be very close to my house and I am currently confronted with noise from guests, dogs and drones. My privacy being jeopardised and once again not what you would expect living on a farm.</p>	Pierre Burger (Neighbour)	See Mr Gersh's response document	

I would like emphasise that if Mr Gersh had decided to build guest accommodation or a resort further away from my house I wouldn't have had any objection, we are after all both living on a farm with the right to enjoy the peace and tranquillity that the area offers.

I am hopeful that the department would have the understanding not to approve the current development to operate as a guest house or resort and that Mr Gersh will be held to his original intention as per his letters.
