



24G Application: 14/2/4/2/3/D5/15/0010/24

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## ENVIRONMENTAL AUTHORISATION

The Owner  
Thorn & Feather  
Portion 9 of Farm 499  
Vermaaklikheid

### RIVERSDALE

6670

**Attention: Mr. J. Gersh**

Cell: 083 453 2994

Email: [jonathan@gersh.co.za](mailto:jonathan@gersh.co.za)

**APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): THE UNLAWFUL CONSTRUCTION OF A DEVELOPMENT WITHIN 100M OF THE HIGHWATER MARK OF AN ESTUARY ON THE REMAINDER OF PORTION 9 OF FARM VERMAAKLIKHEID NO. 499 AND PORTION 3 OF FARM KLEINFONTEIN NO. 503, RIVERSDALE.**

With reference to your application dated June 2024 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.

## 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 below in accordance with the preferred Alternative as described in the application and environmental assessment dated June 2024.

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

Thorn & Feather  
% Mr. Jonathan Gersh  
Portion 9 of Farm 499  
Vermaaklikheid  
**RIVERSDALE**  
6670

Cell: 083 453 2994  
Email: [jonathan@gersh.co.za](mailto:jonathan@gersh.co.za)

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. R. 327 of 7 April 2017 – <b>Listing Notice 1</b> of the NEMA EIA Regulations, 2014 (as amended):</p> <p><b>Activity Number:</b> 17 Activity Description:</p> <p>Development—</p> <p>(i) in the sea;</p> <p>(ii) in an estuary;</p> <p>(iii) within the littoral active zone;</p> <p>(iv) in front of a development setback; or</p> <p>(v) if no development setback exists, <b>within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;</b></p> <p>in respect of—</p> <p>(a) fixed or <b>floating jetties</b> and slipways;</p> <p>(b) tidal pools;</p> <p>(c) embankments;</p> <p>(d) rock revetments or stabilising structures including stabilising walls; or</p> <p>(e) <b>infrastructure or structures with a development footprint of 50 square metres or more —</b></p> <p>but excluding—</p>	<p>The existing development resulted in the development a floating jetty and infrastructure / structures within / within 100m of the high-water mark of the Duiwenshok River estuary with a development footprint exceeding 50m<sup>2</sup> in extent on the remainder of Portion 9 of Farm Vermaaklikheid No. 499 and Portion 3 of Farm Kleinefontein No. 503, Riversdale.</p>

Listed Activities	Activity/Project Description
<p>(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) 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>(cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or</p> <p>(dd) where such development occurs within an urban area.</p>	
<p>Government Notice No. 327 of 7 April 2017 – <b>Listing Notice 1</b> of the NEMA EIA Regulations, 2014 (as amended):</p> <p><b>Activity Number:</b> 19</p> <p>Activity Description:</p> <p>The <b>infilling</b> or depositing of <b>any material of more than 10 cubic metres into</b>, or the dredging, <b>excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</b> 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 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</p>	<p>The existing development on the remainder of Portion 9 of Farm Vermaaklikheid No. 499 and Portion 3 of Farm Kleinefontein No. 503, Riversdale resulted in the infilling of more than 10 cubic metres of material into watercourses (i.e. channelled valley-bottom / estuarine functional wetlands).</p>

Listed Activities	Activity/Project Description
<p>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>Government Notice No. 327 of 7 April 2017 – <b>Listing Notice 1</b> of the NEMA EIA Regulations, 2014 (as amended):</p> <p><b>Activity Number:</b> 19A Activity Description:</p> <p>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, <b>excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres</b> from—</p> <p>(i) the seashore;</p> <p>(ii) the littoral active zone, an estuary or a distance of <b>100 metres inland of the highwater mark of the sea or an estuary</b>, whichever distance is the greater; or</p> <p>(iii) the sea; —</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(f) will occur behind a development setback;</p> <p>(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or 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>The existing development on the remainder of Portion 9 of Farm Vermaaklikheid No. 499 and Portion 3 of Farm Kleinefontein No. 503, Riversdale resulted in the excavation, removal and moving of more than 5m<sup>3</sup> of soil and sand within 100m of the high-water mark of the Duiwenshok River estuary.</p>

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

#### D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on the Remainder of Portion 9 of the farm Vermaaklikheid No. 499 and Portion 3 of farm Kleinefontein No. 503, Riversdale.

The SG digit codes are: C06400000000049900009  
C06400000000050300003

The co-ordinates for the property boundary on Portion 9 of farm Vermaaklikheid No. 499 are:

Point	Latitude (S)	Longitude (E)
1	34° 18' 56.00" South	21° 01' 32.50" East
2	34° 19' 04.20" South	21° 01' 50.30" East
3	34° 19' 44.50" South	21° 01' 45.70" East
4	34° 45' 42.90" South	21° 01' 27.50" East
5	34° 19' 45.30" South	21° 01' 18.80" East

The co-ordinates for the property boundary on Portion 3 of farm Kleinefontein No. 503 are:

Point	Latitude (S)	Longitude (E)
1	34° 19' 46.37" South	21° 01' 14.60" East
2	34° 19' 42.90" South	21° 01' 27.50" East
3	34° 19' 50.40" South	21° 01' 41.30" East
4	34° 19' 52.60" South	21° 01' 32.60" East
5	34° 19' 58.00" South	21° 01' 31.70" East
6	34° 20' 02.20" South	21° 01' 42.00" East
7	34° 20' 03.60" South	21° 01' 41.20" East
8	34° 20' 02.40" South	21° 01' 33.90" East
9	34° 20' 03.80" South	21° 01' 30.65" East

The co-ordinates for the site boundaries are:

Point	Latitude (S)	Longitude (E)
6	34° 19' 43.20" South	21° 01' 21.00" East
7	34° 19' 44.40" South	21° 01' 21.40" East
8	34° 19' 44.30" South	21° 01' 20.70" East
9	34° 19' 44.30" South	21° 01' 19.50" East
10	34° 19' 44.10" South	21° 01' 19.40" East
11	34° 19' 43.40" South	21° 01' 20.50" East
Pathway 1, 2, 3, 4	34° 19' 45.35" South	21° 01' 19.02" East
	34° 19' 45.79" South	21° 01' 18.95" East
	34° 19' 45.79" South	21° 01' 18.02" East
	34° 19' 46.07" South	21° 01' 18.00" East
Jetty	34° 19' 46.15" South	21° 01' 17.85" East

Refer to Annexure 1: **Locality Plan** and Annexure 2: **Site Development Plan**.  
Hereinafter referred to as “the site”.

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

Enviro Africa (Pty) Ltd.  
% Mr. Clinton Geysler  
P. O. Box 5367  
**HELDERBERG**  
7446

Tel: (021) 851 1616  
Email: [clinton@enviroafrica.co.za](mailto:clinton@enviroafrica.co.za)

## **F. DETAILS OF THE ACTIVITIES UNDERTAKEN**

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

The authorised development entails the construction of accommodation facilities and infrastructure within 100 metres of the high-water mark of an estuary on Portion 9 of Farm Vermaaklikheid No. 499 and Portion 3 of Farm Kleinefontein No. 503, Riversdale which will comprise of the following:

The following development footprints of existing infrastructure is located within 100m of the high-water mark of the estuary on Portion 9 of Farm Vermaaklikheid No. 499:

- Main building comprising the communal kitchen and lounge approximately 77m<sup>2</sup> in extent which in include:
  - Swimming / plunge pool and wooden decks approximately 80m<sup>2</sup> in extent
- Two (2) of the three (3) free-standing bedrooms units
  - Approximately 6m<sup>2</sup> of Bedroom 1
  - Approximately 15m<sup>2</sup> of Bedroom 3
- Approximately 33m<sup>2</sup> of the communal bathroom
- Associated infrastructure

The following development footprints of existing infrastructure is located within 100m of the high-water mark of the estuary on Portion 3 of Farm Kleinefontein No. 503

- Pumphouse and tanks approximately 7m<sup>2</sup> in extent
- A floating jetty and associated infrastructure approximately 12m<sup>2</sup> in extent
- A pathway / walkway approximately 50m in length
- Associated infrastructure

The total existing development footprint within 100m of the high-water is 218m<sup>2</sup>.

In furtherance of the commenced listed activities, the total intended development is approximately 264m<sup>2</sup>.

Access to the site will be obtained from the MR4801 via the DR1524 to Riversdale / Still Bay.

Existing electricity capacity (i.e. roof-top solar photovoltaic), potable water and solid waste services are sufficient. Rainwater harvesting (i.e. approximately 15m<sup>3</sup> in extent), greywater systems and domestic groundwater supply are proposed to augment water supply in the communal facilities (i.e. kitchen / bathroom / pool). Potable water will be commercially sought for hospitality purposes.

## 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 preferred Alternative described in the application and assessment report dated June 2024 on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **five (5) years** from the date of the decision.
3. The development must be concluded within **five (5) years** from the date of continuation 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 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

### Written notice to the competent authority

6. **Seven (7)** calendar days' notice, in writing, must be given to the competent authority before continuation of the development activities.
  - 6.1 The notice must make clear reference to the site details and 24G Reference number given above.
  - 6.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions of 7, 8 and 11.

## PART III

### Notification and administration of an appeal

7. The holder must in writing, within **fourteen (14)** 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* detailed in Section I below.
  - 7.3. Draw the attention of all registered I&APs to the manner in which they may access the decision.
  - 7.4. provide the registered I&APs with:
    - 7.4.1. The name of the holder (entity) of this Environmental Authorisation;
    - 7.4.2. The name of the responsible person for this Environmental Authorisation;
    - 7.4.3. The postal address of the holder;
    - 7.4.4. The telephonic and fax details of the holder;
    - 7.4.5. The e-mail address, if any, of the holder; and
    - 7.4.6. 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*.



8. 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 IV**

### **Management of the activity/development**

9. The Environmental Management Programme ("EMPr") of March 2024 compiled by Enviro Africa (Pty) Ltd. and 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.

## **PART V**

### **Monitoring**

11. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") or site agent where appropriate, before continuation of any listed activities to ensure compliance with the provisions of the EMPr and the conditions contained in this Environmental Authorisation.
12. A copy of the Environmental Authorisation, EMPr, Environmental Audit Reports and compliance monitoring reports must be kept at the site of the authorised activities and must be made available to any authorised person on request, including a publicly accessible website (where applicable).
13. 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 VI**

### **Auditing**

14. 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.
  - 14.1. The holder must undertake an environmental audit within six (6) months of the commencement of the continuation of the listed activities and submit an Environmental Audit Report to the Competent Authority within one (1) month after the completion of the environmental audit. The Environmental Audit Report must be prepared by an independent person with the relevant auditing expertise and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

- 14.2. A final Environmental Audit Report must be submitted to the Competent Authority within six (6) months of completion of the construction / development phase.
- 14.3. The holder must, within seven (7) days of the submission of the Environmental Audit Reports to the Competent Authority, notify all potential and registered I&APs of the submission and make the Environmental Audit Reports available to any I&APs on request and on a publicly accessible website (if applicable).

## **PART VII**

### **Activity/ Development Specific Conditions**

15. The following freshwater mitigation measures must be implemented:
  - 15.1. The recommendations of the Estuary Impact Assessment (compiled by Watson Africa and dated November 2023) must be implemented during all phases of the development. This must include, *inter alia*, the following:
    - 15.1.1. The installation and maintenance of stormwater management infrastructure and sewerage system infrastructure for erosion control and water quality management of the site in relation to the estuary ecosystem.
    - 15.1.2. An integrated monitoring system that contributes to achieving objectives defined in the adopted Estuary Management Plan for the Duiwenhoks River estuary must be implemented and retained for reporting purposes (i.e. recording of fishing and recreational activities).
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. Dust suppression measures must be used to mitigate dust during the construction phase. No potable water must be used to mitigate dust nuisance. Alternative dust suppression

methods (such as shade netting screens and/ or straw stabilisation, etc.) must be implemented instead.

19. Employment opportunities must be afforded to the local community (as far as possible) during all phases of the development.

## H. RECOMMENDATIONS

1. A stewardship agreement is recommended between the holder and CapeNature in terms of the CapeNature Biodiversity Stewardship Programme with respect to reduction of negative impacts on the estuary, eradication of invasive alien vegetation and improved ecological conditions of the Duiwenshok River estuary. This must be undertaken in pursuit of achieving the objectives defined in the Estuary Management Plan (2019) for the Duiwenhoks River estuary.

## I. 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. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for those activities, 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 must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

- (1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application but may consider an application for environmental authorisation for the same development.
- (2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.
- (3) It is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the competent authority has not granted an environmental authorisation for the undertaking of the activity.

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* 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* or any relevant legislation that may be applicable at the time.

## J. 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](mailto: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](mailto: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](mailto:DEADP.Appeals@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.

## K. 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.

## L. 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



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**MRS Z TOEFY**  
**ACTING DIRECTOR: ENVIRONMENTAL GOVERNANCE**  
DATE: 15 October 2024

Copied to:

- (1) Mr. C. Geyser (Enviro Africa)
- (2) Mr. S. Carelse (Hessequa Local Municipality)
- (3) Ms. D. Mouton (DEA&DP: Environmental Law Enforcement – Region 3)

Email: [Clinton@enviroafrica.co.za](mailto:Clinton@enviroafrica.co.za)

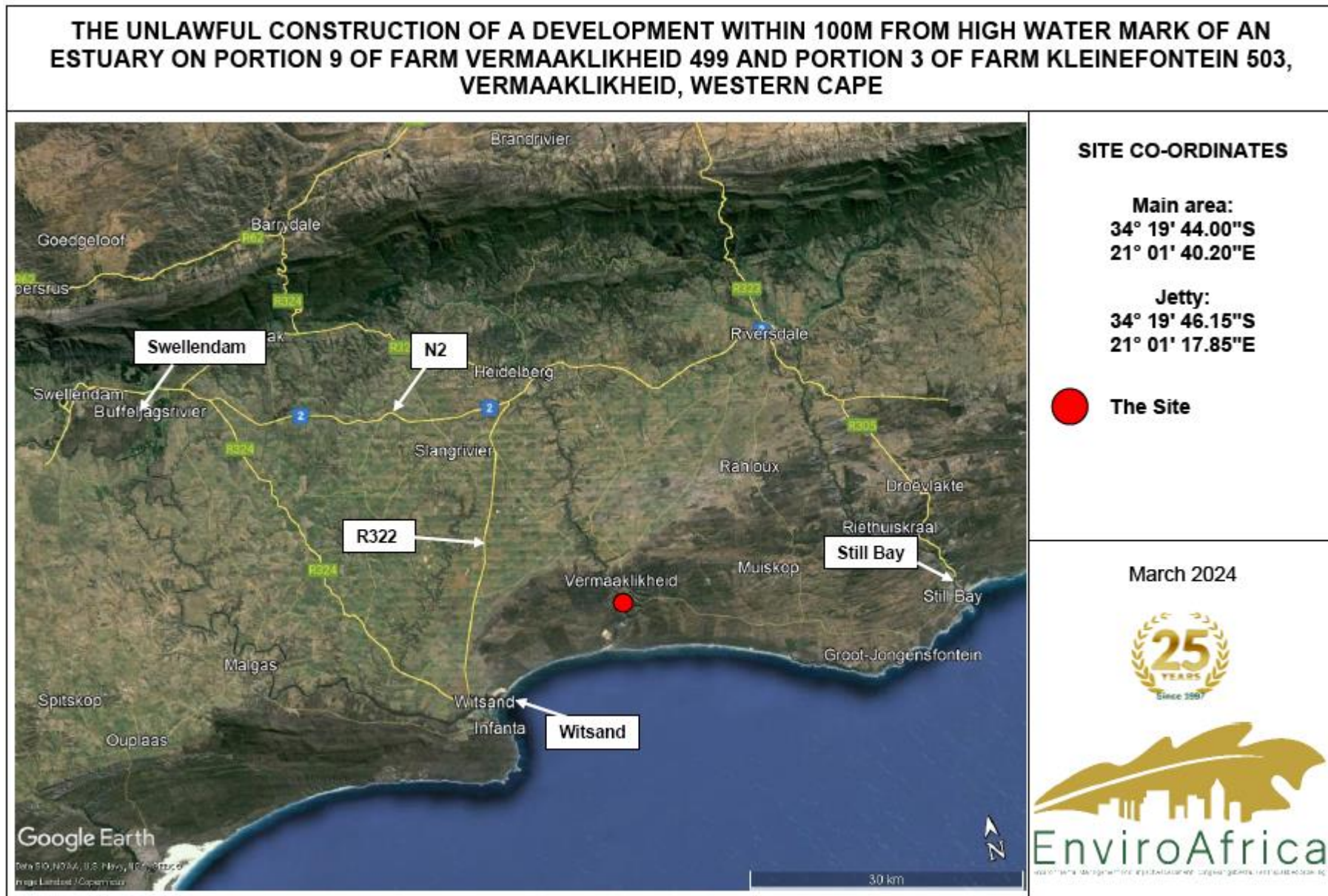
Email: [Shagon@hessequa.gov.za](mailto:Shagon@hessequa.gov.za)

Email: [Diana.Mouton@westerncape.gov.za](mailto:Diana.Mouton@westerncape.gov.za)



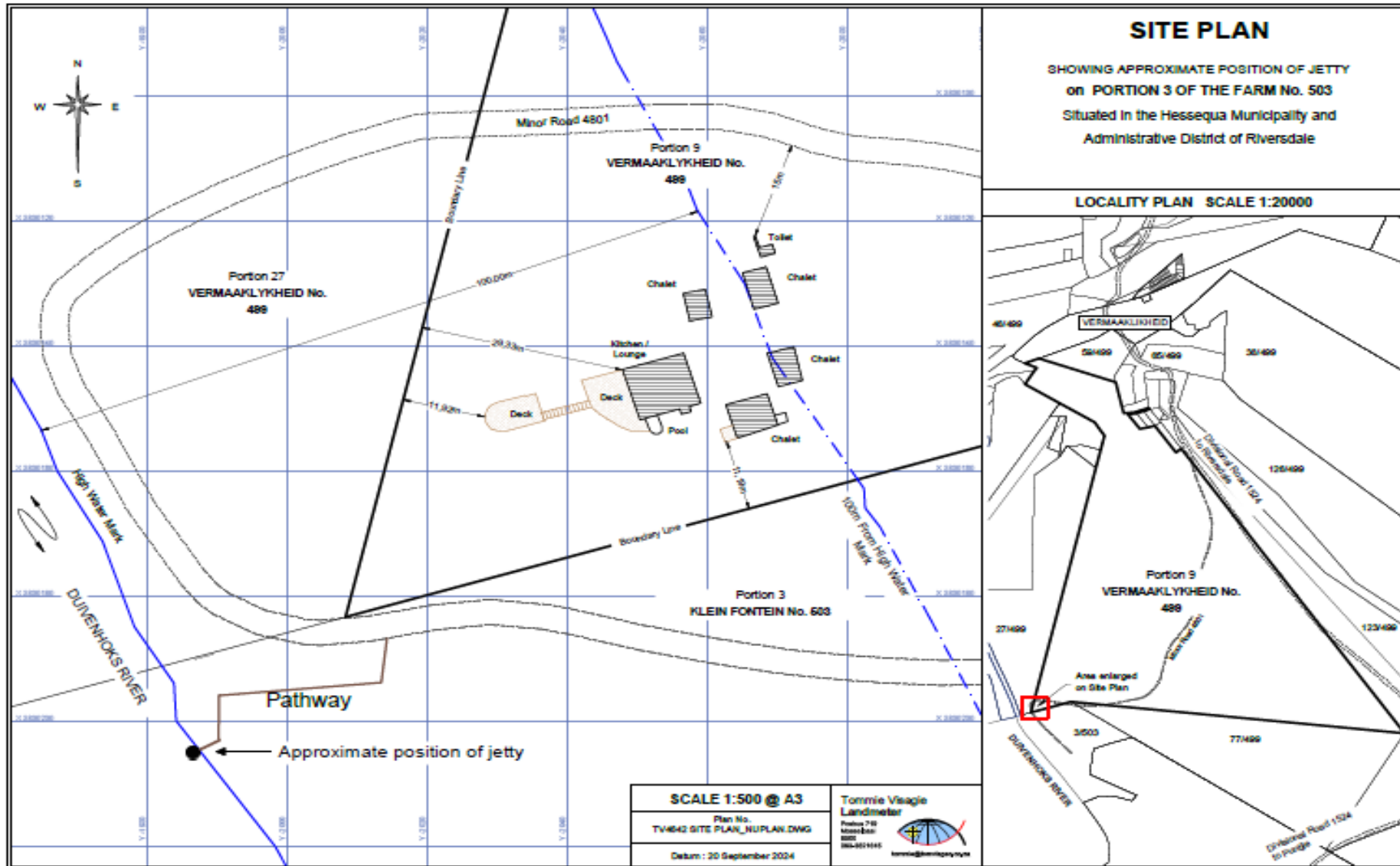
## ANNEXURE 1: LOCALITY MAP

The existing site (i.e. Remainder of Portion 9 of the farm Vermaaklikheid No. 499, and Portion 3 of Farm Kleinefontein No. 503, Riversdale) demarcated in red on the locality map.

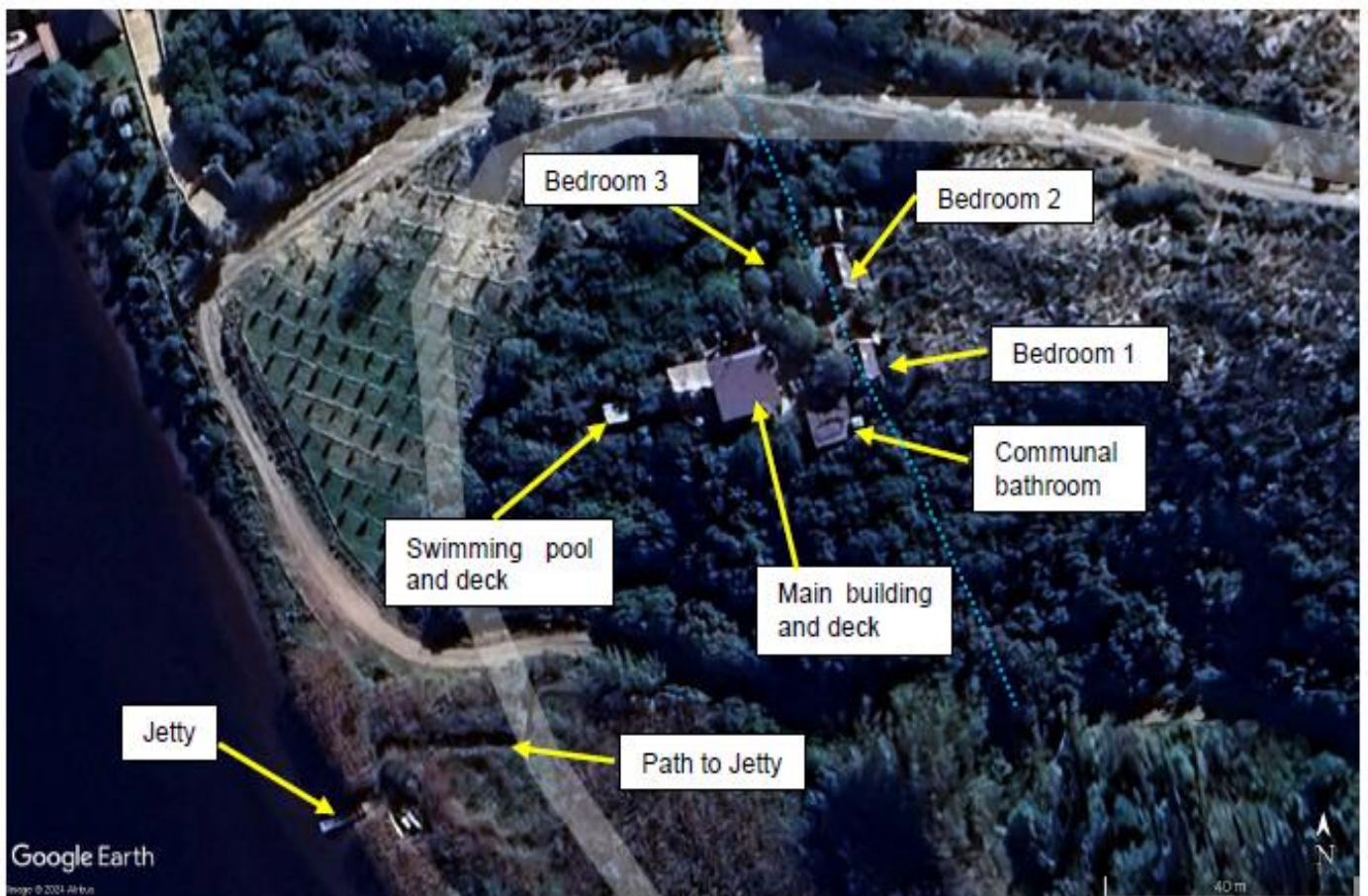
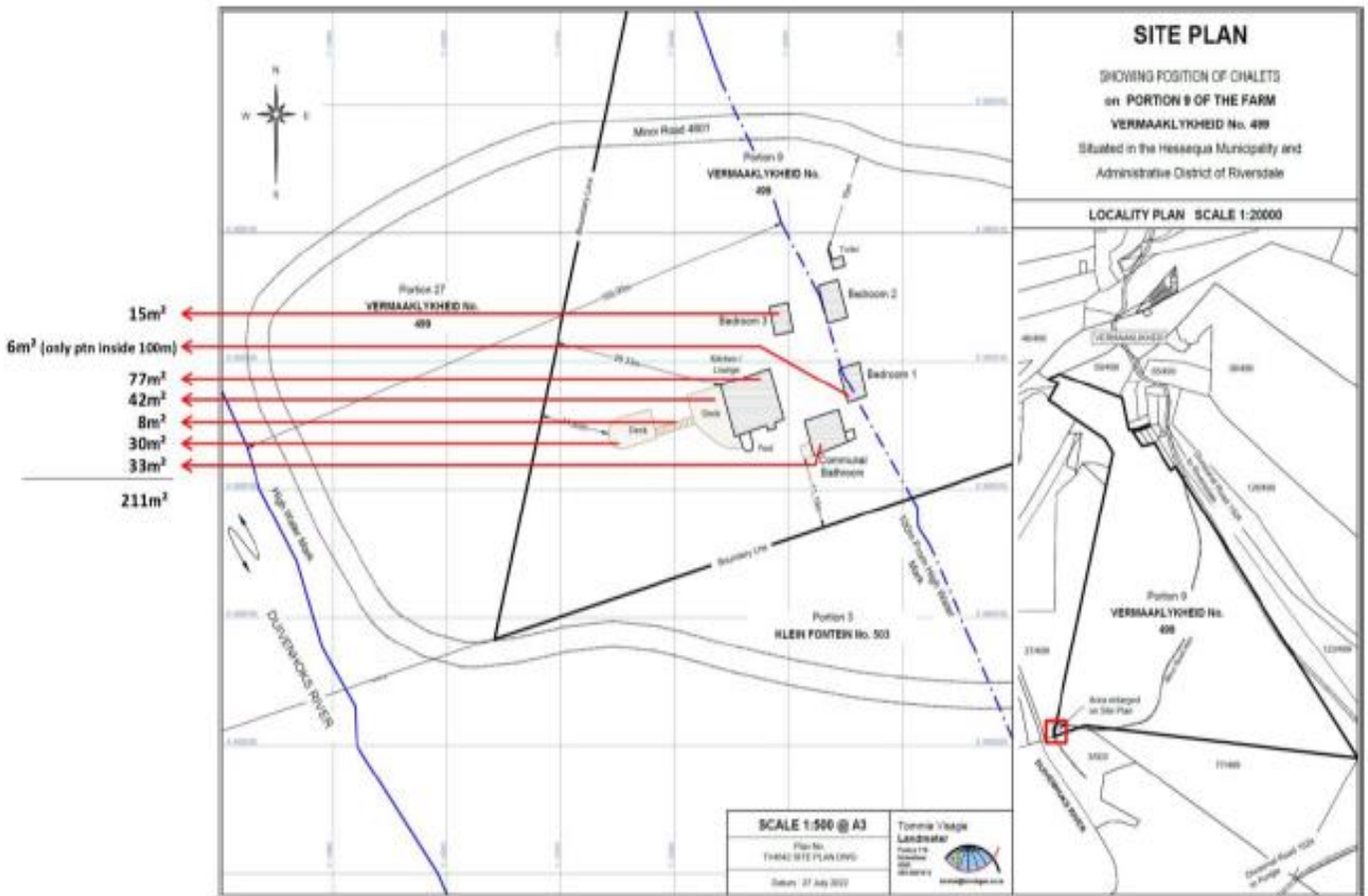


## ANNEXURE 2: SITE DEVELOPMENT PLAN

Site Development Plans of the development on Portion 9 of Farm Vermaaklikheid No. 499 and Portion 3 of Farm Kleinefontein No. 503, Riversdale.







**FOR OFFICIAL USE ONLY:**

**S24G REFERENCE:** [14/2/4/2/3/D5/15/0010/24](#)  
**ENFORCEMENT REFERENCE :** [14/1/1/E3/8/2/3/L1269/22](#)

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

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned unlawful 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 dated June 2024 and received by the competent authority on 23 July 2024, the final Comments and Response Report received by the competent authority on 30 July 2024, and the additional information received by the competent authority on 20 September 2024.
- b) The Environmental Management Programme ("EMPr") of March 2024 submitted together with the application form and final Comments and Response Report.
- 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 Remainder of Portion 9 of the Farm Vermaaklikheid No. 499, and  
Portion 3 of Farm Kleinefontein No. 503, Riversdale  
Date: 27 May 2024  
Attended by: Naadiya Wookey and Mbali Ntshangase

All information presented to the competent authority was taken into account in the consideration of the section 24G application for *ex post facto* 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:

- identification of and engagement with I&APs.
- fixing a notice board at the site where the listed activities unlawfully commenced and the municipal offices (i.e. Still Bay) on 07 February 2024.
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities were undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 07 February 2024 and 02 April 2024.
- Making the draft section 24G report and draft EMPr available for public review from 07 February 2024 to 11 March 2024, 02 April 2024 to 06 May 2024 and 20 June 2024 to 22 July 2024.
- the placing of a newspaper advertisement in the *Suid-Kaap Forum* on 02 February 2024.
- Placing all draft reports on the Environmental Assessment Practitioner's ("EAP") website for comment.

Concerns with respect to the aquatic ecological function, sensitivity and importance of the Duivenhoks River Estuary, wetland delineation, the requirement of a seashore lease, the handling of wastewater, impact assessment tables interpretation, alien invasive vegetation management and fire management during operational phase use were highlighted by the relevant commenting authorities. In addition, concerns related to nature of intent, privacy, noise and clarification in respect of municipal planning applications were raised during the public participation process. The relevant mitigation measures to address the concerns highlighted have been included in the EMPr.

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

The following organs of state provided comment on the application:

CapeNature

Heritage Western Cape

All the concerns raised by I&APs were adequately addressed and responded to 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 Technology/Location/Site/Activity Alternatives

No feasible site, activity, technology or operational alternatives were identified or assessed as part of the environmental impact assessment process since the existing and continuation of the development is on a site that is owned by the holder. The consideration of an alternative activity such as agriculture that is in-keeping with the original land - use zoning would result in a greater negative impact (i.e. loss of indigenous vegetation) on the surrounding environment and was therefore not regarded the best practical environmental outcome or a viable option.

The preferred alternative and the No-Go alternative were considered

Preferred Alternative (herewith authorized)

The Preferred Alternative entails the development of accommodation facilities and infrastructure within 100 metres of the high-water mark of an estuary on Portion 9 of Farm Vermaaklikheid No. 499 and Portion 3 of Farm Kleinefontein No. 503, Riversdale which will comprise of the following:

The following development footprints of existing infrastructure is located within 100m of the high-water mark of the estuary on Portion 9 of Farm Vermaaklikheid No. 499:

- Main building comprising the communal kitchen and lounge approximately 77m<sup>2</sup> in extent which in include:
  - Swimming / plunge pool and wooden decks approximately 80m<sup>2</sup> in extent
- Two (2) of the three (3) free-standing bedrooms units
  - Approximately 6m<sup>2</sup> of Bedroom 1
  - Approximately 15m<sup>2</sup> of Bedroom 3
- Approximately 33m<sup>2</sup> of the communal bathroom
- Associated infrastructure

The following development footprints of existing infrastructure is located within 100m of the high-water mark of the estuary on Portion 3 of Farm Kleinefontein No. 503:

- Pumphouse and tanks approximately 7m<sup>2</sup> in extent
- A floating jetty and associated infrastructure approximately 12m<sup>2</sup> in extent
- A pathway / walkway approximately 50m in length
- Associated infrastructure

The total existing development footprint within 100m of the high-water is 218m<sup>2</sup>.



The total proposed development is approximately 264m<sup>2</sup>.

Access to the site will be obtained from the MR4801 via the DR1524 to Riversdale / Still Bay.

Existing electricity capacity (i.e. roof-top solar photovoltaic), potable water and solid waste services are sufficient. Rainwater harvesting (i.e. approximately 15m<sup>3</sup> in extent), greywater systems and domestic groundwater supply are proposed to augment water supply in the communal facilities (i.e. kitchen / bathroom / pool). Potable water will be commercially sought for hospitality purposes.

The Preferred Alternative takes cognisance of the botanical sensitivity of the surrounding environment which has been noted by the botanical specialist in terms of the design / layout of the development. No additional municipal resources are required for the continuation of the development. The Preferred Alternative presents a dual purpose, i.e. residential dwelling and an eco-tourism opportunity contributing to the viability and sustainable development of the property. The preferred alternative has been deemed to have an overall low negative impact with the implementation of minimal mitigation.

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

The "no-go" alternative resulting in rehabilitation and not developing on the proposed site was considered. Since the Preferred Alternative will not result in unacceptable environmental impacts, the consideration of the demonstrated Section 2 NEMA principles and the implementation of the mitigation hierarchy, the "No-Go" alternative was not preferred.

### 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

The existing and continuation of the development of the site is aligned with the primary use in terms of its current zoning (i.e. agricultural use) as defined in the local municipal zoning scheme and located outside of the urban area. The use of the development for an additional purpose, i.e. tourism accommodation, is a consent use within the current zoning of the property for which approval has been sought.

The property is located within the Vermaaklikheid area which has been identified as a residential and holiday settlement within the Hessequa local municipal Spatial Development Framework ("SDF"). The development is located on a remote property outside the urban area. The development is considered to provide additional positive social and economic opportunities in terms of potential increase in employment opportunities and growth in the eco-tourism market share within the local economy.

Although the development had and will result in the loss of indigenous vegetation approximately 218m<sup>2</sup> and 264m<sup>2</sup> in extent, the loss is deemed to be acceptable from a botanical perspective.

Although the site is located within the Duiwenhoks River Estuary which is classed with a high ecological importance, the potential freshwater impacts associated with the continuation of the development within 100m of the high-water mark of the estuary has been deemed to be limited in nature and negligible from a freshwater perspective provided mitigation measures are implemented.

The site is in-keeping with surrounding land uses which include agricultural development and tourism facilities considered to be aligned to the municipal and provincial spatial development plans. The continuation of the eco-tourism development on Portion 9 of Farm Vermaaklikheid No. 499 and Portion 3 of Farm Kleinefontein No. 503, Riversdale will maintain rural livelihood, present income earning opportunities and maintain the cultural rural landscape of the surrounding area on land set aside for agricultural development.

It is therefore considered a sustainable development that is aligned with the land-use of the current zoning of the site and will not require any additional municipal resources. The section 24G report demonstrated the consideration of sensitive biodiversity by the maintaining a precautionary approach to the design / layout the facilities. The Preferred Alternative demonstrates a reduced impact on the identified environmental sensitivities as far as reasonably practical.

### Regional/ Planning Context

The site is located within the Hessequa local municipal area wherein it's Municipal Spatial Development Framework ("SDF") has identified the town of Vermaaklikheid as a residential and holiday settlement with limited functions. Although the site is zoned for agricultural purposes, it is not regarded as a viable agricultural opportunity. The SDF further promotes the development of tourism related land uses on agricultural land with the objective to conserve the rural character.

The Hessequa local municipality is the largest of seven municipalities within the Garden Route District. The primary sectors entail agriculture and mining; however, the community services sector is regarded the largest and most important economic sector within the local municipality. It is noted that recreational and subsistence value is intrinsic to the Duiwenhoks River estuary in that small agricultural holdings have transformed to weekend farms, second homes and holiday accommodation ventures. Therefore, resulting in a reduction in agricultural employment opportunities. tourism sector as one of five largest sectors contributing to the regional economic market. The existing and proposed continuation of the development is aligned with the rural cultural landscape character of the surrounding area and will positively contribute to socio-economic aspects within the municipal area. The continuation of the development of the site is deemed to be aligned with the objectives of the municipal Integrated Development Plan (IDP).

An Estuary Management Plan is adopted for the Duiwenhoks River estuary and the activities associated with the development on the site is not regarded to be in conflict with the Estuary Management Plan. The proposed activities on the site related to environmental awareness, provision of employment opportunities and alien vegetation management contribute to the objectives of the Estuary Management Plan.

### 3.2. Agricultural Impacts

According to the Screening Report (dated 11 March 2024), the site is located within a medium sensitivity area from an agricultural perspective. This has been disputed to a low sensitivity by the EAP since although the site is currently zoned for agricultural purposes, the site is not deemed feasible for agricultural activities given the topography and proximity to the estuary. It is noted that the majority of the catchment consists of privately-owned farms, many of which are undergoing transformation to less intensive farming practices to more viable secondary land uses associate with the agricultural zonation of properties. The loss of agricultural land is considered minimal / insignificant.

### 3.3. Biodiversity Impacts

According to the Screening Report (dated 11 March 2024), the site is located within a medium sensitivity area from a plant species perspective and a very high sensitivity area from a terrestrial biodiversity perspective. The sensitivity of the terrestrial biodiversity theme has been disputed to a medium to low sensitivity area by the EAP based on the scale and design of the development as well its mapped location partially within a Critical Biodiversity Area. A Biodiversity Impact Assessment was therefore undertaken.

The Botanical Impact Assessment (compiled by PB Consult Environmental Management Services and dated 22 May 2024) revealed that although the site was mapped to be located within the Canca Limestone Fynbos, the site was ground-truthed to occur within the Albany Thicket biome (i.e. Hartenbos Dune Thicket) classified as Endangered ecosystem in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) – The Revised National List of Ecosystems that are Threatened and in Need of Protection, 2022. However, it is noted that the Canca Limestone Fynbos occurs in the northern reaches / upslope of the development site and not impacted. The botanical specialist noted the good condition of the thicket vegetation with low levels of alien invasive species. The small scale (i.e. less than 300m<sup>2</sup>) and design of the development in relation to the surrounding biodiversity determined the impact on connectivity is unlikely to have added any significant impact on the ecology of the site – low impact. No plant species of conservation concern were observed on site and the presence of a few milkwood trees were noted as avoided on site. Furthermore, the site was ground-truthed with the observation of one protected species (i.e. *Sideroxylon inerme* – white milkwood).

The botanical specialist concluded that the associated impact of the development is a localised impact on indigenous vegetation and conservation priority areas. Therefore,

the specialist has deemed the impact of the development on the surrounding environment as medium / low sensitivity from a terrestrial biodiversity perspective.

### 3.4. Freshwater Impacts

In accordance with the Screening Report (dated 11 March 2024), the site is located within a very high sensitivity area from an aquatic biodiversity perspective. An Estuary Impact Assessment (compiled by Watsan Africa and dated November 2023) revealed that although the development was located within an ecologically important estuary (i.e. the Duiwenshok River Estuary), given the nature, scale and design / layout of the development, the impact on the ecological function of the aquatic environment is deemed negligible.

Further, the specialist indicated that the Present Ecological State of the Duivenhoks River Estuary is deemed moderately impacted with its ecological functioning intact, a high classification in terms of the ecological importance and highlighted the sensitivity of the aquatic environment. In addition, the minimal impact of the pathway through the reedbed and the floating jetty was deemed to be of low to negligible ecological impact by the freshwater specialist. This is based on the contained footprint of the pathway in the reedbed and the floating and side-moored capabilities of the jetty on the bank of the Duiwenhoks River.

The freshwater specialist has provided recommendations with respect to subsistence fishing pressure, sustainable fishing practices and recreational use, monitoring (i.e. resource, compliance and performance) pollution control, erosion control, stormwater management and estuary conservation which have been included in the EMPr.

### 3.5. Faunal Impacts

In accordance with the Screening Report (dated 11 March 2024), the site is located within a high sensitivity area from an animal species perspective. A Terrestrial Biodiversity Impact Assessment (compiled by PB Consult Environmental Management Services and dated 22 May 2024) revealed that only one of the animal species listed in the Screening Report is associated with the Duiwenhoks River i.e. the half-collared Kingfisher and that the Knysna Woodpecker and Knysna Warbler may have been impacted by the development but has not been identified in the Screening Report as a species of conservation concern. In addition, and in response to comments raised by Cape Nature (dated 06 May 2024), the African Marsh Harrier (i.e. Endangered) is identified as a species of conservation concern that is likely to occur within the region given its preferred wetland habitat (i.e. reedbeds).

The biodiversity specialist concluded that most of the listed animal species contained in the Screening Report are not associated with wetland habitats and instead associated with grasslands, wheatfield or shorter fynbos. Therefore, the development on Portion 9 of farm Vermaaklikheid No. 499, Riversdale is not expected to have had any significant impact on the identified faunal species and an impact on connectivity is deemed low.



### 3.6. Services/ Bulk Infrastructure

Existing rainwater harvesting, greywater systems and offtake from a groundwater resource are in place for communal non-potable water use on the site and potable water will be commercially sought for hospitality purposes.

The existing domestic solid waste municipal service provision and renewable energy (i.e. rooftop solar photovoltaic energy) are deemed sufficient with respect to the continuation of the hospitality development on the site and alternative effluent management system (i.e. small-scale septic system, conservancy and on-site package plant) is considered.

### 3.7. Cumulative

The potential cumulative impacts of the development are deemed to be of a probable medium to low significance given the small scale and the design / layout of the development from a botanical perspective.

### 3.8. Visual, Dust and Noise / Sense of Place

Potential visual, dust and noise impacts associated with the construction and operational phase of the development will be mitigated by the implementation of the mitigation measures included in the EMPr.

### 3.9. Heritage / Archaeological / Built Environment Aspects

A Notice of Intent to Develop was submitted to Heritage Western Cape ("HWC"). HWC indicated (in their comment dated 01 February 2024 that since there is no reason to believe that the existing and proposed development will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) is required.

Precautionary mitigation measures with respect to the potential discovery of fossils have been included in the EMPr.

### 3.10. Socio-economic Impacts

No negative socio-economic impacts are envisaged by the continuation of the development of the site since the immediate surrounding communities are limited to farmers and are agricultural developments /properties earmarked for further agricultural and eco-tourism development.

Concerns raised with respect to privacy and proximity to neighbouring properties have been considered and responded to in noting that the eco-tourism development on Portion 9 of Farm Vermaaklikheid No. 499, Riversdale is located approximately 100m

(direct distance) from the nearest neighbour and is nestled within the vegetation thicket at varied elevations.

A positive socio-economic impact is anticipated from the proposed continuation and development of the site with respect to the contribution to the local economy and provision of employment opportunities. The potential positive impact is considered a social upliftment contributing factor and is aligned with the Provincial Spatial Development Framework and National Development Plan.

#### 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.

The development will result in both negative and positive impacts.

Negative Impacts:

- Loss of indigenous vegetation / biodiversity;
- Potential freshwater impacts; and
- Potential dust and noise impacts during construction phase.

Positive impacts:

- Contribution toward eco-tourism;
- Increase in local economic growth;
- Employment opportunities during construction and operational phase of the development;
- Capital gain for the holder.

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.

You are reminded of your general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: *“Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.”*

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