



24G Application: 14/2/4/2/3/D3/4/0002/24

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## ENVIRONMENTAL AUTHORISATION

The Owner  
PO Box 640  
BETTY'S BAY  
7141

Tel: (078) 582 7922  
Email: [rynaldengelke@gmail.com](mailto:rynaldengelke@gmail.com)

### Attention: Rynald Engelke

### **APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: THE UNLAWFUL DEVELOPMENT OF AN ACCESS ROAD AND BUILDING PLATFORM WITHIN 32 METERS OF A WATERCOURSE ON FARM HUISRIVIER, RE/7/14, GAMKA ECO ESTATE, CALITZDORP**

With reference to your application dated 22 January 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 22 January 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

Mr. Rynald Engelke

PO Box 640

BETTY'S BAY

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Cell: (078) 582 7922

Email: [rynaldengelke@gmail.com](mailto:rynaldengelke@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. R. 327 of 7 April 2017</p> <p><b>Activity Number:</b> 12</p> <p>Activity Description: The development of—</p> <p>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</p> <p>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback exists, within 32 metres of a watercourse,</p> | <p>The creation of a platform of ± 750 m<sup>2</sup> for the proposed house) which occurred in 2021.</p> |

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| <p>measured from the edge of a watercourse; excluding—</p> <p>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</p> <p>(dd) where such development occurs within an urban area; [or]</p> <p>(ee) where such development occurs within existing roads, [or] road reserves or railway line reserves; or</p> <p>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</p> |                                                                                                            |
| <p>Government Notice No. R. 327 of 7 April 2017</p> <p><b>Activity Number:</b> 19</p> <p>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 5 m<sup>3</sup> from-</p> <p>(i) a watercourse;</p> <p>(ii) the seashore; or</p> <p>(iii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater but excluding where such infilling, depositing, dredging, excavation, removal or moving-</p> <p>(a) will occur behind a development setback;</p>                                                                                                                                                                                                                                                                       | <p>The unlawful infilling, moving and excavation of soil within a watercourse which occurred the 2021.</p> |

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| <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan; or</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies.</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour, or</p> <p>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p>                                                                                                                                                                                                                                                                    |                                                                                                                                              |
| <p>Government Notice No. R. 324 of 7 April 2017</p> <p><b>Activity Number: 4</b></p> <p>Activity Description: The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p>i. Western Cape</p> <p>i. Areas zoned for use as public open space or equivalent zoning;</p> <p>ii. Areas outside urban areas;</p> <p>(aa) Areas containing indigenous vegetation;</p> <p>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use; or</p> <p>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p> | <p>Development of an access road of <math>\pm 290</math> metres long and <math>\pm 4</math>m wide. The access round was created in 2021.</p> |
| <p>Government Notice No. R. 324 of 7 April 2017</p> <p><b>Activity Number: 4</b></p> <p>Activity Description: The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p>i. Western Cape</p> <p>i. Areas zoned for use as public open space or equivalent zoning;</p> <p>ii. Areas outside urban areas;</p>                                                                                                                                                                                                                                                                                                                                                                                                                          | <p>Development of an access road of <math>\pm 290</math> metres long and <math>\pm 4</math>m wide. The access round was created in 2021.</p> |

|                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p>(aa) Areas containing indigenous vegetation;</p> <p>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use;</p> <p>or</p> <p>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p> |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

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

#### D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Remainder of Portion 7 of Farm Huisrivier No. 14, Calitzdorp.

The SG digit code is: C01400000000001400007

The co-ordinates for the property boundary are:

| Point | Latitude (S)         | Longitude (E)       |
|-------|----------------------|---------------------|
| 1     | 33° 29' 27.88" South | 21° 36' 51.51" East |
| 2     | 33° 29' 35.43" South | 21° 37' 5.74" East  |
| 3     | 33° 30' 04.13" South | 21° 36' 55.33" East |
| 4     | 33° 30' 06.78" South | 21° 36' 48.80" East |

The co-ordinates for the road to the platform are:

| Point | Latitude (S)         | Longitude (E)       |
|-------|----------------------|---------------------|
| 1     | 33° 29' 34.91" South | 21° 37' 06.69" East |
| 2     | 33° 29' 36.57" South | 21° 37' 02.23" East |
| 3     | 33° 29' 39.27" South | 21° 36' 57.92" East |

The co-ordinates for the site / platform boundary are:

| Point | Latitude (S)         | Longitude (E)       |
|-------|----------------------|---------------------|
| 1     | 33° 29' 38.59" South | 21° 36' 56.52" East |
| 2     | 33° 29' 39.10" South | 21° 36' 57.79" East |
| 3     | 33° 29' 39.62" South | 21° 36' 57.28" East |
| 4     | 33° 29' 38.98" South | 21° 36' 56.29" East |

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

Herein-after referred to as "the site".

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

Cornerstone Environmental Consultants (Pty) Ltd

C/o Mr Pieter de Villiers

PO Box 12606

DIE BOORD

7613

Tel: (021) 887 9099

Email: [info@cornerstoneenviro.co.za](mailto:info@cornerstoneenviro.co.za)

#### **F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN**

The unlawful activities include the unlawful infilling, moving and excavation of soil within a watercourse whilst the road was constructed as well as the development of infrastructure within 32 metres from the drainage channel (this was the creation of an earth platform of  $\pm 750 \text{ m}^2$  on which a house is proposed to be constructed). The access road that is  $\pm 290$  metres long and  $\pm 4$  metres wide. The above activities have been completed. A house will be constructed on top of the already created platform.

## 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 activity/ies specified in Section C above in accordance with and restricted to the preferred Alternative described in the application and assessment report dated 22 January 2024 on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision.
3. The development must be concluded within **3 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 construction 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 condition:  
Condition 7

### **PART III**

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

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–

7.1 notify all registered Interested and Affected Parties (“I&APs”) of –

- 7.1.1 the outcome of the application;
- 7.1.2 the reasons for the decision as included in Annexure 3;
- 7.1.3 the date of the decision; and
- 7.1.4 the date when the decision was issued.

7.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* 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 name of the responsible person for this Environmental Authorisation;
- 7.4.3 postal address of the holder;
- 7.4.4 telephonic and fax details of the holder;
- 7.4.5 e-mail address, if any, of the holder; and
- 7.4.6 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 activity/ies, 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 draft Environmental Management Programme ("EMPr") dated 22 January 2024 compiled by Cornerstone Environmental Consultants 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 commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and must be made available to anyone on request.
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, the EMPr and submit Environmental Audit Reports to the competent 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 VII**

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

15. 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.

16. 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.

## **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. 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 that activity or 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.

## **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](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>.

## **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



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**MRS Z TOEFY**

**ACTING DIRECTOR: ENVIRONMENTAL GOVERNANCE**

Copied to: (1) Pieter de Villiers (EAP)

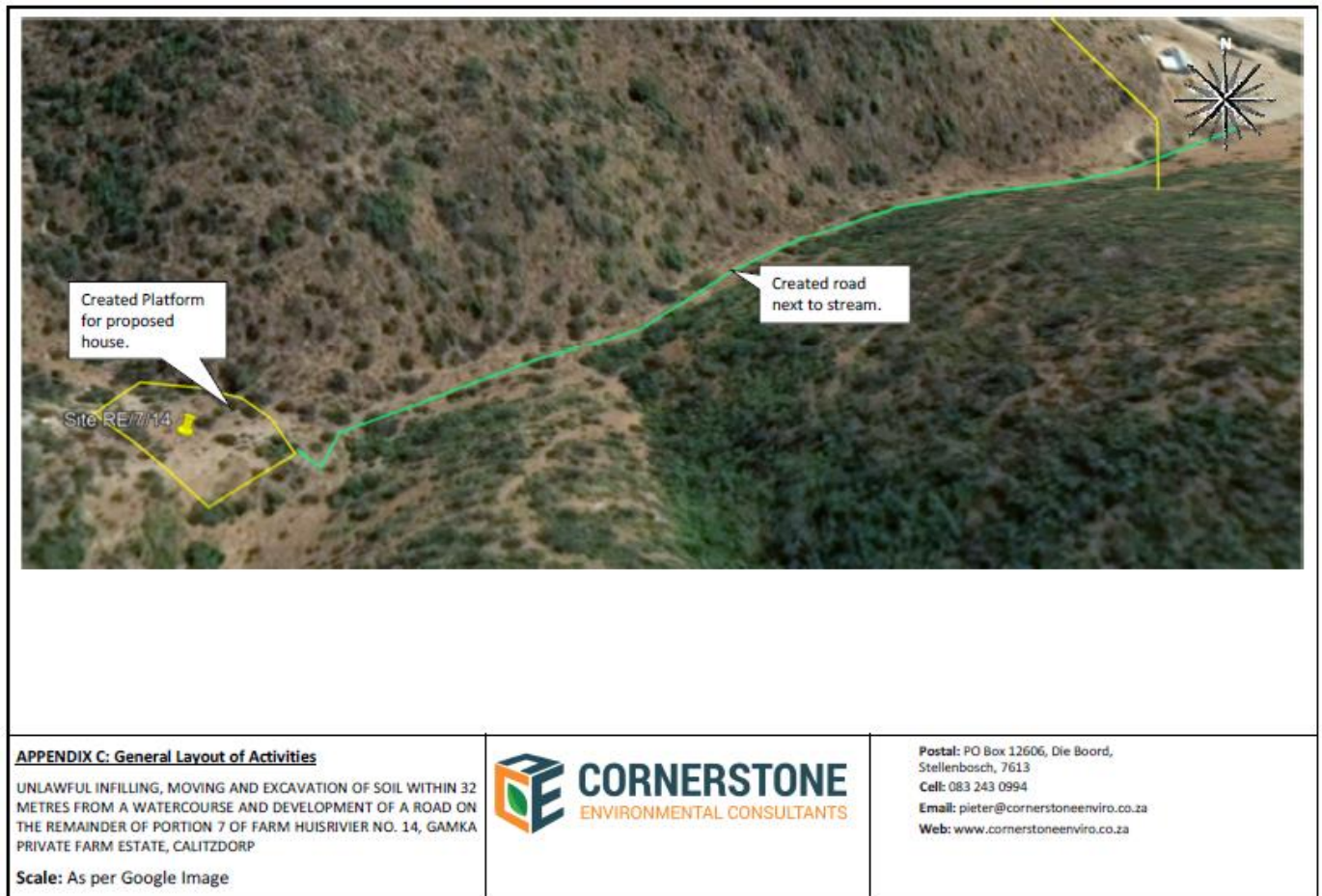
Email: [info@cornerstoneenviro.co.za](mailto:info@cornerstoneenviro.co.za)

## ANNEXURE 1: LOCALITY MAP





## ANNEXURE 2: SITE PLAN



**FOR OFFICIAL USE ONLY:**

**S24G REFERENCE:**

**14/2/4/2/3/D3/4/0002/24**

**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 R10 000 (Ten 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 22 January 2024 with supporting environmental impact assessment and mitigation measures.
- b) The Environmental Management Programme ("EMPr") of January 2024 submitted together with the application form.
- 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 public participation process, 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 21 February 2024 attended by Officials of the Directorate: Environmental Governance.

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:

- identification of and engagement with I&APs.
- fixing a notice board at the site where the listed activities unlawfully commenced on 09 March 2023.
- 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 24 January 2024.
- the placing of a newspaper advertisement in the **Oudtshoorn Courant** on 20 January 2023.

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

The following organs of state provided comment on the application:

- CapeNature
- Breede Olifants Catchment Management Agency (BOCMA)

CapeNature commented that according to the *Western Cape Biodiversity Spatial Plan* (Pool-Stanvliet et.al. 2017) the vegetation at the time of the unlawful activity was Muscadel Riviere which was Critically Endangered (listed in terms of the National Environmental Management: Biodiversity Act (NEM:BA, 2011) and Least Threatened Gamka Thicket. The threat status of Muscadel Riviere was changed to Endangered in the Revised National List of Ecosystems that are Threatened and in need of protection effective from 18 November 2022 (NEM:BA, 2022). Thus, the activity was within CR Muscadel Riviere at the time.

EAP: Responded that the Botanist described the vegetation on site and stated the following: *"The Muscadel Riviere habitat is also triggered, but another subsequent study of the area showed that the Muscadel Riviere habitat is not correctly mapped in this area, and this development does not take place in this critically endangered ecosystem (Du Preez, 2023)"*.

CapeNature indicated that they do not support the undertaking of activities listed in the EIA regulations prior to Environmental Authorisation. The activity has resulted in the completely transformation of the vegetation and spread of invasive alien plants.

EAP: Responded that although the activity proceeded without an EA, the loss of vegetation on this fairly small area, in relation to the remainder of the property and larger Estate, was described by the botanist as not resulting in a significant loss of the habitat.

The total area of vegetation that was cleared for the establishment of the platform and road equates to approximately 1 910 m<sup>2</sup> (0.191 ha) of Least Threatened Gamka Arid Thicket vegetation type. This is a very small area in comparison to the remaining, in-tact, vegetation on the property of 30.21 ha in size. In terms of plant species diversity, the damage done in preparation for this development has taken place in the least sensitive (species-poor) areas on the property.

No vegetation species of conservation concern was removed during the clearance. It is the botanist's opinion that the loss of plant biodiversity on the developed area can be regarded as of a High negative impact, but this should be seen in context of the broader area (and remaining vegetation on the property).

The unlawful activities did not only impact the ecological functioning of the watercourse and plant diversity but also increased the risk of erosion. Furthermore, arid habitats would take years to rehabilitate, even from temporary disturbances and we only consider habitat as rehabilitated when comparable level of ecosystem functionality has been proven.

EAP: Advised that it must be noted that the areas that were cleared and filled during the construction activities has led to a local loss of vegetation and biodiversity at all the affected sites. As the small stream and its drainage lines are of highly ephemeral nature, within a dry karoo climate, the loss of biodiversity included mostly terrestrial features. These features are also situated within an eco-estate, where very little loss of biodiversity has in general occurred over the larger area. The impact of the activities on Loss of Biodiversity from a Freshwater point of view would thus be regarded to have been of Very Low, Long-term, Negative Nature.

Mitigation measures for the management of erosion were included in the EMPr.

CapeNature further commented that it remains the landowner's responsibility to ensure their property is suitably maintained at a level consistent with Western Cape Biodiversity Spatial Plan, 2017 (WCBSP) handbook guidelines. CapeNature remains committed to not support any development that would result in the loss of irreplaceable Critical Biodiversity Areas (CBAs).

The applicant is reminded that all endangered species or protected species listed in Schedules 3 and 4 respectively, in terms of the *Western Cape Nature Conservation Laws Amendment Act, 2000 (Act No. 3 of 2000)* may not be picked or removed without the relevant permit, which must be obtained from CapeNature.

Eradication of invasive alien plant species are of high priority and CapeNature. The landowner must prioritise the eradication of alien invasive species on his/her property.

Alien invasive species that germinate must be removed and growth of indigenous vegetation along the riverbanks are encouraged. The removal of invasive alien plant species can be a phased approach and only local plant species must be used for rehabilitation.

All erosion mitigation measures towards curbing erosion should be implemented. Thus, any future construction must be planned for the drier months to minimize the possibility of erosion and sedimentation. Flooding events can change a watercourse within a short period, and it must either be mitigated.

CapeNature reminds the applicant of Section 28 of *National Environmental Management Act, 1998 (NEMA)*.

In conclusion, any future development must be guided by the management objectives of CBAs.

Natural areas and their ecological process must be protected, and preferably no further loss of vegetation/ CBAs should occur, and all sensitive areas must be No-Go areas.

The BOCMA stated that they would like to highlight that the activities taking place at farm Huisrivier, RE/7/14, Gamka Eco Estate, Calitzdorp constitute water use activities as defined in the *National Water Act, 1998 (36 of 1998) (NWA)* and listed under section 21 of the NWA and they are not authorised.

However, considering that the drainage line that is impacted by these activities have been disconnected to Gamka River by the old road at the estate and therefore have less to no aquatic function, the BOCMA will not pursue any enforcement actions against the property owner.

The conclusion made above was reached after reviewing the reports provided and conducting a site investigation on 20 February 2024.

The BOCMA will not be taking any further steps on this matter, therefore there is not any objection to this application. However, the property owner must be advised to apply for a water use authorisation.

The BOCMA reserved the right to revise initial comments and request further information based on any additional information received.

A General Authorisation is required for the road crossing of the watercourse. This application is in process with BOCMA reference number WU32715.

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 Location/Site Alternatives**

#### Alternative 1 (Herewith authorized)

The preferred property is the Remainder of Portion 7 of Farm Huisrivier No. 14, Calitzdorp. No further property alternatives have been identified or considered since this property is the only one the Applicant owns within the Estate.

No other site alternatives were considered.

The Freshwater Specialist stated that over the years, only small modifications occurred, including a small road running up the stream and some cleared areas visible around the currently affected sites, in 2003 already. It is clear that the client's activities were not the first within this footprint.

The EAP also viewed Google Maps' historic aerial images and is also of the same opinion. The site was therefore chosen within an already disturbed area.

### **2.2 Activity Alternatives**

#### Alternative 1

No activity alternatives, other than those already performed, were considered. All completed activities, namely the construction of a platform and road were undertaken so that the Applicant can build a house on his property within the Gamka Private Farm Estate.

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

The botanist stated that he believes that the option of continuing with the development is a suitable option subject to the conditions and suitable recommendations made by other specialists regarding the catchment and watercourse obstruction. This development was found not to threaten any sensitive plant species, and the impact has taken place in relatively species poor Spekboom thicket vegetation.

The freshwater specialist also made recommendations for the continuation of the proposed development seeing that the impacts were minimal.

The EAP is therefore of the opinion that the platform and road should be authorised so that the Applicant may continue to build his house on the platform and actively continue his responsibility of managing the property.

### **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 property is within a Private Farm Estate where similar activities, i.e. private houses have already been constructed by the owners. The Applicant bought the property to also build a house to live in. This will to some degree contribute positively to the local economy and may even provide jobs to one or two local people.

#### **3.2. Biodiversity Impacts**

The construction of the road and platform did impact on aquatic and terrestrial biodiversity features, but at a very low scale (1910 m<sup>2</sup> was cleared within a 30-ha property). The scale of impact becomes even less significant if one considers the larger Private Farm Estate that is left in pristine condition.

In its operational phase, the house and road will not give rise to any negative impacts on biodiversity, given that all mitigation is implemented.

#### **3.3. Visual / Sense of Place**

The property lies within the Gamka Private Farm Estate (also referred to as an Eco Estate) surrounded by other similar properties. The idea of buying property in an estate like this is not to destroy or disturb but to contribute positively and to preserve the natural beauty of such a property.

#### **3.4. Pollution Impacts**

No sources of pollution were identified during the assessment, and none is foreseen to occur.

#### 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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