



REFERENCE: 16/3/3/1/E2/9/1006/24
NEAS REFERENCE: WCP/EIA/0001393/2024
DATE: 25 JULY 2024

The Members
Starcrow 111 CC
PO Box 1281
KURUMAN
8460

Attention: Mr. Nic Fourie

Tel: 053 712 1919
Email: nic@nfgroup.co.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: THE PROPOSED RESIDENTIAL DEVELOPMENT ON ERVEN 1885 AND 1886, FRANSKRAAL.

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation ("EA") together with the reasons for the decision.
2. In terms of Regulation 4 of the EIA Regulations, 2014, you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached EA.

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Ms. Michelle Naylor (Lornay Environmental Consulting)
(2) Ms. P Aplon (Overstrand Municipality)
(3) Mr. Chester Arendse (Overstrand Municipality)
(4) Mr. Rhett Smart (CapeNature)

Email: michelle@lornay.co.za
Email: paplon@overstrand.gov.za
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Email: rsmart@capenature.co.za



REFERENCE: 16/3/3/1/E2/9/1006/24
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ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: THE PROPOSED RESIDENTIAL DEVELOPMENT ON ERVEN 1885 AND 1886, FRANSKRAAL.

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to the Preferred Alternative 2 described in the Basic Assessment Report ("BAR"), received on 11 April 2024.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Starcrow 111 CC
c/o Mr. Nic Fourie
PO Box 1281
KURUMAN
8460
Tel: 053 712 1919
Email: nic@nfgroup.co.za

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activity	Project Description
<p>Listing Notice 1 – Activity Number: 27</p> <p>The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</p> <ul style="list-style-type: none"> (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan. 	<p>The proposed residential development will require the clearance of indigenous vegetation exceeding 1ha in size.</p>
<p>Listing Notice 3 – Activity Number: 12</p> <p>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p> <p>i. Western Cape</p> <ul style="list-style-type: none"> i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004; ii. Within critical biodiversity areas identified in bioregional plans; iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas; iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister. 	<p>The proposed development will result in the clearance of more than 300m² of endangered vegetation.</p>

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

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

The proposal entails a residential development on Erven 1885 and 1886, Franskraal that will consist of 57 residential erven, four private open spaces, a private road and associated bulk engineering services. The proposed development footprint is approximately 2.5ha in extent.

C. SITE DESCRIPTION AND LOCATION

The site where the authorised listed activities will be undertaken comprised of Erven 1885 and 1886, Franskraal, with the following co-ordinates:

Co-ordinates:	Latitude (S)	Longitude (E)
	34° 60' 93.35" South	19° 38' 38.37" East

The SG digit codes are: C01300200000188500000
C01300200000188600000

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

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Lornay Environmental Consulting
c/o Michelle Naylor
PO Box 1990
HERMANUS
7200

Cell: 083 45 6556
Email: michelle@lornay.co.za

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to Preferred Alternative 2 described in the Basic Assessment Report ("BAR"), received on 11 April 2024 on the site as described in Section C above.
2. The holder must commence with, and conclude, the listed activities within the stipulated validity period for which this Environmental Authorisation is granted, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.

This Environmental Authorisation is granted for-

- (a) A period of **five years** from the date of issue, during which period the holder must commence with the authorised listed activities.
 - (b) A period of **ten (10) years**, from the date the holder commenced with the authorised listed activities, during which period the authorised listed activities must be concluded.
3. 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.

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

Written notice to the Competent Authority

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

Conditions: 6, 7 and 10

Notification and administration of appeal

6. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 6.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1 the outcome of the application;
 - 6.1.2 the reasons for the decision as included in Annexure 3;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date when the decision was issued.
 - 6.2 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 G below;
 - 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 6.4 provide the registered I&APs with:
 - 6.4.1 the name of the holder (entity) of this Environmental Authorisation,
 - 6.4.2 name of the responsible person for this Environmental Authorisation,
 - 6.4.3 postal address of the holder,
 - 6.4.4 telephonic and fax details of the holder,
 - 6.4.5 e-mail address, if any, of the holder,
 - 6.4.6 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 2014 National Appeals Regulations.
7. The listed activities, including site preparation, may not commence within 20 (twenty) 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.

Management of activities

8. The Environmental Management Programme ("EMPr") submitted with the final Basic Assessment Report is hereby approved and must be implemented.
9. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

10. The holder must appoint a suitably experienced environmental control officer ("ECO), before commencement of any land clearing or construction activities to ensure compliance with the provisions of the EMPr and the conditions contained herein.
11. The ECO must conduct site visits, and report on compliance with the EMPr to this Department and the relevant authorities, in writing, on a quarterly basis during the construction phase.
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, including a publicly accessible website.
13. Access to the site referred to in Section C above must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

14. In terms of Regulation 34 of the NEMA EIA Regulations, 2014, the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr. The Environmental Audit Report must be prepared by an independent person (other than the appointed Environmental Assessment Practitioner and Environmental Control Officer) and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014.

The holder must undertake an environmental audit and submit an Environmental Audit Report to the Competent Authority once a year during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within three months after all the activities are completed.

The holder must, within 7 days of the submission of each of the above-mentioned reports to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

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 palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts 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.

F. GENERAL MATTERS

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

G. APPEALS

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

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.

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

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

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001
- Note:** For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.
5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. ZAAHIR TOEFY

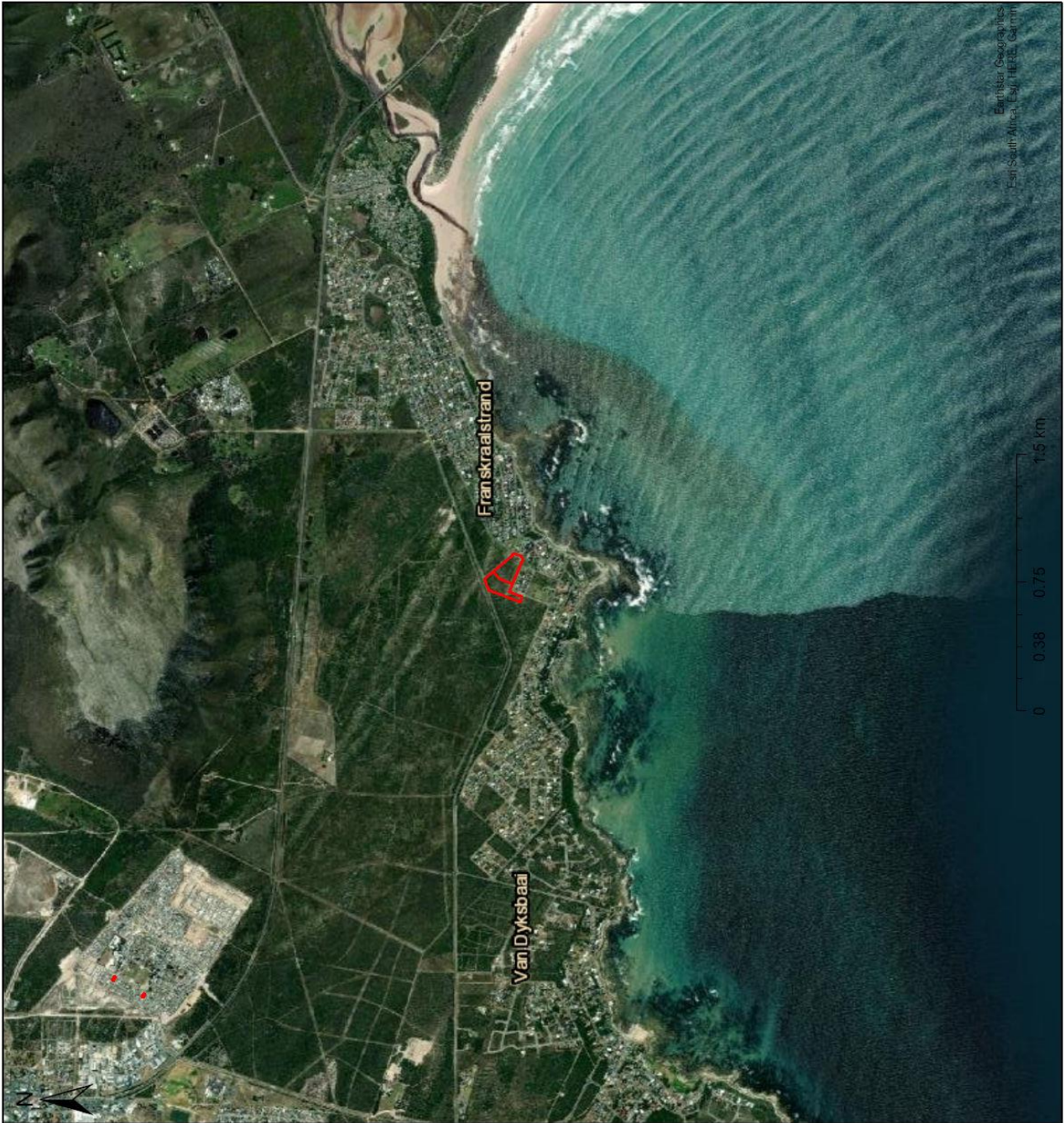
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 25 JULY 2024

CC: (1) Ms. Michelle Naylor (Lornay Environmental Consulting)
(2) Ms. P Aplon (Overstrand Municipality)
(3) Mr. Chester Arendse (Overstrand Municipality)
(4) Mr. Rhett Smart (CapeNature)

Email: michelle@lornay.co.za
Email: paplon@overstrand.gov.za
Email: gbenvironmental@overstrand.gov.za
Email: rsmart@capenature.co.za

**Erf 1885 and 1886
Franskraal**
Legend



Map Center: Lon: 19°23'7.3"E
Lat: 34°36'38.8"S

Scale: 1:36 112

Date created: April 4, 2023



Franskraalstrand

Legend

- Local Municipalities
- Parent Farms

Map Center: Lon: 19°23'16"E
Lat: 34°36'34"S

Scale: 1:2 257

Date created: April 14, 2023

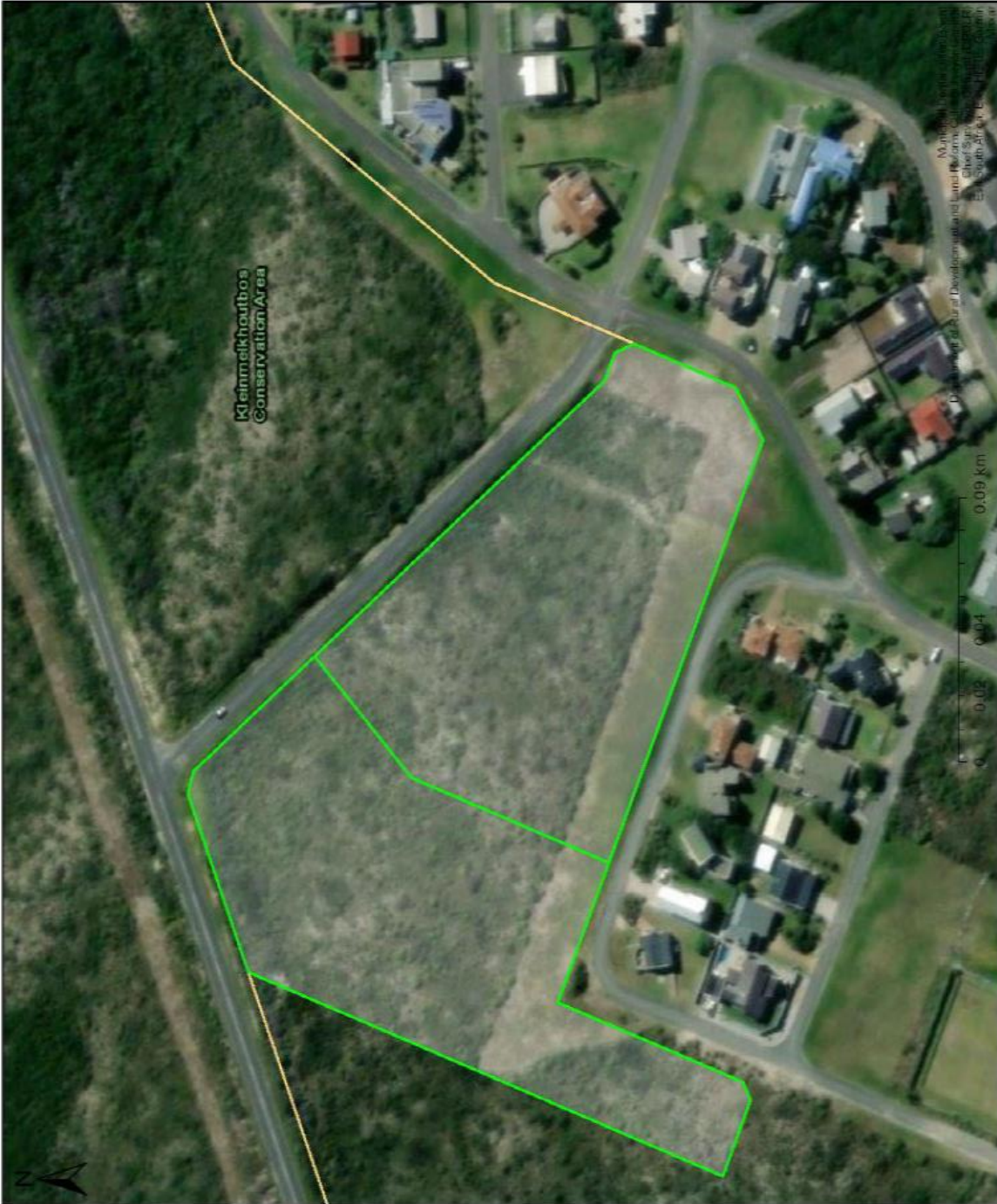
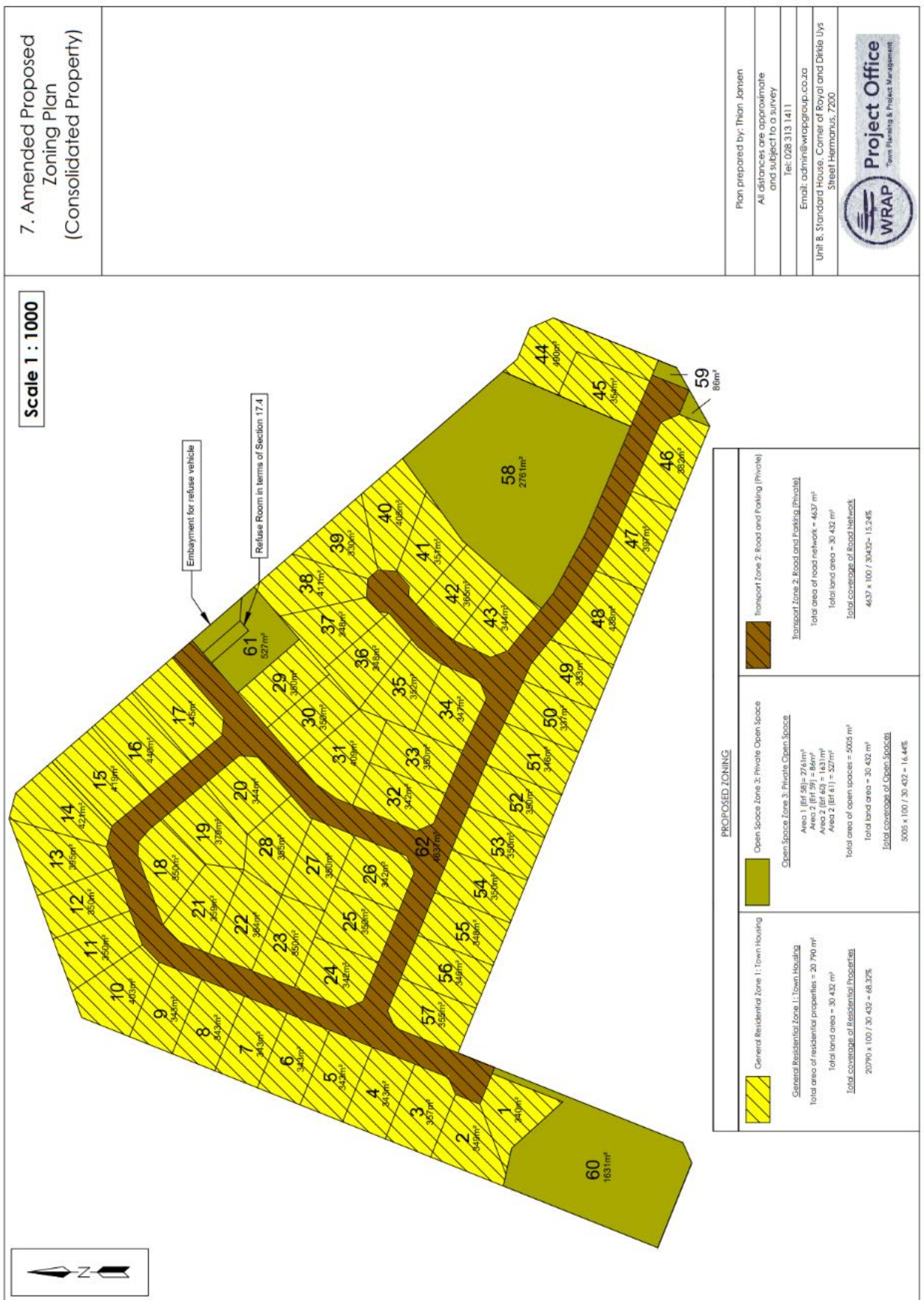


Figure showing the consolidated view of Erf 1885 and 1886, where the consolidation, subdivision and rezoning is proposed for expansion of the Franskraal residential area

ANNEXURE 2: SITE PLAN



ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, inter alia, the following:

- a) The information contained in the Application Form received on 22 January 2024, the EMPr submitted together with the Final Basic Assessment Report, received on 11 April 2024.
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the revised Final Basic Assessment Report received on 11 April 2024;
- e) The balancing of negative and positive impacts and proposed mitigation measures.

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

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

1. Public Participation

The Public Participation Process ("PPP") included:

- identification of and engagement with I&APs;
- placing notice boards at the site where the listed activities are to be undertaken;
- placing of a newspaper advertisement in the Hermanus Times Newspaper on 30 August 2023;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councilor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 30 August 2023;
- circulating the pre-application draft Basic Assessment Report from 30 August 2023 and the in-process draft Basic Assessment Report from 2 February 2024.

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

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

2. Alternatives

Alternative 1:

The alternative entails the development of 59 residential erven, open spaces, and internal roads. This layout was designed to maximize the number of residential erven across the site without considering the potential site constraints. Alternative 1 did not consider specialist input regarding its potential environmental impact and was therefore not preferred.

Alternative 2: (Preferred Alternative herewith authorised):

The preferred alternative entails the residential development on Erven 1885 and 1886, Franskraal which will consist of 57 residential erven, four private open spaces, a private road, and associated bulk engineering services. The proposed development footprint is approximately 2.5ha. A revised development layout was done in response to the botanical specialist input. In the revised layout erven 58 and 60 (private open spaces) incorporate the high sensitivity botanical areas that were identified to ensure its conservation. This was deemed the most viable and feasible option since it incorporates the specialist recommendations.

No-go Option

This alternative represents the status quo, which means that the site will remain vacant and undeveloped. It is not preferred since the site is included in the municipal urban edge and identified for future urban development. Should the no-go alternative be implemented, the opportunity for new housing opportunities, job creation, and the socio-economic benefits associated with the proposed development will be lost.

3. Impact Assessment and Mitigation measures**3.1 Activity needs and desirability**

The sites are located inside the municipal urban edge and are earmarked for urban expansion in the town of Franskraal. The proposed residential development is in line with the objectives of the Overstrand Spatial Development Framework and Integrated Development Plan as it facilitates efficient use of land within the proclaimed municipal urban edge through urban infill development. It will assist in addressing the increasing demand for residential opportunities in the municipal area and contribute to the local and regional economy. The preferred layout was informed by specialist and engineering input and the comments obtained during the public participation process and is deemed the best practicable environmental option for implementation.

3.2 Biophysical Impacts

Based on the findings of the Botanical Impact Assessment, dated 24 October 2023, compiled by Nick Helme Botanical Surveys, the site is mapped to contain endangered Overberg Dune Strandveld vegetation, and at least two plant Species of Conservation Concern ("SCC") were recorded within the development footprint. The botanical sensitivity of the site ranges from medium to high on a local and regional scale. The south-eastern and south-western corners of the site support the majority of the two plant SCC and are consequently of high sensitivity, whilst the remainder is of medium sensitivity at a site scale. The vegetation on site is considered to be in a pristine condition. A revised layout was developed in response to the botanical specialist's recommendations to exclude the high sensitivity botanical areas, due to the presence of two plant SCC. These areas are included in the two private open spaces. In addition, a search and rescue for all *Brunsvigia orientalis* (maartlelie, tolbos) and any other bulbs, as well as succulents such as *Ruschia sarmentosa*, within the development area will be undertaken prior to any site disturbance. Provided that all the recommended mitigation measures are implemented, the overall botanical impact of the proposed development is likely to have an acceptable medium negative botanical impact. The proposed development will therefore be acceptable from a botanical impact perspective.

It was initially recommended that if a biodiversity offset is required, it can take the form of funding for alien vegetation control. However, it was subsequently confirmed that a biodiversity offset is not required.

3.3 Heritage Impacts

According to the Heritage Impact Assessment, dated December 2023, compiled by ARCM, a single weathered, Early Stone Age quartzite chunk was recorded in a wide strip of land / firebreak, alongside

Fouche Street. The archaeological remains have been graded as Not Conservation Worthy ("NCA"). It was concluded that the proposed housing development on Erf No. 1885 and Erf No. 1886 in Franskraal does not pose a significant threat to local archaeological and palaeontological heritage resources. Heritage Western Cape endorsed the specialist findings.

The development will result in both negative and positive impacts:

Negative Impacts:

The development will have an impact on botanical biodiversity, as well as noise, dust nuisance and visual impacts during the construction phase. The impacts will however be mitigated to a satisfactory level with the implementation of and adherence to the EMPr. The botanical impact and potential operational phase impacts will be mitigated to an acceptable level through the implementation of the preferred layout, which has been informed by specialist and engineering input and comments received during the public participation process.

Positive impacts:

- The proposed development will assist in addressing the need for a variety of housing opportunities in the Overstrand municipal area.
- The proposal will have socio-economic benefits and will create temporary and permanent employment opportunities during the construction and operational phases.

4. National Environmental Management Act 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.

5. Conclusion

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 proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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