

PROOF OF PUBLIC PARTICIPATION

Proposed expansion of Rusty Gate Mountain Retreat

November 2024

Updated May 2025

Consultant:

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Lornay Environmental Consulting Pty Ltd | Reg 2015/445417/07

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1. INTRODUCTION

The Public Participation Process was conducted in terms of the Environmental Impact Assessment (EIA) regulations as promulgated in the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA) (as amended) and the 2014 NEMA EIA Regulations promulgated in Government Gazette No. 38282 and Government Notice R983, R984 and R985 on 4 December 2014 (as amended). All potential interested and affected parties (I&APS) and applicable organs of state were notified of the DRAFT / pre-application Basic Assessment Report (BAR). The DRAFT BAR was made available for a 30-day period to I&APS and organs of state, to register and comment. Noticeboards were placed on site and a newspaper advertisement was placed in the local newspaper. All comments were recorded in a comments and response report and a register for I&APS was opened. Once the 30-day public participation on the DRAFT BAR was complete, all comments made were attended to. Additional specialist input was added and the Draft Basic Assessment report was amended according. Due to the addition of new specialist information in report and the evolution of the preferred layout, an additional round of pre-application public participation was provided to all registered I&APS and Organs of State.

This was then completed and the comments received were captured and the FINAL BAR was prepared. The Application for Environmental Authorisation will then be submitted to the Department of Environmental Affairs and Development Planning (DEA&DP), and a final round of public participation will be conducted.

Heritage: A Notice of Intent to Develop was submitted to Heritage Western Cape and in response, HWC requested a HIA with AIA. These have been submitted to Heritage Western Cape and it has been confirmed that no further Heritage Assessment is required.

An additional round of out of process public participation was provided for.

The IN Process BAR will be circulated to all registered I&APS and organs of state for a further 30-day public participation period once the NEMA Application has been submitted. All comments received during this period were recorded and responded to in the Comments and Response Report and Register for I&AP's. This document serves as proof of the public participation carried out in line with Section 41 of the EIA Regulations (2014).

1.2. Summary of public participation and consultation

Below is a sequential timeline of consultation to date:

- a) **November 2022:** Rusty Gate Mountain Retreat appoints Lornay Environmental Consulting and Planactive Town and Regional Planners as EIA and town planning consultants respectively.
- b) **24 April 2023:** Rusty Gate submits Notice of Intent ("NOI") to DEADP.
- c) **4 May 2023:** DEADP notice received with confirmation of receipt for the above mentioned NOI (DEADP Ref: 16/3/3/6/7/1/E4/12/1151/23).
- d) **23 May 2023:** DEADP notice received with comments on NOI and request for additional information.

- e) **24 May 2023:** Rusty Gate submission of additional information in response to DEADP comments of 23 May 2023.
- f) **1 June 2023:** DEADP notice received with comments on additional information provided on 24 May 2023. (*IMPORTANT: This notice included alleged commencement of unlawful activities, which took several months to resolve and proved not to be the case.*)
- g) **12 March 2024:** Rusty Gate submission of pre-application draft Basic Assessment Report ("BAR") to DEADP
- h) **Public Participation Round 1**
 - i. **30 days**
 - ii. **All possible I&APs and Ogans of State**
 - iii. **12 March 2024 to 16 April 2024**
- i) **5 April 2024:** DEADP notice received with confirmation of receipt for the pre-application draft BAR.
- j) **15 April 2024:** DEADP comments on the pre-application draft BAR.
- k) **16 April 2024:** Cape Nature ("CN") comments on the pre-application draft BAR.
- l) **16 April 2024:** End of first public participation process ("PPP1") for comments from affected parties and stakeholders.
- m) **Cape Nature meeting 1 – 11 June 2024**
 - i. **11 June 2024:** Post PPP1 meeting with Cape Nature.
 - ii. Present – R. Smart (Cape Nature), J. Mc Lachlan (Plan Active), B. Fourie (Applicant), M. Naylor (EAP).
- n) **Cape Nature site visit and meeting 2 – 2 July 2024**
- o) **2 July 2024:** Site visit at Rusty Gate with CN
- p) Present – O. Mabi (Cape Nature), R. Smart (Cape Nature), J. Mc Lachlan (Plan Active), B. Fourie (Applicant), M. Naylor (EAP)
- q) **16 July 2024: DOA Comment of first round of PPP** (Letter dated 12 July 2024)
- r) **Between 17 and 28 July 2024:** Telephonic correspondence with Cor van der Walt of DOA from John McLachlan of Rusty Gate to obtain clarification on the DOA notice of 12 July 2024, and in particular what specific issues DOA has with Rusty Gate's application as this was not made clear in DOA notice.
- s) **29 July 2024:** E-mail correspondence from Rusty Gate to DOA for provisional confirmation of site meeting on 13 August 2024.
- t) **12 August 2024:** E-mail correspondence from DOA to Rusty Gate informing that they will not attend the proposed site meeting on 13 August 2024, but will have a meeting with relevant stakeholders.
- u) **16 August 2024:** E-mail correspondence from Rusty Gate to DOA request feedback from the stakeholder meeting referred to above.
- v) **20 August 2024:** E-mail correspondence from DOA to Rusty Gate to set up an authorities meeting
- w) **21 August 2024:** E-mail correspondence from DOA to Rusty Gate with comments
- x) **21 August to 6 September 2024:** Several email correspondence from Rusty Gate with DOA, DEADP, CN and TWK to find a suitable date and confirm availability of all delegates
- y) **Site meeting**
 - i. **16 September 2024:** Site meeting at Rusty Gate with delegates from Rusty Gate, DOA, DEADP, CN and TWK.
 - ii. Present – M. Oosthuizen (DEADP), M. Schippers (DEADP), B. Osbourne (DEADP), C. Charles (TWK), K. Thomas (TWK), C. van der Walt (DOA), F. Mohammed (DOA), C.

Claasen (Cape Nature), J. Mc Lachlan (Plan Active), B. Fourie (Applicant), M. Naylor (EAP).

- z) **27 September 2024:** Correspondence from Rusty Gate to DOA requesting urgent feedback and comments on pre-application BAR post the site meeting of 16 September 2024.
- aa) **4 October 2024:** Follow up correspondence from Rusty Gate to DOA pertaining request for information on 27 September 2024
- bb) **10 October 2024:** DEADP notice received with consolidated DOA and DEADP comments post site visit on 16 September 2024.
- cc) **21 October 2024:** DOA notice received in response to correspondence of 27 September 2024 and 4 October 2024.
- dd) **21 October 2024:** Rusty Gate correspondence to DEADP and DOA to acknowledge receipt of notices received on 10 October 2024.
- ee) **Mid October 2024 to mid November 2024:** Rusty Gate prepares amended pre-application BAR in response to feedback and comments from DEADP, DOA and CN correspondence and meetings post PPP1
- ff) **Public participation round 2 on amended Pre-application BAR**
 - i. 30 days
 - ii. All registered I&APs and Organs of state
 - iii. **13 November 2024 to 13 December 2024**
- gg) **21 November 2024:** DEADP notice received with confirmation of receipt for the amended pre-application BAR.
- hh) **12 December 2024:** DEADP telephonic request to Lornay for extension of PPP2 closing date to **31 January 2025**, and granting of extension as requested.
- ii) **31 January 2025:** PPP2 closing date and DEADP comments on the amended pre-application BAR / PPP 2 received
- jj) **17 February 2025:** CN notice received with their comments on the amended pre-application BAR / PPP 2
- kk) **26 February 2025:** Rusty Gate meeting (including consultants) to discuss DEADP and CN comments, no response from DOA to date and road ahead, including:
 - Rusty Gate Mountain Retreat wants a meeting with DEADP, DOA and CN clarify a way forward following respondents' comments on PPP2, which includes non-specific and incorrect feedback.
 - Rusty Gate Mountain Retreat requires presence of senior DEADP official at the above meeting, and Lornay recommended we extend invitation to Mr Zaahir Toefy.
 - Reminder to DOA of PPP2 closing date and requesting urgent response with comments on amended pre-application BAR.
- ll) **28 February 2025:** DOA notice received with their comments on the amended pre-application BAR.
- mm) **In process public participation: 15/05/2025 to 19/06/2025**

2. LIST OF INTERESTED AND AFFECTED PARTIES AND ORGANS OF STATE

In line with the requirements of NEMA, all potential Interested and Affected Parties (I&APS) were notified of the project and provided with an opportunity to comment. This included applicable organs of state. See list of I&APs identified for the project:

PRE-APPLICATION PUBLIC PARTICIPATION	
WC Government Env Affairs & Dev Planning Development Management Bernadette Osbourne Registry Office 1st Floor, Utilitas Building 1 Dorp Street 8001	Overberg District Municipality F. Kotze / R. Volschenk Private Bag x 22 Bredasdorp 7280 F. Kotze
Cape Nature Rhett Smart rsmart@capenature.co.za	Theewaterskloof Municipality TWK Town Planner joanvi@twk.gov.za twkmun@twk.gov.za
BOCMA R. Le Roux Private Bag x3055 Worcester 6850 023 346 8000 info@bocma.co.za	Department of Agriculture Elsenburg Cor vd Walt / B. Layman Brandon.Layman@westerncape.gov.za 2 nd Floor, Main Building, Muldersvlei Road Telephone: +27 21 808 5093
Heritage Western Cape Stephanie Barnardt Protea Assurance Building Green Market Square Cape Town 8001 021 483 9689	Ratepayers - S.Cronje stiffiecronje@gmail.com
Whale Coast Conservation wcc@ocf.org.za	Ward 2 Councillor - C. Cloete cloetect@gmail.com
	Ward 5 - M. Botes michellebotes8@gmail.com
	Greyton Conservation Society Alastair Nelson greytonconservation@gmail.com
IAPS	
RE/780 – Department of Public works lwandile.Lubuzo@dpw.gov.za	

Farm 825 Capespan Agri PTY Ltd
chantelhess@capespanfarms.co.za

Re/64
Private Bag X9027,
Cape Town
8000

833
Japie Groenewald Trust
PO Box 63
Riviersonderend
7250

Re18/59 - – Uitvlugt Boerdery
denalenee@karsten.co.za

Re13/59–Uitvlugt Boerdery
denalenee@karsten.co.za

3. WRITTEN NOTICE TO I&APS AND ORGANS OF STATE OF DRAFT BAR:

The possible I&AP's identified above, as well as all Applicable Organs of State, were given written notice of the proposed development, via registered mail or courier, as appropriate. This was conducted during the first round of out of process public participation. The written notice included details of the applicable legislation, the proposed activity and instruction to the I&AP on how to access the information, provide comment or register as I&AP.

See written notice below provided during the first round of PPP:



13 March 2024

DEA&DP Ref. No. 16/3/3/6/7/1/E4/12/1151/23
Lornay Ref. No.: RG1

**NOTICE OF PUBLIC PARTICIPATION FOR A BASIC ASSESSMENT PROCESS:
PROPOSED EXPANSION OF TOURISM OVERNIGHT AND ASSOCIATED ACTIVITIES
RUSTY GATE MOUNTAIN RETREAT, CALEDON RD**

Notice is hereby given of a Public Participation Process in terms of the Environmental Impact Assessment (EIA) regulations as promulgated in the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA) (as amended) and the 2014 NEMA EIA Regulations promulgated in Government Gazette No. 38282 and Government Notice R983, R984 and R985 on 4 December 2014 (as amended).

Proposal: Proposed addition of tourism overnight accommodation and camp sites on Rusty Gate Farm
Location: Farm 824, Farm 887 and the Remainder of the Farm 826, Caledon RD
Applicant: Rusty Gate Mountain Retreat

Environmental Authorisation is required in terms of NEMA for the following Listed Activities:

Listing Notice 1

(12) The development of - (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or
(ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs - (a) within a watercourse;
(b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;

Listing Notice 3

(6) The development of resorts, lodges, hotels, and tourism or hospitality facilities that sleeps 15 people or more. i. Western Cape
i. Inside a protected area identified in terms of NEMPAA; ii. Outside urban areas; (aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or (bb) Within 5km from national parks,

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world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve; - excluding the conversion of existing buildings where the development footprint will not be increased.

(12) The clearance of an area of 300 square metres or more of indigenous vegetation i. Western Cape 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

A Basic Assessment Process is applicable. A copy of the Basic Assessment Report is available for download on our website or upon request. Interested and Affected Parties (I&AP's) are hereby invited to register as an Interested and Affected Party (I&AP) and / or comment on the proposed activity on / or before 16 April 2024 via the following contact details:

LORNAY ENVIRONMENTAL CONSULTING

ATT. Michelle Naylor

Tel. 083 245 6556

Email. michelle@lornay.co.za | Website. www.lornay.co.za

Michelle Naylor | Env. Consultant | M.Sc., Pr. Sci. Nat., EAPSA
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4. PROOF OF NOTICE TO I&APS AND ORGANS OF STATE

Written notice was provided to I&APs and Organs of State via registered mail or courier and email, as indicated in the proofs below:

Michelle Naylor

From: Michelle Naylor <michelle@lornay.co.za>
Sent: Tuesday, 12 March 2024 21:39
To: 'Lwandile.Lubuzo@dpw.gov.za'; 'chantelhess@capspanfarms.co.za';
'denalenee@karsten.co.za'
Subject: NEW | Notice of Pre-APP Public Participation | Rusty Gate Mountain Retreat
Attachments: Notice of Draft PPP RG1.pdf

Dear I&AP

DEA&DP REF: 16/3/3/6/7/1/E4/12/1151/23
HWC Ref: HWC23100220SB1003

Please see attached notice of public participation and commenting opportunity for proposed expansion of tourism on Rusty Gate Mountain Retreat.
The documents can be downloaded at the following link: <https://we.tl/t-lqzp4m6GVI> or from our website, or upon request. Documents relating to the NEMA Basic Assessment process as well as the Heritage Application in terms of the NHRA, are available for comment.

Should you have no further comment, please ignore this notice.

Kind regards,



LORNAY
ENVIRONMENTAL CONSULTING

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E michelle@lornay.co.za | W www.lornay.co.za
Reg No. 2015/445417/07

Michelle Naylor

From: Michelle Naylor <michelle@lornay.co.za>
Sent: Tuesday, 12 March 2024 21:36
To: 'Bernadette Osborne'; 'DEADP EIA Admin'; 'Rulien Volschenk'; 'Rhett Smart'; 'johanvi@twk.gov.za'; 'twkmun@twk.gov.za'; 'info@bocma.co.za'; 'Stephanie Barnardt'; 'Rafeeq le Roux'; 'Brandon.Layman@westerncape.gov.za'; 'corvdw@elsenburg.com'
Cc: 'patmiller@telkomsa.net'; 'Sheraine Van Wyk'; 'cloetect@gmail.com'; 'michellebotes8@gmail.com'; 'stiffiecronje@gmail.com'; 'greytonconservation@gmail.com'
Subject: NEW | Notice of Pre-APP Public Participation | Rusty Gate Mountain Retreat
Attachments: Notice of Draft PPP RG1.pdf

Dear I&AP and Organ of State,

DEA&DP REF: 16/3/3/6/7/1/E4/12/1151/23
HWC Ref: HWC23100220SB1003

DEADP B. Osbourne
ODM R. Volschenk
CN R. Smart
TWK
BOCMA
DOA B. Layman
HWC S. Barnardt
WCC P. Miller / S. van Wyk
Ratepayers
Warn Councillor Ward 2 and 5
Greyton Cons. Society

Please see attached notice of public participation and commenting opportunity for proposed expansion of tourism on Rusty Gate Mountain Retreat.

The documents can be downloaded at the following link: <https://we.tl/t-lqzp4m6GVI> or from our website, or upon request. Documents relating to the NEMA Basic Assessment process as well as the Heritage Application in terms of the NHRA, are available for comment.

Should you have no further comment, please ignore this notice.

Kind regards,



LORNAY

ENVIRONMENTAL CONSULTING

Michelle Naylor

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Reg No. 2015/445417/07

michelle@lornay.co.za

From: michelle@lornay.co.za
Sent: Friday, 24 May 2024 14:03
To: 'Catherine.Bill@westerncape.gov.za'
Subject: FW: Rusty Gate Proposed addition of tourism overnight
Attachments: PRE APP BAR Rusty Gate 130324.pdf; APP G2 Ecological IA.pdf; APP G6 Aquatic IA.pdf; Notice of Draft PPP RG1.pdf

Dear Catherine, the email stream below refers – please could you kindly provide an update

Kind regards



LORNAY

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Reg No. 2015/445417/07

From: michelle@lornay.co.za <michelle@lornay.co.za>
Sent: Monday, May 6, 2024 12:48 PM
To: Catherine Bill <Catherine.Bill@westerncape.gov.za>
Subject: Rusty Gate Proposed addition of tourism overnight

Dear Catherine,

We have just completed our first round of PPP on the proposed expansion of the Rusty Gate Mountain Retreat tourism overnight application. The application entails the expansion of the existing tourism overnight offering through the addition of tourism overnight cabins and camping. As part of the application DEADP Landuse has requested that we obtain comment from the Pollution and Chemical Management directorate. Please see attached the draft Basic Assessment for comment as well as the Freshwater Impact Assessment and Botanical report – please could you provide comment asap. To note is that all sewage will be contained in closed conservancy tanks and removed by Boland Toilet hire and transferred to municipal WWTW. Solid waste will also be transferred to municipal site. Please let me know if you need any further information.

Kind regards

5. NEWSPAPER ADVERTISEMENT

An advertisement was placed in the local newspaper, the Hermanus Times, regarding the proposed development:



Hermanus Times SPORT

13 Maart 2024 | Bladsy 8



Rugby in O'berg skop af

**Caledon op 'Anne Level'
teen die span van Grabouw**

Die stadions oor die Overberg heen was die naweek (9 Maart) weer stampvol nadat die liga verlede week begin het.

Tydens die tweede wedstryd van die 2024-liga het spanne wat aan die Gemeenskapskild, Streekuitdaagbeker en die Grootuitdaagbeker deelneem, met hart en siel gespeel om as wenner uit die stryd te tree.

In die wedstryd tussen Grabouw en Caledon (Grootuitdaagbeker) het die span van Caledon gewys wat in hom steek. Nie net het hy voorlans oorheers nie, maar die agterlyn was ook baie giftig en het die bal baie lug gegee.

Grabouw het te veel foute gemaak en kon nie die geleentheid benut wat oor sy pad gekom het nie. Hy het dus op die

ou einde 8-36 in die stof gebly.

Ander uitslae is soos volg:

- **Grootuitdaag:** Genadendal 26-47 Safcol; Riviersonderend 14-25 Hawston; Black Leaves 0-34 Rangers Bredasdorp; Botrivier 23-40 Kleinmond.
- **Streekuitdaagbeker:** Struisbaai 24-18 Atlantics; Napier 9-14 Sea Hawks; Helderstroom 5-57 Universals Stanford; Elim 47-21 Greyton.
- **Gemeenskapskild:** Rangers 24-20 Oak Valley; Standards 52-12 Mortru; Zebras 9-32 Evergreens; Klipdale 12-22 Black Birds.

Die spanne van Grabouw en Caledon het sake op die veld uitgespoek. Caledon was te sterk vir die span van Grabouw en het die wedstryd maklik 36-8 gewen. Foto: Mariette Strydom



NOTICE OF PUBLIC PARTICIPATION FOR A BASIC ASSESSMENT PROCESS ERF 1446, VERMONT DEABDP Ref.: 16/3/3/6/7/1/E2/40/1684/23

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Proposal: Subdivision and rezoning to create single residential erven
Location: Erf 1446, Vermont
Applicant: JP van Gernert Testamentary Trust

Environmental Authorisation is required in terms of NEMA for the following Listed Activities:

Listing Notice 1

The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation

Listing Notice 3

(12) The clearance of an area of 300 square metres or more of indigenous vegetation in Western Cape i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMA 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

A Basic Assessment Process is applicable. A copy of the Basic Assessment Report is available for download on our website or upon request. Interested and Affected Parties (I&AP's) are hereby invited to register as an Interested and Affected Party (I&AP) and / or comment on the proposed activity on / or before 15 April 2024 via the following contact details:



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NOTICE OF PUBLIC PARTICIPATION FOR A BASIC ASSESSMENT PROCESS RUSTY GATE MOUNTAIN RETREAT DEABDP Ref.: 16/3/3/6/7/1/E4/12/1151/23

Notice is hereby given of a Public Participation Process in terms of the Environmental Impact Assessment (EIA) regulations as promulgated in the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA) (as amended) and the 2014 NEMA EIA Regulations promulgated in Government Gazette No. 38282 and Government Notice R983, R984 and R985 on 4 December 2014 (as amended).

Proposal: Proposed addition of tourism overnight accommodation and campsites on Rusty Gate Farm
Location: Farm 824, Farm 887 and the Remainder of the Farm 824, Caledon RD
Applicant: Rusty Gate Mountain Retreat

Environmental Authorisation is required in terms of NEMA for the following Listed Activities:

Listing Notice 1

(12) The development of - (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs - (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;

Listing Notice 3

(6) The development of resorts, lodges, hotels, and tourism or hospitality facilities that sleeps 15 people or more. i. Western Cape i. Inside a protected area identified in terms of NEMA; ii. Outside urban areas; (a) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or (b) Within 5km from national parks, world heritage sites, areas identified in terms of NEMA or from the core area of a biosphere reserve; - excluding the conversion of existing buildings where the development footprint will not be increased.

(12) The clearance of an area of 300 square metres or more of indigenous vegetation i. Western Cape i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMA 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

A Basic Assessment Process is applicable. A copy of the Basic Assessment Report is available for download on our website or upon request. Interested and Affected Parties (I&AP's) are hereby invited to register as an Interested and Affected Party (I&AP) and / or comment on the proposed activity on / or before 15 April 2024 via the following contact details:



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Car Care Clinic
HERMANUS Service Centre

1+1=3
GET YOUR 3RD
SERVICE ON US!
FRIENDS/FAMILY/FLEET

GET READY FOR SUMMER
AIRCON REGAS R350

93 Adam road, New Industrial area 021 035 0338

5KVA DEYE INVERTER
5KWH LIFEPO4 LITHIUM
INCLUDES *INSTALLATION & COC
*Installation 1m from DB box, no splitting of DB box included

R 49 995

ECO VOLT 900W INCL
200AH TUBULAR BATTERY
LUMINOUS R 8 500

PLUG & PLAY INVERTERS
18MONTH WARRANTY ON INVERTERS
24MONTH WARRANTY BATTERIES
NO INSTALLATION NEEDED
80% DISCHARGE 1800+ LIFE CYCLES
PURE SINE WAVE
TRANSFORMER BASED

072 703 7132
TBG
ENERGY & SECURITY

6. NOTICEBOARDS

Noticeboards were placed on site, as required in terms of the legislation:



7. COMMENTS AND RESPONSE REPORT AND REGISTER FOR I&APS

A Register for I&AP's was opened during the first round of public participation, to record all I&APs which wished to be registered as such. The Register includes contact details, date and comment made.

A Comments and Response report was also opened at the onset of the public participation. This report contains the comment made by the I&AP, as well as formal response by the Environmental Assessment Practitioner (EAP).



COMMENTS AND RESPONSE REPORT			
PROJECT: Rusty Gate Mountain Retreat			
DRAFT BAR / PRE-APPLICATION ROUND 1 13 March 2024 to 16 April 2024			
NAME:	COMMENT:	RESPONSE:	DATE & REF:
Johan Viljoen Theewaterskloof Municipality	Email dated 13/03/2024 TWK wish to registered as I&AP	Noted, no further action required	-
Whale Coast Conservation Pat Miller	Email dated 15/03/2024 Request to be registered as I&AP	Noted, no further action required	-
DEADP Bernadette Osbourne	Email dated 15/04/2024 Dear Sir COMMENT ON THE PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT ("BAR") IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE 2014 ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONS FOR OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON. 1. The electronic copy of the pre-application Draft BAR received by the Department on 12 March 2024, this Department's acknowledgement thereof issued on 5 April		

	<p>2024, refer.</p> <p>2. Following the review of the information submitted to this Department, the following is noted:</p> <ul style="list-style-type: none"> ➤ The proposal entails the expansion of existing lawful tourism facility on Portions of Farm No's 824, 826 and 887, Greyton. ➤ The proposed development will have a development footprint of 3156.5m² and will accommodate a total of 92 people. ➤ Watercourses are present on the site. ➤ The site is mapped to contain Western Coastal Shale Band vegetation which is classified as an endangered ecosystem and South Sonderend Sandstone Fynbos vegetation, which is classified as a critically endangered ecosystem. ➤ The site is partially located within the Riviersonderend Mountain Catchment Area, which is a protected area. ➤ The site is zoned Agriculture and is located outside the urban area of Greyton. <p>3. This Department's comments are as follows:</p> <p>3.1 Listed Activities</p> <ul style="list-style-type: none"> • Adequate detail for the applicability of Activity 12 of Listing Notice 1 was not provided. It was indicated that the development may be located within 32m of the watercourses present on the site but that all the new infrastructure will not be located within 32m of the watercourses. Furthermore, page 70 of the draft BAR refers to buffer areas of 20m that must be implemented for the watercourse. Clarity must be provided which units will be located within 32m of a watercourse. 	<p>3.1. This listed activity was included for a variety of reasons:</p> <ol style="list-style-type: none"> 1. For the purposes of assessment of Alternative 1. Alternative 2 (Preferred) evolved in response to input from the Freshwater specialist and wetland delineation. The freshwater specialist assessed the first alternative and the 2nd alternative evolved in response to their input and the onsite wetland delineation. 2. Initial planning of the development resulted in the setting back of the units by a distance of at least 32 m from the online SANBI mapped drainage lines. EnviroSwift was then appointed to assess the proposal and ground truth the location of the units relative to the SANBI BGIS data. The findings of this study then resulted in some units being relocated to ensure that at least a 20 m set-back is achieved from any verified wetlands. This exceeds the guideline for the recommended minimum buffer for low impact residential use which would be 10m and 15m which is the recommended worse case buffer width for residential use. These set-backs play a major mitigatory role in minimising the significance of the potential impacts on the site's aquatic ecosystems, as reflected in the without mitigation rating of all impacts being Low (-ve) at 	
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	<ul style="list-style-type: none"> It is noted that Activity 27 of Listing Notice 1 will be applied for, however, the proposed development will have a footprint of approximately 3156.5m². The applicability of Activities 12 and 27 of Listing Notice 1 must be confirmed. It is indicated that minor extensions to the existing access road may be required to access some of the remote eco-cabins and pods. If any of the extension require roads wider than 4m, Activity 4 of Listing Notice 3 may also be applicable to the proposed development. If applicable, it must be included and assessed as part of the application. Please provide the development footprint of the new extensions to the existing roads. <p>3.4 Site Development Plan</p> <ul style="list-style-type: none"> It was indicated that the proposed parking area included as block 23 does not require approval. Please indicate why the parking area does not require approval and if it will require the clearance of indigenous vegetation. The proposed amphitheatre and occasional camping site included as blocks 9 and 10 was not included and addressed as part of the application. Please clarify. The buffer areas of 32m from any mapped drainage line and 20m from any wetland must also be included in the Site Development Plan. 	<p>worst.</p> <p>As a result of the above, the listed activity must be included in the authorisation process.</p> <p>Activity 27, Listing Notice 1, is NOT applicable and has been removed from the application. The new footprint does not exceed 1 ha.</p> <p>The extension of the roads is as a result of the wetland delineation and as requested by the botanist, to avoid sensitive botanical sites. The first layout alternative did not include these minor extensions. However, these road extensions do not trigger any listed activities and will not be wider than 4m. they are a maximum of 300 m in total length and will be informal, jeep type access roads. LN 3, Activity 4 is therefore not applicable.</p> <p>New dirt access roads are only required for sites 27 (new road length 92 m), 3a (124 m), 3b (48 m) as indicated in Figures 15 and 20 respectively of the Freshwater IA. All other sites are currently accessible via existing roads and infrastructure and do not require upgrading.</p> <p>3.4 Site Development Plan</p> <ol style="list-style-type: none"> Block 23 has been used historically as an informal, brush cut parking area for occasional events only – these events are usually only once or twice per year and are designated as the parking area for such circumstances (i.e mountain bike races or music festivals). No change to this area is required and no Environmental Authorisation is required. It is designated as parking to fulfil the land use application parking requirements only. No vegetation clearance will take place and the only action that happens at the time of an event, is that the area is brush cut to allow for vehicular access. It is not a formal parking area. This area was previously used for livestock grazing camps. The amphitheatre is also already used and was historically used as such, the site is completely transformed lawned area, therefore no vegetation clearance is required for this area. The area is brush cut only. No vegetation clearance or heavy machinery is used. Updated on final SDP 	
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	<ul style="list-style-type: none"> A clear distinction must be provided in the Site Development Plan between the existing structures and the new structures <p>3.5 Services</p> <ul style="list-style-type: none"> It is indicated that rainwater will be harvested for water supply provision to the proposed development. How will it be ensured that rainwater will be harvested to service the proposed development, as required? What alternative measures will be put in place if the water supply is not adequate? It is further noted that existing water use right are available for the farm. Please note that proof of the existing water use rights (a copy of the water use license) must be included in the BAR. Clarity is required as to how much water is currently being used by the facility and what the new water requirements will be as a result of the expansion of the facility. It is indicated that conservancy tanks will be installed for effluent management and that sewerage will be transported by a private contractor to a municipal sewerage works. Written confirmation is required from the local authority that they have sufficient capacity to treat effluent. In addition to the above, confirmation is required from a registered service provider that they have capacity to regularly empty the conservancy tanks. 	<p>3.5 Services</p> <p>1. Harvesting calculations have been undertaken by the applicant. In the extreme event that sufficient water is not available via rainwater harvesting, water will be carted to each site by the operator. The water rights for the property are in order and included under Appendix J.</p> <p>2. A copy of the confirmation of water rights is attached under Appendix J. The water rights for the farm are lawful. Minor amendments have been requested by BOCMA to include reference to the new proposed development on the existing rights. This is an administrative change and will be undertaken upon EA.</p> <p>3. The proposed new development will use harvested rainwater from rainwater tanks at each new unit. In the event that rainwater is not enough, then water will be carted to each site from the other approved sources on site. As per Appendix J, the water rights for the properties are legal and confirmed as follows:</p> <ul style="list-style-type: none"> - 12 000 m³ / yr from River or stream - 115 380 m³ / yr from stream / kloof / runoff - 100 000 m³ / yr Dam – Elandskloof River - 16 000 m³ / yr Dam D2 - 108 000 m³ / yr Dam Boskloof-se-Nek <p>See the breakdown of water use on the farm below.</p> <p>An Application for General Authorisation for 40 000m³ per annum is currently underway with BOCMA</p> <p>4. Boland Toilet hire currently services the site and have provided a confirmation letter that they have capacity to service the additional proposed development – See Appendix G7</p> <p>Theewaterskloof Municipality has confirmed that they have sufficient capacity at the WWTW to receive the waste from Boland Toilet Hire. They have also confirmed sufficient capacity at the municipal solid waste transfer</p>	
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	<ul style="list-style-type: none"> • The capacity of the proposed conservancy tanks must also be provided. • The BAR does not indicate how solid waste will be managed. If waste will be taken to a municipal landfill site, written confirmation is required from the local authority that sufficient capacity is available for solid waste management. <p>3.6 Please provide a motivation as to why the No-go alternative was not preferred</p> <p>3.7 Comment from the Breede-Olifants Catchment Management Agency ("BOCMA") Agency must be provided that the proposed activities fall within the ambit of a General Authorisation or Water Use License.</p> <p>3.8 Comments from the following Organs of State must be obtained and included in the BAR:</p> <ul style="list-style-type: none"> • CapeNature; ✓ 	<p>station.</p> <p>4. 5000 l tanks are included in the design</p> <p>4. The solid waste will be collected from each unit by the operator and taken to their onsite collection area, from the onsite collection area the waste will be loaded by the operator and transferred to the nearest municipal solid waste disposal site. Confirmation from Municipality attached under Appendix G8 and G9 of the BAR.</p> <p>3.6. The no go alternative is not the preferred option. The properties amount to approximately 260 ha in total, with the majority of this being untouched and undeveloped but requiring constant fire management, alien and vegetation management and general maintenance. The landowner needs to generate income in order to earn a livelihood and cover the management costs of the properties. His three properties are large and require intensive and full time management. Extensive alien clearing, land management and fire fighting measures have been implemented on these farms and in order to continue the management, funds need to be generated to do so. The proposal is small scale relative to the size of the properties. The additional tourism development is small scale (3000m2) relative to the remaining site and unlocks opportunities for collaboration with the neighbouring landowner -Cape Nature through eco-tourism and conservation management of the larger area. The existing tourism activities on site provide for clustered overnight opportunities which are more suited to large groups as they offer no privacy from adjacent neighbours. Through operations on the farm, the need for isolated and remote eco-type offerings have been identified. The farm is unique in that it allows for development of such a proposal by using existing roads and internal access routes on the farms.</p> <p>3.7. A freshwater specialist was appointed to attend to these requirements. The overall risk rating by the freshwater specialist was concluded to be LOW and therefore a General Authorisation will be applicable as a condition of approval. Comment from BOCMA attached below. No further matters are outstanding in terms of the National Water Act / BOCMA.</p> <p>3.8. All the listed organs of state were notified of the commenting</p>	
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	<ul style="list-style-type: none"> • Department of Agriculture; ✓ • Breede-Olifants Catchment Management Agency; ✓ • Heritage Western Cape; ✓ • This Department's Directorate: Pollution and Chemical Management; x • Theewaterskloof Municipality. ✓ <p>3.9 The Public Participation Process must comply with the approved Public Participation Plan and the requirements of Regulation 41 of the NEMA EIA Regulations, 2014, and proof of compliance with all the steps undertaken must be included in the BAR.</p> <p>3.10 A comprehensive Comments and Response Report that includes all the comments received and the responses thereto must be included in the BAR. In addition, please ensure that copies of all the comments received are attached to the BAR.</p> <p>3.11 Please be advised that a signed and dated applicant declaration is required to be submitted with the final BAR to this Department for decision-making. It is important to note that by signing this declaration, the applicant is confirming that they are aware and have taken cognisance of the contents of the report submitted for decision-making. Furthermore, through signing this declaration, the applicant is making a commitment that they are both willing and able to implement the necessary mitigation, management and monitoring measures recommended within the report with respect to this application.</p> <p>3.12 In addition to the above, please ensure that signed and dated Environmental Assessment Practitioner ("EAP") and Specialist declarations is also submitted with the final BAR for decision-making.</p> <p>Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the</p>	<p>opportunity, except Pollution and Chemicals Management – note that this was not a organ of state indicated in the pre-application NOI or subsequent DEA&DP response, however, they have been notified of the commenting opportunity and provided with the relevant information twice and no response has been received. Proof attached under Appendix F. The are included in the IAP list on the additional PPP.</p> <p>3.9. noted</p> <p>3.10 noted</p> <p>3.11. noted</p> <p>3.12. Noted</p>	
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	<p>above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>This Department reserves the right to revise or withdraw any comments or request further information from you based on any information received.</p>		
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Calculation of estimated potable water usage at Rusty Gate Mountain Retreat					
Input Parameters					
Model for	Worst Case				
<u>Water Usage (Liters/Capita/Day)</u>					
Day Workers	20				
Nominal	130				
Worst Case	190				
<u>Guest Occupancy</u>					
	Current	Future			
Midweek	10%	30%			
Weekends	90%	90%			
	Pax (Current)	Days (Current)	Pax (Future)	Days (Future)	
Permanent Residents	8	365	8	365	
Day Workers	12	250	20	250	
Guests - Midweek	42	26	128	78	
Guests - Weekend	42	94	128	94	
Calculated Potable Water Consumed per Annum					
	Current	Future			
Permanent Residents	554 800	554 800	Liters		
Day Workers	60 000	100 000	Liters		
Guests - Midweek	207 480	1 896 960	Liters		
Guests - Weekend	750 120	2 286 080	Liters		

	1 572 400	4 837 840	Liters
	1 572,40	4 837,84	m^3
Calculation of estimated sewerage disposal at Rusty Gate Mountain Retreat			
Input Parameters			
<u>New Accommodation Capacity</u>			
Unit Type	Unit QTY	Pax/Unit	Max Pax
Camping	6	4	24
Eco Cabin	12	4	48
Eco Pod	5	2	10
Residence	1	4	4
			86
<u>Water Usage (Liters/Capita/Day)</u>			
Consumption	3	2%	
Kitchen	30	16%	
Shower	100	53%	
Toilet	40	21%	
Other	17	9%	
	190		
<u>Guest Occupancy</u>			
Midweek	10%		
Weekends	90%		
	Days (max)	Pax (Future)	
Permanent Residents	365	4	
Guests - Midweek	26	82	
Guests - Weekend	94	82	
Calculated Sewerage Volume			
	Grey Water	Black Water	Total
Permanent Residents	189 800	58 400	248 200
Guests - Midweek	277 160	85 280	362 440
			Liters/Annu m
			Liters/Annu

<table> <tr> <td rowspan="5">Guests - Weekend</td><td>1 002 040</td><td>308 320</td><td>1 310 360</td><td>m</td></tr> <tr> <td>1 469 000</td><td>452 000</td><td>1 921 000</td><td>Liters/Annum</td></tr> <tr> <td>1 469,0</td><td>452,0</td><td>1 921,0</td><td>m</td></tr> <tr> <td>122,4</td><td>37,7</td><td>160,1</td><td>Liters/Annum</td></tr> <tr> <td>28,3</td><td>8,7</td><td>36,9</td><td>m</td></tr> </table>					Guests - Weekend	1 002 040	308 320	1 310 360	m	1 469 000	452 000	1 921 000	Liters/Annum	1 469,0	452,0	1 921,0	m	122,4	37,7	160,1	Liters/Annum	28,3	8,7	36,9	m
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Cape Nature Rhett Smart	<p>Email dated 17/04/2024</p> <p>Pre-Application Basic Assessment Report for the Proposed Expansion of the Rusty Gate Mountain Retreat Resort, Farm 824, Remainder of Farm 826 and Farm 887, Helderstroom</p> <p>CapeNature would like to thank you for the opportunity to comment on the proposed development and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the proposed development.</p> <p>Desktop Information</p> <p>The western half of Farm 824, Farm 887 and the northern section of Farm 826 are located within the Riviersonderend Mountain Catchment Area (MCA) and are therefore mapped as Protected Area in the Western Cape Biodiversity Spatial Plan (WCBSP). There is Critical Biodiversity Area 1 (CBA) and Ecological Support Area 1 (ESA) in the eastern half of the remainder of Farm 826. The eastern half of Farm 824 and western half of Farm 826 are classified as No Natural apart from ESA 2 along the watercourses. The property is bounded to the north and the south by the Riviersonderend Nature Reserve managed by CapeNature which forms part of the Cape Floral Region Protected Areas World Heritage Site.</p> <p>The vegetation occurring on site is mapped as South Sonderend Sandstone Fynbos, listed as critically endangered and a band of Western Coastal Shale Band Vegetation listed as endangered. There is a seep wetland associated with the primary non-perennial river traversing Farm 826 and an unchanneled valley bottom wetland associated with the Elandskloof River traversing Farm 887 according to the</p>																								

	<p>National Wetland Map (NWM). In addition, there are several other non-perennial rivers mapped across the properties. The property is located within the Boland Surface Water Strategic Water Source Area (SWSA) and the Southwestern Cape Ranges Groundwater SWSA.</p> <p>The proposed development consists of an expansion of the existing tourism accommodation and recreational facilities, with several cabins/eco-pods scattered throughout the property and recreational facilities in the vicinity of the existing facilities. Confirmation is provided that there was an investigation whether any National Environmental Management Act (NEMA) listed activities triggered prior to application, which concluded that there were no transgressions.</p> <p>Screening Tool and Site Sensitivity Verification Although the Pre-Application Basic Assessment Report (BAR) indicates that the screening tool and site sensitivity verification report have been completed as Appendices I1 and I2, these are not available for download. The results from the screening tool as downloaded by CapeNature indicate that the sensitivity for terrestrial biodiversity and aquatic biodiversity is very high, for animal species is high and for plant species is medium.</p> <p>Section C6: Protocols of the BAR discusses the specialist studies undertaken in relation to the outcomes from the screening tool. It states that the terrestrial biodiversity theme is attended to in the botanical/ecological impact assessment but does not refer to specialist assessments for the aquatic biodiversity, animal species and plant species themes. It is however noted that the plant species theme is addressed in the botanical assessment and the aquatic biodiversity theme is addressed in the freshwater ecological assessment.</p> <p>For the animal species theme, it states that only very limited areas on the property will be developed and the open space retained. We wish to note that the Species Protocols (GN 1150, 30 October 2020) states "1.4 Where the information gathered from the site sensitivity verification differs from the screening tool designation of "very high" or "high", for terrestrial animal species sensitivity and it is found to be of a "low" sensitivity, then a Terrestrial Animal Species Compliance Statement must be submitted." Therefore, as a minimum, a terrestrial animal species compliance statement should be submitted in accordance with the protocols, dependent on the outcome of the site sensitivity verification.</p> <p>The site sensitivity verification should discuss the potential impact on the species flagged as high sensitivity namely the striped flufftail (<i>Sarothrura affinis</i>), with three</p>	<p>The total footprint of the expansion is approx. 3000m²</p> <p>Screening Tool and SSV The updated Screening Tool and SSVR are attached under Appendix I.</p> <p>Section C6. Protocols - Amended as per comment</p> <p>Animal species theme – Prof Jan Venter from Wildlife Conservation Decision Support was appointed to attend to the Animal Species theme, with specific reference to the species highlighted by Cape Nature. See Report attached under Appendix G. A minor amendment to the proposed location of the campsite was recommended and is now reflected in the Final Preferred layout alternative. The report made specific comments to species highlighted by Cape Nature and the Screening Tool.</p>	
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	<p>bird species and three invertebrate species flagged as medium sensitivity.</p> <p>We further wish to note that there are two recently described amphibian species which are found within the adjacent Riviersonderend Nature Reserve namely <i>Capensibufo magistratus</i> and <i>Arthroleptella atermina</i> and which may be species of conservation concern once the threat status level is assessed and may be located on the property in suitable habitat (CapeNature 2021). The faunal study must also take into account the Species Environmental Assessment Guideline (SANBI 2020).</p> <p>Botanical Assessment</p> <p>The WCBSF is reflected in the botanical assessment, however the Protected Area (MCA) has been reflected as unmapped and hence assumed to not be of conservation importance, which should be corrected. The protected area status should also be taken into account in the assessment.</p> <p>The vegetation mapping is largely supported however the shale soils are reported to be more extensive than in the National Vegetation Map. The vegetation on site is considered to be senescent having not burnt for more than 15 years. In this regard, we wish to note that due to the location adjacent to the Riviersonderend Nature Reserve, CapeNature has records of the fire history of the property. In this regard, according to our records, the western half of Farm 824 last burnt in 2011 (and 1997 prior to that) and the remainder of the property excluding the central development area (which does not have any records of fire) last burnt in 2012 (and 1973 prior to that). This means that the veld age is between 13 and 14 years old. We further wish to note that CapeNature has a permanent protea plot adjacent to the property which is used for monitoring the flowering of selected serotinous protea species after fire in order to evaluate the impact of the fire regime on regeneration.</p> <p>Each of the proposed development footprints were assessed with regards to the loss of habitat. The sensitivity ratings were for the revised footprints as advised in the botanical assessment. Most of the footprints were evaluated to be of medium sensitivity with low sensitivity in the previously disturbed areas. Footprint 7 was relocated from a high sensitivity to medium sensitivity location. Footprint 31 in the south-eastern corner was moved from a high sensitivity location, however the revised location is still rated as high sensitivity and contains three plant species of</p>	<p>Botanical Assessment <i>Response provided by the Terrestrial specialist – Nick Helme:</i></p> <p>Added to the report – the areas which fall on private land are managed by the landowner (applicant) herein. The proposed activities are considered to be in line with the provisions of a protected area – i.e low key, eco-tourism, low impact design.</p> <p>The central areas are senescent – as they have not burnt in more than 15yrs, veld age elsewhere is as CN noted.</p> <p>This refers to the original findings prior to the evolution of the preferred alternative. The conclusion as per the report is as follows:</p> <p>CONCLUSIONS AND RECOMMENDATIONS</p> <ul style="list-style-type: none"> <i>The vegetation in the various sites ranges from heavily disturbed to pristine, and is mostly South Sonderend Sandstone Fynbos (Critically Endangered), although some sites are located within Western Coastal Shaleband Vegetation (Endangered). Four different plant SOCC were recorded within two of the footprints (one in sites 24 & 25, and three in site 31).</i> 	
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	<p>conservation concern (SCCs). Two of the medium sensitivity footprints had an SCC present which was near threatened.</p> <p>As the descriptions of the vegetation focus on the individual footprints which only constitute a very small proportion of the site, the overall site sensitivity mapping is not provided. Historical Google Earth imagery indicates that a large proportion of the site was previously under agriculture, which is also described in the BAR and is likely the reason for the classification of No Natural. However, the recovery of indigenous vegetation has been relatively good, particularly in the western sections (also observed by CapeNature on site) and should currently be considered as indigenous vegetation. The historical Google Earth imagery also provides an indication of the extent of historical disturbance, and it is noted that many of the proposed units are located in the sections which were not disturbed.</p> <p>The assessment of the impacts for the construction phase before and after mitigation for the initial layout is rated as medium negative and for the revised layout is low-medium. For the operational phase, the most important indirect impact is the impact on the optimal fire regime within the vicinity of the infrastructure due to fire suppression. The impact is rated as medium negative significance. The potential introduction of alien invasive Argentine ant within the vicinity of new units is also rated as medium negative significance. The impact of alien invasive species is rated as low negative before mitigation and low positive</p>	<ul style="list-style-type: none"> • <i>The majority of the proposed sites are in areas of Low and Medium botanical sensitivity area, and pose no constraints to the proposed development.</i> • <i>A few of the sites (notably 7 & 31) are in higher sensitivity areas, and in both these sites changes were made to the original proposed footprints (Alternative 1) to minimise botanical impacts. For site 31 the impact on the three recorded SoCC in the area should now be within acceptable limits (Low - Medium negative botanical impact at a farm scale; Alternative 2).</i> • <i>Additional mitigation as outlined in Section 7 is considered mandatory.</i> • <i>The proposed development Alternative 2 is not likely to have more than an overall Low to Medium negative construction phase botanical impact prior to mitigation, and Low negative after mitigation. For the operational phase this is Medium negative before mitigation, and Low to Medium negative after mitigation. The development alternative is thus likely to be acceptable from a botanical perspective, and is preferred over Alternative 1.</i> <p>The areas proposed for development were assessed by the botanist. All access roads are already in place which provided for one of the primary reasons for placement of units. The only development, other than existing roads, proposed for the western property (Farm 824), is four low impact, eco-designed, raised units of 124m² each. Both these sites have been confirmed to be of medium botanical sensitivity with no plant species of conservation concern. As per description in the BAR the applicant is focussed on conservation management of the property and construction which has limited impact through using raised light steel framed units.</p>	
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	<p>after mitigation. The overall rating for the operational phase impact is medium before mitigation and low-medium after mitigation, which consists of implementing on-going alien invasive plant management.</p> <p>The required mitigation measures for alien clearing are that all alien invasive species must be removed from the property within three years of any approvals and alien invasive species must be removed annually from around the new units.</p> <p>Firebreaks should be brushcut annually extending 5 m from the buildings. CapeNature however wishes to raise concern regarding the proposed layout with regards to the fire management of the property and the risk to infrastructure. As indicated above, fire suppression impacts on biodiversity and ecological function as well as increasing the fuel load. Protection of structures in isolated areas of natural fynbos places significant strain on fire-fighting authorities when wildfires occur. We note that the botanical assessment has made the assumption that fires will be permitted to approach close to the tourism units, however we wish to query the feasibility of this, and the fire protection measures which will be in place to prevent fire damage to the units.</p>	<p>Alien vegetation management</p> <p>The landowner already actively implements alien vegetation management on site as well as fire management. Clearing of alien invasive vegetation at Rusty Gate properties is ongoing. Clearing of invasive plants in inaccessible or technical zones is conducted with the assistance from the Genadendal Working for Water High Altitude Team when they are in the area and working on the adjacent Riviersonderend Nature Reserve area. It is agreed that a dedicated Alien Vegetation Management Plan will be drafted to be included in the Fire Management Plan, as a condition of authorisation of the proposal.</p> <p>Fire management</p> <p>The Botanical report did not state that fires will be permitted to approach close to the proposed units, but rather added in Section 7 of the Mitigation Measure, that brush cut firebreaks of at least 5m must be maintained around the units to at least partially simulate regular fire, whilst minimising damage.</p> <p>Wildfires often burn very close to units such as these – as evidenced by recent fires in Bainskloof and elsewhere – so the scenario outlined is not unfeasible. If necessary firebreak could be enlarge to 10m wide.</p> <p>There is an informal agreement between Rusty Gate, Cape Nature and Boskloof Farm for the joint maintenance of an approximately 5.5 km uninterrupted firebreak from the Silverstream Dam at the eastern end (on Riviersonderend Nature Reserve) to the Boskloof Dam as the Western end on Boskloof farm. Each landowner is responsible for maintaining the portion of the firebreak on their property. Firebreaks on Rusty Gate itself are maintained on an ongoing basis with clearing at least twice per annum. The applicant does not intend to restrict fire on site and is already in consultation with the local FPA regarding a prescribed burn. Extensive consultation with Cape Nature and the FPA have already taken place regarding the long term fire management on the site to prevent the exclusion of fires. It was agreed that a site-specific fire management plan will be drawn up as a condition of Environmental Authorisation. The aim is to allow a managed but natural fire regime to persist.</p> <p>Fire protections measures proposed to protect units include:</p> <p>a). Due consideration was taken by Rusty Gate of various factors during the</p>	
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		<p>process of selecting proposed locations of new developments, including but not limited to fire hazards and fire protection, e.g.:</p> <ul style="list-style-type: none"> <i>i. All of the proposed sites are accessible via existing road infrastructure.</i> <i>ii. Where possible, physical locations for proposed sites are selected to minimise the necessity for clearing (brush cutting) of flora for firebreaks around units, e.g.: Sites 27 and 31 on rocky outcrop/area with sparse low height vegetation, Site 3b on previously disturbed land with low height vegetation, Site 31 on area with low height vegetation.</i> <i>iii. Rusty Gate is a paid-up member of the Greater Overberg FPA which provides for active monitoring and management of wildfire risks on adjacent properties.</i> <i>iv. Rusty Gate is a paid up member of the Villiersdorp Private Fire Brigade which provides for rapid response in the case of wildfire or localised fire threats. Fire brigade resources includes two 4x4 fire fighting vehicles, two water bunkers (one of 4x4) and at least 20 active response personnel.</i> <i>v. Rusty Gate is paid up member of Agricultural Association which provides for rapid community response (including FPA members) for firefighting at Rusty Gate and/or adjacent properties.</i> <i>vi. Further to the above points, all buildings at Rusty Gate are equipped with fire extinguishers (which are inspected and maintained annually) for extinguishing localised small fires, and fire retardant materials will be used where possible for construction of new accommodation units.</i> <p>b). Notwithstanding the above, note should be taken of the following pertaining Rusty Gate's engagement with Cape Nature for pro-active fire risk management.</p> <ul style="list-style-type: none"> <i>1. The current owners purchased Rusty Gate Mountain Retreat, including Farms 824, 826 and 887 in June 2019.</i> <i>2. In early 2020 Rusty Gate joined the GOFPA (Greater Overberg FPA) and with their assistance assessed and implemented fire risk mitigation and management procedures as best as possible.</i> <i>3. The property perimeter of Rusty Gate is approximately 13km of which roughly half the length constitutes the boundary with Riviersonderend Nature Reserve. The northern boundary of approximately 4km of Rusty Gate's property borders exclusively with the Riviersonderend Nature Reserve.</i> <i>4. One of the major concerns already identified in 2020 is that the veld and vegetation on the farm and surrounding properties last</i> 	
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		<p><i>burned in approximately 2010, resulting in substantial fuel build-up and increased wild-fire risk.</i></p> <ol style="list-style-type: none"> <i>5. With the assistance of GOFPA, Rusty Gate actively engaged with Cape Nature from early 2020 to formalise a three-way firebreak agreement between the aforementioned parties and Boskloof farm for collective management of and mitigation of wildfire risk, and specifically on the northern boundary of the property.</i> <i>6. This engagement with Cape Nature continued for more than a year in which time a formal firebreak agreement was drafted by Rusty Gate for approval by Cape Nature and Boskloof Farm. The firebreak agreement also included a request for controlled block burning of vegetation on Rusty Gate's property to reduce the fuel load and risk of uncontrollable wildfires.</i> <i>7. By late 2021 Rusty Gate and Boskloof farms were fully committed to the proposed firebreak agreement, but Cape Nature would only commit to accepting a proposed joint firebreak across the three landowners' properties and providing labour for clearing of the firebreak portion on Cape Nature's property.</i> <i>8. Ongoing changes in Cape Nature management resulted in continuously having to engage with new representatives for relatively short periods of time, which led to a complete stop by late 2021 in the process of finalising the firebreak agreement and obtaining approval from Cape Nature for the proposed controlled block burning at Rusty Gate.</i> <i>9. Since then, Rusty Gate is doing everything required and reasonably allowed within appropriate legislation and regulations and manage and mitigate fire risk on the property.</i> <p>Fire management on site currently: A site-specific fire management plan for Rusty Gate is not in place although specific actions already take place on site relative to fire management. A fire management plan is recommended as part of the condition of EA and must include mechanisms for preventing fire exclusion due to the properties location within a fire driven ecosystem.</p> <p>As outlined above, the landowner is part of the local FPA and a member of the Villiersdorp Private Fire Brigade. In addition, there is a three-way agreement in place between Rusty Gate, Boskloof (neighbour) and Cape</p>	
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	<p>Layout</p> <p>The layout has not been considered holistically, and therefore we recommend that a more clustered layout needs to be considered which will be easier to manage with regards to fires and fire protection (e.g. firebreaks) and will also reduce the impacts. While it is acknowledged that the intention of the ecotourism units is to provide an experience surrounded by nature and with the best views, this can still be achieved with a more clustered layout. The sensitivity mapping for the entire site should be used to inform the proposed development layout whereby the best practicable option in terms of the environmental impacts must be selected, as is required by NEMA.</p>	<p>Nature regarding the maintenance and upkeep of a 6 km long firebreak which runs from Silverstream Dam onto Rusty Gate Farm and onto Boskloof Farm, with water points in place. The internal roads and this firebreak are in place to facilitate firefighting needs and allow for access in cases of fire emergencies.</p> <p>Firefighting equipment is available and in place on site and necessary requirements relating to Health and Safety and Emergencies procedures are in place for residential and guests.</p> <p>In addition, the houses have been specifically designed with the fire risk in mind and will implement fire retardment materials, fire scaping and emergency protocol. The units are also located on existing, good condition roads which are easily accessible.</p> <p>The applicant also acknowledges the role of fire in the ecosystem and is aware of the need to allow for the natural fire regime to persist.</p> <p>Alien vegetation management on site:</p> <p>There is no formal written Alien Vegetation Management Plan in place, but this can be recommended as part of the condition of EA. However, Rusty Gate actively clears vegetation on the site and has to date, cleared most of the Hakea and Pine trees on the property. Rusty Gate has an informal agreement in place with Working on Water through Cape Nature, where they assist in clearing technical areas on site. Rusty Gate provides fuel and basic maintenance of equipment in lieu of this.</p> <p>Layout</p> <p>Rusty Gate Mountain Retreat already offers tourism overnight opportunities, and these are clustered on Farm 826. The locations of these are remnants of historical use on the farm and old labourers' cottages. The current tourism offerings are clustered and offer little privacy to other users and are more suited to group bookings. As such, a need and demand has been identified for low key, remote accommodation for a more secluded and private overnight experience. On the back of this need, Rusty Gate already has an extensive internal road network and from this the excluded</p>	
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		<p>sites were development. The layout has been designed in such a way as to use existing roads, impacted areas and internal access routes. No new roads are required to accommodate the proposed development. There are no infrastructure extensions required and the units are contained within a reasonable zone of impact, relative to the remaining untouched areas on site. If the site did not contain existing internal access routes, then clustering would be reasonable to consider, however the positions have been selected relative to existing access and impacted areas. Another significant contributor to the sprawled approach is related to the topography of the site. There are no large flat areas available to cluster the development and if such were implemented, would require extensive terracing and excavations to create development platforms. Already the campsites require a degree of terracing to provide flat ground for tents and caravans.</p> <p>It should be noted that the proposed development was considered holistically, and numerous factors formed part of the site selection:</p> <p><u>1. Site Locations:</u> Showcasing the flora, fauna and beauty of the farm, Riviersonderend Mountains and Helderstroom Valley is one of the primary drivers of the proposed expansion application. Placement of each site is therefore with the objective of offering the best possible location to maximise the experience and enjoyment of nature for guests, subject to consideration of the impact of.</p> <p><u>Accessibility:</u> All proposed site locations are accessible from existing road network. In response to specialist input, Sites 3A, 3B and 27 will require minor access changes to avoid sensitive areas identified. Collectively this will be less than 300 m.</p> <p><u>Aesthetic Design:</u> The “look and feel” of outward facing facades and other visible elements (e.g., roofs) is of utmost importance as the accommodation units must blend in with the surroundings to maintain the “sense of place” for visiting guests. The aesthetic design of the accommodation units and selection of materials for construction will be done to achieve this objective.</p> <p><u>Sustainability:</u> Sustainability is a key requirement for the proposed development. This will be addressed through the application of eco-friendly design and construction methodologies and utilisation of appropriate service infrastructure (e.g., rain harvesting, renewable energy, conservancy</p>	
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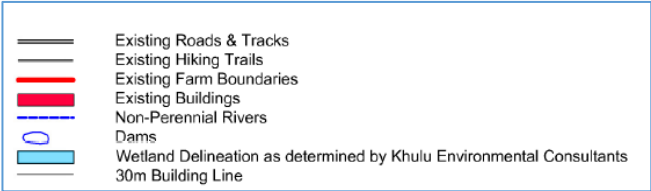
		<p>tanks) and materials (see Construction” and “Maintenance” below).</p> <p><u>Construction:</u> Accommodation unit structures will consist of light steel frame construction due to numerous benefits including transport & logistics costs, versatility and fast construction times, durability and cost efficiency and eco-friendliness. Due to general topography and inclines on the property all accommodation units will be constructed on pillar and beam foundations to minimise soil and vegetation disturbance during and after construction. This also limits hard construction required and the need for deep brick and mortar foundations and structures.</p> <p><u>Maintenance:</u> The use of light steel frame construction and smart selection of appropriate materials will reduce periodic maintenance intervals and associated costs, e.g., materials for exterior and interior wall panels offers a wide range of colours and textures to blend in with the surroundings without requiring painting.</p> <p><u>Fire Protection Management:</u> The threat of wildfires is a constant reality and is taken seriously by the owners. A Fire Management Plan will be implemented as a condition of authorisation.</p> <p><i>Due consideration was given to the recommendation by Cape Nature RE clustered layout for accommodation units as an alternative to the proposed layout and site locations. When taking a holistic view of the proposed development and comparing positive and negative aspects of the proposed layout vs clustered layout, it is concluded that a clustered approach is not the preferred option for the following reasons:</i></p> <p><i><u>-Topography and site locations:</u> The topography of the property is not amenable to clustering of units. The properties are characterised by high elevations with no flat areas for large clustered development.</i></p> <p><i><u>-Construction impact on nature:</u> it is believed that construction of clustered units at one or two sites will have a significantly greater impact and disturbance due to concentration of vehicle movement and construction activities, substantial excavation requirements for foundations and utility services (tanks and pipes for potable water and sewerage).</i></p> <p><i><u>-Cost implications and feasibility:</u> The clustered approach will result in significant costs from both environmental and monetary perspective. Clustered construction at one or two sites will have a significant impact on the architectural and engineering design to date for the accommodation units and associated services (e.g., potable water, sewerage, waste</i></p>	
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	<p>Freshwater Ecological Assessment</p> <p>The freshwater ecological assessment was preceded by an aquatic biodiversity screening report which evaluated the first revision of the development proposal. The ground-truthing of the footprints revealed that the wetlands on site are more extensive than the NWM mapping. Several footprints had to be relocated due the location within wetlands, namely 27, 26, 3B and the campsite. The layout assessed in the botanical assessment was subsequent to the relocation. The additional wetlands in the vicinity of these footprints are delineated and are classified as hillslope seep wetlands. The proposed sundowner boma was located within a seep wetland according to the NWM, however the ground-truthing did not reveal the presence of a wetland, and therefore the facility was not relocated.</p>	<p><i>management, and vehicle access. Such designs will have to be assessed and changed to facilitate for clustered approach, resulting in material cost increases for required professional service providers (e.g., architect and civil engineer). It is anticipated that the clustered approach will require substantial earthmoving and civils.</i></p> <p><i><u>Fire protection management:</u> Several fire protection measures are already in place and maintained as referred to above. These measures, and in particular several fire breaks and access roads are required and maintained to protect the property and respond to wildfires due to topography of the farm, regardless of distributed or clustered locations for the proposed accommodation units. Rusty Gate is also of the opinion that the distributed location of sites reduces the risk of property damage and financial implications due to wildfires in the case of distributed locations versus clustered location(s).</i></p> <p><i><u>Tourism attraction:</u> Eco tourism trends indicate an increasing need and demand of people to connect with- and spend time in nature. The need for places where people are able to break away from work/life pressures in (densely) populated urban areas, and to relax close to nature in a serene and quiet environment is therefore real and growing. Hence, one of the primary motivations for the distributed placement of units in the proposed development is to specifically provide for privacy and quite time in nature. Clustering accommodation, as currently offered at Rusty Gate does not fill this need and the operators have identified a gap in the accommodation market for such.</i></p> <p>The case for clustering has its place in impact assessment however it needs to be assessed in a case-by-case manner.</p> <p>Freshwater Ecological Assessment</p>	
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	<p>The revised layout is assessed in the freshwater ecological assessment, which includes fine scale mapping of the wetlands in the vicinity of the relocated footprints to provide evidence of avoidance of the wetlands. The present ecological state (PES) of the large hillslope wetland (near the existing development footprint) is evaluated to be moderately modified and the small hillslope wetlands higher up as largely natural. The ecological importance and sensitivity (EIS) are rated as moderate and low/marginal respectively. For the recommended ecological category, the PES for the small wetlands states that limited disturbance is permissible as the EIS is low/marginal, however CapeNature does not support this statement. The recommended PES should be to remain the same. We wish to note with regards to the EIS calculation that the seep wetlands could support suitable amphibian habitat (see requirement for faunal specialist study above) and these footprints were not assessed by the botanical specialist.</p> <p>The impact assessment for the identified impacts in the construction phase and operational phase for the revised layout are rated as low before mitigation and very low after mitigation. We note that the impact table (Table 16) for disturbance of habitat appears to have swapped around the ratings for intensity for before and after mitigation.</p>	<p>Comment from Nick Steytler Aquatic Specialist: Wetlands that have a low/marginal EIS wetlands are not ecologically important and sensitive at any scale. The biodiversity of these systems is typically ubiquitous and not sensitive to flow and habitat modifications. They also play an insignificant role in moderating the quantity and quality of water of major drainage lines. On the basis of the wetlands calculated EIS some limited disturbance would be permissible. If the wetlands were found to provide breeding habitat for the two amphibian species indicated to potentially occur at the site then this statement would be retracted. However the following is noteworthy regarding to the two species (source https://speciesstatus.sanbi.org/):</p> <ul style="list-style-type: none"> • <i>Capensibufo magistratus</i> occurs in shallow temporary pools with emergent sedge-like plants in Mountain Fynbos or Grassy Fynbos in the Fynbos Biome (De Villiers 2004). They are unlikely to inhabit seeps as seeps do not typically contain pooling water which is necessary for the tadpoles to breed. As such they are more likely associated with depressions and valley bottom wetlands none of which are directly at risk of being impacted. • <i>Arthroleptella atermina</i> is known to occur in thickly vegetated seeps dominated by restioid vegetation, on gentle mountain slopes within montane fynbos. Such habitat is present within the Rusty Gate Mountain Retreat property but the species is only known only from three locations, all within the mountains of the Groot Winterhoek Wilderness Area. It has furthermore been recorded at elevations ranging 900–1,100 m asl. Also, Rusty Gate has an altitude of 330 to 870 m a.s.l. so it is too low in altitude, based on the previous recordings. It is unlikely that this species occurs outside of the reserve (A. Turner pers. comm. August 2016). <p><i>On the basis of the above it is maintained that neither threatened amphibian species is likely to occur within the wetlands in question and therefore the EIS and associated development management guidelines remain applicable.</i></p>	
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	<p>Mountain Catchment Area and World Heritage Site</p> <p>Mountain Catchment Areas were declared in terms of the Mountain Catchment Areas Act (Act 63 of 1970) and are considered to be a protected area in terms of the National Environmental Management: Protected Areas Act (NEM:PAA, Act 57 of 2003). Mountain Catchment Areas are included within the Western Cape Biodiversity Act (WCBA, Act 6 of 2021) and the Mountain Catchment Areas Act will be repealed once this section of the WCBA comes into effect. According to the WCBA, MCAs may be declared where the control and management of activities and resources in the area concerned are required to:</p> <ul style="list-style-type: none"> a) Maintain the biodiversity and ecosystems in the area; b) Sustain the ecological infrastructure and provision of ecosystem services, particularly water provisioning; c) Ensure that the use of biodiversity and ecosystems in the area is sustainable. <p>There are currently no regulations or restrictions for development within MCAs however the designation as MCAs is used as an informant for land use applications whereby any developments which may compromise the ability of the MCA to provide a secure, steady supply of water into the downstream catchment will not be permitted. Section 41(b) of the WCBA makes provision for activities which are prohibited in an MCA. Management of fires and alien invasive species are an important consideration and the Mountain Catchment Areas Act makes provision for the establishment of fire protection committees and development of fire protection plans. There are no current development controls for developments adjacent to a World Heritage Site (WHS), however any developments which may have a negative impact on the outstanding universal value (OUV) for which the WHS was declared are not supported. There have however been proposals put forward for development controls surrounding WHS. It should be noted that in terms of the Regulations for the Proper Administration of Special Nature Reserves, National Parks and World Heritage Sites, access to a WHS requires the permission of the management authority i.e. CapeNature.</p> <p>With regards to the MCAs status of a portion of the property and the adjacent WHS, the low-impact ecotourism development proposed could be considered</p>	<p>The error in Table 16 has been corrected in the report.</p> <p>All the identified potentially significant impacts on aquatic biodiversity have been assessed and rated to be of Very low (-ve) significance with the implementation of the recommended mitigation measures none of which are excessively onerous or impractical. This is in part as a result of the initial repositioning of certain units and the campsite from what was initially proposed. As such the potential impacts on aquatic biodiversity do not warrant the assessment of further alternatives.</p> <p>Mountain Catchment Area and World Heritage Site</p> <p>The proposal aims to achieve the requirements including the maintenance of biodiversity and ecosystems in the areas, sustaining ecological infrastructure and services and sustainable use of the biodiversity and ecosystems in the area – the proposal at Rusty Gate is small in scale with a total footprint of ~ 3200 m2, utilising existing access networks and disturbed areas where possible.</p> <p>The water use required for the additional development is significantly lower than what was approved as part of the previous agricultural activities on the property and the fact that these activities no longer take place to the extent it previously did, should be seen as a benefit to the MCA.</p> <p>In addition, and as per the information outlined above, there is already a commitment to Fire and Alien vegetation management by the landowner.</p>	
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	<p>compatible provided the impacts on biodiversity, ecosystem services and sense of place are minimized. The management of catchment area in terms of integrated fire and alien management is however an important consideration.</p> <p>Development Proposal</p> <p>The layout of the proposed development has implemented the mitigation hierarchy through the identification of constraints in both the botanical and freshwater assessments, whereby the development footprints were relocated accordingly. The initial step of avoidance was implemented albeit within the context of the initial preferred layout i.e. units were shifted a short distance from the original proposed footprint. As indicated above, the proposed layout needs to be considered holistically across the entire property and a more clustered layout must be investigated which will allow for adequate management of fires.</p> <p>The more isolated units should be considered for relocation, such as Footprint 28, which also encroaches on the building line restrictions with Riviersonderend Nature Reserve and WHS, and Footprint 31 which is also rated as high botanical sensitivity.</p> <p>The services associated with a development proposal are an important contribution to the environmental impacts in particular for developments with a very low density scattered layout as with the current proposal. The access roads to all the footprints are already in existence as confirmed in the BAR, apart from minor extensions to the more isolated units. The access road to the revised location of Footprint 27 will traverse a seep wetland. We recommend that there is further investigation of alternatives which avoid the wetland. Significant erosion and degradation can occur in roads that traverse wetlands, in particular if there is a steep slope.</p> <p>It is noted from the layout plan that hiking paths are proposed to be utilised as off-road vehicle tracks. In this regard, the if the roads trigger NEMA thresholds they will need to be assessed. Even if they do not, it must be ensured that steep and difficult</p>	<p>The management of the catchment area and fire and alien vegetation management has been and will continue to be undertaken and the Alien vegetation and Fire Management Plan will be drafted as a condition of Environmental Authorisation.</p> <p>Rusty Gate is committed to formalising a Integrated Fire and Alien vegetation management plan with the appropriate specialist, as a condition of approval to the proposal and ensure that the management plan is tailored to the development of site.</p> <p>Development Proposal</p> <p>We as the EAP and specialist team believe that the proposal was considered in a holistic way and adequacy addresses the mitigation hierarchy where first and foremost, sensitive areas and high impacts are reduced or eliminated through avoidance. In addition, the proposal is small in extent (~3000m2) relative the size of the properties with a eco-centred low impact approach.</p> <p>Amended by the town planner and on the SDP.</p> <p>Comment from Nick Steytler: <i>The impact of erosion and sedimentation is exhaustively assessed in Section 4.2.1 (see Impact 3) of the Aquatic Biodiversity Specialist Report and with the implementation of the recommended mitigation measures is considered to be of Very Low (-ve) significance. Several existing dirt roads traverse wetlands within Rusty Gate Mountain Retreat without signs of significant erosion and sedimentation of the aquatic habitat. The implementation of recommended mitigation measures to ensure that disturbance of wetland habitat is kept to the absolute minimal such as the establishment of No-Go areas would further reduce the risk of disturbance to intact wetland habitat as a result of indiscriminate driving of construction vehicles. As such it is not considered necessary that any alternative to what is currently being</i></p>	
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	<p>hiking trails and hiking trails through wetlands should remain strictly for hiking. Off-road tracks must not result in erosion and degradation through construction and usage.</p> <p>Sewage provision will be through the use of closed conservancy tanks for each unit which will be placed underneath the unit and therefore not require excavation. The camp site will be serviced by a single conservancy tank. Sewage piping will be according to building regulations. We wish to query whether all of the conservancy tanks will be accessible by the trucks to service them. The roads will need to be able to accommodate the trucks and the trucks could result in additional disturbance.</p> <p>Potable water provision and electricity is not discussed in the services section and will need to be described and assessed.</p> <p>Flammability of units With regards to the proposed units, the construction methodology allows for pre-manufactured components which can be assembled on site, which is supported due to the reduced disturbance. The pillar/stilt foundations will also reduce disturbance. However, a very important consideration will be the flammability of the proposed units in order to minimize the risk of fire damage as discussed above.</p>	<p><i>proposed is necessary.</i></p> <p>We note that the key for the Site Plan includes an item termed "Proposed Jeep Tracks" and believes that Cape Nature interprets this as hiking paths to be used as off-road vehicle tracks.</p>  <p>This interpretation is materially incorrect, there is no intention for the development of any tracks for off-road vehicles of any sorts on the property (including farms 824, 826 and 887). No new tracks, or trails or roads, other than the minor road extensions described, are proposed. The layout plan will be updated to clarify this.</p> <p>All conservancy tanks will be accessed via the existing road network – see attached service confirmation provided by Boland Toilet hire. These are easily accessible by trucks and normal vehicles.</p> <p>Rusty Gate has existing water rights in place – see Appendix J. In addition to this, rainwater harvesting tanks have been included in the design of the units. Failing the above, potable water will be carted to each site. Extending pipelines from existing farm dams and water courses is not possible or environmentally practical.</p> <p>All units will be "off the grid" and make use of renewable energy for electrical power requirements. The primary option for generation will be solar PVC systems. Sufficient energy storage will be installed at each accommodation unit to provide for sub-optimal generation during winter months and overcast periods</p> <p>Flammability of units The use of light steel construction materials, allows for the inclusion and use</p>	
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	<p>The units should also minimize the impact on sense of place of the WHS.</p> <p>Conclusion In conclusion, although the mitigation hierarchy has been applied for the current development layout within a pre-defined development envelope, CapeNature recommends that there is further investigation of a more clustered layout which will allow for improved management of fire.</p> <p>In addition:</p> <ul style="list-style-type: none"> • An integrated fire and alien management plan is considered essential for this property due to the fire risk to the proposed development, the impact of fire suppression on ecological function and the location within an MCA. • A minimum of an animal species (including aquatic species) compliance statement should be undertaken in accordance with the Species Protocol, unless the site sensitivity verification determines that an animal species impact assessment is required. • The MCA status of the property should be taken into account in the specialist assessments. • Comments on the fine scale development layout will be provided once additional layouts are made available. • All services, including road access, sewage, potable water and electricity must be described and assessed. <p>CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.</p>	<p>of non-organic and fire retardant materials for most of all the construction materials. For example, <u>EIFS systems</u> will be used for exterior/interior cladding and insulation of walls of new accommodation units.</p> <p>Further to the above, non-flammable or fire retardant materials will be used as far as possible for interior fittings, furniture, and decorations of the new accommodation units to minimise the risk of fires starting inside or at the units.</p> <p>All possible measures have been taken in the locations, design, construction, and operation of the new accommodation units to minimise the impact on “sense of place”</p> <p>-Rusty Gate commits to developing a Integrated Fire and Aline Management Plan to address the risks and issues raised in the NEMA process - A Animal Species Impact Assessment has been conducted and concluded herein. The preferred alternative has evolved further in response to the findings of the Faunal Assessment.</p> <p>- Noted and included as required</p> <p>-Sufficient evidence has been provided in the report relating to the layout and no further layouts will be included as a result. - Services, access, potable water etc outlined and assessed in the amended BAR.</p>	
Fabion Smith BOCMA	<p>Email dated 23/05/2024</p> <p>NOTICE OF DRAFT PUBLIC PARTICIPATION PROCESS: RUSTY GATE MOUNTAIN RETREAT, FARM 824, FARM 826 REM AND FARM 887, CALEDON DISTRICT With reference to your electronic submission of information dated 12/03/2024 with DEA&DP reference number 16/3/3/6/7/1/E4/12/1151/23, together with specialist reports, herewith the following:</p>		

	<p>1. The BOCMA would like to apologize for the delay in submission.</p> <p>2. The specialist reports explain the presence of wetlands.</p> <p>3. Registration for the proportional volume of water for the five additional self-catering dwellings would have to be amended to reflect the correct water use sector. Please start such a process as soon as possible.</p> <p>4. Please note that any activity within the 1:100 year flood line or within 100m of a watercourse (river, spring, natural channel, a lake or dam) or within 500m radius from the delineated boundary (extent) of any wetland or pan, triggers a water use activity in terms of Section 21 (c) & (i) of the National Water Act, 1998 (Act 36 of 1998).</p> <p>5. Appropriate mitigation measures should be employed to minimize the overall risk on the water resource.</p> <p>6. In the event where no municipal services would be utilized, water provided for domestic use must comply with the SANS 241:2015 guidelines for drinking water. The disposal of sewage in addition, must always comply with the requirements of Section 22 and Section 40 of the National Water Act, 1998 (Act 36 of 1998).</p> <p>7. Henceforth, it should be ensured that the proposed development should adhere to all other relevant sections of the NWA, 1998 (Act 36 of 1998), not contained within this letter.</p> <p>Please be advised that the comment provided is in the interest of responsible water resource management. The BOCMA reserves the right to revise initial comments and request further information based on any additional information that might be received.</p> <p>Please do not hesitate to contact this office if you have any further queries.</p> <p>Please ensure to quote the above reference in doing so.</p>	<p>3. The amendments will be implemented during the GA Application</p> <p>4. The NWA regulated area for rivers and streams and for wetlands is described in the Aquatic Biodiversity Specialist Report (see Section 1.4.1. It is further concluded, on the basis of the required Risk assessment that the proposed development qualifies for General Authorisation as all the identified Section 21 c and I activities have a risk of Low.</p> <p>5. Appropriate mitigation measures have been recommended by the freshwater specialist and are summarised in Section 5.</p> <p>6. Noted</p> <p>7. Noted</p>	
Department of Agriculture – Cor van Der Walt	<p>Email dated 16/07/2024</p> <p>PROPOSED EXPANSION OF TOURISM OVERNIGHT AND ASSOCIATED ACTIVITIES RUSTY GATE MOUNTAIN RETREAT – CALEDON RD</p> <p>Your application of 13 March 2024 has reference.</p> <p>Application is made for the expansion and addition to an existing tourism operation over three farm portions. Rusty Gate Mountain Retreat appointed Lornay Environmental Consulting to facilitate the EIA PROCESS IN TERMS OF THE National Environmental Management Act to obtain Environmental Authorisation.</p>	<p>A meeting was held at Rusty Gate on the 16 September 2024 in order to discuss the proposal relative to the DOA comment. The following organs of state were in attendance</p> <ol style="list-style-type: none"> 1. DEA&DP (M. Oosthuizen, M. Schippers, B. Osbourne) 2. DOA (C. van der Walt, F. Mohammed) 3. TWK – C. Charles, K. Thomas 4. Cape Nature – C. Claassen <p>As a result of the DOA comment here, Alternative 4 was developed where all development on the outlying properties are excluded and retained on</p>	

	<p>The Western Cape Department of Agriculture: Land Use Management has the following comments:</p> <ol style="list-style-type: none"> 1. From an agricultural perspective, the current development proposal does not give adequate regard to safeguard the agricultural land, be it currently cultivated or not, it remains agricultural land. 2. Unless the property is consolidated, the development proposal for each individual land portion will be evaluated separately. Therefore, the rural accommodation proposed for each land portion must correspond to the type and density as recommended on farms and resorts as per the Western Cape Land Use Planning Guidelines for Rural Areas of 2019. 3. Please note that rezoning to resort zone is not entertained for properties smaller than 50 hectares and that a resort development should be closely associated with a resource which clearly benefits and distinguishes the site in terms of its amenity value, from surrounding properties. 4. The motivation for the application in its current format is therefore not supported. 	Farm 826 Only.	
Consolidated DEADP and DOA	<p>Letter dated 10 Oct 2024</p> <p>RE: COMMENT ON THE PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT ("BAR") IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE 2014 ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONAL DEVELOPMENT OF OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON.</p> <p>1. The site visit conducted on 16 September 2024 by officials of the Directorate:</p>		

	<p>Development Management (Region 1) ("this Directorate"), the Provincial Department of Agriculture, CapeNature, Theewaterskloof Municipality, the applicant and the Environmental Assessment Practitioner, refers.</p> <p>2. This letter serves as a consolidated response from this Directorate and the Provincial Department of Agriculture ("DoA").</p> <p>3. The information contained in the pre-application Draft Basic Assessment Report ("BAR") that was circulated for comment, indicates that the placement of the proposed tourist facilities in the preferred layout alternative takes into consideration the input provided by various specialists and that these facilities were placed outside areas of high ecological significance. However, at the site visit conducted on 16 September 2024, the following concerns were highlighted by this Directorate, the DoA and the municipality:</p> <p>3.1. The number and dispersed nature of the proposed tourism accommodation units as well as the appropriateness of the location of the proposed camp site were highlighted as concerns.</p> <p>3.2. The scale of the proposed development in an agricultural landscape is not in keeping with the relevant guideline documents, most notably the Western Cape Land Use Planning Guidelines for Rural Areas, 2019. This document provides guidance for decision-makers when considering development that is not of an agricultural nature, within agricultural areas. It provides specific guidance with regards to additional land uses on agricultural land, that is to be subservient to the agricultural use of the land, the acceptable scale and extent of such developments, etc. It also provides guidance with regards to the appropriate zoning for developments exceeding the provisions for construction of additional units on agricultural land. An important aspect to consider in this regard, is that the presence of a unique natural source has to be demonstrated in the consideration of a "resort" zone. Since the need and desirability of the proposed development is a critical aspect of the consideration of the application, these guidelines become a relevant consideration in the decision-making process and the consideration of the content thereof in the Basic Assessment process must be adequately demonstrated. As it stands at present, sufficient justification has not been provided</p>	<p>3.1. The comments received here were used to inform the final preferred layout Alternative – Alternative 4, where all development on the outlying farms were removed, and development was proposed for Farm 826 only. In addition, the specialists have updated their reports to attend to comments received. The campsite location was shifted in response to faunal findings to avoid possible flufftail habitat. The campsite location was also chosen in order to comply with wetland specialists requirements.</p> <p>3.2. The Layout evolved in response to comments received and too into consideration the WC Lan Use Planning Guidelines for Rural Areas, 2019. Details are contained in the revised BAR.</p>	
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	<p>for the deviation from the principles of the Western Cape Land Use Planning Guidelines for Rural Areas, 2019 in terms of the scale and context of the proposed development.</p> <p>3.3. Although it was indicted that existing water rights are in place for the farm, no proof has been provided. Furthermore, the existing water rights are to be used for bona fide agricultural activities and not for tourism accommodation. Since it is not the applicant's intention to farm the property, the existing water rights may have to be transferred to another entity that could utilise the water for agricultural activities. This aspect was not addressed in the pre-application Draft BAR, and no indication was provided to what extent this was discussed with the relevant decision-maker in terms of the National Water Act.</p> <p>3.4. No options were considered to protect agricultural land. The proposal does not address the protection of viable agricultural land for potential future agricultural use. The fact that the applicant is not interested in farming the land himself, does not mean that the land, especially where it was cultivated before (including the amphitheatre site), and where there are existing water rights in place (if any), could not be utilised for agricultural purposes through a different arrangement.</p> <p>3.5. Veld fires are a common occurrence in the area, and can have very serious and significant implications, especially in mountainous areas where there are large areas of dense vegetation, as on the proposed site. This risk must be addressed with specific attention to proposed locations of remote accommodation units, some of which are more than 2km removed from the existing tourist accommodation area on the farm.</p> <p>4. In light of the above concerns, you are hereby informed that alternatives that address the above issues must be investigated and reported on. Be advised that in terms of the EIA Regulations and NEMA, the investigation of alternatives is mandatory. Please note that alternatives are not limited only to layout alternatives, but include activity, design, operational and technology alternatives as well.</p> <p>5. It is recommended that a revised pre-application Draft BAR be circulated for further comment before an application for environmental authorisation is submitted to the competent authority, based on the fact that such revised report would contain significant new information.</p> <p>6. Additional to the above, clarity is sought on the legal status of the existing resort development in terms of the applicable planning legislation. This has bearing on the potential to consider an application for expansion of a development of which the</p>	<p>3.3. Application for abstraction of groundwater under General Authorisation is currently underway with BOCMA. The farm also has water confirmed by BOCMA under a Existing Lawful Use (ELU).</p>	
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	<p>current legal status is unknown.</p> <p>7. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>8. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. This Directorate reserves the right to revise or withdraw initial comments or request further information from you based on any information received.</p>		
<p align="center">ADDITIONAL OUT OF PROCESS PUBLIC PARTICIPATION 2 13 Nov to 31 Jan 2025</p>			
<p>ODM Rulien Volschenk</p>	<p>Email 13/12/2024</p> <p>NOTICE OF PUBLIC PARTICIPATION PROCESS FOR BASIC ENVIRONMENTAL IMPACT ASSESSMENT IN TERMS OF NEMA – RUSTY GATE MOUNTAIN RETREAT</p> <p>DEA&DP Ref. no.: 16/3/3/6/7/E4/12/1151/23</p> <p>The Environmental Management Services Department of the Overberg District Municipality take cognisance of the Basic Assessment Report for the proposed consolidation, rezoning and expansion of tourism overnight facilities and associated activities.</p> <p>The study area falls within South Sonderend Sandstone Fynbos (listed as Critically Endangered) and Western Coastal Shale Band Vegetation (listed as Endangered). The Overberg District Municipality's Spatial Development Framework advocate for the protection of prominent indigenous vegetation and the habitats of indigenous fauna. Therefore layout 2 is supported as it actively promote the protection of the wetland area and limit development within sensitive botanical areas to minimise the impact on species of conservation concern Active fire management throughout the operational phase should be prioritised to ensure the protection of infrastructure while maintaining the ecological functioning of the surrounding fynbos. A Fire Management Plan should form part of the Operational Environmental Management Plan, which include actions like fire prevention (biomass reduction and firebreaks), fire response, and awareness raising for tourist.</p> <p>The ODM reserves the right to revise its comments and request further information based on any additional information that may be received.</p>	<p>Noted</p>	

<p>Bernadette Osbourne</p> <p>DEADP</p>	<p>Email dated 31/01/25</p> <p>COMMENT ON THE REVISED PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT ("BAR") IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE 2014 ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONS FOR OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON.</p> <p>1. The electronic copy of the revised pre-application Draft BAR received by the Department on 13 November 2024, this Department's acknowledgement thereof issued on 21 November 2024, refer.</p> <p>2. Following the review of the information submitted to this Department, the following is noted:</p> <ul style="list-style-type: none"> ➤ The proposal entails the proposed conversion of existing structures and additions for overnight tourism facilities on Portions of Farm No's 824, 826 and 887, Greyton. ➤ The proposed development will have a development footprint of 3156.5m² and will accommodate a total of 92 people. ➤ Watercourses is present on the site. ➤ The site is mapped to contain Western Coastal Shale Band vegetation which is classified as endangered and South Sonderend Sandstone Fynbos vegetation, which is classified as critically endangered. ➤ The site is partially located within the Riviersonderend Mountain Catchment Area, which is a protected area. ➤ The site is zoned form agricultural purposes and is located outside the urban area of Greyton. <p>3.</p> <p>This Department's comments are as follows:</p> <p>3.1 Planning considerations</p> <p>3.1.1 The following considerations are re-iterated in terms of the rural guidelines:</p> <ul style="list-style-type: none"> • Tourist accommodation in the rural area should be clustered in visually discreet nodes and the topography and site sensitivity will determine the number and location of the cluster(s). • Tourist accommodation should be located appropriately, avoiding high risk areas (e.g. areas prone to fire or flooding). • Essential Core areas are 'no-go' areas from a development perspective and human contact should be restricted to ensure no further loss of natural habitat. Subject to stringent controls, non-consumptive low-impact eco-tourism activities, 	<p>Layout Alternative 3 removes all proposed development on the 2 outlying farms, where they are shifted to development nodes on Farm 826. This reduces the sprawled layout across the three farms and forms distinct nodes on the core farm 826.</p> <p>Alternative 3 contains all development to a few development nodes on farm 826 only and removes all development on the 2 outlying farms. This creates a more manageable fire risk situation where fire fighting can be done in smaller zones as opposed to across three farms with large distances between. In terms of fire intervals, excluding development on the 2 outlying farms, presents an easier manner to allow for natural fire regimes without needing to protect built infrastructure.</p> <p>All development in layout three is located more than 30 m from the edge of wetlands and watercourse and therefore flood risk is not likely.</p> <p>Alternative 3 excludes all development on Farm 824 and 887 and confines development to the main Farm 826. Furthermore, a more nodal type offering is presented where more units are clustered into development nodes.</p> <p>All sites proposed for development were chosen for the discussed physical factors and then moved in response to specialist input. All sensitive areas have been avoided through specialist input and evolution of the layout alternatives.</p> <p>The design of the cabins, pods and camp sites are specified in Section 4.4, page 14 to 20 above. Specific designs have been explored to ensure a visually unobtrusive offering which blends into the natural environment. Specific objectives relating to sustainability, aesthetics and ergonomics have been investigated and detailed herein. Conventional hard construction is avoided and prefabricated low impact, modular types are proposed.</p> <p>The intent is that construction of the new accommodation units will be conducted in such a manner as to minimise the ecological impact, with the following principles being applied:</p> <p>→ Design methodology - use of renewable energy (solar and/or wind) and sustainable and eco-friendly treatment of sewage and</p>	
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	<p>such as visitor's overnight accommodation may be accommodated in Core 1 areas. Detailed site-level mapping of habitat conditions should inform the placement of essential buildings or structures in Core Areas, which should preferably be located on disturbed footprints.</p> <ul style="list-style-type: none"> • Due to historical farming practices, there are large areas on the application properties that are already disturbed. Units should ideally be positioned in already disturbed areas where it will have the least impact on the natural environment. • The form and scale of tourist accommodation should reinforce rural landscape qualities. Information on the architectural design must be provided for the purposes of heritage and visual assessments. Where buildings and structures in Core Areas are justified, environmentally sensitive and sustainable construction principles should be applied to ensure that development is in harmony with the character of the surrounding landscape. <p>3.1.2. The justification for the deviation from the principles of the Western Cape Land Use Planning Guidelines for Rural Areas 2019 in terms of the scale and context of the proposed development is not adequate.</p> <p>3.2 It is noted that the preferred alternative does not consider the planning consideration highlighted above and as highlighted in this Directorate's comment dated 10 October 2024. It is strongly advised that alternatives be considered that address the above planning considerations.</p> <p>3.3 Clarity has not been provided regarding the legal status of the existing resort development in terms of the applicable planning legislation. The draft BAR indicates that</p> <p>the planning consultants are busy with the necessary planning applications. As such, clarity is required whether the existing facility is lawful in terms of the planning legislation.</p> <p>3.4 Confirmation of services</p> <p>3.4.1. Written confirmation from the municipality that they have sufficient capacity for solid waste management is still outstanding and must be obtained.</p> <p>3.4.2. Proof of the existing water rights have been provided. However, this is allocated for agricultural activities. The water authority has indicated that an amendment of the authorisation is required to reflect the correct water use. The EAP indicated that the process to affect the amendments will be conducted once a decision on the application is received. It is further noted that a general authorisation will be required for additional water. Please be advised that the authorisation for the abstraction of groundwater must be included in the final BAR. Please note that the amended authorisation for the correct water use must also be included in the final BAR.</p> <p>3.5. The activity description must be updated to include details of the following:</p> <p>3.5.1. Which units and/or structures will be located within 32m of a watercourse;</p>	<p>wastewater.</p> <p>→ Location – the placement of units in specifically identified locations with least possible adverse impact on fauna, flora and aquatic features, with the placement of every unit guided by the specialist team.</p> <p>→ Construction type - use of light steel construction with prefabricated components, raised units on pillar type foundations, minimize site impacts and reduce on-site construction requirements.</p> <p>→ Sustainability - use of sustainable and non-toxic materials with minimal maintenance requirements over the lifetime of accommodation units, materials to be environmentally sensitive with fire retardation materials built into it.</p>	
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	<p>3.5.2. How many conservancy tanks will be installed and if each one will have a capacity of 5000 litres; and</p> <p>3.5.3. The length and diameter of the sewerage pipelines connecting to the conservancy tanks.</p> <p>3.6 The buffer areas of 32m from any mapped drainage line and 20m from any wetland must also be included in the Site Development Plan.</p> <p>3.7 You are reminded that a comprehensive Comments and Response Report that includes all the comments received, and the responses thereto must be included in the BAR. In addition, please ensure that copies of all the comments received are attached to the BAR.</p> <p>4. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>5. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>This Directorate reserves the right to revise or withdraw any comments or request further information from you based on any information received.</p>		
<p>Department of Agriculture Cor van der Walt</p>	<p>Letter dated 10/02/2025</p> <p>PROPOSED CONSOLIDATION, REZONING AND EXPANSION OF TOURISM OVERNIGHT AND ASSOCIATED ACTIVITIES: DIVISION CALEDON</p> <p>Farm No 824 Farm No 887 Remainder of the farm No 826</p> <p>Your application of 13 November has reference.</p> <p>The Western Cape Department of Agriculture (WCDoA) has the following comments:</p> <ul style="list-style-type: none"> - Please note that an application to rezone to Open Space 4: Nature Reserve does not exclude the properties from the provisions of Subdivision of Agricultural Land Act 70 of 1970. Only by proclaiming it in a 		

	<p>government gazette as a private nature reserve will the properties be removed from the agricultural register.</p> <ul style="list-style-type: none"> - A Stewardship agreement and management plan must be established between Cape Nature and the land landowners should the approval for rezoning be obtained. - Should approval for the rezoning be gained, the water registered for the purpose of irrigation must be surrendered and reallocated for the purpose of irrigation - The units must be clustered and must correspond to the type, density and size, as recommended for rural accommodation in the Western Cape Land Use Planning Guidelines for Rural Areas of 2019. The layout as presented in the revised BAR are considered scattered. <p>Please note:</p> <ul style="list-style-type: none"> - That this comment to the relevant deciding authorities in terms of the subdivision of Agricultural Land Act 70 of 1970. - Kindly quote the above-mentioned reference number in any future correspondence in respect of the application. - The Department reserves the right to revise initial comments and request further information based on the information received. 		
Cape Nature Rhett Smart	<p>Email dated 17/02/2025</p> <p>Revised Pre-Application Basic Assessment Report for the Proposed Expansion of the Rusty Gate Mountain Retreat Resort, Farm 824, Remainder of Farm 826 and Farm 887, Helderstroom</p> <p>CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.</p> <p>CapeNature raised concerns in our comments on the Pre-Application Basic Assessment Report (BAR), mainly related to the scattered layout and associated operational challenges/risks and investigation of alternatives.</p> <p>Layout</p> <p>The layout of the proposed tourism accommodation units is dispersed across the property which results in habitat fragmentation and challenges with fire management, and an inappropriate fire regime could have significant impacts on the vegetation occurring on the site (South Sonderend Sandstone Fynbos).</p> <p>The assessment of the development layout was only within the predetermined</p>	<p>Preferred Alternative 3 evolved in response to concerns relating to the dispersed nature of the proposal, as such all development on the outlying 2 farms has been completely excluded from the development proposal and confined to discreet nodes on core farm 826.</p> <p>Specific ecological physical and ecological factors allowed for the starting</p>	

	<p>layout and immediate vicinity of the footprints and formed part of the terms of reference for the specialist studies. The initial step of identifying constraints to development across the entire property as an informant to designing the layout was not undertaken. In this regard, it is noted that there are in fact more units proposed in the sections of the property which have not been subject to agricultural activities than the previously disturbed areas which were.</p> <p>The response to concerns regarding the layout mainly refers to the measures which have been implemented to address the concerns raised but do not actually address why the units cannot be in other locations across the property. The only aspect put forward in this regard is that the locations selected have the best views and the isolated locations in the fynbos provide a wilderness sense of place which increase the ecotourism value of the units (albeit not explicitly stated as such).</p> <p>It should be noted that meetings were held with CapeNature on 11 June 2024 and 2 July 2024 with the latter on site. Records/minutes of the meetings were not provided. The applicant provided the above motivation regarding the location of the units at the on-site meeting, with the site visit intended to illustrate the motivation.</p> <p>CapeNature however clearly stated that a substantiated motivation would have to be provided for the location of each of the units as well as the lack of feasibility for locating the units in the more disturbed sections of the property.</p> <p>Comments from the Department of Environmental Affairs and Development Planning (DEA&DP) on the Revised Pre-Application BAR (subject of this comment) indicate concerns regarding the dispersed layout, specifically in relation to the Western Cape Land Use Planning Guidelines: Rural Areas (Rural Land Use Guidelines). Although the Rural Land Use Guidelines relate to spatial planning, the concerns align with the concerns raised by CapeNature with regards to the dispersed layout. It should be noted that the Rural Land Use Guidelines and the Western Cape Biodiversity Spatial Plan (BSP) were developed concurrently between DEA&DP and CapeNature to ensure that the two documents align e.g. the Core 1 areas referred to (in Spatial Development Frameworks (SDFs)) align to the Critical Biodiversity Areas (CBAs).</p> <p>It should be noted that the BSP has been updated and has been adopted in terms of the Western Cape Biodiversity Act (PG 9017, 13 December 2024). As stated in our previous comments, in the 2017 BSP, the area outside of the Mountain Catchment Area (MCA) classified as Protected Area, consists of Critical Biodiversity Area 1 (CBA) and Ecological Support Area 1 (ESA) in the eastern section, with No</p>	<p>point of the location of the proposed units – topography, roads, services, etc. from there site-specific changes were implemented in response to specialist findings and the layout was amended in response to these concerns. Various changes have been implemented to avoid sensitive areas identified by the specialists. Further more, alternative 3 then evolved which removed all development from the outlying 2 farms.</p> <p>Layout alternative 3 has evolved to address this concern.</p> <p>Noted</p> <p>The layout has evolved in Alternative 3 – excluding all development on the outlying farms.</p> <p>See Section 4.6, page 14 of the BAR and Section G of the BAR – The information has been updated as per comment</p>	
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	<p>Natural over the western half apart from ESA 2 along the watercourses. In the update, the entire remainder of the site consists of CBA 1 with a few patches of CBA 2 and the boundary of the Protected Area has been amended to more accurately reflect the boundary of the MCA. In this regard it is important to note that additional time has lapsed since the previous version for the areas disturbed by agriculture to recover and importantly, the change in the threat status of South Sonderend Sandstone Fynbos from least threatened to critically endangered. The BSP including the MCA must be taken into account in additional revisions to the layout.</p> <p>Terrestrial Animal Site Sensitivity Verification Report and Compliance Statement</p> <p>A terrestrial animal compliance statement was compiled as recommended by CapeNature. As with the botanical assessment and the freshwater ecological assessment the study focuses on the proposed footprints and immediate surroundings and not on the entire property. While the focus of the compliance statement is on animal species of conservation concern (SCCs), all faunal species recorded at each of the development footprints are listed.</p> <p>The screening tool listed one species as high sensitivity, namely the Striped Flufftail (<i>Sarothrura affinis</i>). The species flagged as medium sensitivity were three bird species and three invertebrate species. The site survey took place over two days and included both diurnal and nocturnal surveys. The methodology included visual and acoustic surveys, sweep netting and call playback for the Striped Flufftail. Two SCCs were confirmed during the site survey, namely the Striped Flufftail and the Verreaux's Eagle (<i>Aquila verreauxii</i>), both of which are listed as vulnerable. We note that the threat status provided is the national listing, for which SANBI is the custodian. The international IUCN listing for both species is least concern.</p> <p>The Striped Flufftail was recorded at four localities adjacent or near to wetlands or streams through a response to the call playback. It is anticipated that this species will be sensitive to disturbance during the construction phase and from tourism activities. The recommendation is that the camping site should be moved further west outside of the delineated Striped Flufftail habitat. It should be noted that the flufftail habitat extends further than the seep wetland delineated in the freshwater ecological assessment whereby the 25 m buffer was considered adequate. The recommended mitigation then changes the impact rating from high significance to medium significance and the report therefore recommends that a full impact assessment is not required.</p> <p>It is noted that the site survey was undertaken in winter however the SANBI Red List account for this species recommends that surveys are undertaken in the</p>	<p>The location of the campsite was amended in response to the flufftail and as per recommendations of the Faunal Specialist.</p> <p>As agreed with Cape Nature, the spring survey will be undertaken in Spring as a condition of approval. Further more the camp site was moved westwards and away from possible habitat. In addition, the Faunal CS was</p>	
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	<p>breeding season, which is spring in the Western Cape, therefore an additional survey is recommended to obtain a more accurate reflection of the distribution and abundance on site. Further information should be provided regarding the proposed relocation of the camp site in relation to the habitat of the species and home range and size of territories. It should further be noted that the species is a sought-after species for birders therefore mitigation should be in place to minimize disturbance and excessive playback of calls. One of the primary threats to the species is inappropriate fire regimes, with evidence of sensitivity to fires as reflected in the SANBI Red List account. This species must therefore be taken into account in the fire management of the site.</p> <p>The Verreaux's Eagle is a highly mobile species which forages over a wide area and breeds on cliffs and therefore the proposed development is not considered likely to impact this species, with an impact rating of low. Black Harriers (<i>Circus maurus</i>) were not observed in the once off two day survey, however CapeNature can report a record of Black Harrier on the border of the property therefore it is likely that the species will occur on the property. We further wish to note that there are seasonal movements of this species. Secretarybirds (<i>Sagittarius serpentarius</i>) are considered unlikely to occur on the site.</p>	<p>upgraded to a full Faunal Impact Assessment.</p> <p>The Verreaux's eagle (<i>Aquila verreauxii</i>) is currently classified as Vulnerable within southern Africa and is widely distributed across suitable habitat in South Africa, particularly in areas characterized by mountainous terrain and rocky outcrops. The species predominantly preys on rock hyrax (<i>Procavia capensis</i>) but is an opportunistic predator capable of utilizing a variety of medium-sized mammals, large birds, and carrion (Murgatroyd et al. 2016b). Records from the iNaturalist and Global Biodiversity Information Facility (GBIF) databases indicate regular observations of the species in the broader region surrounding Rusty Gate. During the site assessment, a Verreaux's eagle was recorded at Site 4, suggesting active use of the property, likely for foraging purposes.</p> <p>The layout of the proposed development areas, comprising multiple small and spatially separated footprints, maintains landscape connectivity and limits potential disturbance to wide-ranging, non-sedentary species such as the Verreaux's eagle. The development is not located near prominent cliff features typically associated with nesting, nor is it expected to significantly reduce the availability of prey species.</p> <p>GPS telemetry studies indicate that Verreaux's eagles maintain relatively small core ranges (approximately 1.4 km²) during key periods, with larger home ranges extending up to 28 km² during foraging activities (Murgatroyd et al. 2016a). Although the Rusty Gate property (~300 ha) represents a small portion of this range, it may contribute to broader foraging opportunities for the species. Research further suggests that Verreaux's eagles can persist in landscapes subject to moderate levels of transformation, provided sufficient prey resources and undisturbed roosting or nesting sites remain (Murgatroyd et al. 2016a, Murgatroyd et al. 2016b).</p> <p>Based on available data and site observations, Rusty Gate is considered to have a moderate importance as supplementary foraging habitat for Verreaux's eagles. The likelihood of occurrence of the species on the property is assessed as high. Given the design of the proposed development</p>	
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	<p>CapeNature highlighted two recently described amphibians located within the adjacent Riviersonderend Nature Reserve. Both of these species are not easily detectable therefore the potential presence cannot be ruled out, however based on the existing data regarding occurrence/distribution and the location and layout of the development components it is considered unlikely that there will be any impact on these species (wetland habitat and appropriate buffers are existing constraints to the development layout). Confirmation should be provided regarding the identification of the <i>Cacosternum</i> species on site considering the distribution and habitat, albeit that the other likely potential options are not SCCs. There is a likelihood of one of the invertebrates occurring however the likely impact for the species is listed as low or low-medium.</p> <p>A general concern with the animal species compliance statement is that the report has not adequately considered ecological connectivity, in particular the ecological corridor between two sections of the Riviersonderend Nature Reserve. Ecological corridors at this scale are important for larger more mobile species such as leopard (<i>Panthera pardus</i>), grey rhebok (<i>Pelea capreolus</i>) and klipspringer (<i>Oreotragus oreotragus</i>). There are several CapeNature records for klipspringer for the property. Related to this, a more clustered layout will reduce fragmentation compared to the current dispersed layout. Species which could potentially be damage causing or nuisance species should be included in the report, such as baboons (<i>Papio ursinus</i>), leopards and porcupines (<i>Hystrix africaeaustralis</i>). It will be more difficult to manage impacts associated with these species with a dispersed layout.</p>	<p>and the nature of the surrounding landscape, the potential impact on Verreux's eagle habitat is considered low</p> <p>Based on currently available information, the likelihood of significant negative impact on <i>Capensibufo magistratus</i> populations at Rusty Gate is considered to be low. The confidence level in this assessment is moderate, owing to the lack of direct observations during the survey and the species' known low detectability. To improve confidence in the assessment, it is recommended that targeted amphibian surveys be conducted during the breeding season, typically late winter to early spring following adequate rainfall, focusing particularly on any temporary pools and moist depressions. Furthermore, environmental management measures that protect any seasonal wetlands and shallow depressions during construction and operation are advisable, even in the absence of confirmed populations. The Landdroskop Mountain Toadlet <i>Capensibufo magistratus</i>, will therefore not likely be impacted by the proposed development and SEI are classified as 'low'</p> <p>The updated Faunal Impact Assessment states the following: The development of tourism facilities at Rusty Gate is anticipated to increase human presence in the area, which could influence the behavior and movement patterns of large mammal species. Research has shown that recreational activities can result in spatial and temporal shifts in wildlife activity, particularly among species sensitive to disturbance, such as leopards and grey rhebok (Salvatori et al. 2023, Sganzerla et al. 2025). Mammals may respond to increased human activity by altering their habitat use, shifting their activity to nocturnal periods, or adjusting their movement corridors. These changes can have implications for functional landscape connectivity, particularly in areas linking protected areas such as the Riviersonderend Provincial Nature Reserve. However, international studies also indicate that with appropriate management interventions, such as maintaining undeveloped corridors, regulating visitor access, and minimizing infrastructure within critical areas, it is possible to support both wildlife conservation and sustainable tourism objectives (Salvatori et al. 2023). The success of such interventions typically depends on proactive spatial planning, visitor management strategies, and the design of infrastructure to facilitate wildlife movement. Therefore, integrating ecological considerations into the planning and operational phases of the Rusty Gate development will be important to maintain its role in supporting large mammal connectivity within the Cape Floristic Region.</p>	
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	<p>It is stated, both in general and more specifically in the context of Striped Flufftail, Verreaux's Eagle, Black Harrier and Riviersonderend moss frog (<i>Arthroleptella atermina</i>), that a more scattered development allows for greater connectivity and lower disturbance. The logic behind this is premise (generally, and specifically for these species) is faulty. When the relevant habitat areas are large and have long borders, multiple corridors between can be more effective than a single corridor. However, in the case of Rusty Gate the area between the protected areas is relatively small with short borders (approximately 1 km long and a few hundred metres wide, and fragmented by the disturbed area in the centre), therefore the larger the area that remains undeveloped, the better.</p> <p>Over this relatively small area, a more scattered development has the potential to interrupt animal movement and important behaviours such as dispersal, foraging and mate seeking. It would be preferable if no units were built in the western part of Rusty Gate (specifically units 26 and 27). The site sensitivity verification in the compliance statement indicates that the sensitivity should be considered as medium as opposed to high. However, we wish to note that according to the protocols for the animal species theme, 4.6 "Where SCC are found on site or have been confirmed to be likely present, a Terrestrial Animal Species Specialist Assessment must be submitted in accordance with the requirements specified for "very high" and "high" sensitivity in this protocol." Therefore, as two SCCs were confirmed to be present with others that could potentially occur, the specialist study should take the form of a specialist assessment rather than a compliance statement in accordance with the protocols.</p> <p>It is however noted that the study has conflated (or confused) the concepts of sensitivity and impact as indicated in the protocols and regulations. Impact ratings have been provided for the impacts on individual species albeit not within impact rating tables. In this regard the impacts are rated as low for all species apart from the impacts on Striped Flufftail which is rated as high before the proposed relocation of the camp site and moderate after relocation.</p> <p>It should however be noted that an impact of medium or higher after mitigation requires a biodiversity offset according to the National Biodiversity Offset Guidelines (offset guidelines). While the offset guidelines are aimed primarily at terrestrial ecosystems, the principles can be applied to species for species offsets.</p>	<p>The evolution of Layout Alternative 3 allows for exclusion of development on the 2 outlying farms and the securing of a large uninterrupted ecological corridor and link between the MCA and Riviersonderend PA via Rusty Gate. The rezoning to Open Space 4 further secures this.</p> <p>Layout Alternative 3 sees the removal of development proposal on the 2 outlying farms, therefore units 26 and 27 are no longer on farm 824. This farm will remain undeveloped and form the important link and ecological corridor.</p> <p>Faunal assessment upgraded to full Faunal Impact Assessment</p> <p>Noted</p>	
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	<p>Therefore, in accordance with the protocols and the offset guideline, we recommend that the terrestrial animal species compliance statement should be updated to an impact assessment and after full investigation of the mitigation hierarchy, a species specific biodiversity offset must be investigated if the residual impact is still medium or higher. In this regard the concerns regarding the dispersed layout must be taken into account and opportunities for further avoidance must be investigated.</p> <p>Fire Management Management of fires was raised as an important issue to be addressed particularly in relation to the dispersed layout. Alteration of the fire regime as a result of the development would impact on the natural fynbos ecology. It was therefore agreed that an integrated fire and alien invasive species management plan will be compiled to ensure that the natural fire regime is not significantly affected and the risk to structures is reduced. A number of measures have been listed in the BAR and the comments and response report. We wish to note however that the sensitivity of the Striped Flufftails to fires were not taken into account initially, and therefore the management plan will need to take a balanced approach regarding the regeneration of the vegetation and the impact on the flufftails.</p> <p>A firebreak agreement was also identified as a key mitigation measure. As stated in the comments and response report, there is an existing informal agreement with CapeNature and other neighbours, however this must be formalised and is considered essential before further development occurs on site.</p> <p>Stewardship The landowner approached CapeNature regarding the potential options of a stewardship agreement with CapeNature. The site was previously presented at the CapeNature Stewardship Review Committee but was not identified as a top priority. CapeNature nonetheless agreed that we can present the site again to the committee. The land use proposed on site is to maintain and restore the remainder of the property which is not used for ecotourism accommodation and facilities to natural habitat, including areas historically used for agriculture. The landowner is also exploring the option of rezoning the property from agriculture to conservation to align with current and proposed future land use. It should be noted that the footprint of ecotourism accommodation and facilities is much smaller than cultivation and water use is much less than irrigated agriculture. Competing land uses such as agricultural production are acknowledged, however CapeNature's primary mandate is biodiversity conservation.</p>	<p>Various Fire management actions are implemented across the site as detailed in the BAR. Faunal comment - Importantly, although the species is tolerant of periodic burning when appropriately timed, the timing and frequency of burns can critically affect habitat suitability if post-fire vegetation regrowth does not align with breeding periods (Taylor 1994). Given this information it is recommended that the Fire Management Plan contain specific reference to the flufftail specifically relating to breeding periods and frequency.</p> <p>Noted</p> <p>Given the final Preferred Layout 3, the removal of all development on the 2 outlying farms and the consolidation of and rezoning to Open Space 4, aligns well with the objectives of Cape nature stewardship sites, and this will be explored further as a condition of authorisation.</p>	
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	<p>Conclusion</p> <p>In conclusion, the constraints identified in the specialist studies and concerns raised by CapeNature must be taken into account in the development of additional layout alternatives as is required by the competent authority, with a focus on a more clustered layout.</p> <p>The specialist studies must all be updated to include an assessment of the revised layouts and must indicate the variation of the sensitivity and conservation value across the entire property to enable an evaluation of the selection of the best practicable alternative. The mitigation hierarchy must be applied with regards to the assessment of impacts on Striped Flufftail in the animal species study.</p> <p>Further comment will be provided on the management of the property and mitigation measures once a revised layout is provided.</p> <p>CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.</p>	<p>As indicated in the new Layout Alternative 3.</p> <p>Attached – all specialists have assessed all layout.</p> <p>Noted and implemented</p> <p>Noted</p>	
<p style="text-align: center;">Additional information commenting request on revised layout</p> <p>In light of the comments received during PPP1 and PPP 2, the development team decided to amend the proposal and exclude all development proposed for the 2 outlying properties and focus the development application on the core Farm 826 only. As a result of this the EAP provided DEADP with the revised layout and requested informal input into the amendment before commencing with the final round of in process ppp</p>			
<p>Bernadette Osbourne DEADP</p>	<p>Email dated 24/03/2024</p> <p>COMMENT ON THE BRIEFING DOCUMENT FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONS FOR OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON.</p> <p>1. The electronic copy of the briefing document received by this Directorate on 13 March 2025, refers.</p> <p>2. The layout presented takes into account the comments from this Directorate regarding the clustering of the units. This layout alternative may be considered as one of the alternatives to be further assessed as part of the EIA process. All previously considered alternatives must be included, and other alternatives must also be generated if this one does not satisfactorily address the issues raised by the authorities and other I&APs.</p> <p>3. Since the current proposal has not undergone any public participation process and no comment from the broader stakeholder base has been obtained, there are no guarantees that can be given at this stage of the process. This Directorate cannot pre-judge the outcome of the application. All information presented will be considered part of the EIA process.</p> <p>4. Please note that this does not constitute approval of the proposed layout, as additional investigation of other alternatives may be necessary based on the</p>	<p>Content Noted</p>	

	<p>outcome of the assessment.</p> <p>5. This Directorate therefore awaits the submission of the application form and draft Basic Assessment Report to provide further comment.</p> <p>6. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>7. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>8. This Directorate reserves the right to revise or withdraw any comments or request further information from you based on any information received</p>		



REGISTER FOR INTERESTED AND AFFECTED PARTIES

PROJECT: Rusty Gate Mountain Retreat						
NAME:	ORGANISATION:	POSTAL ADDRESS:	TEL:	EMAIL:	COMMENT:	DATE & REF:
PPP 1 – Draft Pre Application BAR – 13 March 2024 to 16 April 2024						
Johan Viljoen	Theewaterskloof Municipality	-	-		Email dated 13/03/2024 TWK wishes to register as I&AP	
Whale Coast Conservation Pat Miller	Whale Coast Conservation	-	-	pat.miller7@outlook.com	Email dated 15/03/2024 Request to be registered as I&AP	
DEADP	Bernadette Osbourne	-	021 483 3679	Bernadette.Osborne@westerncape.gov.za	Email dated 16/04/2024 Dear Sir COMMENT ON THE PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT ("BAR") IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE 2014 ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONS FOR OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON. 1. The electronic copy of the pre-application Draft BAR received by the Department on 12 March 2024, this Department's acknowledgement	

				<p>thereof issued on 5 April 2024, refer.</p> <p>2. Following the review of the information submitted to this Department, the following is noted:</p> <ul style="list-style-type: none"> ➤ The proposal entails the expansion of existing lawful tourism facility on Portions of Farm No's 824, 826 and 887, Greyton. ➤ The proposed development will have a development footprint of 3156.5m² and will accommodate a total of 92 people. ➤ Watercourses are present on the site. ➤ The site is mapped to contain Western Coastal Shale Band vegetation which is classified as an endangered ecosystem and South Sonderend Sandstone Fynbos vegetation, which is classified as a critically endangered ecosystem. ➤ The site is partially located within the Riviersonderend Mountain Catchment Area, which is a protected area. ➤ The site is zoned Agriculture and is located outside the urban area of Greyton. <p>3. This Department's comments are as follows:</p> <p>3.1 Listed Activities</p> <ul style="list-style-type: none"> • Adequate detail for the applicability of Activity 12 of Listing Notice 1 was not provided. It was indicated that the development may be located within 32m of the watercourses present on the site but that all the new infrastructure will not be located within 32m of the watercourses. Furthermore, page 70 of the draft BAR refers to buffer areas of 20m that must be implemented for the watercourse. Clarity must be provided which units will be located within 32m of a watercourse. • It is noted that Activity 27 of Listing Notice 1 will be applied for, however, the proposed development will have a footprint of approximately 3156.5m². The applicability of Activities 12 and 27 of Listing Notice 1 must be confirmed. • It is indicated that minor extensions to the existing access road may be required to access some of the remote eco-cabins and pods. If any of the extension require roads wider than 4m, Activity 4 of Listing Notice 3 may also be applicable to the proposed development. If applicable, it must be included and assessed as part of the application. • Please provide the development footprint of the new extensions to the existing roads. 	
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					<p>3.4 Site Development Plan</p> <ul style="list-style-type: none"> It was indicated that the proposed parking area included as block 23 does not require approval. Please indicate why the parking area does not require approval and if it will require the clearance of indigenous vegetation. The proposed amphitheatre and occasional camping site included as blocks 9 and 10 was not included and addressed as part of the application. Please clarify. The buffer areas of 32m from any mapped drainage line and 20m from any wetland must also be included in the Site Development Plan. A clear distinction must be provided in the Site Development Plan between the existing structures and the new structures <p>3.5 Services</p> <ul style="list-style-type: none"> It is indicated that rainwater will be harvested for water supply provision to the proposed development. How will it be ensured that rainwater will be harvested to service the proposed development, as required? What alternative measures will be put in place if the water supply is not adequate? It is further noted that existing water use right are available for the farm. Please note that proof of the existing water use rights (a copy of the water use license) must be included in the BAR. Clarity is required as to how much water is currently being used by the facility and what the new water requirements will be as a result of the expansion of the facility. It is indicated that conservancy tanks will be installed for effluent management and that sewerage will be transported by a private contractor to a municipal sewerage works. Written confirmation is required from the local authority that they have sufficient capacity to treat effluent. In addition to the above, confirmation is required from a registered service provider that they have capacity to regularly empty the conservancy tanks. The capacity of the proposed conservancy tanks must also be provided. The BAR does not indicate how solid waste will be managed. If waste will be taken to a municipal landfill site, written confirmation 	
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					<p>is required from the local authority that sufficient capacity is available for solid waste management.</p> <p>3.6 Please provide a motivation as to why the No-go alternative was not preferred</p> <p>3.7 Comment from the Breede-Olifants Catchment Management Agency (“BOCMA”) Agency must be provided that the proposed activities fall within the ambit of a General Authorisation or Water Use License.</p> <p>3.8 Comments from the following Organs of State must be obtained and included in the BAR:</p> <ul style="list-style-type: none"> • CapeNature; ☐ • Department of Agriculture; ☐ • Breede-Olifants Catchment Management Agency; ☐ • Heritage Western Cape; ☐ • This Department’s Directorate: Pollution and Chemical Management; x • Theewaterskloof Municipality. ☐ <p>3.9 The Public Participation Process must comply with the approved Public Participation Plan and the requirements of Regulation 41 of the NEMA EIA Regulations, 2014, and proof of compliance with all the steps undertaken must be included in the BAR.</p> <p>3.10 A comprehensive Comments and Response Report that includes all the comments received and the responses thereto must be included in the BAR. In addition, please ensure that copies of all the comments received are attached to the BAR.</p> <p>3.11 Please be advised that a signed and dated applicant declaration is required to be submitted with the final BAR to this Department for decision-making. It is important to note that by signing this declaration, the applicant is confirming that they are aware and have taken cognisance of the contents of the report submitted for decision-making. Furthermore, through signing this declaration, the applicant is making a commitment that they are both willing and able to implement the necessary mitigation, management and monitoring measures recommended within the report with respect to this application.</p> <p>3.12 In addition to the above, please ensure that signed and dated Environmental Assessment Practitioner (“EAP”) and Specialist declarations is also submitted with the final BAR for decision-making. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p>	
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					<p>Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>This Department reserves the right to revise or withdraw any comments or request further information from you based on any information received.</p>	
Cape Nature Rhett Smart	Rhett Smart	-	-	rsmart@capenature.co.za	<p>Email dated 17/04/2024</p> <p>Pre-Application Basic Assessment Report for the Proposed Expansion of the Rusty Gate Mountain Retreat Resort, Farm 824, Remainder of Farm 826 and Farm 887, Helderstroom</p> <p>CapeNature would like to thank you for the opportunity to comment on the proposed development and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the proposed development.</p> <p>Desktop Information</p> <p>The western half of Farm 824, Farm 887 and the northern section of Farm 826 are located within the Riviersonderend Mountain Catchment Area (MCA) and are therefore mapped as Protected Area in the Western Cape Biodiversity Spatial Plan (WCBSP). There is Critical Biodiversity Area 1 (CBA) and Ecological Support Area 1 (ESA) in the eastern half of the remainder of Farm 826. The eastern half of Farm 824 and western half of Farm 826 are classified as No Natural apart from ESA 2 along the watercourses. The property is bounded to the north and the south by the Riviersonderend Nature Reserve managed by CapeNature which forms part of the Cape Floral Region Protected Areas World Heritage Site.</p> <p>The vegetation occurring on site is mapped as South Sonderend Sandstone Fynbos, listed as critically endangered and a band of Western Coastal Shale Band Vegetation listed as endangered. There is</p>	

				<p>a seep wetland associated with the primary non-perennial river traversing Farm 826 and an unchanneled valley bottom wetland associated with the Elandskloof River traversing Farm 887 according to the National Wetland Map (NWM). In addition, there are several other non-perennial rivers mapped across the properties. The property is located within the Boland Surface Water Strategic Water Source Area (SWSA) and the Southwestern Cape Ranges Groundwater SWSA.</p> <p>The proposed development consists of an expansion of the existing tourism accommodation and recreational facilities, with several cabins/eco-pods scattered throughout the property and recreational facilities in the vicinity of the existing facilities. Confirmation is provided that there was an investigation whether any National Environmental Management Act (NEMA) listed activities triggered prior to application, which concluded that there were no transgressions.</p> <p>Screening Tool and Site Sensitivity Verification</p> <p>Although the Pre-Application Basic Assessment Report (BAR) indicates that the screening tool and site sensitivity verification report have been completed as Appendices i1 and i2, these are not available for download. The results from the screening tool as downloaded by CapeNature indicate that the sensitivity for terrestrial biodiversity and aquatic biodiversity is very high, for animal species is high and for plant species is medium.</p> <p>Section C6: Protocols of the BAR discusses the specialist studies undertaken in relation to the outcomes from the screening tool. It states that the terrestrial biodiversity theme is attended to in the botanical/ecological impact assessment but does not refer to specialist assessments for the aquatic biodiversity, animal species and plant species themes. It is however noted that the plant species theme is addressed in the botanical assessment and the aquatic biodiversity theme is addressed in the freshwater ecological assessment.</p> <p>For the animal species theme, it states that only very limited areas on the property will be developed and the open space retained. We wish to note that the Species Protocols (GN 1150, 30 October 2020) states "1.4 Where the information gathered from the site sensitivity verification differs from the screening tool designation of "very high" or "high", for terrestrial animal species sensitivity and it is found to be of a "low" sensitivity, then a Terrestrial Animal Species Compliance</p>	
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				<p>Statement must be submitted.” Therefore, as a minimum, a terrestrial animal species compliance statement should be submitted in accordance with the protocols, dependent on the outcome of the site sensitivity verification.</p> <p>The site sensitivity verification should discuss the potential impact on the species flagged as high sensitivity namely the striped flufftail (<i>Sarothrura affinis</i>), with three bird species and three invertebrate species flagged as medium sensitivity. We further wish to note that there are two recently described amphibian species which are found within the adjacent Riviersonderend Nature Reserve namely <i>Capensibufo magistratus</i> and <i>Arthroleptella atermina</i> and which may be species of conservation concern once the threat status level is assessed and may be located on the property in suitable habitat (CapeNature 2021). The faunal study must also take into account the Species Environmental Assessment Guideline (SANBI 2020). Botanical Assessment</p> <p>The WCBSP is reflected in the botanical assessment, however the Protected Area (MCA) has been reflected as unmapped and hence assumed to not be of conservation importance, which should be corrected. The protected area status should also be taken into account in the assessment.</p> <p>The vegetation mapping is largely supported however the shale soils are reported to be more extensive than in the National Vegetation Map. The vegetation on site is considered to be senescent having not burnt for more than 15 years. In this regard, we wish to note that due to the location adjacent to the Riviersonderend Nature Reserve, CapeNature has records of the fire history of the property. In this regard, according to our records, the western half of Farm 824 last burnt in 2011 (and 1997 prior to that) and the remainder of the property excluding the central development area (which does not have any records of fire) last burnt in 2012 (and 1973 prior to that). This means that the veld age is between 13 and 14 years old. We further wish to note that CapeNature has a permanent protea plot adjacent to the property which is used for monitoring the flowering of selected serotinous protea species after fire in order to evaluate the impact of the fire regime on regeneration.</p> <p>Each of the proposed development footprints were assessed with regards to the loss of habitat. The sensitivity ratings were for the revised footprints as advised in the botanical assessment. Most of the footprints were evaluated to be of medium sensitivity with low</p>	
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				<p>sensitivity in the previously disturbed areas. Footprint 7 was relocated from a high sensitivity to medium sensitivity location. Footprint 31 in the south-eastern corner was moved from a high sensitivity location, however the revised location is still rated as high sensitivity and contains three plant species of conservation concern (SCCs). Two of the medium sensitivity footprints had an SCC present which was near threatened.</p> <p>As the descriptions of the vegetation focus on the individual footprints which only constitute a very small proportion of the site, the overall site sensitivity mapping is not provided. Historical Google Earth imagery indicates that a large proportion of the site was previously under agriculture, which is also described in the BAR and is likely the reason for the classification of No Natural. However, the recovery of indigenous vegetation has been relatively good, particularly in the western sections (also observed by CapeNature on site) and should currently be considered as indigenous vegetation. The historical Google Earth imagery also provides an indication of the extent of historical disturbance, and it is noted that many of the proposed units are located in the sections which were not disturbed.</p> <p>The assessment of the impacts for the construction phase before and after mitigation for the initial layout is rated as medium negative and for the revised layout is low-medium. For the operational phase, the most important indirect impact is the impact on the optimal fire regime within the vicinity of the infrastructure due to fire suppression. The impact is rated as medium negative significance. The potential introduction of alien invasive Argentine ant within the vicinity of new units is also rated as medium negative significance. The impact of alien invasive species is rated as low negative before mitigation and low positive after mitigation. The overall rating for the operational phase impact is medium before mitigation and low-medium after mitigation, which consists of implementing on-going alien invasive plant management.</p> <p>The required mitigation measures for alien clearing are that all alien invasive species must be removed from the property within three years of any approvals and alien invasive species must be removed annually from around the new units. Firebreaks should be brushcut annually extending 5 m from the buildings. CapeNature however wishes to raise concern regarding the proposed layout with regards to the fire management of the property and the risk to infrastructure. As indicated above, fire suppression impacts on biodiversity and</p>	
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					<p>ecological function as well as increasing the fuel load. Protection of structures in isolated areas of natural fynbos places significant strain on fire-fighting authorities when wildfires occur. We note that the botanical assessment has made the assumption that fires will be permitted to approach close to the tourism units, however we wish to query the feasibility of this, and the fire protection measures which will be in place to prevent fire damage to the units.</p> <p>The layout has not been considered holistically, and therefore we recommend that a more clustered layout needs to be considered which will be easier to manage with regards to fires and fire protection (e.g. firebreaks) and will also reduce the impacts. While it is acknowledged that the intention of the ecotourism units is to provide an experience surrounded by nature and with the best views, this can still be achieved with a more clustered layout. The sensitivity mapping for the entire site should be used to inform the proposed development layout whereby the best practicable option in terms of the environmental impacts must be selected, as is required by NEMA.</p> <p>Freshwater Ecological Assessment</p> <p>The freshwater ecological assessment was preceded by an aquatic biodiversity screening report which evaluated the first revision of the development proposal. The ground-truthing of the footprints revealed that the wetlands on site are more extensive than the NWM mapping. Several footprints had to be relocated due the location within wetlands, namely 27, 26, 3B and the campsite. The layout assessed in the botanical assessment was subsequent to the relocation. The additional wetlands in the vicinity of these footprints are delineated and are classified as hillslope seep wetlands. The proposed sundowner boma was located within a seep wetland according to the NWM, however the ground-truthing did not reveal the presence of a wetland, and therefore the facility was not relocated.</p> <p>The revised layout is assessed in the freshwater ecological assessment, which includes fine scale mapping of the wetlands in the vicinity of the relocated footprints to provide evidence of avoidance of the wetlands. The present ecological state (PES) of the large hillslope wetland (near the existing development footprint) is evaluated to be moderately modified and the small hillslope wetlands higher up as largely natural. The ecological importance and sensitivity (EIS) are rated as moderate and low/marginal respectively. For the recommended ecological category, the PES for the small wetlands states that limited disturbance is permissible as the EIS is</p>	
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				<p>low/marginal, however CapeNature does not support this statement. The recommended PES should be to remain the same. We wish to note with regards to the EIS calculation that the seep wetlands could support suitable amphibian habitat (see requirement for faunal specialist study above) and these footprints were not assessed by the botanical specialist.</p> <p>The impact assessment for the identified impacts in the construction phase and operational phase for the revised layout are rated as low before mitigation and very low after mitigation. We note that the impact table (Table 16) for disturbance of habitat appears to have swapped around the ratings for intensity for before and after mitigation.</p> <p>Mountain Catchment Area and World Heritage Site</p> <p>Mountain Catchment Areas were declared in terms of the Mountain Catchment Areas Act (Act 63 of 1970) and are considered to be a protected area in terms of the National Environmental Management: Protected Areas Act (NEM:PAA, Act 57 of 2003). Mountain Catchment Areas are included within the Western Cape Biodiversity Act (WCBA, Act 6 of 2021) and the Mountain Catchment Areas Act will be repealed once this section of the WCBA comes into effect. According to the WCBA, MCAs may be declared where the control and management of activities and resources in the area concerned are required to:</p> <ul style="list-style-type: none"> a) Maintain the biodiversity and ecosystems in the area; b) Sustain the ecological infrastructure and provision of ecosystem services, particularly water provisioning; c) Ensure that the use of biodiversity and ecosystems in the area is sustainable. <p>There are currently no regulations or restrictions for development within MCAs however the designation as MCAs is used as an informant for land use applications whereby any developments which may compromise the ability of the MCA to provide a secure, steady supply of water into the downstream catchment will not be permitted. Section 41(b) of the WCBA makes provision for activities which are prohibited in an MCA. Management of fires and alien invasive species are an important consideration and the Mountain Catchment Areas Act makes provision for the establishment of fire</p>	
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				<p>protection committees and development of fire protection plans. There are no current development controls for developments adjacent to a World Heritage Site (WHS), however any developments which may have a negative impact on the outstanding universal value (OUV) for which the WHS was declared are not supported. There have however been proposals put forward for development controls surrounding WHS. It should be noted that in terms of the Regulations for the Proper Administration of Special Nature Reserves, National Parks and World Heritage Sites, access to a WHS requires the permission of the management authority i.e. CapeNature.</p> <p>With regards to the MCAs status of a portion of the property and the adjacent WHS, the low-impact ecotourism development proposed could be considered compatible provided the impacts on biodiversity, ecosystem services and sense of place are minimized. The management of catchment area in terms of integrated fire and alien management is however an important consideration.</p> <p>Development Proposal</p> <p>The layout of the proposed development has implemented the mitigation hierarchy through the identification of constraints in both the botanical and freshwater assessments, whereby the development footprints were relocated accordingly. The initial step of avoidance was implemented albeit within the context of the initial preferred layout i.e. units were shifted a short distance from the original proposed footprint. As indicated above, the proposed layout needs to be considered holistically across the entire property and a more clustered layout must be investigated which will allow for adequate management of fires. The more isolated units should be considered for relocation, such as Footprint 28, which also encroaches on the building line restrictions with Riviersonderend Nature Reserve and WHS, and Footprint 31 which is also rated as high botanical sensitivity. The services associated with a development proposal are an important contribution to the environmental impacts in particular for developments with a very low density scattered layout as with the current proposal. The access roads to all the footprints are already in existence as confirmed in the BAR, apart from minor extensions to the more isolated units. The access road to the revised location of Footprint 27 will traverse a seep wetland. We recommend that there is further investigation of alternatives which avoid the wetland. Significant erosion and degradation can occur in roads that traverse wetlands, in particular if there is a steep slope. It is noted from the</p>	
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					<p>layout plan that hiking paths are proposed to be utilised as off-road vehicle tracks. In this regard, the if the roads trigger NEMA thresholds they will need to be assessed. Even if they do not, it must be ensured that steep and difficult hiking trails and hiking trails through wetlands should remain strictly for hiking. Off-road tracks must not result in erosion and degradation through construction and usage.</p> <p>Sewage provision will be through the use of closed conservancy tanks for each unit which will be placed underneath the unit and therefore not require excavation. The camp site will be serviced by a single conservancy tank. Sewage piping will be according to building regulations. We wish to query whether all of the conservancy tanks will be accessible by the trucks to service them. The roads will need to be able to accommodate the trucks and the trucks could result in additional disturbance.</p> <p>Potable water provision and electricity is not discussed in the services section and will need to be described and assessed. With regards to the proposed units, the construction methodology allows for pre-manufactured components which can be assembled on site, which is supported due to the reduced disturbance. The pillar/stilt foundations will also reduce disturbance. However, a very important consideration will be the flammability of the proposed units in order to minimize the risk of fire damage as discussed above. The units should also minimize the impact on sense of place of the WHS.</p> <p>Conclusion</p> <p>In conclusion, although the mitigation hierarchy has been applied for the current development layout within a pre-defined development envelope, CapeNature recommends that there is further investigation of a more clustered layout which will allow for improved management of fire.</p> <p>In addition:</p> <ul style="list-style-type: none"> • An integrated fire and alien management plan is considered essential for this property due to the fire risk to the proposed development, the impact of fire suppression on ecological function and the location within an MCA. • A minimum of an animal species (including aquatic species) compliance statement should be undertaken in accordance with the Species Protocol, unless the site sensitivity verification determines that an animal species impact assessment is required. 	
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					<ul style="list-style-type: none"> • The MCA status of the property should be taken into account in the specialist assessments. • Comments on the fine scale development layout will be provided once additional layouts are made available. • All services, including road access, sewage, potable water and electricity must be described and assessed. <p>CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.</p>	
Fabion Smith BOCMA	BOCMA	-	-	fsmith@bocma.co.za	<p>Email dated 23/05/2024</p> <p>NOTICE OF DRAFT PUBLIC PARTICIPATION PROCESS: RUSTY GATE MOUNTAIN RETREAT, FARM 824, FARM 826 REM AND FARM 887, CALEDON DISTRICT</p> <p>With reference to your electronic submission of information dated 12/03/2024 with DEA&DP reference number 16/3/3/6/7/1/E4/12/1151/23, together with specialist reports, herewith the following:</p> <ol style="list-style-type: none"> 1. The BOCMA would like to apologize for the delay in submission. 2. The specialist reports explain the presence of wetlands. 3. Registration for the proportional volume of water for the five additional self-catering dwellings would have to be amended to reflect the correct water use sector. Please start such a process as soon as possible. 4. Please note that any activity within the 1:100 year flood line or within 100m of a watercourse (river, spring, natural channel, a lake or dam) or within 500m radius from the delineated boundary (extent) of any wetland or pan, triggers a water use activity in terms of Section 21 (c) & (i) of the National Water Act, 1998 (Act 36 of 1998). 5. Appropriate mitigation measures should be employed to minimize the overall risk on the water resource. 6. In the event where no municipal services would be utilized, water provided for domestic use must comply with the SANS 241:2015 guidelines for drinking water. The disposal of sewage in addition, must always comply with the requirements of Section 22 and Section 40 of 	

					<p>the National Water Act, 1998 (Act 36 of 1998).</p> <p>7. Henceforth, it should be ensured that the proposed development should adhere to all other relevant sections of the NWA, 1998 (Act 36 of 1998), not contained within this letter.</p> <p>Please be advised that the comment provided is in the interest of responsible water resource management. The BOCMA reserves the right to revise initial comments and request further information based on any additional information that might be received.</p> <p>Please do not hesitate to contact this office if you have any further queries.</p> <p>Please ensure to quote the above reference in doing so.</p>	
Department of Agri – Brandon Layman	Department of Agriculture Landuse Elsenburg	-	-	cor.vanderwalt@westerncape.gov.za	<p>Email dated 16/07/2024</p> <p>PROPOSED EXPANSION OF TOURISM OVERNIGHT AND ASSOCIATED ACTIVITIES RUSTY GATE MOUNTAIN RETREAT – CALEDON RD</p> <p>Your application of 13 March 2024 has reference.</p> <p>Application is made for the expansion and addition to an existing tourism operation over three farm portions. Rusty Gate Mountain Retreat appointed Lornay Environmental Consulting to facilitate the EIA PROCESS IN TERMS OF THE National Environmental Management Act to obtain Environmental Authorisation.</p> <p>The Western Cape Department of Agriculture: Land Use Management has the following comments:</p> <ol style="list-style-type: none"> 1. From an agricultural perspective, the current development proposal does not give adequate regard to safeguard the agricultural land, be it currently cultivated or not, it remains agricultural land. 2. Unless the property is consolidated, the development proposal for each individual land portion will be evaluated separately. Therefore, the rural accommodation proposed for each land portion must correspond to the type and density as recommended on farms and resorts as per the Western Cape Land Use Planning Guidelines for Rural Areas of 2019. 3. Please note that rezoning to resort zone is not entertained for properties smaller than 50 hectares and that a resort development should be closely associated with a resource which clearly benefits 	-

					and distinguishes the site in terms of its amenity value, from surrounding properties. 4. The motivation for the application in its current format is therefore not supported.	
Consolidated DEADP and DOA comment	DEADP & DOA	-	-	As above	<p>Letter dated 10 Oct 2024</p> <p>RE: COMMENT ON THE PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT ("BAR") IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE 2014 ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONAL DEVELOPMENT OF OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON.</p> <p>1. The site visit conducted on 16 September 2024 by officials of the Directorate: Development Management (Region 1) ("this Directorate"), the Provincial Department of Agriculture, CapeNature, Theewaterskloof Municipality, the applicant and the Environmental Assessment Practitioner, refers.</p> <p>2. This letter serves as a consolidated response from this Directorate and the Provincial Department of Agriculture ("DoA").</p> <p>3. The information contained in the pre-application Draft Basic Assessment Report ("BAR") that was circulated for comment, indicates that the placement of the proposed tourist facilities in the preferred layout alternative takes into consideration the input provided by various specialists and that these facilities were placed outside areas of high ecological significance. However, at the site visit conducted on 16 September 2024, the following concerns were highlighted by this Directorate, the DoA and the municipality:</p> <p>3.1. The number and dispersed nature of the proposed tourism accommodation units as well as the appropriateness of the location of the proposed camp site were highlighted as concerns.</p> <p>3.2. The scale of the proposed development in an agricultural landscape is not in keeping with the relevant guideline documents, most notably the Western Cape Land Use Planning Guidelines for Rural Areas, 2019. This document provides guidance for decision-makers when considering development that is not of an agricultural nature, within agricultural areas. It provides specific guidance with regards to additional land uses on agricultural land, that is to be</p>	

					<p>subservient to the agricultural use of the land, the acceptable scale and extent of such developments, etc. It also provides guidance with regards to the appropriate zoning for developments exceeding the provisions for construction of additional units on agricultural land. An important aspect to consider in this regard, is that the presence of a unique natural source has to be demonstrated in the consideration of a “resort” zone. Since the need and desirability of the proposed development is a critical aspect of the consideration of the application, these guidelines become a relevant consideration in the decision-making process and the consideration of the content thereof in the Basic Assessment process must be adequately demonstrated. As it stands at present, sufficient justification has not been provided for the deviation from the principles of the Western Cape Land Use Planning Guidelines for Rural Areas, 2019 in terms of the scale and context of the proposed development.</p> <p>3.3. Although it was indicted that existing water rights are in place for the farm, no proof has been provided. Furthermore, the existing water rights are to be used for bona fide agricultural activities and not for tourism accommodation. Since it is not the applicant’s intention to farm the property, the existing water rights may have to be transferred to another entity that could utilise the water for agricultural activities. This aspect was not addressed in the pre-application Draft BAR, and no indication was provided to what extent this was discussed with the relevant decision-maker in terms of the National Water Act.</p> <p>3.4. No options were considered to protect agricultural land. The proposal does not address the protection of viable agricultural land for potential future agricultural use. The fact that the applicant is not interested in farming the land himself, does not mean that the land, especially where it was cultivated before (including the amphitheatre site), and where there are existing water rights in place (if any), could not be utilised for agricultural purposes through a different arrangement.</p> <p>3.5. Veld fires are a common occurrence in the area, and can have very serious and significant implications, especially in mountainous areas where there are large areas of dense vegetation, as on the proposed site. This risk must be addressed with specific attention to proposed locations of remote accommodation units, some of which are more than 2km removed from the existing tourist accommodation area on the farm.</p>	
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					<p>4. In light of the above concerns, you are hereby informed that alternatives that address the above issues must be investigated and reported on. Be advised that in terms of the EIA Regulations and NEMA, the investigation of alternatives is mandatory. Please note that alternatives are not limited only to layout alternatives, but include activity, design, operational and technology alternatives as well.</p> <p>5. It is recommended that a revised pre-application Draft BAR be circulated for further comment before an application for environmental authorisation is submitted to the competent authority, based on the fact that such revised report would contain significant new information.</p> <p>6. Additional to the above, clarity is sought on the legal status of the existing resort development in terms of the applicable planning legislation. This has bearing on the potential to consider an application for expansion of a development of which the current legal status is unknown.</p> <p>7. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>8. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity.</p> <p>This Directorate reserves the right to revise or withdraw initial comments or request further information from you based on any information received.</p>	
ADDITIONAL OUT OF PROCESS PUBLIC PARTICIPATION 2 13 Nov to 31 Jan 2025						
Rulien Volschenk	Overberg District Municipality	-	-	rvolschenk@odm.org.za	<p>Email 13/12/2024</p> <p>NOTICE OF PUBLIC PARTICIPATION PROCESS FOR BASIC ENVIRONMENTAL IMPACT ASSESSMENT IN TERMS OF NEMA – RUSTY GATE MOUNTAIN RETREAT</p> <p>DEA&DP Ref. no.: 16/3/3/6/7/E4/12/1151/23</p> <p>The Environmental Management Services Department of the Overberg District Municipality take cognisance of the Basic Assessment Report for the proposed consolidation, rezoning and expansion of tourism overnight facilities and associated activities.</p>	

					<p>The study area falls within South Sonderend Sandstone Fynbos (listed as Critically Endangered) and Western Coastal Shale Band Vegetation (listed as Endangered). The Overberg District Municipality's Spatial Development Framework advocate for the protection of prominent indigenous vegetation and the habitats of indigenous fauna. Therefore layout 2 is supported as it actively promote the protection of the wetland area and limit development within sensitive botanical areas to minimise the impact on species of conservation concern</p> <p>Active fire management throughout the operational phase should be prioritised to ensure the protection of infrastructure while maintaining the ecological functioning of the surrounding fynbos. A Fire Management Plan should form part of the Operational Environmental Management Plan,</p> <p>which include actions like fire prevention (biomass reduction and firebreaks), fire response, and awareness raising for tourist.</p> <p>The ODM reserves the right to revise its comments and request further information based on any additional information that may be received.</p>	
Bernadette Osbourne	DEADP			bernadette.osborne@westerncape.gov.za	<p>Email dated 31/01/25</p> <p>COMMENT ON THE REVISED PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT ("BAR") IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE 2014 ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONS FOR OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON.</p> <p>1. The electronic copy of the revised pre-application Draft BAR received by the Department on 13 November 2024, this Department's acknowledgement thereof issued on 21 November 2024, refer.</p> <p>2. Following the review of the information submitted to this Department, the following is noted:</p>	

				<p>➤ The proposal entails the proposed conversion of existing structures and additions for overnight tourism facilities on Portions of Farm No's 824, 826 and 887, Greyton.</p> <p>➤ The proposed development will have a development footprint of 3156.5m² and will accommodate a total of 92 people.</p> <p>➤ Watercourses is present on the site.</p> <p>➤ The site is mapped to contain Western Coastal Shale Band vegetation which is classified as endangered and South Sonderend Sandstone Fynbos vegetation, which is classified as critically endangered.</p> <p>➤ The site is partially located within the Riviersonderend Mountain Catchment Area, which is a protected area.</p> <p>➤ The site is zoned form agricultural purposes and is located outside the urban area of Greyton.</p> <p>3.</p> <p>This Department's comments are as follows:</p> <p>3.1 Planning considerations</p> <p>3.1.1 The following considerations are re-iterated in terms of the rural guidelines:</p> <ul style="list-style-type: none"> • Tourist accommodation in the rural area should be clustered in visually discreet nodes and the topography and site sensitivity will determine the number and location of the cluster(s). • Tourist accommodation should be located appropriately, avoiding high risk areas (e.g. areas prone to fire or flooding). • Essential Core areas are 'no-go' areas from a development perspective and human contact should be restricted to ensure no further loss of natural habitat. Subject to stringent controls, non-consumptive low-impact eco-tourism activities, such as visitor's overnight accommodation may be accommodated in Core 1 areas. Detailed site-level mapping of habitat conditions should inform the placement of essential buildings or structures in Core Areas, which should preferably be located on disturbed footprints. • Due to historical farming practices, there are large areas on the application properties that are already disturbed. Units should ideally be positioned in already disturbed areas where it will have the least impact on the natural environment. • The form and scale of tourist accommodation should reinforce rural landscape qualities. Information on the architectural design must be provided for the purposes of heritage and visual assessments. Where buildings and structures in Core Areas are justified, environmentally 	
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					<p>sensitive and sustainable construction principles should be applied to ensure that development is in harmony with the character of the surrounding landscape.</p> <p>3.1.2. The justification for the deviation from the principles of the Western Cape Land Use Planning Guidelines for Rural Areas 2019 in terms of the scale and context of the proposed development is not adequate.</p> <p>3.2 It is noted that the preferred alternative does not consider the planning consideration highlighted above and as highlighted in this Directorate's comment dated 10 October 2024. It is strongly advised that alternatives be considered that address the above planning considerations.</p> <p>3.3 Clarity has not been provided regarding the legal status of the existing resort development in terms of the applicable planning legislation. The draft BAR indicates that the planning consultants are busy with the necessary planning applications. As such, clarity is required whether the existing facility is lawful in terms of the planning legislation.</p> <p>3.4 Confirmation of services</p> <p>3.4.1. Written confirmation from the municipality that they have sufficient capacity for solid waste management is still outstanding and must be obtained.</p> <p>3.4.2. Proof of the existing water rights have been provided. However, this is allocated for agricultural activities. The water authority has indicated that an amendment of the authorisation is required to reflect the correct water use. The EAP indicated that the process to affect the amendments will be conducted once a decision on the application is received. It is further noted that a general authorisation will be required for additional water. Please be advised that the authorisation for the abstraction of groundwater must be included in the final BAR. Please note that the amended authorisation for the correct water use must also be included in the final BAR.</p> <p>3.5. The activity description must be updated to include details of the following:</p> <p>3.5.1. Which units and/or structures will be located within 32m of a watercourse;</p> <p>3.5.2. How many conservancy tanks will be installed and if each one will have a capacity of 5000 litres; and</p> <p>3.5.3.</p> <p>The length and diameter of the sewerage pipelines connecting to the</p>	
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					<p>conservancy tanks.</p> <p>3.6 The buffer areas of 32m from any mapped drainage line and 20m from any wetland must also be included in the Site Development Plan.</p> <p>3.7 You are reminded that a comprehensive Comments and Response Report that includes all the comments received, and the responses thereto must be included in the BAR. In addition, please ensure that copies of all the comments received are attached to the BAR.</p> <p>4. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>5. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>This Directorate reserves the right to revise or withdraw any comments or request further information from you based on any information received.</p>	
Department of Agriculture – Cor van der Walt	Cor van der Walt	-	-	cor.vanderwalt@westerncape.gov.za	<p>Letter dated 10/02/2025</p> <p>PROPOSED CONSOLIDATION, REZONING AND EXPANSION OF TOURISM OVERNIGHT AND ASSOCIATED ACTIVITIES: DIVISION CALEDON</p> <p>Farm No 824</p> <p>Farm No 887</p> <p>Remainder of the farm No 826</p> <p>Your application of 13 November has reference.</p> <p>The Western Cape Department of Agriculture (WCDoA) has the following comments:</p> <ul style="list-style-type: none"> - Please note that an application to rezone to Open Space 4: Nature Reserve does not exclude the properties from the provisions of Subdivision of Agricultural Land Act 70 of 1970. Only by proclaiming it in a government gazette as a private nature reserve will the properties 	

					<p>be removed from the agricultural register.</p> <ul style="list-style-type: none"> - A Stewardship agreement and management plan must be established between Cape Nature and the land landowners should the approval for rezoning be obtained. - Should approval for the rezoning be gained, the water registered for the purpose of irrigation must be surrendered and reallocated for the purpose of irrigation - The units must be clustered and must correspond to the type, density and size, as recommended for rural accommodation in the Western Cape Land Use Planning Guidelines for Rural Areas of 2019. The layout as presented in the revised BAR are considered scattered. <p>Please note:</p> <ul style="list-style-type: none"> - That this comment to the relevant deciding authorities in terms of the subdivision of Agricultural Land Act 70 of 1970. - Kindly quote the above-mentioned reference number in any future correspondence in respect of the application. - The Department reserves the right to revise initial comments and request further information based on the information received. 	
Rhett Smart	Cape Nature	-	-	rsmart@capenature.co.za	<p>Email dated 17/02/2025</p> <p>Revised Pre-Application Basic Assessment Report for the Proposed Expansion of the Rusty Gate Mountain Retreat Resort, Farm 824, Remainder of Farm 826 and Farm 887, Helderstroom</p> <p>CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.</p> <p>CapeNature raised concerns in our comments on the Pre-Application Basic Assessment Report (BAR), mainly related to the scattered layout and associated operational challenges/risks and investigation of alternatives.</p> <p>Layout</p> <p>The layout of the proposed tourism accommodation units is dispersed across the property which results in habitat fragmentation and challenges with fire management, and an inappropriate fire regime could have significant impacts on the vegetation occurring on the site (South Sonderend Sandstone Fynbos).</p> <p>The assessment of the development layout was only within the</p>	

					<p>predetermined layout and immediate vicinity of the footprints and formed part of the terms of reference for the specialist studies. The initial step of identifying constraints to development across the entire property as an informant to designing the layout was not undertaken. In this regard, it is noted that there are in fact more units proposed in the sections of the property which have not been subject to agricultural activities than the previously disturbed areas which were. The response to concerns regarding the layout mainly refers to the measures which have been implemented to address the concerns raised but do not actually address why the units cannot be in other locations across the property. The only aspect put forward in this regard is that the locations selected have the best views and the isolated locations in the fynbos provide a wilderness sense of place which increase the ecotourism value of the units (albeit not explicitly stated as such).</p> <p>It should be noted that meetings were held with CapeNature on 11 June 2024 and 2 July 2024 with the latter on site. Records/minutes of the meetings were not provided. The applicant provided the above motivation regarding the location of the units at the on-site meeting, with the site visit intended to illustrate the motivation. CapeNature however clearly stated that a substantiated motivation would have to be provided for the location of each of the units as well as the lack of feasibility for locating the units in the more disturbed sections of the property.</p> <p>Comments from the Department of Environmental Affairs and Development Planning (DEA&DP) on the Revised Pre-Application BAR (subject of this comment) indicate concerns regarding the dispersed layout, specifically in relation to the Western Cape Land Use Planning Guidelines: Rural Areas (Rural Land Use Guidelines). Although the Rural Land Use Guidelines relate to spatial planning, the concerns align with the concerns raised by CapeNature with regards to the dispersed layout. It should be noted that the Rural Land Use Guidelines and the Western Cape Biodiversity Spatial Plan (BSP) were developed concurrently between DEA&DP and CapeNature to ensure that the two documents align e.g. the Core 1 areas referred to (in Spatial Development Frameworks (SDFs)) align to the Critical Biodiversity Areas (CBAs).</p> <p>It should be noted that the BSP has been updated and has been adopted in terms of the Western Cape Biodiversity Act (PG 9017, 13 December 2024). As stated in our previous comments, in the 2017</p>	
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					<p>BSP, the area outside of the Mountain Catchment Area (MCA) classified as Protected Area, consists of Critical Biodiversity Area 1 (CBA) and Ecological Support Area 1 (ESA) in the eastern section, with No Natural over the western half apart from ESA 2 along the watercourses. In the update, the entire remainder of the site consists of CBA 1 with a few patches of CBA 2 and the boundary of the Protected Area has been amended to more accurately reflect the boundary of the MCA. In this regard it is important to note that additional time has lapsed since the previous version for the areas disturbed by agriculture to recover and importantly, the change in the threat status of South Sonderend Sandstone Fynbos from least threatened to critically endangered. The BSP including the MCA must be taken into account in additional revisions to the layout. Terrestrial Animal Site Sensitivity Verification Report and Compliance Statement</p> <p>A terrestrial animal compliance statement was compiled as recommended by CapeNature. As with the botanical assessment and the freshwater ecological assessment the study focuses on the proposed footprints and immediate surroundings and not on the entire property. While the focus of the compliance statement is on animal species of conservation concern (SCCs), all faunal species recorded at each of the development footprints are listed.</p> <p>The screening tool listed one species as high sensitivity, namely the Striped Flufftail (<i>Sarothrura affinis</i>). The species flagged as medium sensitivity were three bird species and three invertebrate species. The site survey took place over two days and included both diurnal and nocturnal surveys. The methodology included visual and acoustic surveys, sweep netting and call playback for the Striped Flufftail. Two SCCs were confirmed during the site survey, namely the Striped Flufftail and the Verreaux's Eagle (<i>Aquila verreauxii</i>), both of which are listed as vulnerable. We note that the threat status provided is the national listing, for which SANBI is the custodian. The international IUCN listing for both species is least concern.</p> <p>The Striped Flufftail was recorded at four localities adjacent or near to wetlands or streams through a response to the call playback. It is anticipated that this species will be sensitive to disturbance during the construction phase and from tourism activities. The recommendation is that the camping site should be moved further west outside of the delineated Striped Flufftail habitat. It should be noted that the flufftail habitat extends further than the seep wetland delineated in the freshwater ecological assessment whereby the 25 m buffer was</p>	
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				<p>considered adequate. The recommended mitigation then changes the impact rating from high significance to medium significance and the report therefore recommends that a full impact assessment is not required.</p> <p>It is noted that the site survey was undertaken in winter however the SANBI Red List account for this species recommends that surveys are undertaken in the breeding season, which is spring in the Western Cape, therefore an additional survey is recommended to obtain a more accurate reflection of the distribution and abundance on site. Further information should be provided regarding the proposed relocation of the camp site in relation to the habitat of the species and home range and size of territories. It should further be noted that the species is a sought-after species for birders therefore mitigation should be in place to minimize disturbance and excessive playback of calls. One of the primary threats to the species is inappropriate fire regimes, with evidence of sensitivity to fires as reflected in the SANBI Red List account. This species must therefore be taken into account in the fire management of the site.</p> <p>The Verreaux's Eagle is a highly mobile species which forages over a wide area and breeds on cliffs and therefore the proposed development is not considered likely to impact this species, with an impact rating of low. Black Harriers (<i>Circus maurus</i>) were not observed in the once off two day survey, however CapeNature can report a record of Black Harrier on the border of the property therefore it is likely that the species will occur on the property. We further wish to note that there are seasonal movements of this species. Secretarybirds (<i>Sagittarius serpentarius</i>) are considered unlikely to occur on the site.</p> <p>CapeNature highlighted two recently described amphibians located within the adjacent Riviersonderend Nature Reserve. Both of these species are not easily detectable therefore the potential presence cannot be ruled out, however based on the existing data regarding occurrence/distribution and the location and layout of the development components it is considered unlikely that there will be any impact on these species (wetland habitat and appropriate buffers are existing constraints to the development layout). Confirmation should be provided regarding the identification of the <i>Cacosternum</i> species on site considering the distribution and habitat, albeit that the other likely potential options are not SCCs. There is a likelihood of one of the invertebrates occurring however the likely impact for the</p>	
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				<p>species is listed as low or low-medium.</p> <p>A general concern with the animal species compliance statement is that the report has not adequately considered ecological connectivity, in particular the ecological corridor between two sections of the Riviersonderend Nature Reserve. Ecological corridors at this scale are important for larger more mobile species such as leopard (<i>Panthera pardus</i>), grey rhebok (<i>Pelea capreolus</i>) and klipspringer (<i>Oreotragus oreotragus</i>). There are several CapeNature records for klipspringer for the property. Related to this, a more clustered layout will reduce fragmentation compared to the current dispersed layout. Species which could potentially be damage causing or nuisance species should be included in the report, such as baboons (<i>Papio ursinus</i>), leopards and porcupines (<i>Hystrix africaeaustralis</i>). It will be more difficult to manage impacts associated with these species with a dispersed layout.</p> <p>It is stated, both in general and more specifically in the context of Striped Flufftail, Verreaux's Eagle, Black Harrier and Riviersonderend moss frog (<i>Arthroleptella atermina</i>), that a more scattered development allows for greater connectivity and lower disturbance. The logic behind this is premise (generally, and specifically for these species) is faulty. When the relevant habitat areas are large and have long borders, multiple corridors between can be more effective than a single corridor. However, in the case of Rusty Gate the area between the protected areas is relatively small with short borders (approximately 1 km long and a few hundred metres wide, and fragmented by the disturbed area in the centre), therefore the larger the area that remains undeveloped, the better.</p> <p>Over this relatively small area, a more scattered development has the potential to interrupt animal movement and important behaviours such as dispersal, foraging and mate seeking. It would be preferable if no units were built in the western part of Rusty Gate (specifically units 26 and 27). The site sensitivity verification in the compliance statement indicates that the sensitivity should be considered as medium as opposed to high. However, we wish to note that according to the protocols for the animal species theme, 4.6 "Where SCC are found on site or have been confirmed to be likely present, a Terrestrial Animal Species Specialist Assessment must be submitted in accordance with the requirements specified for "very high" and "high" sensitivity in this protocol." Therefore, as two SCCs were confirmed to be present with others that could potentially occur, the specialist</p>	
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				<p>study should take the form of a specialist assessment rather than a compliance statement in accordance with the protocols.</p> <p>It is however noted that the study has conflated (or confused) the concepts of sensitivity and impact as indicated in the protocols and regulations. Impact ratings have been provided for the impacts on individual species albeit not within impact rating tables. In this regard the impacts are rated as low for all species apart from the impacts on Striped Flufftail which is rated as high before the proposed relocation of the camp site and moderate after relocation.</p> <p>It should however be noted that an impact of medium or higher after mitigation requires a biodiversity offset according to the National Biodiversity Offset Guidelines (offset guidelines). While the offset guidelines are aimed primarily at terrestrial ecosystems, the principles can be applied to species for species offsets. Therefore, in accordance with the protocols and the offset guideline, we recommend that the terrestrial animal species compliance statement should be updated to an impact assessment and after full investigation of the mitigation hierarchy, a species specific biodiversity offset must be investigated if the residual impact is still medium or higher. In this regard the concerns regarding the dispersed layout must be taken into account and opportunities for further avoidance must be investigated.</p> <p>Fire Management</p> <p>Management of fires was raised as an important issue to be addressed particularly in relation to the dispersed layout. Alteration of the fire regime as a result of the development would impact on the natural fynbos ecology. It was therefore agreed that an integrated fire and alien invasive species management plan will be compiled to ensure that the natural fire regime is not significantly affected and the risk to structures is reduced. A number of measures have been listed in the BAR and the comments and response report. We wish to note however that the sensitivity of the Striped Flufftails to fires were not taken into account initially, and therefore the management plan will need to take a balanced approach regarding the regeneration of the vegetation and the impact on the flufftails.</p> <p>A firebreak agreement was also identified as a key mitigation measure. As stated in the comments and response report, there is an existing informal agreement with CapeNature and other neighbours, however this must be formalised and is considered essential before further development occurs on site. Stewardship</p> <p>The landowner approached CapeNature regarding the potential</p>	
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					<p>options of a stewardship agreement with CapeNature. The site was previously presented at the CapeNature Stewardship Review Committee but was not identified as a top priority. CapeNature nonetheless agreed that we can present the site again to the committee. The land use proposed on site is to maintain and restore the remainder of the property which is not used for ecotourism accommodation and facilities to natural habitat, including areas historically used for agriculture. The landowner is also exploring the option of rezoning the property from agriculture to conservation to align with current and proposed future land use. It should be noted that the footprint of ecotourism accommodation and facilities is much smaller than cultivation and water use is much less than irrigated agriculture. Competing land uses such as agricultural production are acknowledged, however CapeNature's primary mandate is biodiversity conservation.</p> <p>Conclusion</p> <p>In conclusion, the constraints identified in the specialist studies and concerns raised by CapeNature must be taken into account in the development of additional layout alternatives as is required by the competent authority, with a focus on a more clustered layout.</p> <p>The specialist studies must all be updated to include an assessment of the revised layouts and must indicate the variation of the sensitivity and conservation value across the entire property to enable an evaluation of the selection of the best practicable alternative. The mitigation hierarchy must be applied with regards to the assessment of impacts on Striped Flufftail in the animal species study.</p> <p>Further comment will be provided on the management of the property and mitigation measures once a revised layout is provided.</p> <p>CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.</p>	
<p>Additional information commenting request on revised layout</p> <p>In light of the comments received during PPP1 and PPP 2, the development team decided to amend the proposal and exclude all development proposed for the 2 outlying properties and focus the development application on the core Farm 826 only. As a result of this the EAP provided DEADP with the revised layout and requested informal input into the amendment before commencing with the final round of in process ppp</p>						
Bernadette Osbourne	DEADP	-	-	bernadette.osborne@westerncape.gov.za	<p>Email dated 24/03/2024</p> <p>COMMENT ON THE BRIEFING DOCUMENT FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONS FOR OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824,</p>	

					<p>826 AND 887, GREYTON.</p> <ol style="list-style-type: none"> 1. The electronic copy of the briefing document received by this Directorate on 13 March 2025, refers. 2. The layout presented takes into account the comments from this Directorate regarding the clustering of the units. This layout alternative may be considered as one of the alternatives to be further assessed as part of the EIA process. All previously considered alternatives must be included, and other alternatives must also be generated if this one does not satisfactorily address the issues raised by the authorities and other I&APs. 3. Since the current proposal has not undergone any public participation process and no comment from the broader stakeholder base has been obtained, there are no guarantees that can be given at this stage of the process. This Directorate cannot pre-judge the outcome of the application. All information presented will be considered part of the EIA process. 4. Please note that this does not constitute approval of the proposed layout, as additional investigation of other alternatives may be necessary based on the outcome of the assessment. 5. This Directorate therefore awaits the submission of the application form and draft Basic Assessment Report to provide further comment. 6. Kindly quote the abovementioned reference number in any future correspondence in respect of the application. 7. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment. 8. This Directorate reserves the right to revise or withdraw any comments or request further information from you based on any information received 	

8. COMMENTS RECEIVED DURING PPP1



CONSERVATION INTELLIGENCE

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date 16 April 2024

Lornay Environmental Consulting
P.O. Box 1990
Hermanus
7200

Attention: Michelle Naylor
By email: michelle@lornay.co.za

Dear Ms Naylor

Pre-Application Basic Assessment Report for the Proposed Expansion of the Rusty Gate Mountain Retreat Resort, Farm 824, Remainder of Farm 826 and Farm 887, Helderstroom

CapeNature would like to thank you for the opportunity to comment on the proposed development and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the proposed development.

Desktop Information

The western half of Farm 824, Farm 887 and the northern section of Farm 826 are located within the Riviersonderend Mountain Catchment Area (MCA) and are therefore mapped as Protected Area in the Western Cape Biodiversity Spatial Plan (WCBSP). There is Critical Biodiversity Area 1 (CBA) and Ecological Support Area 1 (ESA) in the eastern half of the remainder of Farm 826. The eastern half of Farm 824 and western half of Farm 826 are classified as No Natural apart from ESA 2 along the watercourses. The property is bounded to the north and the south by the Riviersonderend Nature Reserve managed by CapeNature which forms part of the Cape Floral Region Protected Areas World Heritage Site.

The vegetation occurring on site is mapped as South Sonderend Sandstone Fynbos, listed as critically endangered and a band of Western Coastal Shale Band Vegetation listed as endangered. There is a seep wetland associated with the primary non-perennial river traversing Farm 826 and an unchanneled valley bottom wetland associated with the Elandskloof River traversing Farm 887 according to the National Wetland Map (NWM). In addition, there are several other non-perennial rivers mapped across the properties. The property is located within the Boland Surface Water Strategic Water Source Area (SWSA) and the Southwestern Cape Ranges Groundwater SWSA.

The proposed development consists of an expansion of the existing tourism accommodation and recreational facilities, with several cabins/eco-pods scattered throughout the property

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and recreational facilities in the vicinity of the existing facilities. Confirmation is provided that there was an investigation whether any National Environmental Management Act (NEMA) listed activities triggered prior to application, which concluded that there were no transgressions.

Screening Tool and Site Sensitivity Verification

Although the Pre-Application Basic Assessment Report (BAR) indicates that the screening tool and site sensitivity verification report have been completed as Appendices i1 and i2, these are not available for download. The results from the screening tool as downloaded by CapeNature indicate that the sensitivity for terrestrial biodiversity and aquatic biodiversity is very high, for animal species is high and for plant species is medium.

Section C6: Protocols of the BAR discusses the specialist studies undertaken in relation to the outcomes from the screening tool. It states that the terrestrial biodiversity theme is attended to in the botanical/ecological impact assessment but does not refer to specialist assessments for the aquatic biodiversity, animal species and plant species themes. It is however noted that the plant species theme is addressed in the botanical assessment and the aquatic biodiversity theme is addressed in the freshwater ecological assessment.

For the animal species theme, it states that only very limited areas on the property will be developed and the open space retained. We wish to note that the Species Protocols (GN 1150, 30 October 2020) states "1.4 Where the information gathered from the site sensitivity verification differs from the screening tool designation of "very high" or "high", for terrestrial animal species sensitivity and it is found to be of a "low" sensitivity, then a Terrestrial Animal Species Compliance Statement must be submitted." Therefore, as a minimum, a terrestrial animal species compliance statement should be submitted in accordance with the protocols, dependent on the outcome of the site sensitivity verification.

The site sensitivity verification should discuss the potential impact on the species flagged as high sensitivity namely the striped flufftail (*Sarothrura affinis*), with three bird species and three invertebrate species flagged as medium sensitivity. We further wish to note that there are two recently described amphibian species which are found within the adjacent Riviersonderend Nature Reserve namely *Capensibufo magistratus* and *Arthroleptella atermina* and which may be species of conservation concern once the threat status level is assessed and may be located on the property in suitable habitat (CapeNature 2021). The faunal study must also take into account the Species Environmental Assessment Guideline (SANBI 2020).

Botanical Assessment

The WCBSP is reflected in the botanical assessment, however the Protected Area (MCA) has been reflected as unmapped and hence assumed to not be of conservation importance, which should be corrected. The protected area status should also be taken into account in the assessment.

The vegetation mapping is largely supported however the shale soils are reported to be more extensive than in the National Vegetation Map. The vegetation on site is considered to be senescent having not burnt for more than 15 years. In this regard, we wish to note that due to the location adjacent to the Riviersonderend Nature Reserve, CapeNature has records of the fire history of the property. In this regard, according to our records, the western half of Farm 824 last burnt in 2011 (and 1997 prior to that) and the remainder of the property excluding the central development area (which does not have any records of fire) last burnt in 2012 (and 1973 prior to that). This means that the veld age is between 13 and 14 years old. We further wish to note that CapeNature has a permanent protea plot adjacent to the

property which is used for monitoring the flowering of selected serotinous protea species after fire in order to evaluate the impact of the fire regime on regeneration.

Each of the proposed development footprints were assessed with regards to the loss of habitat. The sensitivity ratings were for the revised footprints as advised in the botanical assessment. Most of the footprints were evaluated to be of medium sensitivity with low sensitivity in the previously disturbed areas. Footprint 7 was relocated from a high sensitivity to medium sensitivity location. Footprint 31 in the south-eastern corner was moved from a high sensitivity location, however the revised location is still rated as high sensitivity and contains three plant species of conservation concern (SCCs). Two of the medium sensitivity footprints had an SCC present which was near threatened.

As the descriptions of the vegetation focus on the individual footprints which only constitute a very small proportion of the site, the overall site sensitivity mapping is not provided. Historical Google Earth imagery indicates that a large proportion of the site was previously under agriculture, which is also described in the BAR and is likely the reason for the classification of No Natural. However, the recovery of indigenous vegetation has been relatively good, particularly in the western sections (also observed by CapeNature on site) and should currently be considered as indigenous vegetation. The historical Google Earth imagery also provides an indication of the extent of historical disturbance, and it is noted that many of the proposed units are located in the sections which were not disturbed.

The assessment of the impacts for the construction phase before and after mitigation for the initial layout is rated as medium negative and for the revised layout is low-medium. For the operational phase, the most important indirect impact is the impact on the optimal fire regime within the vicinity of the infrastructure due to fire suppression. The impact is rated as medium negative significance. The potential introduction of alien invasive Argentine ant within the vicinity of new units is also rated as medium negative significance. The impact of alien invasive species is rated as low negative before mitigation and low positive after mitigation. The overall rating for the operational phase impact is medium before mitigation and low-medium after mitigation, which consists of implementing on-going alien invasive plant management.

The required mitigation measures for alien clearing are that all alien invasive species must be removed from the property within three years of any approvals and alien invasive species must be removed annually from around the new units. Firebreaks should be brushcut annually extending 5 m from the buildings.

CapeNature however wishes to raise concern regarding the proposed layout with regards to the fire management of the property and the risk to infrastructure. As indicated above, fire suppression impacts on biodiversity and ecological function as well as increasing the fuel load. Protection of structures in isolated areas of natural fynbos places significant strain on fire-fighting authorities when wildfires occur. We note that the botanical assessment has made the assumption that fires will be permitted to approach close to the tourism units, however we wish to query the feasibility of this, and the fire protection measures which will be in place to prevent fire damage to the units.

The layout has not been considered holistically, and therefore we recommend that a more clustered layout needs to be considered which will be easier to manage with regards to fires and fire protection (e.g. firebreaks) and will also reduce the impacts. While it is acknowledged that the intention of the ecotourism units is to provide an experience surrounded by nature and with the best views, this can still be achieved with a more clustered layout. The sensitivity mapping for the entire site should be used to inform the proposed development layout

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whereby the best practicable option in terms of the environmental impacts must be selected, as is required by NEMA.

Freshwater Ecological Assessment

The freshwater ecological assessment was preceded by an aquatic biodiversity screening report which evaluated the first revision of the development proposal. The ground-truthing of the footprints revealed that the wetlands on site are more extensive than the NWM mapping. Several footprints had to be relocated due the location within wetlands, namely 27, 26, 3B and the campsite. The layout assessed in the botanical assessment was subsequent to the relocation. The additional wetlands in the vicinity of these footprints are delineated and are classified as hillslope seep wetlands. The proposed sundowner boma was located within a seep wetland according to the NWM, however the ground-truthing did not reveal the presence of a wetland, and therefore the facility was not relocated.

The revised layout is assessed in the freshwater ecological assessment, which includes fine scale mapping of the wetlands in the vicinity of the relocated footprints to provide evidence of avoidance of the wetlands. The present ecological state (PES) of the large hillslope wetland (near the existing development footprint) is evaluated to be moderately modified and the small hillslope wetlands higher up as largely natural. The ecological importance and sensitivity (EIS) are rated as moderate and low/marginal respectively. For the recommended ecological category, the PES for the small wetlands states that limited disturbance is permissible as the EIS is low/marginal, however CapeNature does not support this statement. The recommended PES should be to remain the same. We wish to note with regards to the EIS calculation that the seep wetlands could support suitable amphibian habitat (see requirement for faunal specialist study above) and these footprints were not assessed by the botanical specialist.

The impact assessment for the identified impacts in the construction phase and operational phase for the revised layout are rated as low before mitigation and very low after mitigation. We note that the impact table (Table 16) for disturbance of habitat appears to have swapped around the ratings for intensity for before and after mitigation.

Mountain Catchment Area and World Heritage Site

Mountain Catchment Areas were declared in terms of the Mountain Catchment Areas Act (Act 63 of 1970) and are considered to be a protected area in terms of the National Environmental Management: Protected Areas Act (NEM:PAA, Act 57 of 2003). Mountain Catchment Areas are included within the Western Cape Biodiversity Act (WCBA, Act 6 of 2021) and the Mountain Catchment Areas Act will be repealed once this section of the WCBA comes into effect. According to the WCBA, MCAs may be declared where the control and management of activities and resources in the area concerned are required to:

- a) Maintain the biodiversity and ecosystems in the area;
- b) Sustain the ecological infrastructure and provision of ecosystem services, particularly water provisioning;
- c) Ensure that the use of biodiversity and ecosystems in the area is sustainable.

There are currently no regulations or restrictions for development within MCAs however the designation as MCAs is used as an informant for land use applications whereby any developments which may compromise the ability of the MCA to provide a secure, steady supply of water into the downstream catchment will not be permitted. Section 41(b) of the WCBA makes provision for activities which are prohibited in an MCA. Management of fires and alien invasive species are an important consideration and the Mountain Catchment Areas Act makes provision for the establishment of fire protection committees and development of fire protection plans.

There are no current development controls for developments adjacent to a World Heritage Site (WHS), however any developments which may have a negative impact on the outstanding universal value (OUV) for which the WHS was declared are not supported. There have however been proposals put forward for development controls surrounding WHS. It should be noted that in terms of the Regulations for the Proper Administration of Special Nature Reserves, National Parks and World Heritage Sites, access to a WHS requires the permission of the management authority i.e. CapeNature.

With regards to the MCAs status of a portion of the property and the adjacent WHS, the low-impact ecotourism development proposed could be considered compatible provided the impacts on biodiversity, ecosystem services and sense of place are minimized. The management of catchment area in terms of integrated fire and alien management is however an important consideration.

Development Proposal

The layout of the proposed development has implemented the mitigation hierarchy through the identification of constraints in both the botanical and freshwater assessments, whereby the development footprints were relocated accordingly. The initial step of avoidance was implemented albeit within the context of the initial preferred layout i.e. units were shifted a short distance from the original proposed footprint. As indicated above, the proposed layout needs to be considered holistically across the entire property and a more clustered layout must be investigated which will allow for adequate management of fires. The more isolated units should be considered for relocation, such as Footprint 28, which also encroaches on the building line restrictions with Riviersonderend Nature Reserve and WHS, and Footprint 31 which is also rated as high botanical sensitivity.

The services associated with a development proposal are an important contribution to the environmental impacts in particular for developments with a very low density scattered layout as with the current proposal. The access roads to all the footprints are already in existence as confirmed in the BAR, apart from minor extensions to the more isolated units. The access road to the revised location of Footprint 27 will traverse a seep wetland. We recommend that there is further investigation of alternatives which avoid the wetland. Significant erosion and degradation can occur in roads that traverse wetlands, in particular if there is a steep slope. It is noted from the layout plan that hiking paths are proposed to be utilised as off-road vehicle tracks. In this regard, if the roads trigger NEMA thresholds they will need to be assessed. Even if they do not, it must be ensured that steep and difficult hiking trails and hiking trails through wetlands should remain strictly for hiking. Off-road tracks must not result in erosion and degradation through construction and usage.

Sewage provision will be through the use of closed conservancy tanks for each unit which will be placed underneath the unit and therefore not require excavation. The camp site will be serviced by a single conservancy tank. Sewage piping will be according to building regulations. We wish to query whether all of the conservancy tanks will be accessible by the trucks to service them. The roads will need to be able to accommodate the trucks and the trucks could result in additional disturbance.

Potable water provision and electricity is not discussed in the services section and will need to be described and assessed.

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With regards to the proposed units, the construction methodology allows for pre-manufactured components which can be assembled on site, which is supported due to the reduced disturbance. The pillar/stilt foundations will also reduce disturbance. However, a very important consideration will be the flammability of the proposed units in order to minimize the risk of fire damage as discussed above. The units should also minimize the impact on sense of place of the WHS.

Conclusion

In conclusion, although the mitigation hierarchy has been applied for the current development layout within a pre-defined development envelope, CapeNature recommends that there is further investigation of a more clustered layout which will allow for improved management of fire.

In addition:

- An integrated fire and alien management plan is considered essential for this property due to the fire risk to the proposed development, the impact of fire suppression on ecological function and the location within an MCA.
- A minimum of an animal species (including aquatic species) compliance statement should be undertaken in accordance with the Species Protocol, unless the site sensitivity verification determines that an animal species impact assessment is required.
- The MCA status of the property should be taken into account in the specialist assessments.
- Comments on the fine scale development layout will be provided once additional layouts are made available.
- All services, including road access, sewage, potable water and electricity must be described and assessed.

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Yours sincerely



Rhett Smart
For: Manager (Landscape Conservation Intelligence)

cc. Othusitse Mabi, CapeNature
Jeanne Gouws, CapeNature
Marienne de Villiers, CapeNature
Johan Viljoen, Theewaterskloof Municipality

References:

CapeNature. 2021. Riviersonderend Complex: Protected Area Management Plan 2021-2031. Internal Report, CapeNature, Cape Town.

South African National Biodiversity Institute (SANBI). 2020. *Species Environmental Assessment Guideline. Guidelines for the Implementation of the Terrestrial Fauna and Terrestrial Flora Species Protocols for Environmental Impact Assessments in South Africa*. South African National Biodiversity Institute, Pretoria. Version 3.1. 2022.



Cnr Mountain Mill & East Lake Road, Worcester 6850, Private Bag X3055 Worcester 6849

Our Reference no: 4/10/2/H60D/Rusty Gate Mountain Retreat Farms 824, 826 REM and 887, Caledon RD
Date: 16 May 2024

LORNAY Environmental Consulting
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Hermanus
7200

For Attention: M Naylor
Madam,

**NOTICE OF DRAFT PUBLIC PARTICIPATION PROCESS: RUSTY GATE MOUNTAIN RETREAT,
FARM 824, FARM 826 REM AND FARM 887, CALEDON DISTRICT**

With reference to your electronic submission of information dated 12/03/2024 with DEA&DP reference number 16/3/3/6/7/1/E4/12/1151/23, together with specialist reports, herewith the following:

1. The BOCMA would like to apologize for the delay in submission.
2. The specialist reports explain the presence of wetlands.
3. Registration for the proportional volume of water for the five additional self-catering dwellings would have to be amended to reflect the correct water use sector. Please start such a process as soon as possible.
4. Please note that any activity within the 1:100 year flood line or within 100m of a watercourse (river, spring, natural channel, a lake or dam) or within 500m radius from the delineated boundary (extent) of any wetland or pan, triggers a water use activity in terms of Section 21 (c) & (i) of the National Water Act, 1998 (Act 36 of 1998).
5. Appropriate mitigation measures should be employed to minimize the overall risk on the water resource.
6. In the event where no municipal services would be utilized, water provided for domestic use must comply with the SANS 241:2015 guidelines for drinking water. The disposal of sewage in addition, must always comply with the requirements of Section 22 and Section 40 of the National Water Act, 1998 (Act 36 of 1998).
7. Henceforth, it should be ensured that the proposed development should adhere to all other relevant sections of the NWA, 1998 (Act 36 of 1998), not contained within this letter.

Please be advised that the comment provided is in the interest of responsible water resource management. The BOCMA reserves the right to revise initial comments and request further information based on any additional information that might be received.

Please do not hesitate to contact this office if you have any further queries.

Please ensure to quote the above reference in doing so.

Yours faithfully.



**Western Cape
Government**

Department of Environmental Affairs and Development Planning

Bernadette Osborne

Directorate: Development Management, Region 1

Bernadette.Osborne@westerncape.gov.za | Tel: 021 483 3679

REFERENCE: 16/3/3/6/7/1/E4/12/1151/23

DATE OF ISSUE: 15 April 2024

The Board of Directors
Rusty Gate Mountain Retreat (Pty) Ltd
PO Box 90
GREYTON
7233

Attention: Mr Stefanus Johannes De Wet Fourie (Bokkie Fourie)

Cell: 072 476 9058

E-mail: bokkie@rustygate.co.za

Dear Sir

COMMENT ON THE PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT ("BAR") IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE 2014 ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONS FOR OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON.

1. The electronic copy of the pre-application Draft BAR received by the Department on 12 March 2024, this Department's acknowledgement thereof issued on 5 April 2024, refer.
2. Following the review of the information submitted to this Department, the following is noted:
 - The proposal entails the expansion of existing lawful tourism facility on Portions of Farm No's 824, 826 and 887, Greyton.
 - The proposed development will have a development footprint of 3156.5m² and will accommodate a total of 92 people.
 - Watercourses are present on the site.
 - The site is mapped to contain Western Coastal Shale Band vegetation which is classified as an endangered ecosystem and South Sonderend Sandstone Fynbos vegetation, which is classified as a critically endangered ecosystem.
 - The site is partially located within the Riviersonderend Mountain Catchment Area, which is a protected area.
 - The site is zoned Agriculture and is located outside the urban area of Greyton.

3. This Department's comments are as follows:

3.1 Listed Activities

- Adequate detail for the applicability of Activity 12 of Listing Notice 1 was not provided. It was indicated that the development may be located within 32m of the watercourses present on the site but that all the new infrastructure will not be located within 32m of the watercourses. Furthermore, page 70 of the draft BAR refers to buffer areas of 20m that must be implemented for the watercourse. Clarity must be provided which units will be located within 32m of a watercourse.

- It is noted that Activity 27 of Listing Notice 1 will be applied for, however, the proposed development will have a footprint of approximately 3156.5m².
- The applicability of Activities 12 and 27 of Listing Notice 1 must be confirmed.
- It is indicated that minor extensions to the existing access road may be required to access some of the remote eco-cabins and pods. If any of the extension require roads wider than 4m, Activity 4 of Listing Notice 3 may also be applicable to the proposed development. If applicable, it must be included and assessed as part of the application.
- Please provide the development footprint of the new extensions to the existing roads.

3.4 Site Development Plan

- It was indicated that the proposed parking area included as block 23 does not require approval. Please indicate why the parking area does not require approval and if it will require the clearance of indigenous vegetation.
- The proposed amphitheatre and occasional camping site included as blocks 9 and 10 was not included and addressed as part of the application. Please clarify.
- The buffer areas of 32m from any mapped drainage line and 20m from any wetland must also be included in the Site Development Plan.
- A clear distinction must be provided in the Site Development Plan between the existing structures and the new structures.

3.5 Services

- It is indicated that rainwater will be harvested for water supply provision to the proposed development. How will it be ensured that rainwater will be harvested to service the proposed development, as required? What alternative measures will be put in place if the water supply is not adequate?
- It is further noted that existing water use right are available for the farm. Please note that proof of the existing water use rights (a copy of the water use license) must be included in the BAR. Clarity is required as to how much water is currently being used by the facility and what the new water requirements will be as a result of the expansion of the facility.
- It is indicated that conservancy tanks will be installed for effluent management and that sewerage will be transported by a private contractor to a municipal sewerage works. Written confirmation is required from the local authority that they have sufficient capacity to treat effluent. In addition to the above, confirmation is required from a registered service provider that they have capacity to regularly empty the conservancy tanks.
- The capacity of the proposed conservancy tanks must also be provided.
- The BAR does not indicate BAR how solid waste will be managed. If waste will be taken to a municipal landfill site, written confirmation is required from the local authority that sufficient capacity is available for solid waste management.

- 3.6 Please provide a motivation as to why the No-go alternative was not preferred.
- 3.7 Comment from the Breede-Olifants Catchment Management Agency ("BOCMA") Agency must be provided that the proposed activities fall within the ambit of a General Authorisation or Water Use License.
- 3.8 Comments from the following Organs of State must be obtained and included in the BAR:
- CapeNature;
 - Department of Agriculture;
 - Breede-Olifants Catchment Management Agency;
 - Heritage Western Cape;
 - This Department's Directorate: Pollution and Chemical Management; and
 - Theewaterskloof Municipality.
- 3.9 The Public Participation Process must comply with the approved Public Participation Plan and the requirements of Regulation 41 of the NEMA EIA Regulations, 2014, and proof of compliance with all the steps undertaken must be included in the BAR.
- 3.10 A comprehensive Comments and Response Report that includes all the comments received and the responses thereto must be included in the BAR. In addition, please ensure that copies of all the comments received are attached to the BAR.
- 3.11 Please be advised that a signed and dated applicant declaration is required to be submitted with the final BAR to this Department for decision-making. It is important to note that by signing this declaration, the applicant is confirming that they are aware and have taken cognisance of the contents of the report submitted for decision-making. Furthermore, through signing this declaration, the applicant is making a commitment that they are both willing and able to implement the necessary mitigation, management and monitoring measures recommended within the report with respect to this application.
- 3.12 In addition to the above, please ensure that signed and dated Environmental Assessment Practitioner ("EAP") and Specialist declarations is also submitted with the final BAR for decision-making.
4. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.
5. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.
6. This Department reserves the right to revise or withdraw any comments or request further information from you based on any information received.

7. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully

Melanes
Schippers

Digitally signed by
Melanes Schippers
Date: 2024.04.15
08:48:13 +02'00'

pp HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Cc: (1) Ms. Michelle Naylor (Lornay Environmental Consulting)
(2) Theewaterskloof Municipality

E-mail: michelle@lornay.co.za
E-mail: twkmun@twk.org.za



Cor Van Der Walt
LandUse Management
Email: Cor.VanderWalt@westerncape.gov.za
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/4/2/956
YOUR REFERENCE : RG1
DEA&DP REFERENCE : 16/3/3/6/7/1/E4/12/1151/23
ENQUIRIES : Cor van der Walt/Fadwa Mohammed

Lornay Environmental Consulting
PO Box 1990
HERMANUS
7200

Att: Michelle Naylor

**PROPOSED EXPANSION OF TOURISM OVERNIGHT AND ASSOCIATED ACTIVITIES RUSTY GATE
MOUNTAIN RETREAT: DIVISION CALEDON
FARM NO 824
FARM NO 887
REMAINDER OF THE FARM NO 826**

Your application of 13 March 2024 has reference.

Application is made for the expansion and addition to an existing tourism operation over three farm portions. Rusty Gate Mountain Retreat (PTY) Ltd appointed Lornay Environmental Consulting to the facilitate the EIA process in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended) to obtain Environmental Authorization.

The Western Cape Department of Agriculture: Land Use Management has the following comments:

1. From an agricultural perspective, the current development proposal does not give adequate regard to safeguard the agricultural land, be it currently cultivated or not, it remains agricultural land.

2. Unless the property is consolidated, the development proposal for each individual land portion will be evaluated separately. Therefore, the rural accommodation proposed for each land portion must correspond to the type and density, as recommended on farms and resorts as per the Western Cape Land Use Planning Guidelines for Rural Areas of 2019.
3. Please note that rezoning to resort zone is not entertained for properties smaller than 50 hectares and that a resort development should be closely associated with a resource which clearly benefits and distinguishes the site in terms of its amenity value, from surrounding properties.
4. The motivation for the application in its current format is therefore not supported.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely



Mr. CJ van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT

2024-07-12

Copies:

Department of Environmental Affairs & Development Planning

1 Dorp Street

Cape Town

8000

Theewaterskloof Municipality

PO Box 24

CALEDON

7230



Cor Van Der Walt
LandUse Management
Email: Cor.VanderWalt@westerncape.gov.za
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/4/2/956
YOUR REFERENCE : LET24017/BF
DEA&DP REFERENCE : 16/3/3/6/7/1/E4/12/1151/23
ENQUIRIES : Cor van der Walt

The Director
Rusty Gate Mountain Retreat
Email: info@rustygate.co.za

Att: Stefanus Johannes de Wet (Bokkie) Fourie

**PROPOSED EXPANSION OF TOURISM OVERNIGHT AND ASSOCIATED ACTIVITIES RUSTY GATE
MOUNTAIN RETREAT: DIVISION CALEDON**
FARM NO 824
FARM NO 887
REMAINDER OF THE FARM NO 826

The Western Cape Department of Agriculture (WCDoA) has taken note of your request, as per letters dated 29 September and 04 October 2024.

The WCDoA, in collaboration with the Department of Environmental Affairs and Development Planning (DEA&DP), the Theewaterskloof Municipality, Cape Nature, PlanActive Town and Regional Planners, and Lornay Environmental Consulting, conducted a site inspection on 16 September 2024.

The objective of the meeting was to discuss the numerous issues highlighted by the various departments and the municipality. PlanActive received the list of agricultural issues by email on 20 August 2024. These concerns were discussed, along with those of other departments, on 16 September 2024.

It was then requested that you and your team consider specific adjustments. Until now, neither the WCDoA nor the DEA&DP have received a formal written response to these concerns.



Therefore, the DEA&DP will send a letter to expand on the issues and request a response from you and your team. This will be a joint letter from DEA&DP and WCDoA because of shared concerns.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely



Mr. CJ van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT

2024-10-10

Copies:

Department of Environmental Affairs & Development Planning - Mare-Liez Oosthuisen
1 Dorp Street
Cape Town
8000

Theewaterskloof Municipality - Colleen Charles/Kurt Thomas
PO Box 24
CALEDON
7230

Cape Nature (Rhett Smart)
Email: rsmart@capenature.co.za

Cape Nature (Corné Claassen)
Email: cclaassen@capenature.co.za

LORNAY Environmental Consulting (Michelle Naylor)
Email: michelle@lornay.co.za

Plan Active (John Mc Lachlan)
Email: planactive@maxitec.co.za



**Western Cape
Government**

Department of Environmental Affairs and Development Planning

Bernadette Osborne

Directorate: Development Management, Region 1
Bernadette.Osborne@westerncape.gov.za | Tel: 021 483 3679

REFERENCE: 16/3/3/6/7/1/E4/12/1151/23

DATE OF ISSUE: 10 OCTOBER 2024

The Board of Directors
Rusty Gate Mountain Retreat (Pty) Ltd
PO Box 90
GREYTON
7233

Attention: Mr Stefanus Johannes De Wet Fourie

Cell: 072 476 9058
E-mail: bokkie@rustygate.co.za

Dear Sir

RE: COMMENT ON THE PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT ("BAR") IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE 2014 ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONAL DEVELOPMENT OF OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON.

1. The site visit conducted on 16 September 2024 by officials of the Directorate: Development Management (Region 1) ("this Directorate"), the Provincial Department of Agriculture, CapeNature, Theewaterskloof Municipality, the applicant and the Environmental Assessment Practitioner, refers.
2. This letter serves as a consolidated response from this Directorate and the Provincial Department of Agriculture ("DoA").
3. The information contained in the pre-application Draft Basic Assessment Report ("BAR") that was circulated for comment, indicates that the placement of the proposed tourist facilities in the preferred layout alternative takes into consideration the input provided by various specialists and that these facilities were placed outside areas of high ecological significance. However, at the site visit conducted on 16 September 2024, the following concerns were highlighted by this Directorate, the DoA and the municipality:
 - 3.1. The number and dispersed nature of the proposed tourism accommodation units as well as the appropriateness of the location of the proposed camp site were highlighted as concerns.
 - 3.2. The scale of the proposed development in an agricultural landscape is not in keeping with the relevant guideline documents, most notably the Western Cape Land Use Planning Guidelines for Rural Areas, 2019. This document provides guidance for decision-makers when considering development that is not of an agricultural nature, within agricultural areas. It provides specific guidance with regards to additional land uses on agricultural land, that is to be subservient to the agricultural use of the land, the acceptable scale and extent of such developments, etc. It also provides guidance with regards to the

appropriate zoning for developments exceeding the provisions for construction of additional units on agricultural land. An important aspect to consider in this regard, is that the presence of a unique natural source has to be demonstrated in the consideration of a "resort" zone. Since the need and desirability of the proposed development is a critical aspect of the consideration of the application, these guidelines become a relevant consideration in the decision-making process and the consideration of the content thereof in the Basic Assessment process must be adequately demonstrated. As it stands at present, sufficient justification has not been provided for the deviation from the principles of the Western Cape Land Use Planning Guidelines for Rural Areas, 2019 in terms of the scale and context of the proposed development.

- 3.3. Although it was indicted that existing water rights are in place for the farm, no proof has been provided. Furthermore, the existing water rights are to be used for *bona fide* agricultural activities and not for tourism accommodation. Since it is not the applicant's intention to farm the property, the existing water rights may have to be transferred to another entity that could utilise the water for agricultural activities. This aspect was not addressed in the pre-application Draft BAR, and no indication was provided to what extent this was discussed with the relevant decision-maker in terms of the National Water Act.
- 3.4. No options were considered to protect agricultural land. The proposal does not address the protection of viable agricultural land for potential future agricultural use. The fact that the applicant is not interested in farming the land himself, does not mean that the land, especially where it was cultivated before (including the amphitheatre site), and where there are existing water rights in place (if any), could not be utilised for agricultural purposes through a different arrangement.
- 3.5. Veld fires are a common occurrence in the area, and can have very serious and significant implications, especially in mountainous areas where there are large areas of dense vegetation, as on the proposed site. This risk must be addressed with specific attention to proposed locations of remote accommodation units, some of which are more than 2km removed from the existing tourist accommodation area on the farm.
4. In light of the above concerns, you are hereby informed that alternatives that address the above issues must be investigated and reported on. Be advised that in terms of the EIA Regulations and NEMA, the investigation of alternatives is mandatory. Please note that alternatives are not limited only to layout alternatives, but include activity, design, operational and technology alternatives as well.
5. It is recommended that a revised pre-application Draft BAR be circulated for further comment before an application for environmental authorisation is submitted to the competent authority, based on the fact that such revised report would contain significant new information.
6. Additional to the above, clarity is sought on the legal status of the existing resort development in terms of the applicable planning legislation. This has bearing on the potential to consider an application for expansion of a development of which the current legal status is unknown.
7. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.
8. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity.

9. This Directorate reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully

**Mare-Liez
Oosthuizen**

Digitally signed by Mare-
Liez Oosthuizen
Date: 2024.10.10 17:31:53
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HEAD OF COMPONENT

DEVELOPMENT MANAGEMENT: REGION 1

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Cc: (1) Ms. Michelle Naylor (Lornay Environmental Consulting)
(2) Ms. Colleen Charles (Theewaterskloof Municipality)
(3) Mr. Cor van der Walt (Department of Agriculture)

E-mail: michelle@lornay.co.za
E-mail: colleench@twk.org.za
E-mail: Cor.vanderWalt@westerncape.gov.za

9. ADDITIONAL ROUND OF PUBLIC PARTICIPATION (PPP 2)

An additional round of pre-application / out of process public participation was undertaken on the amended draft BAR for a 30 day period from 13 November 2024 to 13 December 2024.

10. REGISTERED INTERESTED AND AFFECTED PARTIES

PRE-APPLICATION PUBLIC PARTICIPATION	
WC Government Env Affairs & Dev Planning Development Management bernadette.osborne@westerncape.gov.za mare-liez.oosthuizen@westerncape.gov.za Melanese.Schippers@westerncape.gov.za	Overberg District Municipality F. Kotze / R. Volschenk Private Bag x 22 Bredasdorp 7280 R. Volschenk
Cape Nature Rhett Smart rsmart@capenature.co.za cclaassen@capenature.co.za	Theewaterskloof Municipality TWK Town Planner joanvi@twk.gov.za twkmun@twk.gov.za
BOCMA R. Le Roux Private Bag x3055 Worcester 6850 023 346 8000 info@bocma.co.za	Department of Agriculture Elsenburg Cor vd Walt / B. Layman Brandon.Layman@westerncape.gov.za cor.vanderwalt@westerncape.gov.za
WCC - Pat Miller pat.miller7@outlook.com	DEADP Pollution & Chemical Mgmt Catherine Bill catherine.bill@westerncape.gov.za

11. NOTICE OF ADDITIONAL PRE-APPLICATION PUBLIC PARTICIPATION



NOTICE OF PUBLIC PARTICIPATION FOR BASIC ENVIRONMENTAL IMPACT ASSESSMENT IN TERMS OF NEMA

Notice is hereby provided, in accordance with the Environmental Impact Assessment (EIA) regulations, as stipulated under the National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA) and the 2014 NEMA EIA Regulations (as amended) as published in Government Gazette No. 38282, Government Notice R983, R984, and R985, on 4 December 2014, to register as a Interested and Affected Party (I&AP) and provide comments on the Basic Assessment Report for the *Proposed Expansion of Tourism overnight and associated activities on Rusty Gate Mountain Retreat, Caledon RD*

DEA&DP REFERENCE: 16/3/3/6/7/1E4/12/1151/23

LORNAY REF: RG1

APPLICANT: Rusty Gate Mountain Retreat

LOCATION: Farm 824, Farm 887, and the Remainder of the Farm 826, Caledon RD

PROJECT OVERVIEW: The proposed expansion of Tourism Overnight and associated activities

LISTED ACTIVITIES: The following Listed Activities are applied for in terms of the NEMA EIA Regulations:

- o Listing Notice 1 (GN R983): Activity 27
- o Listing Notice 3 (GN R985): Activities 6; 12

A copy of the Pre-Application Basic Assessment Report is available for public review and download on our website, or upon request. Interested and Affected Parties (I&APs) are invited to register and/or provide comments on the application during the public participation period from **14 November 2024 to 13 December 2024**.

HOW TO PARTICIPATE: Please register or submit your comment via the following details:

Lornay Environmental Consulting
For Att: Michelle Naylor
Tel: 083 245 6556
Email: michelle@lornay.co.za
Website: www.lornay.co.za

IMPORTANT NOTICE: In accordance with the Protection of Personal Information Act (POPI Act, 2023), by registering and commenting as an I&AP, your name and comments will be made public.



*Environmental Impact Assessments | Basic Assessments | 24G
Applications | Water Use License Applications | Environmental Audits*

*Lornay Environmental Consulting Pty Ltd | Reg 2015/445417/07
Unit 5/1F, Hemel & Aarde Wine Village, Hermanus*

12. PROOF OF NOTICE OF PPP 2

michelle@lornay.co.za

From: michelle@lornay.co.za
Sent: Wednesday, 13 November 2024 12:22
To: Bernadette Osborne; 'Melanese Schippers'; Mare-Liez Oosthuizen; Cor Van der Walt; 'fadwa.mohammed@westerncape.gov.za'; 'Brandon Layman'; Rulien Volschenk; 'colleench@twk.gov.za'; 'kurtth@twk.gov.za'; 'johanvi@twk.gov.za'; 'Catherine.Bill@westerncape.gov.za'; Fabion Smith; Rhett Smart; 'Corne Claassen'; 'Pat Miller'
Subject: Notice of Additional PPP on Pre-App BAR | Rusty Gate Mountain Retreat
Attachments: Notice of Additional PreApp PPP Rusty Gate 131124.pdf

Dear Organs of State and I&AP's,

DEA&DP Ref No. 16/3/3/6/7/1/E4/12/1151/23

DEA&DP Development Management – B. Osbourne
DEA&DP Development Management – M. Schippers
DEA&DP Development Management – M. Oosthuizen
DOA – C. van Der Walt
DOA – F. Mohammed
DOA – B. Layman
Overberg District Municipality – R. Volschenk
Theewaterskloof Municipality – C. Charles
Theewaterskloof Municipality – K. Thomas
Theewaterskloof Municipality – J. Viljoen
DEA&DP Pollution & Chemicals – C. Bill
BOCMA (4/10/2/H60D/Rusty Gate Mountain Retreat Farms 824, 826 REM and 887, Caledon RD) – F. Smith
Cape Nature (LS14/2/6/1/7/4/824,826&887_resort_Helderstroom) – R. Smart
Cape Nature – C. Claassen
Whale Coast Conservation – P. Miller

Please see attached notice of Additional pre-application public participation for the amended Draft / Pre-Application Basic Assessment Report and associated appendices.
The documents can be downloaded from our website at this link: <https://lornay.co.za/>
Or upon request.

Kind regards



LORNAY
ENVIRONMENTAL CONSULTING

Michelle Naylor
M.Sc.; Pr.Sci.Nat. 400327/13., EAPASA. 2019/698, Cand. APHP., IAIAAs
Hemel & Aarde Wine Village – Unit 5/1F
PO Box 1990, Hermanus, 7200, South Africa
T +27 (0) 83 245 6556

13. COMMENTS RECEIVED DURING PPP 2

OVERBERG

DISTRIKSMUNISIPALITEIT
DISTRICT MUNICIPALITY
UMASIPALA WESITHILI



MELD ASB/PLEASE QUOTE

Ons Verw./Our Ref.: 18/5/5/4

Navrae/Enquiries: Francois Kotze

Bylyn/Ext.:

Privaatsak: X22

Private Bag:
BREDASDORP
7280

Tel.: (028) 4251157

Faks/Fax: (028) 4251014

E-mail/E-pos: rvolschenk@odm.org.za

13 December 2024

LORNAY ENVIRONMENTAL CONSULTING

P.O Box 1990
HERMANUS
7200

RE: NOTICE OF PUBLIC PARTICIPATION PROCESS FOR BASIC ENVIRONMENTAL
IMPACT ASSESSMENT IN TERMS OF NEMA – RUSTY GATE MOUNTAIN RETREAT

DEA&DP Ref. no.: 16/3/3/6/7/E4/12/1151/23

The Environmental Management Services Department of the Overberg District Municipality take cognisance of the Basic Assessment Report for the proposed consolidation, rezoning and expansion of tourism overnight facilities and associated activities.

Giving the proximity of the property to the Riviersonderend Nature Reserve, this Department support the proposed consolidation of Farm 824, Farm 887, and the Remainder of the Farm 826, Caledon RD, and the rezoning of the property to Open Space 4 – Nature Reserve.

The study area falls within South Sonderend Sandstone Fynbos (listed as Critically Endangered) and Western Coastal Shale Band Vegetation (listed as Endangered). The Overberg District Municipality's Spatial Development Framework advocate for the protection of prominent indigenous vegetation and the habitats of indigenous fauna. Therefore layout 2 is supported as it actively promote the protection of the wetland area and limit development within sensitive botanical areas to minimise the impact on species of conservation concern.

Active fire management throughout the operational phase should be prioritised to ensure the protection of infrastructure while maintaining the ecological functioning of the surrounding fynbos. A Fire Management Plan should form part of the Operational Environmental Management Plan,

Alle korrespondensie moet aan die Munisipale Bestuurder gerig word.
All correspondence must be addressed to the Municipal Manager

which include actions like fire prevention (biomass reduction and firebreaks), fire response, and awareness raising for tourist.

The ODM reserves the right to revise its comments and request further information based on any additional information that may be received.

Yours sincerely

A handwritten signature in black ink, appearing to be 'R. Bosman', written over a faint rectangular box.

pp
R. BOSMAN
MUNICIPAL MANAGER



Department of Environmental Affairs and Development Planning
Bernadette Osborne
Directorate: Development Management, Region 1
Bernadette.Osborne@westerncape.gov.za | Tel: 021 483 3679

REFERENCE: 16/3/3/6/7/1/E4/12/1151/23
DATE OF ISSUE: 31 January 2025

The Board of Directors
Rusty Gate Mountain Retreat (Pty) Ltd.
PO Box 90
GREYTON
7233

Attention: Mr Stefanus Johannes De Wet Fourie (Bokkie Fourie)

Cell: 072 476 9058
E-mail: bokkie@rustygate.co.za

Dear Sir

COMMENT ON THE REVISED PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT ("BAR") IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE 2014 ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONS FOR OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON.

1. The electronic copy of the revised pre-application Draft BAR received by the Department on 13 November 2024, this Department's acknowledgement thereof issued on 21 November 2024, refer.
2. Following the review of the information submitted to this Department, the following is noted:
 - The proposal entails the proposed conversion of existing structures and additions for overnight tourism facilities on Portions of Farm No's 824, 826 and 887, Greyton.
 - The proposed development will have a development footprint of 3156.5m² and will accommodate a total of 92 people.
 - Watercourses is present on the site.
 - The site is mapped to contain Western Coastal Shale Band vegetation which is classified as endangered and South Sonderend Sandstone Fynbos vegetation, which is classified as critically endangered.
 - The site is partially located within the Riviersonderend Mountain Catchment Area, which is a protected area.
 - The site is zoned for agricultural purposes and is located outside the urban area of Greyton.

3. This Department's comments are as follows:

3.1 Planning considerations

3.1.1 The following considerations are re-iterated in terms of the rural guidelines:

- Tourist accommodation in the rural area should be clustered in visually discreet nodes and the topography and site sensitivity will determine the number and location of the cluster(s).
- Tourist accommodation should be located appropriately, avoiding high risk areas (e.g. areas prone to fire or flooding).
- Essential Core areas are 'no-go' areas from a development perspective and human contact should be restricted to ensure no further loss of natural habitat. Subject to stringent controls, non-consumptive low-impact eco-tourism activities, such as visitor's overnight accommodation may be accommodated in Core 1 areas. Detailed site-level mapping of habitat conditions should inform the placement of essential buildings or structures in Core Areas, which should preferably be located on disturbed footprints.
- Due to historical farming practices, there are large areas on the application properties that are already disturbed. Units should ideally be positioned in already disturbed areas where it will have the least impact on the natural environment.
- The form and scale of tourist accommodation should reinforce rural landscape qualities. Information on the architectural design must be provided for the purposes of heritage and visual assessments. Where buildings and structures in Core Areas are justified, environmentally sensitive and sustainable construction principles should be applied to ensure that development is in harmony with the character of the surrounding landscape.

3.1.2. The justification for the deviation from the principles of the Western Cape Land Use Planning Guidelines for Rural Areas 2019 in terms of the scale and context of the proposed development is not adequate.

3.2 It is noted that the preferred alternative does not consider the planning consideration highlighted above and as highlighted in this Directorate's comment dated 10 October 2024. It is strongly advised that alternatives be considered that address the above planning considerations.

3.3 Clarity has not been provided regarding the legal status of the existing resort development in terms of the applicable planning legislation. The draft BAR indicates



that the planning consultants are busy with the necessary planning applications. As such, clarity is required whether the existing facility is lawful in terms of the planning legislation.

3.4 Confirmation of services

3.4.1. Written confirmation from the municipality that they have sufficient capacity for solid waste management is still outstanding and must be obtained.

3.4.2. Proof of the existing water rights have been provided. However, this is allocated for agricultural activities. The water authority has indicated that an amendment of the authorisation is required to reflect the correct water use. The EAP indicated that the process to affect the amendments will be conducted once a decision on the application is received. It is further noted that a general authorisation will be required for additional water. Please be advised that the authorisation for the abstraction of groundwater must be included in the final BAR. Please note that the amended authorisation for the correct water use must also be included in the final BAR.

3.5. The activity description must be updated to include details of the following:

3.5.1. Which units and/or structures will be located within 32m of a watercourse;

3.5.2. How many conservancy tanks will be installed and if each one will have a capacity of 5000 litres; and

3.5.3. The length and diameter of the sewerage pipelines connecting to the conservancy tanks.

3.6 The buffer areas of 32m from any mapped drainage line and 20m from any wetland must also be included in the Site Development Plan.

3.7 You are reminded that a comprehensive Comments and Response Report that includes all the comments received, and the responses thereto must be included in the BAR. In addition, please ensure that copies of all the comments received are attached to the BAR.

4. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.

5. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an

offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.

6. This Directorate reserves the right to revise or withdraw any comments or request further information from you based on any information received.

Yours faithfully

Melanese Schippers
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Melanese Schippers
Date: 2025.01.31
11:43:14 +02'00'

pp HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Cc: (1) Ms. Michelle Naylor (Lornay Environmental Consulting)
(2) Mr. Johan Viljoen (Theewaterskloof Municipality)

E-mail: michelle@lornay.co.za
E-mail: johanvi@twk.org.za



Cor Van Der Walt
LandUse Management
Email: Cor.VanderWalt@westerncape.gov.za
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/4/2/956
YOUR REFERENCE : RG1
DEA&DP REFERENCE : 16/3/3/6/7/1E4/12/1151/23
ENQUIRIES : Cor van der Walt/Fadwa Mohammed

Lornay Environmental Consulting
Email: michelle@lornay.co.za

Att: Michelle Naylor

**PROPOSED CONSOLIDATION, REZONING AND EXPANSION OF TOURISM OVERNIGHT AND
ASSOCIATED ACTIVITIES: DIVISION CALEDON**
FARM NO 824
FARM NO 887
REMAINDER OF THE FARM NO 826

Your application of 13 November 2024 has reference.

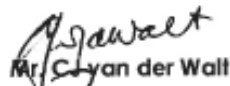
The Western Cape Department of Agriculture (WCDoA) has the following comments:

- Please note that an application to rezone to Open space 4: Nature reserve does not exclude the properties from the provisions of Subdivision of Agricultural Land Act 70 of 1970. Only by proclaiming it in a government gazette as a private nature reserve will the properties be removed from the agricultural register.
- A Stewardship agreement and management plan must be established between Cape Nature and the landowners should the approval for rezoning be obtained.
- Should approval for the rezoning be gained, the water registered for the purpose of irrigation must be surrendered and reallocated for the purpose of irrigation.
- The units must be clustered and must correspond to the type, density and size, as recommended for rural accommodation in the Western Cape Land Use Planning Guidelines for Rural Areas of 2019. The layout as presented in the revised BAR are considered as scattered.

Please note:

- That this is comment to the relevant deciding authorities in terms of the Subdivision of Agricultural Land Act 70 of 1970.
- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely


Mr. C. van der Walt

LANDUSE MANAGER: LANDUSE MANAGEMENT

2025-02-10

Copies:

Department of Agriculture, Land Reform and Rural Development
National Department of Agriculture
Private Bag X120
PRETORIA
0001

Department of Environmental Affairs & Development Planning
1 Dorp Street
Cape Town
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Theewaterskloof Municipality
PO Box 24
CALEDON
7230



CONSERVATION INTELLIGENCE: SOUTH

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reference	LS14/2/6/1/74/824,826&887_resort_Helderstroom
date	17 February 2025

Lornay Environmental Consulting
P.O. Box 1990
Hermanus
7200

Attention: Michelle Naylor
By email: michelle@lornay.co.za

Dear Ms Naylor

Revised Pre-Application Basic Assessment Report for the Proposed Expansion of the Rusty Gate Mountain Retreat Resort, Farm 824, Remainder of Farm 826 and Farm 887, Helderstroom

CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.

CapeNature raised concerns in our comments on the Pre-Application Basic Assessment Report (BAR), mainly related to the scattered layout and associated operational challenges/risks and investigation of alternatives.

Layout

The layout of the proposed tourism accommodation units is dispersed across the property which results in habitat fragmentation and challenges with fire management, and an inappropriate fire regime could have significant impacts on the vegetation occurring on the site (South Sonderend Sandstone Fynbos).

The assessment of the development layout was only within the predetermined layout and immediate vicinity of the footprints and formed part of the terms of reference for the specialist studies. The initial step of identifying constraints to development across the entire property as an informant to designing the layout was not undertaken. In this regard, it is noted that there are in fact more units proposed in the sections of the property which have not been subject to agricultural activities than the previously disturbed areas which were.

The Western Cape Nature Conservation Board trading as CapeNature

Board Members: Ms Marguerite Loubser (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Mr Tom Blok, Mr Mervyn Burton, Ms Reyhana Gani, Dr Colin Johnson, Ms Ayanda Mvandaba, Prof Nicolaas Olivier, Mr Paul Slack

The response to concerns regarding the layout mainly refers to the measures which have been implemented to address the concerns raised but do not actually address why the units cannot be in other locations across the property. The only aspect put forward in this regard is that the locations selected have the best views and the isolated locations in the fynbos provide a wilderness sense of place which increase the ecotourism value of the units (albeit not explicitly stated as such).

It should be noted that meetings were held with CapeNature on 11 June 2024 and 2 July 2024 with the latter on site. Records/minutes of the meetings were not provided. The applicant provided the above motivation regarding the location of the units at the on-site meeting, with the site visit intended to illustrate the motivation. CapeNature however clearly stated that a substantiated motivation would have to be provided for the location of each of the units as well as the lack of feasibility for locating the units in the more disturbed sections of the property.

Comments from the Department of Environmental Affairs and Development Planning (DEA&DP) on the Revised Pre-Application BAR (subject of this comment) indicate concerns regarding the dispersed layout, specifically in relation to the Western Cape Land Use Planning Guidelines: Rural Areas (Rural Land Use Guidelines). Although the Rural Land Use Guidelines relate to spatial planning, the concerns align with the concerns raised by CapeNature with regards to the dispersed layout. It should be noted that the Rural Land Use Guidelines and the Western Cape Biodiversity Spatial Plan (BSP) were developed concurrently between DEA&DP and CapeNature to ensure that the two documents align e.g. the Core 1 areas referred to (in Spatial Development Frameworks (SDFs)) align to the Critical Biodiversity Areas (CBAs).

It should be noted that the BSP has been updated and has been adopted in terms of the Western Cape Biodiversity Act (PG 9017, 13 December 2024). As stated in our previous comments, in the 2017 BSP, the area outside of the Mountain Catchment Area (MCA) classified as Protected Area, consists of Critical Biodiversity Area 1 (CBA) and Ecological Support Area 1 (ESA) in the eastern section, with No Natural over the western half apart from ESA 2 along the watercourses. In the update, the entire remainder of the site consists of CBA 1 with a few patches of CBA 2 and the boundary of the Protected Area has been amended to more accurately reflect the boundary of the MCA. In this regard it is important to note that additional time has lapsed since the previous version for the areas disturbed by agriculture to recover and importantly, the change in the threat status of South Sonderend Sandstone Fynbos from least threatened to critically endangered. The BSP including the MCA must be taken into account in additional revisions to the layout.

Terrestrial Animal Site Sensitivity Verification Report and Compliance Statement

A terrestrial animal compliance statement was compiled as recommended by CapeNature. As with the botanical assessment and the freshwater ecological assessment the study focuses on the proposed footprints and immediate surroundings and not on the entire property. While the focus of the compliance statement is on animal species of conservation concern (SCCs), all faunal species recorded at each of the development footprints are listed.

The screening tool listed one species as high sensitivity, namely the Striped Flufftail (*Sarothrura affinis*). The species flagged as medium sensitivity were three bird species and three invertebrate species. The site survey took place over two days and included both diurnal and nocturnal surveys. The methodology included visual and acoustic surveys, sweep netting and call playback for the Striped Flufftail. Two SCCs were confirmed during the site survey, namely the Striped Flufftail and the Verreaux's Eagle (*Aquila verreauxii*), both of which are listed as vulnerable. We note that the threat status provided is the national listing, for which SANBI is the custodian. The international IUCN listing for both species is least concern.

The Striped Flufftail was recorded at four localities adjacent or near to wetlands or streams through a response to the call playback. It is anticipated that this species will be sensitive to disturbance during the construction phase and from tourism activities. The recommendation is that the camping site should be moved further west outside of the delineated Striped Flufftail habitat. It should be noted that the flufftail habitat extends further than the seep wetland delineated in the freshwater ecological assessment whereby the 25 m buffer was considered adequate. The recommended mitigation then changes the impact rating from high significance to medium significance and the report therefore recommends that a full impact assessment is not required.

It is noted that the site survey was undertaken in winter however the SANBI Red List account for this species recommends that surveys are undertaken in the breeding season, which is spring in the Western Cape, therefore an additional survey is recommended to obtain a more accurate reflection of the distribution and abundance on site. Further information should be provided regarding the proposed relocation of the camp site in relation to the habitat of the species and home range and size of territories. It should further be noted that the species is a sought-after species for birders therefore mitigation should be in place to minimize disturbance and excessive playback of calls. One of the primary threats to the species is inappropriate fire regimes, with evidence of sensitivity to fires as reflected in the SANBI Red List account. This species must therefore be taken into account in the fire management of the site.

The Verreaux's Eagle is a highly mobile species which forages over a wide area and breeds on cliffs and therefore the proposed development is not considered likely to impact this species,

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with an impact rating of low. Black Harriers (*Circus maurus*) were not observed in the once off two day survey, however CapeNature can report a record of Black Harrier on the border of the property therefore it is likely that the species will occur on the property. We further wish to note that there are seasonal movements of this species. Secretarybirds (*Sagittarius serpentarius*) are considered unlikely to occur on the site.

CapeNature highlighted two recently described amphibians located within the adjacent Riviersonderend Nature Reserve. Both of these species are not easily detectable therefore the potential presence cannot be ruled out, however based on the existing data regarding occurrence/distribution and the location and layout of the development components it is considered unlikely that there will be any impact on these species (wetland habitat and appropriate buffers are existing constraints to the development layout). Confirmation should be provided regarding the identification of the *Cacosternum* species on site considering the distribution and habitat, albeit that the other likely potential options are not SCCs. There is a likelihood of one of the invertebrates occurring however the likely impact for the species is listed as low or low-medium.

A general concern with the animal species compliance statement is that the report has not adequately considered ecological connectivity, in particular the ecological corridor between two sections of the Riviersonderend Nature Reserve. Ecological corridors at this scale are important for larger more mobile species such as leopard (*Panthera pardus*), grey rhebok (*Pelea capreolus*) and klipspringer (*Oreotragus oreotragus*). There are several CapeNature records for klipspringer for the property. Related to this, a more clustered layout will reduce fragmentation compared to the current dispersed layout. Species which could potentially be damage causing or nuisance species should be included in the report, such as baboons (*Papio ursinus*), leopards and porcupines (*Hystrix africaeaustralis*). It will be more difficult to manage impacts associated with these species with a dispersed layout.

It is stated, both in general and more specifically in the context of Striped Flufftail, Verreaux's Eagle, Black Harrier and Riviersonderend moss frog (*Arthroleptella atermina*), that a more scattered development allows for greater connectivity and lower disturbance. The logic behind this is premise (generally, and specifically for these species) is faulty. When the relevant habitat areas are large and have long borders, multiple corridors between can be more effective than a single corridor. However, in the case of Rusty Gate the area between the protected areas is relatively small with short borders (approximately 1 km long and a few hundred metres wide, and fragmented by the disturbed area in the centre), therefore the larger the area that remains undeveloped, the better.

Over this relatively small area, a more scattered development has the potential to interrupt animal movement and important behaviours such as dispersal, foraging and mate seeking. It would be preferable if no units were built in the western part of Rusty Gate (specifically units 26 and 27).

The site sensitivity verification in the compliance statement indicates that the sensitivity should be considered as medium as opposed to high. However, we wish to note that according to the protocols for the animal species theme, 4.6 "Where SCC are found on site or have been confirmed to be likely present, a Terrestrial Animal Species Specialist Assessment must be submitted in accordance with the requirements specified for "very high" and "high" sensitivity in this protocol." Therefore, as two SCCs were confirmed to be present with others that could potentially occur, the specialist study should take the form of a specialist assessment rather than a compliance statement in accordance with the protocols.

It is however noted that the study has conflated (or confused) the concepts of sensitivity and impact as indicated in the protocols and regulations. Impact ratings have been provided for the impacts on individual species albeit not within impact rating tables. In this regard the impacts are rated as low for all species apart from the impacts on Striped Flufftail which is rated as high before the proposed relocation of the camp site and moderate after relocation.

It should however be noted that an impact of medium or higher after mitigation requires a biodiversity offset according to the National Biodiversity Offset Guidelines (offset guidelines). While the offset guidelines are aimed primarily at terrestrial ecosystems, the principles can be applied to species for species offsets. Therefore, in accordance with the protocols and the offset guideline, we recommend that the terrestrial animal species compliance statement should be updated to an impact assessment and after full investigation of the mitigation hierarchy, a species specific biodiversity offset must be investigated if the residual impact is still medium or higher. In this regard the concerns regarding the dispersed layout must be taken into account and opportunities for further avoidance must be investigated.

Fire Management

Management of fires was raised as an important issue to be addressed particularly in relation to the dispersed layout. Alteration of the fire regime as a result of the development would impact on the natural fynbos ecology. It was therefore agreed that an integrated fire and alien invasive species management plan will be compiled to ensure that the natural fire regime is not significantly affected and the risk to structures is reduced. A number of measures have been listed in the BAR and the comments and response report. We wish to note however that the sensitivity of the Striped Flufftails to fires were not taken into account initially, and therefore the management plan will need to take a balanced approach regarding the regeneration of the vegetation and the impact on the flufftails.

A firebreak agreement was also identified as a key mitigation measure. As stated in the comments and response report, there is an existing informal agreement with CapeNature and other neighbours, however this must be formalised and is considered essential before further development occurs on site.

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Stewardship

The landowner approached CapeNature regarding the potential options of a stewardship agreement with CapeNature. The site was previously presented at the CapeNature Stewardship Review Committee but was not identified as a top priority. CapeNature nonetheless agreed that we can present the site again to the committee. The land use proposed on site is to maintain and restore the remainder of the property which is not used for ecotourism accommodation and facilities to natural habitat, including areas historically used for agriculture. The landowner is also exploring the option of rezoning the property from agriculture to conservation to align with current and proposed future land use. It should be noted that the footprint of ecotourism accommodation and facilities is much smaller than cultivation and water use is much less than irrigated agriculture. Competing land uses such as agricultural production are acknowledged, however CapeNature's primary mandate is biodiversity conservation.

Conclusion

In conclusion, the constraints identified in the specialist studies and concerns raised by CapeNature must be taken into account in the development of additional layout alternatives as is required by the competent authority, with a focus on a more clustered layout.

The specialist studies must all be updated to include an assessment of the revised layouts and must indicate the variation of the sensitivity and conservation value across the entire property to enable an evaluation of the selection of the best practicable alternative. The mitigation hierarchy must be applied with regards to the assessment of impacts on Striped Flufftail in the animal species study.

Further comment will be provided on the management of the property and mitigation measures once a revised layout is provided.

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Regards



Rhett Smart

For: Manager: Landscape Conservation Intelligence South

cc. Othusitse Mabi, CapeNature
Marianne de Villiers, CapeNature
Corne Claassen, CapeNature

14. ADDITIONAL REQUEST FOR COMMENT TO DEADP AND DOA

In response to comments received during the first and second rounds of public participation, and after extensive consultation with the applicable Organs of State, the layout underwent a major revision where all development was removed from the 2 outlying farms and confined to the Farm 826 only. The new preferred layout alternative was developed and named Alternative 3 – new preferred.



**Western Cape
Government**

Department of Environmental Affairs and Development Planning
Bernadette Osborne
Directorate: Development Management, Region 1
Bernadette.Osborne@westerncape.gov.za | Tel: 021 483 3679

REFERENCE: 16/3/3/6/7/1/E4/12/1151/23
DATE OF ISSUE: 24 March 2025

The Board of Directors
Rusty Gate Mountain Retreat (Pty) Ltd.
PO Box 90
GREYTON
7233

Attention: Mr Stefanus Johannes De Wet Fourie (Bokkie Fourie)

Cell: 072 476 9058
E-mail: bokkie@rustygate.co.za

Dear Sir

COMMENT ON THE BRIEFING DOCUMENT FOR THE PROPOSED CONVERSION OF EXISTING STRUCTURES AND ADDITIONS FOR OVERNIGHT TOURISM FACILITIES ON PORTIONS OF FARM NO'S 824, 826 AND 887, GREYTON.

1. The electronic copy of the briefing document received by this Directorate on 13 March 2025, refers.
2. The layout presented takes into account the comments from this Directorate regarding the clustering of the units. This layout alternative may be considered as one of the alternatives to be further assessed as part of the EIA process. All previously considered alternatives must be included, and other alternatives must also be generated if this one does not satisfactorily address the issues raised by the authorities and other I&APs.
3. Since the current proposal has not undergone any public participation process and no comment from the broader stakeholder base has been obtained, there are no guarantees that can be given at this stage of the process. This Directorate cannot pre-judge the outcome of the application. All information presented will be considered part of the EIA process.
4. Please note that this does not constitute approval of the proposed layout, as additional investigation of other alternatives may be necessary based on the outcome of the assessment.
5. This Directorate therefore awaits the submission of the application form and draft Basic Assessment Report to provide further comment.
6. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.

7. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.
8. This Directorate reserves the right to revise or withdraw any comments or request further information from you based on any information received.

Yours faithfully

Melanese Schippers
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pp HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Cc: (1) Ms. Michelle Naylor (Lornay Environmental Consulting)
(2) Mr. Johan Viljoen (Theewaterskloof Municipality)

E-mail: michelle@lornay.co.za
E-mail: johanvi@twk.org.za

15. IN PROCESS PPP (PPP 3)

AI registered I&APs notified of the in process public participation. 16 May 2025 to 19 June 2025