



**REFERENCE:** 16/3/3/5/E4/5/1055/25  
**NEAS REFERENCE:** WCP/EIA/AMEND/0000974/2025  
**DATE OF ISSUE:** 20 AUGUST 2025

The Trustees  
Melkbos Trust  
P.O. Box 62  
**ELGIN**  
7180

**Attention: Mr. P. D. Kilpin**

Cell: 082 783 0249

Email: kilpin@boesmansrug.co.za

Dear Sir

**APPLICATION FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 18 MARCH 2021 (REFERENCE NO.: 16/3/3/1/E4/5/1048/20), IN TERMS OF PART 1 OF CHAPTER 5 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED DEVELOPMENT OF SIX RESIDENTIAL DWELLINGS ON PORTION 13 OF FARM DE DRAAY NO. 563, CALEDON**

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** an amendment of the Environmental Authorisation issued on 18 March 2021 (Reference No.: 16/3/3/1/E4/5/1048/20), attached herewith, together with the reasons for the decision.
2. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2025, which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

**Zaahir Toefy**

Digitally signed by Zaahir  
Toefy  
Date: 2025.08.20 13:58:17  
+02'00'

**MR. ZAAHIR TOEFY**

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Ms. M. Naylor (Lornay Environmental Consultants)  
(2) Ms. P. Aplon (Overstrand Municipality)

Email: michelle@lornay.co.za

Email: paplon@overstrand.gov.za



REFERENCE: 16/3/3/5/E4/5/1055/25  
NEAS REFERENCE: WCP/EIA/AMEND/0000974/2025  
DATE OF ISSUE: 20 AUGUST 2025

## ENVIRONMENTAL AUTHORISATION

### APPLICATION FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 18 MARCH 2021 (REFERENCE NO.: 16/3/3/1/E4/5/1048/20), IN TERMS OF PART 1 OF CHAPTER 5 OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED DEVELOPMENT OF SIX RESIDENTIAL DWELLINGS ON PORTION 13 OF FARM DE DRAAY NO. 563, CALEDON

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

#### A. DECISION

By virtue of the powers conferred on me by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), I herewith **grant** the amendment of the Environmental Authorisation issued on 18 March 2021 (Reference No.: 16/3/3/1/E4/5/1048/20), in terms of Part 1 of Chapter 5 of the EIA Regulations, 2014 (as amended).

The EA is amended as set out below:

#### 1. Section E: Conditions of authorisation

Condition 2:

*"The holder must commence with the listed activities on site within a period of five (5) years from the date of issue of this Environmental Authorisation."*

is amended to read:

The holder must commence with the listed activities within the stipulated validity period for which this Amended Environmental Authorisation is granted, or this Amended Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the amended Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the amended Environmental Authorisation.

This Amended Environmental Authorisation is granted for-

- (a) A period of **ten (10) years**, from 18 March 2021 (date of the original Environmental Authorisation) until 18 March 2031, during which period the holder must commence with the authorised listed activities.

## B. REASONS FOR THE DECISION

In reaching its decision, the Department took, inter alia, the following into consideration:

1. The amendment applied for is in terms of Part 1 of Chapter 5 of the NEMA EIA Regulations, 2014 (as amended) and will not change the scope of the Environmental issued on 18 March 2021.
2. The amendment does not trigger any new listed activities in terms of the NEMA EIA Regulations, 2014 (as amended) (Listing Notices 1, 2 and 3 in Government Gazette No. 40772 of 7 April 2017) promulgated in terms of the NEMA.
3. The amendment will not result in an increased level or nature of the impacts that were considered and assessed during the initial application for Environmental Authorisation or the subsequent amendment process.
4. The environment and the rights and interests of interested and affected parties ("I&APs") will not be adversely affected by the decision to amend the Environmental Authorisation.

## C. CONDITIONS

1. All other conditions contained in the Environmental Authorisation issued on 18 March 2021 (Attached as Annexure A), remain unchanged and in force.

## D. APPEALS

Appeals must comply the *National Appeal Regulations, 2025* (Government Notice No. R. 5985 in Government Gazette No. 52269 of 13 March 2025). Please note the provisions of Regulation 1(2) & (3) of the *National Appeal Regulations, 2025* when calculating the period of days.

1. The holder (applicant) of this decision must submit an appeal to the Appeal Administrator, any registered Interested and Affected Parties (I&AP's) and the decision maker (Competent Authority who issued the decision) within **20 calendar** days from the date this decision was sent by the decision maker.
2. The I&AP's (not the holder of this decision) must submit an appeal to the Appeal Administrator, the holder (applicant) of the decision and the decision maker within **20 calendar days** from the date this decision was sent to the registered I&AP's by the holder (applicant) of the decision.
3. All appeals submitted must:
  - a. be in writing in the appeal form obtainable from the Departmental website;
  - b. include supporting documents referred to in the appeal; and
  - c. include proof of payment of the prescribed non-refundable appeal fee, if prescribed.
4. The holder (applicant) of the decision must:
  - a. notify registered I&AP's and affected organs of state of any appeal received, and make the appeal available to them, within 5 calendar days after the 20-day appeal period ends.
  - b. Submit proof of this notification to the Appeal Administrator within 5 calendar days after sending the last notification.
5. The applicant, where applicable, the decision-maker, or any person notified under regulation 4 of the *National Appeal Regulations, 2025* may submit a Responding Statement within **20 calendar days** from the date they received the appeal, in the form obtainable from the

Department website to the Appeal Administrator and to the appellant, where the appellant is not the applicant.

6. Appeals, Responding Statements and supporting documents must be submitted to the Appeal Administrator by means of one of the following methods:

a. **By e-mail:**

[DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za) or

- b. **By hand** where that person submitting does not hold an electronic mail account:

Attention: Mr Marius Venter

Room 809, 8<sup>th</sup> Floor Utilitas Building,

1 Dorp Street, Cape Town, 8001

**Note:** You are also requested to submit an electronic copy (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Administrator via email or to the address listed above.

A prescribed appeal form, responding statement form as well as assistance regarding the appeal processes is obtainable from the relevant website of the appeal authority: <http://www.westerncape.gov.za/eadp> or the office of the Minister at: Tel. (021) 483 3721 or email [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za).

## E. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully

**Zaahir Toefy**  
Digitally signed by Zaahir Toefy  
Date: 2025.08.20 13:58:44 +02'00'

**MR. ZAAHIR TOEFY**

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

**DATE OF DECISION: 20 AUGUST 2025**

CC: (1) Ms. M. Naylor (Lornay Environmental Consultants)  
(2) Ms. P. Aplon (Overstrand Municipality)

Email: [michelle@lornay.co.za](mailto:michelle@lornay.co.za)

Email: [paplon@overstrand.gov.za](mailto:paplon@overstrand.gov.za)

**ANNEXURE A**  
**ENVIRONMENTAL AUTHORISATION ISSUED ON 18 MARCH 2021 (REFERENCE**  
**NO.: 16/3/3/1/E4/5/1048/20)**



**EIA REFERENCE:** 16/3/3/1/E4/5/1048/20  
**NEAS REFERENCE:** WCP/EIA/0000803/2020  
**DATE OF ISSUE:** 18 March 2021

The Trustees  
Melkbos Trust  
P.O. Box 62  
**ELGIN**  
7180

**Attention: Mr. P. D. Kilpin**

Cell: 082 783 0249  
Email: [kilpin@boesmansrug.co.za](mailto:kilpin@boesmansrug.co.za)

Dear Sir

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): PROPOSED DEVELOPMENT OF SIX RESIDENTIAL DWELLINGS ON PORTION 13 OF FARM DE DRAAY NO. 563, CALEDON DISTRICT, OVERSTRAND MUNICIPALITY**

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

Yours faithfully

**Zaahir  
Toefy**

Digitally signed  
by Zaahir Toefy  
Date: 2021.03.18  
10:48:13 +02'00'

**MR. ZAAHIR TOEFY**

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Ms. M. Naylor (Lornay Environmental Consultants)  
(2) Ms. P. Aplon (Overstrand Municipality)  
(3) Mr. F. Smith (BGCMA)  
(4) Ms. A. Duffel-Canham (CapeNature)

Email: [michelle@lornay.co.za](mailto:michelle@lornay.co.za)  
Email: [paplon@overstrand.gov.za](mailto:paplon@overstrand.gov.za)  
Email: [fsmith@bgcma.co.za](mailto:fsmith@bgcma.co.za)  
Email: [aduffell-canham@capenature.co.za](mailto:aduffell-canham@capenature.co.za)

**EIA REFERENCE:** 16/3/3/1/E4/5/1048/20  
**NEAS REFERENCE:** WCP/EIA/0000803/2020  
**DATE OF ISSUE:** 18 March 2021

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): PROPOSED DEVELOPMENT OF SIX RESIDENTIAL DWELLINGS ON PORTION 13 OF FARM DE DRAAY NO. 563, CALEDON DISTRICT, OVERSTRAND MUNICIPALITY**

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

**DECISION**

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in Section B below with respect to Alternative 2 described in the Basic Assessment Report ("BAR"), dated 11 November 2020.

The applicant for this Environmental Authorisation is required to comply with the conditions set out in Section E below.

**A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION**

Melkbos Trust  
% Mr. P. D. Kilpin  
P.O. Box 62  
**ELGIN**  
7180

Cell: 082 783 0249  
Email: [kilpin@boesmansrug.co.za](mailto:kilpin@boesmansrug.co.za)

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

## B. LIST OF ACTIVITIES AUTHORISED

Listed activities	Activity/Project Description
<p>EIA Regulations Listing Notice 3 of 2014: Activity Number 6: The development of resorts, lodges, hotels, tourism or hospitality facilities that sleeps 15 people or more.</p> <p><b>i. Western Cape</b></p> <p>i. Inside a protected area identified in terms of NEMPAA;</p> <p>ii. Outside urban areas;</p> <p>(aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or</p> <p>(bb) Within 5km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve; -</p> <p>excluding the conversion of existing buildings where the development footprint will not be increased.</p>	<p>The dwellings may be used for overnight tourism purposes during certain periods. The combined number of people that the dwellings can accommodate for overnight purposes exceeds 15 people.</p>
<p>Activity Number 12: The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p> <p><b>i. Western Cape</b></p> <p>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;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;</p>	<p>The proposed development entails the clearing of critically endangered vegetation that exceeds 300m².</p>



iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or	
v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.	

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

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

The proposed construction of one main dwelling and five additional dwellings, to be located within the one larger terrestrial cluster. The dwellings will be accessed and connected using a “jeep-track” that will be established as part of the proposal.

Footprints associated with the proposal:

Unit type	Footprint size (m <sup>2</sup> )	Exclusive use area (m <sup>2</sup> )
Additional dwelling 1	250	1450
Additional dwelling 2	250	1450
Additional dwelling 3	250	1450
Additional dwelling 4	250	1450
Additional dwelling 5	250	1450
Main dwelling	550	2010
	<b>1800</b>	<b>9260</b>
Internal roads	1554	
Access road	450	
Total footprint	<b>3804</b>	

Exclusive use areas will include:

Each dwelling footprint will include an Exclusive Use Area (“EUA”) around the dwelling. The EUA will be approximately 1450 m<sup>2</sup> for each of the five additional dwellings and for the main dwelling, the EUA will be 2010 m<sup>2</sup> in extent. Given the sensitivity of the property, the following will apply to these areas:

- Limited vegetation removal.
- Appropriate fire landscaping as required.
- No hard surfacing or impermeable paving is allowed.
- No additional freestanding structures (i.e. garage ports, Wendy houses etc.) may be erected.

The maximum area for clearance of indigenous vegetation for the development (i.e. dwellings, associated infrastructure as well as within the EUA) will not exceed 8 000m<sup>2</sup>.

## C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 13 of Farm De Draay No. 563, Caledon District, Overstrand Municipality, at the following co-ordinates:

Latitude (S)			Longitude (E)		
34°	20'	00.63"	19°	03'	55.84"

The SG digit code is: C01300000000056300013

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

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

#### D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Lornay Environmental Consulting  
% Ms. M. Naylor  
P.O. Box 1990  
**HERMANUS**  
7200

Cell: 083 245 6556  
Email: michelle@lornay.co.za

#### E. CONDITIONS OF AUTHORISATION

##### Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with, and restricted to, Alternative 2 in the BAR dated 11 November 2020, at the site as described in Section C above.
2. The holder must commence with the listed activities on site within a period of **five (5) years** from the date of issue of this Environmental Authorisation.
3. The development must be concluded within **ten (10) years** from the date of commencement of the first listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
5. Any changes to, or deviations from the scope of the alternative described in Section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information, in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

##### Written notice to the Competent Authority

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities. The notice must:

6.1 make clear reference to the site details and EIA Reference number given above; and

6.2 include proof of compliance with the following conditions described herein:

Conditions: 6, 7, 8, 12 and 20

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

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
  - 7.1 notify all registered Interested and Affected Parties ("I&APs") of –
    - 7.1.1 the outcome of the application;
    - 7.1.2 the reasons for the decision as included in Annexure 3;
    - 7.1.3 the date of the decision; and
    - 7.1.4 the date when the decision was issued.
  - 7.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 (as amended) detailed in Section G below;
  - 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
  - 7.4 provide the registered I&APs with:
    - 7.4.1 the name of the holder (entity) of this Environmental Authorisation;
    - 7.4.2 name of the responsible person for this Environmental Authorisation;
    - 7.4.3 postal address of the holder;
    - 7.4.4 telephonic and fax details of the holder;
    - 7.4.5 e-mail address, if any, of the holder; and
    - 7.4.6 contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
8. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notifies the registered I&APs of this decision. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

### **Management of activity**

9. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
10. The Conservation Management Plan ("CMP") accepted as part of the EMPr must be implemented. Conservation management activities must be undertaken in accordance with the accepted CMP.
11. The EMPr, including the CMP must be included in all contract documentation for all phases of implementation.

## Monitoring

12. The holder must appoint a suitably experienced environmental control officer ("ECO"), before commencement of any construction activities to ensure compliance with the EMPr and the conditions contained herein.
13. The ECO must conduct weekly compliance monitoring inspections during the first month of construction and thereafter undertake monthly site visits. Monthly Environmental Compliance Reports must be compiled and submitted to the Competent Authority for the duration of the construction phase. The final Environmental Compliance Report must be submitted to the Competent Authority within six months after construction has been complete.
14. A copy of the Environmental Authorisation, EMPr, CMP, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request, including a publicly accessible website.
15. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

## Auditing

16. In terms of Regulation 34 of the NEMA EIA Regulations, 2014, the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation and the EMPr. The Environmental Audit Reports must be submitted to the Competent Authority every **six (6)** months during the construction phase. The Environmental Audit Report must be prepared by an **independent** person that is not the ECO referred to in Condition 12 and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The final Environmental Audit Report must be submitted to the Competent Authority within six months after operation commenced.

The holder must, within 7 days of the submission of an environmental audit report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report immediately available to anyone on request and on a publicly accessible website (where the holder has such a website).

## Specific Conditions

17. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

18. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
19. The remainder of the property must be conserved via a Biodiversity Agreement in conjunction with CapeNature. The Biodiversity Agreement must be signed within a period of **two (2)** years from the date of this Environmental Authorisation. Progress reports must be submitted to the Department every **three (3)** months for the duration of the period in which the Biodiversity Agreement must be concluded.
20. The development footprint must be clearly demarcated prior the commencement of construction activities. All areas outside of the demarcated footprint must be regarded as "no-go" areas.

## **F. GENERAL MATTERS**

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

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:  
Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of the EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.

## **G. APPEALS**

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

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date on which notification of the decision was sent to the holder by the Competent Authority –

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

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

By facsimile:              (021) 483 4174; or

By hand:                    Attention: Mr Marius Venter (Tel: 021 483 2659)  
Room 809  
8<sup>th</sup> Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

**Note:** For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 2659, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

## H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully

**Zaahir  
Toefy** Digitally signed  
by Zaahir Toefy  
Date: 2021.03.18  
10:46:33 +02'00'

**MR. ZAAHIR TOEFY**

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

**DATE OF DECISION: 18 MARCH 2021**

CC: (1) Ms. M. Naylor (Lornay Environmental Consultants)  
(2) Ms. P. Aplon (Overstrand Municipality)  
(3) Mr. F. Smith (BGCMA)  
(4) Ms. A. Duffel-Canham (CapeNature)

Email: michelle@lornay.co.za  
Email: paplon@overstrand.gov.za  
Email: fsmith@bgcma.co.za  
Email: aduffell-canham@capenature.co.za

## ANNEXURE 1: LOCALITY MAP

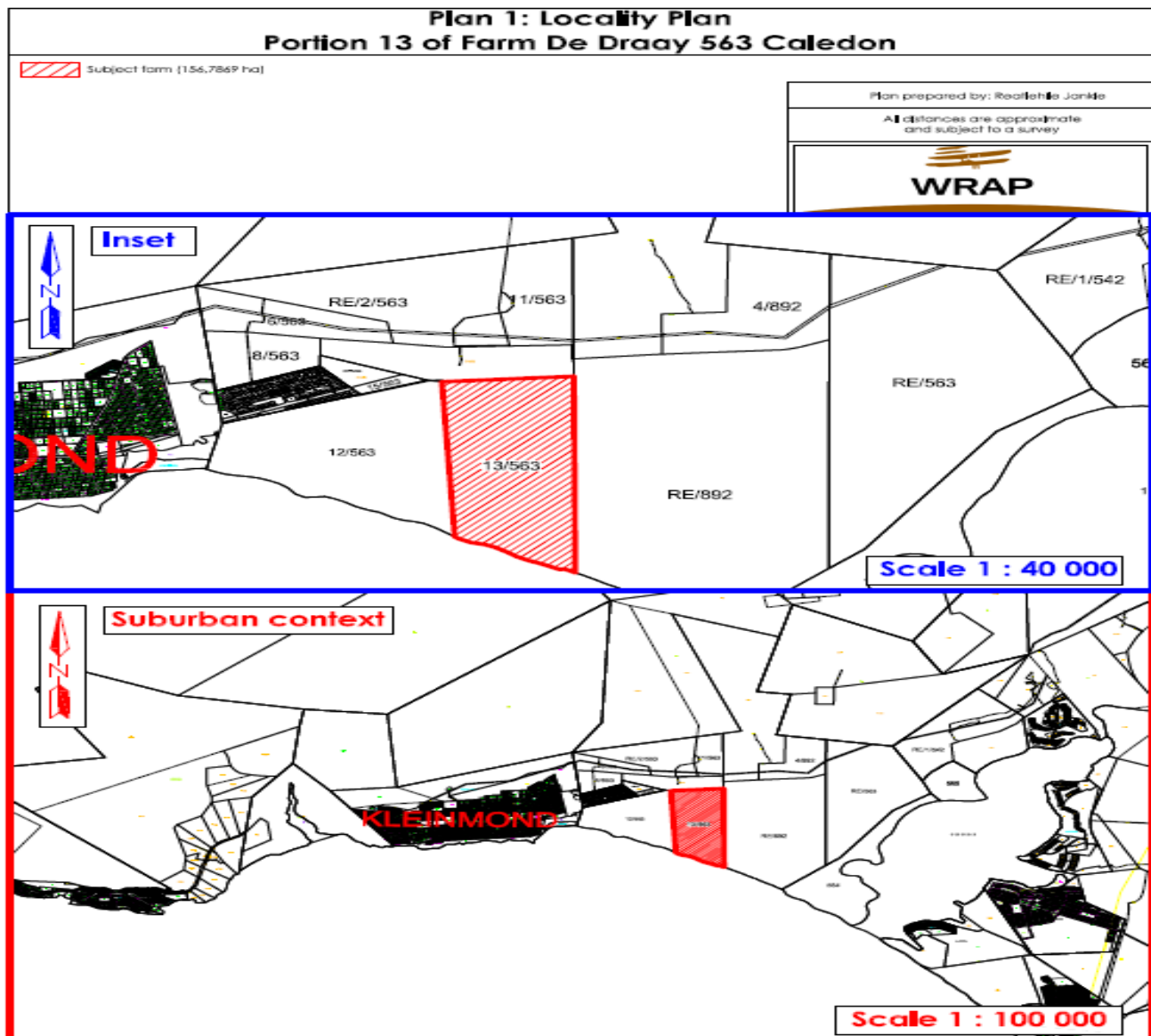


Figure 1: Location of the proposed development.



## ANNEXURE 2: SITE DEVELOPMENT PLAN

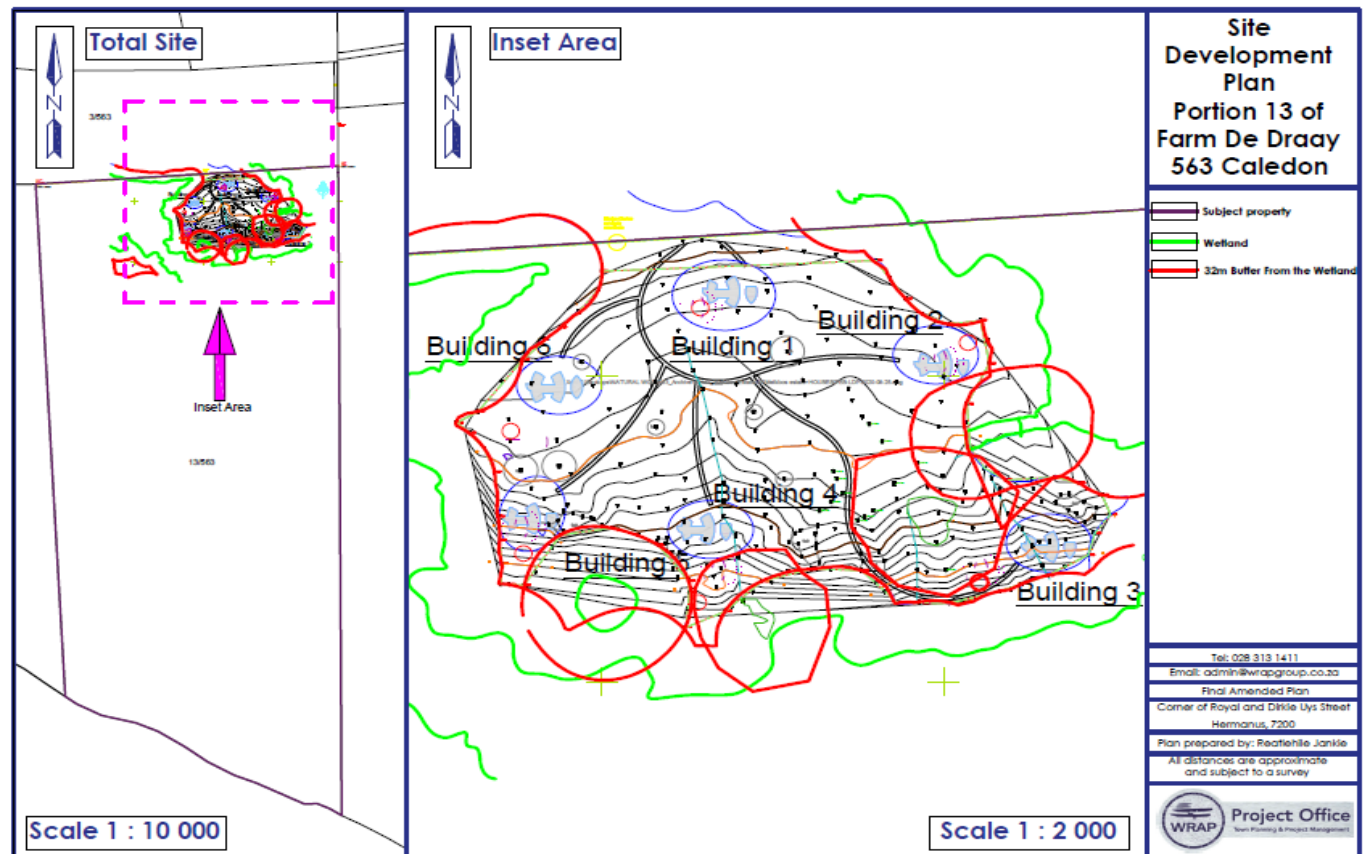


Figure 2: Proposed development layout.

## ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, amongst others, the following:

- a) The information contained in the Application Form dated 1 October 2020, the final BAR dated 11 November 2020 and the EMPr (including an CMP for implementation during the operational phase) submitted together with the final BAR;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of NEMA;
- d) The comments received from I&APs and responses to these, included in the BAR dated 11 November 2020; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

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

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

### 1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- fixing notice boards at the site where the listed activities are to be undertaken 16 October 2019;
- the placing of a newspaper advertisement in the 'Hermanus Times' on 17 October 2019 and 31 October 2019;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities, on 16 October 2019, 17 October 2019, 20 February 2020, 21 February 2020 and 9 October 2020; and
- making the pre-application draft BAR available to I&APs for public review from 17 October 2019 and 20 February 2020, and the in-process draft BAR from 9 October 2020.

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

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

### 2. Alternatives

#### 2.1 Alternative 1:

This alternative entails the construction of one main dwelling and five additional dwellings. The main dwelling will be located on a separate terrestrial 'island' south west of the main

development cluster. Access to this terrestrial 'island' will be required, as well as the extension of services, across the wetland. The remaining five dwellings will be accessed and connected by a "jeep-track" that will be established as part of the proposal.

Footprints associated with this proposal:

Unit type	Footprint size (m²)	Exclusive use area (m²)
Additional dwelling 1	250	1450
Additional dwelling 2	250	1450
Additional dwelling 3	250	1450
Additional dwelling 4	250	1450
Additional dwelling 5	250	1450
Main dwelling	550	2010
	<b>1800</b>	<b>9260</b>
Internal roads	2300,4	
Access road	450	
Total footprint	<b>4550,4</b>	

Exclusive use areas will include:

Each dwelling footprint will include an Exclusive Use Area ("EUA") around the dwelling. The EUA will be approximately 1450 m² for each of the five additional dwellings and for the main dwelling, the EUA will be 2010 m² in extent. Given the sensitivity of the property, the following will apply to these areas:

- Limited vegetation removal.
- Appropriate fire landscaping as required.
- No hard surfacing or impermeable paving is allowed.
- No additional freestanding structures (i.e. garage ports, Wendy houses etc.) may be erected.

This alternative is not preferred because the construction of an access road to the main dwelling site, as well as the construction of the associated services to the site, are required to traverse the wetland area. Additionally, due to the location of the main dwelling, the proposal can no longer be considered as a cluster development and the impacts associated with developing two areas will be spread across a larger and more sensitive extent of the property. This alternative would also require more vegetation clearance to accommodate access to the main dwelling.

## 2.2 Alternative 2 (Herewith Authorised):

This alternative is similar to Alternative 1, with the exception of the main dwelling and five additional dwellings, being located within one larger terrestrial 'island'.

Footprints associated with this proposal:

Unit type	Footprint size (m²)	Exclusive use area (m²)
Additional dwelling 1	250	1450
Additional dwelling 2	250	1450
Additional dwelling 3	250	1450
Additional dwelling 4	250	1450
Additional dwelling 5	250	1450
Main dwelling	550	2010
	<b>1800</b>	<b>9260</b>
Internal roads	1554	
Access road	450	
Total footprint	<b>3804</b>	

Exclusive use areas will include:

Each dwelling footprint will include an Exclusive Use Area ("EUA") around the dwelling. The EUA will be approximately 1450 m<sup>2</sup> for each of the five additional dwellings and for the main dwelling, the EUA will be 2010 m<sup>2</sup> in extent. Given the sensitivity of the property, the following will apply to these areas:

- Limited vegetation removal.
- Appropriate fire landscaping as required.
- No hard surfacing or impermeable paving is allowed.
- No additional freestanding structures (i.e. garage ports, Wendy houses etc.) may be erected.

The maximum area for clearance of indigenous vegetation for the development (i.e. dwellings, associated infrastructure as well as within the EUA) will not exceed 8 000m<sup>2</sup>.

This alternative is preferred because it allows the development footprint to be set back 32m from the wetland and it avoids infrastructure having to traverse the wetland. By clustering the development in one larger terrestrial 'island', the impacts of the development are restricted.

### 2.3 "No-Go" Alternative:

The "no-go" option was considered and is not preferred because the cost of managing the property is high and funds need to be generated by the proposed development, in order for the continued management of the property to be secured.

## 3. Impact Assessment and Mitigation measures

### 3.1 Activity Need and Desirability:

The subject property is approximately 162ha in extent and is currently undeveloped. The property requires long-term management, which is costly to the applicants/property owners. Funds are required in order to continue the long-term management of the property, therefore necessitating the development of dwellings that can be utilised for a mix of long term residential/short term tourism units. The approval of the proposed development will enable the applicant to protect the remaining sensitive areas on the subject property. The wetland delineation, undertaken by Enviroswift, strategically positioned the development footprint 32m away from the wetland and recommended that the primary dwelling and additional dwellings be located on a single terrestrial 'island'. In addition, a Biodiversity Agreement will be entered into with CapeNature to ensure the long-term management and protection of the remainder of the property. The development will also contribute to enhancing the tourism opportunities of the rural areas in Kleinmond and the Overstrand Municipality.

### 3.2 Biodiversity and Biophysical Impacts:

According to the Botanical Impact Assessment dated April 2019, compiled by Ms. Amida Johns of the Kogelberg Biosphere Reserve, the vegetation within the proposed development site comprises Hangklip Sand Fynbos and Kogelberg Sandstone Fynbos, ecosystems classified as endangered and critically endangered (respectively) in terms of Section 52 of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEMBA"). Both vegetation types are considered to be in good condition with some disturbance caused by the short intervals between the most recent fires. The site inspection undertaken by the Botanical Specialist confirmed that the vegetation type at the proposed entrance road to the development site and on the north-eastern section of the site comprises Hangklip Sand Fynbos, with the remaining vegetation better described as Kogelberg Sandstone Fynbos. The significance impact of the development on the Hangklip Sand Fynbos, despite being only a relatively small area, is still regarded as high due to the importance of the vegetation type in the area. Most of the vegetation that will be lost occurs on the vegetation assessed as Kogelberg Sandstone Fynbos. No Red list species were noted to occur here. Through the implementation of the

specialist's recommendations and the implementation of the mitigation measures in the EMPr and CMP (Accepted in Condition 9 and 10), as well as the remainder of the site being set aside for conservation by entering into a Biodiversity Agreement with CapeNature (Condition 19), the impacts on vegetation will be limited to the proposed development site only.

According to the Freshwater Impact Assessment dated 2 September 2020, compiled by Mr. N. Steytler of EnviroSwift, the site-based wetland delineation undertaken across the uppermost quarter of the site (i.e. nearest to the R44 where the proposed development will be located) comprises a hillslope seep which is interspersed with areas of terrestrial habitat (a total of 23.4 hectares of wetland was identified in this area with 12.5 hectares of terrestrial land making up the remainder). This hillslope seep extends continuously for approximately 250m southwards from the development site to the Estuarine Functional Zone. The hillslope seep is considered to be in an unmodified, pristine present ecological state and of high ecological sensitivity and importance. As such, the only potentially suitable area for development are the terrestrial portions of the site. The preferred alternative allows for the development footprint to be set back 32m from the wetland and for the primary dwelling and additional dwellings be located on a single terrestrial 'island'. Through the implementation of the 32m buffer, the specialist recommendations and the mitigation measures in the EMPr (accepted in Condition 9), impacts on the hillslope seep will be mitigated to an acceptable level.

Furthermore, the Breede Gouritz Catchment Management Agency ("BGCMA"), on behalf of the Department of Water and Sanitation, confirmed that the proposed development will be subject to registration of water uses(s) authorized in terms of a General Authorisation.

### 3.3 Heritage Impacts:

According to the Heritage Impact Assessment dated August 2019, compiled by Mr. J. Kaplan of ACRM, few archaeological remains were encountered during the study. Remains included a possible, crude, marginally retouched Early Stone Age hand-axe and two weathered quartzite chunks. The results of the study indicate that the proposed development will not impact on important archaeological resources. Additionally, through the implementation of Conditions 17 and 18 and the mitigation measures in the EMPr (accepted in Condition 9), potential impacts on archaeological and heritage resources will be mitigated.

Heritage Western Cape, in their final comment dated 15 May 2020, confirmed that the Heritage Impact Assessment satisfies the requirements of Section 38(3) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) and agrees with the findings.

The development will result in both negative and positive impacts.

#### **Negative Impacts:**

- The proposed development will result in loss of natural vegetation. However, the EMPr, which includes the CMP will ensure that no further development other than the approved development is allowed through the establishment of a Biodiversity Agreement with CapeNature.
- There will be an increase in noise and dust impacts during the construction phase.

#### **Positive impacts:**

- The proposed development will generate the required funds that will ensure the continuous management of the remainder of the property.
- A Biodiversity Agreement will be established with CapeNature to ensure the ongoing management and protection of the sensitive ecosystems on the remainder of the property.
- There will be employment opportunities during the construction and operational phases.

#### 4. National Environmental Management Act Principles

The NEMA Principles (set out in Section 2 of the NEMA, which apply to the actions of all Organs of State, serve as guidelines by reference to which any Organ of State must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

#### 5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

-----END-----