

11. Riolering vir hierdie projek gaan ook probleme verskaf, aangesien die vleiland is en die watertafel baie hoog is. Dit kan lei tot verdere besoedeling van die rivier.

Baie dankie



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**LH Fourie**  
Sel: 076 101 3251



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**IH Fourie**  
Sel: 079 494 2429



TP - A Theard  
(Suld Merwe)

ESTABLISHED  
2002

Consultants

in  
Town  
Planning

Municipal  
Legislation

Local Economic  
Development

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Wright Approach  
Investments 136 CC

Reg No  
CK 2002/060745/23

TP 29 JUL 2014

Our reference:6/134

23 July 2014

The Municipal Manager  
Overstrand Municipality  
PO Box 20  
**HERMANUS**  
7200

Attention: S van der Merwe

FILE NO:	Plm 2/220
SCAN NO:	36
COLLABORATOR NO:	645652

**PORTION 2 OF FARM 220, BREDASDORP: APPLICATION FOR  
SUBDIVISION, REZONING AND CONSENT USE**

Attached please find our comments on the objection submitted by LH and IH Fourie (letter dated 16 July 2014). For ease of reference our numbered response relates to the points raised by the objector.

The tone of the letter suggests that the objector is objecting to the proposal based on competition reasons. Section 36(2) of the Land Use Planning Ordinance 1985 (no.15 of 1985)(LUPO) states the following:

"Where an application under Chapter II or III is not refused by virtue of the matters referred to in subsection (1) of this section, regard shall be had, in considering relevant particular only to the safety and welfare of the members of the community concerned, the conservation of the natural and developed environment concerned or the effect of the application on existing rights concerned **with the exception of any alleged right to protection against trade competition** (our emphasis)".

The intention of the objection is therefore seriously questioned. Notwithstanding the above, our response is as follows:

1. It is evident that the character of the resorts as mentioned by the objector differs vastly from each other. Where the two existing resorts provide for a large number of guests in close proximity to each other, the proposed facility on Portion 2 of Farm 220 will offer guests a more private experience closer to nature. It should also be kept in mind that the number of units that will be available to guests on a short term basis is limited to twelve (12). The remainder of the units will be utilised as holiday housing. Based on the above, it is therefore evident that the proposed facilities on the subject property will cater for a different market than the two existing resorts.

TP ✓



WRAP

2. It is clear from this point of objection that the objector did not make the effort to study the complete application document submitted to the authorities. If this was done, it would have been evident that the units have been set back from the edge of the lagoon to eliminate any impact the proposed units would have. It would also have been evident that no units are located within any wetland areas and that an Environmental Authorisation (EA) has already been issued by the Department of Environmental Affairs and Development Planning (DEADP) for the development of the proposed facilities. The objection is therefore not regarded as relevant.

3. Under point 16 of the application document, the following is stated:

“During the initial stages of the scoping process the preferred option was to source water from a groundwater source via a borehole/boreholes and supplement it with rainwater from roof run-off. Data from groundwater surveys by Dr Toens indicated that groundwater in this area may not be suitable for potable water. Thus other water source(s) had to be investigated as well.

Since the environmental scoping was initiated the applicant has drilled a 30 metre borehole, and suitable potable water was found and tested by SABS. The borehole was re-tested at the end of summer and the water level was found to have dropped just under one metre. A second borehole will be drilled in the same area. Borehole water will still be supplemented with rainwater run-off collected off roofs.

Eventually, after sinking a borehole and testing of the water quality, it was found that the water is suitable for household use, and it was subsequently decided that water for domestic use will be obtained from this borehole, as well as from a second borehole. Water will be pumped by solar power into a covered reservoir, filtered and gravity fed via 110 mm pvc pipeline to each property. Rain water from roofs will also be utilised. The latter will be collected, filtered and stored in tanks alongside each property, suitably screened from sight on the roadside of the dwelling not visible from the wetland”.

It is therefore our opinion that this issue has been thoroughly addressed in the original application document.

4. As stated in the original application, all units will be constructed with sealed conservancy tanks. These tanks will be serviced by the Overstrand Municipality, who confirmed that they have the ability and capacity to do so. This point of objection has therefore already been addressed.

5. It is not necessary to go through any additional environmental processes as an EA has already been issued by DEADP.

6. The development proposal has been circulated to the Department of Transport and Public Works during the first submission, which department approved the proposal. It is therefore evident that there are no concerns with regard to the provision of safe access to the property.



WRAP

7. Under point 13 of the original application, the following is stated:

"According to the Resort Zone Policy, the establishment of a resort has to be motivated with reference to a unique resource. In this case the resource is the Uilenvlei Lagoon. It is one of three natural lagoons situated within the Overstrand Municipal area and is the only one that is not developed with any bordering land use. The lagoon is a natural habitat for an assortment of fauna and flora.

To ensure that the proposed development will have as little as possible impact on the environment, numerous specialist studies were initiated. In doing so, the conservation of this natural resource can be assured. These studies included a specialist bird report, as the dominant animal species of the area is in fact the bird species".

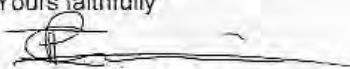
This point has therefore been adequately addressed in the original application.

8. We fail to see how this will be a danger to guests. Water is not obtained from the lagoon and no grey water will be deposited into the lagoon system. It is therefore not clear how low water levels in the lagoon will be a danger to guests.
9. This point has been addressed within the second paragraph of this letter, handling Section 36 of LUPO.
10. The comment is noted. An alien clearing program is currently being implemented, and will continue to be implemented by the applicant. Adequate fire breaks will be cleared around each unit to eliminate the threat of fire.
11. This objection has been addressed under Point 4.

In light of the above, it is our recommendation that the objection be dismissed and that the proposed development be approved.

We trust that you will find the above in order. Should you require any additional information, please do not hesitate to contact this office.

Yours faithfully



**JOHANN PIENAAR**  
B.Art et Scien (Pr.Pl'n A/125/2009)



DIRECTORATE: LAND MANAGEMENT:  
REGION 2

EIA REFERENCE NUMBER: E12/2/4/1-E2/9-2004/11  
NEAS REFERENCE NUMBER: WCP/EIA/0000185/2011  
ENQUIRIES: Maboee Nthejane  
DATE OF ISSUE: 30/08/2013

The Board of Directors  
Southern Spirit 25 (Pty) Ltd  
P. O. Box 26231  
HOUT BAY  
7872

Attention: Mr. R. Willmot

Tel.: (021) 853 1070  
Fax: (021) 854 5291

Dear Sir

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT AMENDMENT REGULATIONS OF 2010: THE PROPOSED ESTABLISHMENT OF A RESORT ON PORTION 2 OF THE FARM SAND DOWN ESTATE NO. 220, FRANSKRAAL**

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

#### ENVIRONMENTAL AUTHORISATION

#### 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") Amendment Regulations of 2010, the competent authority herewith **grants environmental authorisation** to the applicant to undertake the list of activities specified in Section B below with respect to the preferred activity alternative described in the Basic Assessment Report ("BAR") dated 17 January 2013.

The granting of this environmental authorisation is subject to compliance with the conditions set out in Section E below.

10<sup>th</sup> Floor, 1 Dorp Street, Cape Town, 8001  
Tel: +27 483 2986 Fax: +27 21 483 4372

Private Bag X9086, Cape Town, 8000  
[www.westerncape.gov.za/eadp](http://www.westerncape.gov.za/eadp)

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

Southern Spirit 25 (Pty) Ltd  
 c/o Mr. R. Wilmot  
 P. O. Box 26231  
**HOUT BAY**  
 7872

Tel.: (021) 853 1070  
 Fax: (021) 854 5291

The abovementioned company is the holder of this environmental authorisation and is hereinafter referred to as "the applicant".

**B. LIST OF ACTIVITIES AUTHORISED**

Government Notice No. R. 544 of 18 June 2010 (as amended) –

**Item Number: 9**

**Activity Description:** "The construction of facilities or infrastructure exceeding 1000m in length for the bulk transportation of water, sewage or storm water-

- i. with an internal diameter of 0.36m or more; or
- ii. with a peak throughput of 120 litres per second or more,

excluding where

- i. such facilities or infrastructure are for bulk transportation of water,
- ii. sewage or storm water or storm water drainage inside a road reserve; or

where such construction will occur within urban areas but further than 32m from a watercourse, measured from the edge of the watercourse".

**Item Number: 16**

**Activity Description:** "Construction or earth moving activities in the sea, an estuary, or within the littoral active zone or a distance of 100m inland of the high-water mark of the sea or an estuary, whichever is the greater, in respect of -

- (i) fixed or floating jetties and slipways;
- (ii) tidal pools;
- (iii) embankments;
- (iv) rock revetments or stabilising walls;
- (v) buildings of 50m<sup>2</sup> or more; or
- (vi) infrastructure covering 50m<sup>2</sup> or more -

but excluding:

- (a) if such construction or earth moving activities will occur behind a development setback line; or
- (b) where such construction or earth moving activities will occur within existing ports or harbours and the construction or earth moving activities not increase the development footprint or throughput capacity of the port or harbour;
- (c) where such construction or earth moving activities is undertaken for purposes of maintenance of facilities mentioned in (i) to (vi) above; or
- (d) where such construction or earth moving activities is related to the construction of a port or harbour, in which case Item 24 of Notice R. 545 of 2010 applies".

**Item Number: 18**

**Activity Description:** "The infilling or depositing of any material of more than 5m<sup>3</sup> into, or dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock from:

- iii. a watercourse
- iv. the sea
- v. the seashore
- vi. the littoral active zone, an estuary or a distance of 100m inland of the high water mark of the sea or an estuary, whichever distance is the greater-

but excluding where such infilling, depositing, dredging, excavation, removal or moving

- i. is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant competent authority; or
- ii. occurs behind the development setback line".

Government Notice No. R. 546 of 18 June 2010-

**Item Number: 4**

**Activity Description:** "The construction of a road wider than 4m with a reserve less than 13.5m

- (i) in an estuary
- (ii) all areas outside urban areas;
- (iii) in urban areas:
  - (aa) areas zoned for use as public open space within urban areas; and
  - (bb) areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose".

**Item Number: 6**

**Activity Description:** "The construction of resorts, lodges or other accommodation facilities that sleep 15 people or more

**(d) In Western Cape:**

- i. In an estuary;
- ii. All areas outside urban areas;
- iii. In urban areas:
  - (aa) Areas seawards of the development setback line or within 1km from the high-water mark of the sea if no such development setback line is determined;
  - (bb) Areas on the watercourse side of the development setback line or within 100m from the edge of a watercourse where no such setback line has been determined".

**Item Number: 12**

**Activity Description:** "The clearance of an area of 300m<sup>2</sup> or more of vegetation where 75% or more of the vegetation cover constitutes indigenous vegetation

- (a) within any critically 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 a critically endangered as in the National Spatial Biodiversity Assessment of 2004;
- (b) within critical biodiversity areas identified in bioregional plans;
- (c) within the littoral active zone or 100m inland from the high water mark of the sea or an estuary, whichever distance is the greater, excluding where such removal will occur behind the development setback line or even in urban areas".

**Item Number: 19**

**Activity Description:** "The widening of a road by more than 4m, or the lengthening of a road by more than 1km

**(d) In Western Cape:**

- i. In an estuary;
- ii. All areas outside urban areas".

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

The applicant is herein authorised to undertake the following alternative related to the listed activities:

The establishment of a resort with 12 Resort Zone I units and 13 Resort Zone II units that each have a floor area and exclusive use area complying with the requirements stipulated in the Guideline for Resort Developments in the Western Cape dated December 2005. The resort units will be arranged into clusters that will be provided with parking areas. The specific location of each resort unit and the specific location of each of the parking areas will correspond with the geographic coordinates given in Table 1 below:

Table 1: Coordinates of the features depicted in the applicant's preferred layout alternative

Feature on layout plan	Coordinates
Resort unit 1	34° 36' 13.27"S and 19° 25' 26.09"E
Resort unit 2	34° 36' 11.47"S and 19° 25' 27.15"E
Resort unit 3	34° 36' 10.29"S and 19° 25' 27.61"E
Resort unit 4	34° 36' 9.51"S and 19° 25' 28.48"E
Resort unit 5	34° 36' 8.39"S and 19° 25' 29.39"
Resort unit 6	34° 36' 7.15"S and 19° 25' 29.90"
Resort unit 7	34° 36' 7.78"S and 19° 25' 30.44"E
Resort unit 8	34° 36' 8.85"S and 19° 25' 31.57"E
Resort unit 9	34° 36' 10.18"S and 19° 25' 33.21"E
Resort unit 10	34° 36' 10.61"S and 19° 25' 34.38"E
Resort unit 11	34° 36' 10.54"S and 19° 25' 35.79"E
Resort unit 12	34° 36' 12.44"S and 19° 25' 37.28"E
Resort zone 13	34° 36' 13.07"S and 19° 25' 38.99"E
Resort unit 14	34° 36' 13.57"S and 19° 25' 39.72"E
Resort unit 15	34° 36' 13.54"S and 19° 25' 41.12"E
Resort unit 16	34° 36' 13.96"S and 19° 25' 42.07"E
Resort unit 17	34° 36' 14.48"S and 19° 25' 42.82"E
Resort unit 18	34° 36' 15.80"S and 19° 25' 44.81"E
Resort unit 19	34° 36' 16.20"S and 19° 25' 46.93"E
Resort unit 20	34° 36' 19.40"S and 19° 25' 55.15"E
Resort unit 21	34° 36' 19.50"S and 19° 25' 56.48"E
Resort unit 22	34° 36' 20.03"S and 19° 25' 58.25"E
Resort unit 23	34° 36' 20.03"S and 19° 25' 59.24"E
Resort unit 24	34° 36' 20.41"S and 19° 25' 0.61"E
Resort Unit 25	34° 36' 21.04"S and 19° 26' 1.21"E

Parking area for Resort units 4 and 5	34°36'9.41"S & 19°25'30.13"E
Parking area for Resort Units 9, 10 and 11	34°36'12.73"S & 19°25'33.84"E
Borehole	34° 36' 20.28"S and 19° 25' 55.18"E
Water storage and distribution point	34° 36' 18.76"S and 19° 25' 53.36"E

The resort units will each rest on stilts that rise just above ground level. The existing jeep track that provides access to the site will continue to be used and short access roads will be provided for access to each cluster of resort units. The Resort Units 4, 5, 9, 10 and 11 will be accessed by means of boardwalks linking to a central parking area.

The remainder of the site will be rezoned to Open Space III.

Water will be pumped from an existing borehole on the site to a water storage tank and then supplied to the resort units by gravitation. Each resort unit will have a conservancy tank in which wastewater will be stored until a municipal suction truck comes to pump out the wastewater for disposal at the municipal Wastewater Treatment Works ("WWTW").

Electricity from Eskom will be used to augment the electricity supply on the site. Lighting will not be provided alongside the on-site estuary.

#### C. PROPERTY DESCRIPTION AND LOCATION

The listed activities will take place on Portion 2 of the Farm Sand Down Estate No. 220, Franskraal.

The SG 21 digit code is: C0100000000022000002

Co-ordinates: 34° 36' 16.87" S  
19° 25' 43.2" E

hereinafter referred to as "the site".

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

PHS Consulting  
c/o Ms. M. Kruger  
P. O. Box 1752  
HERMANUS  
7200

Tel: (028) 312 1734  
Fax: (086) 508 3249

#### E. CONDITIONS OF AUTHORISATION

1. This environmental authorisation is valid for a period of **five years** from the date of issue. The holder must commence with the listed activities within the said period or this environmental authorisation lapses and a new application for environmental authorisation must be submitted to the competent authority, unless the holder has lodged a valid application for the amendment of the validity period of this environmental authorisation, before the expiry of this environmental authorisation. In such instances, the validity period will be automatically extended ("the period of administrative extension") from the day before this environmental authorisation would otherwise have lapsed, until the amendment application for the extension of the validity period is decided. The listed activities, including site preparation, may not commence during the period of administrative extension.

2. The listed activities, including site preparation, may not commence within 20 calendar days of the date of issue of this environmental authorisation. In the event that an appeal notice and subsequent appeal is lodged with the competent authority, the effect of this environmental authorisation may be suspended until such time as the appeal is decided.
3. The applicant must in writing, within 12 calendar days of the date of this decision and in accordance with Regulation 10(2)-
  - 3.1 notify all registered interested and Affected Parties ("I&APs") of -
    - 3.1.1 the outcome of the application;
    - 3.1.2 the reasons for the decision as included in Annexure T;
    - 3.1.3 the date of the decision; and
    - 3.1.4 the date of issue of the decision;
  - 3.2 publish a notice in the newspapers contemplated in Regulation 54(2)(c) and (d), and which newspaper was used for the placing of advertisements as part of the Public Participation Process ("PPP"), that -
    - 3.2.1 informs all I&APs of the decision;
    - 3.2.2 informs all I&APs where the decision can be accessed;
    - 3.2.2 and inform all I&APs that an appeal may be lodged against the decision in terms of Chapter 7 of the Regulations; ; and
    - 3.2.3 Inform all I&APs that an appeal may be lodged against the decision in terms of Chapter 7 of the Regulations;
4. A written notice of seven calendar days must be given to the competent authority before commencement of construction activities.
  - 4.1. The notice must make clear reference to the site details and EIA Reference number given above.
  - 4.2. The notice must also include proof of compliance with the following conditions described herein:  
Conditions: 2, 3, 10, 17.1 and 18.
5. The holder is responsible for ensuring compliance with the conditions by any person acting on his or her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
6. Any changes to, or deviations from the scope of the description set out in section B above must be approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such approval or not, the competent authority may request such information as it deems necessary 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.
7. The applicant 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. Further, the rights granted by this environmental authorisation are personal rights (i.e. not attached to a property, but granted to a natural or juristic person). As such, only the holder may undertake the activities authorised by the competent authority. Permission to transfer the rights and obligations contained herein must be applied for in the following manner:
  - 7.1. The applicant must submit an originally signed and dated application for amendment of the environmental authorisation to the competent authority stating that he or she wishes the rights and obligations contained herein to be transferred, and including (a) confirmation that the environmental authorisation is still in force (i.e. that the validity period has not yet expired or the activities were lawfully commenced with); (b) the contact details of the person who will be the new holder; (c) the reasons for the transfer;

- (d) an originally signed letter from the proposed new holder acknowledging the rights and obligations contained in the environmental authorisation and indicating that he or she has the ability to implement the mitigation and management measures and to comply with the stipulated conditions.
- 7.2. The competent authority will issue an amendment to the new holder either by way of a new environmental authorisation or an addendum to the existing environmental authorisation if the transfer is found to be appropriate.
8. The applicant must notify the competent authority in writing, within 24 hours of not complying with any condition stipulated herein.
  9. The Construction and the Operational Environmental Management Programmes ("EMP") submitted as part of the application for environmental authorisation is hereby approved and must be implemented. An application for amendment of the EMP must be submitted to the competent authority if any further amendments are to be made to the EMP, other than those mentioned above, and the amendments may only be implemented once the amended EMP has been authorised by the competent authority. The EMP must be included in all contract documentation for all phases of implementation.
  10. The holder must appoint a suitably experienced Environmental Control Officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the EMP and the conditions contained herein.
  11. A copy of the environmental authorisation and the EMP must be kept at the site where the listed activities will be undertaken. Access to the site referred to in section C above must be granted and, the environmental authorisation and EMP must be produced to any authorised official representing the competent authority who requests to see it for the purposes of assessing and monitoring compliance with the conditions contained herein. The environmental authorisation and EMP must also be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.
  12. Non-compliance with any condition of this environmental authorisation or EMP may result in suspension of this environmental authorisation and may render the holder liable for criminal prosecution.
  13. Notwithstanding this environmental authorisation, the holder must comply with any other statutory requirements that may be applicable to the undertaking of the listed activities.
  14. An integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a landfill licensed in terms of the applicable legislation.
  15. The applicable requirements with respect to relevant legislation pertaining to occupational health and safety must be adhered to.
  16. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the 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: archaeological remains (including fossil bones and fossil shells); coins; indigenous and colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features; rock art and rock engravings; shipwrecks; and graves or unmarked human burials. A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.

17. The applicant must implement the following vegetation conservation measures:
- 17.1 A search and rescue operation that is overseen by an accredited botanist must be conducted for the on-site plants of high conservation value.
  - 17.2 Individual erven must not be allowed to have perimeter fences and walls.
  - 17.3 All services to be installed on the site must follow the roads to limit the impact on natural vegetation.
  - 17.2A Landscaping Plan accompanied by a letter of comment from an accredited botanist must be submitted to this Department for review, before the operational phase may be commenced with.
18. The applicant must submit the Stormwater Management Plan of the development to this Department for approval, together with a letter of comment from the Breede Overberg Catchment Management Agency ("BOCMA"), before construction work can be commenced with.
19. The applicant must protect the Uikraal Estuary by implementing the following impact mitigation measures:
- 19.1 Establishing entertainment areas, e.g. benches, in areas that will draw visitors away from the more sensitive areas of the estuary.
  - 19.2 Closing all the roads on the salt marsh and mudflats areas and retaining only the roads that will be used to access the resort units.
  - 19.3 Ensuring that vehicular access to the banks of the estuary does not take place.
  - 19.4 Ensuring that lights are not used along the estuary and mudflats areas.
20. The applicant must comply with the recommendations contained in the Avifauna Specialist Report compiled by African Insights dated 10 March 2006 by implementing the following:
- 20.1 Ensuring that access to the floodplain areas is gained strictly via the pathways provided.
  - 20.3 Restricting water sports to the western bank of the wetlands.
21. The applicant must comply with the requirements stipulated by the Department of Transport and Public Works in the letter dated 31 June 2012 by implementing the following measures:
- 21.1 A building restriction line of 95m must be maintained alongside trunk, main and divisional roads and the position of the line must be measured from the centreline of the road reserve.
  - 21.2 A building restriction line of 500m must be maintained from the centrelines of intersecting trunk, main and divisional roads and where these roads intersect other roads.
  - 21.3 A 5m building line must be maintained alongside all proclaimed roads.
22. The applicant must install conservancy tanks between the resort units and not on the estuary or the wetland side of the development. The conservancy tanks must have a metering system installed to ensure that the wastewater accumulating in the conservancy tanks is pumped out by suction truck before the tanks are 75% full.

#### F. APPEALS

Appeals must comply with the provisions contained in Chapter 7 of the EIA Amendment Regulations of 2010.

1. An appellant must –
- 1.1. submit a notice of intention to appeal to the Minister, within 20 calendar days of the date of the decision;
  - 1.2. submit the appeal within 30 calendar days of the lapsing of the 20 calendar days contemplated in Regulation 60(1), for the submission of the notice of intention to appeal; and
  - 1.3. within 10 calendar days of lodging the notice of intention to appeal, provide each registered I&AP in respect of the application, or the applicant, with –

- 1.3.1. a copy of the notice of intention to appeal form; and  
 1.3.2. a notice indicating where and for what period the appeal submission will be made available for inspection by such person, organ of state, or applicant, on the day of lodging it with the Minister, and that a responding statement may be made on the appeal within 30 calendar days from the date the appeal submission was lodged with the Minister.
2. A person, organ of state or applicant who submits a responding or answering statement in terms of Regulation 63 must within 10 calendar days of having submitted the responding or answering statement, serve a copy of the statement on the other party.
3. If the person, organ of state or applicant fails to meet a timeframe with respect to the requirements detailed above, the person, organ of state or applicant must immediately submit a concise written explanation to the Ministry regarding the non-compliance.
4. All notice of intention to appeal and appeal forms must be submitted using one of the following methods:
- 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. J. de Villiers (Tel. 021 483 3721)  
 Room 809  
 8<sup>th</sup> Floor Uffittas Building, 1 Dorp Street, Cape Town, 8001
5. A prescribed notice of intention to appeal form and appeal form as well as assistance regarding the appeal processes can be obtained from the office of the Minister at: Tel. (021) 483 3721, E-mail jaap.devilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

**G. 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 or 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 the environment is greatly appreciated.

Yours faithfully

  
 MR. ZAAHIR TOEFY  
 DIRECTOR: LAND MANAGEMENT (REGION 2)

DATE OF DECISION: 30/08/2013

Copied to: M. Kruger  
 R. Kuchar

[PHS Consulting]  
 (Overstrand Municipality)

Fax: (086) 508 3249  
 Fax: (028) 384 0241

**FOR OFFICIAL USE ONLY**

EIA REFERENCE NUMBER: E12/2/4/1-E2/9-2004/11  
 NEAS EIA REFERENCE NUMBER: WCP/EIA/0000185/2011

**ANNEXURE 1: REASONS FOR THE DECISION**

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The Archaeological Impact Assessment Report compiled by the Agency for Cultural Resource Management dated December 2004;
- b) The letter from Heritage Western Cape dated 06 April 2005;
- c) The Geo-hydrological Study Report compiled by Cape Groundwater Consultants dated 13 July 2005;
- d) The Bird Specialist Report compiled by African Insights dated 10 March 2006;
- e) The information contained in the Application Form for environmental authorisation received by the competent on 18 January 2011;
- f) The letter from Cape Groundwater Consultants dated 03 August 2011 confirming that the conclusions reached in the aforesaid Geo-hydrological Study Report are still valid;
- g) The Botanical Assessment Report compiled by Fynbos Ecoscapes dated 05 August 2011;
- h) The letter from the Agency for Cultural Resource Management dated 06 August 2011 confirming that the conclusion reached in the aforesaid Archaeological Impact Assessment Report is still valid;
- i) The letter from the Overstrand Municipality dated 22 August 2011 confirming that the wastewater expected from the development can be treated at the Gansbaai WWTW;
- j) The Ulkraals Estuary Assessment Report compiled by Michelle Kruger dated September 2011;
- k) The letter from CapeNature dated 18 October 2011;
- l) The letter from the Western Cape Department of Agriculture dated 18 November 2011;
- m) The letter from the Breede-Overberg Catchment Management Agency dated 28 November 2011;
- n) The comment from the Land Use Planning Section of this Department dated 03 May 2012;
- o) The letter from the Department of Transport and Public Works dated 31 June 2012;
- p) The Visual Impact Assessment Report compiled by Michelle Kruger dated November 2012;
- q) The letter from the Overstrand Municipality dated 08 January 2013 confirming that the solid waste expected from the development can be accommodated at the Gansbaai Landfill Site;
- r) The BAR received by the competent authority on 06 February 2013 and the Construction EMP as well as the Operational EMP submitted together with the BAR;
- s) The letter that the appointed EAP submitted to this Department on 02 August 2013;
- t) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives (dated March 2013);
- u) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto, as included in the BAR; and
- v) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the NEMA;

A visit to the site was conducted on 24 July 2013. The site visit was attended by Mr. M. Nthejane and Ms N. Bieding on behalf of this Department as well as by Mr. P. Slabbert on behalf of PHS Consulting. It is deemed that the information gathered during the site visit, together with the information submitted to the competent authority by the appointed EAP is sufficient to make an informed decision. All of this information was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

#### 1. Public Participation

The Public Participation Process ("PPP") included:

- Identification of and engagement with I&APs;
- Giving written notice on 23 September 2011 to the occupiers of the site where the activity is to be undertaken, to the owners and occupiers of land adjacent to the site where the activity is to be undertaken as well as to the municipality, ward councillor and the various organs of state that have jurisdiction in respect of any aspect of the listed activities;
- Fixing a notice board on 23 September 2011 on various places on the site; and
- Placing a newspaper advertisement in the 'Gansbaai Courant' on 23 September 2011.

The concerns raised by I&APs were responded to and adequately addressed during the PPP. Specific management and mitigation measures have been considered in this environmental authorisation and in the EMP to adequately address the concerns raised.

This Department is satisfied that the PPP met the minimum legal requirements.

## 2. Alternatives

The applicant considered three layout alternatives for the resort as well as the 'no-go' alternative.

### Alternative No. 1

This alternative entails the establishment of 25 Resort Zone II units of approximately 600m<sup>2</sup> each. The resort units are all located on the on-site limestone ridge.

Water will be pumped from an existing borehole on the site to a water storage tank and then supplied to the resort units by gravitation. The borehole water will be supplemented with rainwater stored in rainwater tanks. Each resort unit will have a septic tank with a French drain system for the disposal of wastewater.

Electricity from Eskom is available on the site and will be supplied to each of the resort units.

Access to each resort unit will be obtained by means of a jeep-track.

The remainder of the site will be rezoned to Open Space III Zone.

The applicant discarded this alternative after realising that the positioning of the resort units on the on-site limestone ridge as proposed, will cause significant visual intrusion into the skyline.

### Alternative No. 2

This alternative entails the establishment of 12 Resort Zone I units of approximately 175m<sup>2</sup> each and 13 Resort Zone II units of 300m<sup>2</sup> each. The resort units will be positioned away from the on-site limestone ridge to reduce the visual impact of the development.

Water will be pumped from an existing borehole on the site to a water storage tank and then supplied to the resort units by gravitation. The borehole water will be supplemented with rainwater stored in rainwater tanks. Each resort unit will have a septic tank with a French drain system for the disposal of wastewater.

The remainder of the site will be rezoned to Open Space III zone.

Electricity from Eskom is available on the site and will be supplied to each of the resort units.

Access to each resort unit will be obtained by means of a jeep-track.

This alternative is deemed to be more desirable than Alternative No. 1, as the visual intrusion associated with Alternative No. 1 has been lowered by moving the proposed resort units away from the limestone ridge. However, the applicant discarded this alternative after noting that the botanical impact associated with the on-site location of each resort unit had not been taken into account.

### Preferred alternative (Herewith authorised)

This alternative entails the establishment of a resort with 12 Resort Zone I units and 13 Resort Zone II units that each have a floor area and exclusive use area complying with the requirements stipulated in the Guideline for Resort Developments in the Western Cape dated December 2005. The resort units will be arranged into clusters that will be provided with parking areas. The specific location of each resort unit and the specific location of each of the parking areas will correspond with the geographic coordinates given in Table 1 on Page 4 and 5 of this environmental authorisation.

The resort units will each rest on stilts that rise just above ground level. The existing jeep track that provides access to the site will continue to be used and short access roads will be provided for access to each cluster of resort units. The Resort Units 4, 5, 9, 10 and 11 will be accessed by means of boardwalks linking to a central parking area.

The remainder of the site will be rezoned to Open Space III.

Water will be pumped from an existing borehole on the site to a water storage tank and then supplied to the resort units by gravitation. Each resort unit will have a conservancy tank in which wastewater will be stored until a municipal suction truck comes to pump out the wastewater for disposal at the municipal WWTW.

Electricity from Eskom will be used to augment the electricity supply on the site.

This alternative is deemed to be the most desirable alternative, as the resort units will all be located away from the on-site limestone ridge and the specific location of the resort units is botanically informed. The 13 Resort Zone II units will all be sold, but will continue to be managed as part of the resort development. It is envisaged that the sale of the Resort Zone II units will generate revenue that will enable the applicant to keep the staff that will be employed at the resort and to keep the resort in a condition that remains appealing to visitors, even during the periods of low resort earnings when visitors residing at the resort are few. This alternative is therefore not only ecologically sound, but is also economically desirable, as the people working at the resort will be provided with long-term employment opportunities. The alternative is also socially desirable, as visitors residing at the resort will be given an opportunity to enjoy the high aesthetic and recreational value of the Uilkraals Estuary. This alternative is therefore deemed to be the most desirable alternative and is the alternative authorised.

#### Alternative No. 4

This alternative is almost identical to the applicant's preferred alternative. The main difference between the two alternatives is that in the case of Alternative No. 4, the 25 proposed resort units will all be Resort Zone I units. If Alternative No. 4 is adopted, it is envisaged that the earnings of the resort will be appreciable during the times of the year when visitors residing at the resort are many. However, during the times of the year when only a few visitors come to reside at the resort, the earnings of the resort will be low. In view of this, most of the employment opportunities at the resort will end at the times of the year when the number of visitors residing at the resort starts to significantly decline. The greater fluctuation in revenue associated with this alternative also means that it will be more difficult for the applicant to ensure that funds are always available to keep the resort in a condition that will encourage visitors to visit the resort again. It is also unlikely that adopting this alternative will result in a resort that will create an appreciable number of long-term employment opportunities, unlike the applicant's preferred alternative. This layout alternative was therefore deemed to be less desirable and was discarded.

#### 'No-Go' Alternative

The 'no-go' alternative involves abandoning the proposal of establishing a resort on Portion 2 of the Farm Sand Down Estate No. 220, Franskraal, thereby allowing the approximately 305 2994ha site to remain vacant. This alternative will not provide any kind of socio-economic benefits and has therefore been discarded.

### **3. Impact Assessment and Mitigation measures**

#### **3.1. Activity Need and Desirability**

The resort will have economic benefits, as the sale of the 13 Resort Zone II units will generate sufficient revenue to enable the resort to create an appreciable number long-term employment opportunities. The resort will also yield social benefits, as visitors residing at the resort will be able to enjoy residing next to the Uilkraals Estuary of high aesthetic and recreational value. In addition, the layout plan of the development has been informed by botanical and freshwater specialist advice as well as visual impact specialist advice, thus making the resort aesthetically and ecologically sound. In view of this, the development is deemed to be desirable on the site.

#### **3.2. Biophysical Impacts**

The indigenous vegetation present on the site is made up of three vegetation types that are described by the South African National Biodiversity Institute as the Overberg Dune Strandveld, Agulhas Limestone Fynbos and Cape Estuarine Salt Marsh vegetation. The SANBI has categorised these vegetation types as Least Threatened and heavy infestation by alien plants prevails on the site.

However, it is stated in the Botanical Report compiled by Fynbos Ecoscapes dated 05 August 2011 that the site has some species and areas of high conservation value. In this regard, the applicant has amended the layout plan in line with the recommendations in the Botanical Report and the remainder of the site will be rezoned to Open Space III for protection against possible development in the future. The other recommendations contained in the Botanical Report have been taken into account in Condition 17 of this environmental authorisation. Adherence to Condition 17 by the applicant will minimise the likelihood of the development causing significant impacts on the on-site vegetation.

An Estuaries Assessment Report dated September 2011 was compiled for the development. It is stated in the report that the implementation of the recommendations contained in the report is expected to contribute towards improving the state of the estuary and adjacent habitats. The recommendations contained in the aforesaid report have been taken into account in Condition 19 of this environmental authorisation. The applicant has also been requested in Condition 18 to submit the Stormwater Management Plan of the development to this Department for approval, together with a letter of comment from the BOCMA before construction work may be commenced with. Adherence to Condition 18 and 19 by the applicant will minimise the likelihood of the development causing significant impacts on the nearby estuarine environment.

An Avifauna Study Report dated 10 March 2006 was compiled for the development by African Insights. It is stated in the report that the main possible impact of the development on avifauna is related to humans intruding where waterbirds live. The report contains recommendations for minimising the likelihood of humans intruding where the waterbirds live and these recommendations have been taken into account in Condition 20 of this environmental authorisation. Adherence to Condition 20 by the applicant will minimise the likelihood of the development causing significant avifauna-related impacts on the site.

The construction activities of the development will be undertaken in accordance with the Construction Phase EMP that has been approved in Condition 9 of this environmental authorisation. The appointment of an ECO as required in Condition 10 of this environmental authorisation will ensure that construction activities remain in line with the approved Construction Phase EMP and the conditions of this environmental authorisation. The operational impacts of the resort will be undertaken in accordance with the approved Operational Phase EMP as required in Condition 9 of this environmental authorisation. In view of the above, the likelihood of significant biophysical impacts arising from the establishment of the resort is low.

**3.3. Visual and Sense of Place**

The visual impact of the development has been assessed in the Visual Impact Assessment Report dated November 2012. In line with the recommendations made by the visual impact specialist, the resort units will be located away from the on-site limestone ridge. The visual impact of the resort is therefore no longer deemed to be of much significance.

**3.4 Traffic**

The Western Cape Department of Transport and Public Works commented on the development in a letter dated 31 June 2012. It is stated in the letter that the said Department has no objection to the development and that certain requirements must be adhered to, if the applicant proceeds with the development. These requirements have been taken into account in Condition 21 of this environmental authorisation.

**3.5 Services**

The Overstrand Municipality confirmed in the letter dated 08 January 2013 that the solid waste expected from the development can be accommodated at the Gansbaai Landfill site. Furthermore, the Municipality confirmed in the letter dated 22 August 2011 that the wastewater expected from the development can be accommodated at the Gansbaai WWTW.

**3.6 Regional planning context**

The applicant will lodge an application with the relevant authority so that the development proposal may be considered in terms of the relevant land use management legislation.