

**REFERENCE:** 16/3/3/1/E2/33/1059/23  
**NEAS REFERENCE:** WCP/EIA/0001314/2023  
**ENQUIRIES:** Bernadette Osborne  
**DATE OF ISSUE:** **26 APRIL 2024**

The Board of Directors  
Fynbos Rooi Els (Pty) Ltd.  
PO Box 66569  
**PRETORIA**  
0076

**Attention: Mr. J.G. Joubert**

Cell: 083 285 2958  
E-mail: gerhard@praxiscc.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 ("EIA") REGULATIONS, 2014: THE RESIDENTIAL DEVELOPMENT ON PORTION 134 OF FARM NO. 559, ROOI-ELS.**

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

Yours faithfully

**MR. ZAAHIR TOEFY**  
**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Cc: (1) Ms. Amanda Fritz-Whyte (PHS Consulting)  
(2) Ms. Tamzyn Zweig (Overstrand Municipality)

E-mail: amanda@phsconsulting.co.za  
E-mail: tzweig@overstrand.gov.za

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## ENVIRONMENTAL AUTHORISATION

### APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: THE RESIDENTIAL DEVELOPMENT ON PORTION 134 OF THE FARM NO. 559, ROOI-ELS.

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

#### DECISION

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

**The development of the garage for the storage of vintage cars is not approved in this decision.**

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

Fynbos Rooi Els (Pty) Ltd.  
c/o Mr. J.G. Joubert  
PO Box 66569  
**PRETORIA**  
0076

Cell: 083 285 2958  
E-mail: gerhard@praxiscc.co.za

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

## B. ACTIVITIES AUTHORISED

Listed Activity	Project Description
<p><b>Listing Notice 1 –</b>  <b>Activity Number: 19</b>  <b><i>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock or more than 10 cubic metres from a watercourse;</i></b></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving-</i></p> <ul style="list-style-type: none"> <li><i>(a) Will occur behind a development setback;</i></li> <li><i>(b) Is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></li> <li><i>(c) Falls within the ambit of activity 21 in this Notice, in which case that activity applies.</i></li> <li><i>(d) Occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i></li> <li><i>(e) Where such development is related to the development of a port or harbor, in which case activity 26 in Listing Notice 2 of 2014 applies.</i></li> </ul>	<p>The development will result in the infilling or removal of more than 10m³ of material from a wetland.</p>
<p><b>Listing Notice 1 –</b>  <b>Activity Number: 48</b>  <b><i>The expansion of-</i></b></p> <ul style="list-style-type: none"> <li><i>(i) canals where the canal is expanded by 100 square metres or more in size;</i></li> <li><i>(ii) channels where the channel is expanded by 100 square metres or more in size;</i></li> <li><i>(iii) bridges where the bridge is expanded by 100 square metres or more in size;</i></li> <li><b><i>(iv) dams, where the dam, including infrastructure and water surface area, is expanded by 100 square metres or more in size;</i></b></li> </ul>	<p>The development will result in the expansion of the remains of the old house within 32 metres of a wetland</p>

<p>(v) weirs, where the weir, including infrastructure and water surface area, is expanded by 100 square metres or more in size;</p> <p>(vi) bulk storm water outlet structures where the bulk storm water outlet structure is expanded by 100 square metres or more in size; or</p> <p>(vii) marinas where the marina is expanded by 100 square metres or more in size;</p> <p>where such expansion or expansion and related operation occurs-</p> <p><b>(a) within a watercourse;</b></p> <p>(b) in front of a development setback; or</p> <p><b>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</b></p> <p>excluding-</p> <p>(a) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(b) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(c) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</p> <p>(d) where such expansion occurs within an urban area; or</p> <p>(e) where such expansion occurs within existing roads or road reserves.</p>	
<p><b>Listing Notice 3 –</b></p> <p><b>Activity Number: 12</b></p> <p><b>The clearance of an area of 300 square metres or more of indigenous vegetation</b> except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p>	<p>The development will result in the clearance of more than 300 square metres of indigenous vegetation, classified as a Critically Endangered ecosystem.</p>

<p><b>(i) Western Cape:</b></p> <ul style="list-style-type: none"> <li>i. <b><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;</i></b></li> <li>ii. <i>Within critical biodiversity areas identified in bioregional plans;</i></li> <li>iii. <i>Within the littoral active zone or 100 metres inland from the 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;</i></li> <li>iv. <i>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</i></li> <li>v. <i>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.</i></li> </ul>	
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The abovementioned activities are hereinafter referred to as “**the listed activities**”.

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

The proposal entails the development of a house, an ancillary building for pottery and a conservancy tank on Portion 134 of Farm No. 559, Rooi Els.

The house will be located between two watercourses within a historical seep wetland that has been permanently altered by past development. The house will replace the previous house that was burnt down and will also result in the expansion of the footprint of the previous house. The house, including the ancillary building and conservancy tank will have a development footprint of approximately 1155m<sup>2</sup> (approximately 530m<sup>2</sup> will be the disturbed development footprint of the original house). The north-western corner of the house will consist of a raised platform overhanging the outer margins of the wetland area.

The old septic tank is inert and will remain in place. A new conservancy tank with a capacity of approximately 12500l will be placed on the southern side of the house.

### C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 134 of Farm No. 559, Rooi Els and has the following co-ordinates:

	Latitude (S)	Longitude (E)
Co-ordinates: main house	33° 21' 07.83" South	19° 18' 34.72" East

Refer to Annexure 1: Locality Map

Refer to Annexure 2: Site Plan

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

### D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

PHS Consulting  
Ms. Amanda Fritz-Whyte  
PO Box 1752  
**HERMANUS**  
7200

Cell: 082 237 2100  
Email: amanda@phsconsulting.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 part of the Preferred Layout Alternative 2 described in the BAR dated January 2024 on the site as described in Section C above.
2. The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the Competent Authority.

This Environmental Authorisation is granted for-

- (a) A period of five (5) years, from the date of issue, during which period the holder must commence with the authorised listed activities.

- (b) A period of ten (10) years, from the date of commencement of the listed activities, during which period the authorised listed activities, must be concluded.
- 3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
- 4. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

### **Written notice to the Competent Authority**

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

Conditions: 6, 7, 8, 10 and 16

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

- 6. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
  - 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
    - 6.1.1.the outcome of the application;
    - 6.1.2.the reasons for the decision as included in Annexure 3;
    - 6.1.3.the date of the decision; and
    - 6.1.4.the date when the decision was issued.
  - 6.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 detailed in Section F below;
  - 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;

- 6.4. provide the registered I&APs with:
  - 6.4.1.the name of the holder (entity) of this Environmental Authorisation,
  - 6.4.2.name of the responsible person for this Environmental Authorisation,
  - 6.4.3.postal address of the holder,
  - 6.4.4.telephonic and fax details of the holder,
  - 6.4.5.e-mail address, if any, of the holder,
  - 6.4.6.the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations.
7. The listed activities, including site preparation, may not commence within 20 (twenty) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

### **Management of activity**

8. The draft Environmental Management Programme ("EMPr") that includes all the aspects that relate to the development of the house, an ancillary building, and the conservancy tank is herewith approved and must be implemented. All aspects in the EMPr that relates to the development of the garage for the storage of vintage cars is not approved.
9. The EMPr must be included in all contract documentation for all phases of implementation.

### **Monitoring**

10. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the provisions of the EMPr and the conditions contained herein. The ECO must conduct site visits and must submit ECO reports on a monthly basis to the competent authority.
11. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports which must be submitted quarterly to the Competent Authority during the construction phase must be kept at the site of the authorised activities, and must be made available to anyone on request, including a publicly accessible website.
12. Access to the site referred to in Section C above must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.



## Auditing

13. 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 Report must be prepared by an independent person (other than the appointed Environmental Assessment Practitioner or Environmental Control Officer) and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014.
- The holder must undertake an environmental audit and submit an Environmental Audit Report to the competent authority within 3 (three) months of commencement of construction; and
  - A final Environmental Audit Report must be submitted within 3 (three) months of completion of the proposed development.

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

## Specific Conditions

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

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

15. 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.
16. The areas outside the development area must be demarcated as “no-go” areas prior to the commencement of construction activities.
17. The holder of the Environmental Authorisation must enter into a stewardship agreement with CapeNature (in accordance with a decision by the CapeNature stewardship

review committee) within one year of the date of this Environmental Authorisation to ensure the long-term management of the property for conservation. A copy of the signed agreement must be submitted to the Department for record purposes.

## **F. GENERAL MATTERS**

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

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

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

## **G. APPEALS**

Appeals must comply with the provisions contained in the National Appeal Regulations 2014.

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
  - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 to the Appeal Administrator; and

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

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

By facsimile:            (021) 483 4174; or

By hand:                    Attention: Mr Marius Venter (Tel: 021 483 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](mailto:DEADP.Appeals@westerncape.gov.za).

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail [DEADP.Appeals@westerncape.gov.za](mailto: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

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**MR. ZAAHIR TOEFY**

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

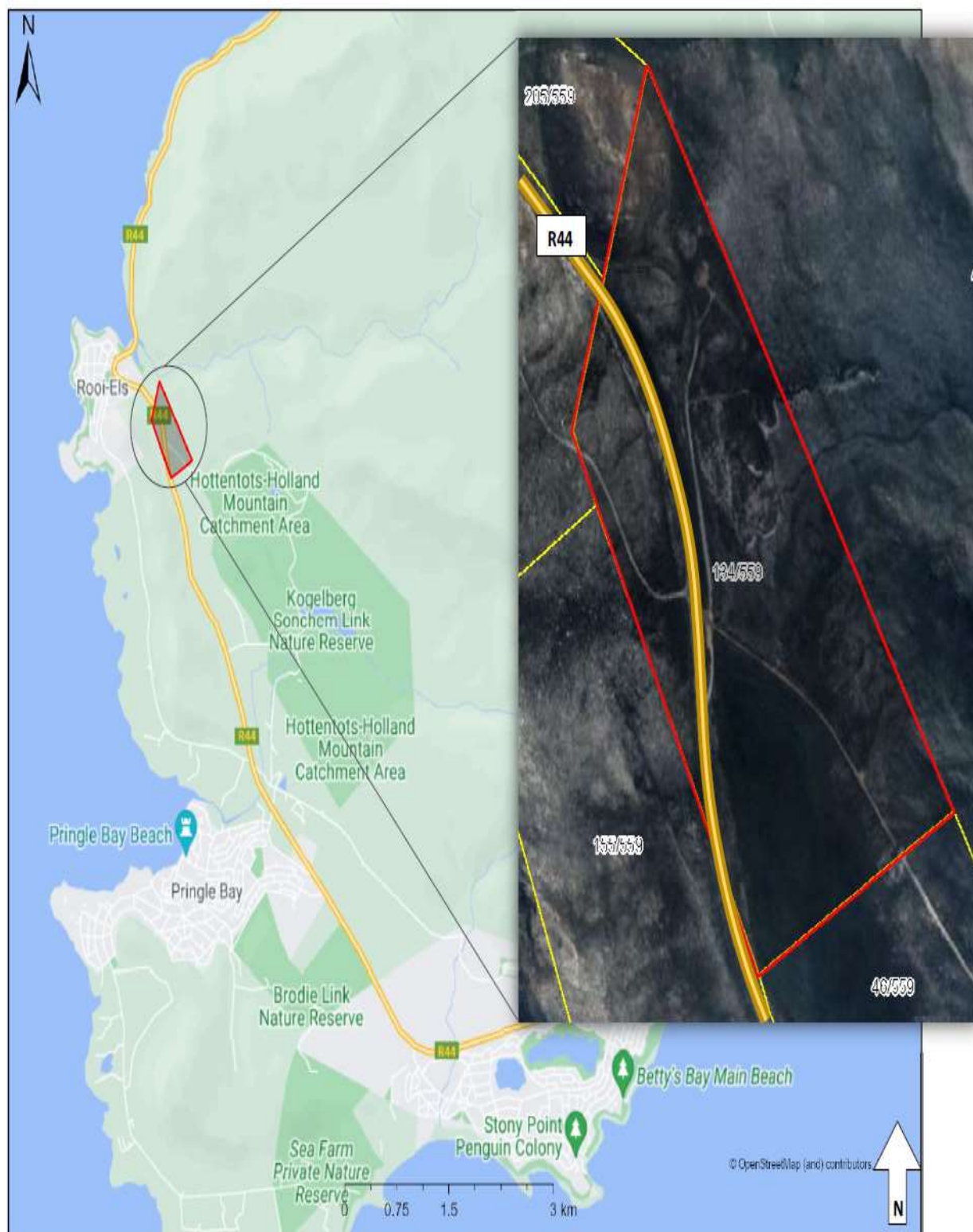
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

**DATE OF DECISION: 26 APRIL 2024**

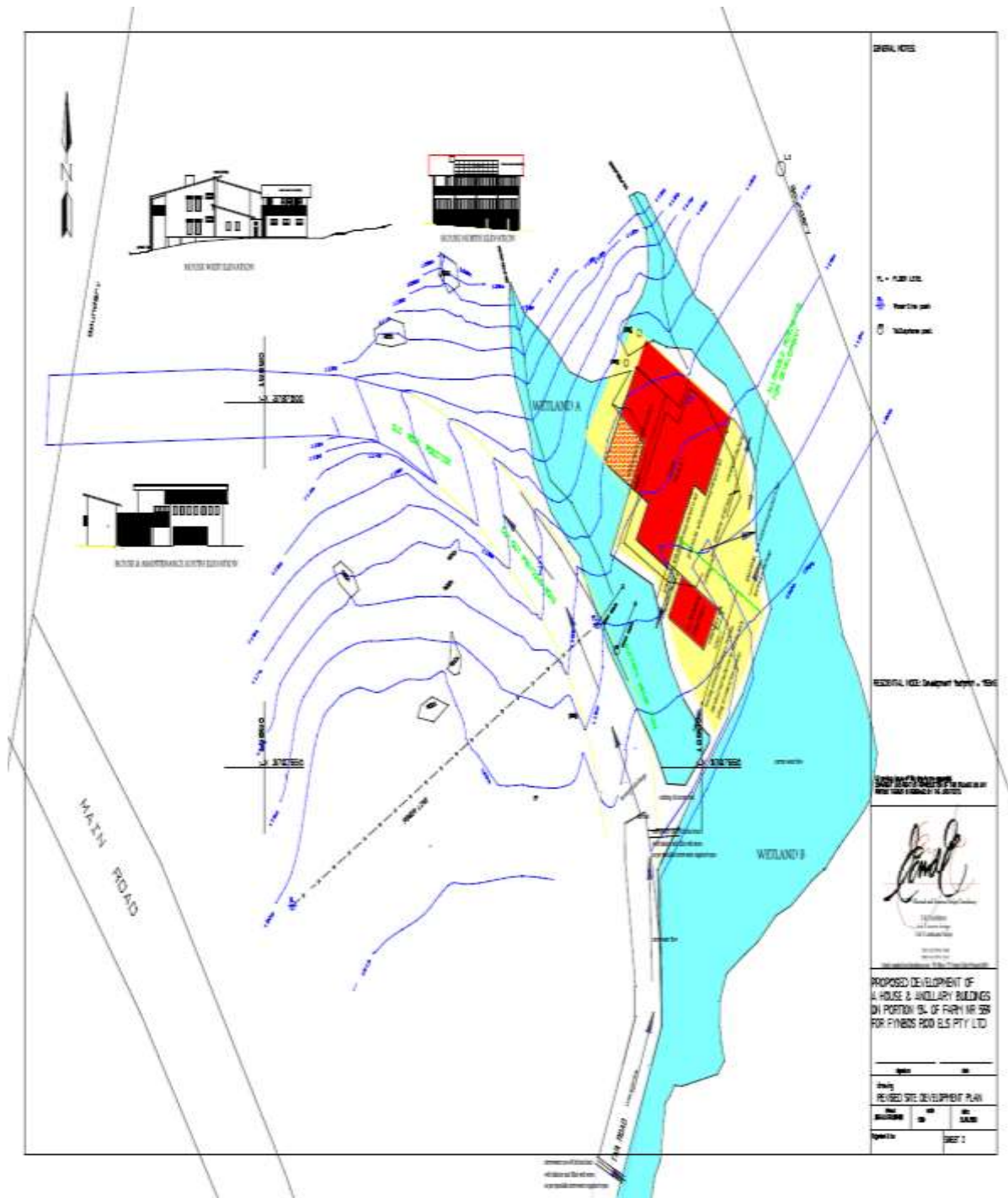
Cc: (1) Ms. Amanda Fritz-Whyte (PHS Consulting)  
(2) Ms. Tamzyn Zweig (Overstrand Municipality)

E-mail: amanda@phsconsulting.co.za  
E-mail: tzweig@overstrand.gov.za

## ANNEXURE 1: LOCALITY MAP



## ANNEXURE 2: SITE PLAN





### ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form dated 4 July 2023 and the final BAR and EMPr dated January 2024;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the BAR dated January 2024; 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 in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

#### 1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- placing a notice on site on 25 April 2023;
- placing of a newspaper advertisement in the 'Overstrand Herald' on 27 April 2023
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 26 April 2023;
- Making the pre-application Draft BAR available for comment until 30 May 2023;
- Making the in process Draft BAR available for comment until 13 September 2023; and
- Making a revised Draft BAR available for comment until 13 December 2023.

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

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

## 2. Alternatives

### Preferred alternative ("Herewith Approved in part")

This alternative entails the development of a house, an ancillary building for pottery and a conservancy tank on Portion 134 of Farm No. 559, Rooi Els.

The house will be located between two watercourses within a historical seep wetland that has been permanently altered by past development. The house will replace the previous house that was burnt down and will also result in the expansion of the footprint of the previous house. The house, including the ancillary building and conservancy tank will have a development footprint of approximately 1155m<sup>2</sup> (approximately 530m<sup>2</sup> will be the disturbed development footprint of the original house). The north-western corner of the house will consist of a raised platform overhanging the outer margins of the wetland area. The old septic tank is inert and will remain in place. A new conservancy tank with a capacity of approximately 12500l will be placed on the southern side of the house.

This alternative was preferred for the following reasons:

- The preferred layout alternative is compact and makes maximum use of the already disturbed development footprint and existing access road, thereby minimizing the expansion of the development footprint into previously undisturbed areas.
- The preferred layout alternative will minimise impacts on the wetlands.

### The "No-go" Alternative

This alternative represents the existing lawful use of the site and will include the development of a new house and associated infrastructure within the exact footprint of the old house. This alternative was not preferred since placing the conservancy tank within the previous position will entail excavation within the wetland. Although the footprint of the authorised alternative will be bigger than the "No-Go" alternative (development within the same footprint as the burnt down house), the authorised alternative will not result in significant negative impacts on the environment.

### **Motivation for the exclusion of the garage from the proposed development**

The proposed site for the development of the garage is removed from the development footprint of the house and is located within a Terrestrial and Aquatic Critically Biodiversity Area. The garage will therefore be located within an area of high sensitivity according to the Ecological Impact Assessment (dated 29 March 2022, compiled by Nick Helme Botanical Surveys). Furthermore, the garage will be located within close proximity to a wetland and will require the installation of its own service infrastructure (including a conservancy tank).



The Aquatic specialist indicated that the replacement of the house and associated infrastructure within the same footprint and same location as that of the original house would be the preferred outcome for this site, from a freshwater ecosystems perspective which excludes the garage. CapeNature in comment dated 30 May 2023, 13 September 2023 and 13 December 2023, respectively, indicated that they do not support the development of the garage at a different location on the site due to the sensitive nature of the area and that minimal disturbance should be allowed.

The proposed development site is zoned 'Rural Zone 2: Conservation Usage (R2)' with consent use. The primary use for the property is listed as 'conservation use, dwelling house, guest rooms, home occupation'. The need for the development of a garage for the storage of vintage cars at a different location on the proposed site therefore not supported.

The competent authority's decision making is guided by the NEMA Principles and underpinned by the pre-cautionary or risk-averse approach. The applicant's preferred alternative which includes the development of the garage is not authorised due to the following:

- The need for the development of a garage for the storage of vintage cars is not warranted.
- The garage is located within an area regarded to be of high sensitivity from a botanical perspective.
- The garage is not preferred from an Aquatic perspective.

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

#### **3.1 Activity need and desirability**

The development will replace and expand the original destroyed residential dwelling and makes maximum use of the already disturbed development footprint and existing access road and services. The authorised development (*i.e.*, excluding the garage for the storage of vintage cars) is in line with the existing land use of the property and the Municipal Spatial Development Framework ("MSDF") which designates the property as "sensitive development area". The MSDF aims to restrict urban development beyond the urban edge, where the property is located.

#### **3.2 Biophysical Impacts**

According to the Ecological Impact Assessment (dated 29 March 2022, compiled by Nick Helme Botanical Surveys), the site borders the Kogelberg Nature Reserve, is located within a Critical Biodiversity Area and contains Kogelberg Sandstone Fynbos vegetation, which is classified as a critically endangered ecosystem. Furthermore, it is located within the buffer area of the Kogelberg Biosphere reserve, which further highlights its conservation significance. The proposed house will be located within an area that has been identified as being of medium sensitivity as it was partially disturbed as a result of the development of the previous house. The proposed garage would be located within an area identified to be of high ecological sensitivity. The exclusion of this component of the development will limit the impact of the proposed development on the site. The mitigation measures that were proposed by the specialist have been included in the EMP.

According to the Aquatic Ecosystems Impact Assessment (dated February 2023, compiled by Liz Day Consulting) natural wetlands are located on the proposed site. The wetland in close proximity to the house has been previously disturbed by the development of the original house that burnt down. A section of the proposed new house will extend into the watercourse. However, that section will be placed on a raised platform to minimise the impact on the wetland. The mitigation measures as proposed by the specialist have been included in the EMPr.

### 3.3 Visual Impacts

According to the Visual Impact Assessment (dated October 2023, compiled by PHS Consulting) the site is sporadically visible and due to the topography mostly hidden from sight from the R44. Considering the site context in relation to other developments on smallholdings in the area, the proposed development will not change the visual landscape or character of the area. The study found the development will have a visual impact of low negative significance.

The development will result in both negative and positive impacts.

#### **Negative Impacts:**

- Loss of indigenous vegetation; and
- Potential impacts on wetlands.

#### **Positive impacts:**

- The development will allow for the replacement of a residence that was destroyed during a fire.
- The development will create limited temporary employment opportunities during the construction phase.

## **4. National Environmental Management Act Principles**

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

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

## 5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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