



APPENDIX G2 – COMMENTS AND RESPONSE REPORT

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COMMENTS & RESPONSE REPORT

SECTION 24G APPLICATION FOR THE UNLAWFUL CLEARANCE OF INDIGENOUS VEGETATION, SOIL REMOVAL AND DEVELOPMENT WITHIN A DISTANCE OF 100M INLAND OF THE HIGH-WATER MARK OF THE ESTUARY ON PORTION 54 OF FARM 516, POTTEBERG ESTATES, INFANTA

Opened 14 April 2026 at PHS Consulting Offices

No.	Name & Presenting Unit	COMMENT	RESPONSE
Pre-Application Draft S24G (Circulated from 3 April 2026 – 6 May 2026)			
1	Ron Brunings – Swellendam Municipality	<u>Comment received via email dated 9 April 2026:</u> Please register the Swellendam Municipality as an Interested and Affected Party in this application. My name can be used as the contact person. The Municipality will look to lodge appropriate input within the commenting period.	This comment is noted. The Swellendam Municipality has been registered as an interested and affected party.
		<u>Letter received via email dated 15 April 2026:</u> COMMENT: NEMA SECTION 24G APPLICATION FOR THE UNLAWFUL CLEARANCE OF INDIGENOUS VEGETATION, SOIL REMOVAL AND DEVELOPMENT WITHIN A DISTANCE OF 100M INLAND OF THE HIGH-WATER MARK OF THE ESTUARY ON PORTION 54 OF FARM 516, POTTEBERG ESTATES, INFANTA 1. Your communication dated 30 March 2026 in the above regard refers. Thank you for the opportunity to comment.	1. Noted.
		2. Portion 54 of the farm Potteberg Estates No.516 is located within the Swellendam municipal area and is as such also subject to various applicable	2. This comment is noted. The applicable municipal legislation is acknowledged and will be complied with.

		municipal legislation. Key in this regard would be the Swellendam Municipality By-law on Municipal Land Use Planning (2020) and the Swellendam Integrated Zoning Scheme By-law (2020). The National Building Regulations and Building Standards Act 1977 (Act 103 of 1977), read together with the Swellendam By-law relating to the Submission of Building Plans, 2019, is also applicable.	
		3. Portion 54 of the farm Potteberg Estates No.516 is zoned Agricultural Zone. According to our records, the property has no allocated Consent Use or Departure authorization. Also, and most importantly, there are no approved building plans for the property on file – unless the registered owners can provide same for our edification. Moreover, the Municipality has no current (proposed) building plans for consideration for the applicant property. This begs the question, why was the additional clearing, levelling and compacting initiated by the current owner, knowing full well that no building plans had yet been prepared, lodged and / or authorized? The lodging and approval of building plans is a requirement in terms of national legislation. All landowners ought to be fully aware of this, and if not the owner themselves, the appointed architect or draftsman. Said architect / draftsman (if indeed appointed) would also have pointed out the environmental / floodline issues well prior to any clearing / excavation, in other words before the (obvious) damage was done. Given all the above, it is considered quite possible that the illegal clearing, excavation and compaction was pre-arranged. It is also likely that additional unauthorized building works would have been conducted, had the current environmental process not been initiated. The relatively large number	4. This comment is noted. Historic aerial imagery confirms that the existing dwelling and its associated footprint were present by approximately 2000. An architect has been appointed and did enquire whether any existing approved building plans for the property were available on municipal record. The response received was that no building plans are currently on file. It is noted, however, that a recent fire at the Swellendam Municipality reportedly resulted in the loss of a number of records, which may have affected the completeness of available documentation. The necessary building plans will accordingly be prepared and submitted to the Municipality for approval in due course, in accordance with applicable legislative requirements. With regard to the water storage infrastructure, the property's water supply is primarily based on rainwater harvesting, supplemented where necessary by treated river water. Rainwater is collected from roof surfaces and directed via piping to on-site storage tanks. The expanded storage capacity reflects the need to

		of water tanks already accommodated on the cleared property, relative to the size of the existing dwelling house, provides further impetus to this position.	ensure sufficient water availability throughout seasonal variability and changing climatic conditions.
		5. Given the aforementioned, it ought to be formally established whether or not the groundworks contractor did in fact operate outside of the agreed-to scope of works, as it speaks to intent. Earthworks machinery runs at a significant cost per hour, a professional contractor would surely have confirmed the final extent of work prior to commencement. The extent of the transgressions is also not insignificant and should therefore not be reduced to a simple mistake and / or a miscommunication, between the property owner and the contractor. It would be of immense value to this investigation if formal input from the relevant earthworks contractor could be secured to confirm or deny the statements being made.	5. The applicant did not intentionally undertake activities without the required environmental authorisation. The applicant confirms that Footprint 2 was never included in the agreed scope of works provided to the appointed contractor. Furthermore, portions of Footprint 1 were cleared beyond the extent communicated and agreed between the applicant and the contractor. As the farm is located in a remote area, the owner was not able to remain permanently on site to oversee the works, and certain unauthorised activities only became apparent after completion. The contractor's final invoiced amount was higher than the original estimate, indicating that work beyond the agreed scope had been undertaken. An affidavit relating to the misconduct involving the initially appointed contractor, has been included as part of the application documentation (Appendix N to the BAR). While the above circumstances contributed to the situation, the applicant acknowledges that activities triggering the NEMA EIA Regulations require prior environmental authorisation. The applicant therefore recognises that the works should not have commenced prior to obtaining the necessary environmental authorisation and is now undertaking the required rectification process to regularise the matter.

		6. Further, whilst the Section 24G application is considered thorough, it would be useful to know how many actual cubic metres of marsh and soil was removed / excavated. This quantum would serve to illustrate more tangibly the material extent of the transgression, rather than the fact that the minimum volumes in terms of the NEMA triggers have been exceeded.	6. No surveyed volumetric calculations of the material removed were undertaken at the time of construction. It is therefore not possible to accurately quantify the exact cubic metres of soil removed from Footprint 2 (floodplain saltmarsh wetland) after the fact. Notwithstanding the above, the extent and significance of the disturbance have been assessed through the specialist Aquatic Ecosystem Assessment undertaken as part of the Section 24G process. The aquatic specialist assessed the impact on the wetland system as being of medium-low significance without mitigation, reducing to low significance with the implementation of the recommended mitigation and rehabilitation measures.
		7. Finally, I am satisfied that the environmental elements of the transgression have been adequately evaluated, and that appropriate mitigation measures have been proposed. However, as the old adage goes “ignorantia juris non excusat” (ignorance of the law is no excuse / not a defense). It is this Administration’s opinion that additional non-compliances would likely have occurred on site had there not been intervention by the authorities. A strong message needs to be sent to landowners via this process that they must undertake comprehensive, professional-led due diligence processes well prior to any on-site actions, and more particularly so in this environmentally sensitive environment.	7. The comment is noted. Having now been made aware of the applicable requirements, the applicant has cooperated fully with the Section 24G process and remains committed to complying with all relevant legislative and authorisation requirements going forward.
		8. Feedback on the above would be much appreciated.	8. Noted.

2	Nabeelah Khan – DEADP Directorate Environmental Governance	<u>Letter received via email dated 14 April 2026:</u> ACKNOWLEDGEMENT OF RECEIPT OF THE SECTION 24G APPLICATION: THE UNLAWFUL CLEARING OF THE INDIGENOUS VEGETATION PORTION 54 OF FARM POTTEBERG ESTATES 516, INFANTA The documentation received by this Department, is hereby acknowledged. 1. The Department will consider the information in respect of the application and advise you accordingly.	1. Noted.
		2. Please be advised that in terms of section 24G of the National Environmental Management Act, 1998 (Act 107 of 1998) (“NEMA”) an applicant is required to pay an administrative fine which may not exceed R5 million, prior to a decision being taken on the 24G application.	2. This comment is noted.
		3. In terms of the Section 24G Fine Regulations 2017, Regulation 6(4) “In the event that the applicant fails to pay the fine within the time period specified in the determination, including any extension thereof in accordance with sub regulation (2)(b), the application shall lapse and partial amounts paid to the competent authority, if any, will not be refunded to the applicant”.	3. This comment is noted.
		4. Please be reminded that it is an offence in terms of Section 49A (1) (a) of the National Environmental Management Act, 1998 (Act 107 of 1998) (“NEMA”) for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of said activity. A person convicted of an offence is liable to a fine not exceeding R10 million or	4. This comment is noted.

		imprisonment for a period not exceeding ten years, or to both such fine and imprisonment, in terms of Section 49B of NEMA.	
		5. Kindly quote the abovementioned reference number in any future correspondence in respect of this application	5. Noted and will be complied with.
3	Mercia Liddle – DEADP Directorate: Biodiversity and Coastal Management	<u>Letter received via email dated 21 April 2026:</u> RE: REQUEST FOR COMMENT FROM THE SUB-DIRECTORATE: COASTAL MANAGEMENT ON THE NEMA SECTION 24G APPLICATION FOR THE UNLAWFUL CLEARANCE OF INDIGENOUS VEGETATION, SOIL REMOVAL AND DEVELOPMENT WITHIN A DISTANCE OF 100M OF THE HIGH WATER MARK OF THE ESTUARY ON PORTION 54 OF FARM 516, POTTEBERG ESTATES, INFANTA. Good Day, Your request for comment from the Sub-directorate: Coastal Management on the above mentioned NEMA Section 24G Application received on 2 April 2026, refers.	
		1. CONTEXT 1.1. The Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (“NEM: ICMA”) is a Specific Environmental Management Act under the umbrella of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”). The NEM: ICMA sets out to manage the nation’s coastal resources, promote social equity and best economic use of coastal resources whilst protecting the natural environment. In terms of Section 38 of the NEM: ICMA, the Department of Environmental Affairs and Development Planning (‘the Department’) is the	1.1. The context provided is noted.

		provincial lead agency for coastal management in the Western Cape as well as the competent authority for the administration of the “Management of public launch sites in the coastal zone (GN No. 497, 27 June 2014) “Public Launch Site Regulations”.	
		1.2. The Department, in pursuant of fulfilling its mandate, is implementing the Provincial Coastal Management Programme (“PCMP”). The Western Cape Provincial Coastal Management Programme (“WC: PCMP 2022-2027) is a five (5) year strategic document, and its purpose is to provide all departments and organisations with an integrated, coordinated and uniform approach to coastal management in the Province. This WC: PCMP 2022-2027 was adopted by the Provincial MEC for Local Government, Environmental Affairs and Development Planning on 19 May 2023 and available upon request.	1.2. The context provided is noted.
		1.3. A key priority of the PCMP is the Estuary Management Programme, which is implemented in accordance with the NEM: ICMA and the National Estuarine Management Protocol (“NEMP”). Relevant guidelines, Estuarine Management Plans, Mouth Management Plans need to be considered when any listed activities are triggered in the Estuarine Functional Zone. The Department is in the process of approving a series of Estuarine Management Plans.	1.3. The context provided is noted.
		1.4. The facilitation of public access to the coast is an objective of the NEM: ICMA as well as a Priority in the WC: PCMP 2022-2027. The Department developed the Provincial Coastal Access Strategy and Plan, 2017 (“PCASP”) and commissioned coastal access audits per municipal district to assist municipalities with identifying	1.4. The context provided is noted.

		existing, historic, and desired public coastal access. These coastal access audits also identify hotspots or areas of conflict to assist the municipalities with facilitating public access in terms of Section 18 of the NEM: ICMA. The PCASP as well as the coastal access audits are available upon request.	
		2. COMMENT 2.1 The sub-directorate: Coastal Management ("SD: CM") has reviewed the information as specified above and have the following commentary: 2.1.1. The abovementioned Section 24G application was submitted to obtain retrospective Environmental Authorisation for development activities undertaken on Portion 54 of Farm 516, Potteberg Estates, Infanta. Historically the site has been used for residential purposes and the current owner intends to continue this residential use through the expansion of the existing main dwelling and the construction of a caretaker's cottage on Farm 54/516, Infanta. Unlawful clearing of indigenous vegetation, excavation and development within 100m from the estuary has taken place without the required Environmental Authorisation. The following activities are linked to the unlawful works on site and form part of the application: 2.1.1.1. Proposed additions to the existing main dwelling within Footprint 1 2.1.1.2. No development is planned for Footprint 2 and the area will be rehabilitated to restore its ecological function. 2.1.1.3. Landscaping with primary indigenous vegetation within all undeveloped disturbed portions of Footprints 1 and 3.	2.1.1. Noted 2.1.1.1. Noted and correct. 2.1.1.2. Noted and correct. 2.1.1.3. Noted and correct.

		2.1.2. Be advised that on page 20 of the S24G Application, the applicant stated that the NEM: ICMA is not applicable to this application. This assertion is incorrect as Farm 54/516 is partially within the Coastal Protection Zone (CPZ), as contemplated in Section 16 of the NEM: ICMA. The applicant further confirmed, on pages 35-44 of the application, that Footprints 1 and 2 are indeed located within the CPZ.	2.1.2. This comment is noted. The portion of the application that the commentor is referring to asks, <i>“Does the proposed project require an application in terms of the National Environmental Management: Integrated Coastal Management Act (“NEM: ICMA”)?”</i>. The application correctly indicates that no application is required in terms of NEM:ICMA but has been updated to clarify that while no application is required NEM:ICMA remains applicable and the principles thereof have been considered.
		2.1.3. The purpose of the CPZ is to avoid increasing the effect or severity of natural hazards in the coastal zone and to safeguard people and property against risks associated with dynamic coastal processes, including sea level rise. In light of the subject property’s location within the CPZ, Section 63 of the NEM: ICMA must be taken into account where an authorisation is required in terms of Chapter 5 of the NEMA. In addition, Section 62 of the NEM: ICMA places an obligation on all organs of state responsible for regulating land use planning to apply such legislation in a manner that gives effect to the purpose of the CPZ. Accordingly, the relevant provisions of the NEM: ICMA, including Section 63 must be duly considered by the competent authority and the relevant local authority in the exercise of their environmental authorisation and land use planning functions in respect of the subject property.	2.1.3. This comment is noted.
		2.1.4. As per page 36 of the application, the relevant portion of Farm 54/516 is situated seaward of the Overberg District’s Coastal Management Line (“CML”). The	2.1.4. This comment is noted. The location of the property within the CML has been taken into consideration within the application. No

		technical delineation of the CML was undertaken to ensure that development within the coastal zone is regulated in a manner that is responsive to risks, vulnerabilities and environmental sensitivities associated with such areas. In this regard, the delineation of the CML was informed by various layers of information, including inter alia, biodiversity considerations, estuarine functionality, flood risk, and wave run-up modelling, and was developed in consultation with, and supported by, relevant organs of state. The principal purpose of the CML is to protect coastal public property, private property, and public safety; to protect the coastal protection zone; and to preserve the aesthetic value of the coastal zone. The use of CMLs is of particular importance in response to the effects of climate change, as it involves both the quantification of risks and pro-active planning for future development.	infrastructure is proposed seaward of the Coastal Management Line, and the development is located on elevated ground above the estuarine zone, thereby minimising potential impacts on estuarine and coastal processes.
		2.1.5. Furthermore, all clearance Footprints on Farm 54/516 is located within the Rural Risk Zone and a precautionary approach should be applied in such areas as they are vulnerable to risk of flooding. The SD: CM noted that the applicant has in this regard situated the development on an elevated part of the landscape and stated that no new infrastructure will be proposed within the 1:100-year floodline	2.1.5. This comment is noted. Infrastructure developed and proposed within the Coastal Protection and Rural Risk Zones is limited to a small pumproom (already constructed) and a minor portion of the proposed expansion of the existing residential dwelling. No new infrastructure is proposed within the 1:100-year future floodline (refer to Appendix B1 and Appendix B3). As these floodlines represent default risk lines, the location of the proposed development is not expected to result in significant social or environmental risk.
		2.1.6. The applicant should note that in terms of the Departmental Circular, DEA&DP 0004/2021, regarding 'The consideration of coastal risk in land use decisions as well as the way forward with respect to the establishment and	2.1.6. This comment is noted. No infrastructure is proposed seaward of the Coastal Management Line, or within the 1:100-year future floodline and the development is located on elevated ground above the

		implementation of Coastal Management Lines in terms of the NEM: ICMA', a precautionary approach must be adopted with respect to land use decisions within risk areas. Although the applicant has made efforts to elevate the development within the Rural Risk Zone, the SD: CM generally does not support any development within this sensitive zone as per the Departmental Circular, as all developments are encouraged to be outside the Rural Risk Zone.	estuarine zone, thereby minimising potential impacts on estuarine and coastal processes.
		2.1.7. The Pre-Compliance and Pre-Directive issued on 30 June 2025 for Farm 54/516, is therefore supported by the SD: CM as the subject area is located within the CPZ and Section 63 of the NEM: ICMA was not considered for the existing developments and activities.	2.1.7. This comment is noted. Historic aerial imagery confirms that the existing dwelling and its associated footprint were present by approximately 2000.
		2.1.8. Farm 54/516 is located adjacent to the Breede River estuary and in close proximity to its Estuarine Functional Zone (EFZ). The SD: CM notes that the applicant has considered the Breede River Estuary Management Plan and identified the EMP's management objectives applicable to the proposal and emphasised that no new infrastructure is proposed within EFZ as the development is situated on elevated ground, limiting the potential risks to estuarine processes and supporting the IDP's biodiversity conservation objectives.	2.1.8. This comment is noted.
		2.1.9. Based on the information provided, with the applicant's attempt to rectify the development by aligning it with the recommendations of the DEA&DP 0004/2021 Circular, ensuring no new developments are proposed within the EFZ or seaward of the CML, the SD: CM does not object to the Section 24G application for	2.1.9. It is noted that the Directorate of Coastal Management does not object to the Section 24G application, subject to all relevant considerations being addressed and the strict implementation of the proposed mitigation measures. The provisions of the ICMA have been considered in the application, and an EMPr has been prepared to

		Farm 54/516 Infanta, provided that all the above mentioned items are taken into consideration and all recommended mitigation measures are strictly adhered to.	ensure that the development is undertaken in accordance with the recommended mitigation measures. Implementation of the EMPr should be included as a condition of authorisation.
		2.1.10. Be advised that the SD: CM does not condone developments seaward of the CML, in the EFZ or within General/Rural Risk Zones and the applicant should note that any future developments within these vulnerable zones on Farm 54/516, will not be supported by the SD: CM based on the above.	2.1.10. The comment is noted. The EAP acknowledges the position of the SD: CM regarding development within sensitive coastal and flood risk zones, including areas seaward of the CML, the EFZ, and General/Rural Risk Zones.
		3. The applicant must be reminded of their general duty of care and the remediation of environmental damage, in terms of Section 28(1) of NEMA, which, specifically states that: "...Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment..." together with Section 58 of the NEM: ICMA which refers to one's duty to avoid causing adverse effects on the coastal environment.	3. This comment is noted. Appropriate mitigation and rehabilitation measures have been incorporated into the EMPr and will be implemented to address and remedy the identified impacts.
		4. The SD: CM reserves the right to revise or withdraw its comments and request further information from you based on any information that may be received.	4. This comment is noted.
4		Letter received via email dated 6 May 2026:	

	Rulien Volschenk – Overberg District Municipality	RE: PUBLIC PARTICIPATION PROCESS FOR A NEMA SECTION 24G APPLICATION FOR THE UNLAWFUL CLEARING OF INDIGENOUS VEGETATION, SOIL REMOVAL AND DEVELOPMENT WITHIN A DISTANCE OF 100M INLAND OF THE HIGH-WATER MARK OF THE ESTURARY ON PORTION 54 OF FARM 516, POTTEBERG ESTATE, INFANTA The Environmental Management Services Department of the Overberg District Municipality take cognisance of the S24G Report for the unlawful clearance of vegetation on portion 54 of the farm 516 for the upgrade of existing structures and construction of new infrastructure.	Noted.
		In terms of Section 28 of the National Environmental Management Act (Act No 107 of 1998), the property owner bears a legal duty of care to take reasonable measures to prevent, minimize and rectify environmental degradation. This obligation applies irrespective of whether environmental authorisation has been granted.	This comment is noted. Appropriate mitigation and rehabilitation measures have been incorporated into the EMP and will be implemented to address and remedy the identified impacts.
		Based on the Western Cape Biodiversity Spatial Plan of 2023 the cleared areas falls within Critical Biodiversity Areas. With reference to the Overberg District Municipality's Spatial Development Framework of 2022, CBAs is classified as Core 2 under Spatial Planning Categories. These areas must be maintained in a natural or near-natural state, with no further loss of habitat. Degraded areas should be rehabilitated. Only low-impact, biodiversity-sensitive land-uses are appropriate.	This comment is noted. The Applicant is committed to managing the remainder of the property with a conservation focus.
		Accordingly, the mitigation measures proposed in the specialist studies and Environmental Management Programme (EMP) are supported. Priority should be	This comment is noted. Appropriate mitigation and rehabilitation measures have been incorporated into the EMP and will be implemented to address and remedy the identified impacts.

		given to the rehabilitation of highly sensitive ecological areas and the prevention of further ecological degradation.	
		As per the National Environmental Management Biodiversity Act of 2004 as well as the Conservation of Agricultural Resources Act of 1983, each landowner is responsible for the management of invasive species on their properties. The alien vegetation management plan as proposed in the EMPR are supported.	This comment is noted. The alien vegetation management plan as outlined in the EMPR will be implemented onsite.
		The ODM reserves the right to revise its comments and request further information based on any additional information that may be received.	This comment is noted.
5	Rhett Smart – Cape Nature	Letter received via email dated 7 May 2026: Draft NEMA Section 24G Report for Unlawful Expansion of Dwellings on Portion 54 of Farm Potteberg Estates 516, Infanta (DEA&DP ref: 14/1/1/E2/8/9/3/0894/24) CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Desktop Information The unlawful activities undertaken constituted clearing of three area of indigenous vegetation for a garage (Footprint 1), pump room (Footprint 1) and caretaker's cottage (Footprint 3). The purpose for clearing Footprint 2 is not provided and clarification should be provided in this regard.	This comment is noted. Footprint 2 was not intended to be cleared, and no development was proposed for this area. The clearing of Footprint 2 occurred as a result of the contractor undertaking activities beyond the agreed scope of works. As the farm is located in a remote area, the owner was not permanently on site to supervise the works, and certain unauthorised activities only became apparent after completion. Following engagement with the contractor, it was indicated that the

			area was cleared to obtain topsoil for the rehabilitation of areas within Footprint 1 where clearing had extended beyond the approved extent. This has been clarified in the BAR.
		The footprints are mapped as Critical Biodiversity Area 1 (CBA) in the 2023 Western Cape Biodiversity Spatial Plan (BSP), except part of Footprint 1 which is No Natural. The report states that the clearing took place in February 2024, which was prior to the adoption of the 2023 BSP, therefore the 2017 BSP would have been relevant. The mapping for the 2017 BSP is the same except that Footprint 1 is mapped as Ecological Support Area 2 (ESA).	This comment is noted. The applicable mapping has been updated accordingly. The difference between the 2017 and 2023 mapping layers has no material effect on the level of assessment undertaken, specialist assessments outcomes or the overall impact evaluation.
		The vegetation mapped for the footprints is Potberg Ferricrete Fynbos, listed as critically endangered. Footprint 2 and the lower end of Footprint 1 are located within the estuarine functional zone (EFZ) of the Breede River Estuary as mapped in the National Wetland Map (NWM) and the upper end of Footprint 1 is located within a floodplain wetland. Footprint 2 is located within the 1 in 50 and 1 in 100 year floodlines for the Breede River Estuary and there is encroachment of Footprint 1 into the floodlines. Footprint 2 is located in front of the coastal management line (CML) and within the coastal protection zone (CPZ), while Footprint 1 is within the CPZ but behind the CML.	This comment is noted. It should, however, be noted that according to the Aquatic Ecosystem Assessment, Footprint 1 does not coincide with any delineated wetlands. Furthermore, no infrastructure is proposed within the 1:100-year floodline.
		The results from the screening tool reveal very high sensitivity for terrestrial biodiversity and aquatic biodiversity, high sensitivity for animal species and medium sensitivity for plant species. The site sensitivity verification report indicates that the terrestrial biodiversity, animal species and plant species themes are dealt	This comment is noted and correct.

		with in a botanical and faunal impact assessment and the aquatic biodiversity theme is dealt within in a freshwater assessment.	
		Botanical and Faunal Assessment The botanical and faunal assessment confirms that the vegetation occurring over most of the property is Potberg Ferricrete Fynbos. The vegetation which would have occurred on Footprint 1 and 3 is confirmed to have consisted of intact Potberg Ferricrete Fynbos based on the vegetation in the immediate surroundings. Four plant species of conservation concern (SCCs) were recorded for Footprint 3, one of which was also recorded at Footprint 1. The BSP mapping for Footprint 1 is queried. We wish to note that the resolution of the BSP is not accurate to the scale of the footprints which were cleared, and based on interpretation of the mapping, the No Natural areas on site are the buffers from existing roads (including those which may no longer be used).	This comment is noted. The BSP mapping referenced in the assessment is derived from the applicable provincial spatial datasets. The EAP takes note of the fact that the 2023 BSP mapping was not yet in effect at the time of the clearing activities and the necessary updates have been made. Nevertheless, the difference between the 2017 and 2023 mapping layers had no material effect on the level of assessment undertaken or the specialist assessment outcomes. With regard to scale and resolution, it is submitted that the level of mapping utilised in the assessment is appropriate for the purposes of the study and does not influence the overall findings. It should also be noted that prior to unlawful vegetation clearing the property contained an existing main dwelling, terraced structures and an associated access road network. The total disturbance footprint associated with this existing main dwelling was approximately 1443 m². The existing roads on site constitute established access routes associated with the current land use and will continue to be utilised for access to existing development.
		The vegetation occurring at Footprint 2 is however confirmed to be estuarine saltmarsh, which although does not correlate with the National Vegetation Map, is	This comment is noted.

		consistent with the NWM. The vegetation is dominated by typical salt tolerant species, and the habitat is addressed in the freshwater assessment.	
		A separate detailed fauna assessment was not undertaken, however any fauna observed on site during the botanical fieldwork were recorded and the likelihood of faunal SCCs flagged in the screening tool was assessed. Due to the small size of the disturbance footprints, we support the approach. It states that eight bird species were flagged in the screening tool, of which seven are expected to be present in or close to these areas. The exception stated is the Caspian Tern (<i>Hydroprogne caspia</i>), however the Footprint 1 and 2 are close to the estuary where this species is confirmed to be present (SSI Environmental et al 2025; CWAC counts ¹). It is further noted that the screening tool report provided as Appendix M1 only includes seven bird species. We further wish to query the presence of suitable habitat on site for the African Finfoot (<i>Podica senegalensis</i>).	This comment is noted. The African Finfoot (<i>Podica senegalensis</i>) is not likely to occur in the area as there is no suitable habitat in the form of overhanging riverine vegetation. This has been clarified within the Botanical and Faunal Impact Assessment.
		Two invertebrate species are discussed which could have a more localised distribution and home range compared to the bird species, although the footprints are still considered to be small relative to surrounding intact habitat. Only one of these invertebrates is listed in the screening tool report in Appendix M1.	This comment is noted.
		The botanical conservation value, combining the terrestrial biodiversity and plant species themes is rated as medium-high for Footprints 1 and 3 and medium for Footprint 2. Several impacts on habitat, threatened plant species and fauna are identified for both the construction and operational phase, all of which are low-medium negative or less both prior to and after mitigation. The overall botanical	This comment is noted.

		impacts are rated as low-medium significance both before and after mitigation and the faunal impacts are rated as low significance before and after mitigation.	
		There is a section listing required mitigation measures which includes management of alien invasive plant species with specifications regarding the methodology and reporting/ monitoring, no further soil disturbance, no landscaping around the caretaker's cottage and a stewardship agreement with CapeNature for the property. The proposed mitigation measures are supported and agreed that it should be required mitigation.	This comment is noted, and the support for the proposed mitigation measures is acknowledged. With regard to landscaping around the caretaker's cottage, the botanical assessment recommended that no landscaping be undertaken in this area. However, this measure will not be implemented in full. Approximately 267 m² of vegetation clearing was undertaken in this footprint. Of this area, approximately 200 m² will be retained and will include formal landscaping using locally indigenous plant species in order to establish an appropriate fire protection zone around the dwelling. The remaining disturbed portions will be allowed to undergo natural rehabilitation. In addition, the appointed botanist has recommended that a stewardship agreement be entered into with CapeNature. The Applicant confirms its commitment to the long-term conservation of the undeveloped portions of the property and is amenable to a stewardship-based approach. The nature, extent, and details of the agreement will be finalised with CapeNature following environmental authorisation to ensure conservation objectives are met while safeguarding the property's primary use rights.

		Section 8 of the Environmental Management Programme (EMPr) constitutes an Alien Invasive Plant Management Plan which incorporates the recommendations provided in the botanical and faunal assessment. With regards to the prohibition of alien invasive Kikuyu grass (<i>Cenchrus clandestinus</i>) for landscaping, we wish to query the grass species which has been already used for landscaping around the main dwelling. The footprint cleared around the main dwelling is much larger than the requirements for the proposed additional buildings/structures and is therefore likely to be for the purposes of a garden based on the photographs. Due to the sensitive location and proximity to high conservation value terrestrial and aquatic habitats we recommend that the landscaping species list must be approved by the botanist, whereby any species which are not locally indigenous and potentially invasive should not be permitted.	This comment is noted. The grass species used around the main dwelling is Buffalo Grass. The footprint cleared around the main dwelling was larger than agreed, the contractor cleared beyond the intended extent. The cleared slopes have been re-planted to mitigate potential erosion related impacts and are starting to rehabilitate. A list of recommended landscaping species has been included on page 19 of the botanical and faunal assessment as well as within the newly added landscaping section of the EMPr.
		We note in the final sentence of the conclusions the report refers to the recommendation of no fine/penalty and hence the alien clearing costs are acceptable. We recommend that a response is required in terms of the Regulations Relating to the Procedure to be Followed and Criteria to be Considered when Determining an Appropriate Fine in terms of Section 24G (GG 40994, GN 698, 20 July 2017). If required, the botanical and faunal assessment should be amended accordingly.	This comment is noted. The statement contained in the botanical and faunal assessment, which refers to no penalty or fine being recommended in terms of the study, is made strictly within the context of the specialist findings and does not constitute a determination in terms of the Regulations Relating to the Procedure to be Followed and Criteria to be Considered when Determining an Appropriate Fine in terms of Section 24G (GN 698 of 20 July 2017). Notwithstanding the above, the Section 24G application as a whole respectfully requests consideration for the reduction of any administrative fine, taking into account factors such as the applicant's

			commitment to ongoing management and removal of alien invasive vegetation onsite.
		Freshwater Assessment The freshwater assessment includes a delineation of the aquatic features on site, consisting of the estuarine wetland and the unchannelled valley bottom wetland. We wish to query if freshwater assessment is an accurate term for an assessment of estuarine features and recommend it should either be termed an aquatic ecosystem assessment or freshwater and estuarine assessment. The NWM and BSP are referenced and confirmation is provided that the floodplain wetland is not present and the footprint of Footprint 1 is not located within a wetland. Footprint 2 is however located within the unchannelled valley bottom wetland. There is additionally a stream which terminates in the unchannelled valley bottom wetland. Footprint 3 is located approximately 60 m from the stream.	The comment is noted. The assessment considered both freshwater and estuarine aquatic features and was undertaken by an Aquatic, Wetland and Biodiversity Specialist. The title of the report has been changed to an “Aquatic Ecosystem Assessment” to reflect this. The remainder of the information presented in the comment is considered accurate and aligns with the findings of the specialist assessment.
		Two aquatic habitats are identified, namely floodplain saltmarsh and Breede River EFZ. The floodplain saltmarsh occurs within the unchannelled valley bottom wetland and encroaches partly into the estuarine wetland, with the remainder of the estuarine wetland occupied by Breede River EFZ. The description of the floodplain saltmarsh correlates with the botanical and faunal assessment description of estuarine saltmarsh habitat. The fauna which utilise the saltmarsh habitat are mentioned, however it requires further emphasis, particularly for bird species, including migratory waders. The saltmarsh and other estuarine habitat could be considered as the most important faunal habitat on site.	This comment is noted. The Botanical and Faunal Impact Assessment has been revised to include additional emphasis on the importance of the saltmarsh habitat for faunal species. The report now states that the saltmarsh habitat is arguably the most important faunal habitat within the study area, particularly for migratory wader species.

		The description of the EFZ refers to the Breede River Estuarine Management Plan (EMP) (SSI Environmental et al 2025). It does not however describe the habitat. We note that Figure 18 of the EMP indicates the estuary habitats with the subject property mainly mapped as reeds and sedges with a patch of floodplain saltmarsh in the higher up sections of the stream. We note that the photographs in the freshwater assessment indicate reedbeds to the north of the jetty boardwalk and salt marsh to the south. The floodplain saltmarsh is partly within the EFZ as per the standard 5 m contour proxy and the floodlines, and further the term floodplain indicates that the primary source of water is from the estuary. The estuarine hydrology would explain the saline habitat, although the seasonal/ephemeral rivers in the area emanating from shale geology can also result in saline habitat. We therefore recommend that the Breede River EFZ is not a valid estuarine habitat, partly because a large proportion of the floodplain saltmarsh would also fall under the definition of the EFZ as currently understood.	This comment is noted. The EFZ should not be interpreted as a habitat type, but rather as an area functionally linked to the estuary through flooding, groundwater interactions, sediment processes and estuarine ecological functioning. Habitat mapping indicates that the EFZ in the vicinity of the site comprises predominantly reed and sedge vegetation, with areas of floodplain saltmarsh in lower-lying sections. This was confirmed during the Aquatic Ecosystem Assessment, which recorded reedbeds north of the jetty boardwalk and saltmarsh vegetation to the south of the boardwalk. The delineated onsite floodplain saltmarsh forms part of this broader estuarine transition zone and is likely influenced by both estuarine inundation and groundwater interactions linked to the Breede River Estuary, as well as some contribution from naturally saline runoff associated with local shale-derived soils and the ephemeral tributaries. The wetland therefore exhibits characteristics of both an estuarine-associated floodplain saltmarsh and a system receiving freshwater inputs. The presence of floodplain saltmarsh within the EFZ does not invalidate the EFZ delineation but rather reflects the range of habitats and ecological processes that occur within this estuarine functional area.
		The present ecological state (PES) for the floodplain saltmarsh and for the EFZ are both B/C and the ecological importance and sensitivity (EIS) is moderate for the	This comment is noted.

		floodplain saltmarsh and very high for the EFZ. Several impacts are identified broadly under the topics of loss of biodiversity and water quality and sedimentation impacts, during the construction and operational phases. The impacts during the construction phase are rated as low prior to mitigation and very low to negligible after mitigation while the impact during the operational phase are rated as medium prior to mitigation and low after mitigation. The operational phase impacts take into account the cut and fill which was undertaken to create a level platform for the additional buildings/structure and garden and the relatively steep slopes at the edge of the platform which presents a risk of erosion and sedimentation.	
		Key mitigation measures include restriction of activities to the existing disturbance footprint, rehabilitation of disturbed areas including Footprint 2, clearing of invasive alien species, buffer zones from the saltmarsh and EFZ and prevention of erosion and sedimentation. The proposed mitigation measures are supported.	This comment is noted. The proposed mitigation measures have been included in the EMPr.
		Section 7 of the EMPr constitutes a wetland rehabilitation plan. The mitigation measures for the 20 m buffer for the salt marsh and 30 m buffer from the EFZ includes no vehicle access outside of existing roads. We do not support this proposed measure and instead recommend that there is no vehicle access permitted within the delineated wetland areas and that the roads beyond the existing labourer's cottage (as per the layout plan) must be decommissioned and rehabilitated where necessary. The presence of roads/tracks traversing the saltmarsh are visible on the aerial imagery. While roads did not form part of the transgressions in this application, it is evident that the existing roads have had a negative impact on the estuarine habitat over time and therefore prohibition of	The area to be rehabilitated in terms of the wetland rehabilitation plan comprises the extent of the cleared Footprint 2 area. In addition, certain activities are restricted within the 20 m buffer around the Floodplain Saltmarsh wetland and the 30 m buffer around the Breede River Estuarine Functional Zone. The roads within the delineated saltmarsh are not utilised by the applicant for operational purposes of the site, however, may be required to facilitate initial clearing of alien invasive vegetation. As such these can be allowed to rehabilitate naturally once alien clearing within the wetland and buffer zone have been completed. A map has been included in the EMPr to clearly show

		access and rehabilitation could have a positive impact compared to the current condition. The area which will be rehabilitated in terms of the wetland rehabilitation plan must be clearly delineated on a map, and we recommend a monitoring and auditing schedule must be included which must be approved by the competent authority and preferably also provided to CapeNature for comment.	the areas to be rehabilitated. Monitoring and auditing requirements are outlined in Sections 7.4 and 10 of the EMPr.
		We recommend that the rehabilitation plan should also encompass Footprints 1 and 3 and provide specifications for rehabilitation, landscaping and stabilisation of the platform slopes, as also discussed under the botanical and faunal assessment.	The comment is noted. A landscaping section has been included in the EMPr to address rehabilitation, landscaping and stabilisation requirements for Footprints 1 and 3. In addition, the Botanical Impact Assessment has been updated to include a list of species suitable for planting onsite.
		General The floodlines as discussed above are included in the layout plan for the development proposal, which provide evidence that all buildings and structures will be located above the 1 in 100 year floodline. The CML which functions as a setback in terms of the National Environmental Management: Integrated Coastal Management Act (NEM:ICMA) is in front the floodlines and therefore the development proposal is compliant with the CML. With regards to the jetty and lengthy boardwalk on the property, we can confirm that there are an existing environmental authorisation and Sea Shore Lease in place.	This comment is noted.
		We wish to raise concern regarding the discrepancies in the depiction of the area which was cleared. The layout plan in Appendix B1 provides a more accurate depiction of the area which was cleared indicated by the areas which are shaded in	This comment is noted. Prior to the commencement of the unlawful activities, the property already contained an existing main dwelling and associated disturbed areas. Historic aerial imagery confirms that the

		brown. This can be confirmed when cross-referenced with the historical Google Earth imagery. The area indicated in Appendix B2 only includes a portion of the area cleared on Footprint 1. We request that the layout plan as indicated in Appendix B1 is overlaid on the Google Earth image dated May 2024 subsequent to the undertaking of the activities. It must be ensured that the area cleared is accurately calculated as this has an outcome on the application.	main access road network was present onsite as early as 1981, while the existing dwelling and associated disturbance footprint were present by 2000. The layout plan in Appendix B1 indicates all disturbed areas in brown, including both the existing lawful disturbance footprint associated with the existing main dwelling, terraced areas and access road network and the unlawfully cleared areas associated with the 2024 works. Appendix B2 accurately reflects the extent of the unlawful clearing associated with the recent activities only, excluding areas that were already historically disturbed prior to February 2024. The unlawfully cleared areas have therefore been accurately mapped and calculated in Appendix B2 for the purposes of the application.
		The recommendation in the Botanical and Faunal Assessment regarding stewardship is supported and has also been included within the NEMA S24G Report as a proposed mitigation measure and further states that the applicant is willing to undertake stewardship. The properties located between De Hoop Nature Reserve and the Breede River Estuary is a protected area expansion focus area for CapeNature, although the largest properties are prioritized. We further wish to note that there have been proposals for multiple property protected areas (Protected Environment) within this area and conservation partners assisting with protected area expansion. We therefore recommend that CapeNature can be contacted to discuss stewardship further, following which the site would need to be presented at the CapeNature Stewardship Review Committee Meeting. We further wish to note that many of the operational management measures included	This comment is noted. The Applicant is committed to conserving the undeveloped portions of the property and is open to a stewardship-based approach. Engagement with CapeNature regarding potential stewardship options and associated processes will be undertaken when appropriate to ensure conservation objectives are met while safeguarding the property's primary use rights.

		in this application, such as alien clearing and rehabilitation can be addressed in a stewardship agreement.	
		Conclusion In conclusion, CapeNature agrees with the recommendations provided in NEMA Section 24G application, however we recommend that the following must be addressed before the application is considered further: • The exact area which was cleared must be accurately calculated and depicted on a map as per the discussion above. • The wetland rehabilitation plan must be amended to include the closure and rehabilitation of roads within the wetland and EFZ and the disturbance footprints around the dwellings. • Clarification must be provided regarding the wetland types and wetland/estuarine habitats as described in the freshwater assessment. • Clarification must be provided regarding the recommendations and administrative fine as mentioned in the botanical and faunal assessment. CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.	This comment is noted. • The exact area which was unlawfully cleared has been accurately calculated and depicted on the maps provided in Appendix B2. • The wetland rehabilitation plan has been updated to include a map clearly showing the rehabilitation area and buffer zones. Revegetation of the disturbance footprints around the dwellings has been addressed within the Landscaping section of the EMP. The unused roads within the delineated floodplain saltmarsh can be allowed to rehabilitate naturally once necessary alien clearing in the area has been undertaken. • Clarification regarding the wetland types and wetland/estuarine habitats has been provided in the above responses. • Clarification regarding the fine mentioned in the botanical and faunal assessment has been provided in the above responses.
6	Vanessa Stoffels – Department of	Letter received via email dated 14 May 2026:	The no-objection comment is noted.

	Infrastrucutre Directorate Planning	Chief Road	PORTION 54 OF FARM THE POTTEBERG ESTATES NO.516, SWELLENDAM: NEMA SECTION 24G APPLICATION FOR THE UNLAWFUL CLEARANCE OF INDIGENOUS VEGETATION, SOIL REMOVAL AND DEVELOPMENT WITHIN 100M INLAND OF THE HIGH-WATER MARK OF THE ESTUARY 1. Your e-mail to this Branch dated 01 December 2025 refers. 2. The subject property is located 15km north-west of Infanta and takes access off a private road. 3. This Branch offers no objection to the issuing of Environmental Authorisation in terms of the National Environmental Management Act 107 of 1998.	
7	Elkerine BOCMA	Rossouw -	Letter received via email dated 21 May 2026: COMMENTS: APPLICATION FOR NEMA SECTION 24G RETROSPECTIVE APPROVAL FOR THE UNLWAFUL CLEARING OF INDIGENOUS VEGETATION FOR THE ESTABLISHMENT OF DWELLINGS ON PORTION 54 OF THE FARM POTTEBERG ESTATES NO. 516, SWELLENDAM The Breede-Olifants Catchment Management Agency (BOCMA) has received the request for comment on documents dated 7 April 2026 and older with relation to the subject matter.	Noted.
			BOCMA through their Control, Monitoring and Enforcement unit, has assessed the information provided and conducted site visits to confirm the impact on the Water uses in terms of Section 21 of the National Water Act, 1998 (Act 36 of 1998).	Noted.

		After the aforementioned site visit, and the recommendation from the CME unit, BOCMA will support the Section 24G application, subject to the following conditions: 1. The BOCMA confirms that the activities are not within the Regulatory area of the Breede River. 2. The property will develop an alien clearing and rehabilitation programme for the unnamed tributary for implementation over a period of 3 years, that aligns with the prescribed Alien Clearing and Rehabilitation protocols used by the Zonderend WUA. 3. No development may be taking place without the necessary confirmation if conducted outside of the footprint of the existing application. 4. Proof from the Municipality or contractor responsible for pumping the wastewater of the conservancy tank used for the disposal of sewer water must always be available on-site. 5. A detailed stormwater management plan for the property that mitigates impacts on the unnamed tributary located on the property and the Breede River, should be developed. 6. Jetties or any structure that will be erected near the river should be authorised before being constructed. 7. The documents must be forwarded to the Breede River Estuary Forum for comments.	This comment is noted. 1. Development activities have taken place within 32 metres of the Breede River and its associated Estuarine Functional Zone. 2. The Alien Vegetation Management Plan outlined in Section 8 of the EMPr will be implemented on site. The Zonderend Water Users Association has been consulted, and the vegetation management measures contained in Section 8 of the EMPr have been aligned with the alien vegetation clearing and rehabilitation protocols applied by the Zonderend WUA. 3. No further development will be undertaken onsite without the necessary authorisations. 4. This requirement is noted and has been included in Section 5.3.5 of the EMPr. 5. A dedicated Stormwater Management Section has been included in the EMPr. 6. No further development will be undertaken onsite without the necessary authorisations. The existing jetty onsite will continue to be maintained. 7. This comment is noted. The Breede River Estuary Forum will be included as an IAP for the current application, and the relevant documentation will be made available for commenting during the next public participation process.
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		General Conditions: • All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to. • Stormwater management must be addressed both in terms of flooding, erosion and pollution potential. • No stormwater runoff from any premises containing waste, or water containing waste may be discharged into a water resource. Polluted stormwater must be contained. • In the event of water abstraction from any water resource, the necessary authorisation must be obtained from the Department of Water and Sanitation. • Please note that engaging in any activity that triggers the National Water Act without authorisation is an offence and will result in the BOCMA taking legal action against the proponent in terms of Section 151 of the National Water Act, 1998 (Act 36 of 1998).	• This comment is noted. Given the proximity of the development activities to known watercourses, the NWA will be triggered in terms of S21(c) and (i) water uses. The risk assessment matrix completed for the proposed development found a low-risk rating. A GA will therefore be required in terms of S21 (c) and (i) of the NWA. • Detailed stormwater management measures have been outlined in the EMPr. • This comment is noted and has been included as a requirement within the EMPr. • Water is currently abstracted from the Breede River to supplement domestic use on site. In terms of Section 22(1)(a)(i) of the National Water Act, 1998, the abstraction of water for reasonable domestic use is classified as a Schedule 1 water use. Accordingly, the abstraction and use of surface water from the Breede River for supplementary domestic purposes on site is considered a Schedule 1 water use and does not require a water use authorisation. Should the nature or extent of the abstraction change in future such that it constitutes a water use in terms of Section 21 of the National Water Act, the necessary authorisations will be obtained from
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			the relevant competent authority prior to the commencement of such use. • This comment is noted.
		This office reserves the right to amend and revise its comments as well as to request any further information. Please do not hesitate to contact this office if you have any further queries. Please ensure to quote the above reference in doing so.	This comment is noted.

Public Participation to date

See proof of public participation conducted Appendix G1:

Pre-Application Public Participation:

- A pre-application draft Section 24G Application was circulated for public comment for a 30 day period from 3 April 2026 up to and including 6 May 2026
- An advertisement (in English) was published in the local newspaper, the Suidernuus on 3 April 2026
- A site notice was placed at a visible location at the boundary of the proposed development site on 2 April 2026
- The pre-application Draft Section 24G Application and supporting documentation, plus the draft EMPr was available for download from the PHS website for the duration of the commenting period
- All identified IAPs were notified by email or registered mail as applicable of the proposed project and the availability of the documentation for comment.

Proposed In-Process Public Participation:

- A draft Section 24G Application will be circulated for public comment for a 30 day period.
- The draft Section 24G Application and supporting documentation, plus the draft EMPr will be available for download from the PHS website duration of the commenting period.
- All identified IAPs will be notified by email or registered mail as applicable for the proposed project and the availability of documentation for comment.