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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 PROPOSED RESIDENTIAL DEVELOPMENT ON THE REMAINDER OF ERF 2841 AND ASSOCIATED INFRASTRUCTURE ON ERF 5574, TERGNIET

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

A. DECISION

By virtue of the powers conferred on 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 in respect of **part of the preferred layout alternative**, described in the.

- (a) **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section C below in respect of **part of the preferred layout alternative**, described in the Final Basic Assessment Report ("FBAR") (Ref: MOS766/09), dated 22 November 2024, as prepared and submitted by the appointed environmental assessment practitioner ("EAP"), Ms. Louise-Mari van Zyl (EAPASA No: 2019/1444) and assisted by Candidate EAP, Mr. Francois Byleveld (EAPASA No: 2023/6770) of Cape EAPrac (Pty) Ltd.; and
- (b) **replaces part** of the Environmental Authorisation issued on 29 April 2009 (DEA&DP Ref. G12/2/1-314-5294). Part of the Site Development Plan ("SDP") approved in the Environmental Authorisation ("Record of Decision") issued on 29 April 2009 is replaced in part with the SDP (Drawing No. T966-3, dated 25 April 2024) attached as Appendix 2B to this Environmental Authorisation only as it pertains to the sewerage layout and the development of a new—
- sewer pumpstation on the southern boundary of Erf 5574 next to an existing service servitude;
 - sewer gravity pipeline with a diameter of 160mm and approximately 140m in length, from Seegenot Phase 1 towards the new proposed sewage pumpstation;
 - sewer rising main with a 75mm diameter and approximately 140m in length toward an existing sewer rising main on erven 1215 and 1217 of Seegenot Estate (Phase 1).

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

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Managing Director
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 HARTENBOS
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The abovementioned applicant is the holder of this Environmental Authorisation (hereinafter referred to as “**the Holder**”).

C. LIST OF ACTIVITY/IES AUTHORISED

Listed Activities	Activity/Project Description
<p>Environmental Impact Assessment Regulations Listing Notice 1 of 2014, Government Notice No. 983 of 4 December 2014 (as amended)</p>	
<p>Activity Number: 27 Activity Description: <i>The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i> (i) <i>the undertaking of a linear activity; or</i> (ii) <i>maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>	<p>The proposed development will require the clearance of approximately 2.1ha of indigenous vegetation as defined in the EIA Regulations, 2014. Note: This excludes the clearance of vegetation on the eastern portion of the property (see Annexure 2).</p>
<p>Environmental Impact Assessment Regulations Listing Notice 3 of 2014, Government Notice No. 985 of 4 December 2014 (as amended)</p>	
<p>Activity Number: 4 Activity Description: <i>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</i> i. <i>Western Cape</i> i. <i>Areas zoned for use as public open space or equivalent zoning;</i> ii. <i>Areas outside urban areas;</i> (aa) <i>Areas containing indigenous vegetation;</i> (bb) <i>Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</i> iii. <i>Inside urban areas:</i> (aa) <i>Areas zoned for conservation use; or</i></p>	<p>The development of roads associated with the proposed development will require the clearance of indigenous vegetation as defined in the EIA Regulations, 2014. According to the application the internal roads will be up to 5m wide and have a road reserve less than 13.5m. The property is considered to be located outside the urban area. Note: This excludes the development on the eastern portion of the property (see Annexure 2).</p>

<p>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p>	
<p>Activity Number: 12 Activity Description:</p> <p>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p> <p>i. Western Cape</p> <ol style="list-style-type: none"> 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 ii. Within critical biodiversity areas identified in bioregional plans; iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas; iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister. 	<p>The proposal will require the clearance of ca. 21 000m² of indigenous vegetation as defined in the EIA Regulations, 2014 (as amended). The ecosystems on the proposed site have been mapped as Endangered Hartenbos Dune Thicket.</p> <p>Note: This excludes the clearance of vegetation on the eastern portion of the property (see Annexure 2).</p>

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

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

The proposal entails the development of a residential development of the Remainder of Erf 2841 in Tergniet which will consist of the following:

- 66 General Residential Zone I erven with an average size of 220m²;
- Internal Open Space Zone II erven;
- Utility Zone erf;
- Transport Zone III erven approximately 0.65ha in extent; and
- Transport Zone II erf approximately 0.25ha in extent.

In addition, the following associated infrastructure will be developed:

- Security fence tight around the development footprint;

- Development of access and internal roads up to 5m wide with a reserve less than 13.5m;
- Connect to the newly installed 200mm diameter water pipeline in the Main Road 344 (R102 Provincial Road) road reserve via a proposed new 160mm diameter pipeline;
- A new 160mm diameter sewer gravity pipeline approximately 340m in length from the proposed development toward a new sewer pumpstation on Erf 5574;
- A new sewer pumpstation on the southern boundary of Erf 5574 within an existing services servitude;
- A new 160mm diameter sewer gravity pipeline of approximately 140m in length from Seegenot Estate Phase 1 towards the new proposed sewage pumpstation;
- A new 75mm diameter sewer rising main of approximately 140m in length toward an existing sewer rising main on erven 1215 and 1217 of Seegenot Estate Phase 1; and
- Stormwater structures designed to act as energy dissipator and soakaway systems into the green belt area.

The proposed development will be implemented in accordance to the Site Development Plan comprising of the Subdivision Plan Drawing No: 2841 GBR 1.9; Date: 16 November 2024) drafted by Formaplan, (***excluding** the proposed Single Residential Zone I Erf and associated structures and infrastructure east of Minor Road 6817 - Souwesia Avenue) and the Sewage Layout Plan drafted by Cobus Louw Professional Engineer (Drawing No. T966-3, dated 25 April 2024). A copy of the Site Development Plan is attached as **Annexure 2A** and **Annexure 2B** of this Environmental Authorisation.

D. SITE DESCRIPTION AND LOCATION

The proposed development will be located on the Remainder of Erf 2841, Tergniet. The property is located approximately 1.7km west of the traffic circle on Main Road 344 (R102 Provincial Road) near the Total Energies filling station in Great Brak.

Coordinates for the middle point of the property:

Latitude (S)			Longitude (E)		
34°	03'	45.79"	22°	12'	21.11"

Coordinates of the proposed gravity sewer from the proposed development to the new proposed pumpstation on Erf 5574:

Point	Latitude (S)			Longitude (E)		
Start	34°	03'	49.57"	22°	12'	18.98"
Middle	34°	03'	51.95"	22°	12'	12.72"
End (proposed pumpstation)	34°	03'	53.27"	22°	12'	07.38"

Coordinates of the proposed gravity sewer to Seegenot Phase 1 to the new proposed pumpstation on Erf 5574:

Point	Latitude (S)			Longitude (E)		
Start	34°	03'	54.79"	22°	12'	02.38"
Middle	34°	03'	54.24"	22°	12'	04.90"
End (proposed pumpstation)	34°	03'	53.27"	22°	12'	07.38"

Coordinates of the proposed new rising main towards an existing rising main on Erven 1215 and 1217:

Point	Latitude (S)			Longitude (E)		
Start (proposed pumpstation)	34°	03'	53.27"	22°	12'	07.38"
Middle	34°	03'	54.24"	22°	12'	04.90"
End	34°	03'	54.79"	22°	12'	02.38"

SG digit code:
C05100030000284100000

Refer to Annexure 1 for the Locality Plan of this Environmental Authorisation.

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

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

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F. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

- This Environmental Authorisation is granted for the period from date of issue until **1 April 2035** (validity period), during which period the Holder must ensure that the—
 - physical implementation of all the authorised listed activities is started with and concluded;
 - construction monitoring and reporting requirements are undertaken and submitted to the Competent Authority in time to allow said authority to process such documents timeously;
 - post construction rehabilitation and monitoring requirements is undertaken and completed; and
 - environmental auditing requirements are complied with; and that such auditing is finalised in time to allow the competent authority to be able to process the environmental audits timeously within the specified validity period.

Failing which, this Environmental Authorisation shall lapse, unless the environmental authorisation is amended in accordance with the relevant process contemplated in the Environmental Impact Assessment Regulations promulgated under the National Environmental Management Act, 1998 (Act no. 107 of 1998).

- The Holder is authorised to undertake the listed activities specified in Section B above in respect of part of the preferred alternative described in the FBAR, dated 22 November 2024, on the site as described in Section D above.

This Environmental Authorisation is for the implementation of **part of the preferred layout alternative** which entails:

The proposal entails the development of a residential development of the Remainder of Erf 2841 in Tergniet which will consist of the following:

- 66 General Residential Zone I erven with an average size of 220m²;
- Internal Open Space Zone II erven;
- Utility Zone erf;
- Transport Zone III erven approximately 0.65ha in extent; and
- Transport Zone II erf approximately 0.25ha in extent.

In addition, the following associated infrastructure will be developed:

- Security fence tight around the development footprint;
- Development of access and internal roads up to 5m wide with a reserve less than 13.5m;
- Connect to the newly installed 200mm diameter water pipeline in the Main Road 344 (R102 Provincial Road) road reserve via a proposed new 160mm diameter pipeline;
- A new 160mm diameter sewer gravity pipeline approximately 340m in length from the proposed development toward a new sewer pumpstation on Erf 5574;
- A new sewer pumpstation on the southern boundary of Erf 5574 within an existing services servitude;
- A new 160mm diameter sewer gravity pipeline of approximately 140m in length from Seegenot Phase 1 towards the new proposed sewage pumpstation;
- A new 75mm diameter sewer rising main of approximately 140m in length toward an existing sewer rising main on erven 1215 and 1217 of Seegenot Phase 1; and
- Stormwater structures designed to act as energy dissipator and soakaway systems into the green bel area.

The proposed development will be implemented in accordance with the Site Development Plan comprising of the Subdivision Plan Drawing No: 2841 GBR 1.9; Date: 16 November 2024) drafted by Formaplan, (***excluding** the proposed Single Residential Zone I Erf and associated structures and infrastructure east of Minor Road 6817 - Souwesia Avenue) and the Sewage Layout Plan drafted by Cobus Louw Professional Engineer (Drawing No. T966-3, dated 25 April 2024). A copy of the Site Development Plan is attached as **Annexure 2A** and **Annexure 2B** of this Environmental Authorisation.

3. This Environmental Authorisation may only be implemented in accordance with the approved Environmental Management Programme ("EMPr").
4. The Holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the Holder.
5. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

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 decision reached on 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 Appeal Regulations, 2014 (as amended) detailed in Section G 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 the:
- 6.4.1. 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. contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
- 6.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the holder notifies the registered I&APs of this decision.
- 6.6. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided *i.e.*, the listed activities, including site preparation, must not commence until the appeal is decided.

Written notice to the Competent Authority

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities on site.
- 7.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 7.2. The notice must also include proof of compliance with the following conditions described herein:
Condition no.: 6 and 14
8. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities.
9. The Holder must notify the competent authority if the non-operational phase (construction activities and rehabilitation measures) has been abandoned prior to completion thereof, or if the construction activities and rehabilitation process will be placed on hold for a period of six (6) months or longer.
- The competent authority must be notified in writing—
- 9.1. within 30-calander days of the cessation of the activities on site; and
 - 9.2. seven calendar days' notice, must be given prior to any activities continuing on site again.

Management of activity/activities

10. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is herewith **approved**.
11. The requirements for the avoidance, management, mitigation, monitoring and reporting of the impacts of the activity on the environment, which have been identified in this Environmental Authorisation additional to those contained in the approved EMPr, must be implemented together with the EMPr.

12. The EMPr must be updated to incorporate all the conditions contained in this Environmental Authorisation and all those measures for the avoidance, management, mitigation, monitoring and reporting as identified in this Environmental Authorisation additional to those contained in the approved EMPr.

The updated EMPr must be re-submitted to the Competent Authority prior to commencement of the construction activities.

13. The approved EMPr (including the additional measures for the avoidance, management, mitigation, monitoring and reporting identified in the Environmental Authorisation) must be included in all contract documentation for all phases of implementation.

Monitoring

14. The Holder must appoint a suitably experienced environmental control officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
15. The ECO must–
 - 15.1. be appointed prior to commencement of any works (*i.e.*, demarcation of the remaining natural area, relocation of bulbs; and disturbance, cutting and / or damage to protected trees);
 - 15.2. ensure compliance with the EMPr and the conditions contained herein;
 - 15.3. keep record of all activities on the site; problems identified; transgressions noted, and a task schedule of tasks undertaken by the ECO;
 - 15.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
16. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.
17. Access to the site (referred to in Section C) must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Environmental Auditing

18. The Holder must, for the period during which the environmental authorisation and EMPr remain valid, ensure that compliance with the conditions of the environmental authorisation and the EMPr, is audited.
19. The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, must adhere to the following programme:
 - 19.1. During the non-operational phase (construction phase) the auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr may not exceed intervals of 3-years.

The Holder must undertake an environmental audit within three (3) years from the date of issue of this Environmental Authorisation and submit the Environmental Audit Report to the Competent Authority.

- 19.2. A final Environmental Audit Report for the construction phase (non-operational component) must be submitted to the Competent Authority within three (3) months of completion of the construction phase.

Note: Failure to complete the auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements.

20. The Environmental Audit Report, must –

- 20.1. be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;
- 20.2. provide verifiable findings, in a structured and systematic manner, on–
- 20.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
- 20.2.2. the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
- 20.3. identify and assess any new impacts and risks as a result of undertaking the activity;
- 20.4. evaluate the effectiveness of the EMPr;
- 20.5. identify shortcomings in the EMPr;
- 20.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
- 20.7. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
- 20.8. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
- 20.9. include a photographic record of the site applicable to the audit; and
- 20.10. be informed by the ECO reports.

21. The Holder must, within 7 calendar days of the submission of the audit report 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

22. The development on Remainder of Erf 2841 must be restricted to the portion of land to the west of Minor Road 6817 (Souwesia Avenue) (i.e. the portion of the Remainder of Erf 2841 east of Minor Road 6817 / Souwesia Avenue, must be excluded from development).

Further to the above—

- 22.1. The open space areas (~2.8997ha) identified on portion of the Remainder of Erf 2841, as well as the portion of the Remainder of Erf 2841 east of Minor Road 6817 (Souwesia Avenue) must—
- (a) be appropriately zoned and managed to achieve a conservation outcome;
 - (b) be cleared of all alien invasive plant species within 5-years from the date of issue of this environmental authorisation. The alien invasive clearing programme must include a dedicated follow-up programme to be completed during said period;
 - (c) remain undeveloped and no development is permitted unless approved by the competent authority; and
 - (d) be rehabilitated (i.e. the existing tarred surface and stockpiles of spoil material must be removed).

23. The development on Erf 5574 (i.e., the installation of the sewerage infrastructure on the southern boundary) must be restricted to a corridor of 4-metres (or less), as measured from the northern edge of the WC SG Servitude Area (ID 9305/1991002) located on the southern boundary of Erf 5574 and Erf 2841, Tergniet.

Further to the above, the remainder of land on Erf 5574, Tergniet located to the north of the sewerage infrastructure must—

- 23.1. remain undeveloped and no development or clearance of indigenous vegetation is permitted unless authorised by the competent authority;
- 23.2. be managed to achieve a conservation outcome;
- 23.3. be cleared of all alien invasive plant species within 5-years from the date of issue of this environmental authorisation. The alien invasive clearing programme must include a dedicated follow-up programme to be completed during said period;

24. The Holder must adopt and implement the following measures / requirements for the avoidance, management, mitigation, monitoring and reporting of the impacts of the activity on the environment and ensure they are implemented together with the EMPr—

- 24.1. Prior to the commencement of construction compile a detailed landscaping plan for the development on Erf 2841 by an appropriately qualified person that addresses the following—
- (a) Retain and maintain existing climax trees on Erf 2841 and review the final design and placement of structures so that the encroachment onto the trees will not impact the tree growth;
 - (b) Internal landscaping such that further trees can be incorporated into the design to soften the visual intrusion of the structures and enhance the R102 Provincial Road and Minor Road 6817 gateway views;
 - (c) Design specific requirements and planning for construction phase such that the landscaping requirements are suitably incorporated and managed with clear identification of No-Go zones around the significant vegetation areas to be retained;
 - (d) The specific No-go structure development areas need to be planted with indigenous trees and shrubs such that there is some visual screening from the R102 Provincial Road and Minor Road 6817 users (10m from boundary for R102 Provincial Road, 5m from boundary for Minor Road 6817)

- 24.2. An integrated open space system must be established incorporating the sensitive indigenous vegetation on the remainder of Erf 2841 (i.e., the private open spaces on Erf 2841) and on Erf 5574.

Further to the above—

24.2.1. The Holder must ensure that the integrated open space is managed in accordance with a "Conservation Management Plan" (CMP) which must, as a minimum, address—

- (a) Biodiversity management objectives and targets to promote biodiversity (including the ecological process and pattern and vegetation composition) and conservation uses;
- (b) Apart from the rehabilitation of portion of the Remainder of Erf 2841 west of Minor Road 6817 (Souwesia Avenue), no earthworks or any form of development is permitted, unless approved by the competent authority;
- (c) No landscaping or planting of vegetation, unless approved by the competent authority;
- (d) No collection or damaging of fauna, flora, soil and water resources.
- (e) Removal of alien invasive species. The alien invasive clearing programme must include a dedicated follow-up programme to be completed during validity period of the Environmental Authorisation.

Note: In terms of the provisions of the National Environmental Management: Biodiversity Act, 2004 (Act No.10 Of 2004), an Invasive Species Control Plan should be submitted to the National Department of Forestry, Fisheries and the Environment: Branch - Biosecurity ("DFFE: Biosecurity") for consideration and agreement.

24.2.2. The Holder must register the following legally binding provisions or obligations on the land earmarked for an open space on Erf 2841 and which land must include Erf 5574, Tergniet, to limit the use of the proposed land for a conservation use.

(a) "*Non-User Conservation Servitude*"

The Holder is required to register, in favour of the Home Owners of Seegenot Phase 2 (i.e., proposed development on Erf 2841, Tergniet) and where appropriate Seegenot Phase 1, a conservation servitude over the identified land which requires protection from development in perpetuity and in order to secure the conservation of the land. The conditions of the conservation servitude must *inter alia* address the following measures—

- (i) Fire management requirements (i.e. protective and ecological);
- (ii) No earthworks or any form of development is permitted within the area, except in accordance with an approved conservation management plan and environmental authorisations;
- (iii) No landscaping or planting except for rehabilitation in terms of an approved management plan;
- (iv) An Alien Invasive Plant Control Programme for the portion of land;
- (v) No collection or damaging of flora, fauna, soil and water resources;
- (vi) No vehicles of any type are permitted, except for rehabilitation and management in terms of an approved management plan;
- (vii) Where no pets or domestic animals are permitted.

(b) A restrictive title condition must be registered against the Title Deed(s) of the respective portions of land on which a conservation use will be established (viz. Remainder of Erf 2841 and Erf 5574, Tergniet).

The restriction must contain the following as a minimum –

- (i) the non-user conservation servitude;
- (ii) the properties may not be subdivided and no disturbance, removal or degradation of any flora, fauna, or any natural ecosystems, may be undertaken on the property without the written approval of the Western Cape Government's department responsible for environmental affairs, or its successors; and
- (iii) the respective properties must be managed together for a conservation use in accordance with a Conservation Management Plan ("CMP").

24.3. The security fence on Erf 2841, must be erected closely around the perimeter of the residential component to minimise further fragmentation of the remaining thicket habitat and for the continuing functioning as a minor faunal corridor. No fencing should be allowed on the property boundary.

25. 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 may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

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

G. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the Holder must comply with any other statutory requirements that may be applicable when undertaking the listed activity.

Amendment of Environmental Authorisation and EMPr

2. If the Holder does not start with the listed activities and exceed the thresholds of the listed activities within the period referred to in Section F, this Environmental Authorisation shall lapse for those activities, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

If the Holder wishes to extend a validity period specified in the Environmental Authorisation, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of such a period.

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.
- (b) It is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity if the competent authority has not granted an Environmental Authorisation for the undertaking of the activity.

3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, the Competent Authority may request information 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.

The onus is on the Holder to verify whether such changes to the environmental authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note: An environmental authorisation may be amended or replaced without following a procedural requirement contained in the Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially

4. The manner and frequency for updating the EMPr is as follows:
 - (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
 - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMPr has been approved by the competent authority.

The onus is however on the Holder to confirm the legislative process requirements for the above scenarios at that time.

5. Where an amendment to the impact management outcomes of an EMPr is required before an environmental audit is required in terms of the environmental authorisation, an EMPr may be amended on application by the Holder of the environmental authorisation.

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is subject to compliance with all the peremptory conditions (6 and 14). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
8. In the event that the Environmental Authorisation should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.
9. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

H. APPEALS

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 (as amended) to the Appeal Administrator;
 - 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; and
 - 1.3. Submit a copy of the appeal to the decision-maker (*i.e.*, the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za; and copied to
DEADPEIAAdmin.George@westerncape.gov.za
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 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker *i.e.*, the Competent Authority that issued the decision.
 - 2.3. Submit a copy of the appeal to the decision-maker (*i.e.*, the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za; and copied to
DEADPEIAAdmin.George@westerncape.gov.za
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 Appeal Administrator at 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: Appeal Administrator
Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

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

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Administrator at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL: <https://d7.westerncape.gov.za/eadp/resource-library/forms>.

I. 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

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)

WESTERN CAPE GOVERNMENT: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: **31 MARCH 2025**

FOR OFFICIAL USE ONLY:

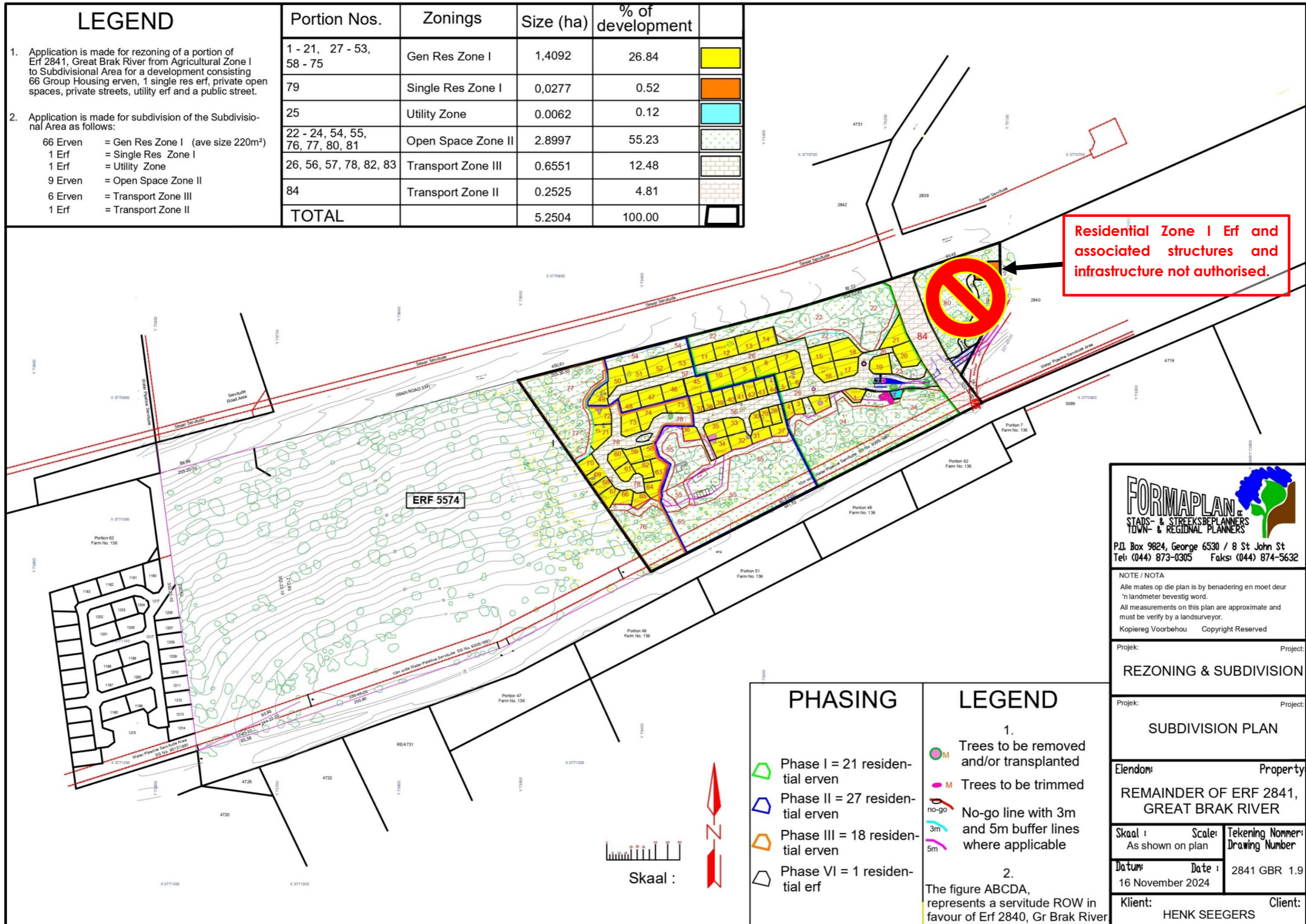
EIA REFERENCE NUMBER: 16/3/3/1/D6/35/0029/24

NEAS REFERENCE NUMBER: WCP/EIA/0001522/2024

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2A: SITE DEVELOPMENT PLAN (DRAWING NO: 2841 GBR 1.9; DATE: 16 NOVEMBER 2024 DRAFTED BY FORMAPLAN TOWN AND REGIONAL PLANNERS)



Portion Nos.	Zonings	Size (ha)	% of development
1 - 21, 27 - 53, 58 - 75	Gen Res Zone I	1,4092	26.84
79	Single Res Zone I	0,0277	0.52
25	Utility Zone	0.0062	0.12
22 - 24, 54, 55, 76, 77, 80, 81	Open Space Zone II	2.8997	55.23
26, 56, 57, 78, 82, 83	Transport Zone III	0.6551	12.48
84	Transport Zone II	0.2525	4.81
TOTAL		5.2504	100.00

Residential Zone I Erf and associated structures and infrastructure not authorised.

FORMAPLAN
STADS- & STREEKSBEPLANNERS
TOWN- & REGIONAL PLANNERS

P.O. Box 9824, George 6530 / 8 St John St
Tel: (044) 873-0305 Faks: (044) 874-5632

NOTE / NOTA
Alle mates op die plan is by benadering en moet deur 'n landmeter bevestig word.
All measurements on this plan are approximate and must be verified by a landsurveyor.
Kopiereg Voorbehou Copyright Reserved

Projek: REZONING & SUBDIVISION

Projek: SUBDIVISION PLAN

Elendom: Property
REMAINDER OF ERF 2841,
GREAT BRAK RIVER

Skaal: As shown on plan Scale: Tekening Nummer: Drawing Number
Datum: 16 November 2024 Date: 2841 GBR 1.9

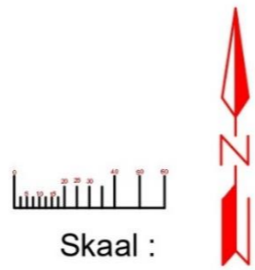
Klient: HENK SEEGER Client:

PHASING

- Phase I = 21 residential erven
- Phase II = 27 residential erven
- Phase III = 18 residential erven
- Phase VI = 1 residential erf

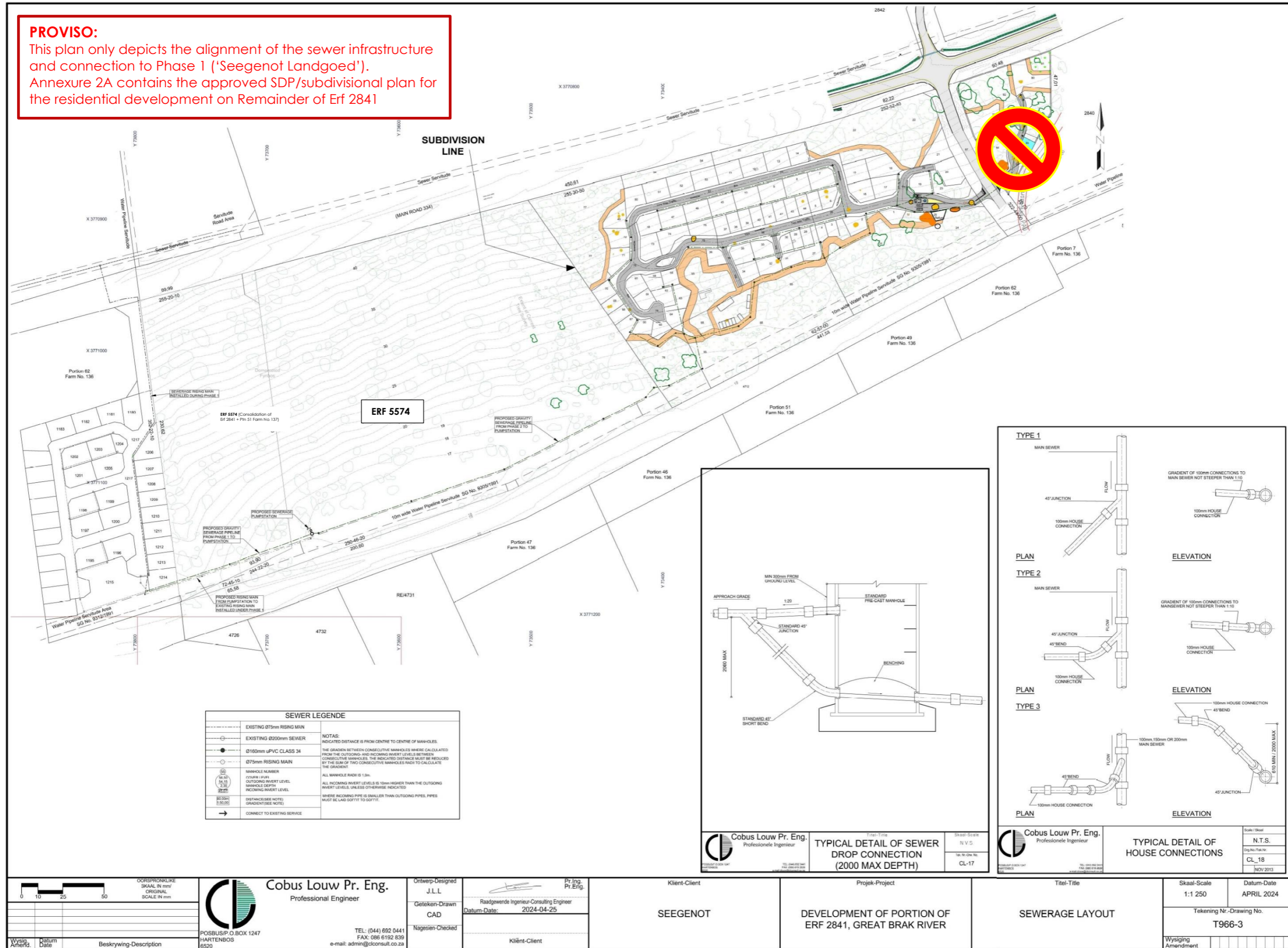
LEGEND

- Trees to be removed and/or transplanted
 - Trees to be trimmed
 - No-go line with 3m and 5m buffer lines where applicable
- The figure ABCDA, represents a servitude ROW in favour of Erf 2840, Gr Brak River



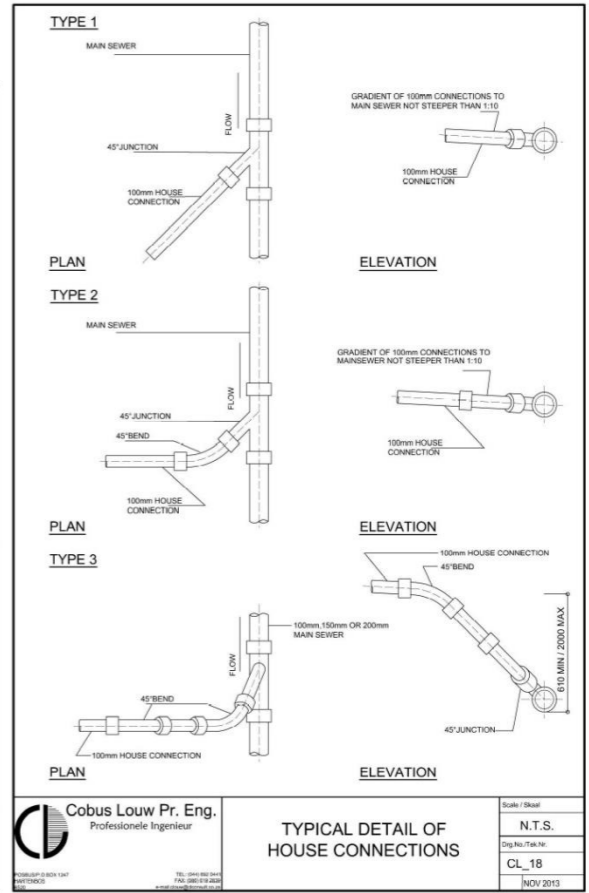
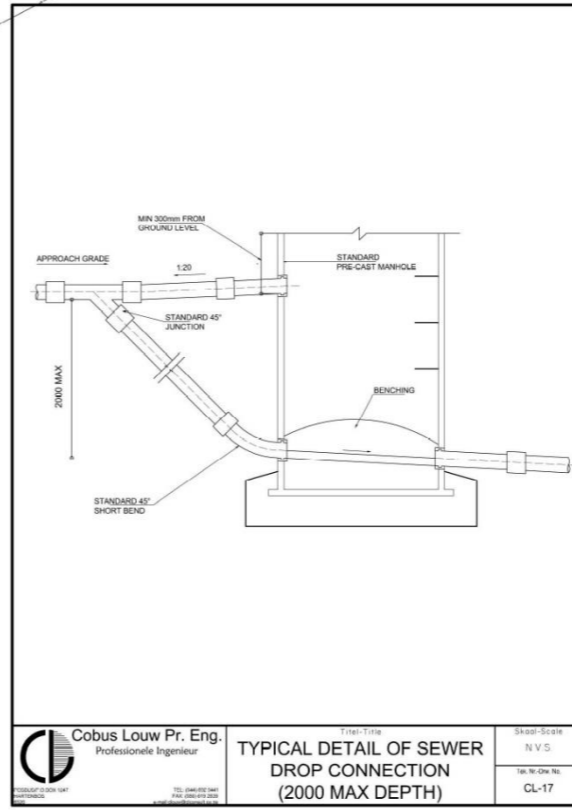
ANNEXURE 2B: SEWER LAYOUT

PROVISO:
 This plan only depicts the alignment of the sewer infrastructure and connection to Phase 1 ('Seegenot Landgoed').
 Annexure 2A contains the approved SDP/subdivisional plan for the residential development on Remainder of Erf 2841



SEWER LEGENDE	
	EXISTING 075mm RISING MAIN
	EXISTING 0200mm SEWER
	0150mm uPVC CLASS 34
	075mm RISING MAIN
	MANHOLE NUMBER
	COVER LEVEL
	OUTGOING INVERT LEVEL
	MANHOLE DEPTH
	INCOMING INVERT LEVEL
	DISTANCE(S) NOTE
	GRADIENT(S) NOTE
	CONNECT TO EXISTING SERVICE

NOTAS:
 INDICATED DISTANCE IS FROM CENTRE TO CENTRE OF MANHOLES.
 THE GRADIENT BETWEEN CONSECUTIVE MANHOLES WHERE CALCULATED FROM THE OUTGOING AND INCOMING INVERT LEVELS BETWEEN CONSECUTIVE MANHOLES. THE INDICATED DISTANCE MUST BE REDUCED BY THE SUM OF TWO CONSECUTIVE MANHOLES RADI TO CALCULATE THE GRADIENT.
 ALL MANHOLE RADI IS 1.0m.
 ALL INCOMING INVERT LEVELS IS 10mm HIGHER THAN THE OUTGOING INVERT LEVELS, UNLESS OTHERWISE INDICATED.
 WHERE INCOMING PIPE IS SMALLER THAN OUTGOING PIPES, PIPES MUST BE LAID SOFFIT TO SOFFIT.



 OORSKONKLINE SKAAL IN mm/ ORIGINAL SCALE IN mm	 Cobus Louw Pr. Eng. Professional Engineer	Ontwerp-Designed J.L.L.	Pr. Ing. Pr. Eng.	Klient-Client SEEGENOT	Projek-Project DEVELOPMENT OF PORTION OF ERF 2841, GREAT BRAK RIVER	Titel-Title SEWERAGE LAYOUT	Skaal-Scale 1:1 250	Datum-Date APRIL 2024
		Geteken-Drawn CAD	Raadgewerde Ingenieur-Consulting Engineer Datum-Date: 2024-04-25	Nagesien-Checked Klient-Client	Tekenings Nr.-Drawing No. T966-3	Wysigings-Amendment	Status N.T.S. Oorsig-Drawn CL_18 NOV 2013	

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, received on 27 August 2024, the Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 22 November 2024;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, 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 FBAR submitted on 22 November 2024;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) Appropriate information was made available in the report to understand the environmental and spatial context.
- g) A site inspection was held by officials from the Directorate: Development Management (Region 3) on 13 March 2025.

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

1.1 The public participation process included:

- 1.1.1 identification of and engagement with interested and affected parties (I&APs) including organs of state which have jurisdiction in respect of the activity to which the application relates;
- 1.1.2 fixing three (3) notice boards at the site on 6 September 2024 for the commenting period on the Draft BAR from 7 September to 7 October 2024;
- 1.1.3 giving written notice to the owners and occupiers of land adjacent to the site and any alternative 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 5 September 2024 regarding the availability of the DBAR;
- 1.1.4 the placing of newspaper advertisements in the "Mossel Bay Advertiser" on 6 September 2024 for the availability of the Draft BAR; and
- 1.1.5 making the Draft Basic Assessment Report available to I&APs for public review and comment from 7 September to 7 October 2024. The reports were made available on the EAP's website at URL: https://www.cape-eaprac.co.za/index.php?option=com_content&view=article&id=625&Itemid=102.

1.2 An Interested and Affected Parties objected to the proposed development due to material shortcomings, non-compliance with regulations and having a detrimental effect on the environment. The objection was based on the following issues / concerns:

- 1.2.1 Inadequacy of the Bio-Blitz survey methodology used by the botanical specialist – recommends one site visit a month for 12 months;
- 1.2.2 The proposed site cannot be regarded as degraded due to the clearing of alien myrtle trees. The degrading is a result of the non-compliance and / or unwillingness to regularly eradicate alien invasive species as required by NEM:BA;
- 1.2.3 It is unclear what the purpose of Erf 5574 will be. Furthermore, the property must be cleared of alien vegetation to comply with legislation;
- 1.2.4 Clarity whether the necessary authorisations in terms of the National Forests Act, Act 84 of 1998, as amended and the Outeniqua Sensitive Coastal Areas Regulations have been obtained. Objection to the issuing of the license / permit for the removal of protected plants;
- 1.2.5 Visual impact of the proposed development;
- 1.2.6 Lack of information regarding the proposed development's contribution to climate change;
- 1.2.7 Consideration to leave a portion of the estate (particularly Erf 5574) open and / or construct fencing that will allow animal movement to surrounding areas; and
- 1.2.8 Mitigation measures make sense; however, but it must be ensured that they are implemented; and
- 1.2.9 The propose development is in contravention of the Spatial Development framework for Mossel Bay.

All the comments and issues raised by the respective *Organs of State and Interested and Affected Parties (I&APs)* that were captured in the Basic Assessment Report were responded to by the EAP. The Competent Authority is satisfied with the responses provided by the EAP to the organs of state and I&APs.

2. Alternatives

2.1 Layout Alternatives

2.1.1 Layout Alternative 1 – preferred alternative: **Approved in part:**

This alternative entails the development of a residential development of the Remainder of Erf 2841 in Tergniet which will consist of the following:

- 66 General Residential Zone I erven with an average size of 220m²;
- 1 Single Residential Zone I erf approximately 277m² in extent
- Internal Open Space Zone II erven approximately 2.9ha in extent
- Utility Zone erf;
- Transport Zone III erven approximately 0.65ha in extent; and
- Transport Zone II erf approximately 0.25ha in extent.

In addition, the following associated infrastructure will be developed:

- Security fence tight around the development footprint;
- Development of access and internal roads up to 5m wide with a reserve less than 13.5m;
- Connect to the newly installed 200mm diameter water pipeline in the Main Road 344 (R102 Provincial Road) road reserve via a proposed new 160mm diameter pipeline;

- A new 160mm diameter sewer gravity pipeline approximately 340m in length from the proposed development toward a new sewer pumpstation on Erf 5574;
- A new sewer pumpstation on the southern boundary of Erf 5574 within an existing services servitude;
- A new 160mm diameter sewer gravity pipeline of approximately 140m in length from Seegenot Phase 1 towards the new proposed sewage pumpstation;
- A new 75mm diameter sewer rising main of approximately 140m in length toward an existing sewer rising main on erven 1215 and 1217 of Seegenot Phase 1; and
- Stormwater structures designed to act as energy dissipator and soakaway systems into the green bel area.

The proposed development will be implemented approximate to the Subdivision Plan Drawing No: 2841 GBR 1.9; Date: 16 November 2024) drafted by Formaplan. The development of the residential erf proposed on the most eastern portion of the property (east of the tar road) has not been approved and must be incorporated in to the Opens Space erven.

2.1.2 Layout Alternative 2 – not preferred

This alternative entails the development of a residential development of the Remainder of Erf 2841 in Tergniet which will consist of the following:

- 66 x General Residential Zone I West of Souwesia Avenue (~1.4937ha);
- 2 x Single Residential Zone I East of Souwesia Avenue (~0.0877ha);
- 2 x Utility Zones (~0.0229ha);
- 11 x Open Space Zone II (~2.8126ha);
- 5 x Transport Zone III (~0.6687ha); and
- 1 x Transport Zone II (~0.2525ha).

In addition, the following associated infrastructure will be developed:

- Fencing along the cadastral boundary of the property;
- Development of access and internal roads up to 5m wide with a reserve less than 13.5m;
- Connect to the newly installed 200mm diameter water pipeline in the Main Road 344 (R102 Provincial Road) road reserve via a proposed new 160mm diameter pipeline;
- A new 160mm diameter sewer gravity pipeline approximately 340m in length from the proposed development toward a new sewer pumpstation on Erf 5574;
- A new sewer pumpstation on the southern boundary of Erf 5574 within an existing services servitude;
- A new 160mm diameter sewer gravity pipeline of approximately 140m in length from Seegenot Phase 1 towards the new proposed sewage pumpstation;
- A new 75mm diameter sewer rising main of approximately 140m in length toward an existing sewer rising main on erven 1215 and 1217 of Seegenot Phase 1; and
- Stormwater structures designed to act as energy dissipator and soakaway systems into the green bel area.

This alternative is not preferred due to the following:

- It encroaches into highly sensitive vegetation;
- Fragmentation of natural habitat by new security fence along the property boundary.

2.1.3 Layout Alternative 3 – not preferred

This alternative entails the development of a residential development of the Remainder of Erf 2841 in Tergniet, where the portion of the erf east of Minor Road 6817 (Souwesia Avenue) will not be developed, remain vacant and considered to contribute to the total Open Space area of the proposed development. This alternative was considered on request of the Department and entails the following:

- 66 x General Residential Zone I;
- 1 x Utility Zone;
- 10 x Open Space Zone II;
- 4 x Transport Zone III;
- 1 x Transport Zone II.

In addition, the following associated infrastructure will be developed:

- Security fence tight around the housing node on the western side of Minor Road 6817 (Souwesia Avenue) and fencing around the boundary of the land parcel East of Minor Road 6817 (Souwesia Avenue);
- Development of access and internal roads up to 5m wide with a reserve less than 13.5m;
- Connect to the newly installed 200mm diameter water pipeline in the Main Road 344 (R102 Provincial Road) road reserve via a proposed new 160mm diameter pipeline;
- A new 160mm diameter sewer gravity pipeline approximately 340m in length from the proposed development toward a new sewer pumpstation on Erf 5574;
- A new sewer pumpstation on the southern boundary of Erf 5574 within an existing services servitude;
- A new 160mm diameter sewer gravity pipeline of approximately 140m in length from Seegenot Phase 1 towards the new proposed sewage pumpstation;
- A new 75mm diameter sewer rising main of approximately 140m in length toward an existing sewer rising main on erven 1215 and 1217 of Seegenot Phase 1; and
- Stormwater structures designed to act as energy dissipator and soakaway systems into the green bel area.

The Applicant/EAP motivated that this alternative is not preferred due to the following:

- The vacant erf (open space) east of Minor Road 6817 (Souwesia Avenue) is at risk of being unlawfully occupied;
- The vacant erf (open space) east of Minor Road 6817 (Souwesia Avenue) is less likely to be maintained by the applicant, HOA or managing agent and therefore likely to deteriorate.

Essentially, the approval of Layout Alternative 1 in part is similar to Layout Alternative 3. The motivation which has been provided why this alternative is not preferred is unsubstantiated and disregarded because the reasons are not rationally linked to the specialist input which has been provided. In this regard, it may be argued that any other open space within the proposed development may be unlawfully occupied in future; and the Holder and eventually the HOA, may fail to properly manage any of those open spaces for a conservation use.

2.2 No-Go Alternative

Under this alternative, the current land use would continue within the primary rights of agriculture. Considering the Remainder of Erf 2841 is located within the Urban Edge and is designated for urban development, this alternative is unlikely to remain in place for much longer. The subject

property is considered prime residential property and as such it will be subject to development at some point in time.

3. Impact Assessment and Mitigation Measures

3.1 History of the development application

The Department previously considered a development proposal for the development of Portion 51 of the Farm Rensburg Estate No. 137 and Erf 2841 (Ref: 16/3/3/6/7/1/D6/35/0001/20) which was submitted on 14 January 2020. The Department only received a Notice of Intent to submit an application for environmental authorisation. However, during the review of the proposed public participation plan which was received by the Department on 27 August 2021 it was noted that a pre-application BAR with specialist studies were circulated to all relevant Government Departments and Organs of State *inter alia* the Mossel Bay Municipality: Town Planning, CapeNature, Western Cape Government: Department of Health and the Breede-Olifants Catchment Management Agency ("BOCMA") for review and comment on 23 June 2021. The competent authority was not provided with an opportunity to review the pre-application BAR. Due to unforeseen circumstances the matter did not proceed to the application phase at the time.

On 21 October 2022 this Directorate received a land use application (Municipal Ref: 15/4/34/2; 15/4/34/2 C8903192(in) 60-90/2022) for the subdivision and consolidation of Portion 51 of the Farm Rensburg Estate No. 137 and Erf 2841. The purpose of the land use application was to split and consolidate the two properties into two sections where one consists of indigenous vegetation and the other where no issues with the development proposal are foreseen. On 13 December 2022 this Directorate issued a letter (Ref: 16/3/3/6/1/D6/17/0238/22) to the Mossel Bay Municipality stating that the land use application is not supported as said application is directly linked to a development for which environmental authorisation is being sought. Based on the information provided in the application for environmental authorisation (Ref: 16/3/3/1/D6/35/0029/24), it is understood that the application to the Mossel Bay Municipality was successful and resulted in the establishment of the Remainder of Erf 2841 (the proposed development site) and Erf 5574.

Based on the information provided by the applicant, the proposed development is restricted to the Remainder of Erf 2841, which has been determined as having a lower Site Ecological Importance ("SEI") Sensitivity due to alien *Leptospermum laevigatum* (Australian myrtle) infestation and the subsequent clearing thereof. Erf 5574, which contains indigenous vegetation, has been excluded from the proposed development, except for bulk service infrastructure which will be located within an existing services servitude along the southern boundary of the property.

The specialist Botanical Sensitivity Analysis undertaken by Regalis Environmental Services cc ("RES") during March 2019 undertaken as part of the pre-application BAR and included in the application phase BAR found that the vegetation on Erf 5574 contains sensitive vegetation and that an area with a minimum size of 5.5ha must be retained as open space and managed for conservation use due to the sensitivity of the vegetation. The findings of RES were corroborated by the Terrestrial Biodiversity and Plant Species Impact Assessment (2024) compiled by Confluent, which found that the majority of Erf 5574 has a HIGH Site Ecological Importance Sensitivity.

According to the information in the BAR the applicant is the current owner of Erf 5574. However, it has not been reported what land use is intended / proposed for Erf 5574. The applicant has indicated that since Erf 5574 and the Remainder of Erf 2841 (the development property) are separate cadastral units, the current and future owner of Erf 5574 reserves the right to either sell the property and / or consider land use changes; however, such will be completely separate from the application for environmental authorisation for the current development proposal on the Remainder of Erf 2841.

Although the EAP proposes that the Applicant (current landowner) must undertake to ensure continued connectivity between the properties (i.e., Erf 5574 and Remainder of Erf 2841) irrespective of the land use, within the framework of private property rights, no concrete/plausible solution is provided to ensure that the biodiversity is conserved. A recommendation is made in the BAR that the property owner must be strongly advised to inform any successor in title in respect of Erf 5574 regarding the findings of the specialists' assessments and that an application for environmental authorisation may be required for the development of the property. These measures are regarded inadequate and do not provide material solutions to address the impacts of the 'leapfrog' development without providing an acceptable conservation outcome for Erf 5574.

The competent authority is satisfied that the application has adequately demonstrated that it is the intent of the applicant/landowner to establish a phased development (i.e., a development established in phases over time on the same or adjacent properties to create a single or linked entity). The application and supporting documents have further demonstrated that Erf 5574, (which was previously intended to be part of the development application), should not be developed due to its biodiversity importance/SEI sensitivity. It is noted from the BAR that the Erf 5574 will retain an agricultural zoning (although it appears to be zoned undetermined); however, the applicant has motivated that such land within the urban edge should be developed. The latter may be contrary to the consideration of all relevant factors, including those areas that should remain undeveloped due to their biodiversity importance. The applicant seeks authorisation for the partial development of Erf 5574 but has failed to demonstrate how the biodiversity with a High SEI on Erf 5574 will be maintained and improved. Specific conditions have been included in this Environmental Authorisation to minimise the loss of the biodiversity on Erf 5574 and to ensure that the ecological link/corridors with Remainder of Erf 2841 can be maintained.

3.2 Activity need and desirability

According to the applicant, the proposed development is in line with all the provincial, district and local spatial planning policies. In this regard, it has been reported that the Remainder of Erf 2841 is situated within the urban edge. According to the Mossel Bay Municipality Spatial Development Framework ("SDF") the property has been identified as an urban expansion area and earmarked for medium density residential area. However, SDF acknowledges that this urban expansion area does contain an Ecological Support Area and the policies and guidelines regarding biodiversity must be applied in this area.

According to the applicant the property is vacant and makes little contribution to the local economy of the town other than rates and taxes for the primary usage of agriculture. The applicant is of the opinion that the proposed development promotes smart growth by ensuring the efficient use of the land and infrastructure, by containing urban sprawl within the defined urban edge thereby prioritising infill and densification of urban areas. The Mossel Bay Municipality has confirmed that the property is earmarked for urban expansion for medium density residential development and supports the proposal from a spatial planning perspective.

In light of the above, the decision-maker is satisfied that the applicant has adequately motivated the need and desirability for the proposed development. However, for the same reasons, the applicant's motivation highlights a significant gap with regard to the inclusion of Erf 5574 and the conservation of the critical biodiversity area. Specific conditions have been included in the Environmental Authorisation to address this.

3.3 Aquatic Biodiversity aspects

A description of the aquatic biodiversity issues and risks that were identified during the environmental impact assessment process, as well as an assessment of the significance of each issue and risk, cumulative impacts of the proposed development and levels of acceptable change have been considered.

In this regard, an Aquatic Biodiversity Compliance Statement was undertaken to inform the BAR. According to the statement soil augering was undertaken in an area mapped as a wetland in terms of the National Freshwater Ecosystem Priority Areas data. No evidence of mottling or gleying was found. Furthermore, the assessment found that the vegetation in the mapped area was not dominated by typical wetland species. A small area dominated by *Stenotaphrum secundatum* (Buffalo Grass) was found which, according to the statement, may be more characteristic of a wetland. However, this area is small and has likely resulted from a leaking pipe the was recorded. It has been determined that the area is unlikely to function as a wetland if the leaking pipe is repairs as deep, well-drained soils at the site also ensures that the water drains away very quickly.

Based on the findings, the Aquatic Biodiversity Compliance Statement concludes that the mapped area is not defined as a watercourse and that any development at the site does not require authorisation in terms of the National Water Act, Act 36 of 1998.

In light of the above, the decision-maker is satisfied that the applicant has adequately addressed the aspects in respect of the aquatic biodiversity.

3.4 Terrestrial Biodiversity aspects

Descriptions of the biodiversity issues and risks that were identified during the environmental impact assessment process, as well as an assessment of the significance of each issue and risk, cumulative impacts of the proposed development and levels of acceptable change have been considered.

3.4.1 Terrestrial plant species aspects

The ecosystem on the property has been mapped as Hartenbos Dune Thicket which has a gazetted conservation status of Endangered. In terms of the Western Cape Biodiversity Spatial Plan (2017) the property is included as an Other Natural Area.

According to the findings of terrestrial biodiversity and plant species assessment, the vegetation on the eastern subdivision (Remainder of Erf 2841) and western subdivision (Erf 5574) differs. The Remainder of Erf 2841 contains an open canopy, recently cleared landscape with some recovering thicket clumps, whereas the Erf 5574 is far more intact, closed-canopy thicket. According to the assessment the majority of the Remainder of Erf 2841 has been cleared of *Leptospermum laevigatum* (Australian myrtle) and recovering by mainly *Osteospermum moniliferum* (Bietou). According to the specialist the SEI on Remainder of Erf 2841 is considered LOW due to the significant transformation resulting from alien species as their former dominance has left the area substantially degraded, and the general slow recovery of thicket vegetation. The decision-maker does not agree with the reasons provided for the LOW SEI as the property owner has a duty of care in terms of Section 28 of NEMA which 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. Furthermore, in terms of the National Environmental Management: Biodiversity Act, Act 10 of 2004, as amended ("NEM:BA"), a person who is the owner of land on which a listed invasive species occurs must take all the required steps to prevent or minimise harm to the environment. The decision-maker acknowledges that Remainder of Erf 2841 was recently cleared of Australian myrtle, which is listed as a Category 1b invasive plant species, but it is understood that this clearance was only undertaken as proper analysis was obstructed and prohibited by the dense alien vegetation.

Notwithstanding the above, according to the assessment no Species of Conservation Concern ("SCC's") were recorded on the site; however, protected tree species i.e. *Sideroxylon inerme* (milkwood tree) and *Pittosporum viridiflorum* (cheesewood trees) are abundant. According to the applicant the proposed layout plan was informed by a protected tree species survey, and it has been determined that some trees (mostly small ones) will need trimming or removal upon the receipt of the requisite permit in terms of the National Forest Act, Act 84 of 1998.

A portion of the Remainder of Erf 2841 is located east of Minor Road 6817 (Souwesia Avenue) on which the applicant proposes to develop one *Single Residential Zone I* dwelling unit. The SEI of this portion of the property been found to be of MEDIUM and HIGH SEI. The HIGH SEI is attributed to the presence of protected milkwood and cheesewood trees. Due to the HIGH SEI, it was requested that consideration should be given to excluding this portion of the property from development and incorporating it as open space. According to the application as the portion is separated from the rest of the proposed development it is unlikely that the applicant and / or Homeowners Association ("HOA") will effectively manage and maintain the area. Furthermore, according to the applicant it is at risk of being unlawfully occupied due to the isolated nature of the portion. The decision-maker has considered aforementioned and is of the opinion that the implementation and adherence to Conservation Management Plan and proper management to prevent unlawful occupation will ensure that the portion of the property can function as a part of the open space system.

With due consideration of the above, the decision-maker is of the opinion that the implementation of the mitigation measures and recommendations identified by the specialists and those included in the Environmental Management Programme will minimise the impact of the proposed development on the terrestrial biodiversity and plant species on the property.

3.4.2 Terrestrial plant species aspects

A Terrestrial Plant Species Specialist Assessment was undertaken to inform the BAR. During the assessment 12 bird species and 9 insect species were recorded on site, and evidence of the presence of mongoose, bush buck and grysbok / steenbok were recorded. None of the species recorded are regarded as SCC's. According to the information the probability of occurrence of the SCC's identified in the Screening Tool Report.

The applicant has considered the impact on the ecological corridors as a result of the proposed development. In this regard, the applicant is proposing to make provision for minor ecological corridors in an east-west direction between the proposed development property and Erf 5574 to the west by establishing the proposed security fence tight around the proposed development footprint instead of along the property boundary. The corridors will be located along the northern and southern boundaries of the development property.

In light of the above, the decision-maker is satisfied that the proposed development will not have a significant negative impact on terrestrial animal species. However, specific conditions have been set to strengthen the conservation of biodiversity on Remainder of Erf 2841 and Erf 5574.

3.5 Visual aspects

Due to the location of the proposed development a Visual Impact Assessment ("VIA") was undertaken to inform the BAR. The VIA assigns Visual Resources Management Classes which classify according to their value. In this regard, the natural vegetation areas (conservation worthy) and High Exposure Road Buffers are classified as Class I (most valued) which must be excluded from development i.e. no development in these areas. The proposed development site has been classified as Class III which allows for moderate levels of change, where the objective is to partially retain the existing character of the landscape.

According to the assessment Main Road 344 (R102 Provincial Road) is considered as Key Observation Points as the proposed site is located adjacent to the road. The view will be from high visual exposure locations where the view would be clear, and the views not obscured by vegetation. According to the findings the form change is likely to be moderate as the property is located on moderate slopes. According to the VIA without retaining the surrounding natural vegetation on the property, the line, colour and texture contrast is likely to be Strong. This would not meet the Class III visual objectives, and the existing peri-urban sense of place would be lost and a dominating precedent for development along the R102 Provincial Road would be created / re-enforced. According to the VIA, retaining of all significant vegetation and trees, and planting further trees along the roads and a setback of structures from the road, the massing effect created by the proposed development could be reduced to some degree. With mitigation the Class III visual objective would be met as the proposed activities would attract attention but would not dominate the view of the casual observer, reflecting a similar nodal development that characterises the local area.

The applicant has indicated that the mitigation measures and recommendations of the VIA will be implemented to reduce the visual impact of the proposed development. Furthermore, it has been confirmed that a landscaping plan will be developed for implementation prior to construction as recommended in the VIA.

In light of the above, the decision-maker is satisfied that the applicant has adequately addressed the visual related aspects of the proposed development.

3.6 Traffic impact

Due to the nature of the proposed development the BAR was informed by a Transportation Investigation. According to the investigation an Arterial Management Plan ("AMP") relating to Main Road 344 (R102 Provincial Road) and Main Road 348 was compiled by Kantey and Templer Consulting Engineers, on behalf of the then Western Cape Government: Department of Infrastructure (previously the Department of Transport and Public Works) and issued in January 2012. It is reported that current and future developments along Main Road 344 were identified and included in the AMP and the Main Road 344 (R102 Provincial Road) so that the impact of the potential developments could be incorporated into the future planning. Based on the findings of the AMP, Main Road 344 was rehabilitated and upgraded in January 2018 and the work completed in 2020.

According to the Transportation Investigation the proposed development is expected to generate 58 trips i.e. 15 IN and 43 OUT during the AM peak hour and 40 IN and 18 OUT during the PM peak hour. The land use planning application for the consolidation and subdivision of the properties in respect of the proposed development was submitted to the Western Cape Government: Department of Infrastructure, which initially opposed the current (and future development) proposal (Letter Ref: TPW/CFS/RP/LUD/REZ/SUB-18/173 Job 29977; Date: 1 February 2023) due to a lack of information. However, the objection to the application was withdrawn in full by said Department on 9 November 2023 (Letter Ref: TPW/CFS/RP/LUD/REZ/SUB-18/173 (Job 29977)).

In light of the above, the decision-maker is satisfied that the applicant has adequately reported on the traffic related impacts of the proposed development on the surrounding road network.

3.7 Availability of municipal services

3.7.1 Treatment and disposal of sewage

According to the Mossel Bay Municipality the current capacity of the Groot Brak Wastewater Treatment Works ("WWTW") is 4Mℓ/day, and the average daily flow is 1.36Mℓ/day. Therefore, there is sufficient capacity to accommodate the full extent of the proposed development. The applicant has indicated that a new pumpstation and associated gravity and rising mains will be required to connect to the existing municipal sewer. These have been applied for in the application for environmental authorisation. It is important to note that Seegenot Estate Phase 1 must make use of this upgrade to ensure that phase 1 can connect to the bulk sewer pipeline and infrastructure to dispose of the sewage at the Grootbrak WWTW.

3.7.2 Potable water supply

The Mossel bay Municipality has confirmed that there is sufficient untreated potable water as well as treated water available for the proposed development and that no additional expansion of the potable water supply capacity is required to accommodate the proposed development. According to the application a new 160mm diameter link pipeline will be required to connect to the existing 200mm diameter bulk water supply pipeline in the Main Road 344 (R102 Provincial Road) road reserve.

3.7.3 Electrical network capacity

The Mossel Bay Municipality has confirmed that the 1 031.5kVA required for the proposed development will be made available from the existing 11kV network feeding from the Tergniet Switching Station.

3.8 Heritage / Archaeological Aspects

According to the information in the BAR a Notice of Intent to Develop as well as associated Archaeological Impact Assessment was submitted to Heritage Western Cape ("HWC") in 2008 for a similar development on the Remainder of Erf 2841 (previously called Rensburg Estate 137 Portion 1 before it was consolidated with the adjacent property and subsequently subdivided). HWC confirmed that no further action is required for the current application for environmental authorisation at the previous comment from 15 October 2008 (Ref: HM/MOSSEL BAY/ FARM 136) still stands.

In light of the above, the competent authority is applicant has adequately consulted the relevant heritage resources authority in respect of the proposed development on Remainder of Erf 2841.

3.9 Other impacts

No other significant dust, noise and odour impacts have been identified.

4. Scope and Validity of the Environmental Authorisation

This environmental authorisation does not define specific operational aspects. The environmental authorisation's validity period has been granted for a period of ca. ten (10) years, during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit reports for the

construction phase. Considering the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase.

Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years.

5. 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 consideration of all factors and that the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
- 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.

6. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with an approved EMPr, the Competent Authority is satisfied that, except for the activities that have been refused, 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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