



EIA REFERENCE: 16/3/3/1/E2/15/1029/22
NEAS REFERENCE: WCP/EIA/0001097/2022
DATE OF ISSUE: 17 NOVEMBER 2022

The Applicant
Cliff Path Action Group
24 Monmouth Ave
CLAREMONT
7708

Attention: Ms. J. Stassen

Cell: 0828964527

E-mail: jobre@iafrica.com

Dear Madam

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): THE PROPOSED DEVELOPMENT OF A FORMALISED PEDESTRIAN PATHWAY CONNECTING TO THE EXISTING HERMANUS CLIFF PATH VIA POOLE'S BAY, HERMANUS.

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

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

Copies to: Ms. K. Myburgh (Ecosense CC)

Ms. P. Aplon (Overstrand Municipality)

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EIA REFERENCE: 16/3/3/1/E2/15/1029/22
NEAS REFERENCE: WCP/EIA/0001097/2022
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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, (AS AMENDED): THE PROPOSED DEVELOPMENT OF A FORMALISED PEDESTRIAN PATHWAY CONNECTING TO THE EXISTING HERMANUS CLIFF PATH VIA POOLE'S BAY, HERMANUS.

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

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to the preferred alternative as described in the Basic Assessment Report ("BAR"), received on 4 August 2022.

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

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Cliff Path Action Group
24 Monmouth Ave
CLAREMONT
7708

Cell: 082 896 4527
E-mail: jobre@iafrica.com

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

B. LISTED ACTIVITIES AUTHORISED

Listed Activities	Project Description
<p>EIA Regulations Listing Notice 1 of 2014: Activity Number: 12 <i>The development of—</i></p> <ul style="list-style-type: none"> <i>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</i> <i>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</i> <p><i>where such development occurs—</i></p> <ul style="list-style-type: none"> <i>(a) within a watercourse;</i> <i>(b) in front of a development setback; or</i> <i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</i> <p><i>excluding—</i></p> <ul style="list-style-type: none"> <i>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; —</i> <i>(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</i> <i>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or Activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</i> <i>(dd) where such development occurs within an urban area;</i> <i>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</i> <i>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</i> 	<p>The proposed pathway will have a development footprint of more than 100m² within 32m of a watercourse.</p>
<p>EIA Regulations Listing Notice 1 of 2014: Activity Number: 15 <i>The development of structures in the coastal public property where the development footprint is bigger than 50 square metres, excluding—</i></p> <ul style="list-style-type: none"> <i>(i) the development of structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</i> <i>(ii) the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</i> <i>(iii) the development of temporary structures within the beach zone where such structures will be removed within 6 weeks</i> 	<p>The proposed pathway will have a development footprint of more than 50m² in the coastal public property.</p>

<p><i>of the commencement of development and where coral or indigenous vegetation will not be cleared; or</i></p> <p><i>(iv) activities listed in activity 14 in Listing Notice 2 of 2014, in which case that activity applies.</i></p>	
<p>EIA Regulations Listing Notice 1 of 2014: Activity Number: 17 <i>Development—</i></p> <ul style="list-style-type: none"> <i>(i) in the sea;</i> <i>(ii) in an estuary;</i> <i>(iii) within the littoral active zone;</i> <i>(iv) in front of a development setback; or</i> <i>(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;</i> <p><i>in respect of—</i></p> <ul style="list-style-type: none"> <i>(a) fixed or floating jetties and slipways;</i> <i>(b) tidal pools;</i> <i>(c) embankments;</i> <i>(d) rock revetments or stabilising structures including stabilising walls; or</i> <i>(e) infrastructure or structures with a development footprint of 50 square metres or more —</i> <p><i>but excluding—</i></p> <ul style="list-style-type: none"> <i>(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</i> <i>(bb) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</i> <i>(cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or</i> <i>(dd) where such development occurs within an urban area.</i> 	<p>The proposed pathway will be located below the high-water mark of the sea and will have a development footprint of more than 50m².</p>
<p>EIA Regulations Listing Notice 1 of 2014: Activity Number: 18 <i>The planting of vegetation or placing of any material on dunes or exposed sand surfaces of more than 10 square metres, within the littoral active zone, for the purpose of preventing the free movement of sand, erosion or accretion, excluding where —</i></p> <ul style="list-style-type: none"> <i>(i) the planting of vegetation or placement of material relates to restoration and maintenance of indigenous coastal vegetation undertaken in accordance with a maintenance management plan; or</i> <i>(ii) such planting of vegetation or placing of material will occur behind a development setback.</i> 	<p>The proposed pathway will entail the placement of concrete of more than 10 square metres within the littoral active zone.</p>

<p>EIA Regulations Listing Notice 1 of 2014: Activity Number: 19 <i>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <ul style="list-style-type: none"> <i>(a) will occur behind a development setback;</i> <i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i> <i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i> <i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</i> 	<p>The proposed pathway will result in the removal/excavation or moving of soil, sand, pebbles or rock of more than 10 cubic metres from a watercourse.</p>
<p>EIA Regulations Listing Notice 1 of 2014: Activity Number: 19A <i>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shellgrit, pebbles or rock of more than 5 cubic metres from—</i></p> <ul style="list-style-type: none"> <i>(i) the seashore;</i> <i>(ii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater; or</i> <i>(iii) the sea; —</i> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <ul style="list-style-type: none"> <i>(f) will occur behind a development setback;</i> <i>(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i> <i>(h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i> <i>(i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i> <p><i>where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</i></p>	<p>The proposed development will result in the removal or moving of soil, sand, pebbles or rock of more than 5 cubic metres below the high-water mark of the sea.</p>
<p>EIA Regulations Listing Notice 1 of 2014: Activity Number: 52 <i>The expansion of structures in the coastal public property where the development footprint will be increased by more than 50 square metres, excluding such expansions within existing ports or</i></p>	<p>The proposed expansion of the existing pathway will have a development footprint of more than 50m² in the coastal public property.</p>

<p>harbours where there will be no increase in the development footprint of the port or harbour and excluding activities listed in activity 23 in Listing Notice 3 of 2014, in which case that activity applies.</p>	
<p>EIA Regulations Listing Notice 3 of 2014: Activity Number: 12 <i>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.</i></p> <p>i. Western Cape</p> <ul style="list-style-type: none"> i. <i>Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</i> ii. <i>Within critical biodiversity areas identified in bioregional plans;</i> iii. <i>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;</i> iv. <i>On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or</i> v. <i>On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</i> 	<p>The proposed development will result in the clearance of more than 300m² of indigenous vegetation within 100m of the high-water mark of the sea.</p>

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

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

The proposed development will entail the development of a concrete pedestrian pathway via Poole's Bay, Hermanus, with a length of approximately 850m and an average width of 1.2m. It will connect to two existing portions of the Hermanus Cliff Path. The proposed pathway will be located below the high-water mark of the sea. A section of the pathway will traverse two wetlands where boardwalks are proposed as a means of crossing the wetlands.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken along Poole's Bay, Hermanus, at the following co-ordinates:

Co-ordinates of the proposed pathway:

Starting point

Latitude (S)	34°	24'	55.79"
Longitude (E)	19°	14'	59.33"

Middle point

Latitude (S)	34°	24'	48.15"
Longitude (E)	19°	15'	6.26"

End point

Latitude (S)	34°	24'	46.03"
Longitude (E)	19°	15'	19.22"

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Ms. K. Myburgh
Ecosense CC
58 Wedderwill
SIR LOWRYS PASS
7133

Cell: 082 783 9860

Email: kozette@ecosense.co.za

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the preferred alternative described in the BAR received on 4 August 2022 on the site as described in Section C above.
2. The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.

This Environmental Authorisation is granted for-

- (a) A period of five (5) years, from the date of issue, during which period the holder must commence with the authorised listed activities.
- (b) A period of ten (10) years, from the date the holder commenced with the authorised listed activities, during which period the authorised listed activities, must be concluded.

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

Written notice to the Competent Authority

5. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.
 - 5.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 5.2. The notice must also include proof of compliance with the following conditions described herein:
Conditions: 6, 7, 11 and 18.

Notification and administration of appeal

6. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 6.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1. the outcome of the application;
 - 6.1.2. the reasons for the decision as included in Annexure 3;
 - 6.1.3. the date of the decision; and
 - 6.1.4. the date when the decision was issued.
 - 6.2. draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 detailed in Section F below;
 - 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 6.4. provide the registered I&APs with:
 - 6.4.1. the name of the holder (entity) of this Environmental Authorisation,
 - 6.4.2. name of the responsible person for this Environmental Authorisation,
 - 6.4.3. postal address of the holder,
 - 6.4.4. telephonic and fax details of the holder,
 - 6.4.5. e-mail address, if any, of the holder,
 - 6.4.6. the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations.

7. The listed activities, including site preparation, may not commence within **20 (twenty)** calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

Management of activity

8. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved insofar as it relates to the construction phase of the development and must be implemented.
9. The Maintenance Management Plan ("MMP") which forms part of the EMPr must be amended to include the necessary method statements for the proposed maintenance works. The amended MMP must be submitted to this Department for approval within 3 (three) months of the date of this decision.
10. The EMPr, including the MMP must be included in all contract documentation for all phases of implementation.

Monitoring

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

Auditing

14. In terms of Regulation 34 of the NEMA EIA Regulations, 2014, the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Report must be prepared by an independent person, that is not the ECO referred to in Condition 11 above and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014.

The Audit Reports must be compiled and subsequently submitted to the Department in the following manner:

14.1. The holder must undertake an environmental audit and submit an Environmental Audit Report to the Competent Authority within 3 (three) months of commencement of construction.

14.2. A final Environmental Audit Report must be submitted within 3 (three) months of completion of the proposed development.

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

Specific Conditions

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

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

16. A qualified archaeologist and/or paleontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under directive from the relevant heritage resources authority.

17. All noise and sounds generated during the proposed development must comply with the relevant SANS codes and standards and the relevant noise regulations.

18. The development areas must be clearly demarcated prior to the commencement of the proposed development. All areas outside the demarcated areas must be regarded as "no-go" areas.

19. Construction activities may only take place during the period from February to June to avoid bird and whale breeding seasons.

F. GENERAL MATTERS

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

2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.

3. If the holder does not commence with the listed activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse for those activities, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to

extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.

4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 must be submitted.

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

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

G. APPEALS

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

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

By post: Western Cape Ministry of Local Government, Environmental Affairs and
Development Planning

Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 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 Appeal Authority at: Tel. (021) 483 3721, e-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DATE OF DECISION: 17 NOVEMBER 2022

Copies to: Ms. K. Myburgh (Ecosense CC)
Ms. P. Aplon (Overstrand Municipality)
Ms. R. Crowe (Cape Nature)

E-mail: kozette@ecosense.co.za
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ANNEXURE 1: LOCALITY MAP

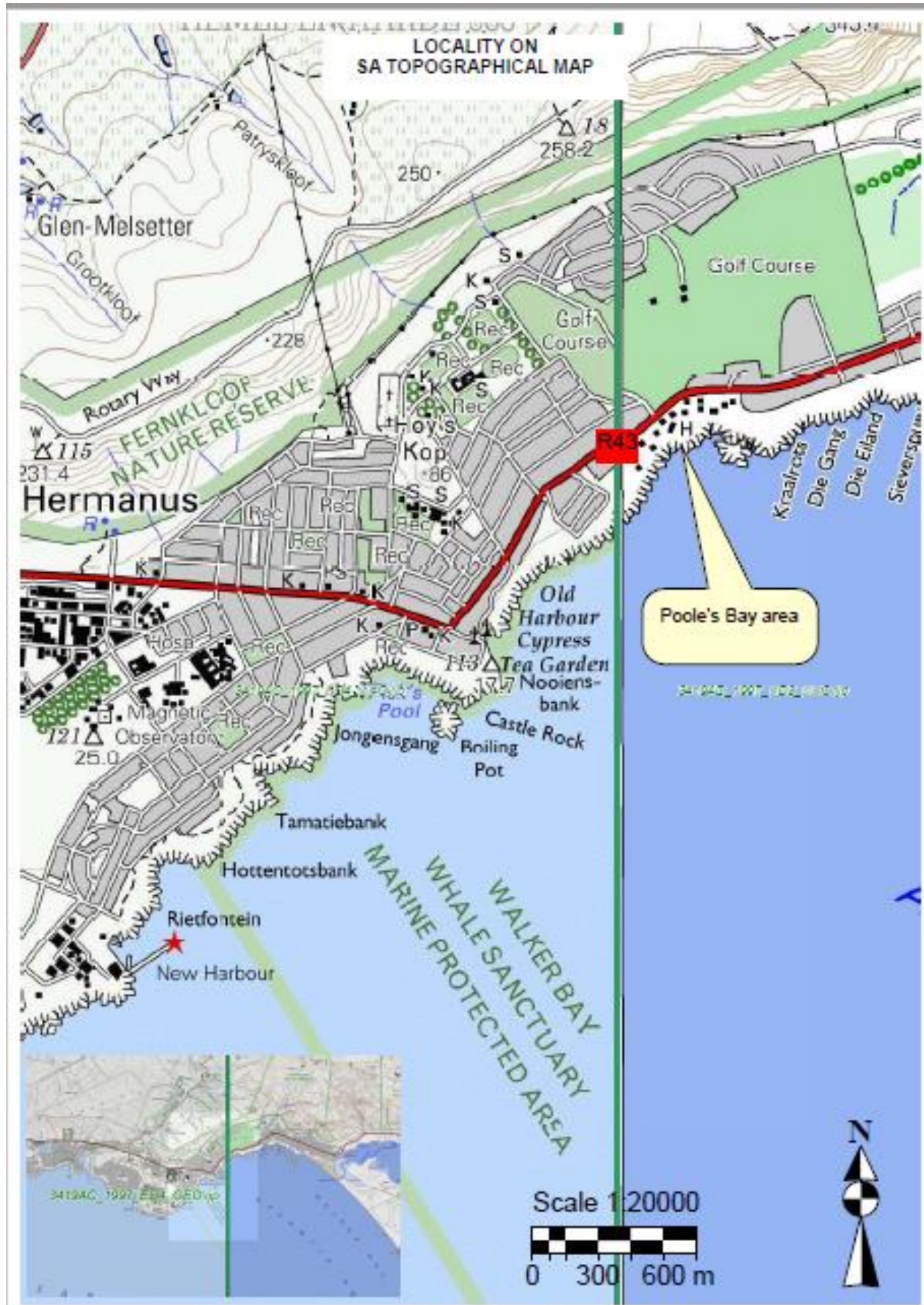


Figure 1: Location of proposed pathway.

ANNEXURE 2: SITE PLAN

ALTERNATIVE 2 (PREFERRED) (A2 of 2021)



Figure 2: Proposed site plan

ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form received by the Department on 16 May 2022 and the EMPr submitted together with the Basic Assessment Report on 4 August 2022.
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the Basic Assessment Report received on 4 August 2022; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

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

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

1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- fixing a notice board at the site where the listed activities are to be undertaken;
- the placing of a newspaper advertisement in "The village news" on 2 December 2020;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councilor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities;
- making the pre-application draft BAR available to I&APs for comment from 1 December 2020 to 19 February 2021; and
- making the post application draft BAR available to I&AP's for comment from 3 June to 5 July 2022.

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

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

2. Alternatives

Four layout and design alternatives were investigated. Two alternatives were investigated in the first pre-application Draft Basic Assessment Report compiled in 2019. When a new pre-application process was subsequently embarked upon, followed by the formal application process, the alternatives were revised.

The alternatives investigated in the first pre-application BAR during 2019 entailed the following:

First Alternative - Layout and design (A1 of 2019)

This layout and design alternative entailed the construction of a concrete pedestrian footpath just below the high-water mark ("HWM") of the sea in Poole's Bay. It followed the topography of the coast and erf boundaries as far as possible, which may in some cases be above the HWM of the sea in Poole's Bay. The alignment included crossing over Erf 6088, where at the time, the HWM was believed to force the path over a section of this property. The design would have consisted of spanning sections, dowelled sections and steppingstone sections.

Second Alternative - Layout and design (A2 of 2019)

This layout and design alternative entailed the construction of a concrete pedestrian footpath just below the HWM of the sea in Poole's Bay, which would follow the HWM completely, thus avoiding crossing any of the 13 properties along Poole's Bay of which the boundaries are up to the HWM. The alignment would require the path to be constructed around Mickey rock on the eastern end. Although this was possible from an engineering point of view, it was a less safe option and would therefore be the more expensive option to design it in such a way to provide optimal safety. The design would have consisted of spanning sections, dowelled sections and steppingstone sections.

Subsequently, two revised design alternatives were considered in a new pre-application process and the formal application process that followed it. These alternatives entail the following:

Design Alternative 1 (2020)

This alternative will entail battered and solid built balustrade sections buttressed to the sides of rocks. The solid balustrade sections would have stainless steel grab rails for safety. Steps would be created in some areas, and crossings would be bridged by heavy duty sugar gum beam crossings, connected to the concrete with stainless steel threaded bar. In areas where the terrain is relatively flat, no structures will be required.

This alternative was not preferred because of high visual impacts and cost implications.

Design Alternative 2 (2021) (preferred alternative, herewith authorised)

This alternative will entail the development of a concrete pedestrian pathway via Poole's Bay, Hermanus, with a length of approximately 850m and an average width of 1.2m. It will connect to two existing portions of the Hermanus Cliff Path. The proposed pathway will be located below the HWM of the sea. A section of the pathway will traverse two wetlands where boardwalks are proposed as a means of crossing the wetlands.

This alternative was preferred as it would be the least intrusive option, would be more affordable and the depression wetland will be retained. Most of the pathway will be made of concrete, finished with a rough aggregate to encourage stinging and seaweed/mussel shell growth. This is in accordance with the visual specialist's design guidelines.

The "No-Go" Alternative

The option of not proceeding with the proposed development ("No-Go" alternative) is not preferred, as it would not allow for a formalized, safer pathway along the coast.

3. Impact Assessment and Mitigation measures

3.1. Activity need and desirability

The Hermanus Cliff Path extends through a part of the Fernkloof Nature Reserve in Hermanus and is a major tourist attraction in the area. It runs along 13 km of coastline but takes an approximate 1 km detour along the R43 (Main Road) in the middle of the path at Poole's Bay. This is due to the fact that there is no formalised pathway in the Poole's Bay area as property boundaries extend to the HWM of

the sea. The need for the proposed development is to connect to the Hermanus Cliff Path through the construction of a pathway along the coastline at Poole's Bay, creating a continuous formal path. This pathway is also needed to allow for safer access along sections that are rocky, as the pathway is currently informal and not clearly marked. The construction of a formal pathway would also encourage people to stay on the path and limit trespassing onto adjacent private property.

3.2. Biophysical impacts

The vegetation that occurs on the proposed site has been identified as Overberg Sandstone Fynbos, which is classified as a Critically Endangered ecosystem in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEM:BA") List of Threatened Ecosystems in Need of Protection of December 2011. Since most of the proposed development will be located below the HWM of the sea, very limited amounts of indigenous vegetation are found along the proposed pathway. The potential impacts on the loss of vegetation are regarded to be of low negative significance.

According to the Freshwater Impact Assessment (dated March 2022, compiled by Enviroswift), two wetlands are located on the proposed site. Wetland 1 is degraded to the extent that a large change in ecosystem processes and loss of natural habitat and biota has occurred. This is largely due to the urban land-use in the vicinity of the wetland. Wetland 2 is in a near natural state, with very little evidence of anthropogenic disturbance other than the informal Cliff Path. To minimise the potential freshwater impacts associated with the pathway traversing the wetlands, a raised timber boardwalk is proposed for these sections. The specialist further indicates that the proposed development is considered acceptable from a freshwater ecological perspective should the mitigation measures be implemented. As such, the impacts on the watercourses as a result of the proposed development have been identified as being of very low to low negative significance after mitigation.

3.3. Visual Impacts

According to the Visual Statement (dated 11 April 2022, compiled by Filia Visual), the proposed development will result in limited changes in the visual character of the area and an overall low level of intrusion on landscapes and scenic resources are expected. The specialist further indicates that the proposed pathway will more likely enhance the scenic, cultural and heritage value of the coastal strip by enabling better access to the historic route and enhancing the cultural history of the coastline and the scenic resources. The specialist concluded that the visual impact would be minimal and that the proposed development will have an overall positive impact.

3.4. Marine Environmental Impact Assessment

According to the Marine Environmental Impact Assessment (October 2021, compiled by Anchor Environmental Consultants Pty (Ltd)), the proposed site was not found to be ecologically sensitive or of high conservation concern. The proposed site is located outside the Fernkloof Nature Reserve and any Protected or Critical Biodiversity Area. The proposed site is degraded or physically transformed along much of its length and largely devoid of natural vegetation alongside the path. Only four species of conservation concern were recorded within the study area, although none are expected to be severely impacted. These include one coastal bird species (Cape cormorant), two coastal plant species (Christmas Berry and the White Milkwood) and one animal species (Cape Clawless Otter). The specialist further indicates that no marine species of conservation concern were recorded or are known to occur along the proposed pathway. Furthermore, the proposed development is not likely to significantly alter,

fragment or destroy any natural habitat or vegetation on the proposed site. The impacts on the marine environment as a result of the proposed development have been identified to range from very low to medium negative significance after mitigation.

3.5. Avian Survey

According to the Avian Survey (dated March 2022, compiled by Birds and Bats Unlimited environmental consultants), an island (approximately 2ha in extent) occurs just offshore at the eastern end of the proposed pathway. The island was the only area where Red Data species were recorded (the Cape Cormorant and Oyster catchers) with no signs of breeding being present. No signs of breeding were also observed along the proposed pathway. No significant disturbance to the avifauna as a result of the proposed development is therefore expected.

The development will result in both negative and positive impacts.

Negative Impacts:

- Potential impacts on watercourses and the marine environment.

Positive impacts:

- Provision of a formalised safer access for pedestrians;
- Connecting to the existing Hermanus Cliff Path would attract more tourists to the area; and
- The proposed development would provide recreational space for the public.

4. National Environmental Management Act Principles

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

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

5. Conclusion

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

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