

## SECTION A: AUTHORITY COMMENTS

NO.	NAME	COMMENT	RESPONSE BY	RESPONSE
1.	<p><b>Gunther Frantz</b> <b>23/11/2021</b></p> <p>Environmental Officer: Production: Grade C Directorate: Pollution and Chemicals Management Department of Environmental Affairs and Development Planning Western Cape Government</p>	<p>Thank you for registering the Directorate: Pollution and Chemicals Management (D: PCM) as a stakeholder for the above project.</p> <p>The D: PCM shall provide comments in the next round of the Public Participation Process.</p> <p>We hope the above is in order and await the Draft Basic Assessment Report.</p>	<p>Ecosense (via email) 23/11/2021</p>	<p>Thank you for your reply.</p> <p>We will note in our comments and responses report that you reserve comment for the application phase when the draft BAR is released.</p>
2.	<p><b>Briege Williams</b> <b>23/11/2021</b></p>	<p>I have now issued a letter for the above case and uploaded it onto SAHRIS, I have also attached a copy to this email. As I said previously, nothing has really changed from my previous comment so the letter basically says that our previous comment still stands. Please let me know if you have any queries.</p>	<p>Ecosense (via email) 23/11/2021</p>	<p>Thank you very much for your comment received. It will be recorded and responded to as appropriate in our follow up comments and responses report.</p>
2.1		<p>The South African Heritage Resources Agency (SAHRA) would like to thank you for submitting an updated Draft Basic Assessment Report for the Poole's Bay connection path to Hermanus Cliff Path, Hermanus, Western Cape.</p> <p>SAHRA initially commented on this project in July 2019 but due to unforeseen delays the process was restarted and updated documents were resubmitted in January 2021 for comment. There were then further changes and amendments to the project design which resulted in an updated DBAR being submitted in November 2021.</p>	<p>Ecosense Additional response</p>	<p>Correct as stated.</p>

2.2		As the proposed path lies below the high-water mark it therefore falls under the remit of the Maritime and Underwater Cultural Heritage Unit at SAHRA. While the final plan for the design of the path has not yet been finalised, the DBAR has seen little change relevant to the work below the HWM, therefore the comment issued in 2019 remains the same and is detailed below.	Ecosense Additional response	Correct. The layout of the path would be entirely below the HWM, except for a few meters where it would connect to the existing Cliff path on the western side of Poole's Bay. This is on municipal land.
2.3		In terms of the National Heritage Resources Act, no 25 of 1999 (NHRA), heritage resources, including maritime and underwater cultural heritage sites older than 60 years fall under the protection of the act. Section 34 of the NHRA, states that these sites may not be disturbed without a permit from the relevant heritage resources authority.	Ecosense Additional response	Noted. One of the conditions of approval is that a permit must be obtained for alteration to any existing structures older than 60 years. An application for such would be submitted to SAHRA.
2.4		There are no known heritage resources lying along the route of the proposed pathway that would be affected by the works. The tidal pool and hotel pool that are situated along the route are older than 60 years of age and as such any impact on them as part of this project would require a permit. The final design for the path around the edges of the tidal pool and hotel pool has not yet been finalised and the need for a permit will be assessed once the final plan has been submitted.	Ecosense Additional response	The final plan after detailed design will be submitted to SAHRA and if alterations are required to any of the pools, a permit will be applied for. This has been specified in the proposed conditions of approval and during the planning and design phase requirements in the EMPr.
2.5		SAHRA would like to advise that should any structures or shipwreck remains older than 60 years be uncovered during the proposed works, they must be notified immediately so that further advice can be given regarding complying with heritage legislation.  Please note that all updates and/or changes to the project, supporting documentation, correspondence, reports, or any other work relating to the project must be uploaded to the case on SAHRIS to provide	Ecosense Additional response	Noted. This is also a specification in the Construction EMP - see SEMP Item 16.  The revised draft BAR will be uploaded onto SAHRIS again when entering the application phase public participation period for the proposed project.

		SAHRA with the opportunity to comment. SAHRA does not accept emailed documents or hard-copy documents received via post.		
3.	<b>Ayesha Hamdulay &amp; Melanese Schippers</b> <b>07/12/2021</b>  Development Management Department of Environmental Affairs and Development Planning Western Cape Government	Please find attached the comment on the revised pre-application BAR, dated 7 December 2021.	Ecosense (via email) 07/12/2021	Thank you for your comment received. It will be recorded and responded to in the comments and responses report that will be updated after completion of the current comment period.
3.1.1		1. The revised pre-application BAR and supporting documentation received by the Department via electronic mail correspondence on 15 November 2021, and the acknowledgment of receipt letter dated 17 November 2021, refer.	Ecosense Additional response	No response required.
3.2.1		2.1. The formalisation of an existing pedestrian pathway with the construction of an approximately 1.4m wide concrete pedestrian path, which includes spanning, doweled and steppingstone/slab sections along the rocky shoreline of Hermanus made up of battered and balustrade sections as well as areas with subtle demarcation; and	Ecosense Additional response	We note that the description included here is for a previously considered alternative, which is no longer applicable. Section H1.3 of the BAR describes the various alternatives considered, as well as the current preferred proposal and its alternative.
3.2.2		2.2. The formalised pedestrian pathway will be located within Coastal Public Property (“CPP”) as defined in the National Environmental Management: Integrated Coastal Management Act, 2014 and in between the High Water Mark and Low Water Mark of the sea in Poole’s Bay.	Ecosense Additional response	Correct. No further response required.
3.3.1		3. Water Use License Application 3.1. Comment from the Breede-Gouritz Catchment Management Agency (dated 11 March	Ecosense Additional response	The Freshwater Ecologist completed a risk matrix to inform the required Water Use Authorisation. The risk class was low, hence only a General

		2021) indicates that a Water Use License application must be applied for and the Risk Matrix completed to determine the risk class.		Authorisation is required and not a Water Use License.
3.3.2		3.2. You are advised that the Standard Operating Procedure (“SOP”) between this Department and the National Department of Water and Sanitation (“DWS”), which came into effect on 1 July 2017, must be complied with.	Ecosense Additional response	Noted. A meeting was held between the Department and BGCMA. The parties were satisfied that the requirements of the agreement have been met, given the extended time over which the application process was undertaken. It was also noted that the One environmental system only applies when there is a requirement for a WULA, and in this case there is not.
3.3.3		3.3. In terms of the Agreement for the One Environmental System (Section 50A of the NEMA and Sections 41(5) and 163A of the National Water Act, 1998 (Act No. 36 of 1998) (“NWA”)) the processes for a WULA and for an EIA must be aligned and integrated with respect to the fixed and synchronised timeframes, as prescribed in the EIA Regulations, 2014 (as amended), as well as the WULA Regulations of 2017.	Ecosense Additional response	See response to 3.2. Notes from the meeting referred to and confirming approach to the OES is included in Appendix F4.
3.3.4		3.4. Proof of the submission of the WULA to the DWS must be included in the EIA application form.	Ecosense Additional response	Proof has been included under Appendix E25
3.4		4. The duly dated and signed declarations as completed by the applicant must be included in all reports (and not only the BAR submitted to the Competent Authority for decision-making).	Ecosense Additional response	The signed declarations have been included as requested.
3.5		5. Kindly quote the abovementioned reference number in any future correspondence regarding this correspondence.	Ecosense Additional response	The reference number will be included with any updated reference numbers after the application has been submitted.
3.6		6. The Department reserves the right to revise or withdraw its comments and request further information from you based on any information received.	Ecosense Additional response	Noted.
4.	<b>Aplon Penelope</b> <b>09/12/2021</b> Environmental	Attached please find comments on above mentioned application.	Ecosense (via email) 10/12/2021	Thank you for your comment which is hereby acknowledged.

	Manager Overstrand Municipality			It will be recorded and responded to as appropriate in the revised comments and responses report, which will be compiled after conclusion of the comment period.
4.1		The Environmental Management Section of Overstrand Municipality wishes to thank you for the opportunity to submit comments on above mentioned application. After a review of the report and associated appendices this office has the following comments.		No response required.
		<p><u>Marine Impact Assessment</u></p> <p>The applicant is commended for appointing Anchor Environmental to conduct the specialist study to assess marine impacts. The mitigating measures for the construction phase, described under the following headings in the Marine Environmental Impact Assessment, November 2021 is strongly supported.</p> <p>Impact 1: Temporary alteration, fragmentation or destruction of habitat and vegetation</p> <p>Impact 2: Water quality impacts associated with physical disturbance</p> <p>Impact 3: Disturbance and/or displacement of small mammals, avifauna and macrofaunal invertebrates</p> <p>Impact 4: Generation of waste and pollution</p> <p>Impact 5: Temporary restriction of access to the study area</p> <p>The recommended window period for construction; outside of bird (November to January) and whale breeding seasons (July to December), must be adhered to.</p>	Ecosense Additional response	<p>Support for the mitigation measures is noted. These mitigation measures have been incorporated into the EMPr for implementation.</p> <p>The window periods for construction has been clarified and specified as follows in the EMPr, to be taken into account right from the start:</p> <p>Construction work must be undertaken as follows to be sensitive to local ecological issues (summarised from the EMPr):</p> <ul style="list-style-type: none"> <li>• Intrusive work which could cause loud noise and vibration - February to June</li> <li>• Non-intrusive work to be sensitive to whale breeding season, e.g. finishing - July- October</li> <li>• No construction during November-January to be sensitive to Black Oyster catcher and White-fronted plover possible breeding</li> <li>• Monthly survey during November-January for nesting sites within 50m radius of pathway footprint.</li> <li>• Construction may not commence after January within this area if nests were found until after the birds have left the nesting sites.</li> </ul>
4.2		<p><u>Noise management:</u></p> <p>It is recommended that noise levels be kept to a minimum during construction phase. Should the municipality receive complaints regarding noise it</p>	Ecosense Additional response	<p>Noted.</p> <p>The Site Environmental Management Plan (SEMP) specifies the following to mitigate noise impacts:</p> <p>i. Working hours shall be limited to those specified in</p>

		will be dealt with in terms of the Western Cape Noise Control Regulations, 2013.		<p>the National Building Regulations/SANS 10400-F:2010 i.e. between 06h00 and 18h00 on weekdays and 06h00 and 17h00 on Saturdays. No work shall take place on public holidays and on Sundays. Working hours shall not be exceeded by the Contractor without first obtaining the express permission of the Project Manager and the municipality.</p> <p>ii. Should the occupants of any of the adjacent residences complain about excessive noise/nuisance caused by the construction activities, the Contractor shall log the complaint and investigate the cause and implement any required mitigation measures to remedy the situation as is possible, practical and reasonable.</p> <p>iii. No drilling or other activities with excessive noise (above 85DB) may take place in the months of July-December to be sensitive to the whale breeding season.</p>
4.3		<p><u>Waste management:</u> Careful consideration should be given to the type of bins proposed for the area. Although not addressed in any of the specialist studies, the Chacma baboon is a resident in the Hermanus area, foraging along the coast in troops. Unfortunately, human interaction has habituated baboons in associating people/litter/bins with food. All bins in the area must be baboon proofed to prevent raiding by baboons.</p>	Ecosense Additional response	Waste generated during construction must be removed daily. It is also specified in the CEMP that waste bins used on site must have baboon proof lids, although these cannot be left on site during periods where there is no construction taking place.
4.4		<p><u>Managing agency:</u> In terms of the OEMP the Cliff Path Action Group (NPO) is listed as the developer. The developer is ultimately responsible for compliance with all conditions of approval of the development or any aspect thereof by any authority as it relates to his activities on site. The definition of Managing agency is staff/agency employed to undertake maintenance activities on site e.g. municipality, Cliff Path NGO, other</p>	Ecosense Additional response	<p>There has not been formal engagement between the Cliff path Action Group and other entities regarding management functions yet and the Cliff Path Action Group must assume this role until such time as other agreements have been reached.</p> <p>The Cliff Path Action Group, which will be the developer and Management Agency (unless they appoint another or come to agreement with other entities) will be obligated by the Environmental Authorisation (should this be granted) to take responsibility and bare the</p>

		designated entity. As stated previously, engagement with the relevant municipal department should take place as these proposed maintenance activities has associated budget implications for the municipality.		costs for maintenance. The noted examples have been removed to avoid misinterpretation.
4.5		<u>Public liability:</u> The issue with regards to public liability insurance is not fully addressed in the report. The applicant must clearly specify how any claims of injury will be dealt with and will be the responsible entity. The Department of Public Works is listed as the contact person on behalf of the landowner, the Republic of South Africa. Please indicate if the responsibility of public health claims vest with the Department of Public Works in the event of injury.	Ecosense Additional response	The Department of Public Works has indicated that in this case the project would resort under a Seashore lease by CapeNature and this has been revised in the BAR. The project site will therefore be leased from the Republic of South Africa and the Applicant would assume liability. Public liability insurance must be taken out by the Applicant and proof must be provided to the DEA&DP, Cape Nature, Department of Public Works and the Municipality. This is stipulated as a planning phase requirement in the EMPr.
4.6		<u>OEMP &amp; CEMP:</u> The proposed locations of the Contractor's camp and toilets must please be indicated. Relevant approval must be obtained from the Property Administration department if these facilities will be placed on municipal land.	Ecosense Additional response	A materials receiving area and ablution facilities are indicated on the SEMP to be located on the open space area closest to the western entry of the proposed path. Note that there will be no camp - it is just the delivery area.  The SEMP further stipulates: i. Site camp is to be established at an appropriate site (e.g. in industrial area) and materials must be brought in daily. ii. The materials receiving area must be cleared daily of any unused materials and no long term stockpiling is allowed. iii. The contractor shall obtain approval from the landowner/municipality for any area used for temporary stockpiling/deliveries or establishing a site storage container should this be necessary.
4.7		<u>Overlay Zones:</u> A review of the Municipal land-use scheme took place during 2020, which included Environmental	Ecosense Additional response	Noted. We submit that the Overlay zones does not strictly apply to the project site as it doesn't form part of the zoning scheme as it is coastal public property.

		<p>Overlay Zone (EMOZ) Regulations. The objective of these regulations is to provide a mechanism for land-use management, additional to the existing statutory land use controls, whereby Council may give effect to specific guidelines in a spatial development framework or policy to address a specific management issue. These EMOZ regulations has associated regulations which the applicant should familiarize themselves with.</p> <p>This office reserves the right to revise these comments based on the availability of additional information.</p>		<p>These regulations apply to the Environmental Management Overlay Zones within the area of jurisdiction of the Overstrand Municipality, which does not include coastal public property.</p> <p>Refer to Section E4.4 of the BAR which includes Plan 16 from the Municipal SDP showing the EMOZs’.</p> <p>However, cognisance is taken of the prescribed development management parameters that apply to High-Risk Urban Areas.</p>
5.	<p><b>Fabion Smith &amp; JAN VAN STADEN</b>  <b>14/12/2021</b>  CHIEF EXECUTIVE OFFICER (ACTING)</p>	<p>I have consulted with Thembela and subsequently, have attached our comment for your perusal and utilisation.</p>	<p>Ecosense (via email)  14/12/2021</p>	<p>Automated out of office response acknowledging receipt of email.</p>
5.1		<p>The development will unfortunately not be able to avoid the wetland areas and would therefore require authorisation.</p>	<p>Ecosense  Additional reponse</p>	<p>Correct. A boardwalk is proposed over the wetland areas.</p>
5.2		<p>The Risk Matrix Assessment needs to be undertaken, in order to confirm the type of authorisation that will be relevant.</p>	<p>Ecosense  Additional response</p>	<p>A freshwater Ecologist was appointed and the risk matrix informed that a GA is applicable. Registration is currently in process.</p>
5.3		<p>Once this has been received, the authorisation type can be confirmed.</p>		<p>Confirmation has been received and proof of submission has been included under Appendix E25.</p>
6.	<p><b>Rhett Smart</b>  <b>15/12/2021</b>  Landscape Ecologist  Cape Nature</p>	<p>Please find attached comment from CapeNature on the Revised Pre-Application Basic Assessment Report (Second Process) for the Proposed Pedestrian Path to Connect the Hermanus Cliff Path at Poole’s Bay, Hermanus.</p>	<p>Ecosense (via email)  15/12/2021</p>	<p>Automated out of office response acknowledging receipt of email.</p>
6.1		<p><b>Revised Pre-Application Basic Assessment Report (Second Process) for the Proposed Pedestrian Path to Connect the Hermanus Cliff Path at Poole’s Bay, Hermanus</b></p>	<p>Ecosense  Additional response</p>	<p>It is noted that your comments only pertain to the biodiversity related impacts and not to the overall desirability of the proposed development.</p>



		<b>(DEA&amp;DP ref. no.: 16/3/3/6/7/1/E2/15/1265/20)</b> CapeNature would like to thank you for the opportunity to comment on the proposed development and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the proposed development.		
6.2		CapeNature previously reported on the desktop information regarding the natural environment adjacent to the proposed path. We wish to advise that the Integrated Coastal Layer has been developed following on from the National Biodiversity Assessment (2018), which integrates the mapping along the coastal interface of terrestrial and marine ecosystems, and should be referred to within coastal environments (Harris et al. 2019). The terrestrial ecosystem along the alignment is Overberg Sandstone Fynbos and the marine ecosystems are Agulhas Exposed Rocky Shore and Agulhas Mixed Shore, with patches of Agulhas Kelp Forest a short distance offshore.	Ecosense Additional response	Section G 3.3 of the BAR has been updated accordingly. The Marine Impact assessment also used this report as reference.
6.3		In our comments on the previous version of the Basic Assessment Report, we indicated that we would await the proposed marine environmental impact assessment for further comment, however we were satisfied that all other concerns have been addressed. The marine environmental impact assessment provides an overview of the coastal environment which may be affected, including the coastal terrestrial, intertidal and marine environments and associated biota within the various habitats.	Ecosense Additional response	Correct.
6.4		The assessment clarifies that the sections of the path which are located below the high water mark are only inundated during extreme storm events and	Ecosense Additional response	Correct.

		therefore does not support intertidal biota found within the five intertidal zones. The proposed path therefore will not impact on intertidal habitat provided there are no intrusions during the construction phase.		
6.5		The potential impacts to the coastal environment are identified and assessed. The impacts are all rated as low or very low negative impact prior to mitigation apart from generation of solid waste and pollution which is rated as medium negative impact. The latter impact can however be mitigated through the implementation of the proposed mitigation measures. CapeNature supports the findings of the marine environmental impact assessment which indicate that the proposal (including both alternatives) is acceptable provided the proposed mitigation measures are implemented. It must be ensured that all the mitigation measures recommended in the specialist studies are included in the Environmental Management Programme (EMPr). The applicant must identify resources, roles and responsibilities for the implementation of the mitigation measures.	Ecosense Additional response	All the mitigation measures recommended in the specialist studies are included.
6.6		In conclusion, CapeNature does not object to the proposed development, however it must be ensured that the EMPr is finalised to include all recommended mitigation measures.	Ecosense Additional response	Noted and the EMPr has been revised to include all essential and recommended mitigation measures to be implemented as far as practically possible.
7.	<b>Petrus Roux</b> <b>15/12/2021</b> Town Planner, Town & Spatial Planning Department Overstrand Municipality	Please find attached my comments on the subject matter.	Ecosense (via email) 15/12/2021	Automated out of office response acknowledging receipt of email.
		<b>Basic Assessment Report: Pedestrian path to</b>	Ecosense	Noted.

		<p><b>connect the Hermanus Cliff Path via Poole's Bay in Hermanus, Reference number: 16/3/3/6/7/1/E2/15/1265/20)</b></p> <p>The Town and Spatial Planning Department of Overstrand Municipality wishes to thank you for the opportunity to submit comments on the above-mentioned application. After a review of the report and associated appendices this office has the following comments.</p>	Additional response	
7.1		<p><b>Public Liability:</b></p> <p>The issue with regards to public liability insurance if not fully addressed in the report. The applicant must clearly specify how any claims of injury will be dealt with and will be the responsible entity. The Department of Public Works is listed as the contact person on behalf of the landowner, the Republic of South Africa. Please indicate of the responsibility of public health claims vest with the Department of Public Works in the event of injury.</p>		<p>The Department of Public Works has indicated that in this case the project would resort under a Seashore lease by CapeNature and this has been revised in the BAR.</p> <p>Public liability insurance must be taken out by the Applicant and proof must be provided to the DEA&amp;DP, Cape Nature, Department of Public Works and the Municipality. This is stipulated as a planning phase requirement in the EMPr.</p>
7.2		<p><b>Building plans:</b></p> <p>Although the proposed structures (footpath and bridges and culverts) and under the high water mark the relevant authority's approval will have to be obtained with regards to the submission of building plans (including detail on engineering work).</p>		<p>Engineering drawings of the final design must be submitted as part of the Seashore Lease Application and be copied to the municipality.</p>
7.3		<p><b>Maintenance:</b></p> <p>Due to the path being situated under the high water mark it will be subject to various forces from the wave action on the coastline. In the report it is not stipulated that who will take responsibility for maintenance of the proposed structures (footpath and bridges and culverts) and this requires clarification.</p>		<p>A Maintenance Management Plan (MMP) has been included under Section 6 of the EMPr, which specifies the Cliff Path Action Group as the responsible party for implementation of the MMP.</p> <p>Responsibility was further discussed in a meeting with the Municipality, see notes of the discussion in Appendix F4.</p>