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Telephone Number: (011) 883 1312
Cellphone Number: (083) 297 3398
Email Address: Daniel.Sevenster@gmail.com

Dear Mr Sevenster

With reference to the above application, please be advised that the Competent Authority has decided to refuse the application for Environmental Authorisation. The reasons for this refusal are contained in the Record of Refusal, of which a copy is attached hereto.

In terms of Regulation 4(2) of the Environmental Impact Assessment Regulations, 2014, as amended (the EIA Regulations), you are instructed to notify all registered interested and affected parties, in writing and within fourteen (14) days of the date of the Record of Refusal, of the Competent Authority's decision as well as the provisions regarding the submission of appeals that are contained in the EIA Regulations.



Batho pele – putting people first:

Department of Forestry, Fisheries and the Environment • Department of Forestry, Fisheries and the Environment • Jim Nyango wezama hahli zokuThyha neBhodulo • Sebe ezama hahli ezokuLoda nokusigangqishe • Jim Nyango wezama hahli ezokuLoda wezama • Kgoro ya Dikongolo Borekha ne Tsoogo • Lejona ba Mero Boshana ba dingo ne Tsoogo • Lejona ba Dxyga Dingo • Lejona wezama • Tsoogo, Nenezandiso • Mungasho abo zokuVhuso-madiba Vhusokhomo ba Mero • Ndabauro ya Satibha Vungweni naMango • The processing of personal information by the Department of Forestry, Fisheries and the Environment is done fairly and not excessive for the purpose of processing in compliance with the POPI Act and codes of conduct issued by the Information Regulator in terms of the POPI Act and/or relevant legislation provided to prescribe security safeguards for the processing of personal information of others.

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In terms of the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000), you are entitled to the right to fair, lawful, and reasonable administrative action; and to written reasons for administrative action that affects you negatively. Further, your attention is drawn to the provisions of the Protection of Personal Information Act, 2013 (Act no. 4 of 2013) which stipulates that the Competent Authority should conduct itself in a responsible manner when collecting, processing, storing, and sharing an individual or another entity's personal information by holding the Competent Authority accountable should the Competent Authority abuse or compromise your personal information in any way.

Your attention is drawn to Chapter 2 of the National Environmental Management Act, Act No. 107 of 1998 National Appeal Regulations published under Government Notice R 5985 in Government Gazette No. 52269 dated 13 March 2025 (National Appeal Regulations, 2025), which prescribes the appeal procedure to be followed. Kindly include a copy of this document (National Appeal Regulations, 2025) with the letter of notification to interested and affected parties in this matter.

Should any person wish to lodge an appeal against this decision, he/she must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party, and any organ of state with interest in the matter within 20 days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant; or the date that the notification of the decision was sent to the applicant by the Department, whichever is applicable.

Appeals must be submitted in writing in the prescribed form to:

The Director: Appeals and Legal Review of this Department at the below-mentioned addresses.

By email: appeals@dffe.gov.za

By hand: Environment House
473 Steve Biko Road
Arcadia
PRETORIA
0083

By post: Private Bag X447
PRETORIA
0001

Please note that in terms of Section 43(7) of the National Environmental Management Act, Act No. 107 of 1998, as amended, the lodging of an appeal will suspend the environmental authorisation, or any provision or condition attached thereto. In the instance where an appeal is lodged, you may not commence with the activity until such time that the appeal is finalised.

To obtain the prescribed appeal form and for guidance on the submission of appeals, please visit the Department's website at https://www.environment.gov.za/documents/forms#legal_authorisations or request a copy of the documents at appeals@dffe.gov.za.

Yours faithfully



Dr Sabelo Malaza
Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries and the Environment
Date: 11/08/2026

cc:	Bianca Gilfillan	Eco Route Environmental Consultancy	Email: bianca@ecoroute.co.za
	Danie Swanepoel	Western Cape Government-Department of Environmental Affairs and Development Planning: Development Management	Email: Danie.Swanepoel@westerncape.gov.za
	Pamela Booth	Knysna Local Municipality	Email: pbooth@knysna.gov.za





forestry, fisheries & the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

Record of Refusal

In terms of Regulation 24(1)(b) of the Environmental Impact Assessment Regulations, 2014,
as amended

The proposed development of a primary dwelling and access road on portion 79 of the farm Ruygte Valley no. 25 in Sedgfield near Knysna, within the Knysna Local Municipality, in the Western Cape Province

Garden Route District Municipality

Authorisation register number:	14/12/16/3/3/1/3235
Last amended:	First issue
Holder of authorisation:	Daniel Sevenster and Partners Inc.
Location of activity:	Portion 79 of Farm 205, Ruygte Valley Knysna Local Municipality Garden Route District Municipality Western Cape Province

This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.

M.S

Decision

The Competent Authority is satisfied, based on information available to it that the applicant should not be authorised to undertake the activities specified below.

Details regarding the basis on which the Competent Authority reached this decision are set out in Annexure 1 to this Record of Refusal.

Activities refused

By virtue of the powers conferred on it by the National Environmental Management Act, Act No. 107 of 1998, as amended and the Environmental Impact Assessment Regulations, 2014, as amended, the Department hereby refuses the application for Environmental Authorisation to –

DANIEL SEVENSTER AND PARTNERS INC.

with the following contact details –

Mr Daniel Sevenster
Shop L14D, Lower-Level Entrance 4, Sandton City
Shopping Center 83 Rivonia Rd
Sandhurst
SANDTON
2196

Telephone Number: (011) 883 1312
Cellphone Number: (083) 297 3398
Email Address: Daniel.Sevenster@gmail.com

Not to undertake the following activities (hereafter referred to as "the activity") indicated in Listing Notice 1 and Listing Notice 3 of the EIA Regulations, 2014 as amended:

Activity number	Activity description
<u>Listing Notice 1, Item 17(v)(e)</u> <i>"Development-</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> <i>in respect of –</i> <i>(e) infrastructure or structures with a development footprint of 50 square metres or more."</i>	The current indicated area for proposed development falls within 100-meter highwater mark. Portions of the proposed buildings, parking area, boardwalks and associated infrastructure exceed 50m² and are located within 100 metres inland of the High-Water Mark of the sea. No gazetted development setback line applies to this portion of coastline, and the property is not located within an urban area. Activity 17 is therefore triggered.
<u>Listing Notice 1, Item 19A(ii)</u> <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, shell grit, pebbles or rock of more than 5 cubic metres from-</i> <i>(ii) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever distance is the greater."</i>	Excavation of building the primary property within 100-meter of the high-water mark will require excavation more than 5 cubic meter.
<u>Listing Notice 1, Item 27</u> <i>"The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation,"</i>	Construction of both the primary dwelling and an access road may require the removal of indigenous Goukamma Dune Thicket more than 1ha.

Listing Notice 3, Item 4(i)(i)(ii)(aa)(bb)(iii)(aa)(bb)

"The development of a road wider than 4 metres with a reserve less than 13,5 metres.

(i) In the Western Cape;

(i) Areas zoned for use as public open space or equivalent zoning;

(ii) In areas outside urban areas;

(aa) Areas containing indigenous vegetation;

(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined;

(iii) Inside urban areas;

(aa) Areas zoned for conservation use; or

(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority."

The internal road will connect the northwestern side of the property to the southwest side of the property in order to gain access to the proposed construction of the main residential dwelling.

The internal road will be 830 meters in length. The road surface area will be 2.5 meters wide and disturbed area for construction of the road varies between 4 to 5.5 meters wide.

Listing Notice 3, Item 12(i)(i)(ii)

"The clearance of an area of 300 square metres or more of indigenous vegetation;

(i) In the Western Cape;

(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

The Ecosystem Threat status indicates that the Northern Portion of the property is classed as Critical Endangered and the Southern Portion as Least Threatened. This is as a result of the vegetation found on site. The Northern Portion is identified as having Knysna Sand Fynbos with an ecological status of Critically Endangered and the Southern Portion as Goukamma Dune Thicket with an ecological status of Least Threatened.

The entire property has been designated a CBA status. The construction of the farm managers house will impact on critically endangered Knysna Sand Fynbos. The internal road will also disturbance of Knysna Sand Fynbos to the norther.

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.”	
<u>Listing Notice 3, Item 14(ii)(a)(c)(i)(i)(ff)</u> “The development of- (ii) infrastructure or structures with a physical footprint of 10 square metres or more; where such development occurs- (a) within a watercourse; (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse; (i) In the Western Cape; (i) In areas outside urban areas; (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans.”	The new intake structure and associated infrastructure will be constructed within the river, all other infrastructure (cement access road, water meter chamber, drywell, rising main) will be constructed within 32 meters of the Moordkuil River. The area is also mapped as an aquatic CBA; therefore, this activity will be triggered.

as described in the final Basic Assessment Report (ElAr) dated April 2026 at:

Project location

Farm Name & Portion Number	Surveyor General 21-digit code
Portion 79 of Farm 205, Ruygte Valley	C03900000000020500079

Coordinates of the site:

GPS point middle of property:	Latitude	Longitude
Portion 0	- 34°0'54.38" S	22°50'31.21" E
Portion 79	- 34°2'23.85" S	22°49'28.57" E

- for the proposed development of a primary dwelling and access road on portion 79 of the farm Ruygte Valley no. 25 in Sedgfield near Knysna, within the Knysna Local Municipality, in the Western Cape Province, hereafter referred to as “the property”.

Description of the proposed development:

The proposed development comprises a main dwelling ($\pm 200\text{m}^2$), three small self-contained units ($\pm 65\text{m}^2$ each), staff accommodation ($\pm 50\text{m}^2$), an equipment shed ($\pm 80\text{m}^2$), and associated parking and access infrastructure. The landowners currently plan to utilise the additional units for private family and guest accommodation. From a planning perspective, the proposed rezoning provides a tourism-compatible land-use framework required for multiple accommodation units on agriculturally zoned land and is aligned with long-term conservation and land management objectives.

Vehicular access will lead to a parking area of approximately 660m^2 , from which pedestrian access to the main dwelling and accommodation units will be provided via elevated timber boardwalks, reducing soil compaction and disturbance to underlying vegetation. The development concept is to establish a low-impact private retreat within a natural coastal landscape. The architectural design will utilise lightweight, environmentally sensitive materials, including timber, steel, glass, and natural stone, enabling the structures to blend visually with the surrounding environment and minimising excavation. The total development footprint is approximately $1\,375\text{m}^2$, representing less than 2.7% of the property. Approximately 97.3% of the site remains protected under conservation-compatible land use.

As a result, approximately 97.3% of the site will remain in a natural or near-natural state. According to the Preliminary Geotechnical and Geomatic Report (Rock Hounds, 2024) and the Civil and Structural Engineering Confirmation (Marius van Coller, Pr Eng, 2025), the proposed development area (located at approximately 75m above mean sea level) lies above the 100-year high-risk coastal erosion line and within a geotechnically feasible zone, provided that appropriate slope-stabilisation and stormwater management measures are implemented. The preferred development footprint avoids structurally weak zones and areas of elevated erosion risk.

Currently, no municipal bulk water infrastructure exists to service the site, and the developer will be required to provide a sustainable potable water supply. A significant portion of the water demand will be met through rainwater harvesting. With a combined roof area of approximately 842m^2 and an average annual rainfall of 500 mm for the Knysna area, an estimated 421kL of rainwater can be collected annually. This volume is expected to meet approximately 87% of the projected water demand. To supplement this, one or more boreholes will be drilled, and the main building will include rainwater and borehole water storage capacity of up to 110kL.

Municipal bulk sewer services are not available in this area. Following consultation with the Technical Services Department of the Knysna Municipality, it was confirmed that the use of septic tanks with soakaways is an acceptable method of effluent management. The placement of soakaways will be carefully considered to avoid

contamination of the borehole(s), and adequate vehicle access will be provided for periodic desludging and maintenance of the septic systems.

Electricity will be supplied by a solar photovoltaic system designed for minimal environmental impact, with generator backup. While a connection to the municipal electricity grid is technically possible, it is not considered viable due to cost constraints.

Stormwater will not be channelled or concentrated but will be allowed to disperse naturally over the sandy substrate. The design of the access road will incorporate Sustainable Urban Drainage System (SUDS) principles to ensure appropriate stormwater management and erosion control.

All general and domestic waste generated by the development will be collected and disposed of at authorised waste disposal and recycling facilities. A dedicated waste management area will be established as part of the completed development. Green waste generated during construction and maintenance will be chipped on-site and/or disposed of at a licensed facility. The proposed development comprises:

- a main dwelling;
- three small self-contained accommodation units;
- a garage/store structure; and
- associated access, parking and pedestrian infrastructure.

Legislative Requirements

Refusal of the application

1. The application for Environmental Authorisation is refused for the proposed development of a primary dwelling and access road on portion 79 of the farm Ruygte Valley no. 25 in Sedgefield near Knysna, within Ward 1 of the Knysna Local Municipality, in the Western Cape Province, as described above.

Notification of refusal and right to appeal

2. The applicant must notify every registered interested and affected party, of the Competent Authority's decision, in writing and within 14 (fourteen) calendar days of the date of this record of refusal.
3. The notification referred to must –
 - 3.1. specify the date on which the record of refusal was issued;
 - 3.2. inform the interested and affected party of the appeal procedure provided for in the National Appeal Regulations, 2014;
 - 3.3. advise the interested and affected party that a copy of the record of refusal will be furnished on request; and,
 - 3.4. give the reasons of the Competent Authority for the decision.

Date of refusal for Environmental Authorisation: 11/01/2022



Dr Sabelo Malaza

Chief Director: Integrated Environmental Authorisations
Department of Forestry, Fisheries & the Environment

Annexure 1: Reasons for Decision

1. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The listed activities as applied for in the application form received on 13 November 2026.
- b) The information contained in the BAR dated April 2026.
- c) The comments received from interested and affected parties as included in the BAR dated April 2026.
- d) Mitigation measures as proposed in the BAR dated April 2026.
- e) The information contained in the specialist studies contained within the appendices of the BAR dated April 2026.
- f) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998).

2. Key factors considered in making the decision

All information presented to the Department was considered in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below.

- a) The information contained in the application form and in the final BAR dated April 2026.
- b) The comments provided by the Chief Directorate: Integrated Environmental Authorisations on the draft BAR and on the amended draft BAR on 10 December 2025 and 19 March 2026, respectively.
- c) The findings of all the specialist studies conducted and their recommended mitigation measures.
- d) The comments received by various I&APs and the responses thereto as contained in the BAR dated April 2026.
- e) Responses by the EAP captured in the Comments and Response Report submitted with the final BAR.
- f) The requirements for the submission of reports in terms of Regulations 19(1)(b) and 19(2) of the EIA Regulations, 2014, as amended, should there be significant changes or new information that has been added to the BAR or EMPr which changes, or information was not contained in the reports or plans consulted on during the initial public participation process.
- g) The procedures for the assessment and minimum criteria for reporting on identified Environmental Themes in terms of Sections 24(5)(a) and (h) and 44 of the National Environmental Management Act,

1998, when applying for Environmental Authorisation, which were promulgated in terms of GN No. 320 of 20 March 2020 and GN No. 1150 of 30 October 2020 (Protocols).

3. Findings

After consideration of the information and factors listed above, the Department made the following findings –

3.1. Non-compliance with Regulation 19(1)(b)

- 3.1.1. Regulation 19(1) (b) of the EIA Regulations, 2014, as amended, which states that *“the applicant must, within 90 days of receipt of the application by the competent authority, submit to the competent authority – (b) a notification in writing that the documents contemplated in subregulation 1(a) will be submitted within 140 days of receipt of the application by the competent authority, as significant changes have been made or significant new information has been added to the documents which changes or information was not contained in the original documents consulted on during the initial public participation process contemplated in subregulation (1)(a) and that the revised documents will be subjected to another public participation process of at least 30 days.”* Furthermore, the BAR submitted as a final report to the Department failed to comply with Regulation 19(2) of the EIA Regulations, 2014, as amended, which states that *“in the event where subregulation (1)(b) applies, the documents contemplated in subregulation 1(a), which reflects the incorporation of comments received, including any comments of the competent authority, must be submitted to the competent authority within 140 days of receipt of the application by the competent authority”*.
- 3.1.2. The omission of the Aquatic Biodiversity Impact Assessment and the Animal Species Impact Assessment in the submitted draft BAR, nor in the amended draft BAR, indicates that significant new information should have been subjected to a public consultation process, as the studies were a requirement in terms of the Screening Tool. With the incomplete final BAR, the Department is of the opinion that issuing an approval of the proposed development would not be in line with the pillars of the NEMA in relation to adequate impact assessment. As such, Regulation 19(1)(b) was not complied with as an incomplete amended BAR was submitted.

3.2. Non-compliance with the minimum requirements, protocols and content of specialist reports:

- 3.2.1. Regulation 19(3) states that a *“basic assessment report must contain the information set out in Appendix 1 to these Regulations or comply with a protocol or minimum information requirements relevant to the application as identified and gazetted by the Minister in a government notice”*.

- In line with the above, the final BAR submitted for review and decision-making failed to comply with the requirements of protocols promulgated in terms of GN No. 320 of 20 March 2020 and GN No. 1150 of 30 October 2020. For site sensitivity verification and minimum report content requirements, the protocols state that:

"Prior to commencing with a specialist assessment, the current use of the land and the potential environmental sensitivity of the site under consideration as identified by the screening tool must be confirmed by undertaking a site sensitivity verification.

- 1. The site sensitivity verification must be undertaken by an environmental assessment practitioner or a specialist.*
- 2. The site sensitivity verification must be undertaken through the use of:*
 - (a) a desktop analysis, using satellite imagery;*
 - (b) a preliminary on-site inspection; and*
 - (c) any other available and relevant information.*
- 3. The outcome of the site sensitivity verification must be recorded in the form of a report that:*
 - (a) confirms or disputes the current use of the land and environmental sensitivity as identified by the screening tool;*
 - (b) contains a motivation and evidence (e.g. photographs) of either the verified or different use of the land and environmental sensitivity; and*
 - (c) is submitted together with the relevant assessment report prepared in accordance with the requirements of the Environmental Impact Assessment Regulations."*

3.2.2. The Site Sensitivity Verification Report (SSVr) which was submitted with the initial draft BAR (included as Appendix 16 of the Application Form), did not meet the requirements for site sensitivity verification and minimum report content in terms of the Protocols. In a letter from the Department dated 10 December 2025, the EAP was advised as follows: *"It was noted that you included a "Site Sensitivity Verification Report" (SSVr) as Appendix 16 of the Application Form. However, the report in its current form does not seem to resemble an SSVr as prescribed by the Protocols and does not meet the requirements as stipulated in the Protocols. As such, kindly take note of the requirements of the Protocols which state that:*

- 1.2. The site sensitivity verification must be undertaken through the use of:*
 - (a) a desktop analysis, using satellite imagery;*
 - (b) a preliminary on-site inspection; and*
 - (c) any other available and relevant information.*

1.3 The outcome of the site sensitivity verification must be recorded in the form of a report that-

- (a) confirms or disputes the current use of the land and the environmental sensitivity as identified by the screening tool, such as new developments or infrastructure, the change in vegetation cover or status;*
- (b) contains a motivation and evidence (e.g., photographs) of either the verified or different use of the land and environmental sensitivity; and*
- (c) is submitted together with the relevant assessment report prepared in accordance with the requirements of the Environmental Impact Assessment Regulations (EIA Regulations)."*

"Therefore, taking the above into account, you were required to provide site verification reports for all the themes as highlighted by the Screening Tool, and the findings of the site sensitivity verification reports will then determine whether a full specialist study is required or if the specialist will only need to undertake compliance statements for the relevant themes. As such, you were required to provide SSVRs for the themes that comply with the site sensitivity verification and minimum report content requirements, and these must be submitted with the BAR to ensure compliance with the requirements of the Protocols and those of the EIA Regulations, 2014, as amended. Please make sure that the photographic evidence that is provided with the site sensitivity verification report is recent and time stamped. No Google images must be provided as photographs."

"You are therefore requested to include in the BAR a table summarising all the specialist studies required by the Department's Screening Tool, and the sensitivity rating of the Screening Tool (very high, high, medium, low), a column indicating the sensitivity of the site after the EAP/Specialist conducted the Site Sensitivity Verification Assessment (a dispute or confirmation of the finding by the Screening Tool), and a column indicating whether these studies will be conducted or if a compliance statement or motivation will be submitted, as per the requirements of the protocols."

- 3.2.3. An amended draft BAR was subsequently submitted to the Department for commenting purposes. However, there was no SSVr (updated or otherwise) included in the amended draft BAR. Upon further review of the amended draft BAR, it was noted that the Department's comments were not included in the Comments and Response Report attached as Appendix E2, nor were they included in the *"Updated Comments and Response Report"* submitted with the amended draft BAR. The Department commented as follows regarding the exclusion of the SSVr from the amended draft BAR: *"Further to the above, it is noted that the Site Sensitivity Verification Report (SSVr) as required by the Protocols that was not included in the draft BAR is still not included in this amended draft BAR. As such, still kindly reminded to take note of the requirements of the Protocols."*
- 3.2.4. The *"Screening Tool Report – SSVr"* submitted with the final BAR as Appendix I2 still does not meet the requirements for site sensitivity verification and minimum report content stipulated in the Protocols. The submitted report fails to clearly confirm or dispute the current use of the land and environmental

sensitivity as identified by the screening tool; and does not contain a motivation and evidence (e.g., photographs) of either the verified or different use of the land and environmental sensitivity.

3.2.5. In response included in the Comments and Response Report submitted with the final BAR, the EAP responded as follows: *"The Final BAR includes: Site Sensitivity Verification Reports (SSVRs) for relevant themes; Confirmation or dispute of Screening Tool sensitivities; and A summary table of all themes. All SSVRs include recent, site-specific photographic evidence in compliance with the Protocols."*

3.2.6. From this response, it is unclear what the EAP means by "relevant themes," as undertaking site sensitivity verification for the themes identified by the Screening Tool for that particular proposed development is a requirement in terms of the Protocols. It would seem that the EAP is referring to the short paragraphs in the specialist studies and/or compliance statements (i.e., Terrestrial Biodiversity Assessment, Agricultural Compliance Statement, and Visual Impact Assessment), submitted with the final BAR in respect of the site sensitivity verification, and even those do not meet the requirements as stipulated in the Protocols. The Department cannot consider that as having fully complied with the requirements for site sensitivity verification and minimum report content in terms of the Protocols.

3.2.7. The Screening Tool identified the following Themes with their respective sensitivity ratings and which, as per the Protocols, must be verified on site by a suitably qualified person before the specialist assessments identified by the Screening Tool can be confirmed:

- Agriculture Theme – Medium sensitivity;
- Animal Species Theme – High sensitivity;
- Aquatic Biodiversity Theme – Very High sensitivity;
- Archaeological and Cultural Heritage Theme – Low sensitivity;
- Civil Aviation Theme - Medium sensitivity;
- Defence Theme – Low sensitivity;
- Palaeontology Theme – Medium sensitivity;
- Plant Species Theme - Medium sensitivity; and
- Terrestrial Biodiversity Theme – Very High sensitivity.

The report labelled "Screening Tool Report – SSVR" submitted with the final BAR cannot be considered a proper Site Sensitivity Verification Report by the Competent Authority as it fails to meet or satisfy the requirements for site sensitivity verification and minimum report content in terms of the Protocols. These requirements are clearly stipulated, and this "report" fails to adequately meet them.

3.2.8. Further to the above, based on the selected classification, and the known impacts associated with the proposed development, the Screening Tool identified the following list of specialist assessments for inclusion in the assessment report:

- Landscape/Visual Impact Assessment;

- Archaeological and Cultural Heritage Impact Assessment;
- Palaeontology Impact Assessment;
- Terrestrial Biodiversity Impact Assessment;
- Aquatic Biodiversity Impact Assessment;
- Marine Impact Assessment;
- Avian Impact Assessment;
- Geotechnical Assessment;
- Socio-Economic Assessment;
- Plant Species Assessment; and
- Animal Species Assessment.

3.2.9. On review of the draft BAR and the amended draft BAR, it was noted that only the following studies were conducted and included: Terrestrial Impact Assessment (inclusive of the Plant Species Impact Assessment); Agriculture Compliance Statement; Preliminary Geotechnical & Geomatic Report, Initial Visual Statement (prepared by Paul Buchholz, dated 19 January 2025), Visual Compliance Statement (prepared by Outline Landscape Architects, dated March 2025), and the Visual Impact Assessment: Site Sensitivity Report (prepared by Visual Resource Management Africa cc, dated 24 October 2024). These were the same studies also submitted with the final BAR submitted for decision-making.

3.2.10. In the study prepared by Visual Resource Management Africa dated 24 October 2024, it is stated that *"the preliminary findings of this site sensitivity report are that the proposed development in its current layout would be a Fatal Flaw as mitigation would not be able to significantly reduce the very high levels of visual intrusion."* The study provided reasons as motivation for these findings. In conclusion, the study indicates that *"while the proposed sites present significant landscape and visual impact concerns, there exists a local precedent for residential development on the adjacent property. Utilizing a similar topographic positioning, there is potential for development with sea views; however, this opportunity is primarily restricted to the southeastern section of the property near the proposed vehicle parking area. Depending on the size of the main residence in this area, there may also be sufficient space for two cottages to the west of the site. It is recommended that parking and garage facilities be located behind the dune. Additionally, the straight design of the road represents a critical flaw, as a strong linear clear-cut through the Goukamma Dune Thicket (CBA rating) would set a negative precedent for development in this ecologically significant area. The final recommendation is to relocate the garage and workshop closer to the main development area and ensuring they are situated behind the dune near the garage and parking areas to minimize landscape fragmentation."*

3.2.11. In the study prepared by Outline Landscape Architects dated March 2025 it is stated in part that: *"Groenvlei Beach is a local favourite and not a popular tourist destination. It attracts local visitors and*

fishermen. The beach is approximately 70m below the site and proposed development. The cliffs are highly eroded and form overhangs. Views from the beach upwards towards the proposed development are limited due to the cliff overhangs and a direct visual impact is not anticipated. Viewers are also focused on the ocean and the beach itself. It can be concluded that the proposed development can be authorised provided it is integrated effectively within the environment with minimal visual intrusions. The use of the land's inherent VAC enhances the project's ability to minimise visual impacts substantially. The visual impact of the project is minimal, given its scope and nature, and must be continually managed through best practice methods throughout the project's lifecycle. The report has assessed the existing visual conditions and the project's compatibility with the landscape. The potential visual impacts, while inherently minimal due to the project's environmentally sensitive approach, can be effectively mitigated through careful planning, strategic placement, and conscientious ongoing management."

- 3.2.12. The Visual Impact Assessments seem to provide differing opinions on the findings, impacts assessed, conclusions and recommendations. In the comments letter on the amended draft BAR dated 19 March 2026, the Department advised the following on this issue: *"It is noted that two Visual Impact Assessment Studies with differing specialist statements were submitted with the amended draft BAR. Kindly ensure that this is addressed and the Department is not provided with contradictory specialist opinions."*
- 3.2.13. In the Comments and Response Report included as Appendix E2 of the final BAR, the EAP responds as follows: *"Any apparent discrepancies between visual-related inputs have been resolved in the Final BAR, which relies on site-specific and applicable specialist input. The Final BAR presents a consistent and integrated visual assessment."*
- 3.2.14. This response is unsatisfactory as the final BAR does not provide an integrated visual assessment, as there is more than one visual impact assessment submitted still providing differing specialist opinions. Furthermore, visual impact assessment is a point of concern that has been raised by Interested and Affected Parties that have raised objections against the proposed development. The Department is not convinced that the landscape and visual impact issues have been adequately addressed, and the final BAR does not provide a clear and integrated solution between the Visual Impact Assessments submitted with the final BAR, particularly as the studies have provided contradictory opinions and findings.
- 3.2.15. On review of the Terrestrial Biodiversity Impact Assessment submitted with the draft BAR, the amended draft BAR, and ultimately with the final BAR, it is noted that it is inclusive of the Plant Species Impact Assessment. However, the Terrestrial Biodiversity does not address the Animal Species Impact Assessment, for which the theme was determined by the Screening Tool to be 'High' in sensitivity rating. Furthermore, the Animal Species Assessment was not included in the BAR as an independent impact assessment. In the comments letter dated 19 March 2026, the Department advised as follows: *"It is noted that the Terrestrial Biodiversity Study attached in the amended draft BAR focuses on Plant*

*Species Assessment. However, the Screening Tool identified the Animal Species Theme as having a 'high' sensitivity rating. Should this rating be confirmed after undertaking a site sensitivity verification, the Protocols require that a **Terrestrial Animal Species Specialist Assessment** be undertaken, and the findings thereof recorded in a **Terrestrial Animal Species Specialist Assessment Report**. If the rating of the Screening Tool is disputed and determined to be medium or low and no SCC are found on site, then a Compliance Statement must be compiled by a registered specialist."*

3.2.16. In response to the above, the EAP stated that: *"The Terrestrial Biodiversity Assessment (Bio Census, 2025) includes a comprehensive evaluation of the habitat, vegetation structure, ecological processes, and landscape context of the site. Although the assessment focuses on plant species, it also provides a habitat-based evaluation, which inherently informs faunal presence and ecological functioning. The Site Sensitivity Verification undertaken for the terrestrial biodiversity theme considered both plant and animal species sensitivity. The high sensitivity rating for the Animal Species Theme is considered to be locally reduced within the development footprint and is therefore disputed at site scale. In accordance with the Protocols, where sensitivity is reduced, and no SCC are confirmed within the footprint, a full Terrestrial Animal Species Specialist Assessment is not considered necessary."*

3.2.17. This, however, is contradictory to the requirements of the Protocols as the **protocol for the specialist assessment and minimum report content requirements for environmental impacts on terrestrial animal species** states that *"An applicant intending to undertake an activity identified in the scope of this protocol on a site identified by the screening tool as being of "medium sensitivity" for terrestrial animal species must submit either a Terrestrial Animal Species Specialist Assessment Report or a Terrestrial Animal Species Compliance Statement, depending on the outcome of a site inspection undertaken in accordance with paragraph 4 of the protocol (which is Medium Sensitivity Species of Conservation Concern Confirmation)."* According to the above response from the EAP, *"the sensitivity rating from the Animal Species Theme is considered to be locally reduced within the development footprint and is therefore disputed at site scale."* It is unclear what the disputed reduced sensitivity rating is and thus assumed to be either 'Medium' or 'Low' as it is not stated, and there is no Site Sensitivity Verification Report that was submitted with the BAR for the Animal Species Theme. The protocol then states that: *"Where the information gathered from the site sensitivity verification differs from the screening tool designation, for terrestrial animal species sensitivity and it is found to be of a "low" sensitivity, then a **Terrestrial Animal Species Compliance Statement** must be submitted."* The requirements of the Terrestrial Animal Species Compliance Statement are provided in detail, among which it is clearly stated that: *"A signed copy of the **Terrestrial Animal Species Compliance Statement** must be appended to the Basic Assessment Report or the Environmental Impact Assessment Report."*

- 3.2.18. Taking the above into consideration, the omission of either a **Terrestrial Animal Species Impact Assessment** or a **Terrestrial Animal Species Compliance Statement** from the BAR constitutes failure to meet the requirements of the Protocols as promulgated in terms of the GN No. 320 of 20 March 2020 and GN No. 1150 of 30 October 2020. The Protocols clearly stipulate the requirements for the various sensitivity ratings. In this case, as the sensitivity rating is greatly reduced according to the EAP to either 'Low' or 'Medium' (no SSVr that confirms or disputes), and with no Species of Conservation Concern being identified for the Animal Species Theme, the protocols require that a **compliance statement** be submitted with the Basic Assessment Report.
- 3.2.19. Furthermore, the Screening Tool identified the Aquatic Biodiversity Theme as having a 'Very High' sensitivity rating, and an Aquatic Biodiversity Impact Assessment was identified as a required specialist study for the proposed development. However, this study was not conducted nor included in any of the assessment reports submitted for consideration by the Department. The EAP was advised as follows in a letter dated 19 March 2026: *"The Screening Tool identified the Aquatic Biodiversity Theme as having a 'very high' sensitivity rating. "As per the Protocols, the rating must be either disputed or confirmed; thereafter, a full specialist assessment must be undertaken, or a Compliance Statement must be provided. It is noted, however, that the amended draft BAR did not include either a study or Compliance Statement. The prescribed assessment protocol for this theme is that either a study or Compliance Statement is to be undertaken depending on the outcomes of the Site Sensitivity Verification exercise. The omission of either the study or compliance statement is contrary to the requirements of the Protocols."*
- 3.2.20. The EAP in their response indicates that: *"The Aquatic Biodiversity Theme has been addressed in accordance with the Protocols. A Compliance Statement / appropriate assessment has been included based on the verified site sensitivity."* However, on review of the final BAR, no Compliance Statement nor impact assessment for this theme were included. This clearly constitutes non-compliance with the requirements of the Protocols as promulgated in terms of the GN No. 320 of 20 March 2020 and GN No. 1150 of 30 October 2020.
- 3.2.21. There is a discrepancy in the Listed Activities included in the Application Form which was submitted with the initial draft BAR and those indicated in the final BAR as no amended Application Form was submitted with either the amended draft BAR or final BAR in relation to the proposed development. The applicant initially applied for authorisation in terms of Listing Notice 1 and Listing Notice 3 of the EIA Regulations, 2014 as amended to carry out the following activities:

Activity number	Activity description
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<u>Listing Notice 1, Item 17(v)(e)</u> <i>“Development- (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; in respect of – (e) infrastructure or structures with a development footprint of 50 square metres or more.”</i>	The current indicated area for proposed development falls within 100-meter highwater mark. Portions of the proposed buildings, parking area, boardwalks and associated infrastructure exceed 50m² and are located within 100 metres inland of the High-Water Mark of the sea. No gazetted development setback line applies to this portion of coastline, and the property is not located within an urban area. Activity 17 is therefore triggered.
<u>Listing Notice 1, Item 19A(ii)</u> <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, shell grit, pebbles or rock of more than 5 cubic metres from- (ii) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever distance is the greater.”</i>	Excavation of building the primary property within 100-meter of the high-water mark will require excavation more than 5 cubic meter.
<u>Listing Notice 1, Item 27</u> <i>“The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation,”</i>	Construction of both the primary dwelling and an access road may require the removal of indigenous Goukamma Dune Thicket more than 1ha.

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<u>Listing Notice 3, Item 4(i)(i)(ii)(aa)(bb)(iii)(aa)(bb)</u> <i>"The development of a road wider than 4 metres with a reserve less than 13,5 metres.</i> <i>(i) In the Western Cape;</i> <i>(i) Areas zoned for use as public open space or equivalent zoning;</i> <i>(ii) In areas outside urban areas;</i> <i>(aa) Areas containing indigenous vegetation;</i> <i>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined;</i> <i>(iii) Inside urban areas;</i> <i>(aa) Areas zoned for conservation use; or</i> <i>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority."</i>	The internal road will connect the northwestern side of the property to the southwest side of the property in order to gain access to the proposed construction of the main residential dwelling. The internal road will be 830 meters in length. The road surface area will be 2.5 meters wide and disturbed area for construction of the road varies between 4 to 5.5 meters wide.
<u>Listing Notice 3, Item 12(i)(i)(ii)</u> <i>"The clearance of an area of 300 square metres or more of indigenous vegetation;</i> <i>(i) In the Western Cape;</i> <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> <i>(ii) Within critical biodiversity areas identified in bioregional plans;</i> <i>(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;</i>	The Ecosystem Threat status indicates that the Northern Portion of the property is classed as Critical Endangered and the Southern Portion as Least Threatened. This is as a result of the vegetation found on site. The Northern Portion is identified as having Knysna Sand Fynbos with an ecological status of Critically Endangered and the Southern Portion as Goukamma Dune Thicket with an ecological status of Least Threatened. The entire property has been designated a CBA status. The construction of the farm managers house will impact on critically endangered Knysna Sand Fynbos. The internal road will also disturbance of Knysna Sand Fynbos to the norther.

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(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."	
<u>Listing Notice 3, Item 14(ii)(a)(c)(i)(i)(ff)</u> "The development of- (ii) infrastructure or structures with a physical footprint of 10 square metres or more; where such development occurs- (a) within a watercourse; (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse; (i) In the Western Cape; (i) In areas outside urban areas; (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans."	The new intake structure and associated infrastructure will be constructed within the river, all other infrastructure (cement access road, water meter chamber, drywell, rising main) will be constructed within 32 meters of the Moordkuil River. The area is also mapped as an aquatic CBA; therefore, this activity will be triggered.

3.2.22. However, on review of the final BAR and with the omission of an amended application form, the only Listed Activities applied for are in terms of Listing Notice 3 of the EIA Regulations, 2014 as amended:

Activity number	Activity description
<u>Listing Notice 3, Item 12(i)(ii)</u> "The clearance of an area of 300 square metres or more of indigenous vegetation; (i) In the Western Cape; (ii) Within critical biodiversity areas identified in bioregional plans;"	The proposed dwelling, ancillary accommodation units, access road, parking area and associated infrastructure will require the clearance of indigenous vegetation exceeding 300m². The affected vegetation occurs within mapped Critical Biodiversity Areas and within a coastal environment containing

	indigenous thicket / fynbos vegetation types. Activity 12 is therefore triggered.
<u>Listing Notice 3, Activity 17:</u> <i>Development—</i> <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> <i>in respect of—</i> <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> (e) infrastructure or structures with a development footprint of 50 square metres or more;”	Portions of the proposed buildings, parking area, boardwalks and associated infrastructure exceed 50m² and are located within 100 metres inland of the High-Water Mark of the sea. No gazetted development setback line applies to this portion of coastline, and the property is not located within an urban area. Activity 17 is therefore triggered.
<u>Listing Notice 3, Activity 19A:</u> <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, shell grit, pebbles or rock of more than 5 cubic metres from—</i> <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> <i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i> <i>(a) will occur behind a development setback.</i> <i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan.</i>	Construction of the proposed buildings, access road, parking area, boardwalk supports and associated services will require excavation and movement of soil exceeding 5 cubic metres within 100 metres inland of the High-Water Mark of the sea. No gazetted development setback line applies. Activity 19A is therefore triggered.

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(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies. (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.	
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- 3.2.23. It should be noted that although Activity 17 of Listing Notice 3 has been incorrectly included in the final BAR as shown in the table above, the text quoted in the final BAR does not correspond to what is actually listed in terms of Listing Notice 3 and does not relate to the proposed development. **Activity 17 of Listing Notice 3**, as it appears in the Listing Notice, states: *"the expansion of a resort, lodge, hotel, tourism or hospitality facilities where the development footprint will be expanded and the expanded facility can accommodate an additional 15 people or more."* This is clearly not the proposed development that the Applicant intends to undertake.
- 3.2.24. Furthermore, in terms of Listing Notice 3 of the EIA Regulations, 2014, as amended, there is no Activity 19A. However, in terms of Listing Notice 1 of the EIA Regulations, 2014, as amended, there is, and was correctly included in the application form as shown in the table in Paragraph 3.2.22 above.
- 3.2.25. Taking the above into account, with the discrepancy in the Listed Activities that have been included in the Application Form submitted with the initial draft BAR and the incorrectly referenced Listed Activities included in the final BAR, there is uncertainty as to the activities for which Environmental Authorisation is sought. This is due also to the omission of an amended Application Form which would have assisted the Department in considering the correctly applied for activities in terms of the correct Listing Notices in making an informed decision. However, the Department has reconciled to consider and include only the Listed Activities that have been included in the application form submitted with the initial draft BAR as they are correctly quoted and referenced, as well as the EAP was able to demonstrate their relevance to the proposed development.
- 3.2.26. Based on the above, the submitted final BAR does not comply with the requirements outlined in the comments letters dated 10 December 2025 and 19 March 2026 for the draft BAR and amended draft BAR respectively, issued by the Department (Chief Directorate: Integrated Environmental Authorisations) as it does not address the requirements of Department's comments in relation to the requirements of the Protocols in particular the specialist studies/assessments submitted. Therefore, the final BAR is deemed procedurally flawed as it does not comply with the minimum requirements of the

EIA Regulations, 2014, as amended, and the requirements of protocols promulgated in terms of the GN No. 320 of 20 March 2020 and GN No. 1150 of 30 October 2020. Furthermore, the final BAR is deemed procedurally flawed as it does not comply with Regulations 19(1)(b) and 19(2) of the EIA Regulations, 2014, as amended, as mentioned above.

Consequently, there is no sufficient, adequate and reliable basis upon which the statutory discretion of the Competent Authority can be exercised in favour of the applicant and therefore the application for Environmental Authorisation is refused.