

COMMENTS AND RESPONSE REPORT

PROPOSED DEVELOPMENT OF 5 RESIDENTIAL UNITS ON ERVEN 4139, 4140, 4141, 4142, 4143, 4144, 4145 (ERF 3997), STILL BAY - WEST, WESTERN CAPE.

COMMENT	ORGANISATION/NAME/DATE	RESPONSE
<p>I have registered as an IAP for this project and wish to comment as follows:</p> <p>1. First of all I must compliment you on a very thorough BAR for this relatively small development. It is on a potentially sensitive coastline, but your report indicates that all precautions have been considered to ensure that the potential impact on the natural environment is avoided or minimised. The Environmental Management Plan also ensures that impacts during the construction phase are kept to the minimum.</p>	<p>Niel van Wyk Environmental Specialist Stilbaai</p> <p>16 August 2021</p>	<p>1. Thank you</p>
<p>2. I am a bit disappointed that the architectural designs are not similar to the Bosbokduin design concept; the proposed style of these dwellings are completely different, and, while much more energy efficient, may not be to everybody's liking. But that is a matter of taste, always a difficult issue to handle.</p>		<p>2. That is correct, the concept behind the design is to be more inline with issues resulting from climate change and the global shift to more sustainable smaller houses which are less energy demanding with a far lower visual impact due to the lower profiles achieved by the alternative flatter roofs design.</p>
<p>3. I note that no provision is being made for stormwater run-off post construction (the EMP mentions precautionary measures during construction), but I think that a short mention that the situation be monitored should be included. In the Civil Engineering Services Report (Appendix M) it is mentioned that the dwellings will have thatched roofs and that stormwater will free flow from and around structures. But in the Building Design Guidelines (Appendix P) the roof finishes are metal roof sheeting with gutters and downpipes.</p>		<p>3. The Civil Engineering services report will be amended to correctly describe the types of roofs and include the stormwater management plan of the site.</p> <p>The Stormwater Management System will be developed in accordance with SuDS (Sustainable drainage systems) guidelines.</p> <p>Energy dissipating structures at the stormwater outlet will be explored in greater depth.</p>

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One of the effects of climate change is that we have more frequent heavy downpours, particularly during the winter months – this results in peaks of stormwater run-off which can be an erosion risk. At this stage I am not proposing any additional measures for stormwater management, but I suggest that the possibility be brought to the attention of the owners that they may have to introduce stormwater management systems in the future if severe run-off causes erosion. This need not be expensive structures, I think a simple swale on or close to the southern boundaries of the new erven into which stormwater can drain may be sufficient to prevent erosion further down the slope.		
I have no further comment, and support your recommendations for this proposed development.		Thank you for your support
Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application. CapeNature wishes to make the following comments: According to the Western Cape Biodiversity Spatial Plan (WCBSP 2017) ¹ the proposed site is outside the extent of Critical Biodiversity Areas but has Ecological Support Areas (ESA 1: Terrestrial, Aquatic, Wetland).	CapeNature Megan Simons 3 September 2021	Thank you for confirming with our view that it is important to keep the development away from the good condition vegetation located on the southern third of the property, as per Alternative A.

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<p>The reasons behind WCBSP delineation on the site are the following:</p> <ul style="list-style-type: none"> • Bontebok Extended Distribution Range • Coastal resource protection-Eden • Blombos Strandveld (LT) • South Strandveld Western Strandveld Unchannelled Valley Bottom Wetland <p>According to Mucina and Rutherford2 and the Western Cape Biodiversity Spatial Plan (WCBSP 2017) the vegetation unit likely affected by the proposed development is the Least Threatened Blombos Strandveld (Moderately Protected). This unit is not listed as a threatened ecosystems in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEM: BA). The conservation target for this specific vegetation unit is listed as 36% of its original extent. The National Biodiversity Assessment (2018) has mapped the area as Hartenbos Dune Thicket (Least Concerned).</p> <p>Ecological Support Areas are not essential for meeting biodiversity targets but play an important role in supporting the ecological functioning of CBAs and deliver important ecosystem services. They facilitate landscape connectivity, promote resilience to climate change, and buffer elements of the landscape including protected areas and sites that are important for the survival of individual species.</p> <p>The coastal corridor is mapped as a feature of ESA which forms part of the ecological infrastructure.</p>		
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Thus, any changes or impacts to the coastal corridor can affect the ecological functioning and/or the resilience of the coast to withstand impacts that may arise as the result of climate change and impact on coastal processes. Therefore, these ESAs do need to remain ecologically functional, which means that they need to be maintained in at least a near-natural state, although some loss of biodiversity pattern through a variety of land uses is acceptable in line with the Western Cape Land Use Guideline Handbook (WCBSP 2017). We agree that the coastal corridor must remain intact and undisturbed by the proposed development.		
Although the protected trees are outside the focus area we recommend obtaining comments the Department of Forestry, Fisheries and Environment (DFFE). CapeNature will not object to the findings\recommendations as DFFE is a custodian of forestry resources in South Africa.		Forestry was notified of the opportunity to comment in accordance with the approved PPPlan however in terms of regulation 3(4) of the NEMA EIA regulations they have no comments and as you note the protected trees are outside the focus area and will not be affected. DFFE will however be offered another opportunity to comment during the Draft BAR PPP.
Prior to construction a search-and-rescue should be conducted for plant species. A CapeNature permit would be required for plant search-and-rescue. If any animal species are found, they should be relocated to suitable habitats. The plant species can be used during rehabilitation.		This will be undertaken as far as practically possible however it is not likely due to the mitigation measures in the EMPr which will limit the level of disturbance and as such there will not be much place on the site to rehab with the search and rescued vegetation. Certainly, tortoises etc, will be moved off site.
In terms of the Alien and Invasive Species Regulations, NEM: BA5,2014, specific alien plant species are either prohibited or listed as requiring a		As mentioned in the BAR, periodic alien clearing has been undertaken on the site for many years.

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permit; aside from restricted activities concerning, inter alia, their spread, and should be removed. The level of alien infestation is therefore not seen as reducing the sensitivity of a site, nor is the subsequent removal of alien vegetation from a property regarded as a mitigation measure as this is a legal requirement.		
During the clearing of alien invasive plants, areas susceptible to erosion should be protected by installing the necessary temporary structures. It is essential to clearly mark alien and invasive plants that will be removed to avoid damaging and distinguishing indigenous vegetation.		This will be included into the EMPr.
The topsoil used in the rehabilitation phase should not be contaminated. We recommend that all topsoil stockpiles be less than 1.5m in height and have adequate signage to illustrate which are topsoil and subsoil for rehabilitation purpose.		As much topsoil as possible will be saved for rehabilitation purposes however some of the material might have to be spoiled if there is no appropriate place on the site to place the material.
All stormwater runoff within the development area must be managed in a manner as to minimise erosion and to avoid flooding.		Stormwater Management will be in accordance with SuDS. Rainwater harvesting will take place and any overflow will be dissipated by means of a permeable buffer to the south of the erven. The undisturbed veld south of the erven will also buffer the effect of stormwater erosion.
Waste should be removed from the entire site and not only the development footprint. Waste generated by the development must be stored on site until it is removed to a registered facility. Ensure that		This will be ensured by means of the EMPr and ECO to monitor compliance with the EMPr.

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waste bins and containers do not overflow by emptying them regularly.		
<p>CapeNature reminds the applicant of Section 28 of National Environmental Management Act (NEMA) (Act 104 of 1998 as amended) (Duty of Care) that states the following:</p> <p>“Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.”</p> <p>Any action that causes wilful degradation of the environment may therefore constitute a breach of this Duty of Care and the penal provisions of NEMA will apply.</p>		This will be included in the EMPr
A qualified Environmental Control Officer (ECO) should be appointed to monitor and ensure the implementation of the proposed mitigation measures. The ECO must identify any harmful activities to the environment.		An ECO will have to be appointed as per standard conditions of Environmental Authorization to monitor and report on the level of compliance with the EMPr and EA.
In conclusion, at this time proposed Alternative A (Preferred Alternative) seems to have less of a negative impact on the environment. Although no Species of Conservation Concern will be impacted for Alternative A; the species diversity is high for the focus area and the impact that the proposed		Thank you for concurring with our assessment that the preferred Alternative A will have the least negative impacts on the environment when compared with Alternative B and C.

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development might have on these species remains concerning.		
3. This Directorate has reviewed the document and comments as follows: 3.1 This Directorate noted the explanation of the need and desirability of the proposed development; however, it is silent regarding what was previously authorised (open space) on the property and the reasoning behind it.	<p>Department of Environmental Affairs and Development Planning</p> <p>Shireen Pullen 20 August 2021</p>	<p>The existing EA layout is the No-Go Alternative C in the BAR. Only three key factors for the decision to issue the EA were provided. Please refer to Appendix T for EA.</p> <p>Sleutelfaktore wat uit die besluit beïnvloed:</p> <ul style="list-style-type: none"> • Die terrain van aansoek maak tans deel uit van gedeelte 51 van Plattebosch 485. Daar bestaan reeds twee huise on die gedeelte wat insluit gaan word by BBD. Twee addisionele erwe sal geskep word wat gehersoneer sal word vanaf Oopruimte II na Oordsone II. • Die twee addisionele erwe en toegangspad is gelee op n gelyk area met steil hellings aan die suidekant daarvan. Daar kom geen skaars of bedreigde plantspesies op die terrain wat versteur gaan wrd, voor nie. • Alle aangrensende grondeienaars is geraadpleeg en die aansoek is in die plaaslike koerant geadverteer. Geen beswaar is teen die voorgestelde onderverdeling en hersonering ontvang nie.
3.2 It is noted that no alternatives were considered other than the preferred alternative and the no-go alternative. Be advised that in terms of NEMA the investigation of alternatives is mandatory. The consideration of alternatives are not limited to activity alternatives, but include layout alternatives, design, activity, operational		Three Alternatives were assessed in the BAR. The preferred Alternative A, Alternative B and The No-Go alternative C. please refer to the BAR.

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and technology alternatives. You are hereby reminded that it is mandatory to investigate and assess the option of not proceeding with the proposed activity (i.o.w. the “no-go” option) in addition to other alternatives identified. It is therefore required that at least one alternative along with the preferred and the no-go must be considered.		<table><tr><th colspan="4">Table 2: Summary of Assessment of Impacts</th></tr><tr><th>Impact</th><th>Alternative A (Preferred Alternative)</th><th>Alternative B</th><th>Alternative C (No-Go)</th></tr><tr><td colspan="4">Construction Phase</td></tr><tr><td>Loss of indigenous vegetation</td><td>Low</td><td>Medium</td><td>Medium - High</td></tr></table>	Table 2: Summary of Assessment of Impacts				Impact	Alternative A (Preferred Alternative)	Alternative B	Alternative C (No-Go)	Construction Phase				Loss of indigenous vegetation	Low	Medium	Medium - High
Table 2: Summary of Assessment of Impacts																		
Impact	Alternative A (Preferred Alternative)	Alternative B	Alternative C (No-Go)															
Construction Phase																		
Loss of indigenous vegetation	Low	Medium	Medium - High															
3.3 Also ensure that comment from the Department of Agriculture, as well as the Civil Aviation Authority is obtained and submitted to this Directorate along with the final BAR.		These departments have been offered the opportunity to comment however in terms of regulation 3(4) of the NEMA EIA regulations they have no comments. Obtaining comments from CAA is going to be fruitless and wasteful expenditure as there is virtually no possibility that this development will affect aviation																
3.4 Also be reminded that the Breede-Gouritz Catchment Management Agency must confirm whether a water use license is/is not required for the proposed development. Such confirmation must be submitted to this Directorate along with the final BAR.		The Aquatic Biodiversity Verification Assessment confirmed that there are no aquatic features on site, a water use licence is not required. BGCMA was offered the opportunity to comment however in terms of regulation 3(4) of the NEMA EIA regulations they have no comments.																
3.5 Further to the above, the final BAR must also contain comment from the Coastal Management Unit of this Department.		The Coastal Management Unit was offered an opportunity to comment. Notification was sent to the email addressed provided by your department, as presented in the approved PPPlan. In terms of regulation 3(4) of the NEMA EIA regulations they have no comments.																
3.6 Due to the sites being located within intact strandveld and milkwood thicket, input from the Department of Environment, Forestry and		The vegetation assessment has confirmed that there are no protected species within the development footprints. In addition, Forestry was notified of the opportunity to comment in accordance with the																

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Fisheries pertaining to protected tree species which may occur on site.		approved PPPlan however in terms of regulation 3(4) of the NEMA EIA regulations they have no comments.
3.7 Due to the proximity of the site to steep areas, a detailed stormwater management plan must be developed to manage the cumulative impact of the proposed development on the surrounding sloped areas. This plan must contain a detailed description and diagrammatical presentation of the storm water management measures that will be proposed and these must be included in the EMPr under section 8.9.		This will be undertaken and included in the Final BAR and EMPr. The Stormwater management plan will be compiled in accordance with SuDS
3.8 Please ensure that final BAR also contains written confirmation from Hessequa Municipality that the Municipality has sufficient unallocated capacity to provide the proposed development with water and sewage services.		This will be included with the final BAR.
4. Please note that the activity may not commence prior to an environmental authorisation being granted by this Directorate.		This is understood
5. This Directorate reserves the right to revise or withdraw initial comments or request further information from you based on any new or revised information received.		
Re: PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT FOR THE DEVELOPMENT OF STAND 3997 for an EA approval for a revised/new application for development of Erf 3997, Still Bay – West, Western Cape Province, With reference to the above application, please note that Peritus Trust, Owner of Erf 2299, Nr. 6 Periwinkle,	Johan Greyling Peritus Trust Erf 2299 30 August 2021	Thank you for bringing this to our attention.

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<p>Bosbokduin Private Nature Reserve, Stillbay West, is an affected party. In fact, with the closest dwelling to the North of Erf 3997, we consider ourselves as the most affected party.</p>		
<p>We hereby officially comment on the above matter as follows: 1. On 28 August 2019, Peritus Trust, officially lodged an objection against a similar application by Mr. Willem Nel. A copy of which is attached. a. Peritus Trust's view remains that the case is functus officio based on the Authorities approvals and preconditions of 2000 and 2006 of portion 21/485 Plattebosch (Erf 3997). b. Therefore Mr. W. Nel and Me I. Oosthuizen have no right over erf 3997's open areas.</p>		<p>1. Please note in terms section 40 of the NEMA EIA regulations 2014, as amended, The public participation process (PPP) to which the BAR and EMPr was subjected to must give potential or registered I&As 30days to submit comments on the <u>BAR and EMPr.</u></p> <p>Section 43(1) an I&AP is entitled to comment, in writing, <u>on all reports or plans submitted to such party during the PPP.</u></p> <p>Please provide comments in terms of the documents placed out for PPP.</p>
<p>2. Comments on the BAR. a. Positive Impacts p47 "Income generation for the municipality by increasing the Tax Base and generating rates and taxes for the new proposed erven". i. Considering that the net effect of this application will add only three properties to the total tax income of the municipality (5 x added less 2 x existing) and the possible risk with litigation, it is highly doubtful that any council will favorably consider any such application.</p>		<p>This is correct, even one additional house will add to the Tax revenue albeit very slightly.</p>
<p>b. The Declaration of the environmental assessment practitioner ("EAP") p76, ninth bullet reads ""I have ensured that the comments of all interested and affected parties were considered, recorded, responded to and submitted to the Competent Authority in respect of this</p>		<p>This is the first round of PPP for this process, in addition an application form has not been submitted yet, thus the title of the report being a Pre-Application BAR. The declaration will therefore only read true for the submission of the Final BAR as that is the way that</p>

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application;" Refer to our consideration of most affected party above. This statement by yourself is false and will be referred to Regulation 48 of the NEMA EIA regulations.		<p>the Department of Environmental Affairs and Development Planning has developed their BAR template.</p> <p>In addition, if you refer to the extract in your comment ""I have ensured that the comments of all interested and affected parties were considered, recorded, responded to and submitted to the Competent Authority <u>in respect of this application</u>;"</p>
<p>c. Density p37</p> <p>i. The application will increase the density of houses to the south of Bosbokduin to an unacceptable level.</p>		<p>It is not clear what this statement is based on, it is certain that current regulations will govern the allowed housing densities and be decided upon by the relevant municipal planning department.</p>
<p>ii. Not only will this create an increased fire hazard but will also limit the traffic of animals through Bosbokduin to the neighbouring remainder of portion 485 of the farm Plattebosch to the west of Bosbokduin.</p>		<p>The proposed houses will not have thatched roofs, thereby decreasing fire risks. The current EA has approval for two houses with thatched roofs, which would likely increase the risk of fires.</p> <p>The preferred alternative has an east west layout allowing the flow of fauna from east to west and visa versa. As explained in the BAR the vegetation on the southern boundary of the site holds the most value for fauna and flora. All of which will be conserved through the approval of the Preferred Alternative A. Please refer to the comments from CapeNature, the custodians of Biodiversity for this area, they have indicated that they agree with our assessment that the preferred Alternative A will achieve this goal</p>
d. Architectural Guidelines p42		Weg beweeg van Riet wonings

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<p>i. No reference is made in the report to the Bosbokduin unique style of designs. It is important to note the original Bosbokduin design style was in fact derived from the two older houses currently on Erfen 4141 and 4145 on Erf 3997. It is highly doubtful that any authority will consider or allow "... flexibility for individual expression" designs. It is important to note that the two remaining (open) erfen on erf 3997 have strict design and building guidelines according the 2000 and 2006 authority approvals. Again, we question your declaration that all aspects were considered.</p>		<p>Die riethuise was 40 jaar gelede se idee van inskakeling by die natuur en visueel is dit wel die geval. Maar in die lig van ander aspekte wat in die laaste dekades duidelik word is dit tyd om te heroorweeg.</p> <ol style="list-style-type: none"> 1. Klimaatsverandering het die gevaar dat die huise kan brand verhoog. In die laaste jare is dit gereeld in die nuus dat die tipe huise op groot skaal afbrand, soms gepaard met lewens verlies van gesinne, kinders ingesluit. 2. Die huise is nie energie effektief nie. 3. Riet dakke is nie geskik om sonkrag op te wek nie. 4. Riet dakke is nie geskik om reenwater te oes nie. 5. Ruimte kan nie behoorlik benut word in die 60 grade A raam tipe konstruksie nie. 6. Swart swamme wat weens klimaat verandering tussen die riete groei veroorsaak 'n eienaardige reuk in die huise en bring bekommernis oor gesondheid. 7. Is moeilik om die huise skoon te hou. Stukkies val uit die dak, binne en buite. 8. Weens die A raam konstruksie is die huise baie hoog se sou baie meer uitsig in beslag neem
<p>e. Visual Sensitivity i. Again, the report is questioned here. Your reference to "Only the few housing units" to the North falls short of a proper investigation. At least ten properties will be affected negatively, of which our property will be seriously affected.</p>		<p>Please could you expand on your statement and how you arrived at the conclusion that it will be seriously affected? The visual Impact assessment was compiled in accordance with Departmental Guidelines and references 22 articles.</p>
<p>Conclusion. Peritus Trust rejects the Basic Assessment report in its entirety and will oppose any further or new applications</p>		<p>The holder of the EA, as stipulated in the EA, has the right to apply to amend the EA in accordance with the current regulations. The DEADP however advised that</p>

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<p>for revising the already approved development plans for Erf 3997.</p> <p>Peritus Trust will call on the Bosbokduin HOA to finally resolve this issue with Erf 3997, by referring this matter to final legal decision.</p> <p>We also support the Objections/submissions from various individual members of the Bosbokduin HOA as well the official reply/comments of the Bosbokduin HOA of today's date.</p>		<p>a new application for EA is more appropriate and thus the process currently being followed.</p>
<p>Please find below the comments of the Bosbokduin Home Owners Association on the above mentioned report.</p> <p>Please note that Mr Jac Besuijen and Mr Beau van Wyk, two of our members, have also commented seperately in support of the report of the Home Owners Association.</p> <p>Your consideration of this report is appreciated</p>	<p>JP Mulder Chairman Bosbokduin HOA 30 August 2021</p>	<p>Please note that Mr van Wyk submitted comments addressed to the Municipal Manager of the Planning Department and do not relate to the documents placed out for PPP.</p>
<p>Statement:</p> <p>The Basic Assesment Report (BAR) referred to above, was made available to all 80 owners of the Bosbokduin Home Owners Association.</p> <p>The comments-report that follows, is signed on behalf of the Bosbokduin HOA and is supported by the vast majority of our members. Not one of our members informed the HOA that they support the BAR.</p>		<p>It can logically be accepted that if 28 of the 80 members signed the comments then only 28 members agree with the comments submitted. It cannot be inferred that the vast majority support or don't support the comments.</p>
<p>INTRODUCTION</p> <p>The Bosbokduin Home Owners Asssociation (BBD HOA) as an interested party, was requested to provide comments on the latest pre---application for development of ERF 3997, Stilbaai, also known as Muishondsbaai.</p> <p>The pre---application, or the Basic Assessment Report (BAR), is submitted by <i>Sharples Environmental Services</i></p>		<p>In terms of the relevant NEMA EIA Regulations, Bokbosduin is a registered Interested and Affected Party.</p> <p>The holder of the EA, as stipulated in the EA, has the right to apply to amend the EA in accordance with the</p>

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<p>(SES) on behalf of the applicants Mr W Nel and Mrs Irma Oosthuizen. This is not a formal application, but a Basic Assessment Report (BAR), which may serve as input for a formal application to the Department of Environmental Affairs and Development Planning in order to obtain environmental approval. It should be noted at the outset that the BBD HOA is not merely an Interested party, but rather an <i>integral</i> party to this matter, because of the shared history of ERF3997 and Bosbokduin over a period of more than 20 years. ERF3997, comprising 4 erven, came into existence subject to the provisions previously imposed by the Department of Environmental Affairs and the Hessequa Municipality, as well as with the approval of the BBD HOA. These restrictive conditions are still valid, notwithstanding the fact that Mr Willem Nel, the primary applicant, distanced himself from the incorporation of the property into Bosbokduin.</p>		<p>current regulations. The DEADP however advised that a new application for EA is more appropriate and thus the process currently being followed.</p>
<p>This pre---application for the development of ERF 3997 is the second application within a period of two years, that we have been requested to comment on.</p>		<p>The town planning application was submitted which will be considered by the Still Bay Planning Department.</p> <p>You will also be requested on the Draft BAR for this proposal. Commenting is however not mandatory.</p>
<p>On 26 August 2019 we provided extensive comments to the Municipality regarding the application for the redevelopment of stand 3997 in the South---western corner adjacent to Bosbokduin (Reference 15/4/4/5). The application asked for approval to develop 8 erven instead of the originally (2000 and 2006) approval for 4 erven only. Our comprehensive comments report comprised 38 pages. It dealt extensively with the history of ERF 3997</p>		<p>Sleutelfaktore wat uit die besluit beïnvloed:</p> <ul style="list-style-type: none"> Die terrain van aansoek maak tans deel uit van gedeelte 51 van Plattebosch 485. Daar bestaan reeds twee huise on die gedeelte wat insluit gaan word by BBD. Twee addisionele erwe sal geskep word wat gehersoneer sal word vanaf Oopruimte II na Oordsone II.

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<p>since 1999 in order to provide context for our objections. It referred to the original approval by the Department of Environmental Affairs and the Hessequa Municipality in 2000 and 2006, as well as to the restrictive conditions for the development of ERF 3997. Our report also provided legal arguments why the approval of 2006 is still valid. A total of (28) 35% of the members of the BBD HOA lodged objections to the application of 2019. Not one member supported it.</p>		<ul style="list-style-type: none"> • Die twee addisionele erwe en toegangspad is gelee op n gelyk area met steil hellings aan die suidekant daarvan. Daar kom geen skaars of bedreigde plantspesies op die terrain wat versteur gaan wrd, voor nie. • Alle aangrensende grondeienaars is geraadpleeg en die aansoek is in die plaaslike koerant geadverteer. Geen beswaar is teen die voorgestelde onderverdeling en hersonering ontvang nie.
<p>The BBD HOA made the following recommendations regarding the application Of 2019:</p> <p>“ 1.1 That the Municipality do not approve the application 1.2 That the Municipality insist that Mr Willem Nel, as the primary developer, adhere to the existing and valid restrictive conditions:</p> <ul style="list-style-type: none"> • to tie ERF 3997 to Bosbokduin notarially • to pay the outstanding levies to Bosbokduin • to accept the Bosbokduin constitution and regulations as applicable to ERF 3997 <p>1.3 That the applicants enter into discussion with the BBD Management Committee to determine how the open area of ERF 3997 should be managed as prescribed in the approval conditions.”</p> <p>We have unfortunately not received any formal feedback on our comments, neither from the Municipality, nor the applicants or any affected party, despite our regular enquiries as to the progress of the application. We were informed however, that the formal approval process was still ongoing.</p>		

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<p>THE CURRENT APPLICATION</p> <p>–</p> <p>THE VIEW OF THE BOSBOKDUIN HOA</p> <p>The new pre---application does not differ materially from the previous application, asking for a total of seven erven instead of eight erven in 2019. However, the placing of the additional five erven (including the current two undeveloped stands) on the open area to the North, directly adjacent to Bosbokduin, makes the BAR even more unacceptable. It will increase the density of houses even more, and increase the fire risk to unacceptably high levels.</p>		<p>Please refer to the BAR for reasons provided in the Still Bay IDP and Hessequa SDF as to why high density developments are more desirable within the Urban edge. The proposed houses will decrease the fire risk as houses will be placed where there is currently fire risk vegetation, in addition proposed houses will not have thatched roofs which can be considered a fire hazard.</p>
<p>The Bosbokduin HOA were not approached by SES or the applicant Mr W Nel, regarding the BAR. No consultation or discussion took place prior to us receiving the BAR for comments. We were simply ignored.</p>		<p>The PPP has been undertaken in accordance with a PPP plan approved by the competent authority. In terms of the NEMA EIA regulations which guide this process, all requirements for PPP have been met and complied with.</p> <p>No one has been or will be ignored during this process. This is the beginning of the engagement process. It is important to have a clear understanding of the proposal and this has taken time to develop.</p>
<p>The BBD HOA view this pre---application as disregarding due process and regulations and as disrespecting of approval authorities, as well as affected parties like the Bosbokduin HOA, especially whilst the previous application is still in progress to the best of our knowledge.</p>		<p>Your view is not aligned with current legislation as it follows the Application Process set out by the authorities.</p>
<p>The BBD HOA is of the opinion that all the objections lodged in our previous report are still valid and should receive serious consideration.</p>		<p>In the town planning process one can object whereas in the NEMA EIA process we are looking for issues of environmental concern. Your previous comments are</p>

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		not based on this particular layout but on another more dense layout.
We again urge Mr W Nel, the primary applicant, to accept and adhere to the restrictive conditions as approved by the authorities in 2006. Good reasons exist why the restrictive conditions were imposed by the Department of Environmental Affairs and the Hessequa Municipality, back in 2006.		The holder of the EA, as stipulated in the EA, has the right to apply to amend the EA in accordance with the current regulations. The DEADP however advised that a new application for EA is more appropriate and thus the process currently being followed.
We, as the Bosbokduin HOA therefore object in the strongest possible terms to this pre---application BAR. We urge the relevant competent authorities to reject the BAR without consideration. As further motivation for our view, we refer in the paragraph below to the legal objections as provided by our legal adviser, also including the still valid legal objections that were incorporated in our previous report of 26 August 2019.		
<p>OBJECTIONS FROM A LEGAL PERSPECTIVE</p> <p>Objections regarding the BAR</p> <p>1. Although the Basic Assessment Report (BAR) indicates on page 2 paragraph 6 that it is current as of November 2019, the report itself has been signed on 22 July 2021 by the Environmental Assessment Practitioner and is dated 26 July 2021.</p>		The Pre-Application BAR will still be revised to the Draft BAR which will be placed out for PPP before the BAR is Revised again to its Final Format before submission to the competent authority for their consideration.
2. The report therefore should have dealt with the objections lodged by the Bosbokduin Home Owners Association dated 26 August 2019.		The report can only deal with comments submitted during the 30 commenting period in terms of the BAR Ref: 16/3/3/6/7/1/D5/19/0173/20
3. The allegation contained on page 76 that: <i>" I have ensured that the comments of all interested and affected parties were considered, recorded, responded to and submitted to the Competent Authority in respect of this application;"</i> is therefore not correct, as the BAR does not		3. The BAR is in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the amended (April 2017) Environmental Impact Assessment Regulations, 2014. We are referring to this application

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deal with the legal objections lodged in terms of Article 15(2)(f) Hessequa Municipality By Law on Municipal Land Use Planning, published in PN 287 of 2015, as well as Section 37(1) of SPLUMA.		
4. The BAR should therefore not be accepted as comprehensive.		The BAR is comprehensive in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the amended (April 2017) Environmental Impact Assessment Regulations, 2014, as developed by the Department of Environmental Affairs and Development planning.
Legal Objections previously communicated, but also applicable to this pre---application 1. Both Erf 3997 (held in terms of SGT 52351/2006) and Erf 4141 (held in terms of T68481/2015) are currently held subject to the General Plan 449/2006 and its conditions. This is evident from the endorsement on page 6 of SGT 52351/2006 and the paragraph on page 2 of T68481/2015 (Annexure 1 hereto).		
2. The application does not include any application for the removal, suspension or amendment of the restrictive conditions in respect of both Erf 3997 or Erf 4141, as required for in terms of section 15(2)(f) of the Hessequa Municipality: By Law on Municipal Land Use Planning, published in Provincial Notice PN 287 of 2015. On this basis alone, the application is fatally flawed. Any consolidation and subdivision will have to be subject to the existing conditions of the properties, alternatively these conditions will have to be removed or amended.		This will have to be complied with in the planning application and does not form part of the NEMA EIA process.
3. By obtaining a clearance and levy certificate from the Bosbokduin Home Owners Association when Erf 4141 was transferred in 2015 to the current applicant Irma		The BAR is in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the

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<p>Oosthuizen Trust, the applicant has already subjected itself to the control and management of the Bosbokduin Home Owners Association. It also confirms that condition (vi) contained in the subdivision conditions (dated 19 April 2006) has already been fulfilled, being that the Bosbokduin Homeowners Association already consented to the management of the property. The objection lodged by the Bosbokduin HOA is therefore crucial for the application.</p>		<p>amended (April 2017) Environmental Impact Assessment Regulations, 2014</p>
<p>4. The application is an application in terms of which the applicants applied to conduct a land development as defined by the <i>Spatial Planning and Land Use Management Act No 16 / 2013</i> (SPLUMA). The application does not contain any reference to the removal or amendment of the existing restrictive conditions, as provided for in section 37(1) of SPLUMA. There is also no application for the amendment of the existing general plan LG 449/2006. These failures also render the application fatally defective.</p>		<p>The BAR is in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the amended (April 2017) Environmental Impact Assessment Regulations, 2014</p>
<p>THE INTEGRAL AND INTERDEPENDENT NATURE OF BOSBOKDUIN AND ERF 3997</p> <p>The integral nature of Bosbokduin and Erf 3997 is aptly described by the existing restrictive conditions imposed on both ERF 3997 and Bosbokduin by the Department of Environmental Affairs, as well as the Hessequa Municipality in 2000 and 2006. It is of utmost importance that the notice by the Hessequa Municipality dated 19 April 2006, confirmed the approval of the subdivision of 485/51 (later ERF 3997) into 4 erven, a private road and a private open space, subject to certain conditions, being <i>inter alia</i></p>		<p>1 to 4: The holder of the EA, as stipulated in the EA, has the right to apply to amend the EA in accordance with the current regulations. The DEADP however advised that a new application for EA is more appropriate and thus the process currently being followed.</p>

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1. The compliance with conditions imposed by the Department of Environmental Affairs in its letter dated 26 October 2000 with reference SNO 25/4/355(3310);		
2. That the land, approximately 1.8 hectares referred to in that application, should be managed as part of the Bosbokduin Reserve		
3. That the written consent of the Bosbokduin Home Owners Association to manage the land as part of Bosbokduin be obtained;		
4. That the open space be managed by the Bosbokduin Home Owners Association		
5. The General Plan 449/2006, as approved by the Hessequa Municipality's municipal manager, Mr Jan Veldsman, on 18 January 2006 and approved by the office of the Surveyor General on 23 February 2006, was endorsed by the Deeds Office in Cape Town on 13 July 2006. The General Plan expressly stated that the subdivision was approved subject to the conditions. The certificate issued by the Chief of Planning, Hessequa Municipality, dated 19 April 2006 also confirmed the conditions. A copy is attached hereto as Annexure 2.		The BAR is in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the amended (April 2017) Environmental Impact Assessment Regulations, 2014
CONCLUSIONS We conclude that: 1. The basic Assessment Report is flawed for the reasons mentioned above; 2. The Applicant and his Environmental Practitioners should adhere to and accept the existing restrictive conditions which are legally binding; 3. Any application to follow should deal with the existing conditions.		The holder of the EA, as stipulated in the EA, has the right to apply to amend the EA in accordance with the current regulations. The DEADP however advised that a new application for EA is more appropriate and thus the process currently being followed. The BAR is comprehensive in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the amended (April 2017) Environmental Impact Assessment Regulations, 2014, as developed

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		by the Department of Environmental Affairs and Development planning, as this is an Environmental Impact Assessment. Your issues raised relate to planning aspects and applications.
Please note comments addressed to the Municipal Manager: Planning were submitted, they have been included in the Comments Appendix F however they do not relate to the Pre-Application BAR and are therefore not included herein	PR van Wyk ERF2319 (Visvywer laan 2).	Please note comments addressed to the Municipal Manager: Planning were submitted, they have been included in the Comments Appendix F however they do not relate to the Pre-Application BAR and are therefore not included herein
My objections against the application by Mr W Nel of the 26th of July 2021 My objections against the proposal of the 26th of July 2021 can be summarised as follow: 1. Preconditions authorities. The approvals and preconditions as set by the authorities in 2000 and 2006 are still valid. The map signed by the Hessequa Municipality in 2006 (Appendix 2) still stands. In my opinion the new application has to be rejected on the basis of this alone.	Jac Besuijen Owner plot 2298 Reestraat 24c 1016 DN Amsterdam The Netherlands	The holder of the EA, as stipulated in the EA, has the right to apply to amend the EA in accordance with the current regulations. The DEADP however advised that a new application for EA is more appropriate and thus the process currently being followed.
2. Bosbokduin homeowner association has not been involved. Although Mr W Nel uses many of the Bosbokduin facilities (water, electricity, roads, entrance gate)		This is the first round of PPP for this process, in addition an application form has not been submitted yet, thus the title of the report being a Pre-Application BAR. The declaration will therefore only read true for

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<p>and – according to his new application dated 26 July 2021 – wishes to continue to do so – he has not involved the Bosbokduin homeowners association in this new application. To make matters worse Mr W Nel completely ignores our comments to his application of 2019 . The allegation contained on page 76 that: " I have ensured that the comments of all interested and affected parties were considered, recorded, responded to and submitted to the Competent Authority in respect of this application;" is therefore not correct.</p>		<p>the submission of the Final BAR as that is the way that the Department of Environmental Affairs and Development Planning has developed their BAR template.</p> <p>In addition, if you refer to the extract in your comment ""I have ensured that the comments of all interested and affected parties were considered, recorded, responded to and submitted to the Competent Authority <u>in respect of this application</u>;"</p>
<p>3. ERF 3997 is a de facto part of Bosbokduin. The properties of Mrs Irma Oosthuizen and mr W Nel were registered in 2006, this could have only happened after the preconditions as set at the time by the authorities would have been fully complied with (which include membership of Bosbokduin). Further evidence of inclusion in Bosbokduin is the fact that the owners of 4141 have been paying their memberships fees for years (and are even participating in the Management Committee of Bosbokduin). Lastly erven 4141 and 4145 have been benefitting from the Bosbokduin infrastructure for decades and wish to continue to do so.</p>		<p>No clear comment or point raised from this point. The municipality provides bulk services and the proposed will tie into the existing infrastructure network</p>
<p>4. Building density. The application of 26 July 2021 will lead to an</p>		<p>It is not clear what this statement is based on, it is certain that current regulations will govern the</p>

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<p>unacceptable increase in the density of housing <u>especially in the south west part of Bosbokduin</u> (which – with the benefit of hindsight – could be considered to be a <u>too high density area already</u>). The latter will cause a significant increase in fire hazard with so many houses / plots on such a small area surrounded by natural vegetation. I would also like to refer to what is stated on page 37 (Constraint Analysis, final sentence): „ <i>should be as at density guided by the Skulpiesbaai development guidelines.</i>” This does not make any sense and is extremely arbitrary, the proposed development has <u>everything</u> to do with Bosbokduin and <u>nothing</u> to do with Skulpiesbaai. If anything guidance with respect to the building density should be based on that of Bosbokduin. Finally I refer to the letter of the Bosbokduin homeowner association of 17-08-2019 for more information with respect to the impact on the building density of the application.¹</p>		<p>allowed housing densities and be decided upon by the relevant municipal planning department.</p> <p>The proposed houses will not have thatched roofs, thereby decreasing fire risks. The current EA has approval for two houses with thatched roofs, increasing fire risks.</p>
<p>5. Development and architectural guidelines. As you might be aware of the development of Bosbokduin Nature Reserve was only possible under strict guidelines, as part of this the Bosbokduin homeowners association has develop extensive building guidelines. The existing houses on erven 4141 and 4145 have been built in line</p>		<p>Weg beweeg van Riet wonings Die riethuise was 40 jaar gelede se idee van inskakeling by die natuur en visueel is dit wel die geval. Maar in die lig van ander aspekte wat in die laaste dekades duidelik word is dit tyd om te heroorweeg.</p>

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<p>with these guidelines (another argument that supports my view that Erf 3997 is a de facto part of Bosbokduin). The new application does not refer to any of the Bosbokduin building guidelines, on page 42 the following is stated: „<i>The guidelines should not be restrictive conditions but should promote an overall design sensitivity whilst allowing flexibility for individual expression.</i>” It goes without saying that when the building guidelines of any new house on Erf 3997 are not going to be in line with those of the Bosbokduin homeowner association, that the visual impact on such a small area is going to be significant.</p>		<ol style="list-style-type: none"> 1. Klimaatsverandering het die gevaar dat die huise kan brand verhoog. In die laaste jare is dit gereeld in die nuus dat die tipe huise op groot skaal afbrand, soms gepaard met lewens verlies van gesinne, kinders ingesluit. 2. Die huise is nie energie effektief nie. 3. Riet dakke is nie geskik om sonkrag op te wek nie. 4. Riet dakke is nie geskik om reenwater te oes nie. 5. Ruimte kan nie behoorlik benut word in die 60 grade A raam tipe konstruksie nie. 6. Swart swamme wat weens klimaat verandering tussen die riete groei veroorsaak n eienaardige reuk in die huise en bring bekommernis oor gesondheid. 7. Is moeilik om die huise skoon te hou. Stukkies val uit die dak, binne en buite. 8. Weens die A raam konstruksie is die huise baie hoog se sou baie meer uitsig in beslag neem
<p>6. Visual sensitivity. An approval of the application of 26 July 2021 will result in a significant decrease of the value of a number of houses since their currently unobstructed (sea) views would be seriously negatively affected (any real estate agent in Still Bay will be able to confirm this). This is confirmed by the application which states that (page 40): „<i>Only the few housing units (first row) located directly next to the project area will have a high visual sensitivity.</i>” The overall judgement however has been categorised as <i>medium</i> since it concerns – according to the application – <i>only a few housing units</i>. I would like</p>		<p>The visual Impact assessment was compiled in accordance with Departmental Guidelines and references 22 articles.</p>

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to disagree with this. In my opinion the value of the following houses/plots would be seriously negatively affected: 2295, 2296, 2297, 2298, 2299, 2300, 2302, 2303, 2304 and 2305, i.e. a total of 10 houses/plots, this is not a few! The combined decrease in value of these properties will be significant.		
<p>7. Visual intrusion. The statement under the heading <i>visual intrusion</i> on page 40 is simply untrue: „<i>The proposed development is an extension of the surrounding rural settlement and housing patterns and is as such compatible with the qualities of the area. The visual intrusion for the proposed development is therefore low.</i>” This is a false statement since on the one hand the new application claims that the <i>guidelines should not be restrictive conditions</i> (point 5) and therefore can deviate from those of Bosbokduin whilst on the other hand it claims that: <i>the development is an extension of the surrounding rural settlement and housing patterns</i>, it goes without saying the latter statement is incorrect and contradictory.</p>		The visual Impact assessment was compiled in accordance with Departmental Guidelines and references 22 articles.
<p>8. Potential Visual Impact. The last sentence states that: „<i>The proposed development is located next to an existing low density existing housing development and will therefore not change the visual character of the surrounding landscape.</i>”</p>		The housing density in that part of BBD is higher than the rest however it is not considered high density.

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As said previously the housing units / plots adjacent the proposed development (south west Bosbokduin) is already a high density part of Bosbokduin (see point 4). If we add to this that the new development is not obliged to follow the building guidelines of Bosbokduin than it is clear that what has been stated in this paragraph could not be further from the truth.		
Concluding remarks For me this is simple. Approvals from relevant authorities have been obtained in 2000 and 2006 subject to certain preconditions. To me these approvals including the preconditions still stand today. The original plan – referred to in the new application as the No-Go-Alternative was based on extensive discussions with the Bosbokduin homeowners association and was in itself already a compromise. There is therefore no reason what so ever to deviate from this original plan.		The holder of the EA, as stipulated in the EA, has the right to apply to amend the EA in accordance with the current regulations. The DEADP however advised that a new application for EA is more appropriate and thus the process currently being followed.