

# **Landmark Foundation Appeal against the authorisation of the Garden Route Dam Development**



## **APPEAL FORM**

### **In terms of the National Appeal Regulations**

**April 2019**

**Form Number: 2019**

**Note that:**

1. This appeal must be submitted within **20 days** of being notified of the decision.
  2. This form is current as of **April 2019**. It is the responsibility of the Appellant to ascertain whether subsequent versions of the form have been released by the Appeal Administrator.
  3. This form must be used for appeals submitted in terms of National Appeal Regulations, 2014 in so far as it relates to decisions in terms of the:
    - a. Environment Conservation Act, 1989 (Act No. 73 of 1989);
    - b. National Environmental Management Act, 1998 (Act No. 107 of 1998);
    - c. National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
    - d. National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);
    - e. National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008); and subordinate legislation made in terms of these laws.
  4. The required information must be inserted within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. The spaces may be expanded where necessary.
  5. Unless protected by law, all information contained in, and attached to this application, will become public information on receipt by the Department.
  6. A digital copy of this form may be obtained from the Department's website at <http://www.capegateway.gov.za/dept/eadp>.
  7. Please consult the National Appeal Regulations (dated 8 December 2014) and the Department's Circular EADP 0028/2014 on the "One Environmental Management System" and the EIA Regulations (dated 9 December 2014), and any other relevant regulations.
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## A. DECISION BEING APPEALED

1. Reference Number of the Decision being appealed:

**6/3/3/2/D2/19/0000/22**

2. Type of Decision being appealed (please circle the appropriate option):

<b>Environmental Authorisation</b> <b>X</b>	24G Administrative Fine	Amendment of Environmental Authorisation	Amendment of Environmental Management Programme	Waste Management Licence	Atmospheric Emission Licence	Exemption Notice
Permit in terms of NEM: BA	Administrative Notice/ Directive	ECA: OSCA Permit	Other			

3. Brief Description of the Decision:

Environmental Authorization of the Proposed Tertiary Education and Mixed-Use Precinct Development at the Garden Route Dam and Associated Infrastructure on a Portion of the Remainder of Erf 464 George.

Importantly, this is a development approval in an outstanding green space and open space used by the residents of George extensively for recreation. It is a key habitat space for threatened and protected species and presents an opportunity for a world class open space protected environment that adds to the sense of place for residents of George. The development will destroy such and habitat of threatened species in the area.

4. Date of the decision being appealed (i.e. date on which the decision was made):

19 September 2022, notified by the impact assessors on 21 September 2022.

## B. APPELLANT'S INFORMATION

5. Please circle the appropriate option

Applicant	State Department Organ of State	/	<b>Interested and Affected Party</b>
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6. Appellant's information:

Name: Dr Bool Smuts, Director and Accounting Officer of the Landmark Foundation Trust, (NGO)

Address: Zeekoegat Homestead, Riversdale, 6670

Tel: NA Cell: **0833243344**

Fax: N.A Email: [bool@landmarkfoundation.org.za](mailto:bool@landmarkfoundation.org.za)

## C. APPEAL INFORMATION

7. Did you lodge an Appeal submission within 20 days of the notification of the decision being sent to you?

**Yes** / **No** (Circle the appropriate response). If "Yes", attach a copy herewith.

8. The following documents must accompany the appeal submission, kindly indicate if they have been attached to the submission:

8.1 a statement setting out the grounds of appeal?;

☒ **Yes** / **No** (Circle the appropriate response)

8.2 supporting documentation which is referred to in the appeal submission?;

☒ **Yes** / **No** (Circle the appropriate response)

8.3 a statement, including supporting documentation, by the appellant that a copy of the appeal was submitted to the applicant, any registered interested and affected party and any organ of state with interest in the matter within 20 days from:

8.3.1 the date that the notification of the decision was sent to the registered interested and affected parties by the applicant.

☒ **Yes** / **No** (Circle the appropriate response).

Please indicate the date on which a copy of the Notice of the decision was sent:

**Notice of decision sent to Landmark Foundation on 21 September 2022**

**OR**

8.3.2 the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority.

**Yes** / ☒ **No** (Circle the appropriate response).

Please indicate the date on which a copy of the Notice of the decision was sent.

**No information was provided as to then the DEADP, the “competent” authority, sent the approval out, though it is dated 19 September 2022.**

#### **D. GROUNDS OF APPEAL**

9. Set out the ground/s of your appeal: Clearly list your appeal issues and provide an explanation of why you list each issue.

##### **Process issues in the appeal:**

1. The Environmental practitioners and specialist consultants wilfully, and despite being informed of scientific facts to the contrary during the I&AP comment period, doubled down on factual misrepresentations on the impact of the proposed development on threatened and protected species, specific leopards (*Panthera pardus*). We believe the environmental impact documents are thus fraudulently inaccurate in attempt to greenwash the reports and their full-throated support of the development.
2. The reports do not reflect independent environmental impacts but reflect the politically railroaded development and the fact that factual errors are made to misrepresent the impacts is evidence of greenwashing. Use of municipal money to promote interests of private parties and the undue influence of political appointees to promote interest of private investors. We understand that the development pressure on the site is so vigorously supported by Municipal and Provincial officials to avoid a reported and current almost R3m investment in the development proposal being deemed wasteful expenditure. It is improper to use public funds to promote a development of private parties under a feigned guise of municipal development. We contend that this development is driven by private parties linked with political operatives and an attempt at transferring public assets to private interests. This appeal asks for a full independent forensic investigation into improper and undue influence of private parties and political operatives in promoting this development.
3. A Water use licence is not in place for the development, as required by the provincial prescripts.
4. Lack of exploration of no-development option in the reports, particularly as the site represents an opportunity to ensure and established a biodiverse and key open space on an urban edge.
5. The original authorisation (2014) required the bulk of the area to be set aside as an open space. This authorisation undermines that.
6. Not all the activities authorised were advertised during the planning process. The EIA application did not include Listing Notice 3 activity No 15.
7. George Municipality SDF focus on the CBD densification is not addressed and the development falsely assert socio-economic benefits and fails to address the SDF imperatives, recommendations and policy positions. The SDF expressly advocates against developments in catchment areas and adjacent to water resources. It also advocates against developments in Key Biodiversity Areas and Ecological Support Areas are to be avoided where possible.

<https://documentportal.george.gov.za/storage/municipal-frameworks/July2020/LBiiFpr2dnFh3OpsxtC.pdf>

##### **Material environmental issues on which this appeal is based:**

1. Key species; We have detailed 20-years of research knowledge of leopard population dynamics, resource requirements and habitat and space use, and studied leopards on the development footprint. The EIR misrepresented the facts related to the key impact this development would have on the species of which merely some 30 adult individuals remain between George and the Bloukrans River. Any key habitat lost to the species will have a disastrous impact on the species generally. The development site incorporates key and

critical leopard habitat as demonstrated by one leopard that was collared and studied on the location. Detailed scientific analysis of leopard resource use indicates that the area adjacent to the dam is key habitat for this species and its persistence in the area. Annexure 1 & Annexure 2 deals in detail with the impacts on the species that would result from the development. It is notable that even after these comments and inputs were submitted in the consultation period, the consultants doubled down to grossly misrepresent the ecological data and facts. They have been duly reported to the oversight authorities. DEADP also claimed to have “applied their minds” but disregarded this input that should have, on its own, had the application rejected.

While we do not claim detailed knowledge of other species (at least not in the detail and confidence we studied leopards) it is notable that honey badgers (*Mellivora capensis*) are also excluded from impacted species on the development footprint, not to mention the other taxa and species and vegetation impacts that we do not have detailed knowledge of.

The fact that the consultants so brazenly and even after being provided with expert information continued to double down on their misrepresentations, brings the entire report into doubt and disrepute. We contend that their submissions should be rejected for lack of truthfulness, transparency and veracity.

2. Alien plant impact: The consultants repeatedly state that forestry and alien plant growth justify development as it represents high levels of human disturbance. This is not an accurate position and misrepresents the complexity of the reality. Firstly, the alien plant growth is a factor of municipal maladministration and negligence, as is the unprocessed and lack of removal of cut alien plants. We believe this was deliberately left unattended to fabricate a justification to develop the site. Further too, this municipal negligence is a fire risk to the town and should rather result in DEADP and other state entities enforcing compliance to CARA instead of issuing development permits that will destroy viable habitats and open spaces. Secondly, these forested stands (aliens and plantations) provide key habitat to wide-ranging species and is dismissed by the consultants. Additionally, the alien plant forest is used by protected wildlife species such as leopard and honey badger and other species. This is again contrary to the inaccurate misinformation provided by the environmental expert report. We have provided maps of leopard collar data showing without doubt how invasive alien forests are utilised by wildlife.
3. Water Quality Risk and ample precedent of developments on dam edges that have polluted and destroyed the water storage reservoirs. Polluted dams including/such as Hartebeespoort Dam is a classic example. (Also good examples are Lake Centurian, Burma Lake and Zeekoevlei, to mention only a few.) The fact that the municipality and the consultants naively suggest that this development would be different goes against repeated experience, and at worse is grossly irresponsible and untruthful. Water is a key resource for all residents and every attempt should be made, as per the SDF prescripts, to avoid riparian developments. The dam is the main water supply to George and MUST be protected from private interests and risk of degradation and future limitation to capacity increases. <https://www.businessinsider.co.za/50-of-sas-dams-arent-safe-to-swim-in-2018-9>
4. Open space: The decision made in the 2014 Environmental Authorisation was that “the remainder of the site will be public open space that would mainly be used for recreational purposes” is in line with the SDF. While the site is not zoned open space, the current authorisation undermines this intent and permit condition. The site for the development is an extraordinary open and recreational space. It has a sense of place with a thriving natural ecosystem that ought to be preserved for all the peoples of George and its future generations. All humans have a constitutional right to a healthy environment (1996 Constitution section 24) and this development that will hand out these extraordinary public assets to private gain will detract from that and opportunities to develop a standout natural open and accessible space to the citizens of George. The area is a much used and

**favourite recreational land use space for multitude citizens and a commercial, university and private homes will take that away.**

9.1 Is your appeal based on factors **associated with the process** that was followed by the applicant/Environmental Assessment Practitioner/Competent Authority in reaching the decision?

☒ **Yes** / ☐ **No** (Circle the appropriate response). Please provide details.

See content above too.

1. The Environmental practitioners and specialist consultants wilfully, and despite being informed of scientific facts to the contrary during the I&AP comment period, doubled down on factual misrepresentations on the impact of the proposed development on threatened and protected species, specific leopards (*Panthera pardus*). We believe the environmental impact documents are thus fraudulently inaccurate in attempt to greenwash the reports and their full-throated support of the development.

2. The reports do not reflect independent environmental impacts but reflect the politically railroaded development and the fact that factual errors are made to misrepresent the impacts is evidence of greenwashing. Use of municipal money to promote interests of private parties and the undue influence of political appointees to promote interest of private investors. We understand that the development pressure on the site is so vigorously supported by Municipal and Provincial officials to avoid a reported and current almost R3m investment in the development proposal being deemed wasteful expenditure. It is improper to use public funds to promote a development of private parties under a feigned guise of municipal development. We contend that this development is driven by private parties linked with political operatives and an attempt at transferring public assets to private interests. This appeal asks for a full independent forensic investigation into improper and undue influence of private parties and political operatives in promoting this development.

3. A Water use license is not in place for the development, as required by the provincial prescripts.

4. Lack of exploration of no-development option in the reports, particularly as the site represents an opportunity to ensure and established a biodiverse and key open space on an urban edge.

5. The original authorisation (2014) required the bulk of the area to be set aside as an open space. This authorisation undermines that.

6. Not all the activities authorised were advertised during the planning process. The EIA application did not include Listing Notice 3 activity No 15.

7. George Municipality SDF focus on the CBD densification is not addressed and the development falsely assert socio-economic benefits and fails to address the SDF imperatives, recommendations and policy positions. The SDF expressly advocates against developments in catchment areas and adjacent to water resources. It also advocates against developments in Key Biodiversity Areas and Ecological Support Areas are to be avoided where possible.

It is worth expanding on aspects the SDF stipulates and I quote directly, if selectively:

“Specifically, regional or inter-municipal coordination concerns for spatial planning in the George municipal area relate to (inter alia):

- Maintaining and managing the integrity of the open space systems
- Protection of cultural and scenic landscapes, routes and passes

Strategic Goal 1: Develop and Grow George:

- To focus on building a revitalised and interactive CBD through a City Improvement District

There are three spatial drivers that give form to the George MSDF. These are applied both at the scale of the Greater George Area and the city of George.

- 1) The first is the natural and rural environment which must be protected and managed to ensure it is able to function optimally as a basis for supporting and nourishing prosperous and resilient settlement and economic activity in George.
- 2) The second is the settlements and, within the city of George, the system of corridors and nodes which must be reinforced and developed in a managed way to function as a productive and efficient system
- 3) The third is the regional accessibility network that links the settlements to one another within the Greater George Area, as well as to opportunities further afield. This includes the local accessibility network (motorised and non-motorised) connecting people and activities along corridors to nodes within the city of George, enabling choice and participation in society and the economy within the urban areas. Within the George city area, four principal public transport corridors and a system of priority nodes are identified as strategically important in this MSDF.

Watercourses: What we know is that the wetlands north of the urban edge are large, healthy systems that provide George with scenic beauty, biodiversity, flood attenuation (for property downstream), carbon storage (due to the presence of peat), erosion control (e.g. from mountain sediments after fire), and water recharge, amongst many other services. They need to be strictly managed and conserved for the benefit of the town. It is unfortunate that these systems become progressively degraded downstream. Any development within this northern area is likely to compromise these wetlands at a cost to greater society. There is an opportunity to prevent urban encroachment into this area, and prioritise it for conservation efforts, whilst maintaining the light recreational use it currently experiences.

Watercourses are set apart from many other ecosystem types by the degree to which they integrate with and are influenced by the surrounding landscape, or catchment. They are particularly vulnerable to human activities and these activities can often result in irreversible damage or longer term, cumulative changes. The majority of cities around the world have permanently lost their wetlands and transformed their rivers. They no longer benefit from the valuable ecosystem services healthy watercourses provide, however, George still retains much of its freshwater habitat. But today, these same systems that helped define the very character of the town, are under threat from the impacts of urbanisation. Urbanisation of the catchment and the resultant storm water runoff is increasingly recognised as a threat to freshwater biodiversity not only because of the increased hydrological disturbance and habitat

loss, but also because of an increased delivery of pollutants to rivers. The encroachment of roads and housing onto floodplains and wetlands can dramatically alter the flow rates, water quality and sediment regimes of watercourses. The greater the extent of hardened surfaces (e.g. roofs, parking lots etc.), the lower the infiltration of storm water and therefore the greater the surface runoff and increase in flood peaks. A change in water distribution generally results in altered wetness regimes, which in turn affect the biophysical processes and the vegetation patterns. The transformed land surface will promote increased volumes and velocities of storm water runoff, which can be detrimental to the rivers receiving concentrated flows off of the area. Increased volumes and velocities of storm water draining from the area and discharging into the rivers can alter the natural ecology, increasing the risk of erosion and channel incision/scouring. The watercourses of George have all been affected by this to varying degrees. **This MSDF establishes the watercourses as they run through the urban area providing the backbone of the passive and active open space system in the George City Area and while being protected should be used as the basis to create a city-wide integrated open space and non-motorised transport network that connects disparate communities in a well-managed, safe and celebratory environment, positively building a respectful relationship between people and the natural systems on which they depend.** In some parts of this network the river corridors offer the 'routes' through the city, and where this is not possible connections are made into the primary public transport corridors which should be developed to provide high quality non-motorised transport infrastructure as well as public transport infrastructure with landscaping that brings the green into the harder urban network. This landscaping can also contribute to regulating the heat island effect and can enhance the sense of place in areas presently dominated by cars and poor-quality streetscapes.



Development nodes: The primary economic centre remains George CBD. The strategy is to revitalise and redevelop it into a thriving city centre with a high-quality public realm that embraces the concept of smart growth, contains a variety of complementary activities, as well as a substantially larger residential component targeting a broader spectrum of incomes than at present (see George CBD Local Spatial Development Framework, 2016 for detailed proposals).

#### Policy A4

Provide and maintain a high quality, safe open space system through maintaining the integrity of existing spaces and actively seek to link viable open spaces into a continuous green web that, with the public transport corridors, forms the basis for the non-motorised transport network.

#### Policy Guidelines:

- a) Build and create an interactive open space system on an equitable basis prioritising implementation in a manner that focuses on the poor and denser neighbourhoods of the George city area.
- b) Use the natural assets; namely, the river corridors running through the George city area to “anchor” and structure the open space system.
- c) Seek opportunities to consolidate this system – linking the existing and proposed formal open spaces to it so as to expand the ecological functionality and recreational opportunities presented by a network of formal, informal and natural open spaces.
- d) Areas for active and passive recreational facilities (e.g. sports fields, jogging and cycling trails), should be integrated into the open space system and designed to be appealing to all, legible and safe.
- e) Seek opportunities for the open space system to contribute to the building of a safe pedestrian and non-motorised transport network. A conceptual proposal for this is illustrated in Map 10.
- f) River Corridors in the George City Area should be protected, maintained and sensitively developed to provide a safe open space amenity and NMT connections from Thembaletu and Pacaltsdorp in the south to the edge of the George CBD area.
- g) Seek opportunities to integrate the conservation of critical biodiversity areas into the open space system that allows public interaction in terms of land uses supported by the spatial planning categories.
- h) Define the edges between settlement and open space corridors so as to contain urban expansion and mitigate the effects of storm water run-off by implementing and maintaining recreational tracks and sustainable urban drainage systems. Built edges should define and overlook the open space network to promote activity and passive surveillance by: Establishing positive edges e.g. stoeps, raised terraces and landscaping.
- i) Buildings must face onto, and not away from, rivers, watercourses and public open space corridors and parks. For new urban development, the layout must allow for roads (or at least public walkway or cycle tracks) between the buildings and the watercourse (including the buffer zone).
- j) As far as possible, associate municipal parks with community facilities and schools to secure the safety and maintenance benefits of clustering.

Priority to conserve CBA Areas that are required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure. Together with protected areas, ensures that a sample of all ecosystem types and species can be maintained. Categorized into CBA 1 (natural condition) and CBA 2 (degraded or secondary vegetation).

#### Policy D2

Manage development along the coastline and wetlands in a sustainable and precautionary manner, no further development should take place seaward of the Coastal Management Line (setback line) as demarcated in this MSDP and delineated by the Protected Areas, sensitive biodiversity in terms of the Western Cape Biodiversity Spatial Plan, 2017), steep coastal cliffs/ primary dunes and a 5 amsl contour. New land use developments will be subject to ecological setbacks along the coast and around freshwater systems in order to maintain the economic and ecological functioning of marine and other aquatic ecosystems. A Coastal Management Line (a development limit) as well as a Coastal Protection Zone (a planning and management zone) is

delineated for the Greater George Area in this MSDF, based on a coastal risk assessment for 20 (high risk), 50 (medium risk) and 100 (low risk) year horizons

Policy Guidelines:

- a. Coastal sensitivities must be integrated into all applicable planning decisions within the coastal region, in order to protect existing property, infrastructure and ecology and ensure that only responsible and sustainable development takes place in areas with a high risk of inundation, coastal erosion and destructive storm surges.
- b. Development along the coast must be managed in terms of a set of development parameters set out in a risk-based overlay zone.
- c. To prevent flooding of vulnerable coastal properties, natural defences in the form of primary dune systems, estuarine mudflats and sand dunes will be safeguarded from further conversion through urban development or agricultural practices.
- d. Natural systems that play a role in mitigating the impacts of sea level rise and the increased frequency and intensity of storms should be rehabilitated.
- e. Where feasible the retreat of at risk infrastructure should be considered in high hazard zones.
- f. No development to be allowed below the 5m contour line around estuaries. This contour encapsulates the most dynamic areas influenced by long term estuarine sedimentary processes. It should provide a buffer zone that can allow the estuary to retreat in the event of sea level rise due to climate change. It also allows for the inclusion of some terrestrial fringe vegetation that contributes to the system and refuge areas for many animal species during floods.
- g. There should be no development of new hard protective structures along the coastline and freshwater systems, adaptation is preferred.
- h. The resilience of settlements in the instance of extreme events is compromised where critical infrastructure serving the settlements is located within flood risk areas and areas at risk of storm surges associated with extreme events:
  - i. The planning and design of new infrastructure, in particular storm water systems, should consider the higher frequency of flooding associated with extreme weather conditions.
  - ii. The retreat of at risk infrastructure should be considered in high hazard zones.
- i. Further coastal, estuarine residential development which is not integrated within existing settlements is not supported.
- j. Infill development of coastal settlements should be carefully managed to ensure that roads and utility infrastructure is able to adequately meet the demand and performance standards in order not to compromise the host environment. Overlay zones should be considered to set additional parameters for development and land use in particularly sensitive and unique environments."

<https://documentportal.george.gov.za/storage/municipal-frameworks/July2020/LBiiFpr2dnFh3OpjsxtC.pdf>

It is clear from the selective, but extensive direct quotes of the SDF (with my emphasis in bold) that this site is not appropriate and approved for development on the basis that it is contained in Key Biodiversity Areas and Ecological Support Area near waterways and reservoirs. It is not identified as a development zone and the entire application fails to address the focus on the redevelopment of the CBD, to which it does not contribute.



## Garden Route Dam CBA

### Legend

#### BSP CBA: Degraded

- CBA2: Aquatic
- CBA2: Terrestrial

#### BSP CBA

- CBA: Terrestrial
- CBA: Forest
- CBA: River
- CBA: Wetland

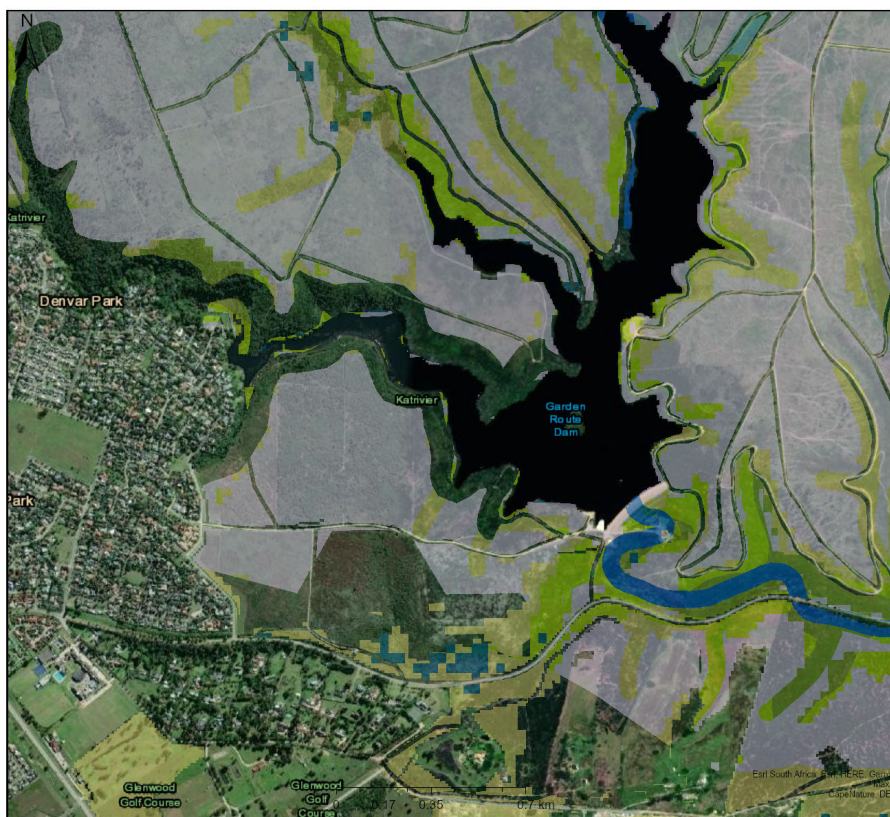
Map Center: Lon: 22°30'24.9"E  
Lat: 33°57'40.4"S

Scale: 1:18 056

Date created: October 9, 2022



Western Cape  
Government  
FOR YOU



## Garden Route Dam CBA + ESA

### Legend

#### BSP ESA

- ESA: Aquatic
- ESA: Terrestrial

#### BSP CBA: Degraded

- CBA2: Aquatic
- CBA2: Terrestrial

#### BSP CBA

- CBA: Terrestrial
- CBA: Forest
- CBA: River
- CBA: Wetland

Map Center: Lon: 22°30'24.9"E  
Lat: 33°57'40.4"S

Scale: 1:18 056

Date created: October 9, 2022



Western Cape  
Government  
FOR YOU

The development should be rejected as a development site and be secured as an open space for recreation, biodiversity and water conservation.



9.2 Is your appeal based on factors associated with matters of **unacceptable environmental impacts/extenuating circumstances** not taken into account by the Competent Authority?

**Yes** / **No** (Circle the appropriate response). Please provide details.

1. Key species; We have detailed 20-years of research knowledge of leopard population dynamics, resource requirements and habitat and space use, and studied leopards on the development footprint. The EIR misrepresented the facts related to the key impact this development would have on the species of which merely some 30 adult individuals remain between George and the Bloukrans River. Any key habitat lost to the species will have a disastrous impact on the species generally. The development site incorporates key and critical leopard habitat as demonstrated by one leopard that was collared and studied on the location. Detailed scientific analysis of leopard resource use indicates that the area adjacent to the dam is key habitat for this species and its persistence in the area. Annexure 1 & Annexure 2 deals in detail with the impacts on the species that would result from the development. It is notable that even after these comments and inputs were submitted in the consultation period, the consultants doubled down to grossly misrepresent the ecological data and facts. They have been duly reported to the oversight authorities. DEADP also claimed to have “applied their minds” but disregarded this input that should have, on its own, had the application rejected.



The one leopard collared adjacent to the dam. The other areas will be occupied by its neighbour.

While we do not claim detailed knowledge of other species (at least not in the detail and confidence we studied leopards) it is notable that honey badgers are also excluded from impacted species on the development footprint, not to mention the other taxa and species and vegetation impacts that we do not have detailed knowledge of.

The fact that the consultants so brazenly and even after being provided with expert information continued to double down on their misrepresentations, brings the entire report into doubt and disrepute. We contend that their submissions should be rejected for lack of transparency and veracity.

2. Alien plant impact: The consultants repeatedly state that forestry and alien plant growth justify development as it represents high levels of human disturbance. This is not an accurate position and misrepresents the complexity of the reality. Firstly, the alien plant growth is a factor of municipal maladministration and negligence, as is the unprocessed and lack of removal of cut alien plants. We believe this was deliberately left unattended to fabricate a justification to develop the site. Further too, this municipal negligence is a fire risk to the town and should rather result in DEADP and other state entities enforcing compliance to CARA instead of issuing development permits that will destroy viable habitats and open spaces. Secondly, these forested stands (aliens and plantations) provide key habitat to wide-ranging species and is dismissed by the consultants. Additionally, the alien plant forest is used by protected wildlife species such as leopard and honey

badger and other species. This is again contrary to the inaccurate misinformation provided by the environmental expert report. We have provided maps of leopard collar data showing without doubt how invasive alien forests are utilised by wildlife.

3. Water Quality Risk and ample precedent of developments on dam edges that have polluted and destroyed the water storage reservoirs. Polluted dams include Hartebeespoort Dam is a classic example. (Also good examples are Lake Centurian, Burma Lake and Zeekoevlei, to mention only a few.) The fact that the municipality and the consultants naively suggest that this development would be different goes against repeated experience, and at worse is grossly irresponsible and untruthful. Water is a key resource for all residents and every attempt should be made, as per the SDF prescripts, to avoid riparian developments. The dam is the main water supply to George and MUST be protected from private interests and risk of degradation and future limitation to capacity increases. <https://www.businessinsider.co.za/50-of-sas-dams-arent-safe-to-swim-in-2018-9>

4. Open space: The decision made in the 2014 Environmental Authorisation was that "the remainder of the site will be public open space that would mainly be used for recreational purposes" is in line with the SDF. While the site is not zoned open space, the current authorisation undermines this intent and permit condition. The site for the development is an extraordinary open and recreational space. It has a sense of place with a thriving natural ecosystem that ought to be preserved for all the peoples of George and its future generations. All humans have a constitutional right to a healthy environment (1996 Constitution section 24) and this development that will hand out these extraordinary public assets to private gain will detract from that and opportunities to develop a standout natural open and accessible space to the citizens of George. The area is a much used and favourite recreational land use space for multitude citizens and a commercial, university and private homes will take that away.

9.3 Have your appeal issues been raised previously in the public participation process?

☒ **Yes** / ☐ **No** (Circle the appropriate response). Please provide details.

**See annexure 1 & 2**

9.4 Are you fundamentally opposed to the decision (e.g. to any development activity on the site)?

☒ **Yes** / ☐ **No** / ☐ **Not applicable** (Circle the appropriate response). Please provide details.

**We support the prescripts of the SDF and suggest the area is set aside as open space for the use of recreation, biodiversity and water conservation.**

9.5 Are you in favour of the decision if your concerns can be remedied by rectifying the process or by mitigating or eliminating an impact/s of the activity/ies?

☐ **Yes** / ☒ **No** / ☐ **Not applicable** (Circle the appropriate response). Please provide details.

**As above: we support the SDF prescripts.**

9.6 Please indicate what measures you propose to have your concerns remedied.

**We propose that the area is set aside for open space management for recreation, biodiversity and water conservation.**

9.7 Does your appeal contain any new information that was not submitted to the Environmental Assessment Practitioner (EAP) / or registered I&APs/ or the competent authority prior to the decision?

**Yes** / **No** (Circle the appropriate response). If the answer above is "Yes" please explain what this information is and why it should be considered by the Appeal Authority and why it was not made available to the EAP/ or I&AP/ or the competent authority prior to the decision. (Please ensure that the new information is attached hereto.)

**These submissions have expanded on elements that were submitted to the EAP.**

## E. SUBMISSION ADDRESS

This appeal must be submitted to the Appeal Administrator at the address listed below within 20 days of being notified of the decision:

By post: Attention: Marius Venter  
Western Cape Ministry of Local Government, Environmental Affairs &  
Development Planning  
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)  
Room 809, 8<sup>th</sup> floor Utilitas Building  
1 Dorp Street, Cape Town, 8000; or

By e-mail: [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za)

**Note:** You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator.



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Appellant's signature

10 October 2022

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Date

**From:** Dr Bool Smuts <bool@landmarkfoundation.org.za>  
**Sent:** Tuesday, 13 September 2022 20:57  
**To:** 'jbotha@sacnasp.org.za' <jbotha@sacnasp.org.za>; 'sacnasp@sacnasp.org.za' <sacnasp@sacnasp.org.za>; 'shireen.pullen@westerncape.gov.za' <shireen.pullen@westerncape.gov.za>; 'Ken Coetzee' <consken@mweb.co.za>; 'malcolm.fredericks@westerncape.gov.za' <malcolm.fredericks@westerncape.gov.za>  
**Subject:** Complaint of misconduct against Ken Coetzee SACNASP registration 400099/08  
**Importance:** High

Dear SACNASP (Ms Botha – Complaints) and Western Cape Department of Environmental Affairs and Development Planning (Ms Pullen)

**Complaint against Ken Coetzee, as biodiversity specialist, for unprofessional and unethical conduct in COMMENTS AND RESPONSES REPORT FOR THE PROPOSED TERTIARY EDUCATION AND MIXED-USE PRECINCT DEVELOPMENT AT THE GARDEN ROUTE DAM AND ASSOCIATED INFRASTRUCTURE ON A PORTION OF THE REMAINDER OF ERF 464, GEORGE**

I wish to lay a complaint of misconduct and unprofessional conduct against the “ecological/biodiversity specialist” involved in the study in support of the authorisation for the report published on AUGUST 19, 2022:

COMMENTS AND RESPONSES REPORT FOR THE PROPOSED TERTIARY EDUCATION AND MIXED-USE PRECINCT DEVELOPMENT AT THE GARDEN ROUTE DAM AND ASSOCIATED INFRASTRUCTURE ON A PORTION OF THE REMAINDER OF ERF 464, GEORGE (George, Western Cape. SES REF: 21/GRD/DEIAR/02/2022/ DEA&DP REF: 16/3/3/2/D2/19/0000/22 Kindly Note: The Final Environmental Impact Assessment Report for the above-mentioned project was submitted to the Competent Authority on 31 May 2022. The Comments and Responses Report for the EIA Phase has been included here for I&AP reference purposes.

We contend that these misrepresentation have been deliberately made to mislead the authorities to promote this development. As such we urge that SACNASP conduct a misconduct investigation and the DEADP considers dismissing and turning down the application.

This follows the report and publication of <https://sescc.net/eia-report/post-application-draft-scoping-report-for-the-proposed-university-precinct-development-at-the-garden-route-dam-and-associated-infrastructure-on-a-portion-of-the-remainder-of-erf-464-george/> in February 2022 wherein the ecological specialist report motivating this development was published. He dismissed the impact to leopards as follows: “The more sensitive habitat specialist species like blue duiker, grysbok, leopard and honey badger have retreated into areas of lower disturbance in the mountains and forests to the north and east.” This is demonstrably false assertion that we made known in our submissions in the comment period – see attached. He doubles down on it after specialists in the species conservation demonstrates otherwise in the comment period.

This work was conducted by Conservation Management Services, under Mr Ken Coetzee SACNASP registration 400099/08, against whom I now lay this complaint of ethical and professional misconduct with SACNASP.

We believe that Mr Coetzee has deliberately misrepresented the ecological realities and data in wrongfully promoting the development above his obligations as an ecological/biodiversity specialists for the Environmental Impact assessors in the original reports that were published for public input, and in its responses.

Firstly, in the original report he falsely asserted that leopards did not occur in the area of study and had moved “northwards and eastwards” of the development site. This was false and lazy scientific



assertion which we are easily able to disprove as we have studied leopards in the specific region for the last 14 years (and in the broader region for the last 20 years) and could demonstrably disprove his assertions, and one leopard was GPS collared and proven to utilise the area around the dam.

Specifically, the impact report wilfully misrepresents, alternately ignorantly misrepresents, the specific facts about leopard (and honey badger) occupation and persistence on the proposed development site. It is with dismay that I read the contents of this misrepresentations on pages 99 and 100 where Mr Coetzee asserted that leopards no longer occurred on the site and had been displaced northwards and eastwards. This was false and we pointed it out in the public comment period.

For the record we have been doing leopard conservation work and research in the broader region (and specifically the Garden Route) for the last 20 years. We have published the following publication which contains detailed information on leopards in the region and should have informed a “specialist” ecologist/biodiversity specialist to the facts and have discouraged him from his deliberate misleading information. Mr Coetzee claims in his responses to be aware of these publications but he still misrepresents the facts.

Landmark Foundation’s research involved the following publication on the species and related conservation actions:

**1. Establishing the leopard population density and activity patterns in the Baviaanskloof, Eastern Cape.**

McManus, J.S. 2009. The spatial ecology and activity patterns of leopard (*Panthera pardus*) in the Eastern Cape, South Africa. Rhodes University, Grahamstown, South Africa. MSc. Dissertation.

**2. Establishing leopard population densities in the Western and Eastern Cape Provinces.**

Devens, C., Tshabalala, T., McManus, J. and Smuts, B. 2018. Counting the spots: The use of a spatially explicit capture–recapture technique and GPS data to estimate leopard (*Panthera pardus*) density in the Eastern and Western Cape, South Africa. *African Journal of Ecology*.

<https://doi.org/10.1111/aje.12512>.

Devens, C.H., Hayward, M.W., Tshabalala, T., Dickman, A., McManus, J.S., Smuts, B. and Somers, M.J., 2019. Estimating leopard density across the highly modified human-dominated landscape of the Western Cape, South Africa. *Oryx*, pp.1-12.

**3. Determine the commercial viability of ecologically sensitive and compatible land uses.**

McManus J.S., Dickman, A., Gaynor, D., Smuts, B. and Macdonald, D.W. 2014. Dead or alive? Comparing costs and benefits of lethal and non-lethal human-wildlife conflict mitigation on livestock farms. *Oryx*. <https://doi:10.1017/S0030605313001610>.

**4. Evaluating the genetic structure of leopard populations in the fragmentation across the Eastern and Western Cape.**

McManus, J.S., Dalton, D., Kotze, A., Smuts, B., Marshal, J. and Keith, M. 2015. Genetic structure of a solitary carnivore in a human dominated landscape. *Ecology and evolution* 5(2): 335–344.

## **5. The relationship among wildlife species to the presence or absence of top trophic species.**

Tshabalala, T., McManus, J., Treves, A., Masocha, V., Faulconbridge, S., Schurch, M., Goets, S. and Smuts, B., 2021. Leopards and mesopredators as indicators of mammalian species richness across diverse landscapes of South Africa. *Ecological Indicators*, 121, p.107201.

## **6. The assessment of which resources drive leopard persistence in the environment.**

McManus, J., Marshal, J.P., Keith, M., Tshabalala, T., Smuts, B. and Treves, A., 2021. Factors predicting habitat use by leopards in human-altered landscapes. *Journal of Mammalogy*, 102(6), pp.1473-1483.

McManus, J.S. 2018. The conservation of leopards (*Panthera pardus*) in the Eastern and Western Cape, South Africa: Investigating the effect of Land Use, Gene Flow and Connectivity. Witwatersrand University, Johannesburg. PhD dissertation.

## **7. Human-wildlife Conflict Management Assessments.**

Boronyak, L., Jacobs, B., Wallach, A., McManus, J., Stone, S., Stevenson, S., Smuts, B. and Zaranek, H., 2021. Pathways towards coexistence with large carnivores in production systems. *Agriculture and Human Values*, pp.1-18.

van Eeden, L., Eklund, A., Miller, J., López-Bao, J., Chapron, G., Cejtin, M., Crowther, M., Dickman, C., Frank, J., Krofel, M., Macdonald, D., McManus, J., Meyer, T., Middleton, D., Newsome, T., Ripple, W., Ritchie, E., Schmitz, O., Stoner, K., Tourani, M and Treves, A. 2018. Carnivore conservation needs evidence-based livestock protection. *PLoS biology*, 16(9), p.e 2005577.

Treves, A., Krofel, M. and McManus, J., 2016. Predator control should not be a shot in the dark. *Frontiers in Ecology and the Environment* 14, 380-388

Dickman, A., Potgieter, G., Horgan, J., Stoner, K., Klein, R., McManus, J.S. and Marker, L. 2018. Use of Livestock Guarding Dogs to reduce human-cheetah conflict. In: *Cheetahs: Biology and Conservation* (Eds Marker, L, Boast, L and Schmidt-Kuntzel, A). AP, Namibia.

## **8. Conversion to ecological sensitive management and the ecological benefits thereof.**

Hasselerharm, C.D., Yanco, E., McManus, J.S., Smuts, B.H. and Ramp, D., 2021. Wildlife-friendly farming recouples grazing regimes to stimulate recovery in semi-arid rangelands. *Science of The Total Environment*, 788, p.147602.

Schurch, M.P., McManus, J., Goets, S., Pardo, L.E., Gaynor, D., Samuels, I., Cupido, C., Couldridge, V. and Smuts, B., 2021. Wildlife-friendly livestock management promotes mammalian biodiversity recovery on a semi-arid Karoo farm in South Africa. *Frontiers in Conservation Science*, 2, p.6.

McManus, J., Goets, S., Milton, S., Bond, W., Henschel, J and Smuts, B. 2018. Trampling recovery of plants on temporary Karoo kraal sites. *African Journal of Range and Forage Science*. <https://doi.org/10.2989/10220119.2018.1529706>

Jooste, E., McManus, J.S., and Couldridge, V. In Writ. Diet of caracal on lethal and non-lethal carnivore treatment farms in the Karoo, South Africa.

## **9. Assessment of wide-scale leopard population connectivity and management imperatives.**

McManus, J., Schurch, M.P., Goets, S., Faraut, L., Couldridge, V. and Smuts, B., 2022. Delineating Functional Corridors Linking Leopard Habitat in the Eastern and Western Cape, South Africa. *Conservation*, 2(1), pp.99-121

## **10. Assessment of efficacy of leopard translocations.**

McManus, J., Faraut, L., Couldridge, V., van Deventer, J., Samuals, I., Cilliers, D., Devens, C., Vorster, P., and Smuts, B., 2022. Assessment of leopard translocations in South Africa. *Frontiers in Conservation Science*. 3:943078. <https://doi.org/10.3389/fcosc.2022.943078>

Mr Coetzee knows our team personally (and could easily made contact with us to verify information) and despite when he claims in his responses that he is aware of our work, based on his reports, it appears he was willfully ignorant of it or deliberately misrepresented the facts. If he does claim to be knowing of the facts it is then a tacit admission that he had willfully misled the authorities on this development and particularities in respect of leopard impacts of the development.

While we do not expect ecologically/biodiversity specialist consultants to be all knowing of all species, we do expect them to represent the facts truthfully, especially if he claims to be aware of the scientifically published facts and data. We believe that Mr Coetzee did the opposite as when it was pointed out to him that he misrepresented the facts in the original reports, and, instead of correcting his wrongful reports, he doubled down on his misrepresentation in an attempt to mislead the authorities to approve the development.

We believe that Mr Coetzee acted in contravention of his duties as a professional registered with SACNASP and accordingly ask SACNASP to investigate him for misconduct in this matter, and for DEADP to dismiss the application for deliberate misrepresentations.

Here below is what I believe to be the Code of conduct transgressions highlighted in yellow:

The SACNASP Code of Conduct required that:

In practicing natural science professions registered natural scientists must:

1. Serve and protect the public and the environment from malpractice in matters involving the rendering of natural scientific services in accordance with applicable laws, regulations, standards and guiding principles.
2. Discharge their duties to their employers or clients efficiently and with integrity.
3. Discharge their duties in compliance with applicable ethical principles, relevant legislation and standards in the field of practice.
4. Uphold the dignity, standing and reputation of the natural scientific professions.
5. Only undertake natural scientific work for which their education, experience or background have rendered them competent to perform.
6. Disclose, to their respective employers or clients, in writing:
  - (a) Any interest that they may have in any company, firm or organisation, or with any person, which is related to the work that they may be or may have been employed to perform;
  - and
  - (b) Particulars of any royalty or other financial benefit which accrues or may accrue to them as a result of such interest.
7. Not deliberately and without just cause, substance or legal requirements, injure directly or indirectly, the professional reputation, prospects or business of another person.

8. Not knowingly and unlawfully attempt to supplant another person after a formal offer of employment and/or letter of award has been made.
9. Not advertise their professional services in a manner that may be misleading or in a manner that is derogatory of the dignity of the profession.
10. Not knowingly misrepresent or permit misrepresentation of their own or their associates' academic or professional qualifications, neither exaggerate their own degree of responsibility for any work of a natural scientific nature.
11. Give due recognition when using the work of others, including associates, in compliance with applicable laws, regulations, standards and guiding principles.
12. Not destroy calculations, documentary or any other evidence required for the verification of their work in accordance with document management laws, regulations and standards and guiding principles.
13. Not personally, or through any other agency, attempt to obtain consulting work by way of intimidation, threat or bribery.
14. When practicing their professions in another country, do so in accordance with this Code of Conduct in so far as the Code of Conduct is not inconsistent with the law of the country concerned; provided that they also adhere to the standards of professional conduct in that country.
15. Comply with the applicable SACNASP Council rules and enforcement procedures published in accordance with their relevant field of practice.

Specifically I wish to bring to your attention the following reports, attributed by the Impact Assessor, to emanate (19 August 2022) from Mr Coetzee and Conservation Management Services (reportedly the Biodiversity Specialist consultants used), after the public comments and our submissions were received. Despite him being alerted to his factual misrepresentations in the original reports, instead of correcting his assertions, he elected to double-down on his misrepresentation. At this point I wish to state that Mr Coetzee at no time in his career had researched leopards, or even studied them, or been involved in any scientific enquiry of the species population dynamics, resource use or ethology. While honest errors are acceptable in broad studies, when such errors are pointed out to professionals, it is simply unprofessional and unethical to persist with such misrepresentations when experts in the species point to the contrary.

*The current report reads (my comments hereto in RED) “3.5.4.Loss of leopard habitat*

*In the letter of opposition to the George Dam development received from Dr. Bool Smuts of the Landmark Foundation (LF), the concern regarding the loss of leopard habitat was raised. Conservation Management Services, the appointed Biodiversity Specialists, provided the following response:*

*1. We are well aware of the leopard studies done by the LF in the Garden Route area as well as the urgent need to afford this species every bit of help that we can to ensure it's survival in the area. This confirms thus that the consultant wilfully misrepresented facts of leopard ecology, persistence and resource usage in the area or alternately is wilfully ignorant of the facts. It is recorded that the consultant know myself and our researcher (Dr Jeannine McManus, PHD leopard ecology) personally and could easily availed himself of the facts instead of misrepresenting them.*

*2. We did not list leopard in our faunal assessment of the area indicated in our terms of reference (ie: study area) because of the following:*

*a) Leopards have not been observed in the actual study area (affected area), as the LF GPS research localities clearly indicates. It is false to suggest that they were not observed. While we did not collar all the individuals in the area, we understand leopard spatial ecology well enough to know with a high degree of confidence that leopards reside around the dam, even in very close proximity to residences. Leopards are territorial animals and the female we collar is certainly adjacent to another female and also overlapped by one or more males. There is no justification to suggest just because all individuals were not collared that they do not utilise the area. If the consultant was honest about*

leopard ecology and facts you would fully appreciate that leopards are rarely observed unless specifically researched, none of which the consultant did or even attempted to obtain the information from the relevant specialists. The site of the development would most certainly be leopard habitat that would be used by the species. It is false to suggest that our GPS data supports his assertion and if anything suggest the opposite if candour was the order of the day.

*b) The study area has long been a highly disturbed area, firstly a pine plantation followed by clear felling, then completely invaded by alien trees (mostly black wattle), then the area burned, then it was cleared of alien trees in patches and then it burned again. Currently sporadic alien plant clearing is done by the municipality. In all this time the general public continued to use the dam area for outdoor recreation and the interior of the site for mountain biking. I have observed all of this personally for the last 26 years. It is false and again a deliberate misrepresentation that forestry, even alien plant infestation, and certainly not recreational usage displaces leopard populations. It has been repeatedly demonstrated that leopards in fact uses areas that provide cover. Leopards actually select for areas that provide cover and has repeatedly been demonstrated in several studies to utilise forested areas and even wattle infestations.*

*c) The study area is sandwiched in-between the Garden route dam and suburbia and is a part of the natural buffer edge around the George urban area. This coupled with the high disturbance of the study site and the fact that it is relatively poor-quality leopard habitat in terms of cover, disturbance and prey, suggests that the study site is not an important leopard conservation area. This is a false statement. The habitat is suitable and utilised leopard habitat. The past forestry, current wattle infestation and human recreational use is in not disturbance that affect leopard habitat. This has repeatedly been demonstrated in detailed studies. Landmark Foundation has data on 51 leopards where such detail on resource and space usage has been repeatedly demonstrated. The statement made by Coetzee is false and a misrepresentation intended to promote the development instead of representing the scientific facts and the environmental impact. The site would certainly be ideal leopard habitat and be used by the species locally.*

Attached are numerous leopards demonstrating the usage of disturbed alien plant infested land with alien plant overgrowth (albeit in Hermanus) and Coetzee's suggestion to the contrary does not align with the truth of leopard persistence across the landscape.

*3. For the above reasons we excluded leopard from our faunal assessment and I admit that these reasons could have been given in our report. The faunal study thus focused on the fauna that are most likely to occur in the study area and that could be directly impacted by the proposed development as well as on the known sensitivity of the red listed species. This is a simple misrepresentation of the facts. The leopard is a red listed species that is vulnerable to extinction. The fact that we have demonstrated that the Garden Route between George and the Bloukrans River have more between 30 – 40 individual adult leopards should have heightened the biodiversity specialist to the critical threat this species faced in the region and this site in particular. That it perhaps would have been one of the most critical species to have included in his "specialist" report, which he elected not to do and instead suggested that the species has move northwards and eastwards. When this was pointed out to him to have been a misrepresentation he elected to double down on this misrepresentation and incorrect suggestion as an attempt to mislead the authorities! Leopards clearly utilise the areas of the planned development and to have excluded it from the assessment is a wilful misrepresentation of the facts and the impacts on the species.*

*4. We completely agree with the statement that leopard populations in the Western Cape are under pressure but the study area can hardly be classed as a necessary refuge for the species for the reasons given above. The area beyond the study site is certainly more suitable for leopard conservation as can be seen by the leopard GPS localities shown in the LF- GPS locality map. Again this is a deliberate and a false assertion. The area is prime leopard habitat that is utilised by the species and should be preserved as such. The GPS data point to the opposite and the fact that only one female was collared does not prove anything about males and other females and the biodiversity specialist is deliberately attempting to mislead the authorities again in reply.*

*5. We acknowledge the presence of leopard in the area north, east and south-east of the dam (shown by the GPS localities) and also well beyond in the Outeniqua mountains, plantations and*

forests, but are of the opinion that the defined study area is a part of the natural disturbed buffer area around urban George, which, in our opinion, does not constitute an important area for leopard conservation.

As stated above, this is a deliberate attempt to mislead the authorities and is a misrepresentation of the facts related to leopard distribution and resource usage. Coetzee is masquerading his personal opinions as fact to support the development where the factual truth of leopard ecology points to diametrically opposite reality.

*The following additional response was received from the Biodiversity Specialist: Stating that “areas with high human densities will impede on leopard presences” and that the “proposed development will impact on the survival of the species” shows a complete misunderstanding of the nature of the proposed development site and the bigger picture. The site is already impacted by high human densities and activities. It borders on high density suburbs and the site is used by hikers, mountain bikers, picknickers, birders and resident vagrants.*

*There is absolutely no evidence either on this site or many other sites that leopards human recreational use has any impact on leopard space usage. This is simply a completely ignorant statement. We have GPS collared 51 leopards and this has never been demonstrated. The consultant has not studied a single leopard in terms of space usage and GPS data. Leopard occupy habitat right up the urban edge, mostly without any humans being aware of it. It is thus already impacted by human activities. It is denied that recreational use and open spaces like the site has any impact on leopard distribution and this statement is simply false and a deliberate misrepresentation. The specialist seems either ignorant of the facts, or wilfully misrepresents the importance of riparian habitats for leopards within suitable habitat that the development site represents.*

*Stating that this use will impact on the survival of the species is farfetched, the leopards in the area have the entire Witfontein nature reserve, mountains, plantations and indigenous forests in which to survive, they do not depend on the 118.5ha proposed development site. This is a grossly ignorant statement of leopard population dynamics in region and threat that the population of 30 – 40 individuals between George and the Bloukrans Rivers face. It is simply a cavalier statement to say they are welcome to move to the Witfontein, mountains, plantations and forests – notably initially he calls plantation part of the disturbance by which he justifies the development and now claims the leopards must move there.*

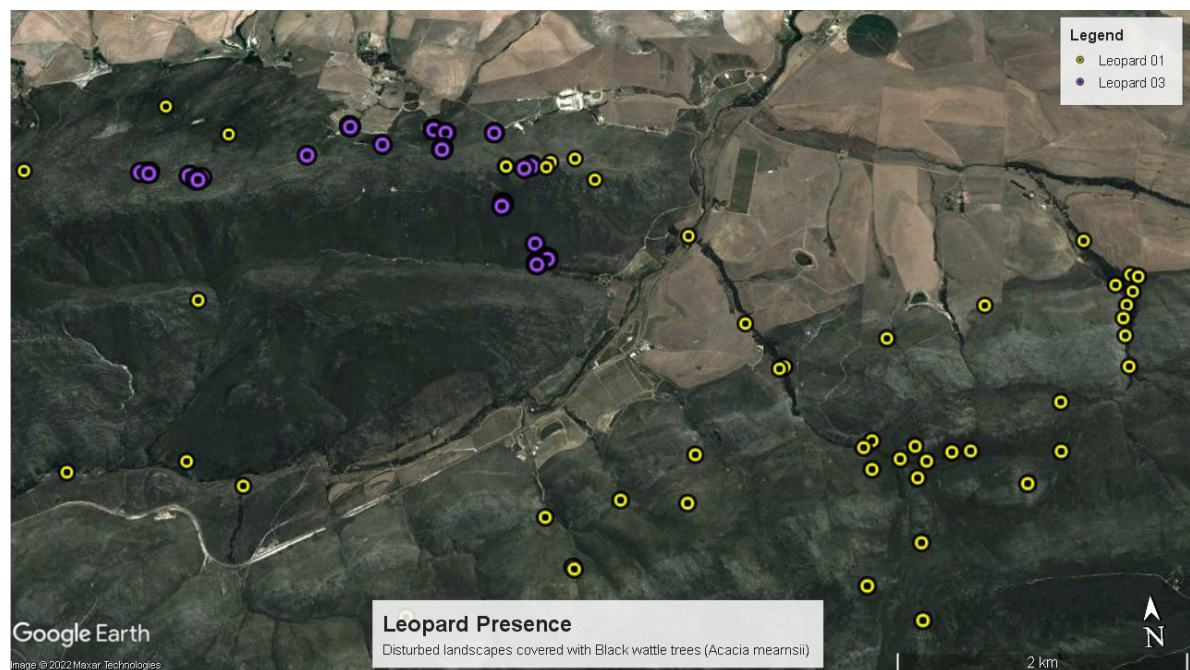
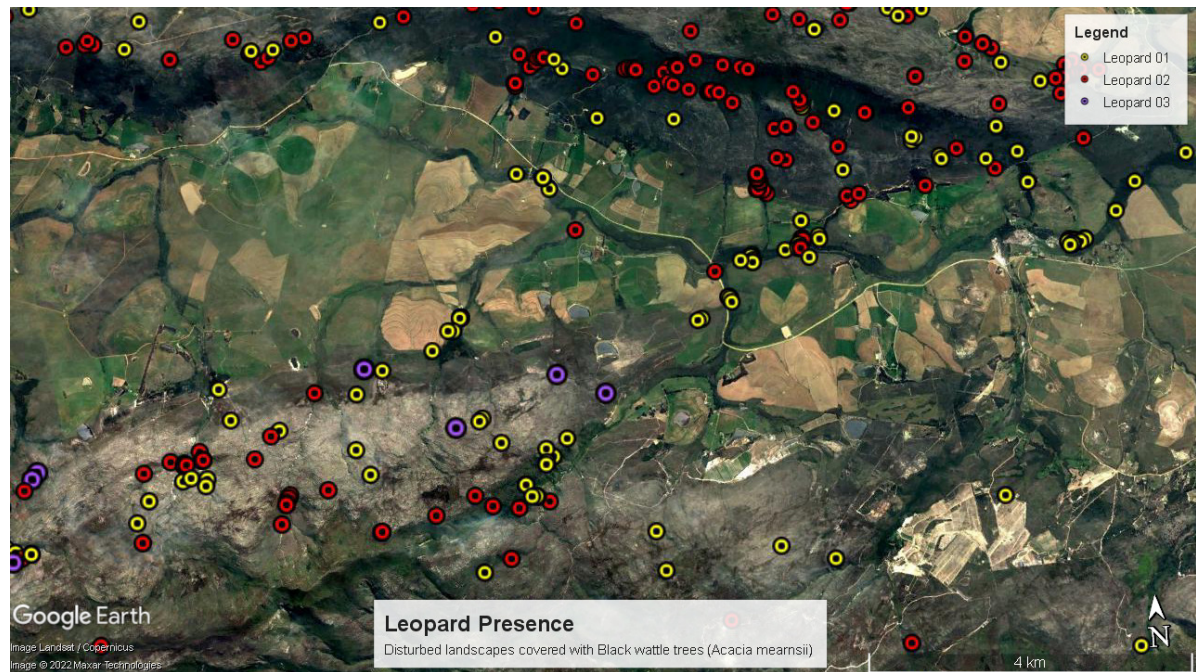
*The proposed camera trap monitoring is beyond the reasonable requirements of a specialist study. A camera trap monitoring program implies a long- term research activity that must be done in a specific manner, over time, for the results to be scientifically acceptable. For example, one photo of a leopard would not indicate permanent residence or that the habitat is suitable, it would need to be backed up by long term results. The development for which Coetzee provided this greenwashing and dishonest report on leopard impacts is a permanent destruction of known leopard habitat of only 30 – 40 individuals! The fact that the consultant did not check the facts that were publicly available to him, despite the fact that no monitoring was done to justify his false statements makes matters worse for him as a result of his unprofessional and unethical conduct. For the record, the leopard that was collared utilised the habitat within a few meters of the development site and Coetzee suggestion that the leopard did not use the site is not supported by the facts of how leopards use habitats and how these GPS collars record space usage. Leopard's resource usage seeks out riparian edges and habitat exactly like the area around the dam and it in fact makes out a key part of the remaining species habitat. The false assertions of the consultant does not accord with the reality for the species as demonstrated by long-term scientific studies and such assertions by Coetzee must thus be rejected as false.*

Accordingly I am reporting Mr Coetzee for unethical and unprofessional conduct in deliberately misrepresenting the impact on leopard of a proposed development in aid of which he was acting as a biodiversity specialist consultant.

I would appreciate if you could accordingly investigate his conduct and if DEADP can regard his ecological inputs as a misrepresentation,

Regards  
Dr Bool Smuts  
0843243344





More images are available to demonstrate how leopards use invasive plant cover.

Please note that the full content of the appeal is provided in the content above but annexure 1, 2 & 3 provides substantiation of the positions provided.





PO Box 22  
Riversdale  
6670  
South Africa  
[www.landmarkfoundation.org.za](http://www.landmarkfoundation.org.za)  
[www.facebook.com/LandmarkFoundation](https://www.facebook.com/LandmarkFoundation)  
[Tel:+27 \(0\)833243344](tel:+270833243344)  
2 March 2022

Betsy Ditcham  
Email: [betsy@sescs.net](mailto:betsy@sescs.net)  
Sharples Environmental Services  
Fax: 086 575 2869  
PO Box 443  
Milnerton  
7435

Dear Ms Ditcham

Re: Opposition to the George Dam Development

On behalf of Landmark Foundation, I wish to register unequivocal opposition to the proposed development being proposed around the George Dam precinct.

While our opposition is in terms of:

1. The importance of and disregard given to retaining important open spaces near cities and its community value and importance;
2. Safeguard of and the security of water resources;
3. The impact on the future capacity of George dam expansion;
4. Unjustified expansion of the city borders into sensitive habitats when much less sensitive habitats are available;
5. The loss of key habitat for multiple species;
6. Disastrous impact it will have on remaining habitat of leopards.

Our opposing the development also strongly extends to the sloppiness of the impact assessment and the disregard given to a key species that Landmark has focused on for the last two decades in the area, and whose specific habitats around the dam will be severely affected by the proposed development and influx of human presence. Specifically, the impact report wilfully misrepresents, alternately ignorantly misrepresents, the specific facts about leopard occupation and persistence on the proposed development site. It is with dismay that I read the contents of this misrepresentations on pages 99 and 100. We believe this is done deliberately to mislead the decision-makers and public in greenwashing support for the development and developers by whom the environmental practitioners are being paid.

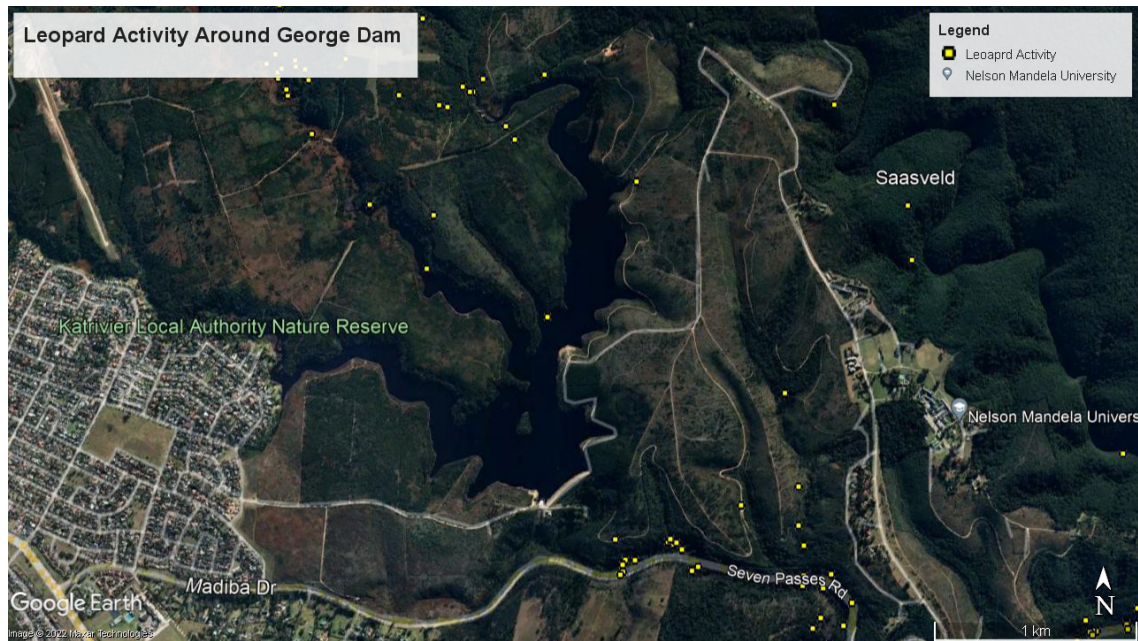
Landmark Foundation has run a leopard research programme in the Garden Route and the George dam area has proven to be a key habitat for the species. The area of the development has been demonstrated to be the refuge of leopards and specifically we have studied a female leopard that utilised the development precinct for its home range. We studied this leopard for five years and obtained data on her movement and even studied her offspring being reared in the area. Our studies have proven that less than 30 adult leopards inhabit the Garden Route area

between George and the Bloukrans bridge. Development in these key habitats will undoubtedly adversely affect this species that is perilously hanging on to survival in the Western Cape. These edges around cities offer cover and suitable prey, making these habitats key to leopard survival. This area also acts as natural landscape corridor for wildlife to move along the southern parts of the dam which will be impeded and post probably destroyed as available habitat by the proposed development and regular and dense human presence.



GPS collared female studied in the George Dam area with offspring photographed in the Saasveldt area.

Merely 500 adult leopards remain in the Western Cape as is proven in peer reviewed research and due to habitat fragmentation, the remaining populations have shown genetic bottlenecking. These facts are freely available in peer reviewed work that the consultants ought to have attended to. It is simply unacceptable that developments of this nature are being contemplated in the small refuges that remain for this species, while less sensitive areas for development abound.



Yellow dots represent the GPS points recorded of her movements around the George Dame area that will be severely impacted by the developed an influx.

On the basis of the impact of the development would have on leopards alone, this development should be rejected from the outset.

The fact that the EIA did not pick up this impact, or more likely wilfully misrepresented them, points to the deficiency of the work and the conflicted nature of the environmental practitioners' relationship with the developers by whom they are paid. This report is thus nothing more than a greenwashing effort for the developer and should be rejected.

Yours Sincerely,

Dr. Bool Smuts  
 Founder & Director  
 Landmark Foundation  
 Cellular: 083 324 3344

**From:** Shireen Pullen <Shireen.Pullen@westerncape.gov.za>  
**Sent:** Thursday, 22 September 2022 10:48  
**To:** bool@landmarkfoundation.org.za; Malcolm Fredericks <Malcolm.Fredericks@westerncape.gov.za>  
**Cc:** Zaahir Toefy <Zaahir.Toefy@westerncape.gov.za>; Gavin Benjamin <Gavin.Benjamin@westerncape.gov.za>; Danie Swanepoel <Danie.Swanepoel@westerncape.gov.za>  
**Subject:** RE: Complaint of misconduct against Ken Coetzee SACNASP registration 400099/08

Dr Smuts

I refer you to the response below. This sub-Directorate has no further comment in this regard.

Kindly follow the processes available to you as referred to in the email below.

Kind Regards

**Shireen Pullen**

Environmental Officer: Development Management (Region 3)  
Department of Environmental Affairs and Development Planning  
Western Cape Government

4<sup>th</sup> Floor, York Park Building, 93 York Street, George

Tel: 044 814 2021

Email: [Shireen.Pullen@westerncape.gov.za](mailto:Shireen.Pullen@westerncape.gov.za)

Website: [www.westerncape.gov.za](http://www.westerncape.gov.za)



Be 110% Green. Read from the screen.

Due to COVID-19 restrictions, we are still operating on a "work-from-home" basis.  
Should you not be able to contact the numbers above, please call +27 (0)21 483 4091 between 07:30-16:00.

**From:** Dr Bool Smuts <[bool@landmarkfoundation.org.za](mailto:bool@landmarkfoundation.org.za)>  
**Sent:** Thursday, 22 September 2022 10:07  
**To:** Shireen Pullen <[Shireen.Pullen@westerncape.gov.za](mailto:Shireen.Pullen@westerncape.gov.za)>; Malcolm Fredericks <[Malcolm.Fredericks@westerncape.gov.za](mailto:Malcolm.Fredericks@westerncape.gov.za)>



**Cc:** Zaahir Toefy <[Zaahir.Toefy@westerncape.gov.za](mailto:Zaahir.Toefy@westerncape.gov.za)>; Gavin Benjamin <[Gavin.Benjamin@westerncape.gov.za](mailto:Gavin.Benjamin@westerncape.gov.za)>; Danie Swanepoel <[Danie.Swanepoel@westerncape.gov.za](mailto:Danie.Swanepoel@westerncape.gov.za)>; Malcolm Fredericks <[Malcolm.Fredericks@westerncape.gov.za](mailto:Malcolm.Fredericks@westerncape.gov.za)>

**Subject:** RE: Complaint of misconduct against Ken Coetzee SACNASP registration 400099/08

Dear Ms Pullen

I will indeed make do with the legislative tools available to me to gain information and to assert fair administrative action in this regards.

Of concern, when I called you, I wanted to understand the rationality of your decision in terms of the complaint I lodged (to which you did not have the decency to respond for the last 9 days), you immediately refused to respond as you claimed you *disliked the tone*. There is not tonal issues in this, but merely wanting the rationale that you applied but you refused to provide such.

You eagerly stressed that you “applied your mind”. I would like to understand how that application of your mind led to your minds conclusions on the matter I raised in respect of factual misrepresentation from the specialist ecologist on the matter as that certainly would have affected your decisions. This is a substantive matter that must have affected your decisions and in terms of that I am entitled to ask you this, and to receive and answer, which you refused.

Since you consider yourself “**competent**” as an “**authority**”, all I am asking for is the rationale of the decision that was made in respect of misrepresentations made to you and as the “**competent authority**”.

Please can I again ask you for this information. I refer you to PAJA and our constitution in terms of the legitimate rights I rely on.

Regards  
Dr Smuts

**From:** Shireen Pullen <[Shireen.Pullen@westerncape.gov.za](mailto:Shireen.Pullen@westerncape.gov.za)>

**Sent:** Thursday, 22 September 2022 09:35

**To:** [bool@landmarkfoundation.org.za](mailto:bool@landmarkfoundation.org.za); Malcolm Fredericks <[Malcolm.Fredericks@westerncape.gov.za](mailto:Malcolm.Fredericks@westerncape.gov.za)>

**Cc:** Zaahir Toefy <[Zaahir.Toefy@westerncape.gov.za](mailto:Zaahir.Toefy@westerncape.gov.za)>; Gavin Benjamin <[Gavin.Benjamin@westerncape.gov.za](mailto:Gavin.Benjamin@westerncape.gov.za)>; Danie Swanepoel <[Danie.Swanepoel@westerncape.gov.za](mailto:Danie.Swanepoel@westerncape.gov.za)>; Malcolm Fredericks <[Malcolm.Fredericks@westerncape.gov.za](mailto:Malcolm.Fredericks@westerncape.gov.za)>

**Subject:** RE: Complaint of misconduct against Ken Coetzee SACNASP registration 400099/08

Good day Dr. Smuts

As discussed earlier, this Department have considered the content of your email dated 13 September 2022 in reaching the decision dated 19 September 2022. Since the Department has discharged of its function in reaching a decision, we are *functus officio* in this regard. if you are still aggrieved by the decision made by the competent authority your only recourse is to lodge an appeal to the MEC. You are also free to apply for access to information, should you need any further information.

Mr. Zaahir Toefy's contact number is 083 648 5338. Please note that Mr. Toefy is on leave today, but you are free to contact him tomorrow.

Kind Regards

**Shireen Pullen**

Environmental Officer: Development Management (Region 3)  
Department of Environmental Affairs and Development Planning  
Western Cape Government

4<sup>th</sup> Floor, York Park Building, 93 York Street, George

Tel: 044 814 2021

Email: [Shireen.Pullen@westerncape.gov.za](mailto:Shireen.Pullen@westerncape.gov.za)

Website: [www.westerncape.gov.za](http://www.westerncape.gov.za)



Be 110% Green. Read from the screen.

Due to COVID-19 restrictions, we are still operating on a "work-from-home" basis.  
Should you not be able to contact the numbers above, please call +27 (0)21 483 4091 between 07:30-16:00.

**From:** Dr Bool Smuts <[bool@landmarkfoundation.org.za](mailto:bool@landmarkfoundation.org.za)>

**Sent:** Thursday, 22 September 2022 08:02

**To:** Shireen Pullen <[Shireen.Pullen@westerncape.gov.za](mailto:Shireen.Pullen@westerncape.gov.za)>; Malcolm Fredericks  
<[Malcolm.Fredericks@westerncape.gov.za](mailto:Malcolm.Fredericks@westerncape.gov.za)>

**Subject:** FW: Complaint of misconduct against Ken Coetzee SACNASP registration 400099/08

**Importance:** High

Dear Ms Pullen

I note that you issued this authorisation on the 19<sup>th</sup> September although this was only communicated to us on the 21 September at 16.39, despite my repeated correspondence to the consultant several days hence.

Please can you **urgently advise me with the contents of this email below was considered prior to authorisation.**

As you have only given IAPs 20 days to appeal could I ask you to answer this specific question with urgency as it has direct relevance,

Kind regards  
Dr Smuts