



**URBAN
DYNAMICS**

town and regional planners

SEPTEMBER 2023
REPORT NUMBER: 1600

ENVIRONMENTAL SCOPING ASSESSMENT

FOR A 10M RIGHT-OF WAY-SERVITUDE IN FAVOUR OF PORTION 5 OF THE REMAINDER OF
REMAINDER OF FARM DIVUNDU TOWNLANDS NO. 1362 WITHIN KAVANGO EAST

PROPONENT:

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SUBMISSION:

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GENERAL LOCATION DESCRIPTION OF THE DEVELOPMENT AREA:

DESCRIPTOR:	LOCATION SPECIFICS:
NATURE OF ACTIVITIES:	Registration of a 10 m right of way servitude
REGION:	Kavango East Region
LOCAL AUTHORITY:	Divundu Village Council
FALL WITHIN:	Divundu Townlands
NEAREST TOWNS / CITY:	Divundu
AREA:	Length of right of way 950 m and 10 m wide
LAND USE:	Private right of way (Access road)
STRUCTURES:	No Structures
HISTORICAL RESOURCES:	No Historical Resources
CEMETERY:	No Cemetery
FLOODLINES:	No Floodlines
ENVIRONMENTAL SIGNIFICANT ASPECTS:	No Potential of removal of protected trees
LATITUDE:	-18°7'23.40"S,
LONGITUDE:	21°35'19.75"E

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1 APPOINTMENT

Urban Dynamics Africa was appointed to obtain environmental clearance for a 10m wide right-of-way servitude over the Remainder of the Farm Divundu Townlands No. 1362.

The relevant documentation are included in support of our application to the Environmental Commissioner; please refer to the appendices attached hereto.

2 BACKGROUND

Divava Property (Pty) Ltd., the owner of the existing Divava Okavango Lodge and Spa, is purchasing the land they operate on from the Divundu Village Council. In conjunction with the Remainder of Farm Divundu Townlands No. 1362 subdivision into Portion 5 and Remainder, a 10m wide right-of-way servitude over the remainder of the townlands will be registered in favour of new Portion 5.

During the review of the subdivision proposal by the Urban and Regional Planning Board, the Board requested that the applicant, Divava Property (Pty) Ltd., obtain environmental clearance from the Ministry of Environment, Forestry and Tourism for the proposed right-of-way servitude.

3 NATURE OF THE ACTIVITY

Access servitudes, although not explicitly covered by the Environmental Management Act's regulations, involve the legally granted right known as a 10-meter right-of-way servitude, often referred to as an easement or right-of-way. This right is provided to an individual or entity, termed the beneficiary, allowing them to use a specified portion of another individual's or entity's property, known as the servient estate, for a specific purpose. In our case, the primary purpose is to establish a 10-meter-wide access route or pathway across the servient estate (the Remainder of Farm Divundu Townlands No. 1362).

These servitudes are commonly utilised when a property lacks direct access to a public road, enabling the beneficiary to traverse a portion of a neighbouring property to reach the road. The legal framework governing these servitudes ensures the precise definition and enforceability of the rights and obligations of both the beneficiary and the owner of the servient estate (TownPlanner, 2023).

4 MOTIVATION FOR ENVIRONMENTAL CLEARANCE:

The Ministry of Urban and Rural Development Planning Board mandated the requirement for an Environmental Clearance Certificate (ECC) for the registration of a 10-meter right-of-way servitude.

While access servitudes are not explicitly covered by the Environmental Management Act's regulations, Urban Dynamics registered the application with the Ministry of Environment, Forestry, and Tourism,

considering the project's nature, which does not involve a public road. Subsequently, the Ministry requested the submission of a scoping report.

Our application for Environmental Clearance aims to secure approval from the Ministry of Environment, Forestry, and Tourism. It's crucial to emphasize that the client is not altering the existing informal road that is already in use. Despite these distinctions, our unwavering commitment to environmental responsibility and sustainable practices underscores the importance of obtaining an Environmental Clearance Certificate for this specific project.

5 LEGISLATION

The following table provides the legislative framework against which the application should be assessed:

THEME	LEGISLATION	PROVISION	PROJECT IMPLICATIONS
	The Constitution of the Republic of Namibia First Amendment Act 34 of 1998	<ul style="list-style-type: none"> ❖ Article 95 (i) The state shall actively promote and maintain the welfare of the people by adopting, inter-alia, policies aimed at managing the ecosystems, essential ecological processes and biological diversity of Namibia and utilisation of living natural resources on a sustainable basis for the benefit of all. 	The project should protect the ecological integrity of the area's ecosystems and social environment.
Environmental	Environmental Management Act 7 of 2007	<ul style="list-style-type: none"> ❖ Section 27 requires that projects with significant environmental impacts are subject to an environmental assessment process. ❖ Section 2(b-c)) requires adequate public participation during the environmental assessment process for interested and affected parties to voice their opinions about a project. ❖ - Details principles which are to guide all EIAs ❖ Section 21 details the requirement for public consultation within a given environmental assessment process. ❖ Prescribes the procedures to be followed for authorisation of the project (i.e. Environmental clearance certificate). 	This Act and its regulations should inform and guide this EIA process to ensure that Environmental Clearance is obtained.
	EIA Regulations GN 57/2007 (GG 3812)	<ul style="list-style-type: none"> ❖ Section 10.2 route determinations of roads and design of associate physical infrastructure (a) public road whereby the Minister of Environment, Forestry and Tourism or in a manner prescribed by the Minister. 	

Forestry	Forestry Act 12 of 2001	<ul style="list-style-type: none"> ❖ Section 22(1) states that tree species and any vegetation within 100m of a Watercourse may not be removed without a permit. ❖ Provision for the protection of various plant species. 	<p>Plant species protected under Annexure A of the Regulations should be protected through planning the layout and construction of services.</p>
	Forest Regulations GN 170/ 2015 (GG 5801)	<ul style="list-style-type: none"> ❖ Section 13.2 states that no protected species should be removed unless special permission is granted. The plant or species declared protected species are listed in Annexure A of the Regulations. 	<p>A Tree Management Plan should be compiled on the site to identify protected species before construction comments.</p> <p>Permits should be obtained from the Ministry of Environment, Forestry, and Tourism (Department of Forestry) to remove any protected species that are unable to be protected.</p>
Health and Safety	Labour Act 11 of 2007	<ul style="list-style-type: none"> ❖ Chapter 2 details the fundamental rights and protections of employees ❖ Chapter 3 deals with the basic conditions of employment. 	<p>Employment opportunities presented by the development and compliance with labour law are essential.</p>
	Public and Environmental Health Act of 2015 (GG 5740)	<ul style="list-style-type: none"> ❖ This Act provides a framework for Namibia's structured, uniform public and environmental health system. It covers notification, prevention and control of diseases and sexually transmitted infections; maternal, ante-natal and neo-natal care; water and food supplies; infant nutrition; waste management; health nuisances; public 	<p>Development contractors must comply with these legal requirements of the Act. by preventing activities that can impact the health and safety</p>

		and environmental health planning and reporting.	of the public and employees.
Atmospheric Pollution	Atmospheric Pollution Prevention Ordinance No 45 of 1965	<ul style="list-style-type: none"> ❖ Part II - control of noxious or offensive gases, ❖ Part III - atmospheric pollution by smoke, ❖ Part IV - dust control, and ❖ Part V - air pollution by fumes emitted by vehicles. 	The development should consider the provisions outlined in the Act. The proponent should apply for an Air Emissions permit from the Ministry of Health and Social Services (if needed).
Soil	Soil Conservation Act 76 of 1969	<ul style="list-style-type: none"> ❖ The Act regulates combating and preventing soil erosion, the conservation, improvement and manner of use of the soil and vegetation and the protection of the water sources. 	Measures should be in place to ensure that soil erosion and pollution are avoided during the construction and operational phases.
Land Use	The Urban and Regional Planning Act 7 of 2018	<ul style="list-style-type: none"> ❖ The Act regulates the establishment of townships, amendment of layout, subdivisions and consolidation, and land rezoning. 	The proposed subdivision and layout should be approved by the Ministry of Urban and Rural Development in accordance with the Act.
Services and Infrastructure	Road Ordinance 17 of 1979	<ul style="list-style-type: none"> ❖ Section 3(1) the width of proclaimed roads and roads receive boundaries. ❖ Section 27(1) the control of traffic during construction activities on the trunk and main roads. ❖ Section 37(1) infringement and obstructions on and interference with proclaimed roads. ❖ Section 38 distances from proclaimed roads at which fences are erected. 	The proponent should ensure that the construction of public roads and infrastructure through township development and the operational phase do not affect major nearby roads.

6 METHODOLOGY

In this section, we outline the methodology employed by Urban Dynamics Africa (UDA) to assess the site, considering its strengths, weaknesses, opportunities, and threats. Our goal was to formulate a planning approach that involves registering a 10m right-of-way servitude while harnessing the site's strengths, accommodating its weaknesses, capitalising on opportunities, and mitigating identified threats. Our assessment also encompasses the natural and social environment within which the project is situated.

6.1 NATURAL RECEIVING ENVIRONMENT

In August 2022, Urban Dynamics performed an extensive environmental screening of the affected area. Our approach included on-site visits and literature surveys

Data sources utilized for this assessment include:

- Atlas of Namibia (Atlas of Namibia Team, 2022)
- Atlas of Namibia (Mendelsohn et al., 2002)

6.2 PUBLIC CONSULTATION

Urban Dynamics has undertaken the necessary steps to initiate a comprehensive public consultation campaign, aligning with the requirements of the Environmental Management Act 7 of 2007.

We placed informative newspaper notices in two distinct publications for consecutive two-week periods. These notices provided clear instructions for stakeholder registration, ensuring that all interested parties have the opportunity to participate in the project's development. For reference, copies of the newspaper advertisements are included in "**Appendix B.1.**"

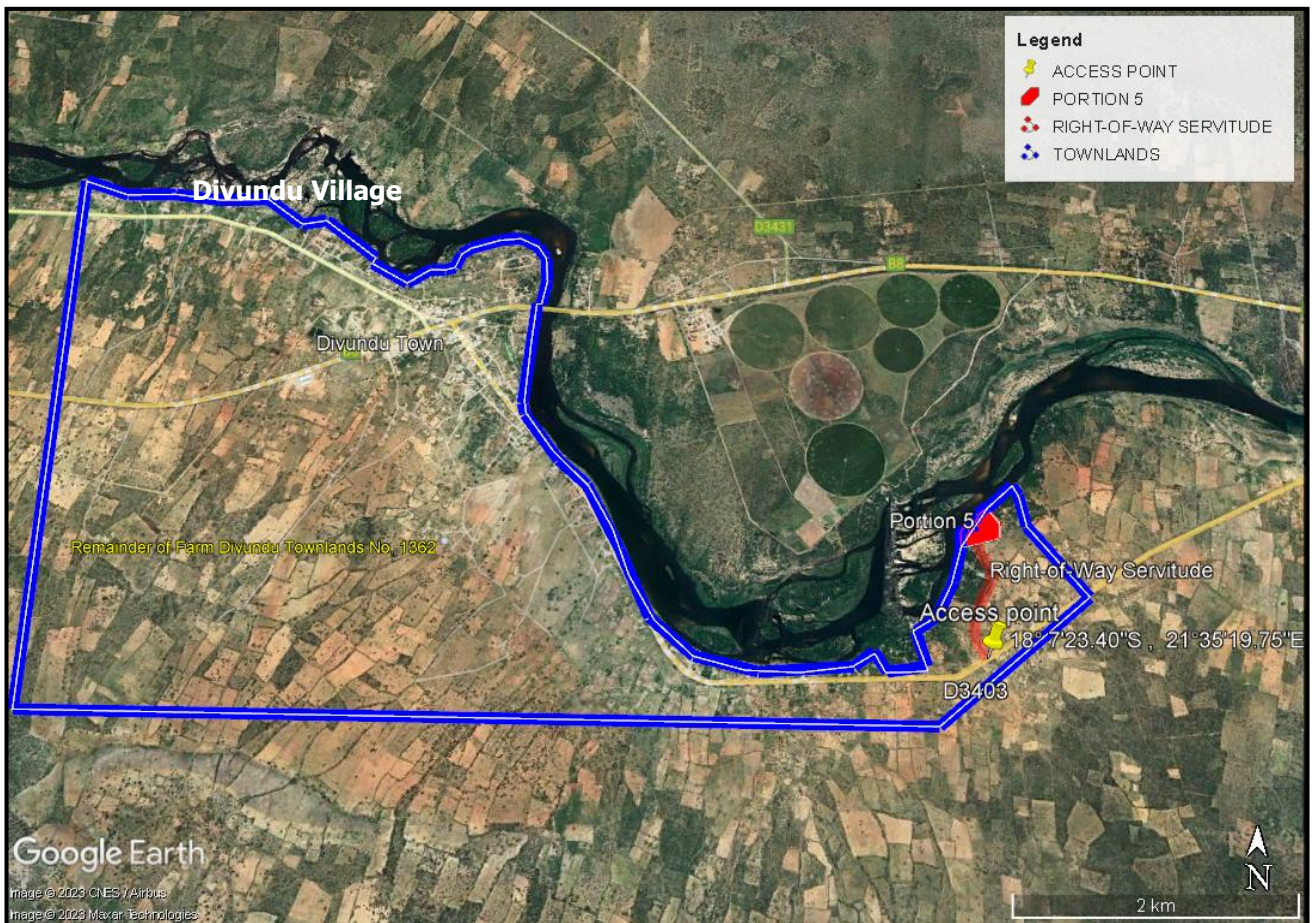
7 DESCRIPTION OF THE SITE

This section provides a description of the proposed project site, including its location within the urban context, existing land use, infrastructure, topography, and notable site characteristics.

7.1 LOCATION OF THE SITE

The project site is located within the Kavango East Region on the Remainder of Farm Divundu Townlands No. 1362, precisely at coordinates 18°7'23.40"S, 21°35'19.75"E. The proposed servitude will be registered along with an existing informal access route currently utilised by the community. Please refer to **Figure 1** for a detailed locality plan for a visual representation. Find attached **Appendix "A"**.

Figure 1: Locality of the Project Area



7.2 OWNERSHIP OF THE LAND

The Divundu Village Council holds the registered ownership of the townlands upon which the proposed servitude will be register. The servitude will be registered in favour of Portion 5 of the Remainder of Farm Divundu Townlands No. 1362.

7.3 LAND USE ACTIVITIES

Currently, a strip of land is being used as an informal access route by the local community.

7.4 CULTURAL RESOURCES

The Roads Authority approved access to the D3403 Divundu to Botswana Road.

7.5 TOPOGRAPHY AND ENVIRONMENTAL CHARACTERISTICS

7.5.1 Topography & Flooding:

The proposed servitude area is predominantly characterised by a flat terrain, notable for its minimal susceptibility to flooding. This feature offers a distinct advantage by reducing the potential risks associated with road damage and environmental disruption due to flooding events.

7.5.2 Soil Conditions:

Surface soil in the region is primarily composed of sandy materials. The study area falls within the Kalahari and Namib Sand region of Namibia, consistent with the broader geographical context reported by Mendelsohn et al. in 2002.

7.5.3 Vegetation Conditions:

The region's vegetation predominantly comprises North-eastern Kalahari Woodland, as documented in the 2022 Namibia Atlas.

However, it is crucial to acknowledge that the site itself has experienced habitat degradation as a result of alterations associated with the informal road, the clearance of land for fields and wood harvesting. This transformation has shifted the site from a pristine to an impacted ecosystem.

Moreover, it's essential to highlight that the vicinity of the project site harbours a diverse range of protected tree species, bearing both ecological significance and potential legal protection due to their ecological importance.

7.5.4 Habitats on Site

Current land use practices, particularly the alterations introduced by the informal road, have impacted the natural state of the site. These changes have resulted in ecological shifts within the area affected by the informal road.

7.6 STATUS OF PROTECTED AREA

The project site itself does not hold any protected status.

7.7 SUMMARY OF THE HABITATION ON SITE

The site is ecologically impacted, no longer pristine and not fully functional at the ecosystem level. Due to utilisation of the site as an informal access road, extensive habitat alteration occurred. It may be best described as an impacted ecosystem.

Key environmentally relevant features show that:

- ❖ **Location:** The project site is situated on the Remainder of Farm Divundu Townlands No. 1362 in the Kavango East Region, with coordinates at -18°7'23.40"S, 21°35'19.75"E.
- ❖ **Ownership:** Divundu Village Council owns the land.
- ❖ **Servitude Size:** The servitude measures approximately 970m.
- ❖ **Current Land Use:** The site is presently utilised as an informal access road.
- ❖ **Terrain:** The terrain is predominantly flat.
- ❖ **Flooding Risk:** The site is not susceptible to flooding.
- ❖ **Soil Composition:** The region features predominantly sandy soil.
- ❖ **Vegetation:** The region's vegetation predominantly comprises of North-eastern Kalahari woodland. Habitat alterations resulting from the informal road have significantly degraded the site's ecological condition
- ❖ **Protected Trees:** The vicinity of the site contains various protected tree species of ecological and potential legal significance.
- ❖ **States of the Site:** The project site itself is not a protected area.

The screening process for the proposed 10m right-of-way servitude area has revealed no significant biodiversity-related issues. Therefore, it is recommended that the registration for the 10m right-of-way servitude in favour of Portion 5 proceed without the need for further assessment. This recommendation is in accordance with the provisions outlined in articles 33 and 34 of the Environmental Management Act.

8 THE INTENSION OF THE CLIENT

The client intends to subdivide the Remainder of Farm Divundu Townlands No. 1362 into two portions, which are Portion 5 and the Remainder of Divundu Townlands No. 1362. Additionally, they intend to register a 10m wide right-of-way servitude over the existing informal road on the Remainder of Farm Divundu Townlands No. 1362 in favour of the newly subdivided Portion 5.

8.1 LAYOUT DETAIL

The proposed servitude will not change the current "Undetermined" zoning status of the Townlands. The servitude's length, stretching from the main road to the new portion, spans a distance of 970m. Furthermore, the servitude width is 10m. Details regarding the dimensions and configurations of the servitude are clearly presented in **Table 1** and **Figure 2** for your reference.

Table 1: Erf sizes and zonings

Site	With	Length	Servitude
-18°7'23.40"S, 21°35'19.75"E.	10m	970m	10m right-of-way in favour of New Portion 5

Figure 2: Aerial photo of the Servitude area

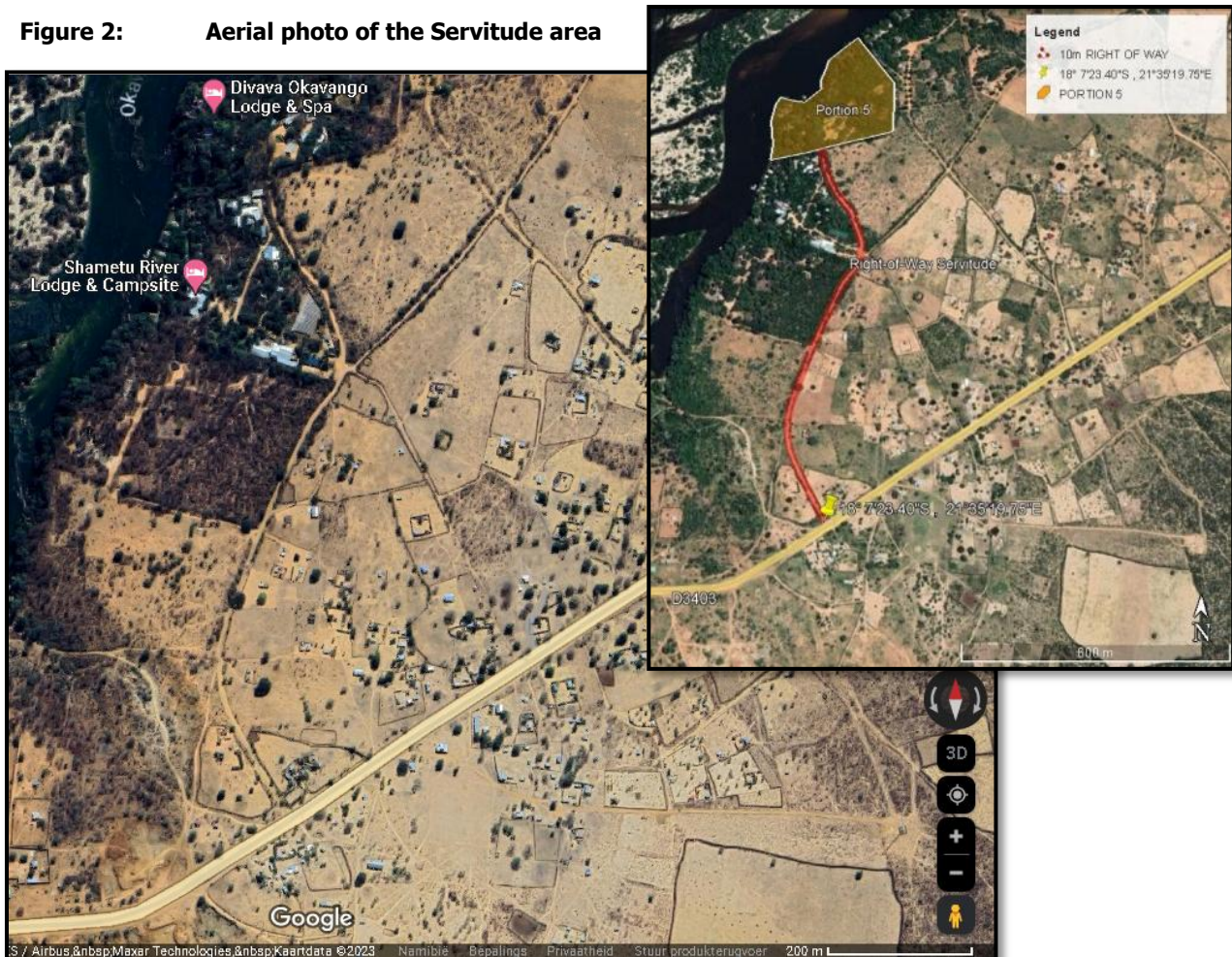
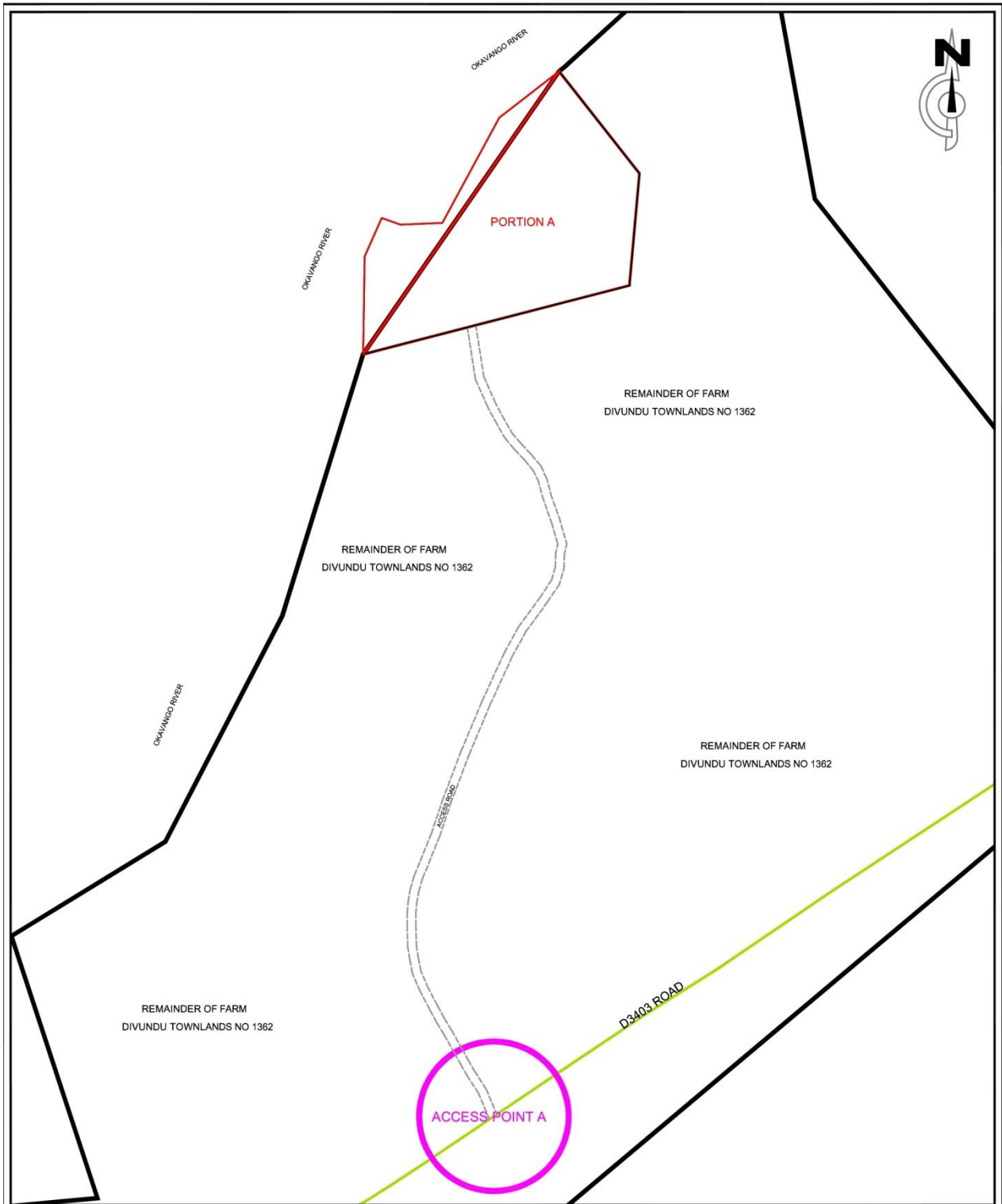


Figure 3: Subdivision / Access Sketch Plan



ACCESS PLAN				
SUBDIVISION OF THE REMAINDER OF FARM DIVUNDU TOWNLANDS NO. 1362 INTO PORTION A AND REMAINDER				
The copyright of this drawing is reserved		LEGEND PORTION A BOUNDARY FARM DIVUNDU TOWNLANDS NO. 1362 BOUNDARY D3403 DISTRICT ROAD ACCESS ROAD	PREPARED BY: 45 NELSON MANDELA AVE. KLEIN WINDHOEK, NAMIBIA	
DESIGN	URBAN DYNAMICS		DATE	
DRAWN	URBAN DYNAMICS		DATE	SEPT 2022
REVISION			DATE	
JET: PROJECT NUMBER/ DRAWING NAME upd_all/current proj/1262/drawings				
SCALE	1 : 2 500	DRAWING NAME	Subd contours	
		URBAN DYNAMICS town and regional planners P. O BOX 20837 WINDHOEK Namibia Telephone +264-61-240300 Telefax +264-61-240309 E-mail info@udanam.com Web www.udanam.com		

9 POTENTIAL IMPACTS

The registered servitude is not expected to introduce additional impacts to the existing informal road. However, it's crucial to acknowledge that using this road may result in both environmental and social impacts. Below are the potential impacts identified through the scoping process:

9.1.1 Benefits of the Project:

- **Provision of Access to the Lodge:** The servitude will improve access to the lodge, enhancing its accessibility for visitors and guests.
- **Stimulation of Economic Development:** The servitude is anticipated to stimulate economic development, offering employment opportunities during the operational phase.

9.1.2 Potential Negative Impacts during Operations:

During the project's operational phase, several potential negative impacts have been identified:

- **Impact of Dust:** Dust generation may lead to air quality issues affecting the environment and nearby communities.
- **Impact of Noise:** Noise generated during the servitude's use may affect the surrounding area.
- **Impact on Health and Safety of Workers:** Ensuring the health and safety of lodge workers, visitors and guests is vital, and any lapses in safety measures could have adverse consequences.

It is essential to recognise and address these potential impacts to mitigate their adverse effects and ensure.

9.2 DEALING WITH RESIDUAL IMPACTS

9.2.1 Residual Social Impacts:

Upon thorough assessment, it has been determined that there are no residual social impacts identified that require specific mitigation measures.

9.2.2 Residual Environmental Impacts:

Residual environmental impacts resulting from this project can be further elaborated as follows:

- **Dust and Noise:** During the use of the road, it is expected that the road will generate dust and noise. It's important to note that these effects are not limited to the use of the road by lodge guests (Portion 5) alone. Measures to minimize the impacts are detailed in the Environmental Management Plan (EMP).
- **Worker Health and Safety:** Ensuring the health and safety of workers from the lodge is vital, and any lapses in safety measures could have negative consequences. To address this concern, comprehensive safety measures are incorporated into the EMP to limit and control potential hazards.

It is essential to underscore that while some residual impacts may persist, comprehensive strategies and measures outlined in the EMP have been developed to manage and mitigate these impacts effectively.

10 SUMMARY AND APPLICATION

10.1 PROJECT IMPACTS, AVOIDANCE MEASURES AND RESIDUAL IMPACTS

POTENTIAL IMPACT:	MEASURES:			RESIDUAL IMPACTS:
	AVOIDANCE:	MITIGATION:	ENHANCEMENT:	
Positive Impacts				
Access:			The positive impact of the servitude is that it will guarantee Portion 5 a legal right to access the main road via the 10m right-of-way servitude over the Remainder of Farm Divundu Townlands No. 1362.	
Stimulation of Economic Development:			A second positive impact of the servitude is that it will provide the community with access to training, experience opportunities, and job opportunities.	

POTENTIAL IMPACT:	MEASURES:			RESIDUAL IMPACTS:
	AVOIDANCE:	MITIGATION:	ENHANCEMENT:	
Negative Impacts				
POTENTIAL DUST AND NOISE	Avoid dust and noise	Implement a Dust and Noise mitigations plan that should include: <ul style="list-style-type: none"> • Speed Limit • Signage • Vegetative Buffers • Scheduled Deliveries. 		<i>Not all dust and noise can be prevented.</i>
HEALTH AND SAFETY OF WORKERS:	Avoid any potential impacts on the health, safety and wellbeing of workers and guest.	Incorporate the following measures into the lodge's safety plan to ensure comprehensive safety management: <ul style="list-style-type: none"> • Dust and Noise Management • Surface Maintenance • Safety Signage • Speed Limit. 		<i>Not all the health and safety aspects of the workers can be prevented.</i>

11 APPLICATION FOR ENVIRONMENTAL CLEARANCE

Based on the findings of the baseline investigation, no anticipated environmental impacts have been identified as a result of utilising the 10m right-of-way servitude within the Divundu Townlands.

It is strongly recommended that the development can proceed without the necessity for additional assessment, in accordance with the provisions outlined in articles 33 and 34 of the Environmental Management Act. The Application Form 1 for an Environmental Clearance Certificate, as specified in Section 32, is included as **Annexure "1"** to this Scoping Report.