

Resolution No. 1936-2021-SETENA

THE MINISTRY OF ENVIRONMENT AND ENERGY, THE NATIONAL ENVIRONMENTAL TECHNICAL SECRETARIAT, AT 09 HOURS
00 MINUTES ON DECEMBER 8 , 2021 .

DOMINICAL RIDGE TOURIST DEVELOPMENT PROJECT ADMINISTRATIVE FILE D1-20938-2017-SETENA

The Plenary Commission of this Secretariat is aware of the Environmental Assessment Form (D1), the Environmental Impact Study (EslA), the Affidavit of Environmental Commitments and the analysis of the Environmental Impact Assessment of the project: Dominical Tourism Development: Dominical Ridge, in the name of the company Dominical Ridge Limitada, with legal ID 3-102-668935, represented by Mr. Trevor Yoder, with US passport 488048894, file number D1-20938-2017-SETENA.

RESULTING

FIRST: On September 6, 2017, this Secretariat received the Environmental Assessment Document (D-1) of the Project: Dominical Tourism Development: Dominical Ridge, in the name of the company Dominical Ridge Limitada, with legal ID 3-102. -668935, represented by Mr. Trevor Yoder, with US passport 488048894, file number D1-20938-2017-SETENA.

SECOND: Through Resolution No. 2135-2018, of September 13, 2018, the terms of reference for the presentation of an Environmental Impact Study are established and a period of one year is granted for its presentation. See pages 84-72. On June 7, 2019, the Environmental Impact Study of the Project was received.

THIRD: On July 31, 2019, the inspection of the project area was carried out by officials from the Environmental Evaluation Department of SETENA; representatives of the developer or the environmental consulting team did not appear. Mr. Nelson Cerdas Mora, who is in charge of maintaining the properties, is sent as a companion. See pages 101-99.

FOURTH: On August 16, 2019, through official letter DEA-1497-2019, criteria are requested from SINAC, Osa Conservation Area (ACOSA); On September 25, 2019, the SINAC-ACOSA-DRFVS-SRD-0426-2019 criterion is received. It is not possible to quantify the area of works located in forest and not forest, since there are no georeferenced the works to be developed. Recommendations are made that are included in the request for annexes to the EslA. See pages 112-108.

FIFTH: Through Resolution No. 3160-2019, of October 10, 2019, an Annex to the Environmental Impact Study is requested and 6 months are granted for its presentation. See folios 132-128.

SIXTH: On April 21, 2020, a request for an extension for the presentation of the Annex to the EslA is submitted to this Secretariat and an additional period of 3 months is granted, according to Resolution No. 0957-2020, dated May 7, 2020. See folios 139-137.

SEVENTH: On July 16, 2020, enter this Secretariat Annex to the EslA, through correspondence 05683-2020, 05684-2020, 05685-2020, 05686-2020, 05687-2020, 05688-2020, 05689-2020, 05690-2020, 05691-2020.

EIGHTH: On August 11, 2020, through official letter DT-DEA-1146-2020, new criteria are requested from SINAC, Osa Conservation Area (ACOSA), since the developer sends georeferenced locations of the works



to be developed and the response to the recommendations made in the SINAC-ACOSA-DRFVS-SRD-0426-criterion 2019. The SINAC-ACOSA-DRFVS-SRD-0569-2020 criterion was received on January 26, 2021. The recommendations are included in this report. See folios 306-302.

NINTH: Through official letter DT-DEA-0029-2021, dated January 11, 2021, clarifications are requested to the Annex to the EsIA and 90 business days are granted for its presentation. The requested information enters this Secretariat, through correspondence 01113-2021, dated January 30, 2021.

TENTH: On February 3, 2021, Technical Report INF-TEC-DT-DEA-0091- is sent to the Plenary Commission 2021, Environmental Viability Recommendation. See folios 321-312.

ELEVENTH: That, by agreement of the Plenary Commission, ACP-016-2021-SETENA, of February 18, 2021, the file is returned and the following is requested:

1. Ask the developer to clarify the following:
 - Clarify whether or not the project will be supplied with drinking water through the implementation of a desalination plant. If yes, you must present the oceanographic studies, current analysis, etc., that support and evidence the environmental feasibility of the implementation, operation and maintenance of a desalination plant on the site where the project is intended to be built and comply with the terms of reference established for this type of projects.
 - If the project intends to supply water from surface concessions, present the water concessions approved by the MINAE Water Directorate, the concessions must be in the name of the Dominical Ridge Tourist Development and the registered plan number must be match that of this project.
2. Correct folio numbers.
3. Verify Geotechnical Study information.

TWELFTH: Through official letter DT-DEA-0213-2021, dated February 25, 2021, clarifications are requested according to ACP-016-2021 and 90 business days are granted for their presentation. The requested information enters this Secretariat through correspondence 02442-2021, dated March 10, 2021.

THIRTEENTH: The request in ACP-016-2021 is clarified, as follows: The Dominical Tourism Development project from the beginning has been considered a development in which the Dominical Ridge project (Administrative File No. D1-20938-2017) and the Playa Dominical project (Administrative File No.

D1-20951-2017) as dependent on the DT Dominical Desalination Equipment Assembly and Operation project (File No. D1-20952-2017). The three projects are in the active evaluation process, as follows:

- Administrative File No. D1-20951-2017 Playa Dominical, annexed to EsIA is requested, by Resolution No. 2782-19, subsequently suspended by Resolution No. 0628-2020. According to the developer, a correction to a cadastral number is pending, which would soon allow it to enter its own correction.
- Administrative File No. D1-20952-2017 Dominical Tourism Development Desalination Plant, annexed to the EsIA is requested, through Resolution No. 1640-20. According to the developer, the Desalination Equipment project is awaiting municipal clarification to do the same with the delivery of the subsane.

Regarding the surface water concessions mentioned above, they are captured in the Dominical Ridge land but are associated with the land of the Playa Dominical project and therefore it is true that they legally belong to another project.

The Dominical Ridge project will use water from the aforementioned desalination system that is currently under evaluation, therefore the request to incorporate the terms of reference into this file is an issue that is already considered in File No. D1- 20952-2017 corresponding to the desalination plant. This response is provided with a copy of “the oceanographic studies... that support and evidence

the Environmental feasibility of the implementation and maintenance of a desalination plant...” which will soon be entered into the desalination plant file (it is provided digitally, but is not evaluated since it corresponds to another file under evaluation).

FOURTEENTH: On March 12, 2021, technical report DT-DEA-0091-2021 is issued by the Department of Environmental Evaluation.

FIFTEENTH: On March 25, 2021, an agreement from the Plenary Commission is issued in ACP-030-2021, in which the file is returned until the Environmental Viability of project D1-20952-2017 is resolved.

SIXTEENTH: On April 12, 2021, through the letter SETENA-DT-DEA-0364-2021, report DEA-0091-20121 is sent again to the Plenary Commission.

SEVENTEENTH: On April 22, 2021, through ACP-035-2021, the Plenary Commission returns the file, until the Environmental Viability of project D1-20952-2017 is resolved.

EIGHTEENTH: On April 29, 2021, through the letter SETENA-DT-DEA-0425-2021, it is requested to provide the developer with the Environmental Viability of project D1-20952-2017.

NINETEENTH: On October 20, 2021, correspondence with consecutive 10079-2021 is received, to respond to SETENA-DT-DEA-0425-2021, visible on pages 919 to 933.

No. SETENA-DT-DEA-0425-2021 1	Response An	Invoice
The developer is requested that once the Environmental Viability is granted to the project with No. 20952-2017, the Desalination Plant be added to the file to comply with ACP-035-2021	<p>alternative source of water is proposed for the project. Resolution 1396-2021-SETENA is provided, with the environmental viability granted for a surface water concession in the name of DOMINICAL RIDGE LTDA, located on the same land and to serve the same uses proposed for the Dominical Ridge Project. Considering that: 1-) the file of the Dominical Ridge Tourism Development project was</p> <p>conditioned on the environmental viability of a water source. 2-) an alternative water source is provided that has environmental viability granted to the same corporate name of the project, to the same number of</p>	919 to 931



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		cadastre plan and under the same proposed uses.	
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CONSIDERING

FIRST: That Mr. Trevor Yoder, with US passport 488048894, is considered legitimate to request the environmental evaluation in his name, on behalf of the company Dominical Ridge Limitada, with legal ID 3-102-668935.

SECOND: That article 19 of the Organic Law of the Environment states "The resolutions of the National Environmental Technical Secretariat must be founded and reasoned. They will be mandatory for both individuals and public entities and organizations."

THIRD: That, in accordance with the criteria of the Department of Environmental Evaluation, the field inspection and the documentation contained in the administrative file have determined the following:

1. The project submitted to the impact evaluation process through this file includes the infrastructure works necessary to provide the basic services of the project, as well as the construction of the tourist development.
2. That the analysis of the Georeferencing carried out by the Geography Unit of this Department characterized it as follows: *"Within the property, files D1-1422-2011 are recorded (opening of private road), D1-18999-2016 (Water Concession) and D1-19001-2016 (Water Concession). Coverage 2000 and 2005: Forestry and Non-forestry. 2013 Coverage: Mature Forest and Pastures. Flat, slope of 0 - 2%. The property is crossed by a fault. An unnamed water intake is recorded within the property. In the northern sector of the property there is an intermittent stream and to the south there is another unnamed stream. "Paso de la Danta" biological corridor. See folios 299-297.*
3. The initial environmental evaluation document (denoted D1) complies with the technical, legal and complementary, in sections 1.3 and 1.4.

Content	Folios	Detail
Affidavit of Environmental Commitments	102-103	EslA
Global investment amount	47-48	EslA Annex US\$76,051,949.00 (seventy-six million fifty-one thousand nine hundred and forty-nine US dollars)
Site design	114-115	EslA Annex
Photographic record	50-52	EslA Annex
Project description	110-113	EslA Annex
Cartographic location	06	Proceedings. Sunday Sheet. Scale 1:50,000
Environmental Measures	350-369 86-104	In the PGA of EslA Volume II EslA Annex
SINAC-ACOSA-DRFVS-SRD-0426-2019	112-108	Recommendations and additional information are issued for subsequent evaluation. The presence of a spring and a well is determined.
SINAC-ACOSA-DRFVS-SRD-0569-2020	306-302	Forest harvesting, products or by-products must previously process permits with SINAC. Respect the areas of protection of the spring and the well. The areas of NO

	FOREST, indicated were verified and agree with what was stated.
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4. Of the inspection: See inspection record, pages 101-99. The project has its access through the Inter-American Route, and is diverted by ballast road. Topography between 30 and 70%. Regenerating forest cover. There are bodies of water such as the Quebrada sin nombre, in the vicinity. The closest area is Dominical.

5. Technical aspects contemplated in the Environmental Impact Assessment (EIA):

Content	Folios	Observations
Study of Geotechnical	139-171 43 44	<p>It's AI. INSUMA. 2015</p> <p>From a mechanical point of view, the site has acceptable geotechnical conditions for the foundations of the structures. Adequate slope stability conditions, except for small pockets of local instability and there are no signs of large material movements that could put the project at risk. They define parameters for seismic design. Recommendations for water management and vegetation protection (page 158-161). Despicable settlements.</p> <p>Annex to EsIA. INSUMA. Note where it is mentioned that it is not necessary to update the information and all the information provided in the document is supported.</p> <p>EsIA Annex. Ing. Andrés Mora Castrillo. There is no problem at the structural or soil level for the establishment of structures equal to or similar to 6 levels on the evaluated land, as long as the engineering design correctly interprets the field technical information reported by INSUMA.</p>
Study Hydrological	172-225	<p>It's AI. Eng. Johannes Kuhlmann León. CI-0132-2006. Various delay structures must be implemented to manage the change in runoff. The construction of protective dikes on both banks of the Unnamed Gorge is recommended, and/or the implementation of elevated terraces for the project's infrastructure works. The project is viable, as long as A)</p> <p>Implementation of delay structures (total volume of 17,536m³), with an area of approximately 6,357m² and depths of the order of 2.40m. The flow contributed before construction is 4.68m³/s and built is 8.24m³/s.</p> <p>Segment B) The flood studies for a return period of 25 years (flood flow of 36.4m³/s), and for one of 50 years (41.6m³/s), involve the construction of dikes on both banks of the the Quebrada Sin Nombre and the implementation of elevated terraces for the project's infrastructure works. It includes the expansion of at least 2 existing culverts on Route 34 Pacifica Fernández (Costanera), due to the low slopes and obvious influence of the tides; For this reason, the Project Developer has established a combination of dikes and terraces that will be implemented on the site.</p>

		The respective permits for work in channels must be requested from the Water Directorate and from the competent entities for the modification and expansion of sewers (MOPT).
Certification of Risk Anthropic	45-46	EsIA Annex. Eng. Ibo Salazar Cantillano. CI-096-07. No real or potential sources of anthropogenic risk were identified.
Basic Geology	229-273	It's AI. Geol. Roberto Protti Quesada. CI-016-12 The local basement rocks do not give rise to aquifers. They calculate the GOD that gives low. It does not pose a risk of contamination to the subsoil. A treatment plant will be installed for wastewater.
Hydrogeology		
Threats Natural	17-20	EsIA Annex. Roberto Protti Quesada. CI-016-12. In the project area and its immediate surroundings, the presence of any active fault zone has not been instrumentally detected. The map of the Seismic Code of Costa Rica places the AP within seismic zone IV, and given that the profile of the foundation site of the works proposed for the project analyzed in this report is type S1 to S2, the Effective peak acceleration for the structural design of the civil works of the project is $A_{ef} = 0.3 \text{ g}$ to 0.33 g . The indicated values include the maximum probable conditions expected for any of the seismic sources whose activity could affect the project works with a return period of 500 years. The AP is not subject or exposed to any degree of threat due to volcanic activity with a return period of less than 100 years. No evidence of massive landslides due to shear failure of slopes or slopes of the northern sector is observed in the AP; most of these slopes show rocky composition, sometimes moderately altered, but without the presence of clay coverage of plastic consistency. The tectonic structure of the southern face of the slopes shows dips of between 20° and 35° in a NE direction, that is, against the slope, which results in a favorable condition for the general stability of these slopes. The presence of basement rocks at a relatively shallow depth implies that most of the project works in this sector will be founded in or on the rock mass. The soils in the project area, particularly in the mountainous area, are not susceptible to liquefaction in the event of severe earthquakes, they are not susceptible to "sinkhole" type subsidence or other types of subsidence, and it is not observed either in the AP or in The AID shows no evidence of any kind that indicates that these lands are floodable or affected by geological or hydro-meteorological phenomena with a short return period. The lands in the northern part of the project are not floodable, they are mountain ranges with a steep to moderate slope without river channels that represent any type of threat from flooding.
Report Archaeological Fast	276-296	It's AI. Antr. Magdalena León Coto. CI-025-01. No surface archaeological evidence is reported. Articles 11 and 13 of Law 6703 must be complied with.



Fast biological	297-311	It's Al. Biol. Mariano Peinador Brolatto. CI-103-00. It is not under any protection system. In general, the diversity of mammals is relatively high in the AP, however, many of the species found are common both in disturbed areas with human presence and in areas with little alteration. There is a low diversity of benthic macroinvertebrates in the unnamed stream. No endemic aquatic species, with reduced populations or on the way to extinction, were found.
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6. Among the basic services of the project it will have the following:

Content	Folios EsIA Annex	Description	Responsible / Institution
Certificate of Land Use	53	Compliant use	Municipality of Osa Official Letter No. CUS-633-2019
Drinking water availability	55 326 Exp 925 to 931	Surface water concession This is considered	in relation to section 1.5, point C, of the Form D1 presented, for which the warning is made that the information presented is in the form of an Affidavit and the possibility of carrying out the project is subject to the effective availability and authorization by the competent entity according to the Proposed Technical solution.
Solid waste collection availability	131-134	There is availability. official letter SGA-439-2019 from the Municipality of Osa, in which the Availability of Reception of construction material at the Municipal Transfer Center is granted.	
Electricity availability	126 EsIA	There is availability. ICE	
Treatment of sewage water	140 proceedings 58	Processing facilities Location approval Location in site design	Location permit Ministry of Health official letter MS-DRRSBRU-ARSO-ERS-0652-2020. The effluent will be used for irrigation.
Movements of Land	08	It is planned to make cuts in the land with a total of 38,880 m3 , This material will be handled within the project at a rate of 4,500 m3 for filling and the rest will be relocated and dispersed on the same property, so it is expected not to export land outside the area.	If necessary, the remaining land will be transferred to the Municipal Transfer Center and each and every one of the requirements stipulated in the Official letter SGA-439-2019 of the Municipality of Osa (pages 131-134)

		of the project and reuse it to enrich the vegetation layer on the same property.	
Municipal approval for stormwater drainage	57	Approval	Municipality of Osa. Official PPU-005.B-2019

The developer is warned that he must request the corresponding permits from the competent authorities. No resolution of this Secretariat creates any right in the event that the Local Municipality or other agency does not grant the corresponding permits.

7. The studies carried out point out a series of recommendations that must be followed as indicated, as part of the project's environmental commitments. If the removal of a tree is required, the corresponding permit must be processed at the MINAE office, and in the event that bodies of surface water or wells are located within or on the limits of the AP, current legislation on the matter must be applied. of protection zones.
8. For each environmental impact identified in the basic environmental impact identification matrix, the corresponding mitigation measure is presented.
9. Regarding the weighting criteria, the final SIA rating established a value of 366 points.
In accordance with the provisions of SETENA's Environmental Impact Assessment procedure, according to the decision route, the activity requires the presentation of an Environmental Management Plan, as an environmental assessment instrument, however, due to the large construction area, the fragility of the ecosystem, and category A of the project, an Environmental Impact Study is provided.
10. According to the analysis, the following is determined:
- to. That the project complies with the provisions of decrees 31849-minae and 32966-minae. b. It is indicated that the project area does not correspond to any protection category according to the assignment made by SINAC.
- c. In accordance with the socioeconomic study (folio 348-349 EsIA), a qualitative study was carried out where
In general, the position of the population is positive towards the development of the project.
- d. In the terrestrial environment, there are few species under any category of protection, and in the aquatic environment there are no endemic species or species with reduced or endangered populations.
- and. Contingency plans for fire, accidents and seismic risk are provided.
- F. Attached are Tests carried out by the CICA (Folios 138-143 Annex EsIA), Environmental Pollution Research Center), with the characterization of the water from the Quebrada Sin Nombre. The samples were taken at the entrance and exit of the Dominical Ridge farm. It is shown that the "No Project Scenario" complies with the maximum limits allowed for water discharge according to the current Regulation.
This measurement will serve as a comparison element for water quality during the construction phase.
- g. Raw materials and dangerous substances are not handled.
- h. Forestry report prepared by the MAP Forest Engineer is attached. Igor Zuñiga Garita. See Report folio 175-191 EsIA Annex. According to the analysis carried out, the project site design was modified, mainly in the elimination of components located in protection areas. On the other hand, the components that are on a forest area will be included based on the regulation of article 19, paragraph a) which cites:

Article 19 of the Forest Law 7575 - *Authorized activities* "On land covered in forest, it will not be allowed to change the use of the land, nor to establish forest plantations. However, the State Forest Administration may grant permission in those areas for the following purposes:

a) *Build residential houses, offices, stables, corrals, nurseries, roads, bridges and facilities for recreation, ecotourism and other similar improvements on private land and farms where forests are located.*"

The project is framed in buildings and facilities intended for recreation and with an ecotourism focus. Therefore, it could be subject to a request for a change in land use, which according to decree No. 35883-MINAET may be 10% of the total forest area of the property. The decree cites:

Article 1: -Modify article 36 of the Regulations to the Forest Law, which will read as follows: "The *National System of Conservation Areas (SINAC) through the State Forestry Administration (AFE), will authorize the intervention or use of the forest in accordance with the provisions of article 19 of Forest Law No. 7575, for the effective area of a forest subject to a use plan, under the criteria of proportionality, reasonableness, within a property registered in the name of a natural person. or legal. Authorization by the State Administration will require compliance with the following procedures and requirements: The intervention or exploitation permit may not be greater than ten percent of the forest area owned by the property and includes all the infrastructure of the property. project, such as roads, trails, viewpoints, buildings and the like.*"

According to this situation, the project adjusted its design so as not to affect protection areas and maintained the idea of continuing to use the layout and route of existing main roads. Furthermore, a large part of the work is in a non-forest area and the components that are in a forest area do not exceed 10%.

11. The information provided by Mr. Trevor Yoder, US passport: 488048894, legal representative of Dominical Ridge Limitada, legal ID: 3-102-668935, and the environmental consultant Javier Esquivel Font, ID 1-647-047, registration SETENA CI-007-1996, responsible for the presentation and preparation of the Environmental Impact Assessment (EIA) presented to SETENA (Regulations consistent with Executive Decree No. 31849 articles 3 paragraph 23, 81, Decree 32712-MINAE article 5 and article 20 of Law 7554), whose information has the character of a Sworn Declaration so it is considered current and true, otherwise criminal consequences may arise from the fact as established in article 9 of Executive Decree No.31849-MINAE-S-MOPT-MAG -MEIC reformed by article 2 of Executive Decree No. 32734 of August 9, 2005.

FOURTH: That article 17 of the Organic Law of the Environment states that: "Human activities that alter or destroy elements of the environment or generate waste, toxic or dangerous materials, will require an environmental impact evaluation by the National Environmental Technical Secretariat created in this law. Its prior approval, from this body, will be an essential requirement to begin activities, works or projects. The laws and regulations will indicate which activities, works or projects will require environmental impact assessment." In this administrative procedure, an Environmental Impact **Study (EslA)** and an **Affidavit of Environmental Commitments (DJCA) were presented as an Environmental Impact Assessment instrument**, in accordance with the Manual of Technical Instruments for the Environmental Impact Assessment process (EIA Manual, part II), which were duly analyzed by the Department of Environmental Assessment, it was concluded that they comply with the terms of reference and technical requirements issued by this Secretariat. By virtue of the above, and in accordance with the control and monitoring powers established in article 20 of the Organic Law of the Environment, which states: "The National Environmental Technical Secretariat will establish instruments and means to monitor compliance with the resolutions of Evaluation of environmental impact. In cases of violation of its content, it may order the stoppage of the works. The interested party, the author of the study and those who approve it will be, directly and jointly, responsible for the damages caused." **From the above, it has been analyzed**

and it has been determined that they comply, so what is appropriate in this case is to approve Form D1, the environmental impact matrices, the EsIA and the DJCA and grant environmental viability.

FIFTH: In accordance with Article No. 45°. - Resolution and granting of Viability (or License) Environmental of the Environmental Impact Assessment regulations (DE No. 31849-2004-MINAE-MAG-MOPT,MEIC,S and its reforms), it contemplates: "The environmental guidelines or guidelines of commitment that frame the granting of the viability (license) environmental, and which will be based on the entire EIA process, as well as a series of conditions and instruments for environmental control and monitoring, which include the following elements: Development and implementation of Environmental Control and Monitoring Instruments (ICOS), which They comprise 3 aspects: Appointment of an environmental manager and implementation of an Environmental Log; Likewise, an Environmental Guarantee deposit in accordance with the provisions of the Organic Law of the Environment, the amount of which will be set in this administrative act. These instruments must be presented to SETENA in accordance with the **Plenary Commission Agreement** of the ordinary session No. 098-2014-SETENA and its Article No.17, issued through agreement No. **ACP-015-2014** of August 26, 2014; which dictates: "Order the developers of activities, works or projects that the presentation of the ICOS must be **before the start of the same**, once the Environmental Viability has been granted and that they will not be able to start with these until they have the ICOS duly enabled." . And that, if you start without these, the sanctions established in the current regulations will be applied."

SIXTH: That article 6 of the Modification of Article 45 to the General Regulation on EIA Procedures, of Executive Decree No. 31849-MINAE-S-MOPT-MAG-MEIC, indicates the following regarding the Fundamental Environmental Commitment Clause: "This Environmental Viability (license) is granted with the understanding that the developer of the project, work or activity will fully and completely comply with all the technical, legal and environmental regulations and standards in force in the country and be executed before other authorities of the Costa Rican State. Failure to comply with this clause by the developer will not only make it subject to the sanctions implied by non-compliance with said regulation, but also, by constituting it, part of the fundamental basis on which the VLA is based, it will cause said VLA is automatically annulled with the technical, administrative and legal consequences that this has for the activity, work or project and for its developer, in particular with respect to the scope of the application of article 99 of the Organic Law of the Environment.

SEVENTH: That at the time of issuing this resolution there are no persons or persons opposed to the development of the project described.

EIGHTH: That in accordance with the provisions of paragraph 3 of article 22 of executive decree No. 31849-MINAE-S-MOPT-MAG-MEIC, and after evaluating the information contained in the administrative file and the environmental evaluation instrument presented, through the technical report DEA-1157-2021-SETENA, the Department of Environmental Assessment recommends continuing with the administrative process of Environmental Impact Assessment and issuing the administrative resolution that **grants the Environmental Viability (License)** considering the provisions of article 20 of Law 7554.

**THEREFORE
THE PLENARY COMMITTEE RESOLVES**

In Ordinary Session **No. 096-2021** of this Secretariat, held on **DECEMBER 8** , 2021 , in Article **No. 13** it is agreed:



FIRST: Approve the D1 Environmental Assessment Form; the Environmental Impact Study (EslA); the Affidavit of Environmental Commitments; the environmental measures, the recommendations of the Technical Studies and the environmental impact matrices, presented together with the Environmental Assessment Document, which were submitted to evaluation by the environmental consultant and the designer; the complementary technical studies, which include a series of recommendations that are mandatory, so if you do not accept them, you may be sanctioned in accordance with the current binding legislation and the additional information presented.

SECOND: Inform the interested party that, in accordance with articles 17,18 and 19 of the Organic Law of the Environment, the environmental evaluation procedure of the project has been complied with:

File number: D1-20938-2017

File name: Dominical Tourism Development: Dominical Ridge

Location: Province: Puntarenas

Canton: Osa

District: Ballena Bay

Cartographic Sheet: Dominical. Scale 1:50,000

Approximate property coordinate (SIG): Latitude: 1,023,139.8. Length: 515,707.674 Registered Plan Number: P-2107060-2019

Property Number: 231822-000

Property size according to plan (m2): 24ha6563

Project area according to design (m2): 109250 m²

ISIC Classification and Project Category: 4520 A

SIA score: 366

Project Description (according to folio 205-204 file):

The Dominical Ridge Tourism Development will be developed on a property located in Bahía Ballena, Puntarenas, Costa Rica itself in the town of Dominical. The project will have commercial, service, hotel and residential activities.

Dominical Ridge is located north of Route 34 (Costanera) and has a total area of 24 ha 6,563 m². It is made up of the property with the following cadastral plan 6-2107060-2019.

At the scope level, improvements will be made to the public right of way which include paving of the current street, sidewalks, curb and pipe, electromechanical elements (such as: electric billboards, drinking water pipes, rainwater, etc.), signage horizontal and vertical road and infrastructure (such as acceleration and deceleration lanes as provided by the MOPT). Additionally, in the access easement that connects the project with the waterfront, improvements will be made such as gutters, gutters, sedimentation tanks, stone aprons and other storm runoff control measures normal on this type of roads.

The aforementioned project will be developed in three stages. Stages I and II include tourist and residential components, while stage III combines tourist, residential, commercial elements and spaces for community development.

The planned solution for the treatment of wastewater will be through the construction of a treatment plant located within property 6-2107060-2019 and whose effluent will feed an irrigation system that covers the main areas of the property.

Although the coverage is very low, for the purposes of stormwater control, where necessary, temporary storage or rainwater delay solutions will be implemented in the lots that require it, the general release is in the Quebrada Sin Nombre.

The supply of drinking water will be carried out through a Desalination Plant which will have a capacity to produce $Q_p = 30\text{l/s}$ ($2,600\text{ m}^3 / \text{day}$), it will be located in the maritime-terrestrial zone on the property with cadastre plan No. 6- 394451-1997. The Plant will operate through the reverse osmosis process through "built-in" modular plants. Although the plant capacity is designed for 30 liters/sec, the flow rate will normally be lower and will respond to the particular consumption needs of each station.

The project will be divided into 3 phases, namely:

PHASE

1 It will be residential and tourist in nature. Temporary installations will be made for construction, earth moving work, electrical and mechanical infrastructure, sidewalks, streets, etc. It is planned to make cuts in the land with a total of 38,880 m³. This material will be handled within the project at a rate of 4,500 m³ for filling and the rest will be relocated and dispersed on the land. Additionally, within the first phase, the construction of the Wastewater Treatment Plant for the entire project is contemplated, which will have an approximate cost of \$200,000. Within this stage, 30 Single-Family Houses will be built, normally on two levels and with three bedrooms, respecting the trees and incorporating into the existing vegetation. The estimated building construction area will be 15,856 m² for an approximate cost of \$12,684,800. The coverage of these constructions will be 7,928 m². In addition, it will have a 40-room Hotel which will have parking in the semi-basement and three levels where the common areas and rooms will be located. A roof terrace is planned which will be used for recreational spaces and a bar. The construction area of the Hotel will be 12,591 m² and will have a footprint of 3,791 m². The total cost will be \$15,109,200.

In addition to the buildings, during stage 1 the project's vehicular circulation will be carried out, which has an area of 34,600 m² and an approximate cost of \$5,190,000. In addition, pedestrian circulation will be carried out, which will have an area of 4,312 m² and a cost of \$323,400.

In total, a cost for Phase 1 is estimated at \$35,647,454 (This amount includes the value of the land and the costs of consulting fees. See breakdown in Cost Certification). Subtotal Construction Area: 67,359 m²; Subtotal coverage: 50,631 m².

PHASE

2 Phase two will be an Ecolodge-type Hotel with 42 rooms, 30 "tree house" units and a Restaurant.

The constructions will be adapted to the topography of the land, mostly supported by piles to avoid earthworks and minimize the impact on the surface.

The Ecolodge will have 2 levels and will additionally have a roof terrace for recreational use, it will have a construction area of 8,145 m² and an estimated cost of \$9,774,000. The Tree Houses will have 2 levels and each compact construction unit will have an approximate area of 60 m². The total construction area will be 3,600 m² with an approximate construction cost of \$2,880,000. The Osa Restaurant will have a footprint of 550 m² and a construction area of 1,100 m², it will have two levels and it is estimated that it will cost \$1,320,000.

Phase 2 will have an approximate cost of \$14,722,902 (This amount includes the value of the land and consulting fee costs. See breakdown in Cost Certification). Subtotal construction area: 12,845 m²; Subtotal coverage: 5,065 m²

PHASE

3 Phase 3 will be made up of 4 mixed-use mini-towers, a Community Educational Center and a Community Center and Creative Study Spaces. The Mixed Use mini-towers will have 4 levels, where the level

1 will be used for commerce and services, level 2 – 3 and 4 will be for residential use. In total there will be 4 units which will have a footprint of 4,263 m² and a construction area of 14,103 m². An estimated cost of \$16,923,600.

The Community Educational Center will be on two levels and will have a coverage of 1,843 m² and an area of 3,686 m². This center will be for both public and private educational facilities in order to make it a space adaptable to different activities. The cost of this building will be approximately \$4,423,200. The Community Center and Creative Study Spaces will be a building intended for exhibition areas, workshops, classrooms and study spaces. It will have a coverage of 655 m², two levels and a construction area of 1,310 m². The approximate cost will be \$1,572,000. In addition to the buildings, an area of 9,947 m² is planned for parking and vehicular circulation. The cost is estimated at \$1,492,050.

Phase 3 will have an approximate cost of \$25,681,594 (This amount includes the value of the land and the costs of consulting fees. See breakdown in Cost Certification) Subtotal Construction Area: 29,046 m²; Subtotal Coverage: 16,708 m².

The total cost of the three phases will be approximately \$76,051,9490 (see breakdown in Cost Certification).

Therefore, ENVIRONMENTAL VIABILITY is granted to the project, leaving the Environmental Management stage open and with the understanding of complying with the fundamental Environmental Commitment Clause.

THIRD: The validity of this feasibility will be for a period of **FIVE YEARS** until the start of the works. If the works do not begin within the established time, the provisions of current legislation will be applied.

FOURTH: Warn the developer that environmental viability only considers what is indicated in the project description and the design presented. If any modification is necessary, it must be informed to SETENA, so that it can carry out the environmental evaluation of said modification, otherwise it will proceed in accordance with current regulations.

FIFTH: Order Mr. Trevor Yoder, US passport: 488048894, legal representative of Dominical Ridge Limitada, legal ID: 3-102-668935, administrative file D1-20938-2017-SETENA, deposit the guarantee of compliance with environmental obligations in 3 phases for the sum of US\$760,519.00 (seven hundred sixty thousand five hundred ten and nine exact US dollars) or its equivalent in colones according to the exchange rate on the day on which the deposit of the guarantee or its renewal is made, corresponding to 1% of the total declared investment amount of the project, as follows:

Phases	Investment amount (US\$)	1% investment guarantee (US\$)
Phase 1	35,647,454.00	356 475.00
Phase 2	14,722,902.00	147 229.00
Phase 3	25,681,594.00	256,816.00
Total	76,051,949.00	760 519.00

At least ten days before the start of each phase, proof of deposit of the guarantee of compliance with the environmental obligations of the phase that is intended to be executed must be presented to this Secretariat.

To provide the Performance Guarantee there are three options:

1) Term Deposit Certificate (Any Public or Private Bank), issued in the name of the developer and endorsed in favor of MINAE-SETENA.

2) Compliance Guarantee (Caution Insurance, etc.) established by any financial entity recognized by the State, issued in the name of the developer and indicating that the beneficiary is MINAE-SETENA.

For options 1 and 2, it must be presented to the Department of Custody and Administration of Securities of the National Bank of Costa Rica, in the Central Offices, to be kept in custody No. CV-7297-SETENA-MINAE. The term of the performance guarantee must be a minimum of one year.

3) Bank Deposit in the Accounts of the Ministry of Environment and Energy (MINAE)

These are the only accounts currently available to make your deposit:

For option 3, the following official bank accounts have been enabled for you to make your deposit:

Currency	Customer account	Current account	WERE GOING
Colons	15120210010005107	100-01-202-000510-1	CR93015120210010005107
Dollars	15120210020003629	100-02-202-000362-7	CR20015120210020003629

These bank accounts are registered in the National Bank of Costa Rica in the name of MINAE, legal ID 2-100-042014.

Note: The deposit or transfer must indicate in the concept: Administrative file number and name of the developer, as well as provide proof of the respective deposit to this Secretariat; which must be for a minimum period of one year, according to article 21 of the Organic Law of the Environment.

In addition, you must appoint an Environmental Responsible, with current registration in the SETENA Registry of Consultants, by sending a note signed by the owner with the acceptance of the assigned professional, and enable the Digital Environmental Log, which must remain valid. and up to date during the period of validity of the environmental regency, and must present the indicated documents to this Secretariat **before starting construction work**. If the indicated documents are not presented within the established time, what is established by current legislation will be applied.

SIXTH: Based on the environmental characteristics of the AP and its interaction with the activities that the project will carry out, a **semiannual periodicity** is established for the presentation of **Environmental Regency Reports** to SETENA during the construction phase, and a final consolidated report at the end of said phase.

These Reports must be presented within a maximum period of 10 days after the end of the period they cover, taking into account that, at the time of starting activities, the period of the first report begins; and for its preparation according to the format established by SETENA, it will be the responsibility of the environmental regent to carry out the necessary number of visits, depending on the dynamics of the project.

Furthermore, in accordance with such reports and the environmental monitoring and follow-up program, SETENA may adjust the guarantee amount and dictate mandatory compliance measures to keep the project, work or activity within a controlled environmental impact margin. The environmental manager and the owner or legal representative must provide support to the work of SETENA in the inspections or other procedures that it carries out.

SEVENTH: Failure to comply with the requirements of this Secretariat, as well as any of the obligations contracted in the Affidavit of Environmental Commitments, the environmental impact matrices, together with Form D1, may be sanctioned in accordance with the provisions of article 99 of the Organic Law of the Environment, as well as other current legislation.

EIGHTH: Warn the developer that according to **Article 11 of Executive Decree No. 31849-MINAE-S-MOPT-MAG-MEIC —Scope of the EIA procedure before SETENA**, compliance with the EIA procedure does not exempt the developer from an activity, work or project, the procedure to be completed before other authorities of the Administration, in accordance with current powers and regulations, nor to comply with its obligations or responsibilities that arise from its management.

NINTH: Order the developers of activities, works or projects that, based on the resolution that grants Environmental Viability, they must place a sign at the entrance to the project area, which must comply with the format established in resolution No. 1834- 2016-SETENA, September 29, 2016.

TENTH: Against this resolution it is possible to file within the period of three business days, counted from the business day following the notification, the ordinary appeals for revocation before the SETENA, and the appeal before the Minister of Environment and Energy in accordance with the articles 342 et seq. of the General Law of Public Administration No. 6227, and 87 of the Organic Law of the Environment No. 7554.

ELEVENTH: All documentation that is presented to SETENA must clearly indicate the file number, the resolution number and the full name of the project. **An email address** must also be indicated to receive notifications from this Secretariat.

TWELFTH: The original documents signed digitally (Digital Signature) will be available to the interested party at the web address <http://www.setena.go.cr>, where it must be verified by any interested party and public or private entity. For all legal purposes according to Law 8454, the digital signature issued by a registered certifying authority has the legal equivalence of a handwritten signature, according to article 4, which indicates: *“Article 4—Legal qualification and evidentiary force. Electronic documents will be classified as public or private, and will be recognized as probative force under the same conditions as physical documents.* **A printed copy of the digitally signed document is filed as a piece of the administrative file that is in the custody of SETENA.** In accordance with article 8 of Law 8220, the interested party who requires a procedure may not be requested to present certifications, copies of information that another institution already possesses, according to pre-established legal means.

Sincerely,

**ING. ULISES ALVAREZ ACOSTA
GENERAL SECRETARY
ON REPRESENTATION OF THE PLENARY COMMITTEE**



Resolution No. 1936-2021-SETENA



Document was notified in the office of the National Environmental Technical Secretariat
N° **1936-2021-SETENA** at **09** hours **00** minutes on **DECEMBER 08** , 2021 .

BE NOTIFIED:

Dominical Ridge Limitada, with legal ID 3-102-668935, represented by Mr. Trevor Yoder, with US passport 488048894

Email: goa@grupo-aica.com

Signature: _____ id _____

At _____ hours and _____ minutes of _____ of _____ of 2021.

Notify _____

In accordance with article 34 of the Judicial Notifications Law No. 8687 (published in La Gaceta No.20 of January 29, 2009), the document that is issued by email or fax has the validity and effectiveness of documents original physical items, and means must be established to guarantee authenticity, integrity and security.