



REFERENCE NUMBER: 14/2/1/3/D7/9/0084/15

ENQUIRIES: Moe'mina Hoosain

BY REGISTERED MAIL

The Trustees
S&J Investment Trust
1337 Stanza Bopape Street
Jeff@ghphoto.co.za

Cell: (082) 552 0822

Fax: (012) 430 9506

Email:

PRETORIA

0083

Attention: Mr Jeffrey Nell

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") FOR THE UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: THE UNLAWFUL CLEARANCE OF 300m² OR MORE OF INDIGENOUS VEGETATION ON PORTION 4 OF FARM NO. 32, MASONS RUST AND FARM NO. 42 UITVLUG, OUDTSHOORN

With reference to your application dated 11 June 2015 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

ENVIRONMENTAL AUTHORISATION

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (GN No. R.982 of 4 December 2014), the competent authority herewith **grants environmental authorisation** to the applicant for the continuation, conducting or

undertaking of the listed activities specified in Section C below in accordance with Alternative 1 as described in the Environmental Impact Report ("EIR") dated 14 December 2015.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Trustees
S&J Investment Trust
1337 Stanza Bopape Street
PRETORIA
0083

Cell: (082) 552 0822

Fax: (012) 430 9506

Email: Jeff@ghphoto.co.za

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "the holder".

C. LIST OF ACTIVITIES AUTHORISED

| Listed Activities | Activity/Project Description |
|--|--|
| <i>Listing Notice 1 of 4 December 2014, as amended-</i> Activity Number: 12 Activity Description: | Stabilisation of the main stream crossing by means of sandbags and culvert pipes |

| | |
|--|---|
| <p>The development of—</p> <p>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</p> <p>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback;</p> <p>or</p> <p>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</p> <p>excluding—</p> <p>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) where such development activities are related to the development of a port or harbour, in which case Activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or Activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</p> <p>(dd) where such development occurs within an urban area;</p> <p>(ee) where such development occurs</p> | <p>to repair erosion damage.</p> <p>The construction of a new section of road on Portion 4 of Farm No. 32, Masons Rust, Oudtshoorn.</p> <p>New sections of road were deviated on Farm No. 42, Uitvlug, Oudtshoorn.</p> <p>The applicant also intends to rehabilitate the secondary stream crossing, which will be done according to the recommendations of a suitably qualified engineer and freshwater specialist.</p> |
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| | |
|--|--|
| <p>within existing roads, road reserves or railway line reserves; or</p> <p>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</p> | |
| <p>Activity Number: 19</p> <p><u>Activity Description:</u></p> <p>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(e) where such development is related to the development of a port or harbour, in which case Activity 26 in Listing Notice 2 of 2014 applies.</p> | <p>Rehabilitation of drainage lines on Farm No. 42, Uitvlug, Oudtshoorn, and the stabilisation of the main stream crossing on Portion 4 of Farm No. 32, Masons Rust to repair erosion damage.</p> <p>The applicant also intends to rehabilitate the secondary stream crossing, which will be done according to the recommendations of a suitably qualified engineer and freshwater specialist.</p> |

Listing Notice 3 of 4 December 2014, as amended -

Activity Number: 12

Activity Description:

The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of Indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

i. Western Cape

- i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has identified as critically endangered in the National Spatial Biodiversity Assessment 2004;*
- ii. Within critical biodiversity areas identified in bioregional plans;*
- iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line or even in urban areas;*
- iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an*

The clearance of indigenous vegetation for the construction of a new road on Portion 4 of Farm No. 32, Masons Rust, Oudtshoorn. Sections of the new roads fall within a Critical Biodiversity Area (CBA) and Ecological Support Area ("ESA")

| | |
|--|--|
| <p>equivalent zoning; or</p> <p>v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</p> | |
| <p>Listing Notice 3 of 4 December 2014, as amended –</p> <p>Activity Number: 14</p> <p>Activity Description:</p> <p>The development of—</p> <p>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or</p> <p>(ii) infrastructure or structures with a physical footprint of 10 square metres or more; where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback;</p> <p>or</p> <p>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse; excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</p> | <p>Stabilisation of the main stream crossing by means of sandbags and culvert pipes to repair erosion damage.</p> <p>The construction of a new section of road on Portion 4 of Farm No. 32, Masons Rust, Oudtshoorn.</p> <p>New sections of road were deviated on Farm No. 42, Uitvlug, Oudtshoorn.</p> <p>The applicant also intends to rehabilitate the secondary stream crossing, which will be done according to the recommendations of a suitably qualified engineer and freshwater specialist.</p> |

i. Western Cape

i. Outside urban areas:

- (aa) A protected area identified in terms of NEMPAA, excluding conservancies;*
- (bb) National Protected Area Expansion Strategy Focus areas;*
- (cc) World Heritage Sites;*
- (dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;*
- (ee) Sites or areas listed in terms of an international convention;*
- (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;*
- (gg) Core areas in biosphere reserves;
or*
- (hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.*

Activity Number: 19

Activity Description:

The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre

i. Western Cape

- i. Areas zoned for use as public open*

| | |
|---|---|
| <p>space or equivalent zoning;</p> <p>ii. All areas outside urban areas:</p> <p>(aa) Areas containing indigenous vegetation;</p> <p>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use; or</p> <p>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p> | <p>The construction of a new section of road on Portion 4 of Farm No. 32, Masons Rust, Oudtshoorn.</p> <p>New sections of road were deviated on Farm No. 42, Uitvlug, Oudtshoorn.</p> |
|---|---|

The abovementioned list is hereinafter referred to as "the listed activities".

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Portion 4 of Farm No. 32, Masons Rust and Farm No. 42, Uitvlug, Oudtshoorn.

The SG digit codes are:

Portion 4 of Farm No. 32, Masons Rust - C05400000000003200004

Farm 42 Uitvlug - C05400000000004200000

The co-ordinates for the property boundaries are:

Portion 4 of Farm No. 32, Masons Rust, Oudtshoorn- 33° 23' 55.75" S 22° 07' 35.08" E

Farm 42 Uitvlug, Oudtshoorn - 33° 25' 31.23" S 22° 07' 25.47" E

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.

Herein-after referred to as "the site".

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")

Cape EAPrac (Pty) Ltd
c/o Ms Loius-Mari van Zyl
P.O Box 2070

GEORGE

6530

Tel: (044) 874 0365

Fax: (044) 874 0432

Email: loiuse@cape-eaprac.co.za

F. DETAILS OF THE ACTIVITY OR ACTIVITIES UNDERTAKEN

Maintenance was carried out on an existing stream crossing using sandbags in order to repair erosion damage on Portion 4 of Farm No. 32, Masons Rust. The applicant also started construction of a new section of road on Portion 4 of Farm No. 32, Masons Rust in order to access parts of this farm and diverted two sections of an existing track on Farm No. 42 Uitvlug, Oudtshoorn.

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to Alternative 1 described in the EIR dated 14 December 2015 on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision to continue, conduct or undertake the listed activity or activities as specified in Section C above.

3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
4. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

PART II

Written notice to the competent authority

5. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of the listed activities.
 - 5.1 The notice must make clear reference to the site details and 24G Reference number given above.
 - 5.2 The notice must also include proof of compliance with conditions of 6 and 7.

PART III

Notification and administration of an appeal

6. The holder must in writing, within 14 (fourteen) days of the date of this decision—
 - 6.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1 the outcome of the application;
 - 6.1.2 the reasons for the decision as included in Annexure 3;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date when the decision was issued.
 - 6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* detailed in Section I below.

6.3 draw the attention of all registered I&APs to the manner in which they may access the decision.

6.4 provide the registered I&APs with:

6.4.1 the name of the holder (entity) of this Environmental Authorisation;

6.4.2 name of the responsible person for this Environmental Authorisation;

6.4.3 postal address of the holder;

6.4.4 telephonic and fax details of the holder;

6.4.5 e-mail address, if any, of the holder; and

6.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.

7. The listed activities, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

PART IV

Management of the activity/development

8. The draft Environmental Management Programme ("EMPr") compiled by Cape EAPrac (Pty) Ltd dated 18 December 2015 and submitted as part of the application for environmental authorisation must be amended to include freshwater specialist input for the planned rehabilitation of the secondary stream crossing, which was also degraded through floods.

9. Formalisation and rehabilitation of the secondary stream crossing must be done according to recommendations of a freshwater specialist. Disturbance must be limited to the existing crossing, to avoid negative impacts to surrounding vegetation.

10. All artificial material such as pipes, sand bags, unused concrete etc. that were used during the unlawful rehabilitation of the main stream crossing must be

removed from the site. The same must be observed for the operational phase of the activity.

11. The EMPr must be included in all contract documentation for all phases of implementation.

PART V

Monitoring

12. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
13. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to the competent authority on request.
14. Access to the site referred to in Section D must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

PART VI

Auditing

15. In terms of regulation 34 of the *EIA Regulations, 2014*, the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and submit Environmental Audit Reports to the competent authority, upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

The holder must, within 7 (seven) days of the submission of the report to the competent authority, notify all potential and registered I&APs of the submission and make the report available to I&APs on request.

PART VII

Activity/ Development specific conditions

16. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

17. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
18. Natural vegetation must be allowed to re-establish along the new road edges on Farm No. 42 Uitvlug. The old sections of road on Farm No. 42 Uitvlug, which are deemed unsafe to use must be rehabilitated as per the recommendations of the Vegetation Restoration Report dated March 2015.
19. The cleared section of the road on Portion 4 of Farm No. 32, Masons Rust that will no longer be used by the holder must be closed and rehabilitated to a natural ecological state.
20. The effectiveness of the gabion and concrete structures installed at the entrance road stream crossing must be monitored. Freshwater specialist input must be obtained for the planned rehabilitation at the secondary stream crossing, which was also degraded through floods.

H. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not continue, conduct or undertake a listed activity or activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the competent authority at least three months prior to the expiry date of the Environmental Authorisation.

Note that:

(1) in terms of regulation 28(2) of the *EIA Regulations, 2014* failure to lodge an application for amendment at least **three months prior** to the expiry of the validity period of the Environmental Authorisation may result in the lapsing of the Environmental Authorisation, due to the competent authority being unable to process the application for amendment within this period;

(2) it is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the competent authority has not granted an Environmental Authorisation for the undertaking of the activity.

4. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:
Amendments to the EMPr must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.
6. It is advised that the holder submits a Maintenance Management Plan for approval from this Department for any future planned maintenance and rehabilitation measures on the farms, other than those maintenance and rehabilitation measures authorised in this environmental authorisation.

I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. Should an appeal be lodged with the appeal administrator against the environmental authorisation, you are hereby advised of the following:
 - 1.1. An appellant (if the applicant) must –
 - 1.1.1. submit an appeal in accordance with regulation 4 of the *National Appeal Regulations, 2014*, to the appeal administrator and a copy of the appeal to the decision maker, any registered I&APs and any organ of state with interest in the matter within 20 (twenty) days from the date that the notification of the decision was sent to the applicant by the competent authority.
 - 1.2. An appellant (if NOT the applicant) must –
 - 1.2.1 submit an appeal in accordance with regulation 4 of the *National Appeal Regulations, 2014*, to the appeal administrator, and a copy of the appeal to the applicant, any registered I&APs, any organ of state with interest in the matter and the decision maker within 20 (twenty) calendar days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant.
2. The applicant (if not the appellant), the decision-maker, I&APs and organs of state must submit their responding statements, if any, to the appeal authority

and the appellant within 20 (twenty) days from the date of receipt of the appeal submission.

3. This appeal and responding statement must be submitted to the address listed below:

By post: Attention: Jaap de Villiers
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 Jaap de Villiers (Tel: 021-483 3721)
Room 809, 8th floor Utilitas Building
1 Dorp Street, Cape Town, 8000; or

By e-mail: Jaap.DeVilliers@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 to the address listed above and/ or via e-mail to Jaap.DeVilliers@westerncape.gov.za.

4. A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, the Municipality, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Yours faithfully



ADV. CHARMAINE MARÉ

DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: 6 July 2017

CC: (1) L. van Zyl (Cape EAPrac)

Fax: (044) 874 0432

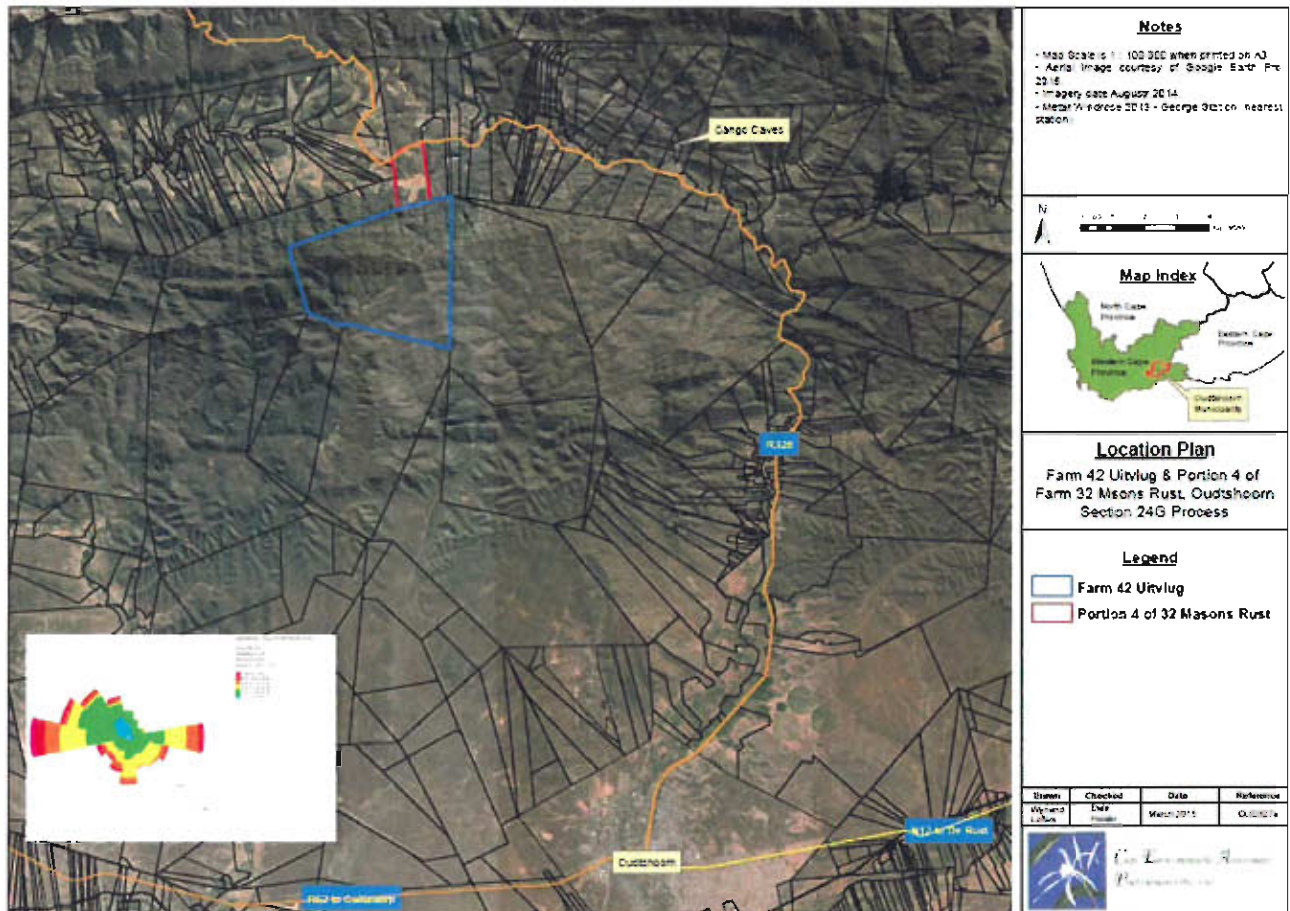
Email: wynand@cape-eaprac.co.za

(2) R. Lottering (Oudtshoorn Municipality)

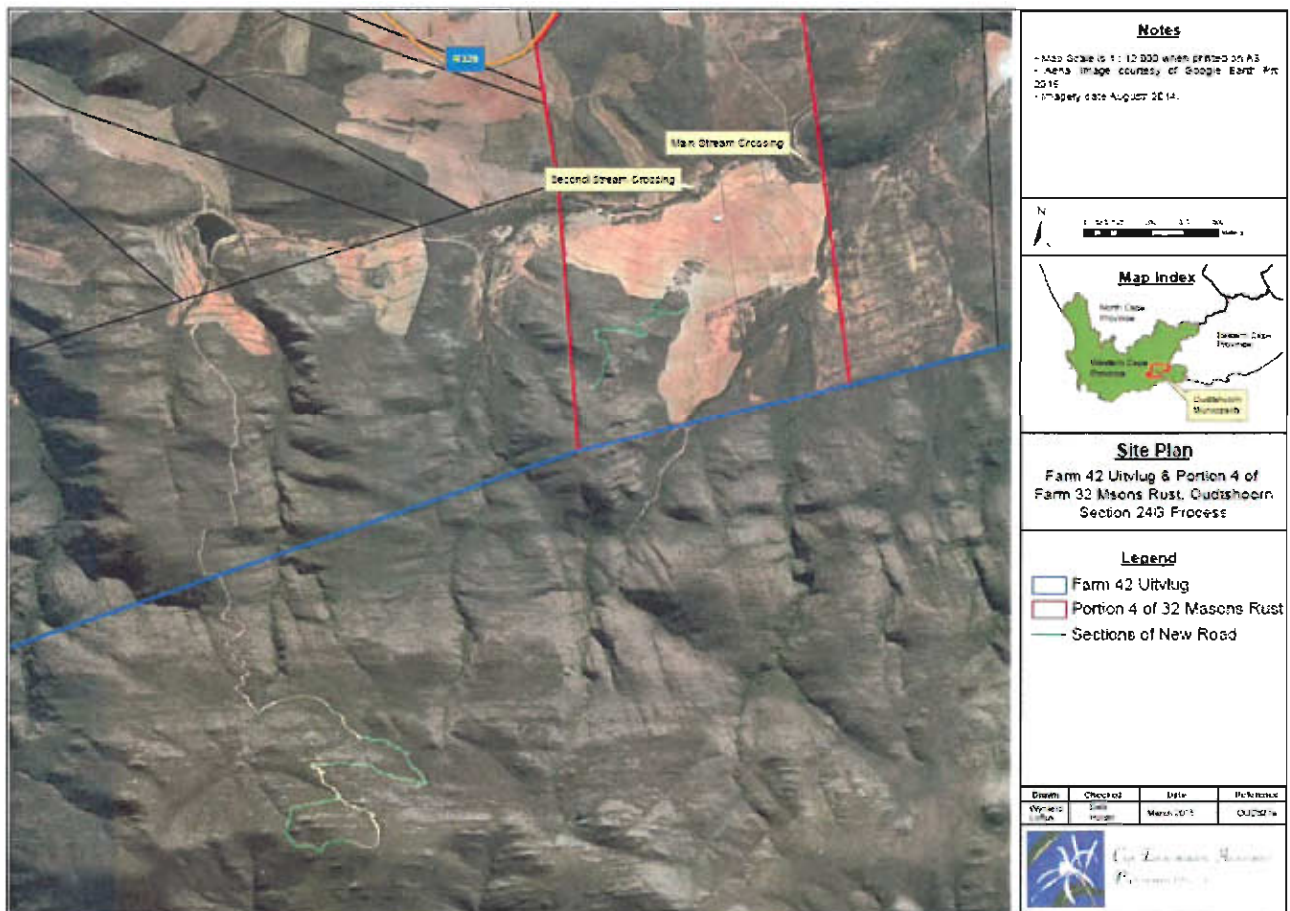
Fax: (044) 203 3106

Email: suerhete@oudtmun.gov.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



ANNEXURE 3: REASONS FOR THE DECISION

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R125 000 (One hundred and Twenty-five thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 11 June 2015 and received by the competent authority on 19 June 2015, the Environmental Impact Report ("EIR") received by the competent authority on 15 December 2015, as well as the EMPr submitted together with the EIR.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- f) The site visit conducted on 4 February 2016, attended by Ms Moe'mina Hoosain from this Department.
- g) The appeal decision on the 24G administrative fine dated 3 May 2017.

All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- identification of and engagement with I&APs.
- fixing a notice board at the site where the listed activities unlawfully commenced.
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities were undertaken, the municipality and ward councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities on 15 July 2017, 16 July 2017 and 13 August 2015.
- the placing of a newspaper advertisement in the **Oudtshoorn Courant** on 17 July 2015.
- I&APs were afforded the opportunity to provide comments on the draft and final EIRs on 29 September 2015 and 18 November 2015.

Consultation with Organs of State in terms of section 24O of the NEMA

The following Organs of State provided comment on the application:

- CapeNature
- Department of Water Affairs and Sanitation(DWS)
- Heritage Western Cape (HWC)
- Department of Agriculture (DoA): LandCare
- DoA: Landuse Management

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

2.1 Site Alternatives

No site alternatives were considered for the site since the activity was already undertaken.

2.2 Activity Alternatives

The cleared section of the road on Portion 4 of Farm Masons Rust that will no longer be used by the applicant will be closed and rehabilitated. The continued use of the existing track on Farm Uitvlug was considered. However, this is not preferred since the steepness of the terrain poses a safety risk and may result in increased erosion potential. The main stream crossing required stabilisation for safety purposes and therefore no other activity alternatives exist.

2.3 Design/Layout Alternatives

No design alternatives were considered for the section of the road on Portion 4 of Farm Masons Rust that will no longer be used by the applicant. An improved design for the main stream crossing on Portion 4 of Farm 32 Masons Rust was considered. This entails the construction of gabions and securing the stream crossing and associated stream flow with concrete and concrete pipes, respectively.

For the construction of a new section of road and diversion of two sections of an existing road on Farm No. 42 Uitvlug, certain erosion protection measures were recommended by SMEC South Africa (Pty) Ltd dated April 2015 to improve road conditions.

2.4 "No-go" Alternative

The "no-go" alternative entails the continued use of the degraded main stream crossing and unprotected road tracks on Portion 4 of Farm 32 Masons Rust and on Farm No. 42 Uitvlug. This alternative is not preferred since it will not provide safe access on certain areas of the farm. Safe access is required for effective farming operations and fire management.

3. Environmental Impact Assessment (EIA) and Mitigation Measures

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

3.1. Activity Need and Desirability

Maintenance was carried out on an existing stream crossing using sandbags in order to repair erosion damage on Portion 4 of Farm 32 Masons Rust. The applicant also started construction of a new section of road on Portion 4 of Farm 32 Masons Rust in order to access parts of this farm and diverted two sections of an existing track on Farm No. 42 Uitvlug.

3.2. Regional/ Planning Context

The property is zoned Agriculture. According to the EIR, the maintenance works will ensure safe access to the property without requiring his neighbour's consent. The maintenance of farm roads is considered a priority in terms of existing land use rights. Farming is considered an important income and employment generator in terms of the Integrated Development Plan (IDP) & Spatial Development Framework (PSDF) of the Oudtshoorn Municipality. The activity falls outside the urban edge of Oudtshoorn.

3.3. Geographical and physical impacts

Construction of a new section of road on Portion 4 of Farm 32 Masons Rust and diversion of two sections of an existing track on Farm No. 42 Uitvlug has increased the risk of soil erosion by exposing the soil which was previously vegetated. The condition of the main stream crossing is considered to have improved through rehabilitation measures. The infilling and moving of material within the watercourse, in order to stabilise the main stream crossing, has resulted in physical and geographical impacts.

3.4 Biodiversity Impacts

According to the EIR, the site is characterised by indigenous Fynbos vegetation namely Kango Limestone Renosterveld which is classified as Vulnerable and Kango Conglomerate Fynbos which is classified as Least Threatened by the South African National Biodiversity Institute (SANBI) in 2014. Woody vegetation occurs along the stream crossings on Portion 4 of Farm 32 Masons Rust. Almost half of the new road on Portion 4 of Farm 32

Masons Rust is located within an Ecological Support Area. Sections of the new road on Farm 42 Uitvlug (the road leading to the trig beacon) fall within Critical Biodiversity Areas as well as Ecological Support Areas. The main and secondary stream crossings on Portion 4 of Farm 32 Masons Rust are located within an Ecological Support Area.

According to the Botanical Report dated March 2015 as compiled by Regalis Environmental Services CC, the lower section of the road on Farm No. 42 Uitvlug consists of Sandolienveld that occurs on Bokkeveld shales. The upper section changes rapidly to Proteid Fynbos where the geology changes to quartzitic materials. Most of the disturbances caused by re-routing and upgrading of the road occur in the Fynbos section. Reasonable natural regeneration of the local species has already occurred in these disturbed sites. However, this upper section requires rehabilitation to ensure that the road surface will not erode.

The botanist has also identified sections of the existing/previous track leading to the trig beacon which will no longer be used by the applicant which require special restorative actions. Since the unlawful commencement of the activities there has been a veld fire in the area. During the site visit in February 2016, regrowth of vegetation on the site was observed.

3.5 Freshwater Impacts

According to the EIR, the streams associated with the stream crossings and the drainage lines on the track leading to the trig beacon, are all non-perennial. The main stream crossing on Portion 4 of Farm 32 Masons Rust is located within an Ecological Support Area. Maintenance and rehabilitation activities would have had an impact on the aquatic environment. However, since the risk of erosion was decreased, the impact is considered to be positive.

3.6 Visual Impact

Construction of a new section of road on Portion 4 of Farm 32 Masons Rust and diversion of two sections of an existing track on Farm No. 42 Uitvlug had a permanent visual impact on the greater environment. Re-vegetation

along the road edges has been proposed by the botanist to provide a visual screen and to minimise the overall visual impact.

3.7 Cumulative Impacts

The activity has resulted in the stabilisation of the main stream crossings and safer conditions for access to the applicant's farm. However, the activity has also resulted in a loss of viable indigenous vegetation and a permanent visual impact. Recommendations have been made to mitigate these impacts as far as possible.

4. **NEMA Principles**

The National Environmental Management Principles (set out in section 2 of the NEMA), which apply to the actions of all Organs of State, serve as guidelines by reference to which any Organ of State must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the competent authority is satisfied that the listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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