



**Western Cape
Government**

Environmental Affairs and
Development Planning

Directorate: Development Management
(Region 1)

REFERENCE: 16/3/3/1/B3/28/1054/19

ENQUIRIES: BERNADETTE OSBORNE

DATE OF ISSUE: 2020 -03- 03

The Board of Directors
Bardene Properties (Pty) Ltd
PO Box 213
GROOT DRAKENSTEIN
7500

Attention: Mr Morne Landman

Cell: (079) 517 1816
E-mail: morne@sablewood.co.za

Dear Sir

**APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998
(ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA")
REGULATIONS, 2014: THE CLEARING OF INDIGENOUS VEGETATION AND CULTIVATION
ON PORTION 7 OF THE FARM NORMANDY NO.1170, PAARL.**

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the EIA Regulations, 2014, you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

MR ZAHRIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT – REGION 1

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Mr Johan Neethling (Johan Neethling Environmental Services cc)
(2) Mr Schalk van der Merwe (Stellenbosch Municipality)
(3) Rhett Smart (CapeNature)

Fax: (086) 544 4868
Fax: (021) 886 6899
Fax: (021) 866 1523

REFERENCE: 16/3/3/1/B3/28/1054/19
NEAS REFERENCE: WCP/EIA/0000653/2019
ENQUIRIES: Bernadette Osborne
DATE OF ISSUE: 2020 -03- 03

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: THE CLEARING OF INDIGENOUS VEGETATION AND CULTIVATION ON PORTION 7 OF FARM NORMANDY NO. 1170, PAARL.

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activity specified in section B below with respect to Alternative 2 described in the Basic Assessment Report, dated October 2019.

The applicant for this Environmental Authorisation is required to comply with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Bardene Properties (Pty) Ltd
c/o Mr Morne Landman
PO Box 213
GROOT DRAKENSTEIN
7500

Cell: (079) 517 1816
E-mail: morne@sablewood.co.za

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

B. ACTIVITY AUTHORISED

Listed Activity	Project Description
Listing Notice 1 – Activity Number: 27 <i>The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance if indigenous vegetation is required for –</i> <i>(i) The undertaking of linear activity; or</i> <i>(ii) Maintenance purposes undertaken in accordance with a maintenance management plan.</i>	An area of 5.2ha containing indigenous vegetation will be cleared for the development.

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

The holder is herein authorised to undertake the following alternative that includes the listed activity as it relates to the development:

The clearance of 5.2ha indigenous vegetation on the site for the establishment of a tree nursery. The artificial wetland areas will be retained on the site with a 35m buffer area around them.

SITE DESCRIPTION AND LOCATION

The listed activity will be undertaken on Portion 7 of the Farm Normandy No. 1170, Paarl, at the following co-ordinates:

	Latitude (S)	Longitude (E)
Coordinates:	33° 53' 28.43" South	18° 59' 13.17" East

The SG digit code is: C05500030000117000007

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

The above is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Johan Neethling Environmental Services cc
c/o Johan Neethling
PO Box 16594
VLAEBERG
8018

Tel: (021) 461 4386
Fax: (086) 544 4868

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activity specified in Section B above in accordance with and restricted to Alternative 2, described in the BAR, dated October 2019 on the site as described in Section C above.
2. The holder must commence with the listed activity on the site within a period of **five years** from the date of issue of this Environmental Authorisation.
3. The development must be concluded within **ten years** from the date of commencement of the listed activity.
4. 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.
5. Any changes to, or deviations from the scope of the alternative described in section B 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.

Written notice to the Competent Authority

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activity.
 - 6.1 The notice must make clear reference to the site details and EIA Reference number given above.

- 6.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 7, 8 and 11

Notification and administration of appeal

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
- 7.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 7.1.1 the outcome of the application;
 - 7.1.2 the reasons for the decision as included in Annexure 3;
 - 7.1.3 the date of the decision; and
 - 7.1.4 the date when the decision was issued.
 - 7.2 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 F below;
 - 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 7.4 provide the registered I&APs with:
 - 7.4.1 the name of the holder (entity) of this Environmental Authorisation,
 - 7.4.2 name of the responsible person for this Environmental Authorisation,
 - 7.4.3 postal address of the holder,
 - 7.4.4 telephonic and fax details of the holder,
 - 7.4.5 e-mail address, if any, of the holder,
 - 7.4.6 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 2014 National Appeals Regulations.
8. The listed activity, including site preparation, may not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision. 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.

Management of activity

9. The draft Environmental Management Programme ("EMPr") dated February 2020 submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.

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

Monitoring

11. 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 provisions of the EMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activity, and must be made available to anyone on request, including a publicly accessible website.
13. Access to the site referred to in Section C above 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.

Auditing

14. In terms of Regulation 34 of the NEMA 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. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The holder must undertake an environmental audit every six months for the duration of the construction phase. A consolidated Environmental Audit Report must be submitted to the Competent Authority annually during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within three months after operation commenced.

The holder must, within 7 days of the submission of each of the above-mentioned reports to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

Specific Conditions

15. 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 palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts 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.

16. 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.
17. Only indigenous trees and fynbos species that are compatible with the genetic stock of the indigenous vegetation occurring on the surrounding farm may be grown in the tree nursery. No listed invasive species may be grown in the tree nursery.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activity.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with a listed activity within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, 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 prior to the expiry date of the Environmental Authorisation.
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 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 (as amended) or any relevant legislation that may be applicable at the time.

APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision. -
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2 Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs
and Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

G. DISCLAIMER

The Western Cape Government, the Local Authority, 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.

Your interest in the future of our environment is appreciated.

Yours faithfully


MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Date of decision: 03/03/2020

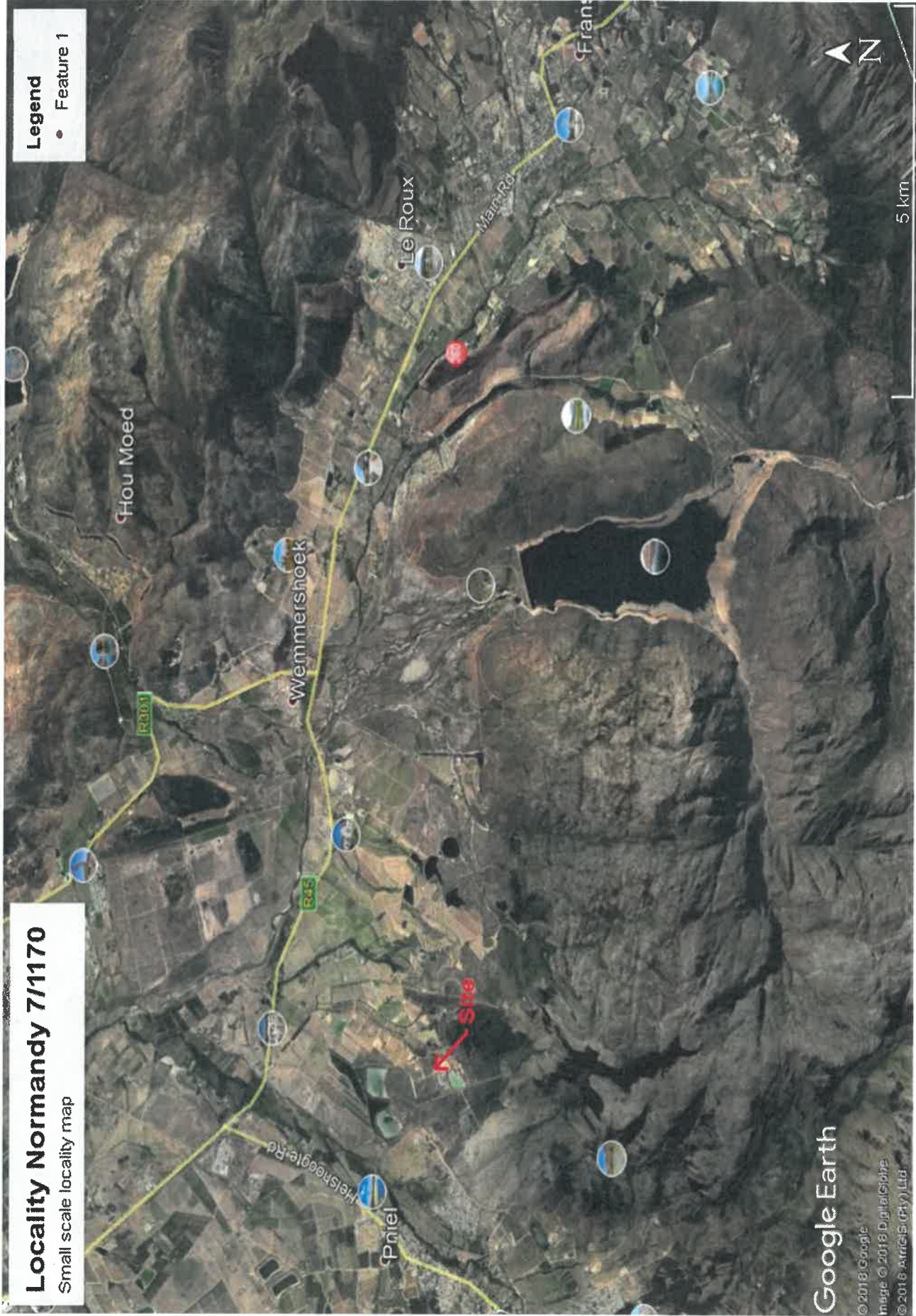
Cc: (1) Mr Johan Neethling (Johan Neethling Environmental Services cc)
(2) Mr Schalk van der Merwe (Stellenbosch Municipality)
(3) Rhett Smart (CapeNature)

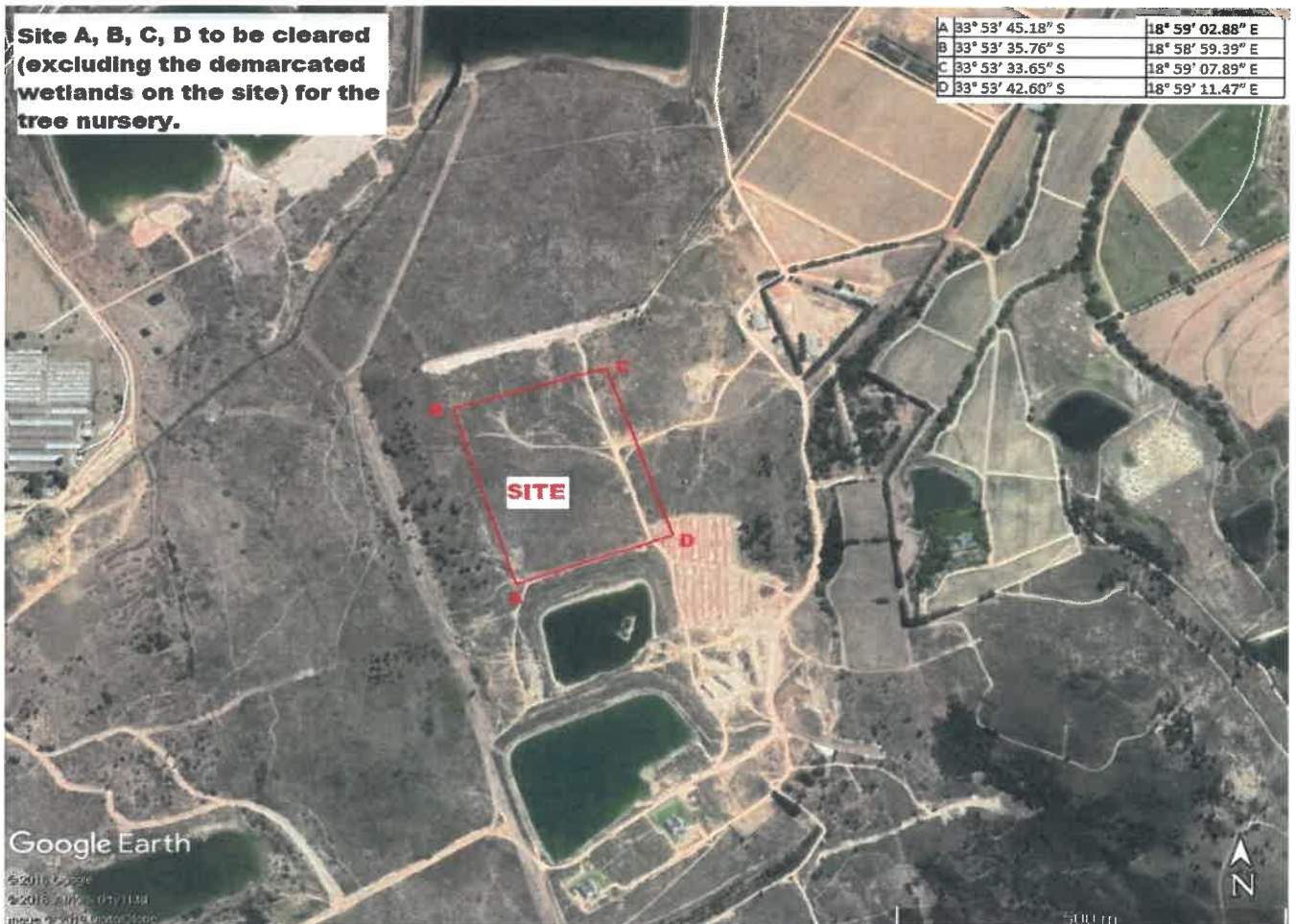
Fax: (086) 544 4868

Fax: (021) 886 6899

Fax: (021) 866 1523

ANNEXURE 1: LOCALITY MAP





Reference No.: 16/3/3/1/B3/28/1054/19



ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, inter alia, the following:

- a) The information contained in the Application Form dated 1 August 2019, the draft Basic Assessment Report received by the Department on 20 August 2019, the final Basic Assessment Report received on 30 October 2019 and the revised EMPr received on 6 February 2020;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the Basic Assessment Report received on 30 October 2019; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

No site visits were conducted. The Competent Authority had sufficient information before it to make an informed decision without conducting a site visit.

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 that were considered to be the most significant for the decision is set out below.

1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- a site notice was placed at the site where the listed activity is to be undertaken;
- giving written notice to the owners and occupiers of land adjacent to the site the listed activity is to be undertaken, the municipality and ward councilor, and the various organs of state having jurisdiction in respect of any aspect of the listed activity on 26 March 2018 and 27 March 2018;
- the placing of a newspaper advertisement in the *Eikestadnuus* newspaper on 22 February 2018 and 8 March 2018;
- making the pre-application draft BAR available to I&APs for public review from 26 March 2018; and
- making the in-process draft BAR available to I&APs for public review from 20 August 2019.

The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements and all the comments raised and responses thereto were included in the comments and response report.

Specific alternatives, management and mitigation measures have been considered in this Environmental Authorisation and EMP to adequately address the concerns raised.

2. Alternatives

Alternative 1

This alternative entails the clearance of indigenous vegetation on the site (approximately 7ha), including the identified artificial wetland areas to establish the tree nursery. This alternative is preferred from a practical and economic point of view, as the available infrastructure (roads, water availability and short distance to farm management infrastructure) can be optimally utilised. This alternative will however only be feasible if the wetland areas could be recreated as a wetland offset. A site on an adjacent property, owned by the applicant, was identified for such an offset. The botanical specialist surveyed the site and found it to be totally transformed and suitable for the recreation of a wetland. The requirements outlined in the wetlands offset guideline, dated 2014 and issued by Department of Water and Sanitation and the South African National Biodiversity Institute for successfully executing the offset of the wetland areas and ongoing maintenance and management thereof lead to this alternative not being the preferred option.

Alternative 2 (Preferred alternative herewith authorised)

The clearance of 5.2ha of indigenous vegetation on the site for the establishment of a tree nursery. The artificial wetland areas will be retained as no-go areas on the site with a 35m buffer area around them. The wetland areas on the site were delineated by the freshwater specialist and a land surveyor. There would be a small loss of usable area for the tree nursery but weighed up against the costs, ecological uncertainties and long term management challenges associated with Alternative 1, this alternative became the preferred option.

No-go Alternative

This alternative presents the *status quo*, which is the site remaining vacant. The site will not be cleared and a tree nursery will not be developed, which will not increase the economic viability of the property, will not create additional local employment opportunities and will not assist in the re-establishment of indigenous vegetation on the rest of the property. This alternative was therefore not preferred.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The tree nursery is in line with the surrounding land use, will increase the economic value of the property, will create additional local employment opportunities and will assist in the re-establishment of indigenous vegetation on the rest of the property. The development

will not change the cultural landscape characteristics of the area and is consistent with the Western Cape Provincial Spatial Development Framework.

3.2 Biophysical Impacts

The Botanical Impact Assessment dated October 2018, compiled by Bergwind Botanical Surveys and Tours, indicated that the indigenous vegetation present on the site is *Boland Granite Fynbos* vegetation, which is classified as vulnerable. The site was however previously disturbed due to cultivation over the entire site prior to 2003 and sand mining over the northern portion of the site to approximately 2007. The indigenous vegetation present on the site has since then recovered well and is currently in a moderate condition. The Botanical Impact Assessment determined that the proposed clearance will have a medium negative impact with mitigation. The recommended mitigation measures were included in the EMPr and Conditions 9 and 17 of this Environmental Authorisation.

The Freshwater Impact Assessment dated June 2018, compiled by Scientific Aquatic Services, identified two artificial wetland areas on the site. These artificial wetland areas will be retained on the site with a 35m buffer area around them. This was included in the preferred alternative and is herewith authorised.

The development will result in both negative and positive impacts.

Negative Impacts:

The development will have a negative biophysical impact due to the loss of indigenous vegetation present on the site. This impact will however be mitigated to a satisfactory level with the implementation of the EMPr and Conditions 9 and 17 of this Environmental Authorisation.

Positive impacts:

The tree nursery is in line with the surrounding land use, will increase the economic value of the property, will create additional local employment opportunities and will assist in the re-establishment of indigenous vegetation on the rest of the property.

4. National Environmental Management Act 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 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.

5. Conclusion

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 proposed listed activity will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activity can be mitigated to acceptable levels.

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