



REFERENCE: 14/2/4/2/2/B5/14/0023/19

ENQUIRIES: Ziyaad Allie

The Managing Director
Witzenberg Country Estate (Pty) Ltd
P.O. Box 4
WOLSELEY
6830

Tel: (023) 231 1003

Email: chrisloubstersnr@gmail.com

For Attention: Mr Chris v.d. Spuy Loubser

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL CONSTRUCTION OF TOURIST FACILITIES ON PORTION 10 OF FARM 262, BOONTJIESRIVIER, TULBAGH

With reference to your application dated 27 November 2019 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") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C as described in the application and environmental assessment dated 27 November 2019.

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

Witzenberg Country Estate (Pty) Ltd
 c/o Mr Chris v.d. Spuy Loubser
 P.O. Box 4
 WOLSELEY
 6830

Tel: (023) 231 1003
 Email: chrisloubstersnr@gmail.com

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
<p>Government Notice No. R. 324 of 7 April 2017 (“EIA Regulations, 2014, as amended”)</p> <p>Activity Number: 6 Activity Description: <i>“The development of resorts, lodges, hotels, tourism or hospitality facilities that sleeps 15 or more people. Western Cape i. Inside a protected area identified in terms of NEMPAA;</i></p>	<p>The conversion of an existing milk parlour structure to guest accommodation. The development footprint of the building has been increased to include a conference room with associated kitchen area. The site is located outside an urban area.</p>

<p>ii. Outside urban areas; (aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or (bb) Within 5km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of the biosphere reserve; - Excluding the conversion of existing buildings where the development footprint will not be increased.”</p>	
<p>Government Notice No. 324 of 7 April 2017- Activity Number: 17 Activity Description: “The expansion of a resort, lodge, hotel, tourism and hospitality facilities where the development footprint will be expanded, and the expanded facility can accommodate an additional 15 people or more.” Western Cape i. Inside a protected area identified in terms of NEMPAA; ii. Outside urban areas: (aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or (bb) Within 5km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve; - excluding the conversion of existing buildings where the development footprint will not be increased.</p>	<p>Existing farming cottages were converted to guest accommodation purposes prior to the requirement for environmental authorisation. The conversion of the milk parlour to guest rooms and associated conference room is an expansion of the existing accommodation facilities. The conversion of an existing milk parlour structure to guest accommodation and associated conference centre expanded the development footprint of the existing accommodation/hospitality facilities. The site is located outside an urban area.</p>

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

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Portion 10 of Farm 262, Boontjiesrivier, Tulbagh. Portion 10 of Farm 262, Boontjiesrivier, Tulbagh, is located at the foothills of the Witzenberg Mountain range. The farm is approximately 110ha in size and located approximately 3km north of Wolseley along the R46.

The SG digit code is: C07500000000026200010

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	32° 22' 14.68" South	19° 12' 48.90" East
2	33° 22' 20.63" South	19° 12' 02.92" East
3	33° 22' 38.87" South	19° 12' 06.17" East
4	33° 22' 49.81" South	19° 12' 42.11" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 22' 48.30" South	19° 12' 54.12" East
2	33° 22' 47.40" South	19° 12' 53.43" East
3	33° 22' 46.51" South	19° 12' 55.42" East
4	33° 22' 46.85" South	19° 12' 55.70" East

Refer to Annexure 1: Locality Plan

Annexure 2: Site layout- location of converted milk parlour.

Herein-after referred to as "the site".

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (“EAP”)

Guillaume Nel Environmental Consultants (GNEC)

C/o Mr Guillaume Nel

P. O. Box 2632

PAARL

7620

Cell: 072 157 1321

Email: gn@gnec.co.za

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The development entails the conversion of an existing milking parlour into guest accommodation. The building was previously used as a milking parlour and is located at the south-western corner of the property. The footprint of the building has been increased and includes a kitchen and conference room. The guest accommodation can accommodate more than 16 people.

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 the implemented Alternative described in the application and assessment report dated 27 November 2019 on the site as described in Section D above.

2. 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.
3. 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 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

Notification and administration of an appeal

4. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 4.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 4.1.1 the outcome of the application;
 - 4.1.2 the reasons for the decision as included in Annexure 3;
 - 4.1.3 the date of the decision; and
 - 4.1.4 the date when the decision was issued.
 - 4.2 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.
 - 4.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
 - 4.4 provide the registered I&APs with:
 - 4.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 4.4.2 name of the responsible person for this Environmental Authorisation;
 - 4.4.3 postal address of the holder;
 - 4.4.4 telephonic and fax details of the holder;

- 4.4.5 e-mail address, if any, of the holder; and
- 4.4.6 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*.

5. 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 III

Management of the activity/development

- 6. The draft Environmental Management Programme ("EMPr") dated 3 February 2020 compiled by Guillaume Nel Environmental Consultants and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.
- 7. The EMPr must be included in all contract documentation for all relevant phases of implementation.

PART IV

Monitoring

- 8. 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 anyone on request, including a publicly accessible website (if applicable).
- 9. 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 V

Auditing

10. 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 and 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*.

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. 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.

4. 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.

I. APPEALS

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

1. An appellant (if the holder) must –
 - 1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to 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 the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –
 - 2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, 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 the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and 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. This appeal and responding statement must be submitted to the address listed below-
 - By post: Attention: Marius Venter
 Western Cape Ministry of Local Government, Environmental Affairs &
 Development Planning
 Private Bag X9186, Cape Town, 8000; or
 - By facsimile: (021) 483 4174; or
 - By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)
 Room 809, 8th floor Utilitas Building
 1 Dorp Street, Cape Town, 8000; or
 - By e-mail: DEADP.Appeals@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator 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 office of the appeal authority/ at: Tel. (021) 483 3721, E-mail DEADP.Appeals@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, 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

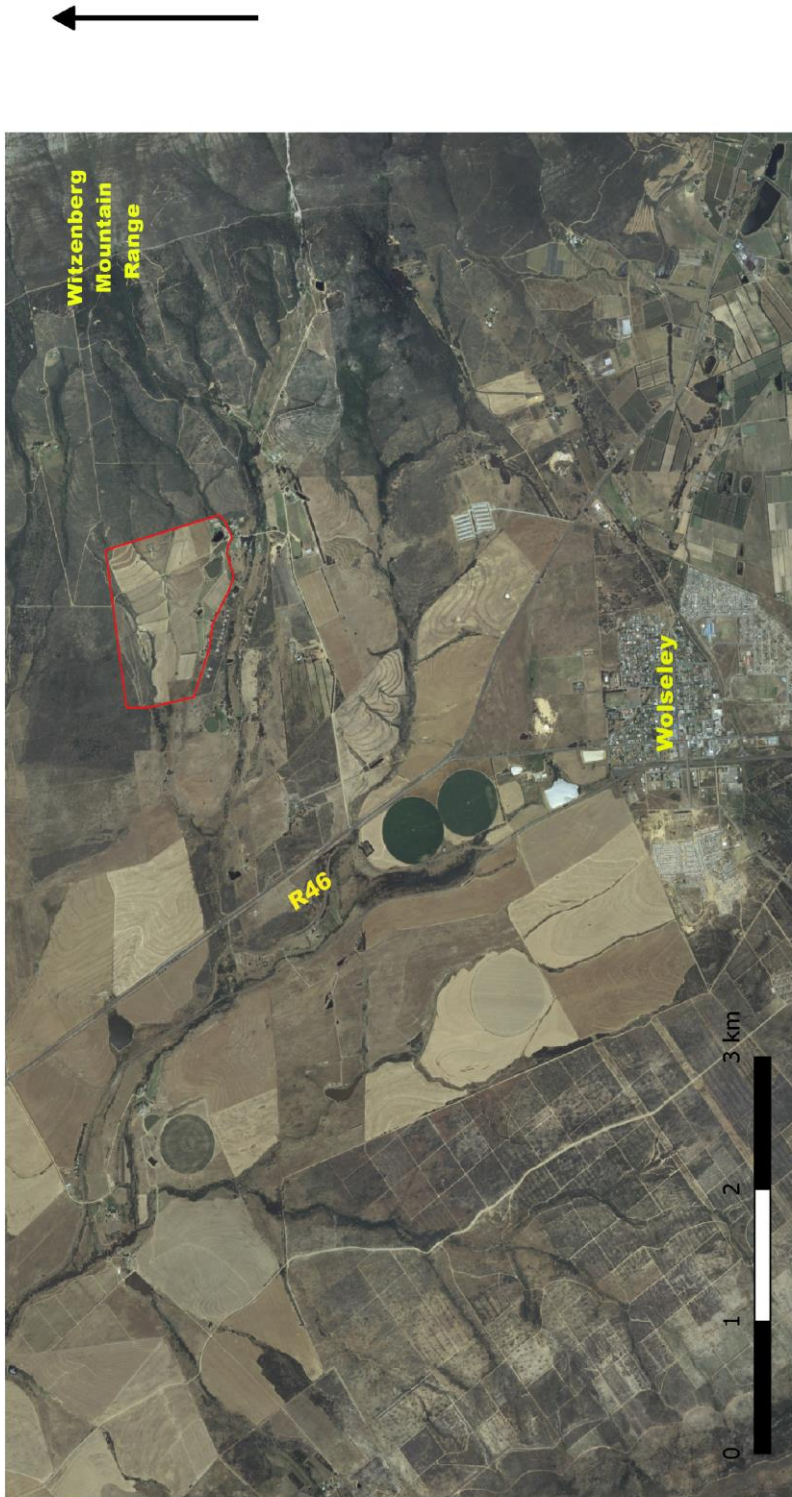
DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: _____

Copied to: (1) Mr. Guillaume Nel (EAP)
(2) Mr. Cahlan Williams (EAP)

Email: gn@gnec.co.za
Email: cahlan@gnec.co.za

ANNEXURE 1: LOCALITY MAP



**Portion 10 of Farm 262, Boontjiesrivier,
Tulbagh (Red)**

Locality Map



ANNEXURE 2: SITE LAYOUT- LOCATION OF CONVERTED MILK PARLOUR



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 R50 000 (Fifty 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 27 November 2019, the Environmental Management Programme ("EMPr") dated 3 February 2020 and the Comments and Responses Report received by the Department on 11 August 2020.
- 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 -

Date/s: 11 March 2020

Attended by: Officials from this Department

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:

- An advertisement was placed in the "Witzenberg Herald" on 02 August 2019;
- A site notice was erected; and
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor.
- I&APs were afforded the opportunity to provide comments on the application.

1.1 Consultation with organs of state in terms of section 24O of the NEMA

The following organ of state provided comment on the application:

- CapeNature - The comment from CapeNature is as follows:
"The unauthorised activity caused no additional impacts to the indigenous vegetation (building size remained the same) nor freshwater systems. The recommendations as provided by the EAP are supported."

At the end of the public participation process, the comments from CapeNature raised no objections regarding conversion of the structure on the site.

1.2 Comments received from I&APs

Comments were received from several residents in the surrounding area. This included the Witzenberg Park Home Owners Association. The comments received related to the current use of structures on the property as guest rooms and tourism accommodation. Comments were also raised regarding the increased levels of pollution; light and noise as well as possible traffic impacts.

The EAP addressed the comment relating to the current use of structures on the property as guest rooms and tourism accommodation by stating that the existing 7 holiday cottages on Portion 10 of Farm 262, Boontjiesrivier, were constructed and used as holiday cottages for guests prior to 2006 before the requirement for environmental authorisation for tourist/hospitality facilities took effect.

With regards to the comments relating to increased levels of pollution and traffic, the EAP stated that appropriate measures to mitigate the negative pollution and traffic impacts are addressed in the legally binding Environmental Management Plan ("EMP").

The competent authority is satisfied that the comments were addressed by the EAP. Concerns raised by the I&APs relating to the potential operational impacts associated with the existing tourism and resort development have been addressed adequately in the EMP.

2. Alternatives

2.1 Alternatives

Alternative 1 (Herewith authorised)

The development entails the conversion of an existing milking parlour into guest rooms. The building was previously used as a milking parlour and is located at the south-western corner of the property. The footprint of the building has been increased as it includes a kitchen and conference room. These rooms can accommodate more than 16 people. The site where the conversion took place has been completely transformed by past agricultural and associated land uses. No natural vegetation is left on the site. The farm uses borehole water and has adequate capacity to supply the development.

Alternative 2

No other alternatives were considered by for the development. An existing structure was converted and thus no other alternative was investigated.

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

The site is zoned Agriculture and will thus have to be rezoned to tourism/resort uses. Approximately 2km to the west of the proposed development is the Fynbos Guest Farm and Animal Sanctuary which provides similar tourist facilities. The

conversion of the milking parlour into accommodation will allow for increased tourism in the area. According to Witzenberg Local Municipality Integrated Development Plan (2017- 2022), the Witzenberg Municipality manages local tourism in the form of a service level agreement with three local tourism organisations, which conduct marketing of the municipal area and local established businesses in order to draw investments and trade to the area. The Witzenberg Local Municipality aims to promote their towns as travel destinations as per the SLA with Witzenberg Tourism which is an external entity.

3.2. Regional/ Planning Context

The site is zoned agriculture and will have to be rezoned to tourism/ resort uses. Similar land uses are located in close proximity to the concerned property. The proposed activity will be in line with the Western Cape Provincial Spatial Development Framework (2014). According to the Western Cape Provincial Spatial Development Framework (2014) the region is aiming to be an international tourism destination that has a unique lifestyle offering.

3.3. Biophysical and Biodiversity Impacts

The activities undertaken on the site, as confirmed by the section 24G application and the comment received from CapeNature will not result in any negative impacts on biodiversity. The activities applied for in the section 24G application relate to the conversions of existing buildings that have been converted for accommodation purposes.

3.4. Noise and Visual Impacts

It is not anticipated that the development will result in excessive noise levels. Measures relating to the mitigation of noise have been addressed in the EMPr. The development is not expected to result in negative impacts on people's health and wellbeing due to the fact that it is a low-density development. The farm is not visible from the surrounding road network and the development is located close to the centre of the farm, therefore partially secluded from the other activities on the property.

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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