



REFERENCE NUMBER: 14/2/4/2/2/B1/11/0011/18

ENQUIRIES: Moe'mina Hoosain

BY REGISTERED MAIL

The Trustees
Johan and Trudie Hopkins Family Trust
P. O. Box 5363
Helderberg
7135

Cell: (083) 675 3498
Email: johan@hopcal.co.za

Attention: Mr J. Hopkins

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 COMMENCEMENT OF CONSTRUCTION OF A STONE COTTAGE ON REMAINDER FARM HIGHLANDS NO. 81, MONTAGU

With reference to your application dated 18 June 2018 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 below and described in the application and environmental assessment.

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

Johan and Trudie Hopkins Family Trust

c/o Mr. J Hopkins

P. O. Box 5363

HELDERBERG

7135

Cell: (083) 675 3498

Email: Email: johan@hopcal.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
<u>Government Notice No. 544 of 2010</u> Activity Number: 11 Activity Description: <i>The construction of:</i> <i>(i) canals;</i> <i>(ii) channels;</i> <i>(iii) bridges;</i> <i>(iv) dams;</i>	A stone cottage was constructed adjacent to a non-perennial tributary, and within 32 metres of a watercourse. The building area is 125m ² which includes a stone cottage of 72m ² , a 24m ² carport and a 29m ² patio.

- (v) weirs;
- (vi) bulk storm water outlet structures;
- (vii) marinas;
- (viii) jetties exceeding 50 square metres in size;
- (ix) slipways exceeding 50 square metres in size;
- (x) buildings exceeding 50 square metres in size; or**
- (xi) infrastructure or structures covering 50 square metres or more**

where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.

Similarly listed as:

Government Notice No. 327 of 2014

Activity Number: 12

Activity Description:

The development of—

(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or

(ii) infrastructure or structures with a physical footprint of 100 square metres or more;

where such development occurs—

(a) within a watercourse;

(b) in front of a development setback; or

(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —

excluding—

(aa) the development of infrastructure or structures within existing ports or harbours

<p>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 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><u>Government Notice No. 544 of 2010</u></p> <p>Activity Number: 18</p> <p>Activity Description:</p> <p><i>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from:</i></p> <p>(i) a watercourse;</p> <p>(ii) the sea;</p> <p>(iii) the seashore;</p> <p>(iv) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever</p>	<p>A drainage channel has been dug upslope of the stone cottage, to prevent erosion of the bare slope created. A firebreak was created within the wetland, which explains why the drainage channel was required. It is estimated that the current firebreak and drainage channel has resulted in the loss of approximately 1000m² of wetland seep.</p>

distance is the greater but excluding where such infilling, depositing, dredging, excavation, removal or moving;

(a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or

(b) occurs behind the development setback line.

Similarly listed as:

Government Notice No. 327 of 2014

Activity Number: 19

Activity Description:

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—

(a) will occur behind a development setback;

(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;

(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;

(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or

(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.

Government Notice No. R. 546 of 2010

An area of approximately 3480m²

Activity Number: 12

Activity Description:

The clearance of an area of 300 square metres or more of vegetation where 75% or more of the vegetative cover constitutes indigenous vegetation.

Similarly listed as:

Government Notice No. 324 of 2014

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.

Activity Number: 16

Activity Description:

The construction of:

- (i) jetties exceeding 10 square metres in size;*
- (ii) slipways exceeding 10 square metres in size;*
- (iii) buildings with a footprint exceeding 10 square metres in size; or***
- (iv) infrastructure covering 10 square metres or more;*

where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.

(d) In Western Cape:

- i. In an estuary;*

of South Langeberg Sandstone

Fynbos (classified as Least

Threatened) in terms of the

National Environmental

Management: Biodiversity Act,

2008 (Act no. 10 of 2004)

("NEMBA") was cleared for the

establishment of a stone cottage,

firebreaks and a

driveway/parking area.

The vegetation is not classified as

a critically endangered or

endangered ecosystem. The area

has, however, been declared as

a Mountain Catchment Area. A

core area of the Gouritz Cluster

Biosphere Reserve is situated

directly south of the application

site. The site is therefore situated

less than 5km from the core area

of a biosphere reserve.

ii. Outside urban areas, in:

(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 identified 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;

(hh) Areas within 10 kilometres from national parks or world heritage sites or 5 kilometres from any other protected area identified in terms of NEMPAA or from the core area of a biosphere reserve;

Similarly listed as:

Government Notice No. 324 of 2014

Activity Number: 14

Activity Description:

The development of—

(i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or

(ii) infrastructure or structures with a physical footprint of 10 square metres or more; where such development occurs—

(a) within a watercourse;

(b) in front of a development setback; or

(c) if no development setback has been adopted, within 32 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 harbor.

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.

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

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Remaining Extent of Farm Highlands No. 81, Montagu.

The SG digit code is: C05000000000008100000

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
A	33 ° 38' 43,98" South	20° 08' 51,60" East
B	33 ° 38' 34,95" South	20° 09' 58,67" East
C	33 ° 39' 15,24" South	20° 10' 31,03" East
D	33° 39' 25,24" South	20° 09' 35,09" East

The co-ordinates for the centre of the site is:

Latitude (S)	Longitude (E)
33 ° 39' 00,53" South	20° 09' 12,85" East

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")

Duncan Heard Environmental Conservation

12 Sepia Avenue, Vermont

ONRUSRIVIER

7201

Tel: (028) 316 3386

Cell: (082) 495 3943

Fax: (086) 513 4462

Email: duncanheard@telkomsa.net

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

An area of approximately 3 480m² was unlawfully cleared for the construction of a stone cottage (of approximately 125m²), patio, a firebreak north and west of the cottage, parking area and a driveway leading to an existing farm road. The cottage is surrounded by a firebreak of between 10m and 18m in width approximately 15m to 30m from the cottage with indigenous vegetation preserved in between. A firebreak (of approximately 1 680m²) was constructed to the east of a watercourse and lies adjacent to two caravans and a removable store. A firebreak (of approximately 1 000m²) created to the north of the stone cottage affected a hillside seep wetland and a drainage channel, which was dug to keep the firebreak dry and prevent erosion.

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 the application and assessment report dated 18 June 2018, 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.
3. The holder must ensure continuation of commencement with implementation of the mitigation measures within the validity period.
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 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

Written notice to the competent authority

6. Seven (7) calendar days' notice, in writing, must be given to the competent authority before commencement of construction activities.
 - 6.1 The notice must make clear reference to the site details and 24G Reference number given above.
 - 6.2 The notice must also include proof of compliance with conditions 7, 8, 9, 10 and 16.

PART III

Notification and administration of an 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 I 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; and
- 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 *National Appeal Regulations, 2014*.

- 8. The listed activities, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of issue 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

- 9. The draft Environmental Management Programme ("EMPr") of June 2018 compiled by Duncan Heard Consulting and 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.

PART V

Monitoring

- 11. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") or site agent where appropriate, before commencement of mitigation measures, to ensure compliance with 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 activities, and must be made available to anyone on request, including a publicly accessible website (if applicable).
- 13. 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

14. 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*.

PART VII

Activity/ Development 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 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.

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. The recommendations and mitigation measures contained in Section 5 of the Freshwater Risk Assessment April 2018, must be adhered to.

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 listed 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 must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application, but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.

(3) 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.

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: Mr 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 2659)
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

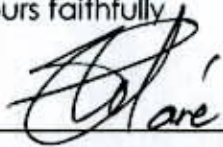
Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, 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: 24 July 2019

CC: (1) D. Heard

(Duncan Heard Environmental Consulting)

Fax: (086) 513 4462

Email: duncanheard@telkomsa.net

(2) T. Brunings

(Langeberg Municipality)

Fax: (023) 614 1841

Email: tbrunings@langeberg.gov.za

ANNEXURE 1: LOCALITY MAP

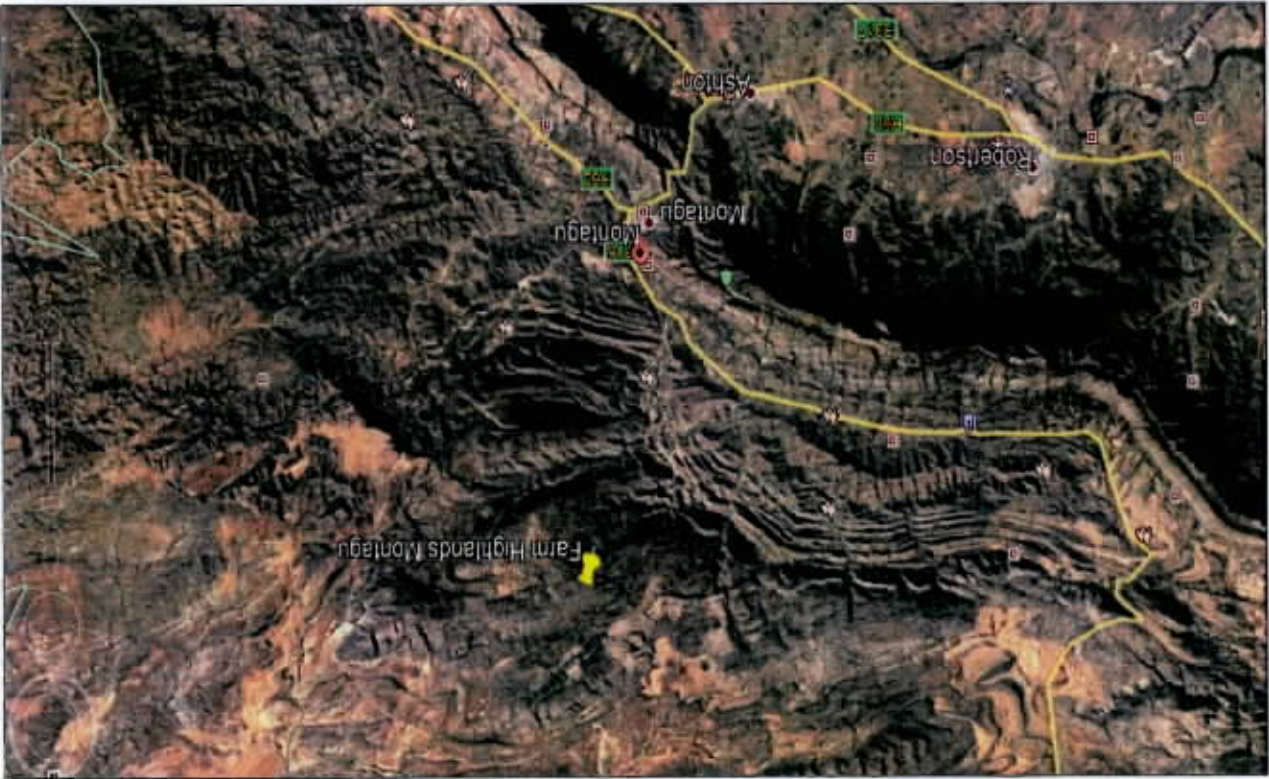


Figure 1: Google image of the location of Farm Highlands No. 81, Montagu.



Figure 2: Location of site in relation to the Gouritz Cluster Biosphere Reserve boundaries. Source: CapeFarmMapper

ANNEXURE 2: SITE PLAN



Figure 3: Delineation of the riparian edge (Freshwater Risk Assessment, 2018)

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S24G REFERENCE: 14/2/4/2/2/B1/11/0011/18
ENFORCEMENT REFERENCE : 14/1/1/E2/1/6/3/0311/17/VOL1

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 R25 000 (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 section 24G application dated 18 June 2018 and the Environmental Impact Assessment and Mitigation Measures as outlined in the application.
- b) The consideration of Alternatives as outlined in the application.
- c) The Environmental Management Programme ("EMPr") of June 2018, submitted for the application.
- d) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- f) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- g) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- h) The site visit conducted on: 3 October 2018
Attended by: Ms Moe'mina Hoosain and Mr Ziyaad Allie

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 **Breede Rivier Nuus** on 20 March 2018;
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor on 21 March 2018;
- A site notice was erected on site on 22 March 2018 to indicate the availability of the application for comment

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

The following organs of state provided comment on the application:

- CapeNature
- Langeberg Municipality

CapeNature stated that the close proximity of the cottage to the watercourse is of concern. The EAP responded that this aspect was assessed in the Freshwater Risk Report. Clarity was requested on the sewerage system and the measures proposed to prevent any contamination of the watercourse. The pool in the watercourse next to the cottage also concerned CapeNature as it is filled with water obtained from a borehole near the cottage. It would be useful to have input regarding the acceptability of this from the Breede-Gouritz Catchment Management Agency ("BGCMA"). CapeNature stated that although the applicant has undertaken alien vegetation clearing, there are still alien plants in the immediate vicinity of the house such as pine trees and Port Jackson, which still need to be removed. This is of importance given that the property lies within a declared Mountain Catchment Area ("MCA"). CapeNature recommended that the two temporary caravans and corrugated storage facility on the north-eastern bank of the watercourse be removed and that the footprint rehabilitated to natural.

Langeberg Municipality stated the application is supported from a land use planning perspective, subject to compliance with the recommendations of the EAP and implementation of the EMPr. As soon as the Environmental Authorisation is granted,

the applicant must submit building plans to the Langeberg Municipality in terms of the *National Building Regulations, 1997 (Act No. 103 of 1977)*.

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.

2. Alternatives

2.1 Site Alternatives

No activity alternatives were considered. The location of the development activity on the property was selected by the applicant for its situation close to the dry watercourse, a source of available borehole water supplied by a neighbour, the proximity of the farm access road as well as the aesthetic beauty of the mountain rock formations close to the site.

The relative flatness of the site, presumed historic use and proximity to the mature pine trees (for shade), were also considered. The applicant erected a primary dwelling as per the zoning of the property i.e. Agricultural Zone I. The stone cottage was the landowner's preferred site and is considered to be unobtrusive in the natural landscape.

2.2 Activity Alternatives

No activity alternatives were considered. The applicant erected a primary dwelling as per the zoning of the property i.e. Agricultural Zone I.

2.3 Technology/Operational Alternatives

Sewage effluent from the stone cottage is piped to a septic tank and underground soak away in the parking area that is approximately 20m from the edge of the watercourse. Effluent volumes are estimated to be very low as the cottage is used on an adhoc basis.

The stone cottage residence uses photovoltaic cells and battery power for electricity as well as gas for cooking and heating water. Rainwater is also harvested for water use.

2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

This alternative entails the rehabilitating the site to its former position as far as possible. This option is not preferred and is considered superfluous, as the applicant is entitled to a dwelling on the farm as per zoning rights. Ceasing the activity may lead to the construction of another dwelling elsewhere on the property. It was noted that although the property's zoning allows for the construction of a dwelling, the stone cottage was constructed without municipal approved plans.

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 landowner intended to erect a dwelling on his property which he and his family could use for recreational purposes. The development requires no services from the Langeberg Municipality. According to the application, the unlawful development has taken environmental sustainability into account as far as possible.

3.2. Regional/ Planning Context

In terms of the Langeberg Municipal Spatial Development Framework (SDF), the property falls within a "Core 1" area, which aims to conserve the natural environment with no development footprint. Approximately 0,161% of the total property (215,619ha) is transformed by the activity, whilst the rest of the area will be managed as a catchment conservation area.

3.3. Services/ Bulk Infrastructure

The development requires no services from the Langeberg Municipality. Sewage effluent from the stone cottage is piped to a septic tank and underground soakaway in the parking area, approximately 20m from the edge of the watercourse. According to the Freshwater Risk Assessment dated April 2018, use of the French drain system has resulted in risk to the ephemeral stream through potential percolation of sewage through the soil into the stream. However, effluent volumes are estimated to be very low as the cottage is used on an

ad hoc basis. The stone cottage residence uses photovoltaic cells and battery power for electricity, and gas for cooking and/or heating water. Rainwater is harvested for water use.

3.4. Biodiversity Impacts

According to the Risk Matrix Assessment compiled by Enviro Swift CC, the cottage falls within the Langeberg-West Mountain Catchment Area, the Breede Water Management Area and within the Gouritz Cluster Biosphere Reserve. The nearest reserve boundary is only 70m to the southwest. The farm is inhabited by South Langeberg Sandstone Fynbos vegetation (classified as Least Threatened). Wetlands were identified as Southern Sandstone Fynbos, also classified as Least Threatened.

According to the application, an area of approximately 3 480m² was cleared for the construction of a stone cottage (of approximately 125m²), patio, a firebreak north and west of the cottage, parking area and a driveway leading to an existing farm road. A firebreak was also created to the east of a watercourse and lies adjacent to two caravans and a removable store.

The firebreak (of approximately 1000m²) created to the north of the stone cottage affected a hillside seep wetland and a drainage channel, which was dug to keep the firebreak dry and prevent erosion. The firebreaks that were created are between 10m and 18m wide. In clearing indigenous vegetation for firebreaks, through near pristine vegetation, topsoil was removed, with the remaining topsoil left severely compacted with heavy machinery.

Although the cleared area can be rehabilitated, it will take several years (at least ten years) to fully rehabilitate. In the interim, the slope will be prone to erosion and increased runoff which would eventually reach the stream. Excavation of the drainage channel has caused partial dewatering of the portion of the wetland seep that has been affected by the firebreak, which has further impacted wetland habitat.

A non-perennial watercourse flows past the stone cottage on the eastern side, and a natural pool exists immediately in front of the house. The natural pool is supplied with overflow water via a pipe. At the time of the freshwater

assessment, the pipe was dripping at a negligible rate and contained a little algae-choked surface water. Adding water during the dry periods may cause existing vegetation to encroach on the stream channel, and evidence of this is to be found immediately downstream of the cottage for about 20m. It may also create favourable conditions for establishment of potentially invasive indigenous or alien species. According to the Risk Matrix Assessment, no borehole overflow is allowed to enter the stream during periods of zero natural surface flow.

According to the abovementioned report, the construction of the cottage immediately above a watercourse and construction-related disturbance of the stream bank increased the risk of erosion and structural risk to the cottage. The farm road and part of the stone cottage is believed to have historically serviced a cattle kraal, and therefore no significant earthmoving was required. This largely prevented sedimentation of the adjacent stream.

The close proximity of the cottage to the watercourse was raised as a concern by CapeNature and the Department. The EAP responded that this aspect was assessed in the Freshwater Risk Report, which states that the impact on the sensitive hillslope seep may be rectified through implementation of the recommended mitigation measures. Erosion may be controlled, with the possible exception of erosion caused by severe flooding events. In this event, cottage infrastructure may be damaged, but this is of little consequence to the watercourse. The applicant provided a disclaimer acknowledging the structural risk associated with the stone cottage.

3.5. Visual / Sense of Place

The activity is not expected to result in any heritage and has resulted in minimal but permanent visual impacts. The development is in keeping with the surrounding rural landscape. But is not visually obtrusive. No evidence of cultural heritage artefacts or features were found on site and the activity did not trigger any requirements in terms of the *National Heritage Resources Act, 1999 (Act No. 25 of 1999)*.

3.6. Socio-economic Impacts

The activity is not expected to result in any negative socio-economic impacts. According to the application, the activity resulted in job creation during the

construction phase. However, maintenance of ecological integrity while promoting justifiable social and economic development, is required. The Department's Guideline on Need and Desirability (March 2013) speaks to balancing the need of the individual or applicant and the desirability of the activity from an environmental and social, and economic point of view.

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.

—END—

Addressee	Start Time	Time	Prints	Result	Note
*00865134462	24-07 16:35	00:13:30	006/026	OK	
*00236141841	24-07 16:49	00:05:28	026/026	OK	

Note

THB:Timer TX, POL:Polling, ORG:Original Size Setting, FME:Frame Erase TX,
 DPS:Page Separation TX, Mix:Mix of Original TX, CALL:Manual TX, CSAC:CSAC,
 FWD:Forward, PC:PC-FAX, BND:Double-Sided Binding Direction, SP:Special Original,
 FCODE:F-code, RTX:Re-TX, RLY:Relay, MBX:Confidential, BUL:Bulletin, SIP:SIP Fax,
 IPADR:IP Address Fax, I-FAX:Internet Fax

Result

OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF,
 TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer,
 Refuse: Receipt Refused, Busy: Busy, M-Full: Memory Full, LOUR:Receiving length over,
 POUR:Receiving page over, FIL:File Error, DC:Decode Error, HDN:HDN Response Error,
 DSN:DSN Response Error, PRINT:Compulsory Memory Document Print,
 DEL:Compulsory Memory Document Delete, SEND:Compulsory Memory Document Send.



DIRECTORATE: ENVIRONMENTAL GOVERNANCE
 SUB-DIRECTORATE: RECTIFICATION

REFERENCE NUMBER: 14/2/A/2/2/B1/11/0011/18

ENQUIRIES: Moe'mina Hoosain

BY REGISTERED MAIL

The Trustees
 Johan and Trudie Hopkins Family Trust
 P. O. Box 5363
 Helderberg
 7135

Cell: (083) 675 3498
 Email: johan@hopcal.co.za

Attention: Mr J. Hopkins

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 COMMENCEMENT OF CONSTRUCTION OF A STONE COTTAGE ON REMAINDER FARM HIGHLANDS NO. 81, MONTAGU

With reference to your application dated 18 June 2018 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 below and described in the application and environmental assessment.

Moe'mina Hoosain

From: Moe'mina Hoosain
Sent: Wednesday, July 24, 2019 2:47 PM
To: johan@hopcal.co.za
Cc: Duncan Heard
Subject: Environmental Authorisation - Farm Highlands, Montagu (14/2/4/2/2/B1/11/0011/18)
Attachments: Environmental Authorisation_Farm Highlands_Issued 24 July 2019_0011.pdf

Good day,

Please find attached correspondence from this Department for your attention.

Kind Regards,
Moe'mina

Moe'mina Hoosain
Specialised Environmental Officer
Sub- Directorate: Rectification
Directorate: Environmental Governance
Department of Environmental Affairs and Development Planning
Fax: 021 483 4033
Email: Moe'mina.Hoosain@westerncape.gov.za
Website: www.westerncape.gov.za/eadp

Moe'mina Hoosain

From: Microsoft Outlook
To: johan@hopcal.co.za
Sent: Wednesday, July 24, 2019 2:48 PM
Subject: Relayed: Environmental Authorisation - Farm Highlands, Montagu (14/2/4/2/2/B1/11/0011/18)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

johan@hopcal.co.za (johan@hopcal.co.za)

Subject: Environmental Authorisation - Farm Highlands, Montagu (14/2/4/2/2/B1/11/0011/18)

Moe'mina Hoosain

From: Microsoft Outlook
To: Duncan Heard
Sent: Wednesday, July 24, 2019 2:48 PM
Subject: Relayed: Environmental Authorisation - Farm Highlands, Montagu (14/2/4/2/2/B1/11/0011/18)

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

[Duncan Heard \(duncanheard@telkomsa.net\)](mailto:duncanheard@telkomsa.net)

Subject: Environmental Authorisation - Farm Highlands, Montagu (14/2/4/2/2/B1/11/0011/18)