



REFERENCE: 16/3/3/1/B1/14/1085/19
NEAS REFERENCE: WCP/EIA/0000713/2019
ENQUIRIES: Bernadette Osborne
DATE OF ISSUE: 12 JUNE 2020

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 ESTABLISHMENT OF ADDITIONAL CULTIVATION AREAS ON PORTION 48 OF FARM NO. 129, ROBERTSON.

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, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activity specified in section B below with respect to Layout Alternative 2 described in the Basic Assessment Report ("BAR"), dated March 2020.

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

Phanto Prop (Pty) Ltd
c/o Mr R de Vries
PO Box 250

ROBERTSON

6705

Cell: (082) 476 9054

E-mail: rupert@barvallei.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
<p>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></p>	<p>The development will entail the clearance of approximately 19.5ha hectares of indigenous vegetation.</p>

The abovementioned activity 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 proposal entails the clearance of approximately 19.5ha of indigenous vegetation to establish a cultivation area consisting of 4 blocks north of the enlarged Wyekloof dam. Blocks 1, 2, 3 and 4 will be approximately 2.5ha, 4ha, 5ha and 8 ha in size, respectively.

C. SITE DESCRIPTION AND LOCATION

The listed activity will be undertaken on Portion 48 on Farm No. 129, Robertson and has the following co-ordinates:

	Latitude (S)	Longitude (E)
Co-ordinates:	33° 52' 3.56" South	19° 54' 13.30" East

The SG digit code is: C06500000000012900048

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

The above is hereinafter referred to as “**the site**”.

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

GroenbergEnviro (Pty) Ltd (previously known as Pieter Badenhorst Professional Services CC)

c/o Ms Miche Molife / Mr Pieter Badenhorst

PO Box 1058

WELLINGTON

7654

Cell: 079 111 7378

Email: mische@groenbergenviro.co.za

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 Layout Alternative 2 described in the BAR dated March 2020 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 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 activities.
 - 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 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.

Management of activity

9. The draft or Environmental Management Programme (“EMPr”) 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.

The holder must undertake an environmental audit every year for the duration of the construction phase and submit Environmental Audit Reports annually to the Competent Authority during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within three months after all the cultivation blocks have been established.

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.

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, 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.

G. APPEALS

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

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 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 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 2659)
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 Appeal Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. 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

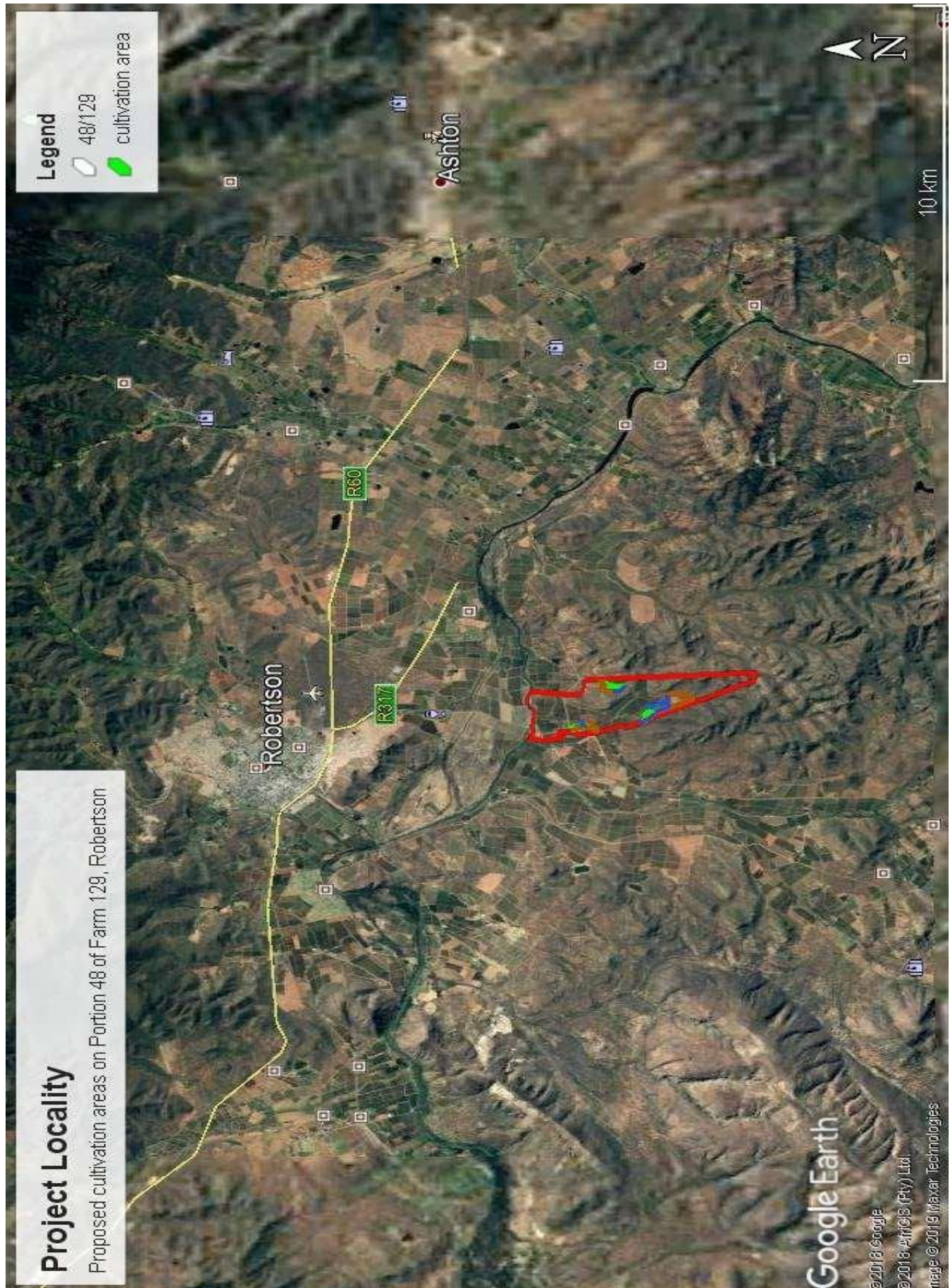


MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

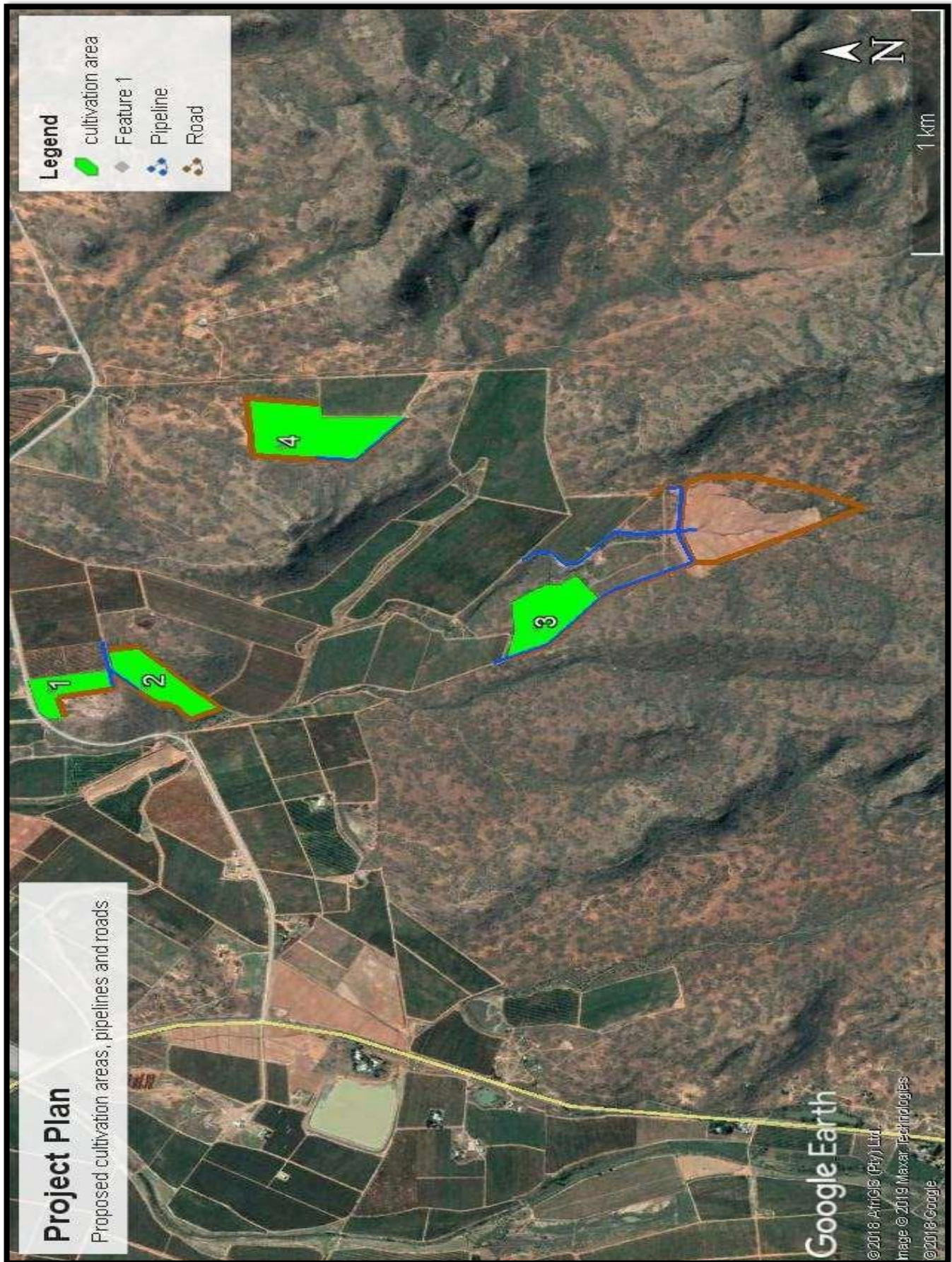
DATE OF DECISION: 12/06/2020

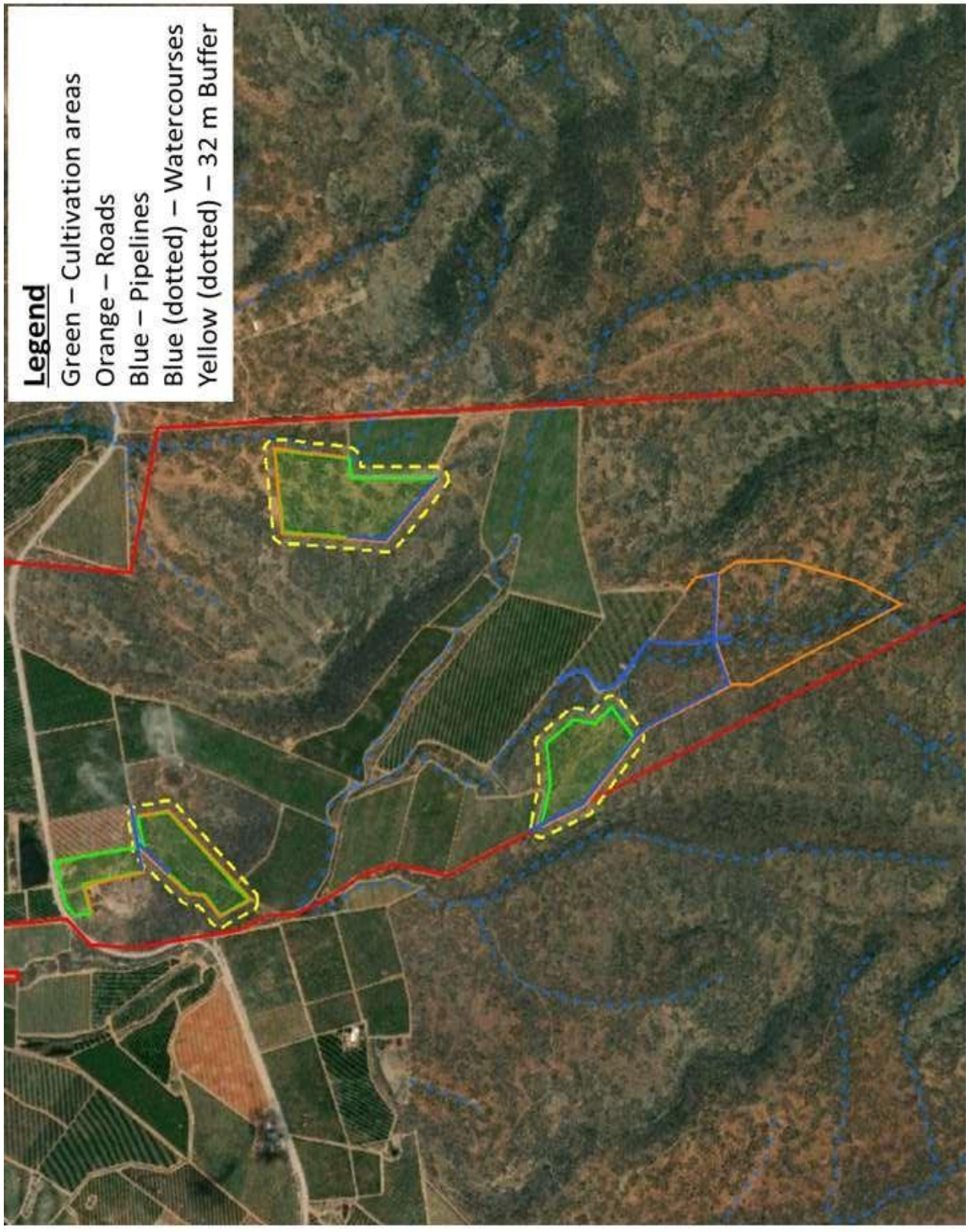
CC: (1) Ms Miche Molife (GroenbergEnviro (Pty) Ltd) E-mail: mische@groenbergenviro.co.za
(2) Ms Tracy Brunings (Langeberg Municipality) E-mail: tbrunings@langeberg.gov.za
(3) Mr Rhett Smart (CapeNature) E-mail: rsmart@capenature.co.za
(4) Rudolph Röscher (Department of Agriculture: Landcare) E-mail: RudolphR@elsenburg.com
(5) Elkerine Rossouw (Breede-Gouritz Catchment Management Agency) E-mail: erossouw@bgcma.co.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN





Legend

- Green – Cultivation areas
- Orange – Roads
- Blue – Pipelines
- Blue (dotted) – Watercourses
- Yellow (dotted) – 32 m Buffer

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 and letter dated 25 November 2019, the draft Basic Assessment Report received by the Department on 26 November 2019, the EMPr submitted together with the final Basic Assessment Report on 6 March 2020 and the additional information received between 17 April 2020 and 30 April 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 6 March 2020; 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;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activity is to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activity on 25 November 2019;
- the placing of a newspaper advertisement in the '*Breederivier Gazette*' on 26 November 2019;
- a notice board was placed at the entrance of the site where the listed activity will be undertaken on 28 November 2019; and
- making the draft Basic Assessment Report available to I&APs for public review from 28 November 2019.

The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements and 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

Layout Alternatives

Layout Alternative 1

This alternative entails the clearance of approximately 34.8ha to establish a new cultivation area on the southern section of the farm, located around the enlarged Wyekloof Dam. Two portions of the cultivation area would be located south of the dam and one portion would be located north of the dam. This alternative was not preferred for the following reasons:

- The two southern blocks are located on a mountain slope. Therefore, the irrigation water will have to be pumped up the slope. This will have a significant financial impact.
- The two blocks on the mountain slope will be difficult to access.
- New infrastructure will have to be constructed, thereby increasing the associated costs.
- Portions of the cultivation areas are located within drainage channels and will therefore have a high environmental impact on the water resources.

Layout Alternative 2 (preferred and herewith authorised)

The proposal entails the clearance of approximately 19.5ha of indigenous vegetation to establish a cultivation area consisting of 4 blocks north of the enlarged Wyekloof dam. Blocks 1, 2, 3 and 4 will be approximately 2.5ha, 4ha, 5ha and 8 ha in size, respectively. This alternative was preferred for the following reasons:

- Less indigenous vegetation will be cleared, and it is the best option from a botanical perspective.
- This alternative takes into consideration design measures, the distance from the watercourses on the site and the economic viability of the project.
- Water will not have to be pumped to elevated areas for irrigation, since the cultivation areas would be located on fairly flat areas.
- The cultivation areas will be easy to access.
- The use of existing infrastructure will be possible and can be extended to the new proposed infrastructure.
- It will contribute towards securing existing permanent jobs and providing new job opportunities.

Alternative 3 (No-go option)

This alternative represents the *status quo*, which is the existing situation that will continue. This alternative was not preferred since it will not allow for additional security of permanent job opportunities and no new job opportunities will be provided.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The farm is zoned for agricultural purposes and the development will form an extension of the existing agricultural activities on the farm. The additional cultivation areas have been revised to consider potential environmental impacts, will make use of the existing lawful water use rights, will increase the financial viability of the farm and ensure employment security.

3.2 Biophysical Impacts

According to the Botanical Impact Assessment, dated 11 October 2019, compiled by Johlene Krige, indigenous vegetation, namely Robertson Karoo, which is classified as Least Threatened, is present on the site. The study indicated that the development footprint will not impact on any Critical Biodiversity Areas, natural connectivity, or biodiversity corridors. All watercourses will be excluded from the development, including the associated roads and pipelines. The study recommended that a 32m buffer area be maintained between the development footprint and the drainage lines present on the site. This was included in the preferred layout alternative with block 3 being amended to allow for a 32m buffer area from a drainage line. The study concluded that the overall impacts on biodiversity should be of low significance if the recommended mitigation is implemented.

A Stewardship Agreement is being entered into with CapeNature to formalise a conservation area, which was as a condition of an Environmental Authorisation issued by this Department on 1 February 2019 and referenced 16/3/3/1/B1/14/1042/18, for the enlargement of the Wyekloof Dam and the cultivation of approximately 5.5ha on the property. CapeNature confirmed in their comment dated 6 February 2020 that the proposed development is not located within the proposed conservation area.

A Water Use Licence in terms of the National Water Act, 1998 (Act 38 of 1998) has been issued by the Department of Water and Sanitation on 22 January 2020 for the transfer of existing lawful scheduled water to this farm portion and the construction of the Wyekloof dam and associated infrastructure that was authorised in the aforementioned Environmental Authorisation issued on 1 February 2019

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 recommended mitigation measures and adherence to the EMPr.

Positive impacts:

- The development will form part of existing agricultural activities on the farm, will increase the financial viability of the farm and ensure employment security.

- The proposed cultivation areas will not encroach into the areas designated for conservation as part of the Stewardship Agreement that is in the process of being implemented on 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 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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