



REFERENCE NUMBER: 14/2/4/2/1/F5/16/0002/18

ENQUIRIES: Jamie-Lee van Zyl

BY REGISTERED MAIL

Tel: (021) 689 6103

Email: Michaelbyron02@gmail.com

Mapula Trust
P.O. Box 100
CONSTANTIA
7848

Attention: Mr Michael Byron

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: UNLAWFUL CONSTRUCTION ACTIVITIES ON A PORTION OF FARM BOKKERIVIER NO. 733, MALMESBURY

With reference to your application dated 12 February 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") (GN No. R.326 of 7 April 2017), the competent authority herewith **grants environmental authorisation** to the applicant for the continuation, conducting or undertaking of the listed activities specified in Section C below in accordance with the Preferred Alternative as described in the Environmental Impact Assessment ("EIA") report dated 6 June 2018.

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

Mapula Trust
 C/o Mr Michael Byron
 P.O. Box 100
 CONSTANTIA
 7848

Tel: (021) 689 6103
 Email: Michaelbyron02@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
Government Notice No. R. 983 of 4 December 2014- Activity Number: 17 Activity Description: <i>Development— (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;</i> <i>in respect of-</i>	The proposed development is for the establishment of an environmental education facility. Existing buildings will be renovated to accommodate teachers, researchers and farm staff. A camp area will be used to accommodate students visiting the facility. A temporary toilet block with soakaway

<p>(e) buildings of 50 square metres or more; or (f) infrastructure with a development footprint of 50 square metres or more -</p> <p>but excluding-</p> <p>(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared; or</p> <p>(dd) where such development occurs within an urban area."</p>	<p>system (60m²), prefabricated temporary dwelling (85m²) and a platform (190m²) in the tented camp area was constructed without formal approval. These construction activities occurred within 100 meters inland of the high-water mark of the sea.</p> <p>The construction of associated infrastructure, such as water supply, is also being proposed in order to serve the visitors to the facility. More detail regarding the works proposed for the establishment of the facility can be found in Section F.</p>
<p>Government Notice No. 983 of 4 December 2014 -</p> <p>Activity Number: 19</p> <p>Activity Description: <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 seashore; or</p> <p>(iii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving-</p>	<p>As above.</p>

<p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan; or</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies.</p>	
<p>As similarly listed in Government Notice No. 327 of 7 April 2017 -</p> <p>Activity Number: 17</p> <p>Activity Description: Development—</p> <p>(v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater; in respect of—</p> <p>(e) buildings of 50 square metres or more; or</p> <p>(f) infrastructure or structures with a development footprint of 50 square metres or more —</p> <p>but excluding—</p> <p>(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or</p> <p>(dd) where such development occurs within an urban area."</p>	<p>As above.</p>

<p>As similarly listed in <i>Government Notice No. 327 of 7 April 2017</i> -</p> <p>Activity Number: 19A</p> <p>Activity Description: <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>(i) the seashore;</i></p> <p><i>(ii) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever distance is the greater; or</i></p> <p><i>(iii) the sea; —</i></p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(f) will occur behind a development setback;</p> <p>(g) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p>	<p>As above.</p>
<p><i>Government Notice No. 324 of 7 April 2017</i> -</p> <p>Activity Number: 12</p> <p>Activity Description: <i>"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</i></p>	<p>Vegetation clearing occurred for construction of the temporary toilet block with soakaway system, the prefabricated dwelling, and the platform in the tented camp area and the area where solar panels are proposed to be located.</p> <p>The greatest biodiversity impact is</p>

undertaken in accordance with a maintenance management plan.

i. Western Cape

i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;

ii. Within critical biodiversity areas identified in bioregional plans;

iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line or even in urban areas;

iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or

v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister."

associated with the loss of endangered indigenous vegetation for the installation of the new water pipeline.

According to the EIA report, the worst case scenario would be the clearance of more than 300m² of Atlantis Sand Fynbos. This amount of vegetation clearance will be mostly accrued to the section of the water pipeline proposed to run from the borehole to the twee-spoor on the site. The clearance of vegetation for construction of the pipeline must still be undertaken. The environmental impact assessment process has however resulted in a location alternative that will cause for the least impact on indigenous vegetation.

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

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on a Portion of Farm Bokkerivier No. 733, Malmesbury.

The SG digit code is: C0460000000073300000

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 34' 15.75" South	18° 19' 29.02" 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")

Doug Jeffery Environmental Consultants (Pty) Ltd.

c/o Mr Marais Geldenhuys

P.O. Box 44

KLAPMUTS

7625

Tel: (021) 875 5272

Fax: (086) 660 2635

Email: marais@dougjeff.co.za

F. DETAILS OF THE ACTIVITY OR ACTIVITIES UNDERTAKEN

The Mapula Trust proposes to establish an environmental education centre on a portion of Farm Bokkerivier No. 733, Malmesbury and will make use of existing and new infrastructure. The educational centre will house approximately 40 pupils with teachers, the farm manager and farm workers. Existing infrastructure on the farm include: a homestead, stable, store room cottage, temporary ablution facility, temporary dwelling, partially constructed platform in the tented camp area (to be removed), existing borehole and water tanks. The existing homestead will be converted into a lecture room with display area, kitchen, dining area/ living area and teacher's accommodation. The existing cottage will be utilized as accommodation for environmental researchers visiting the farm. The existing stables will be converted into accommodation for staff. A portion of the existing storeroom will be demolished and the remainder to be used for storage of equipment, and outside showers will be

added. The wooden platform for the tented camp still needs to be constructed along with the ablution facility. It is also proposed that a viewing deck be constructed, to be set into the landscape.

The proposal includes the upgrading of existing as well as new services supply points. Connections will also be required as part of the development and include:

- i) Water supply from two existing boreholes through a pump main into storage tanks and a gravity main further towards the proposed development to provide water under pressure.
- ii) Sewage treatment utilising an existing septic tank and soakaway that serves the cottage as well as a new reed bed sewage treatment system to cater for the homestead and new facilities.
- iii) Solid waste and refuse management through storage with recycling and removal facilities.
- iv) Electricity supply through solar panels with associated cabling and connection points.
- v) Stormwater management.

During the application to the Department for the adoption of an ad-hoc development setback line (referenced 16/3/3/6/2/F5/16/2101/16) it was discovered that the applicant (Mapula Trust) has commenced with the establishment of the environmental education centre. A temporary toilet block with soakaway system, prefabricated temporary dwelling and a platform in the tented camp area was constructed without formal approval. These construction activities occurred within 100 meters inland of the high-water mark of the sea. The proposed construction of a pipeline for the supply of water will result in the clearance on 300m² or more of critically endangered vegetation (Atlantis Sand Fynbos).

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 Preferred Alternative described in the EIR dated 6 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 to continue, conduct or undertake the listed activity or activities as specified in Section C above.
3. The development must be concluded within **two years** from the date of continuation of the first listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his 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 in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

PART II

Written notice to the competent authority

6. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of the listed 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, 11 and 17.

PART III

Notification and administration of an appeal

7. The holder must in writing, within 14 (fourteen) 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 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") compiled by Doug Jeffery Environmental Consultants (Pty) Ltd of December 2017 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"), before continuation of commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, EMPr and audit 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 and the EMPr and submit Environmental Audit Reports to

the competent authority. You are hereby requested to submit Environmental Audit Reports upon receiving such a request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

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

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; shipwrecks; 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 from the Archaeological Assessment compiled by Jayson Orton of ASHA Consulting (Pty) Ltd dated 25 October 2017 must be implemented as follows:

- 17.1. A series of test excavations should be conducted throughout the study area to determine whether any significant subsurface archaeological remains are present.
 - 17.2. The results of the test excavations are to determine the level and extent of any further impact mitigating actions that may be required and these actions should be concluded **prior to the recommencement of development**.
 - 17.3. Notwithstanding the above, if any archaeological material or human burials are uncovered during the course of development then work in the immediate area should be halted. The find would need to be reported to Heritage Western Cape and may require inspection by an archaeologist. Such heritage is the property of the state and may require excavation and curation in an approved institution.
18. The recommendations from the Visual Assessment dated 17 July 2017 compiled by Square One Landscape Architects related to the positioning and design of the tented accommodation, treatment wetland and solar panels (among others) must be implemented.
 19. The following specific impact mitigating measures, identified by the appointed botanist (Nick Helme Botanical Surveys) and EAP and agreed to by this Department, must be implemented:
 - 19.1. The new water pipeline along the existing track (a section approximately 1200m long) must be located within the track, i.e. between the tweespoor tracks, and not east of the track.
 - 19.2. The EA holder must fell all woody invasive alien rooikrans (*Acacia cyclops*) within 200m of all infrastructure associated with the establishment of the environmental education facility (notably the new water tanks) within one year after construction is complete. The trees should be felled as close to ground level as possible.

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. Should an appeal be lodged with the appeal administrator against the Environmental Authorisation, you are hereby advised of the following:

1.1. An appellant (if the applicant) must –

1.1.1. submit an appeal in accordance with regulation 4 of the *National Appeal Regulations, 2014*, to the appeal administrator and a copy of the appeal to the decision maker, any registered I&APs and any organ of state with interest in the matter within 20 (twenty) days from the date that the notification of the decision was sent to the applicant by the competent authority.

1.2. An appellant (if NOT the applicant) must –

1.2.1 submit an appeal in accordance with regulation 4 of the *National Appeal Regulations, 2014*, to the appeal administrator, and a copy of the appeal to the applicant, any registered I&APs, any organ of state with interest in the matter and the decision maker within 20 (twenty) calendar days from the date that the notification of the decision was sent to the registered interested and affected parties by the applicant.

2. The applicant (if not the appellant), the decision-maker, I&APs and organs of state must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) days from the date of receipt of the appeal submission.

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

By post: Attention: Jaap de Villiers
Western Cape Ministry of Local Government, Environmental Affairs &
Development Planning
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

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

By e-mail: Jaap.DeVilliers@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the appeal administrator to the address listed above and/ or via e-mail to Jaap.DeVilliers@westerncape.gov.za.

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

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS


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

K. DISCLAIMER

The Western Cape Government, the Municipality, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-

compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Yours faithfully



ore

ADV. CHARMAINE MARÉ
DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: 10 December 2018

Copied to:

(1) Marais Geldenhuys (Doug Jeffery Environmental Consultants (Pty) Ltd

Fax: (086) 660 2635
Email: marais@dougieff.co.za

(2) Joggie Scholtz (Swartland Municipality)

Email: swartlandmun@swartland.org.za

