



Western Cape
Government
Environmental Affairs and
Development Planning

**DIRECTORATE: ENVIRONMENTAL GOVERNANCE
SUB-DIRECTORATE: RECTIFICATION**

REFERENCE NUMBER: 14/2/1/1/A1/2/0002/17

ENQUIRIES: Jamie-Lee van Zyl

BY REGISTERED MAIL

The Director
Anastasia's Fresh Farm Produce (Pty) Ltd
P. O. Box 902
RYGERSDAL
7352

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Attention: Ms Anastasia Smith

Dear Madam

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 CLEARANCE OF INDIGENOUS VEGETATION ON PORTION 73 OF FARM KLEIN DASSENBERG NO. 20, ATLANTIS INDUSTRIAL

With reference to your application dated 6 December 2016 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 included as Appendix B3 in the Environmental Impact Assessment ("EIA") report dated 5 June 2017.

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

Anastasia's Fresh Farm Produce (Pty) Ltd
C/o Ms Anastasia Smith
PO Box 902
RYGERSDAL
7352

Cell: (081 878 1603
Fax: (086) 435 2174
Email: anastasiasfarm@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 |
|---|--|
| <i>Government Notice No. R. 985 of 4 December 2014</i> Activity Number: 12 Activity Description: <i>The clearance of an area of 300 square metres or more of</i> | In July/ August 2016, the applicant commenced with the clearance of vegetation on Portion 73 of Farm Klein Dassenberg No. 20, Atlantis Industrial. |

| | |
|---|---|
| <p><i>indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p><i>(a) In Eastern Cape, Free State, Gauteng, Limpopo, North West and Western Cape provinces:</i></p> <p><i>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, has been identified as critically endangered in the purposes undertaken in National Spatial Biodiversity Assessment 2004;</i></p> <p><i>ii. Within critical biodiversity areas identified in bioregional management plans;</i></p> <p><i>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 on erven in urban areas; or</i></p> <p><i>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.</i></p> | <p>An area of approximately 1.25ha containing indigenous vegetation was cleared, of which 0.5ha has not been previously cleared. The remainder of the area cleared was previously cleared before 2003. The vegetation clearance was done in order to erect a shade house on the farm for crop production purposes.</p> <p>Below is the detail of the completed activities:</p> <ul style="list-style-type: none"> • The clearance of vegetation (1.25ha); • The ripping of soil in preparation to plant poles, crops etc.; • The installation of underground irrigation pipelines; and • The planting of poles for the shade netting to be attached onto. <p>The activities that still need to be completed on this cleared area include the following:</p> <ul style="list-style-type: none"> • Completing the timber infrastructure and covering it with shade cloth; • Planting vegetables. <p>The naturally occurring indigenous vegetation found on this farm (despite alien vegetation infestation) is the critically endangered Atlantis Sand Fynbos). The appointed botanical specialist also found some Species of Conservation Concern (SCC) present on the farm.</p> |
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|--|--|
| <p>Government Notice No. R983 of 4 December 2014–</p> <p>Activity Number: 27</p> <p>Activity Description: <i>The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for-</i></p> <p><i>(i) the undertaking of a linear activity; or</i></p> <p><i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> | <p>The applicant proposes to clear an additional 6ha of vegetation. This area is currently vegetated with both Port Jackson Willows and indigenous undergrowth. It is proposed that this area also be used for growing crops such as vegetables.</p> |
| <p>As similarly listed in Government Notice No. R324 of 7 April 2017–</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 undertaken in accordance with a maintenance management plan.</i></p> <p>i. Western Cape</p> <p><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;</i></p> <p><i>ii. Within critical biodiversity areas identified in bioregional plans;</i></p> <p><i>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone,</i></p> | <p>As above.</p> |

| | |
|--|------------------|
| <p><i>whichever distance is the greater,</i></p> <p><i>excluding where such removal will occur behind the development setback line on even in urban areas;</i></p> <p><i>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</i></p> <p><i>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.</i></p> | |
| <p><i>As similarly listed in Government Notice No. 327 of 7 April 2017-</i></p> <p>Activity Number: 27</p> <p><i>Activity Description: The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i></p> <p><i>(i) the undertaking of a linear activity; or</i></p> <p><i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> | <p>As above.</p> |

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

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Portion 73 of Farm Klein Dassenberg No. 20, off Kanonkop Road, Atlantis.

The SG digit code is: C0160000000002000073

The co-ordinates for the property boundary are:

| Point | Latitude (S) | Longitude (E) |
|-------|----------------------|---------------------|
| 1 | 33° 33' 27.07" South | 18° 31' 57.80" East |
| 2 | 33° 33' 33.71" South | 18° 32' 9.75" East |
| 3 | 33° 33' 40.82" South | 18° 32' 3.92" East |
| 4 | 33° 33' 34.11" South | 18° 31' 52.08" East |

The co-ordinates for the site boundary for the area already unlawfully cleared are:

| Point | Latitude (S) | Longitude (E) |
|-------|----------------------|---------------------|
| 1 | 33° 33' 29.78" South | 18° 31' 56.83" 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")

Cornerstone Environmental Consultants (Pty) Ltd.

C/o Mr Pieter de Villiers

PO Box 12606

DIE BOORD

7613

Tel: (021) 887 9099
Fax: (086) 435 2174
Email: pieter@cornerstoneenviro.co.za

F. DETAILS OF THE ACTIVITY OR ACTIVITIES UNDERTAKEN

The vegetation clearance activities undertaken involves the clearance of an area 1.25ha of indigenous vegetation, of which only 0.5ha was not previously cleared. The remainder of the area cleared was previously cleared, prior to 2003. The vegetation was cleared in order to erect a shade house on the farm for crop production purposes. The holder proposes to clear an additional area of approximately 6ha that will serve to increase the agricultural productivity of the farm.

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 (included as Appendix B3 in the EIA report dated 5 June 2017 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 activities as specified in Section C above.
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.

4. 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

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

5.1 The notice must make clear reference to the site details and 24G Reference number given above.

5.2 The notice must also include proof of compliance with conditions 6, 7 and 10.

PART III

Notification and administration of an appeal

6. The holder must in writing, within 14 (fourteen) days of the date of this decision—

6.1 notify all registered Interested and Affected Parties ("I&APs") of –

- 6.1.1 the outcome of the application;
- 6.1.2 the reasons for the decision as included in Annexure 3;
- 6.1.3 the date of the decision; and
- 6.1.4 the date when the decision was issued.

6.2 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.

6.3 draw the attention of all registered I&APs to the manner in which they may access the decision.

6.4 provide the registered I&APs with:

- 6.4.1 the name of the holder (entity) of this Environmental Authorisation;
- 6.4.2 name of the responsible person for this Environmental Authorisation;
- 6.4.3 postal address of the holder;
- 6.4.4 telephonic and fax details of the holder;
- 6.4.5 e-mail address, if any, of the holder; and
- 6.4.6 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*.

7. 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

8. The draft Environmental Management Programme ("EMPr") of June 2017 compiled by Pieter de Villiers of Cornerstone Environmental Consultants and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.
9. The EMPr must be included in all contract documentation for all phases of implementation.

PART V

Monitoring

10. 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.
11. 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.

12. 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

13. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation and the EMPr and submit Environmental Audit Reports to the competent authority upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

PART VII

Activity/ Development specific conditions

14. 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.

15. 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.

16. A 50m corridor must be maintained along the western boundary of the site (to be left intact) as well as the area in the centre of the site containing intact indigenous vegetation. Both these areas must be cleared of alien vegetation. Please see the Site Plan included as Annexure 2 of this document, in this regards.

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>.

