

claire@ecoroute.co.za

From: Renier Beetge [REDACTED]
Sent: Wednesday, 25 June 2025 07:04
To: claire@ecoroute.co.za
Subject: RE: Meeting with affected parties

Sounds great, thank you!

From: claire@ecoroute.co.za <claire@ecoroute.co.za>
Sent: Tuesday, 24 June 2025 15:55
To: Renier Beetge <bwmanager@phcberries.co.za>
Subject: RE: Meeting with affected parties

Hi Renier

We are going to arrange a public meeting mid-July and I will send out notices with date and times soonest.

Kind Regards
Claire

From: Renier Beetge <[REDACTED]>
Sent: Tuesday, 24 June 2025 15:25
To: claire@ecoroute.co.za
Subject: Meeting with affected parties

Hallo Claire

My name is Renier Beetge. I'm currently working for Professional Horticultural Consulting and we are strawberry farmers in Brandwag. We registered as affected parties on the 24G Application by Outeniqua Game Farm. Would there be a possibility that we could have a meeting to get clarity on what the situation is regarding developments up stream and the possible affect it might have on water security down stream

Kindly advise if this is possible

Kind regards

Renier



claire@ecoroute.co.za

From: [REDACTED]
Sent: Friday, 20 June 2025 10:48
To: claire@ecoroute.co.za
Cc: 'Move It Civils'; doni [REDACTED]
Subject: Interested & affected party registration Outeniqua Game farm

Good day Claire

Thank you for taking my call. Kindly register me. As discussed, a community meeting could be a sound idea. Will you please forward the necessary information for review?

Best Regards



Petrie van Zyl
CEO



The content of this email is confidential and intended for the recipient specified in message only. It is strictly forbidden to share any part of this message with any third party, without a written consent of the sender. If you received this message by mistake, please reply to this message and follow with its deletion, so that we can ensure such a mistake does not occur in the future.

claire@ecoroute.co.za

From: claire@ecoroute.co.za
Sent: Friday, 20 June 2025 12:04
To: [REDACTED]
Cc: 'Move It Civils'; [REDACTED]
Subject: RE: Interested & affected party registration Outeniqua Game Farm
Attachments: Draft 24G - OGF - Appendix M - Impact Assessment_April 2025 final_compressed.pdf; Draft S24G OGF - Appendix I - DRAFT EMPr_final_compressed.pdf; Draft NEMA 24G application form - OGF ptn 373 and 420 - April 2025 - for review and comment_Signed.pdf

Good day

Kindly find attached as requested.

The supporting appendices are available for download at: <https://www.ecoroute.co.za/node/113>

Kindly review the reports and submit any concerns you feel need to be addressed in the final application.

I will be in touch regarding a community meeting.

Thank you for your participation in the process.

Kind Regards
Claire



Claire De Jongh
Eco Route Environmental Consultancy
0846074743
EAPASA registration: **2021/3519**

From: p [REDACTED]
Sent: Friday, 20 June 2025 10:48
To: claire@ecoroute.co.za
Cc: 'Move It Civils' <[REDACTED]>
Subject: Interested & affected party registration Outeniqua Game farm

Good day Claire

Thank you for taking my call. Kindly register me. As discussed, a community meeting could be a sound idea. Will you please forward the necessary information for review?

Best Regards



Petrie van Zyl
CEO



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claire@ecoroute.co.za

From: Izak du Toit [REDACTED]
Sent: Thursday, 03 July 2025 21:04
To: admin@ecoroute.co.za; janet@ecoroute.co.za; claire@ecoroute.co.za; Donnevan Dreyer
Subject: Outeniqua Game Farm - RE 420 and 373 - Environmental impact for dam Objection
Attachments: Executive Summary - Draft NEMA 24G application - OGF ptn 373 and 420 - April 2025_final.pdf

Flag Status: Flagged

Good Afternoon,

I am owner of Farm 362 and 154, that takes water from the Bradwag river,

I object to the proposed activities listed in the attachment to this email.

The river system can already not sustain the current water rights,

Please register me,

Regards,

Izak du Toit

[REDACTED]

claire@ecoroute.co.za

From: Donnevan Dreyer [REDACTED]
Sent: Tuesday, 01 July 2025 15:19
To: claire@ecoroute.co.za
Subject: Interested & affected party registration Outeniqua Game farm

Flag Status: Flagged

Good day

I would like to register as an affected party on the Outeniqua Game farm application.

I farm downstream on the Brandwag river, farm: Zonnebloem Landgoed, nr: 11/163

Kind regards

Donnevan Dreyer

claire@ecoroute.co.za

From: admin@ecoroute.co.za
Sent: Wednesday, 07 May 2025 08:47
To: claire@ecoroute.co.za
Subject: Fw: NOTICE - Draft NEMA S24G application - OGF for comment and review

Hi Claire,

Please see below.

Thanks,

Carina Leslie
Personal Assistant/Admin
Office: 064 691 4394
www.ecoroute.co.za



From: Vanessa Stoffels <Vanessa.Stoffels@westerncape.gov.za>
Sent: Tuesday, 06 May 2025 22:48
To: admin@ecoroute.co.za <admin@ecoroute.co.za>
Subject: RE: NOTICE - Draft NEMA S24G application - OGF for comment and review

Dear Ms De Jongh

We acknowledge receipt of your email regarding the abovementioned matter and wish to confirm that the matter is receiving attention.

Kind Regards

Vanessa Stoffels

Admin Officer

Road Use Management

Chief Directorate Road Planning, Roads Branch

Department of Infrastructure

Western Cape Government

Tel: 021 483 4669

9 Dorp Street, Cape Town: PO Box 2603, Cape Town 8000

Email: vanessa.stoffels@westerncape.gov.za

Website: www.westerncape.gov.za

Road Network Information System: <http://rnis.westerncape.gov.za>

Be 110% Green. Read from the screen.



From: admin@ecoroute.co.za <admin@ecoroute.co.za>

Sent: Friday, April 25, 2025 12:49 PM

To: Danie Swanepoel <Danie.Swanepoel@westerncape.gov.za>; Francois Naude <Francois.Naude@westerncape.gov.za>; Meryll Fredericks <Meryll.Fredericks@westerncape.gov.za>; Nicholas Kearns <Nicholas.Kearns@westerncape.gov.za>; Nabeelah Khan <Nabeelah.Khan@westerncape.gov.za>; Diana Mouton <Diana.Mouton@westerncape.gov.za>; Siphsesihle.Khumalo@westerncape.gov.za; Albert.Ackhurst@westerncape.gov.za; Nathan Jacobs <Nathan.Jacobs@westerncape.gov.za>; Noluvo Toto <Noluvo.Toto@westerncape.gov.za>; Stephanie Barnardt <Stephanie.Barnardt@westerncape.gov.za>; Vanessa Stoffels <Vanessa.Stoffels@westerncape.gov.za>; Mkoen@dffe.gov.za; Thabo.Ramashala@daff.gov.za; DPP@daff.gov.za

Cc: claire@ecoroute.co.za; janet@ecoroute.co.za

Subject: NOTICE - Draft NEMA S24G application - OGF for comment and review

S24G Environmental Authorisation Process for commencement of activities on Farm Portions 420 and 373, Outeniqua Game Farm, Mossel Bay District Municipality

24G Consultation: 14/2/4/1/D6/28/0004/20

Good day,

Activities have been carried out on Farm Portions RE/420 (489ha) and 373 (789ha), Outeniqua Game Farm which require a Section 24 G application process to be carried out in terms of the National Environmental Management Act (Act 107 of 1998) (NEMA). An environmental authorisation is required to be issued by the Western Cape Department of Economic Development and Environmental Affairs for activities listed in Listing Notices 1, 2 and 3 of the 2014 Environmental Impact Assessment (EIA) Regulations (as amended, 2017) published in terms of the NEMA before further development can commence.

A water use license is required to be issued by the Department of Water and Sanitation for Section 21 water uses listed in the National Water Act (Act 36 of 1998). The water license application will include:

- Section 21(a): Taking water from a water resource
- Section 21(b): Storing water

Dam and existing reservoirs on site

- Section 21(c): Impeding or diverting the flow of water in a watercourse.

for infrastructure near or within mapped wetlands and drainage lines, including dwellings and roads.

- Section 21(i): Altering the bed, banks, course, or characteristics of a watercourse.

Construction within or adjacent to a wetland or drainage line

A soil permit is required for the cultivation of virgin soil in terms of (Regulation 2 of the Conservation of Agricultural Resources Act, 1983 (Act 43 Of 1983)

A draft S24G application and accompanying appendices has been prepared and is provided and is available at the following link:

[S24G NEMA Process - Activities carried out and Proposed on Farm Portions 420 and 373, Outeniqua Game Farm, Mossel Bay Municipality, Western Cape. | Eco Route](#)

An executive summary is attached to this email.

A 60-day Review and comment period is provided on this application as both a water use license authorisation, and an environmental authorisation is required:

- **Comment and review: 25 April – 30 June 2025**

Please submit comments to claire@ecoroute.co.za

Kindly copy in James Dabrowski for comments related specifically to water uses: james@confluent.co.za

After the review and comment period the NEMA S24G application will be updated to address all comments received; the final application will then be submitted to the Western Cape Department of Economic Development and Environmental Affairs for consideration. The DWS will be sent the final application submitted to the DEADP.

Thank you for your participation in this process.

Kind Regards



Claire De Jongh

Eco Route Environmental Consultancy

0846074743

EAPASA registration: **2021/3519**

"All views or opinions expressed in this electronic message and its attachments are the view of the sender and do not necessarily reflect the views and opinions of the Western Cape Government (the WCG). No employee of the WCG is entitled to conclude a binding contract on behalf of the WCG unless he/she is an accounting officer of the WCG, or his or her authorised representative. The information contained in this message and its attachments may be confidential or privileged and is for the use of the named recipient only, except where the sender specifically states otherwise. If you are not the intended recipient you may not copy or deliver this message to anyone."



Ref: 16/9/6/1-18/84 (Job 25314)

The Municipal Manager
Mossel Bay Municipality
PO Box 25
MOSSSEL BAY
6500

Attention: Mr R le Roux

Dear Sir

**AMENDMENT OF APPROVAL CONDITIONS, TEMPORARY DEPARTURE & CONSENT USE:
OUTENIQUA GAME FARM B 420, RUITERSBOS, MOSSSEL BAY MUNICIPALITY & DIVISION**

1. The following refer:
 - 1.1 This Branch's letter 16/9/6/1-18/84 dated 26 November 2021 to Mossel Bay Municipality.
 - 1.2 Marlize De Bruyn Planning's letter 343/M21 dated 13 October 2022 to this Branch.
2. This Branch offers no objection to this application, provided that:
 - 2.1. This Branch's previous conditional approvals are proofed to be adhered to in full.
 - 2.2. A traffic statement is compiled by a reputable traffic engineering professional and produced to this Branch for its perusal and approval. The traffic statement may be limited to only the approved main access off Trunk Road 33 section 2 (TR03302; R328) at ±km18.26 LHS ("Left Hand Side").
 - 2.3. All improvements as determined by the traffic statement and approved by this Branch must be constructed in full.
 - 2.4. All costs towards approving this development are carried by the developer.

Yours Sincerely

SW CARSTENS

For DEPUTY DIRECTOR-GENERAL: ROADS

DATE: 22 FEBRUARY 2023

ENDORSEMENTS

1. Mossel Bay Municipality

Attention: Mr R le Roux (e-mail: admin@mosselbay.gov.za)

2. Marlize Du Bruyn Planning

Attention: Ms M de Bruyn (e-mail: marlize@mdbplanning.co.za)

3. District Road Engineer
Oudtshoorn

4. Mr SW Carstens (e-mail)

5. Mr E Burger (e-mail)



REFERENCE: 16/9/6/1-18/84 (Job 25314)

ENQUIRIES: Ms G Swanepoel

DATE: 26 November 2021

The Municipal Manager
Mossel Bay Municipality
PO Box 25
MOSSSEL BAY
6500

Attention: Mr R le Roux

Dear Sir

PROPOSED CONSENT USE FOR OUTENIQUA GAME FARM CC: FARM OUTENIQUA GAME FARM B 420, RUITERSBOS, MOSSSEL BAY MUNICIPALITY AND DIVISION

1. The following refer:
 - 1.1 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 5 March 2018 to Mossel Bay Municipality. Find a copy attached.
 - 1.2 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 8 October 2018 to Delplan Consulting. Find a copy attached.
 - 1.3 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 4 September 2020 to Mossel Bay Municipality. Find a copy attached.
 - 1.4 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 9 October 2020 to Mossel Bay Municipality. Find a copy attached.
 - 1.5 Ms M de Bruyn's e-mail on behalf of Marlize De Bruyn Planning on 9 July 2021 to Ms G Swanepoel and Mr L Martin at this Branch.

2. This Branch offers no objection to this application, provided that the following are adhered to:
 - 2.1 Access may only be taken as approved by this Branch in its letter of 9 October 2020.
 - 2.2 Except for the approved accesses (paragraph 2.1) may no other access be created or continue to exist.

Yours Sincerely



SW CARSTENS

For DEPUTY DIRECTOR-GENERAL: ROADS

REFERENCE : 16/9/6/1-18/84 (Job 25314)
ENQUIRIES : Ms GD Swanepoel
DATE : 5 March 2018

The Municipal Manager
Mossel Bay Municipality
PO Box 20
MOSSSEL BAY
6500

Dear Sir

SUBDIVISION OF FARM 420 AND CONSOLIDATION OF NEW PORTION WITH ADJACENT PORTION OF FARM 53, MOSSSEL BAY DISTRICT

1. Du Toit & Gildenhuys Professional Land Surveyors' letter MY: M53-25 dated 13 September 2017 to this Branch refers.
2. This Branch offers no objection to this application, provided that:
 - 2.1 The existing access off Trunk Road 33 section 2 (R328) at $\pm$ km18.21 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
 - 2.2 A new access is designed and constructed off Trunk Road 33 section 2 at $\pm$ km18.26 LHS in accordance with the District Roads Engineer's (Attention: Mr SJ Schoeman; Tel: 044 272 6071) instructions and approval.
 - 2.3 A new access is designed and constructed off Trunk Road 33 Section 2 at $\pm$ km20.33 LHS in accordance with the District Roads Engineer's instructions and approval.

- 2.4 The existing access off Trunk Road 33 section 2 at $\pm$ km20.40 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
- 2.5 The existing access off Trunk Road 33 section 2 at $\pm$ km21.49 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
- 2.6 The existing access off Trunk Road 33 section 2 at $\pm$ km21.95 LHS may be retained.
- 2.7 The existing access off Trunk Road 33 section 2 at $\pm$ km23.13 LHS may be retained.
- 2.8 The existing access off Trunk Road 33 section 2 at $\pm$ km23.63 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
- 3. As Controlling Authority in terms of Act 21 of 1940 this Branch approves to the subdivision.

Yours faithfully



ML WATTERS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT



Western Cape
Government

Transport and Public Works

ROAD NETWORK MANAGEMENT

Email: Lyle.Martin@westerncape.gov.za

tel: +27 21 483 2419

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE : 16/9/6/1-18/84 (Job 25314)

ENQUIRIES : Mr L Martin

DATE : 8 October 2018

Delplan Consulting
PO Box 9956
GEORGE
6530

Attention: Mr D Viljoen

Dear Sir

APPLICATION FOR CONSENT USE FOR ADDITIONAL DWELLING UNITS: FARMS 373 AND 420, MOSSEL BAY

1. The following refers:
 - 1.1 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 5 March 2018 to Mossel Bay Municipality. Find a copy attached to this letter.
 - 1.2 Your letter 940/MOS/18 dated 17 August 2018 to this Branch.
2. This Branch offers no objection to this proposed development, provided that all the conditions imposed in this Branch's letter of 5 March 2018 are adhered to.

Yours faithfully

ML WATTERS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT



**Western Cape
Government**

Transport and Public Works

ROAD NETWORK MANAGEMENT

Email: Grace.Swanepoel@westerncape.gov.za

tel: +27 21 483 4669

Rm 335, 9 Darp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE : 16/9/6/1-18/84 (Job 25314)

ENQUIRIES : Ms GD Swanepoel

DATE : 4 September 2020

The Municipal Manager
Mossel Bay Municipality
PO Box 20
MOSSSEL BAY
6500

Attention: Mr S Westerberg

Dear Sir

APPLICATION TO ERECT A BOUNDARY WALL ALONG TRUNK ROAD 33 SECTION 2 (TR03302; R328) FOR FARM 350 (OUTENIQUA GAME FARM CC), MOSSSEL BAY DISTRICT

1. The following refer:
 - 1.1 Du Toit & Gildenhuys Professional Land Surveyors' letter MY: M53-25 dated 13 September 2017 to this Branch.
 - 1.2 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 5 March 2018 to Mossel Bay Municipality. Find a copy attached to this letter.
 - 1.3 Delplan Consulting's letter 940/MOS/18 dated 17 August 2018 to this Branch.
 - 1.4 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 8 October 2018 to Delplan Consulting. Find a copy attached to this letter.
 - 1.5 Outeniqua Game Farm's undated letter Farm number: 373 to Mr F Lotz at the offices of the District Roads Engineer, Oudtshoorn.

2. A recent site inspection revealed that this Branch's conditional no objection of 5 March 2018 is still not complied to, which is why this Branch herewith refuses this application to construct a wall and formalise existing accesses.
3. This Branch will respond accordingly upon receipt of a revised application that will ensure compliance to:
 - 3.1 This Branch's previous conditional letters.
 - 3.2 This Branch's standard drawing for a main farm access.

Yours faithfully



SW CARSTENS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ENDORSEMENTS

1. Mossel Bay Municipality
Attention: Mr R le roux (e-mail: admin@mosselbay.gov.za)
2. Marlice De Bruyn Planning
Attention: Ms M de Bruyn (e-mail: marlice@mdbplanning.oc.za)
3. District Roads Engineer
Oudtshoorn
4. Mr E Burger (e-mail)
5. Mr SW Carstens (e-mail)



REFERENCE : 16/9/6/1-18/84 (Job 25314)

ENQUIRIES : Ms GD Swanepoel

DATE : 9 October 2020

The Municipal Manager
Mossel Bay Municipality
PO Box 20
MOSSSEL BAY
6500

Attention: Mr S Westerberg

Dear Sir

APPLICATION TO ERECT A BOUNDARY WALL ALONG TRUNK ROAD 33 SECTION 2 (TR03302; R328) FOR FARM 350 (OUTENIQUA GAME FARM CC), MOSSSEL BAY DISTRICT

1. The following refer:
 - 1.1 Du Toit & Gildenhuys Professional Land Surveyors' letter MY: M53-25 dated 13 September 2017 to this Branch.
 - 1.2 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 5 March 2018 to Mossel Bay Municipality. Find a copy attached to this letter.
 - 1.3 Delplan Consulting's letter 940/MOS/18 dated 17 August 2018 to this Branch.
 - 1.4 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 8 October 2018 to Delplan Consulting. Find a copy attached to this letter.
 - 1.5 Outeniqua Game Farm's undated letter Farm number: 373 to Mr F Lotz at the offices of the District Roads Engineer, Oudtshoorn.
 - 1.6 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 4 September 2020 to you.
2. As per RJB Tekendienste's undated and unsigned drawing "OUTENIQUA GAME FARM CC BOUNDARY WALL & NEW ACCESS", which was received via email from Mr L Johnston on

behalf of Outeniqua Game Farm on 5 October 2020 by Messrs E Burger and SJ Schoeman at this Branch, is Trunk Road 33 section 2 (TR03302 ; R328), for which this Branch is the Road Authority, affected as follow:

- 2.1 Parallel to and both on the road reserve boundary and within the 5m Building Line (Roads Ordinance 19 of 1976) between $\pm$ km17.37 LHS and $\pm$ km20.40 LHS with a proposed new continues 1800mm high boundary wall that will include:
 - 2.1.1 A new access gate at $\pm$ km18.26 LHS.
 - 2.1.2 A new access gate at $\pm$ km20.33 LHS.
3. This Branch, in terms of Section 17 of Roads Ordinance 19 of 1976, grants approval for the construction of the wall and accesses as per paragraph 2 and all subparagraphs thereof. This approval is also further subject to:
 - 3.1 Before any construction activities may commence, must a complete set of final (approved) construction drawings, each with an appropriately registered professional's signature thereon, be submitted to this Branch (Attention: Ms GD Swanepoel) and the District Roads Engineer, Oudtshoorn.
 - 3.2 Outeniqua Game Farm undertaking in writing to remain solely responsible for all the construction and future maintenance costs towards this wall; this is inclusive of damages that could occur during an accident by a vehicle that travelled along TR03302.
 - 3.3 Before any construction activities may commence, the appropriately registered professional must accept the handing over of the site in writing from the District Roads Engineer, Oudtshoorn.
 - 3.4 The appropriately registered professional must submit a traffic accommodation plan for approval in writing by the District Roads Engineer, Oudtshoorn prior to this construction commencing.
 - 3.6 After completion of the works, the District Roads Engineer, Oudtshoorn must accept in writing the handing over of the site from the appropriately registered professional.
 - 3.7 As built drawings must be sent to this Branch (Attention: Ms G Swanepoel) and the District Roads Engineer, Oudtshoorn.

Yours faithfully



SW CARSTENS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

REFERENCE : 16/9/6/1-18/84 (Job 25314)
ENQUIRIES : Ms GD Swanepoel
DATE : 5 March 2018

The Municipal Manager
Mossel Bay Municipality
PO Box 20
MOSSSEL BAY
6500

Dear Sir

**SUBDIVISION OF FARM 420 AND CONSOLIDATION OF NEW PORTION WITH ADJACENT
PORTION OF FARM 53, MOSSEL BAY DISTRICT**

1. Du Toit & Gildenhuys Professional Land Surveyors' letter MY: M53-25 dated 13 September 2017 to this Branch refers:
2. This Branch offers no objection to this application, provided that:
 - 2.1 The existing access off Trunk Road 33 section 2 (R328) at $\pm$ km18.21 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
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3. As Controlling Authority in terms of Act 21 of 1940 this Branch approves to the subdivision.

Yours faithfully



ML WATTERS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ENDORSEMENTS

1. Mossel Bay Municipality (e-mail: admin@mosselbay.gov.za)
2. Du Toit & Gildenhuys Professional Land Surveyors
Attention: Mr HJ Gildenhuys (e-mail: hannespls1133@telkomsa.net)
3. District Roads Engineer
Oudtshoorn
4. Mr ML Watters (e-mail)
5. Mr E Burger (e-mail)
6. Planning section



Western Cape
Government

Transport and Public Works

ROAD NETWORK MANAGEMENT

Email: Lyte.Martin@westerncape.gov.za

tel: +27 21 483 2419

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE : 16/9/6/1-18/84 (Job 25314)

ENQUIRIES : Mr L Martin

DATE : 8 October 2018

Delplan Consulting

PO Box 9956

GEORGE

6530

Attention: Mr D Viljoen

Dear Sir

APPLICATION FOR CONSENT USE FOR ADDITIONAL DWELLING UNITS: FARMS 373 AND 420, MOSSEL BAY

1. The following refers:
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 - 1.2 Your letter 940/MOS/18 dated 17 August 2018 to this Branch.
2. This Branch offers no objection to this proposed development, provided that all the conditions imposed in this Branch's letter of 5 March 2018 are adhered to.

Yours faithfully

ML WATTERS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ENDORSEMENTS

1. Delplan Consulting
Attention: Mr D Viljoen (email)
2. Garden Route District Municipality
Attention: Mr J Strydom (email)
3. District Roads Engineer
Oudtshoorn
4. Mr ML Watters (email)
5. Mr E Burger (email)
6. Mr J van der Merwe (email)

ENDORSEMENTS

1. Mossel Bay Municipality

Attention: Mr S Westerberg (e-mail: swesterberg@mosselbay.gov.za)

2. Outeniqua Game Farm

Attention: Mr L Johnston (e-mail: langdon.johnston@gmail.com)

3. District Roads Engineer
Oudtshoorn

4. Mr SW Carstens (e-mail)

5. Mr E Burger (e-mail)

6. Mr J van der Merwe (e-mail)



**Western Cape
Government**

Transport and Public Works

ROAD NETWORK MANAGEMENT

Email: Lyle.Martin@westerncape.gov.za

tel: +27 21 483 2419

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE : 16/9/6/1-18/84 (Job 25314)

ENQUIRIES : Mr L Martin

DATE : 8 October 2018

Delplan Consulting

PO Box 9956

GEORGE

6530

Attention: Mr D Viljoen

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Yours faithfully

ML WATTERS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ENDORSEMENTS

1. Delplan Consulting

Attention: Mr D Viljoen (email)

2. Garden Route District Municipality

Attention: Mr J Strydom (email)

3. District Roads Engineer
Oudtshoorn

4. Mr ML Watters (email)

5. Mr E Burger (email)

6. Mr J van der Merwe (email)



**Western Cape
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ROAD NETWORK MANAGEMENT

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tel: +27 21 483 4669

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE : 16/9/6/1-18/84 (Job 25314)

ENQUIRIES : Ms GD Swanepoel

DATE : 5 March 2018

The Municipal Manager
Mossel Bay Municipality
PO Box 20
MOSSSEL BAY
6500

Dear Sir

**SUBDIVISION OF FARM 420 AND CONSOLIDATION OF NEW PORTION WITH ADJACENT
PORTION OF FARM 53, MOSSSEL BAY DISTRICT**

1. Du Toit & Gildenhuys Professional Land Surveyors' letter MY: M53-25 dated 13 September 2017 to this Branch refers.
2. This Branch offers no objection to this application, provided that:
 - 2.1 The existing access off Trunk Road 33 section 2 (R328) at $\pm$ km18.21 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
 - 2.2 A new access is designed and constructed off Trunk Road 33 section 2 at $\pm$ km18.26 LHS in accordance with the District Roads Engineer's (Attention: Mr SJ Schoeman; Tel: 044 272 6071) instructions and approval.
 - 2.3 A new access is designed and constructed off Trunk Road 33 Section 2 at $\pm$ km20.33 LHS in accordance with the District Roads Engineer's instructions and approval.

- 2.4 The existing access off Trunk Road 33 section 2 at $\pm$ km20.40 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
- 2.5 The existing access off Trunk Road 33 section 2 at $\pm$ km21.49 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
- 2.6 The existing access off Trunk Road 33 section 2 at $\pm$ km21.95 LHS may be retained.
- 2.7 The existing access off Trunk Road 33 section 2 at $\pm$ km23.13 LHS may be retained.
- 2.8 The existing access off Trunk Road 33 section 2 at $\pm$ km23.63 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
- 3. As Controlling Authority in terms of Act 21 of 1940 this Branch approves to the subdivision.

Yours faithfully



ML WATTERS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ENDORSEMENTS

1. Mossel Bay Municipality (e-mail: admin@mosselbay.gov.za)
2. Du Toit & Gildenhuys Professional Land Surveyors
Attention: Mr HJ Gildenhuys (e-mail: hannespls1133@telkomsa.net)
3. District Roads Engineer
Oudtshoorn
4. Mr ML Watters (e-mail)
5. Mr E Burger (e-mail)
6. Planning section



**Western Cape
Government**

Transport and Public Works

ROAD NETWORK MANAGEMENT

Email: Grace.Swanepoel@westerncape.gov.za

tel: +27 21 483 4669

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE : 16/9/6/1-18/84 (Job 25314)

ENQUIRIES : Ms GD Swanepoel

DATE : 5 March 2018

The Municipal Manager
Mossel Bay Municipality
PO Box 20

MOSSSEL BAY

6500

Dear Sir

**SUBDIVISION OF FARM 420 AND CONSOLIDATION OF NEW PORTION WITH ADJACENT
PORTION OF FARM 53, MOSSSEL BAY DISTRICT**

1. Du Toit & Gildenhuys Professional Land Surveyors' letter MY: M53-25 dated 13 September 2017 to this Branch refers.
2. This Branch offers no objection to this application, provided that:
 - 2.1 The existing access off Trunk Road 33 section 2 (R328) at $\pm$ km18.21 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
 - 2.2 A new access is designed and constructed off Trunk Road 33 section 2 at $\pm$ km18.26 LHS in accordance with the District Roads Engineer's (Attention: Mr SJ Schoeman; Tel: 044 272 6071) instructions and approval.
 - 2.3 A new access is designed and constructed off Trunk Road 33 Section 2 at $\pm$ km20.33 LHS in accordance with the District Roads Engineer's instructions and approval.

- 2.4 The existing access off Trunk Road 33 section 2 at $\pm$ km20.40 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
- 2.5 The existing access off Trunk Road 33 section 2 at $\pm$ km21.49 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
- 2.6 The existing access off Trunk Road 33 section 2 at $\pm$ km21.95 LHS may be retained.
- 2.7 The existing access off Trunk Road 33 section 2 at $\pm$ km23.13 LHS may be retained.
- 2.8 The existing access off Trunk Road 33 section 2 at $\pm$ km23.63 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
3. As Controlling Authority in terms of Act 21 of 1940 this Branch approves to the subdivision.

Yours faithfully



ML WATTERS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ENDORSEMENTS

1. Mossel Bay Municipality (e-mail: admin@mosselbay.gov.za)
2. Du Toit & Gildenhuys Professional Land Surveyors
Attention: Mr HJ Gildenhuys (e-mail: hannespls1133@telkomsa.net)
3. District Roads Engineer
Oudtshoorn
4. Mr ML Watters (e-mail)
5. Mr E Burger (e-mail)
6. Planning section



REFERENCE : 16/9/6/1-18/84 (Job 25314)

ENQUIRIES : Ms GD Swanepoel

DATE : 4 September 2020

The Municipal Manager
Mossel Bay Municipality
PO Box 20

MOSSSEL BAY

6500

Attention: Mr S Westerberg

Dear Sir

**APPLICATION TO ERECT A BOUNDARY WALL ALONG TRUNK ROAD 33 SECTION 2 (TR03302;
R328) FOR FARM 350 (OUTENIQUA GAME FARM CC), MOSSSEL BAY DISTRICT**

1. The following refer:
 - 1.1 Du Toit & Gildenhuys Professional Land Surveyors' letter MY: M53-25 dated 13 September 2017 to this Branch.
 - 1.2 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 5 March 2018 to Mossel Bay Municipality. Find a copy attached to this letter.
 - 1.3 Delplan Consulting's letter 940/MOS/18 dated 17 August 2018 to this Branch.
 - 1.4 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 8 October 2018 to Delplan Consulting. Find a copy attached to this letter.
 - 1.5 Outeniqua Game Farm's undated letter Farm number: 373 to Mr F Lotz at the offices of the District Roads Engineer, Oudtshoorn.

2. A recent site inspection revealed that this Branch's conditional no objection of 5 March 2018 is still not complied to, which is why this Branch herewith refuses this application to construct a wall and formalise existing accesses.
3. This Branch will respond accordingly upon receipt of a revised application that will ensure compliance to:
 - 3.1 This Branch's previous conditional letters.
 - 3.2 This Branch's standard drawing for a main farm access.

Yours faithfully



SW CARSTENS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

ENDORSEMENTS

1. Mossel Bay Municipality
Attention: Mr S Westerberg (e-mail: swesterberg@mosselbay.gov.za)
2. Delplan Consulting
Attention: Mr D Viljoen (e-mail)
3. Outeniqua Game Farm
Attention: Mr L Johnston (e-mail: langdon.johnston@gmail.com)
4. District Roads Engineer
Oudtshoorn
5. Mr SW Carstens (e-mail)
6. Mr E Burger (e-mail)

REFERENCE : 16/9/6/1-18/84 (Job 25314)
ENQUIRIES : Ms GD Swanepoel
DATE : 5 March 2018

The Municipal Manager
Mossel Bay Municipality
PO Box 20
MOSSSEL BAY
6500

Dear Sir

SUBDIVISION OF FARM 420 AND CONSOLIDATION OF NEW PORTION WITH ADJACENT PORTION OF FARM 53, MOSSSEL BAY DISTRICT

1. Du Toit & Gildenhuys Professional Land Surveyors' letter MY: M53-25 dated 13 September 2017 to this Branch refers.
2. This Branch offers no objection to this application, provided that:
 - 2.1 The existing access off Trunk Road 33 section 2 (R328) at $\pm$ km18.21 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
 - 2.2 A new access is designed and constructed off Trunk Road 33 section 2 at $\pm$ km18.26 LHS in accordance with the District Roads Engineer's (Attention: Mr SJ Schoeman; Tel: 044 272 6071) instructions and approval.
 - 2.3 A new access is designed and constructed off Trunk Road 33 Section 2 at $\pm$ km20.33 LHS in accordance with the District Roads Engineer's instructions and approval.

- 2.4 The existing access off Trunk Road 33 section 2 at $\pm$ km20.40 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
- 2.5 The existing access off Trunk Road 33 section 2 at $\pm$ km21.49 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
- 2.6 The existing access off Trunk Road 33 section 2 at $\pm$ km21.95 LHS may be retained.
- 2.7 The existing access off Trunk Road 33 section 2 at $\pm$ km23.13 LHS may be retained.
- 2.8 The existing access off Trunk Road 33 section 2 at $\pm$ km23.63 LHS is, due to insufficient shoulder sight distance, permanently closed with material similar to the existing fence in that vicinity.
3. As Controlling Authority in terms of Act 21 of 1940 this Branch approves to the subdivision.

Yours faithfully



ML WATTERS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT



**Western Cape
Government**

Transport and Public Works

ROAD NETWORK MANAGEMENT

Email: Lyle.Martin@westerncape.gov.za

tel: +27 21 483 2419

Rm 335, 9 Dorp Street, Cape Town, 8001

PO Box 2603, Cape Town, 8000

REFERENCE : 16/9/6/1-18/84 (Job 25314)

ENQUIRIES : Mr L Martin

DATE : 8 October 2018

Delplan Consulting

PO Box 9956

GEORGE

6530

Attention: Mr D Viljoen

Dear Sir

APPLICATION FOR CONSENT USE FOR ADDITIONAL DWELLING UNITS: FARMS 373 AND 420, MOSSEL BAY

1. The following refers:
 - 1.1 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 5 March 2018 to Mossel Bay Municipality. Find a copy attached to this letter.
 - 1.2 Your letter 940/MOS/18 dated 17 August 2018 to this Branch.
2. This Branch offers no objection to this proposed development, provided that all the conditions imposed in this Branch's letter of 5 March 2018 are adhered to.

Yours faithfully

ML WATTERS

For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT



Ref: DOI/CFS/RN/LU/REZ/SUB-18/232 (Application No: 2025-05-0007)

Eco Route Environmental Consultancy
PO Box 1252
SEDGEFIELD
6573

Attention: Ms C de Jongh

Dear Madam

**S24G ENVIRONMENTAL AUTHORISATION PROCESS FOR COMMENCEMENT OF ACTIVITIES:
OUTENIQUA GAME FARM B 420 AND OUTENIQUA GAME FARM 373, MOSSEL BAY MUNICIPALITY,
WESTERN CAPE**

1. The following refer:
 - 1.1 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 5 March 2018 to Mossel Bay Municipality. Find a copy attached to this letter.
 - 1.2 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 8 October 2018 to Delplan Consulting. Find a copy attached to this letter.
 - 1.3 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 4 September 2020 to Mossel Bay Municipality. Find a copy attached to this letter.
 - 1.4 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 9 October 2020 to Mossel Bay Municipality. Find a copy attached to this letter.
 - 1.5 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 26 November 2021 to Mossel Bay Municipality. Find a copy attached to this letter.
 - 1.6 This Branch's letter 16/9/6/1-18/84 (Job 25314) dated 22 February 2023 to Mossel Bay Municipality. Find a copy attached to this letter.
 - 1.7 Your e-mail on behalf of Eco Route Environmental Consultancy on 25 April 2025 to various recipients, including Ms V Stoffels at this Branch.
2. Proclaimed Trunk Road 33 section 2 (TR03302; R328) and proclaimed Minor Road 6433 (OP06433), both roads for which this Branch is the Road Authority, are affected by the two abovementioned farms (forming the Outeniqua Game Farm).

3. Upon receipt of confirmation (in writing) of the following will this Branch offer no objection to this environmental application:
 - 3.1 That all this Branch's conditions in its abovementioned letters of 5 March 2018, 8 October 2018, 4 September 2020, 9 October 2020, 26 November 2021 and 22 February 2023 were complied to in full.
 - 3.2 That the existing developments within the boundaries of Outeniqua Game Farm do not exceed the rights supported by this Branch in terms of its approvals issued in its abovementioned letters of 5 March 2018, 8 October 2018, 4 September 2020, 9 October 2020, 26 November 2021 and 22 February 2023.

Yours Sincerely



DD FORTUIN

For DEPUTY DIRECTOR-GENERAL: TRANSPORT INFRASTRUCTURE BRANCH

DATE: 8 MAY 2025

ENDORSEMENTS

1. Eco Route Environmental Consultancy
Attention: Ms C de Jongh (e-mail: admin@ecoroute.co.za)
2. District Roads Engineer
Oudtshoorn
3. Mr E Burger (e-mail)
4. Mr DD Fortuin (e-mail)
5. Mr M Steyn (e-mail)

claire@ecoroute.co.za

From: Du Toit Stene <[REDACTED]>
Sent: Monday, 30 June 2025 10:19
To: claire@ecoroute.co.za
Subject: Re: NOTICE - Draft NEMA S24G application - OGF for comment and review
Attachments: image0.jpeg; Untitled attachment 00120.htm; image1.jpeg; Untitled attachment 00123.htm; image002.png; Untitled attachment 00126.htm; Executive Summary - Draft NEMA 24G application - OGF ptn 373 and 420 - April 2025_final.pdf; Untitled attachment 00129.htm

Good morning,

To whom it may concern.

These proposals will heavily impact the water flow for everyone down stream.

We are against this !

The levels have clearly dropped over the past years since they put in their solar pumps . They (Outeniqua Game Farm) do not seem to have any regard for the amount of water they pump.



VAN DER MERWE ATTORNEYS

Our ref: P van der Merwe/jw/PR0027

Your ref: Janet

24 June 2025

ECO ROUTE ENVIRONMENTAL CONSULTANCY

PER E-MAIL: janet@ecoroute.co.za

Dear Janet,

DRAFT NEMA SECTION 24G APPLICATION – OUTENIQUA GAME FARM

1. We refer to your above Section 24G environmental authorisation process which was sent to us on 25 April 2025.
2. In your e-mail of 25 April 2025, you indicated that a 60-day review and comment period would be provided, i.e. from 25 April 2025 to 30 June 2025.
3. The purpose of this letter is twofold. Firstly, we kindly inform you that we will only be in a position to file our objections on or before **15 July 2025**. Secondly, we wish to address the continuous unlawful activities of your client.

OBJECTIONS TO BE FILED 15 JULY 2025:

4. We have instructed an environmental consultant / specialist to assist us with the objections to your draft Section 24G application. Although your application, with respect, did not comprehensively deal with the specific extent of the unauthorised

actions, our consultant made good progress in assisting us with the objections which were to be filed on 30 June 2025.

5. On Thursday, 19 June 2025, our client provided us with new information, in the form of photos and videos of the true extent of your client's unlawful actions. These videos and photos were taken by our client during an aerial inspection over your client's property.
6. We attach hereto photos and screenshots which were taken during the flight. You will note that the extent of the unlawful activities is immense and, with respect, seemingly not covered in your application.
7. We attach hereto, in any event, a letter from our Environmental Consultant, the content which is self-explanatory.
8. We kindly request you to confirm the following:
 - 8.1. That any submissions to the Department of Economic Development and Environmental Affairs will be kept in abeyance until, at least, receipt of our detailed objections;
 - 8.2. Kindly confirm whether you were aware of the unauthorised actions as depicted in the attached photos and whether the Section 24G application intends to cover these areas as well (with particular reference to where in the application can we find reference to these areas).

CONTINUOUS UNLAWFUL CONDUCT:

9. We will not repeat the previous correspondence with your client, the previous environmental consultants or yourself, save to state that you are aware of the existence of our previous complaints. We do however wish to highlight the correspondence below.

10. On 10 September 2024 we sought an immediate confirmation from your client that any and all unlawful activities will be ceased with. This included an undertaking that your client would not unlawfully benefit from such unlawful activities, such as the extraction of water and irrigation and use of land unlawfully cultivated.
11. Notwithstanding various correspondence, your office was only prepared to go as far as to state that you “*have kindly requested Outeniqua Game Farm to cease all illegal activities*”. This was communicated to us on 8 October 2024. We reiterated that this is not an undertaking and further correspondence ensued.
12. It is blatantly clear from the attached photos that your client has absolutely no regard for any environmental legislation and that he utilises the provisions of Section 24G to continue with his unlawful activities. It is safe to state that this was not the intention of Section 24G, but we will deal with that in more detail later (and in the appropriate forum).
13. We will address a letter to the relevant Department simultaneously with this letter. We have similarly previously informed the Department of your client’s actions, but we do not believe that the Department properly addressed our objections in full transparency. As you are aware, the Department needs to act but it seems as if they do not have the appetite or alternatively the necessary resources to properly implement the strict provisions of the National Environmental Management Act.
14. We herewith inform your client, in advance, that should the Department not take the necessary steps to prevent any and unlawful actions (including deriving any benefit therefrom), we will seek an interdict against your client and will compel the Department to do its work. You may remind your client that administrative fines can go up to R10 000 000.00 and that criminal penalties (and intentional offences) can include imprisonment for up to 10 years.
15. As a last resort, to avoid further legal action, we again seek your client’s pertinent undertaking that any and all unlawful activities will immediately be ceased with, including but not limited to the usage of any of the cultivated lands, extraction of

water and an undertaking for immediate rehabilitation. Should this undertaking not be provided, we reserve our right to proceed with further legal action without any further notice.

Yours faithfully,

VAN DER MERWE ATTORNEYS

PER: PIETER VAN DER MERWE

claire@ecoroute.co.za

From: Julene Westraad <[REDACTED]>
Sent: Tuesday, 24 June 2025 14:50
To: janet@ecoroute.co.za; Pieter Van Der Merwe; Melody Reyneke; claire@ecoroute.co.za; admin@ecoroute.co.za; ebersohn@cyberperk.co.za
Cc: Melody Reyneke
Subject: RE: NOTICE OF PUBLIC PARTICIPATION: ACTIVITIES CARRIED OUT ON FARM PORTIONS 420 AND 373, OUTENIQUA GAME FARM
Attachments: PR0027_ECO_ROUTE_ENVIRONMENTAL_CONSULTANCY LETTER.pdf; BHUKALI LETTER DD 24 6 25.pdf; IMG_2874_DOCID_2105232.jpg; IMG_2870_DOCID_2105235.jpg; IMG_2873_DOCID_2105234.jpg; IMG_2872_DOCID_2105233.jpg; IMG_2871_DOCID_2105236.jpg; IMG_2877_DOCID_2105242.PNG; IMG_2878_DOCID_2105241 (1).PNG; IMG_2879_DOCID_2105240.PNG; IMG_2880_DOCID_2105239.jpg; IMG_2876_DOCID_2105238.jpg; IMG_2875_DOCID_2105237.jpg

Importance: High

Flag Status: Flagged

Our ref: P van der Merwe/jw/PR0027

**ECO ROUTE ENVIRONMENTAL CONSULTANCY
PER E-MAIL**

Dear Janet,

NOTICE OF PUBLIC PARTICIPATION: ACTIVITIES CARRIED OUT ON FARM PORTIONS 420 AND 373, OUTENIQUA GAME FARM

1. Kindly find attached hereto an urgent letter for your attention.
2. Kindly acknowledge receipt.

Yours faithfully,
Pieter van der Merwe



VAN DER MERWE & VAN DER MERWE

PER: P VAN DER MERWE

Typed and sent by Julene Westraad

Secretary to Pieter van der Merwe



4098

[za](#)

PLEASE NOTE, DUE TO INTERNET FRAUD AND HACKING:

WE WILL NEVER CHANGE OUR BANKING DETAILS VIA EMAIL. PLEASE IGNORE ANY ADVICES WITH REGARDS TO AMENDED BANKING DETAILS WHICH APPEAR TO COME FROM OUR OFFICES. SHOULD YOU HAVE ANY QUERIES, PLEASE CONTACT OUR OFFICES AND SPEAK DIRECTLY TO THE PERSON CONCERNED BEFORE MAKING ANY PAYMENT(S). SHOULD YOU MAKE PAYMENT BASED ON A FRAUDULENT EMAIL, OUR OFFICES CANNOT BE HELD RESPONSIBLE FOR ANY LOSSES INCURRED.

Van Der Merwe & Van Der Merwe
PO Box 11298
Dana Bay
6510

24 June 2025

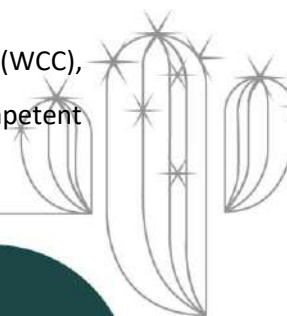
Per email: [REDACTED]

RE: SECTION 24G AND WATER USE LICENSE APPLICATION FOR OUTENIQUA GAME FARM

1. The Section 24G application process indicated that public comment must be lodged by 30 June 2025. For the reasons set out below, we will submit a complete, substantiated specialist assessment for your objection by no later than 15 July 2025 and respectfully insists, pursuant to the *audi alteram partem* principle embodied in section 3(2)(b)(ii) of the Promotion of Administrative Justice Act 3 of 2000 ("PAJA"), that the Department accept and consider those representations before making any decision.

Volume and complexity of the record

2. The application comprises an extensive suite of technical materials. Correctly interpreting such a multidisciplinary record requires more than a cursory reading; it demands cross-referencing findings between disciplines, verifying key assumptions against current site conditions, and confirming that each conclusion aligns with statutory criteria under NEMA and its associated regulations.
3. To ensure that our submission is accurate and balanced, we are consulting third-party experts to scrutinise the documentation, interrogate underlying datasets, and advise on potential gaps or inconsistencies. Their input will enable us to provide the Department with focused, evidence-based comments that address the application's environmental risks and legal compliance in a meaningful way.
4. In *Earthlife Africa Johannesburg v Minister of Environmental Affairs* 2017 (2) All SA 519 (WCC), the High Court set aside an environmental authorisation precisely because the competent



authority had failed to secure and interrogate all relevant information—there, the climate-change implications of a proposed coal-fired power station—before taking its decision. The judgment underscores that an authorisation issued without a properly informed evidential foundation cannot withstand judicial scrutiny.

Inadequate spatial and temporal baseline information

5. The applicant and his representatives have not supplied 2025 high-resolution orthophotography, shapefiles or KMZ files delineating the actual disturbance footprint. Our client, therefore, commissioned an aerial fly-over of the site at its own expense to confirm ongoing clearance within critically endangered Garden Route Granite Fynbos and freshwater ecosystems. The absence of up-to-date spatial evidence fundamentally impedes meaningful comment.

Questionable independence of the Environmental Assessment Practitioner (“EAP”)

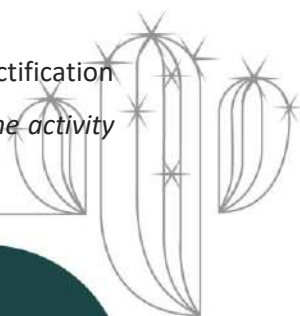
6. Several passages of the main report and executive summary adopt advocacy language, rationalising the applicant’s contraventions instead of exercising the critical professional independence demanded by Regulation 13 and the EAPASA Code of Ethical Conduct. We draw attention, for example, to the EAP’s assertion that “*due diligence was unfortunately not carried out on the property prior to purchase*” as if that negates strict liability under section 28 of NEMA. This partiality will form a central plank of our objection, but additional time is needed to collate corroborating professional ethics evidence.

Impermissible consolidation of prospective activities with rectification matters

7. The executive summary expressly incorporates a proposed new dam on the Ruiterbos River, the widening of agricultural dams, and additional mulching yards—developments that have not yet commenced. Section 24G, read with the Supreme Court of Appeal’s judgment in *Fuel Retailers Association v DG Environmental Management, Mpumalanga [2007] SCA 67*, is confined to retrospective regularisation of activities unlawfully undertaken. Prospective developments require a fresh, forward-looking application under Chapter 5 of NEMA. Mixing the two processes is *ultra vires* and undermines public participation integrity.

Statutory duty to halt continuing unlawful activity

8. Section 24G(4)(a) of NEMA, as amended by Act 2 of 2022, is peremptory: once a rectification application is lodged, the Minister “*must direct the applicant to immediately cease the activity*”



pending a decision." Aerial imagery obtained on 19 May 2025 shows continued widening of access tracks, ongoing alien vegetation clearing by heavy machinery and fresh stockpiling of gravel in riparian buffers. These facts will be placed before the Department in the form of videos and photographs and sworn statements, evidencing blatant non-compliance with the statutory cease-work obligation.

9. For the foregoing reason, and in pursuit of transparent, accountable and lawful environmental governance, we respectfully request written confirmation, that submissions delivered up to and including 15 July 2025 will be accepted and thoroughly considered. Kindly address all correspondence to the undersigned.



Daniél Cillié
DIRECTOR
LLB Environmental Law
Reg EAP – EAPASA (2021/3484)





VAN DER MERWE
PROKUREURS / ATTORNEYS

Our ref: P van der Merwe/ld/PR0027

14 July 2025

Your ref: Claire de Jongh/24G Consultation:14/2/4/I/D6/28/0004/20

To: Eco Route Environmental Consultancy

Per e-mail: claire@ecoroute.co.za

And to: Mr. James Dabrowski

Per e-mail: james@confluent.co.za

Dear Sir / Madam,

**PRELIMINARY OBJECTION AGAINST THE APPROVAL OF UNLAWFUL
ACTIVITIES CARRIED OUT ON FARM PORTION 420 AND 373 OF OUTENIQUA
GAME FARM, MOSSEL BAY DISTRICT MUNICIPALITY 24G CONSULTATION:
14/2/4/1/D6/28/0004/20**

We have been duly instructed by Platinum Mile Investments 442 (Pty) Ltd ("our client") to formally object to the granting of an ex post facto Environmental Authorisation ("EA") pursuant to Section 24G of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), as amended, to the Applicant.

We refer to your e-mail dated 25 April 2025 wherein we were provided with a draft Section 24G Application in terms of NEMA. The purpose of this letter is to file our client's preliminary objections against the proposed Section 24G Application.

As you are aware, our client owns several properties downstream from your client's property and registered as an Interested and Affected Party ("IAP").

In this document, we will shortly deal with an overview and introduction. We will, by way of introduction, set out our client's main concerns about the proposed application. Thereafter we will deal with Section 24G and Section 49A of NEMA. We will then elaborate on the factual overview of the present Application, having regard to the factual and historical position, and then elaborate on our legal objections.

Lastly, we will pose clarification questions to yourself which we believe is absent from the proposed 24G Application. Our respectful view is that it is pivotal and critical that these questions be answered in order to have a proper assessment of the proposed application and will you note that we file these objections as preliminary objections, on the basis that we reserve our right to supplement our objections once we have received this information. We have dealt with these issues under a separate heading, like we have indicated.

For the sake of convenience, the parties relevant hereto, unless specifically otherwise indicated and unless there is referred to a specific specialist, will be referred to in various forms of:

1. **The Applicant** shall be referred to as "OGF or the Applicant".
2. **The Competent Authority** (Western Cape Government Environmental Affairs and Development Planning) for the decision in approving or rejecting the EIA will be referred to as "the EADP, the Department or the competent authority"
3. **Eco Route**, the environmental consultant, being the EAP responsible for applying for ex post facto approval of the unlawful developments on behalf of the Applicant, will be intermittently referred to as "the EAP".

4. **Platinum Mile Investments 442 (Pty) Ltd** – is the entity responsible for lodging this objection and will intermittently be referred to as "the objector, our client, we or us".

1. INTRODUCTION

- 1.1 It is our client's considered legal position that the Applicant has demonstrably misused and abused the provisions of Section 24G, proceeding knowingly and persistently to this day with unauthorised listed activities since approximately 2018/2019, despite clear statutory obligations under NEMA to cease such activities until the requisite EA was secured.
- 1.2 The conduct of the Applicant, in our respectful submission, constitutes a calculated and deliberate breach of environmental law, undermining the core intent of Section 24G, which is intended solely as a remedial mechanism for genuine inadvertent or non-malicious contraventions.
- 1.3 It is common cause that expert commentaries have highlighted how Section 24G processes are frequently exploited as "quick fix" mechanisms by developers who unlawfully commence activities and subsequently seek retrospective authorisation. Such misuse critically undermines the integrity of the environmental assessment processes intended to proactively safeguard ecological interests. We submit that the 'Applicant's deliberate contraventions clearly illustrate such exploitation, thereby warranting the rejection of their application for retrospective authorisation.
- 1.4 In the Section 24G application form, the EAP states that "The amount of environmental legislation is overwhelming to those who are unfamiliar with the legislation. Due diligence was unfortunately not carried out on the property prior to purchase and the landowner did not

seem to be informed during the land purchase process of environmental approvals that may be required. The property is zoned for agriculture. A person unfamiliar with the legislation is then led to believe that such zoning allows farming to take place."

- 1.5 This assertion is both misleading and legally untenable. It is a well-established principle in South African law that ignorance of the law does not constitute a defence to regulatory non-compliance. The EAP's independence is also questioned through this statement in defence of the Applicant. Moreover, the Applicant cannot seek leniency based on claimed legislative complexity while engaging in listed activities that objectively require environmental authorisation under NEMA.
- 1.6 We will demonstrate through documentary evidence that the Applicant was aware of the relevant environmental legislative requirements as early as 2018 and nevertheless proceeded with unauthorised activities in defiance of those obligations. This renders the explanation advanced by the EAP not only factually incorrect, but also indicative of a deliberate attempt to minimise the seriousness of the transgressions.
- 1.7 In support of our client's objection, we note that the Western Cape Department of Environmental Affairs and Development Planning issued a formal Notice of Referral of the 24G Pre-Application Consultation to Environmental Criminal Investigations dated 13 February 2025 (Annexure "**A-1**"), confirming that more than four (4) years had passed since formal compliance notices were issued to the Applicant regarding the unlawful clearance of vegetation and construction of infrastructure within 32 metres of a watercourse on Erf 373 and 420, Outeniqua Game Farm. As a result of the 'Applicant's continued failure to submit a Section 24G application within that time, the Department closed the pre-application consultation file for all administrative purposes.

- 1.8 The closure of the file followed the 'Applicant's persistent non-compliance with instructions, including a Pre-Compliance Notice issued on 18 March 2019 (Annexure "A-2") and a Compliance Notice dated 27 May 2020 (Annexure "A-3"). Despite these formal communications, no application was submitted until after the Department had formally escalated the matter.
- 1.9 Notably, the Department confirmed in its 13 February 2025 correspondence that the matter was being referred for criminal investigation in terms of Section 49A of NEMA, which establishes that undertaking listed activities without environmental authorisation constitutes a criminal offence.
- 1.10 The Applicant's decision to only initiate this 24G application after the referral reinforces our submission that the application is a tactical response to avoid prosecution, rather than a bona fide effort to comply with the law.
- 1.11 We will address the full content, context, and implications of this correspondence and the Department's compliance enforcement process in greater detail later in this objection. For present purposes, we submit that this sequence of events underscores the Applicant's long-standing awareness of its non-compliance and further demonstrates why the Section 24G process should not be relied upon to regularise activities that may, in the future, be the subject of criminal enforcement proceedings.
- 1.12 Furthermore, our client asserts that the legal maxim *Ex turpi causa non oritur actio*, commonly articulated as the doctrine of unclean hands, is applicable in this instance. This doctrine precludes parties who have deliberately engaged in unlawful conduct from seeking equitable or

administrative relief to validate or rectify their illegal actions after the fact.

- 1.13 The Applicant's conduct, characterised by a conscious disregard for legislative requirements designed to safeguard environmentally sensitive areas, disentitles it from claiming innocence or good faith. Consequently, it would be contrary to principles of administrative justice, good governance, and sustainable environmental management for the competent authority to grant condonation and authorisation under these circumstances, effectively rewarding apparent and sustained non-compliance with statutory environmental mandates.
- 1.14 It is evident from the content of the application form and the public participation advert that the Applicant seeks, through this Section 24G process, not only to retrospectively authorise past unlawful activities but also to incorporate the continuation and potential expansion of these activities.
- 1.15 This approach is fundamentally and fatally flawed, as Section 24G is strictly remedial in nature and may only be invoked to regularise activities that have already unlawfully commenced. We will demonstrate that this conflation of retrospective and prospective authorisation processes is legally impermissible, procedurally unfair, and contrary to both the text and purpose of NEMA.
- 1.16 The main legal grounds for this preliminary objection are the following:
 - 1.16.1 Ground 1: Section 24G is limited to retrospective regularisation of unlawful activities already commenced and cannot authorise future or continued activities. Section 24G(1) of NEMA applies only to a person "who has commenced with

a listed or specified activity without an environmental authorisation in contravention of section 24F(1)."

- 1.16.2 The plain wording of the provision confines its scope to the retrospective legalisation of past contraventions. It does not empower the competent authority to evaluate or approve activities that are still proposed, in progress and intended to continue, or that constitute an expansion beyond what has already unlawfully commenced. The Applicant's and EAPs' attempt to incorporate both retrospective and prospective authorisation into a single Section 24G application is thus ultra vires and invalid.
- 1.16.3 Ground 2: The application improperly conflates two legally distinct processes: retrospective rectification and prospective environmental authorisation. The documentation forming part of the Applicant's submission, including the public participation advertisement and application form, clearly reflects an attempt to authorise the current and future continuation and/or future expansion of activities not yet commenced at the time of application.
- 1.16.4 Ground 3: Failure to issue a cessation order in terms of Section 24G(2) constitutes a statutory breach. Section 24G(2)(a) requires the competent authority to issue a cessation directive where the listed activity has commenced unlawfully. In this case, the Applicant admits in their documentation to having commenced and continued with listed activities in the absence of an environmental authorisation since at least 2018/2019. Despite this, no cessation directive has been issued by the Competent Authority.

- 1.16.5 This failure to act in accordance with a clear statutory obligation not only undermines the enforcement regime of NEMA but further enables continued non-compliance by the Applicant during the pendency of the application.
- 1.16.6 Ground 4: The Applicant's conduct reflects wilful and sustained non-compliance, disqualifying them from equitable administrative relief. It is a well-established legal principle that a party who knowingly acts in violation of the law, particularly where such conduct continues over an extended period, is not entitled to invoke equitable relief under an administrative process.
- 1.16.7 The doctrine of *ex turpi causa non oritur actio*, commonly known as the doctrine of unclean hands, applies squarely to this matter. The Applicant was aware of the legal requirements under NEMA as early as 2018/2019 and yet continued to contravene them. To now allow the Applicant to benefit from Section 24G would offend the principles of legality, administrative justice, and environmental governance.
- 1.17 Our client submits that the present application for an *ex post facto* environmental authorisation under Section 24G of NEMA is legally untenable and must be refused. As will be demonstrated in the body of this objection, the Applicant has deliberately and persistently engaged in unauthorised activities within environmentally sensitive and legally protected areas since at least 2018/2019, in direct contravention of NEMA and despite repeated compliance notices and warnings issued by the competent authority. The Section 24G process, as a narrow remedial mechanism, is not designed to condone such sustained and wilful non-compliance, nor to authorise future or ongoing activities.

- 1.18 Accordingly, our client seeks that the competent authority reject the application in full, that an immediate cessation order be issued under Section 24G(2)(a) of NEMA to prevent the continuation of the listed activities, instruct the Applicant to rehabilitate, and that the authority refrain from regularising or legitimising any aspect of the development that has not yet occurred or which forms part of a broader ongoing non-compliant land use.
- 1.19 Our client further places on record that, should the Department fail to discharge its statutory obligations under NEMA, including the taking of enforcement steps and the proper application of environmental governance principles, our client reserves all rights to approach a competent court for appropriate relief, including but not limited to judicial review in terms of the Promotion of Administrative Justice Act, 2000 (PAJA).
- 1.20 The full details of the relief sought are addressed in the concluding section of this objection.
- 1.21 Our client's right to elaborate on any issue or address any issues raised in further correspondence at a later stage and in an appropriate forum remains strictly reserved.

2. SECTION 24G AND SECTION 49A OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT (NEMA) (ACT 107 OF 1998)

- 2.1 Section 24G of NEMA has undergone several amendments over time, with the most significant and stringent revision introduced in 2022. This latest amendment came into effect on 30 June 2023 and, among other things, provides the following:

'24G Consequences of unlawful commencement of activity

(1) On application by a person who-

- (a) has commenced with a listed or specified activity without an environmental authorisation in contravention of section 24F (1).
- (b) has commenced, undertaken or conducted a waste management activity without a waste management licence in terms of section 20 (b) of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);
- (c) is in control of, or successor in title to, land on which a person-
 - (i) has commenced with a listed or specified activity without an environmental authorisation in contravention of section 24F (1);
 - or
 - (ii) has commenced with, undertaken or conducted a waste management activity in contravention of section 20 (b) of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008),

the Minister, Minister responsible for mineral resources or MEC concerned, as the case may be-

- (aa) must direct the applicant to-
 - (A) immediately cease the activity pending a decision on the application submitted in terms of this subsection, except if there are reasonable grounds to believe the cessation will result in serious harm to the environment.
 - (B) investigate, evaluate and assess the impact of the activity on the environment.
 - (C) remedy any adverse effects of the activity on the environment.
 - (D) cease, modify or control any act, activity, process or omission causing pollution or environmental degradation.
 - (E) contain or prevent the movement of pollution or degradation of the environment.
 - (F) eliminate any source of pollution or degradation.
 - (G) undertake public participation, which is appropriate to bring the unlawful commencement, undertaking or conducting of a listed,

specified or waste management activity to the attention of interested and affected parties, and to provide them with a reasonable opportunity to comment on the application in accordance with relevant elements of public participation as prescribed in terms of this Act; and

(H) compile a report containing-

(AA) a description of the need and desirability of the activity.

(BB) an assessment of the nature, extent, duration and significance of the consequences for, or impacts on, the environment of the activity, including the cumulative effects and the manner in which the geographical, physical, biological, social, economic and cultural aspects of the environment may be affected by the proposed activity.

(CC) a description of mitigation measures undertaken or to be undertaken in respect of the consequences for, or impacts on, the environment of the activity; and

(DD) 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, if applicable; and

(bb) may direct the applicant to compile an environmental management programme or to provide such other information or undertake such further studies as the Minister, Minister responsible for mineral resources or MEC, as the case may be, may deem necessary.'

2.2 The obligations imposed on the Minister in terms of section 24G are clearly cast in peremptory terms.

2.3 It is common cause that the unlawful commencement of listed activities remains unlawful in terms of section 49A(1)(a) and/or (d) of the NEMA, regardless of the submission of a Section 24G application.

- 2.4 Section 24F(1)(a) of NEMA reiterates that no person may '*commence an activity listed or specified in terms of section 24(2)(a)...unless the competent authority... has granted an environmental authorisation for the activity....*'
- 2.5 In terms of section 1 of NEMA, for the purposes of section 24, '*commence,*' means '*the start of any physical implementation in furtherance of a listed activity or specified activity, including site preparation and any other action on the site or the physical implementation of a plan, policy, programme or process...*'
- 2.6 In terms of Section 24G(1)(c)(i)(aa)(A) of NEMA, where a listed or specified activity has commenced without an environmental authorisation in contravention of section 24F (1) the Minister must direct the Applicant to '*immediately cease the activity pending a decision on the application submitted in terms of this subsection, except if there are reasonable grounds to believe the cessation will result in serious harm to the environment.*'
- 2.7 The principles of the rule of law and the prohibition against self-help are foundational to South Africa's constitutional and administrative framework and demand strict adherence by all organs of state, including the competent authority charged with enforcing environmental legislation.
- 2.8 If the Department were to condone or authorise the Applicant's unlawful conduct by granting *ex post facto* approval under Section 24G, it would undermine these principles and effectively reward non-compliance. Such an outcome would not only erode public confidence in the environmental regulatory system but would also constitute an abdication of the Department's statutory duties under NEMA to uphold lawful

environmental governance through timely enforcement action. The failure to act decisively in response to protracted unlawful activities would result in irreparable harm to the integrity of environmental decision-making and set a precedent that unlawful development may be retrospectively justified without consequence.

2.9 Section 49A of NEMA

'49A Offences

(1) A person is guilty of an offence if that person-

(a) commences with an activity in contravention of section 24F (1);

.....

(e) unlawfully and intentionally or negligently commits any act or omission which causes significant pollution or degradation of the environment or is likely to cause significant pollution or degradation of the environment;

(f) unlawfully and intentionally or negligently commit[s] any act or omission which detrimentally affects or is likely to detrimentally affect the environment;

.....

(k) fails to comply with or contravenes a compliance notice issued in terms of section 31L.”

3. FACTUAL OVERVIEW: REGULATORY HISTORY AND PERSISTENT UNLAWFULNESS

3.1 In October 2018, the Department of Environmental Affairs and Development Planning (DEADP) received correspondence from the Mossel Bay Municipality indicating the Applicant's intention to apply for consent in terms of municipal planning laws to construct six (6) additional units on Portions 373 and 420 of Outeniqua Game Farm. (Annexure “**A-4**”).

- 3.2 Subsequently, on 21 February 2019, the Department responded by indicating that, based on the application for consent, a meeting held on 21 November 2018, the applicability checklist received by the Department on 21 January 2019, and email correspondence between Ms Shireen Pullen and a Mr West representing the Applicant as his environmental consultant, a determination was made by DEADP that the proposal of the additional dwelling units triggers listed activities in terms of the NEMA EIA Regulations (Annexure "A-5").
- 3.3 Thereafter, on 18 March 2019, the Department issued a formal Intention to Issue a Compliance Notice in terms of section 31L of NEMA, under reference 14/1/1/E3/9/10/3/L1019/19. This notice was based on findings from a site inspection conducted on 13 February 2019 by Environmental Management Inspectors (EMIs), municipal officials, and the Applicant (Annexure "A-2").
- 3.4 This inspection confirmed the unauthorised and unlawful commencement of several listed activities, including the clearing of indigenous vegetation exceeding 1 hectare, the clearance of Garden Route Granite Fynbos (a critically endangered ecosystem) in excess of 300 m², the construction of a road wider than 4 metres, and infilling within a watercourse—all without the required environmental authorisation.
- 3.5 In their pre-compliance notice, the Department reminded the Applicant that it is an offence under section 49A of NEMA to commence listed activities without authorisation. It stated that the commencement of such activities remains unlawful regardless of any subsequent section 24G application.
- 3.6 The Department further advised that it may issue a Compliance Notice and/or pursue criminal proceedings. The Applicant was afforded seven

days to submit written representations and, if intending to rectify the contraventions, to submit a rehabilitation plan within thirty days.

- 3.7 On 29 November 2019, the Applicant responded to DEADP's pre-compliance notice, admitting to the clearance of alien vegetation and the construction of a road which, in parts, exceeded four metres in width. The Applicant attempted to justify the activities by referencing historical land use practices and submitted supporting imagery and affidavits. They acknowledged that they would not be able to submit a rehabilitation plan within the Department's prescribed timeframes and requested an extension until 28 February 2020. The Applicant also advised that environmental specialists Dr Jan Vlok and Mr Andrew West had been appointed to assist with compiling the relevant plans (Annexure "A-6").
- 3.8 On 27 May 2020, the Department issued a formal Compliance Notice under reference number: 14/1/1/E3/9/10/3/L1019/19, wherein the Department acknowledged that the Applicant decided to apply for the regularisation of the unlawful commencement of a listed activity and had submitted "*a section 24G PS*". The Department further instructed the Applicant to *inter alia* immediately cease the above-listed activities, adhere to the section 24G PS and specified timeframes dated 6 March 2020 and inform the Department of any delays/changes in respect of the section 24G PS (Annexure "A-3").
- 3.9 Subsequently, on 30 April 2021, the Department's Directorate: Environmental Law Enforcement issued a letter acknowledging that the Applicant was "in the process" of applying for a section 24G rectification and confirmed that the enforcement file had been closed. Importantly, this letter did not constitute approval of any application or authorisation of the listed activities. Despite this acknowledgement, no formal application was submitted until 2025, after the matter had been revived

by the Department and formally referred for criminal investigation due to prolonged inaction (Annexure "A-7").

- 3.10 This long period of non-compliance and administrative dormancy ended with a letter from the Department dated 13 February 2025, addressed to Kerry G. Smith. The Department confirmed that more than four years had passed since its last information request, and that due to the 'Applicant's failure to submit a Section 24G application in the intervening time, the pre-application consultation process had been formally closed for all administrative purposes (Annexure "A-1").
- 3.11 The Department confirmed that the matter had now been referred for environmental criminal investigation under section 49A of NEMA, citing the unlawful clearance of vegetation and construction of infrastructure within 32 metres of a watercourse on Erven 373 and 420. Only after this referral did the Applicant submit the present Section 24G application, more than six years after the commencement of the unlawful activities.
- 3.12 This sequence of events demonstrates a consistent pattern of intentional regulatory evasion, procedural delay, and reactive compliance only after credible threats of prosecution. It further confirms that the Applicant was fully aware of the legal implications of its activities since at least early 2019 and failed to engage meaningfully with the requirements of NEMA over a multi-year period. To make matters worse, the Applicant, intentionally, continued without authorisation knowing that he will reap the rewards in the interim as if he had authorisation.
- 3.13 The assertion by the Environmental Assessment Practitioner (EAP) in the Section 24G application that unfamiliarity with the overwhelming volume of environmental legislation justifies the Applicant's non-compliance is factually and legally untenable. As demonstrated by the documented chronology of regulatory engagement dating back to 2018,

including formal notifications, pre-compliance and compliance notices, and direct correspondence from the competent authority, the Applicant was repeatedly and unequivocally informed of the unlawfulness of the activities undertaken on the Outeniqua Game Farm. These notices detailed the contraventions of section 24F of NEMA, specified the listed activities triggered, and warned of potential criminal liability under section 49A.

- 3.14 To suggest now that the Applicant was unaware of applicable legal requirements due to the complexity of environmental legislation is not only disingenuous but contradicts the Department's established enforcement record. The claim that zoning for agriculture implies unrestricted farming activity overlooks the fact that zoning does not supersede statutory environmental obligations. The National Environmental Management Act applies to listed activities, regardless of municipal land use designations, and both individuals and juristic persons are held to an objective standard of knowledge and compliance. We also refer to our question posed under paragraph 11 below.
- 3.15 Moreover, the notion that due diligence was not conducted prior to property acquisition cannot be relied upon as a shield against liability. The law imposes a proactive duty of care on landowners and developers to inform themselves of applicable environmental obligations, particularly where the scale and nature of the activities, such as clearance of endangered ecosystems, construction within watercourses, and transformation of large tracts of land—clearly fall within the scope of regulated activities.
- 3.16 Accordingly, this justification advanced in the application not only lacks legal merit but is contradicted by the Applicant's sustained pattern of engagement with the authorities over a multi-year period, all of which

evidences an informed awareness of the environmental contraventions and an ongoing failure to comply.

- 3.17 Regulation 13 of the 2014 EIA Regulations obliges an EAP to act independently and uphold NEMA's compliance duties. By excusing the applicant's continued contraventions as "legally complex," the EAP condones continued unlawful activity, thereby forfeiting the required independence and undermining the credibility of the entire Section 24G application.

4. VISUAL TIMELINE SUPPORTING THE CHRONOLOGY OF UNLAWFUL DEVELOPMENTS – AREA 1

- 4.1 To demonstrate the extent and progression of the Applicant's intentional and unlawful activities on the Outeniqua Game Farm, we have compiled a visual timeline using available high-resolution Google Earth imagery (Annexure "B-1"). This timeline supplements the detailed chronological evidence previously outlined. It illustrates, in visual terms, the extent to which the Applicant continued with unauthorised development despite being repeatedly advised, since at least 2018/2019, of the legal obligations and prohibitions under the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA").
- 4.2 The EAP identified five (5) areas which form the subject of the application, indicating, *inter alia*, the relevant unlawful developments that took place on site. Please see Figure 1 in Annexure "B-1" for a visual representation.
- 4.3 Area 1: Unauthorised Development of Five Dwellings. The first area identified by the EAP comprises five residential structures, each approximately 1,200 m² in extent, along with an associated access road. The total area developed is estimated to be approximately 8,000 m², with

the unlawful construction activities occurring between 2020 and 2022 (Figure 2 in Annexure "**B-1**").

- 4.4 It is of concern that the EAP fails to expressly acknowledge the unlawful nature of these developments, despite the evident absence of environmental authorisation at the time of construction. Moreover, these activities were undertaken within an area designated as the Garden Route Granite Fynbos, a vegetation type listed as Critically Endangered.
- 4.5 The Applicant's actions amount to intentional and unauthorised clearance of indigenous vegetation in contravention of section 24F of NEMA, within an ecosystem of high conservation value. The omission of this legal context by the EAP materially downplays the severity of the transgression.
- 4.6 The Terrestrial Biodiversity and Plant Species Themes Assessment (21 August 2024) undertaken by Confluent Environmental (Pty) Ltd, as part of this Section 24G application, provides an accurate timeline of the unlawful development of these dwellings (Figure 3 in Annexure "**B-1**").
- 4.7 The unlawful dwellings are located in areas that consist of sites with Very High Site Ecological Importance (SEI) (Figure 4 in Annexure "**B-1**").
- 4.8 It is evident from the documentary record that the Applicant was not only aware of the legal constraints and environmental sensitivity of the site prior to any development but was explicitly cautioned by the competent authority. On 17 August 2018, the Western Cape Department of Environmental Affairs and Development Planning (DEADP) received information from the Mossel Bay Municipality regarding a consent application for the development of additional dwelling units on Portions 373 and 420 of the Outeniqua Game Farm.

- 4.9 The proposal was for the construction of one (1) primary dwelling and five (5) additional dwellings.
- 4.10 In direct response to this engagement, the DEADP issued a formal letter confirming that the area in question is mapped as Garden Route Granite Fynbos, an ecosystem listed at that time as Critically Endangered. This formal acknowledgment by the competent authority forecloses any possibility that the Applicant was unaware of the ecological significance of the site or the regulatory obligations imposed by the National Environmental Management Act, 1998 (NEMA), and its subsidiary instruments.
- 4.11 Despite this clear warning, the Applicant chose not to submit a full application in terms of Chapter 5 of NEMA or to pursue lawful authorisation under the EIA Regulations, 2014, as amended. Instead, by their admission and through incontrovertible visual evidence, they proceeded to clear approximately 8,000 m² of Critically Endangered Garden Route Granite Fynbos between 2020 and 2022 to construct five residential dwellings and associated infrastructure. This conduct not only breached the prohibition in section 24F(1) of NEMA, which criminalises the commencement of listed activities without prior environmental authorisation, but demonstrated a wilful and arrogant disregard for lawful process.
- 4.12 Further correspondence from the DEADP dated 21 February 2019 (Ref: 16-3-3-6-D6-28-0004/19) reinforces the Applicant's awareness and culpability. In this letter, DEADP unambiguously stated that the proposed construction of dwellings triggered listed activities under Listing Notice 1 of the 2014 EIA Regulations. More significantly, the Department expressly confirmed that construction of the dwellings had already commenced, without authorisation. The Applicant was therefore on notice, both factually and legally, that their actions were in violation of

environmental law and carried significant legal consequences, including potential criminal prosecution under section 49A of NEMA.

- 4.13 Rather than halting the activities or seeking to regularise them through proper legal channels, the Applicant chose to press forward, demonstrating not only negligence but a deliberate and knowing violation of environmental statutes. In *Topup Property Investments and Another v Minister of Environmental Affairs*, the Western Cape High Court directly addressed the systemic misuse of section 24G of NEMA.
- 4.14 The Court observed that "*as section 24G became synonymous with 'act now and pay later', it was as a fait accompli that provided leverage for abuse by developers, and which facilitated non-compliance with the objects of NEMA.*" This judicial recognition of the abuse of section 24G affirms that, in some instances, retrospective environmental authorisations have been exploited as a mechanism to circumvent the proactive safeguards embedded in South Africa's environmental governance framework. The Court's language makes it plain that this practice undermines the foundational objectives of NEMA, which include sustainable development, precaution, and environmental justice.
- 4.15 The Applicant's conduct exhibits precisely this kind of opportunism: knowing full well the sensitive nature of the site and the legal requirements, the Applicant proceeded to destroy protected vegetation and construct permanent dwellings, and only thereafter sought ex post facto legal cover under this section 24G.
- 4.16 Such conduct runs contrary to the core environmental management principles enshrined in section 2 of NEMA, particularly the principles of precaution, accountability, and the rule of law. It cannot be condoned under the guise of administrative regularisation.

- 4.17 The section 24G process was never intended to be a convenient after-the-fact validation for knowingly unlawful developments, but a narrowly tailored remedy for genuine cases of inadvertent non-compliance. The Applicant's actions instead amount to calculated defiance, and the current application must therefore be rejected in principle and on law.

5. VISUAL TIMELINE SUPPORTING THE CHRONOLOGY OF UNLAWFUL DEVELOPMENT – AREA 2

- 5.1 Area 2: Farm RE/420 – Roads, dwellings, structures, water storage. Area 2 includes the unlawful clearance of indigenous vegetation for dwellings, a reservoir (9,000 m²) and connecting roads between Area 2 and Area 3 of 10,000 m² (Figure 5 in Annexure "**B-1**").
- 5.2 The Terrestrial Biodiversity and Plant Species Themes Assessment (21 August 2024) undertaken by Confluent Environmental (Pty) Ltd, as part of this Section 24G application, provides an accurate timeline of the unlawful development of these dwellings (Figure 6 in Annexure "**B-1**").
- 5.3 The two unlawful dwellings are located in areas that consist of sites with Very High Site Ecological Importance (SEI) (Figure 7 in Annexure "**B-1**").
- 5.4 The layout plan (Figure 5 in Annexure "**B-1**"), as it appears in the Section 24G application form, does not include the additional cleared areas for roads identified by the Terrestrial Specialist in their assessment (Figure 8 in Annexure "**B-1**").
- 5.5 The terrestrial specialist indicated that the most recent road clearing (yellow dotted line) in Figure 8 of Annexure "**B-1**" occurred between their initial and second site assessments (between May and August 2024) and cannot be seen on updated Google Earth imagery at the time of

writing. The specialist further indicated that there were additional roads (white dotted lines) shown in Figure 8 of Annexure "**B-1**" that were constructed between November 2022 and May 2024, including two small connection roads presumably made as shortcuts along the valley bottom.

- 5.6 The southern dwelling (Figure 8 of Annexure "**B-1**") and connected roads were constructed between 2019 and 2024 within Critically Endangered Garden Route Granite Fynbos and Critically Endangered Gouritz Valley Thicket.
- 5.7 It is evident that the areas identified as "disturbed/cleared" in the Section 24G application, as well as in the Terrestrial Biodiversity and Plant Species Theme Assessment dated 21 August 2024, fail to capture the full extent of actual disturbance. Notably, the mapping excludes various features, such as additional roads, which are clearly visible as white dotted lines and form part of the broader disturbed footprint.
- 5.8 The information provided in the Section 24G application form and the Terrestrial Biodiversity and Plant Species Themes Assessment dated 21 August 2024 reveals critical omissions in the assessment of Area 2, particularly regarding the true extent of cleared or disturbed land. The development footprint in Area 2 includes dwellings, a reservoir, and roads, with estimated clearances of at least 9,000 m² and 10,000 m², respectively. However, the mapping and impact delineation in the Section 24G application grossly underrepresents the full extent of the disturbance.
- 5.9 The terrestrial specialist acknowledges that significant road clearing occurred between their initial and follow-up site assessments, from May to August 2024. Moreover, additional roads (indicated by white dotted lines) were constructed between November 2022 and May 2024,

including shortcut roads along valley bottoms. Yet, these features are not accounted for in the official layout presented in the Section 24G application form.

- 5.10 These omissions are significant and material. They not only render the Section 24G application incomplete and misleading but also raise serious concerns about whether the terrestrial specialist was afforded full access to accurate, up-to-date data for evaluating ecological impacts. Our client's view is that any credible environmental impact assessment must be grounded in a complete and transparent disclosure of on-site activities, particularly where those activities occur in ecosystems designated as Critically Endangered, such as the Garden Route Granite Fynbos and the Gouritz Valley Thicket.
- 5.11 The failure to include all disturbed areas and newly cleared roads, despite their clear visibility on aerial imagery, directly supports our contention that the Applicant has engaged in a sustained pattern of withholding material information and continuing unlawful development. It further reinforces the conclusion that the Applicant acted with full knowledge of the site's sensitivity and the need for prior environmental authorisation.
- 5.12 It is of particular concern that the Applicant and EAP appear to be using the current Section 24G process to not only retrospectively authorise unlawful past activities, but to include proposed new clearance activities as well. This represents a procedural abuse of section 24G.
- 5.13 Given that the most recent imagery available to our client is from May 2024, and that the EAP relies on assessments conducted before or during August 2024, it is impossible to verify whether the Applicant has commenced with further unauthorised clearance activities since that date. There is no reliable assurance provided in the application to

support this claim. In these circumstances, our client demands that the competent authority require up-to-date LIDAR drone imagery and mapping, produced by an independent third party, to accurately identify all disturbances and confirm whether proposed new activities have in fact been initiated.

5.14 In terms of the empowering legislation, the competent authority is not only empowered but also mandated to issue an immediate written directive requiring the cessation of all unlawful and proposed activities. DEADP has been aware of these contraventions since at least 2019, when the Department confirmed the unlawful commencement of listed activities. Since then, the Applicant has continued to expand the footprint of disturbance, including road construction, without valid authorisation from August 2024.

5.15 Our client accordingly demands that the competent authority immediately exercise its statutory powers and issue a cessation directive as required by law. Allowing unlawful development to continue under the cover of a pending section 24G application, particularly on land of critical conservation value, not only violates the rule of law but also directly contravenes the core principles of NEMA. These include the precautionary principle, the preventative principle, and the duty of care imposed by section 28 of NEMA. Continued inaction in the face of known violations is indefensible and facilitates further harm to an already threatened ecosystem.

6. VISUAL TIMELINE SUPPORTING THE CHRONOLOGY OF UNLAWFUL DEVELOPMENT – AREA 3

6.1 Area 3: Existing dam, proposed dam, road crossing, solar. Area 3 includes the clearance of indigenous vegetation for a solar farm of

approximately 800 m², an "existing dam", a road crossing and a proposed new dam (Figure 9 in Annexure "B-1").

- 6.2 A Google Earth imagery dated April 2019 (Figure 10 in Annexure "B-1") demonstrates that the so-called "existing dam/road crossing" was deliberately constructed as a dam structure. The image reveals associated infrastructure, including a pump house and solar panels, which were evidently installed to power irrigation pumps, confirming that this was a planned and engineered dam development, not a mere pre-existing feature.
- 6.3 The Terrestrial Biodiversity and Plant Species Themes Assessment (21 August 2024), indicates that the Aquatic specialist report states that "*...a road crossing the Ruiterbos River at the current dam location has existed since at least 2005*" and that the "*river crossing and current instream dam location is first visible in 2017, as prior to this, the entire area was heavily invaded with Black wattles (Acacia mearnsii)*."
- 6.4 A Google Earth image dated December 2005 (Figure 11 in Annexure "B-1") indicates a road crossing the Ruiterbos River. Still, it does not include a dam structure complete with solar panels and irrigation infrastructure (Figure 12 in Annexure "B-1").
- 6.5 The Applicant and the EAP now appear to rely on the presence of this rudimentary 2005 road to downplay or justify the current unlawful dam/weir development. This is a transparent attempt to suggest that the transformation of the road into a full dam, along with its associated infrastructure, was a natural or permissible progression. Such reasoning is legally and factually flawed.
- 6.6 The existence of a prior road crossing does not confer blanket authorisation for subsequent dam construction or activities within a

regulated watercourse. These developments required prior environmental authorisation. The attempt to sanitise the unlawful construction by retroactively linking it to a historical road is disingenuous and misleading and should not be condoned under Section 24G.

- 6.7 The unlawful construction and expansion of the dam/weir structure is unequivocally confirmed by the aquatic ecologist, Dr James Dabrowski, in his Aquatic Specialist Report. Dr Dabrowski states: "*A notable change occurred in 2024, when the road crossing was visibly upgraded and the inundated area upstream of the road was enlarged. The site visit confirmed the presence of a road supported by gabion baskets which essentially acts as [a] small dam/weir.*"
- 6.8 This observation is damning on both the Applicant and the EAP. It establishes that a functional dam structure was created through intentional modification of a river crossing, complete with gabion reinforcement and sediment excavation to enlarge the upstream basin. Moreover, the report records significant alterations to the river's bed and banks, including sediment deposition downstream and channel widening, which are all regulated water uses under section 21 of the National Water Act and trigger listed activities under the EIA Regulations.
- 6.9 The fact that these actions were undertaken without environmental authorisation and water authorisation confirms a direct and ongoing contravention of environmental legislation. The specialist's findings further expose the false narrative advanced by the Applicant, namely, that the structure is merely a benign road crossing. The structure constitutes a dam with material ecological consequences, constructed unlawfully and in defiance of regulatory requirements. This is not a technical oversight; it is a deliberate breach of environmental law that warrants enforcement action.

- 6.10 The Terrestrial Biodiversity and Plant Species Themes Assessment (21 August 2024), further identifies altered roads and several new roads and that *"these new roads fall outside of the scope of this assessment, however they are significant enough to warrant mention in this report."*
- 6.11 This admission is concerning. It confirms that the EAP included roads in the application documentation that were not assessed by the specialist, despite being materially significant from an ecological and regulatory standpoint.
- 6.12 In our view, this represents a serious procedural and substantive flaw in the Section 24G application. The exclusion of these new roads from the formal specialist scope as instructed by the EAP, and therefore the specialist assessment, renders the report incomplete and unreliable and highlights the piecemeal and selective disclosure that has characterised this entire application process.
- 6.13 Given the ongoing nature of the disturbance and the specialist's admission that certain developments were excluded from assessment, it is imperative that an updated, comprehensive site plan be generated using July 2025 LIDAR drone imagery produced by an independent third party. This is necessary to accurately quantify the true extent of the unlawful activities and assess their cumulative impacts—something the current application fails to do. Without such an update, the competent authority cannot lawfully make an informed decision as required under section 24O of NEMA.
- 6.14 We reiterate that the competent authority is now legally obligated to issue a cessation order in terms of sections 24G(2A), 24F(2), and 31L of NEMA. The evidence presented, including the specialist's findings, shows that unlawful activities are ongoing and that proposed

developments are being introduced without proper assessment or authorisation. Continuing to entertain this application without halting all current and proposed activities will not only perpetuate environmental harm but also render the regulatory process meaningless.

- 6.15 The Section 24G application refers to the construction of a "proposed" dam with a storage capacity of approximately 150,000 m³, a dam wall height of 12 metres, including a 2-metre freeboard, and an estimated surface area of 2 hectares, to be confirmed during the detailed design phase.
- 6.16 However, Figure 14 & Figure 15 in Annexure "**B-1**" clearly demonstrate that physical activities associated with the development have already commenced. Most notably, the images reveal the presence of a coffer dam, which forms part of the preparatory works for the larger dam construction. This confirms that the activity is no longer merely "proposed" but has in fact already physically commenced on site.
- 6.17 In terms of the 2014 EIA Regulations, "commence" includes "*the start of any physical activity on the site in furtherance of a listed or specified activity, including site preparation...*". The construction of a coffer dam as part of the main dam project meets this definition and therefore constitutes the commencement of a listed activity without prior authorisation. This places the Applicant in direct contravention of section 24F(1) of NEMA, which prohibits such commencement without an environmental authorisation.
- 6.18 It follows that the inclusion of this dam under the guise of a "proposed" activity within the current Section 24G application is legally untenable. Section 24G(1) applies strictly to persons "*who have commenced a listed or specified activity without an environmental authorisation in contravention of section 24F(1)*".

- 6.19 If the dam had not yet commenced, it should be excluded from the Section 24G process and subjected to a full environmental impact assessment under Chapter 5 of NEMA. If it has commenced, as evidenced, it must be disclosed. The language used by the EAP and the Applicant is misleading. It creates uncertainty as to whether they are seeking authorisation for a future development or the continuation of an activity already in progress. This ambiguity, particularly when set against objective evidence of site works, points to an attempt to obscure the actual legal status of the dam. Such conduct conflicts with the requirements of transparency, good faith, and lawful procedure under NEMA.
- 6.20 In light of this, our client reiterates that the competent authority is obligated to issue a cessation directive in terms of section 31L of NEMA, given that unlawful activities have already commenced within a regulated watercourse. The factual evidence contradicts the 'Applicant's presentation and necessitates immediate regulatory intervention.
- 6.21 The area in which the unlawful dam construction is taking place falls within a water-scarce region, where surface water availability is limited and water resources are already under significant pressure. Any interference with the natural flow of water, such as damming or abstraction, has the potential to severely impact downstream users, including surrounding agricultural operations, rural communities, and ecosystems that rely on the uninterrupted availability of water. The presence of a coffer dam and related construction activities that alter the natural hydrological regime exacerbate these impacts, particularly in dry seasons or low-flow periods. The Hydrological Assessment (Appendix H5) identifies registered abstraction points by querying the Department of Water and Sanitation's WARMS database and maps them in Figure 3, then concludes that "there are no additional water users on the

Ruiterbos River downstream of the proposed dam” and quantifies licensed abstractions in the Brandwag River catchment. Although this desktop exercise may constitute a regulatory check, the documents include no evidence of a field-based or stakeholder survey of downstream users, nor any interviews or questionnaires typically associated with a dedicated downstream-user survey.

- 6.22 Despite this clear risk, no socio-economic impact assessment has been undertaken or included in the Section 24G application. This is a material omission, particularly because constructing a large dam in a water-scarce region will likely reduce or interrupt downstream flows, potentially harming other lawful users and compromising community water security.
- 6.23 Although Section 24G is a remedial provision, the competent authority must still comply with the decision-making requirements under Section 24O(1)(b), which obliges it to consider any environmental impacts or degradation likely to result from the activity if authorised.
- 6.24 In addition, section 2(4)(i) of NEMA requires that *"the social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated"*. In the absence of a socio-economic impact assessment that addresses the consequences of damming and altering natural water flow in this context, any decision to authorise the activity would be irrational, procedurally unfair, and legally reviewable under the Promotion of Administrative Justice Act, 2000 (PAJA).
- 6.25 Our client once again urges the competent authority to act decisively and in accordance with its legislative mandate by immediately issuing a directive in terms of section 31L of NEMA to halt all ongoing dam construction activities, including any further site works. In addition, the competent authority must require the rehabilitation of all areas already

affected, including the removal of the coffer dam and the restoration of natural water flows within the watercourse. These actions are not discretionary, they are necessary to prevent further environmental harm, ensure compliance with the law, and uphold the integrity of the environmental governance framework.

- 6.26 Failure to do so would not only perpetuate environmental injustice but would expose the competent authority to potential judicial review for authorising or tolerating a development in the absence of the lawful procedural safeguards required under NEMA.

7. VISUAL TIMELINE SUPPORTING THE CHRONOLOGY OF UNLAWFUL DEVELOPMENT – AREA 4

- 7.1 Area 4: Agricultural area and supporting activities – ptn 373. Area 4 includes a list of thirteen (13) land parcels identified by the EAP as "*in use/past use/future use – not feasible*" and describes these activities in Section B: Activity Information in the Section 24G application form as either "*Current agricultural activities in place developed on past used agricultural areas (disturbed within previous 10 years), Current on disturbed and Proposed*" (Figure 16 in Annexure "**B-1**").
- 7.2 This objection will not address each of the seventeen (17) land parcels in Area 4 individually. Instead, we will refer to a few illustrative examples to highlight critical deficiencies in the application. It is our firm view that the EAP must include a comprehensive and clearly annotated map that distinguishes, with precision: (i) which areas have been used for agricultural purposes within the preceding ten-year period; (ii) which areas are currently in agricultural use as of July 2025; and (iii) which areas have been unlawfully cleared or developed without environmental authorisation.

- 7.3 The application, as it stands, fails to provide this level of detail, rendering it incomplete and legally insufficient for meaningful assessment. Each area where unlawful activities have occurred must be clearly demarcated, mapped, and discussed individually, with supporting evidence to determine the nature and extent of the contraventions. Moreover, we reiterate that this Section 24G process cannot be used to authorise future or proposed agricultural development, and such activities must be excluded from consideration.
- 7.4 Areas 4-10 and 4-11, as depicted in Figure 16 of Annexure "**B-1**", overlap with the area shown in Figures 17 and 18 of the same Annexure. These figures indicate that portions of this land were not under active agricultural use during the ten (10) years preceding the current period, and that the Applicant undertook the unlawful clearance of approximately 2,60 Ha. No prior environmental authorisation supported this clearing, constituting a direct contravention of the applicable environmental legislation.
- 7.5 Area 4-14, as depicted in Figure 16 of Annexure "**B-1**" is described as "In use and Past use" by the EAP, however, as can be seen by Figures 19 and 20 of the same Annexure, some portions of this land were not under active agricultural use during the ten (10) years preceding the current period, and that the Applicant undertook the unlawful clearance of approximately 7,97 Ha.
- 7.6 A portion of Area 4-15 in Figure 16 of Annexure "**B-1**" is described as "*Retain as fynbos No agricultural expansion permitted.*" However, Figures 21 and 22 of the same Annexure indicate that the Applicant cleared large portions of this area during December 2018, of approximately 13,00 Ha.

- 7.7 Area 4-16 in Figure 16 of Annexure "**B-1**" is described as "*Area surrounding dam should be mulched and planted.*" However, this dam is also unlawful, as Figures 23 and 24 of the same Annexure indicate.
- 7.8 The information provided indicates that several areas identified by the EAP as being in current or past agricultural use were, in fact, not cultivated during the preceding ten-year period. Despite this, extensive land clearing was undertaken without environmental authorisation, in direct contravention of NEMA.
- 7.9 In some instances, areas explicitly designated or excluded from further agricultural expansion were also cleared. Specialists did not properly assess these activities, and the EAP failed to provide adequate detail on the extent of the disturbance or its ecological impact. Consequently, the Section 24G application is materially flawed and does not meet the standards required for lawful consideration.
- 7.10 It is concerning to note that the Agricultural Botanical Assessment (Appendix H2 of the Section 24G application) in Section 6.1.2 claims that the land earmarked for transformation supports no Critically Endangered ecosystems and is of only "Moderate-to-Low" ecological sensitivity. This assertion is patently false and viewed as a fatal flaw.
- 7.11 The Western Cape Biodiversity Spatial Plan mapping submitted as Appendix E in the Section 24G report (Maps 3 & 4) shows the proposed cultivation footprint overlapping directly with a mapped Critical Biodiversity Area (CBA) and its adjoining Ecological Support Area, both of which include remnants of Critically Endangered Garden Route Granite Fynbos and Gouritz Valley Thicket.
- 7.12 By definition, CBAs represent irreplaceable habitat required to meet provincial conservation targets, and any further habitat loss within them

is prohibited unless no reasonable alternative exists. The Agricultural Botanical Assessment's failure to acknowledge this legally recognised status, despite corroborating evidence in the Jan Vlok (2019) botanical report and the Terrestrial Biodiversity Assessment, constitutes a material misrepresentation. The competent authority is therefore urged to reject Agricultural Botanical Assessment's sensitivity rating and recognise that the development site lies within a CBA of the highest conservation concern, rendering the proposed transformation *prima facie* unacceptable and unlawful.

- 7.13 The Hydrological Assessment (Appendix H5 in the Section 24G report), in Section 4.3, confirms that the existing lawful water sources, namely Schedule 1 use and the current General Authorisations, are insufficient to satisfy the irrigation demands associated with the proposed expansion. Consequently, the report recommends constructing a new 135,000 m³ dam (identified as OGF2) and submitting a future Water Use Licence (WUL) application. Likewise, Section 5.1 proposes an additional annual abstraction of 100,000 m³ to 135,000 m³ to meet anticipated crop requirements.
- 7.14 These forward-looking recommendations concern infrastructure and water uses that have not yet commenced and therefore fall outside the remedial scope of Section 24G, which is confined to regularising activities already undertaken unlawfully.
- 7.15 Reinforcing this, the Draft Environmental Management Programme (EMPr), in Section 5.1.1, prescribes mitigation measures for the construction of new abstraction works and associated pipeline infrastructure, confirming that these works remain unbuilt. The inclusion of such future-oriented measures within a Section 24G process constitutes a procedural defect because the statute does not permit prospective authorisation under its remedial framework.

- 7.16 The Soil Assessment Report (Appendix H3 in the Section 24G report) highlights the prospective nature of the proposed agricultural expansion. Section 3.3 assesses the current and future suitability of the subject land for high-value crops, such as avocado, macadamia, and maize, specifically linking the analysis to areas that have not yet been cultivated or transformed.
- 7.17 Building on this, Section 4.2 concludes that the soils are "well suited" for establishing new orchards and recommends their development accordingly. These findings and recommendations are unambiguously forward-looking, designed to motivate future land-use change and vegetation clearance rather than to regularise activities that have already occurred.
- 7.18 As Section 24G of the National Environmental Management Act is strictly remedial, limited to authorising activities commenced without prior approval, the inclusion of such prospective land-transformation justification renders the current application procedurally defective. For this reason, the competent authority is urged not to rely on the Soil Assessment Report to authorise new cultivation under the present Section 24G process.
- 7.19 The Jan Vlok Botanical Report (Appendix J6-4 in the Section 24G report) provides clear, forward-looking warnings that the project team has failed to heed. Section 4 of his report confirms that the site contains Critically Endangered Garden Route Granite Fynbos, which is highly vulnerable to cumulative degradation, even on partially disturbed ground.
- 7.20 Section 5 of his report, therefore, urges strict avoidance of any further transformation in botanically diverse areas where threatened species may persist. In contrast, Section 6 of his report (page 8) emphasises that

the mere regrowth of indigenous plants does not signify ecological recovery.

- 7.21 None of these findings are reflected in the Draft EMP or later botanical assessments (Appendices H1 and H2 of the Section 24G report), which label the footprint "previously transformed" to justify new agricultural expansion. Omission of the 2019 Vlok report's cautions amounts to a material flaw in the impact assessment. Further, it demonstrates that the present Section 24G application seeks to authorise prospective biodiversity loss contrary to specialist advice and statutory requirements.

8. PROPOSED FUTURE DEVELOPMENTS & LISTED ACTIVITIES

- 8.1 The EAP states in the Section 24G application form that the Applicant intends to include a predator enclosure as part of this application, allegedly situated on a previously disturbed agricultural footprint. However, analysis of Google Earth imagery reveals that vegetation clearing has already taken place over an area of approximately 11 hectares, contradicting the claim that the site was previously disturbed and raising serious concerns about the accuracy of the information submitted (Figures 25 and 26 in Annexure "B-1").
- 8.2 The Section 24G application form contains numerous references to proposed or future developments that the Applicant seeks to include within the current application, such as the development of a new dam and additional agricultural activities on 80 Ha. This is highly problematic.
- 8.3 Section 24G of NEMA is not designed to facilitate the authorisation of activities that have yet to commence. It is a remedial provision intended exclusively for the regularisation of listed or specified activities that have already commenced unlawfully, in contravention of section 24F(1).

- 8.4 Section 24G(1) expressly provides that only a person "who has commenced a listed or specified activity without an environmental authorisation" may submit an application in terms of this section. The trigger for invoking section 24G is the unlawful commencement of a listed activity, not a proposed intention to undertake such activity in future. Including activities that have not yet physically commenced under the umbrella of section 24G is ultra vires, procedurally irregular, and in direct conflict with the text, purpose, and legal interpretation of the provision.
- 8.5 The inclusion of future developments in a Section 24G application and the draft EMP¹ not only distorts the legal framework but also undermines the environmental authorisation system established by NEMA. Proposed activities must be assessed through the standard EIA process set out in Chapter 5, which includes proper scoping, impact assessment, specialist input, and public participation. Attempting to sidestep these safeguards by using section 24G as a forward-looking approval mechanism is an abuse of process.
- 8.6 It is therefore imperative that the competent authority reject all components of the application that relate to future or proposed activities and restrict its assessment strictly to those activities that had physically commenced prior to the submission of the Section 24G application, as required by law.
- 8.7 It is essential that the applicant and the Environmental Assessment Practitioner (EAP) undertake a thorough re-evaluation of the activities listed in Section B of the Section 24G application form. The current

¹ The Draft EMP¹ specifically includes the following in Section 4.3, page 20 (Table 6): "Listing Notices LN1: 12, 19, 27 and LN3: 12" — many of which are linked to planned infrastructure expansion, e.g. new dams >50m³ within a watercourse, clearance of >300m² of indigenous vegetation, and linear infrastructure in sensitive areas.

formulation is inadequate and cannot be accepted by the competent authority as it stands, given the inclusion of activities beyond the lawful scope of a Section 24G process and the lack of clarity regarding what has been commenced unlawfully versus what remains proposed.

9. LEGAL GROUNDS FOR OBJECTION AND RELIEF SOUGHT

- 9.1 The Section 24G application submitted by the Applicant for Outeniqua Game Farm is materially defective and substantively flawed for several interrelated reasons, each of which highlights serious violations of the National Environmental Management Act, 1998 (NEMA) and its associated regulations.
- 9.2 Firstly, it is unequivocal from the Impact Assessment report, the EAP's application form, and supporting documentation that the Applicant has improperly included proposed and future developments, such as the predator enclosure, future clearance activities for agricultural activities and the proposed 150,000 m³ dam, as part of this Section 24G application. This is unlawful.
- 9.3 Section 24G(1) of NEMA applies only to persons who have already commenced a listed or specified activity without environmental authorisation. It does not permit consideration of future or prospective developments, regardless of whether they are referenced within the same geographical footprint. The inclusion of these undeveloped activities within the scope of the Section 24G application is ultra vires and invalid. Such activities must be subject to a separate environmental authorisation process under Chapter 5 of NEMA and the EIA Regulations of 2014 (as amended). The EAP's inclusion of these "proposed" works reflects a fundamental misunderstanding, or deliberate distortion, of the law.

- 9.4 Secondly, the Applicant's declaration under Part 3 of Section C of the application form, where they state, "The applicant was not aware that an environmental authorisation was required," constitutes a material and intentional misrepresentation.
- 9.5 This statement is factually untrue and amounts to bad faith. Official correspondence from the competent authority and their own appointed specialists clearly confirmed that the site comprises Critically Endangered Garden Route Granite Fynbos and that any clearance of vegetation or construction would trigger listed activities under the EIA Regulations. We also again refer to our question posed in paragraph 11 below.
- 9.6 Notwithstanding this clear warning, the Applicant continued with development activities, including clearance of large swaths of indigenous vegetation, the construction of roads, dwellings, reservoirs, a weir, and possible components of a large dam, all in the absence of any environmental authorisation. This conduct reflects a willful disregard for the law and raises questions about the integrity of the Applicant's conduct throughout this process.
- 9.7 Third, the Impact Assessment fails to assess the full extent of unlawful activities and disturbances. The assessment does not accurately capture all the disturbed areas. Several areas described by the EAP as "disturbed" or "previously used for agriculture" fall outside of any legitimate 10-year agricultural use window and were, in fact, part of intact ecosystems that were unlawfully cleared.
- 9.8 The Applicant's mapping does not clearly distinguish, in individually assessed land parcels, between lawfully disturbed, historically used, and unlawfully transformed areas enough, making it impossible for the competent authority to determine the true scale of the contraventions.

- 9.9 In several instances, the terrestrial specialist explicitly noted that recently constructed roads were excluded from their assessment. No independent verification was conducted via up-to-date LIDAR drone surveys. The dam-related activities alone have already affected a river system through the installation of a coffer dam, infilling, and channel modification, all of which are visible on satellite imagery but unaccounted for in the assessment.
- 9.10 Additionally, despite being located in a water-scarce region with evident reliance by downstream users, no socio-economic impact assessment was conducted. Section 24O(1) of NEMA requires that the competent authority must take into account all relevant factors when considering an application, including the nature and extent of the impact on the environment and socio-economic conditions.
- 9.11 The unlawful dam construction or “proposed new dam” poses serious implications for downstream water users, yet the EAP has entirely ignored this issue. This omission is material and renders the assessment incomplete and procedurally unfair.
- 9.12 Finally, this is not the first instance in which the competent authority has raised concerns with the Applicant's conduct on this site. The record confirms that the Department was aware of unauthorised development in 2018. Despite this, the Applicant continued development without securing authorisation.
- 9.13 The conduct amounts to a deliberate and intentional disregard of both legal obligations and direct instructions from the Department. Continued reliance on a Section 24G application to retroactively legalise these acts undermines not only NEMA, but the constitutional imperative to safeguard the environment for current and future generations.

- 9.14 Our client accordingly calls upon the competent authority to exercise its powers under NEMA, the EIA Regulations, and the Constitution, and to take immediate and decisive action, as it is clear that Section 49A offences were committed.
- 9.15 The competent authority must reject all proposed or future activities included in the Section 24G application. These activities, such as the 150,000 m³ dam, predator enclosure and future agricultural activities, are not eligible for consideration under Section 24G and must be subject to a new, independent environmental impact assessment process.
- 9.16 The competent authority must issue a compliance notice in terms of section 31L of NEMA, instructing the cessation of all ongoing development. This includes any continuation of dam construction, road clearing, infrastructure placement, or other earthworks that are presently being conducted without valid environmental authorisation. Failure to do so would enable the very kind of self-help and legal circumvention that the courts have condemned.
- 9.17 The authority must further instruct the Applicant to undertake full rehabilitation of all areas that were unlawfully cleared or disturbed, especially within Critically Endangered Garden Route Granite Fynbos. This rehabilitation must be enforced through specific timeframes, detailed monitoring requirements, and independent verification.
- 9.18 Given the seriousness of the Applicant's non-compliance, the competent authority must impose the maximum permissible administrative fine under Section 49(B) of NEMA. The Applicant was aware of their legal obligations, ignored explicit warnings, misrepresented material facts, and continued to expand unlawful activities. These aggravating circumstances justify the highest possible penalty.

- 9.19 Finally, the authority must require an independent audit, including updated independent high-resolution LIDAR mapping, to determine the full extent of disturbances. Without such a baseline, enforcement and rehabilitation will remain arbitrary and ineffective.
- 9.20 This Section 24G application, in its present form, not only fails to comply with the legal requirements for retrospective environmental authorisation, but it also actively undermines the principles of environmental justice, transparency, and accountability enshrined in NEMA. The Applicant's misrepresentation, the unlawful inclusion of proposed activities, the incomplete assessment of environmental and socio-economic impacts, and their continued contraventions despite official warnings, demand a firm and lawful response. Allowing this application to proceed unchallenged would reward illegality and set a dangerous precedent for other developers. Our client, therefore, formally requests that the competent authority uphold the rule of law, give effect to its constitutional obligations, and grant the relief set out herein.

10. CLARIFICATION QUESTIONS:

In addition to the information requested in above paragraphs, we will require a reply to the following: -

- 10.1. Section C: Quantum of the Section 24G Fine (page 3 of the application form) – Under the heading Socio-Economic Impact, the applicant has failed to select the appropriate box reflecting the actual or potential impacts of the unlawful activities. Instead, the applicant focuses exclusively on the purported benefits of the site, such as tourism attractions and accommodation, while completely disregarding the socio-economic consequences of the unlawful activities that have already taken place. This omission represents a failure to engage with the core purpose of the Section 24G process, which is to assess the full

extent of harm caused by unauthorised activities, both environmental and socio-economic.

- 10.2. In your application form, the proposed instream dam is described as having a maximum height of 12 meters and a storage capacity of 150,000 cubic meters. However, in the public notice, it is stated that a new dam with a capacity of 120,000 cubic meters is proposed, with the dam wall reaching a maximum height of only 5 meters. This inconsistency raises serious concerns regarding the accuracy and reliability of the information presented to both the competent authority and the public.
- 10.3. Section 10: Regional Planning Context. Under the question of whether the activity will be in line with the Provincial Spatial Development Framework (PSDF), you have failed to provide an answer.
- 10.4. Section D: Need and Desirability. In response to Question 2, you indicated that the activity aligns with the Provincial Spatial Development Framework (PSDF) and justified this by stating that the activities “address biodiversity threat (AIS removal), provide housing to staff, and create work opportunities.” However, given the context of the unlawful activities already undertaken on site, a far more thorough and objective assessment is required. The explanation provided is superficial and fails to critically assess whether the unauthorised development is indeed consistent with the strategic objectives and land use priorities outlined in the PSDF.
- 10.5. Section D: Need and Desirability. In response to Question 2(c), you answered “No” to the question whether the approval of this application have compromised the integrity of the existing approved and credible municipal IDP and SDF, and claim the development footprint is 122.5 ha, with the exception of 3.7 ha, which is 55 ha smaller than past use areas,

and that this 55 ha will be incorporated back into the CBA. However, our assessment shows that the extent of unlawful clearing is far greater than the indicated 3.7 ha. Furthermore, no explanation is provided on how the 55 ha will be restored or why it qualifies for re-incorporation into a CBA, casting doubt on the validity of this claim.

- 10.6. Section D: Need and Desirability. In response to Question 2(e), which asks whether approval of the application would compromise existing environmental management priorities, particularly in terms of the Environmental Management Framework (EMF), you answered “No,” without any reference to the applicable Garden Route EMF. Instead, you broadly state that the proposal is “*acceptable and in line with land planning and conservation targets.*” This response is wholly inadequate, especially considering that the applicant has already destroyed critically protected biodiversity, directly undermining the very priorities the EMF seeks to uphold.
- 10.7. Section D: Need and Desirability. In response to Question 2(f), you state that “all relevant legislation, plans and policies have been considered” and that the proposal is “acceptable and in line with land planning and conservation targets.” This assertion is fundamentally flawed, as the applicant has already destroyed critically protected biodiversity on the site. It is therefore unclear how the activities can be deemed consistent with conservation targets when they directly undermine them.
- 10.8. In the Section 24G application form you identified Activity 18 of Listing Notice 1 which reads: “*Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development: (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare*”. You indicate that “*The development on the property is not considered to be*

residential, mixed, retail, commercial, industrial or institutional.” How is a restaurant and tourism activity not a commercial activity that requires an authorisation?

11. We have previously communicated with you pertaining to having registered as an IAP for “proposed new developments” (at that stage) on the properties in October 2021. At that stage the environmental consultant was a Mr. West and Mr. Kleynhans. We raised pertinent issues, at that stage already, which had to be addressed by these consultants and by the owner. It seems as if the owner proceeded with its intended actions as it simply ignored the environmental requirements. In fact, the erstwhile environmental consultant specifically confirmed that his instruction was that the intended actions was on hold as a result of the impact on the environment, specifically for downstream owners. Nowhere in the Section 24G Application is this issue addressed and is there no transparency whatsoever on the instructions and information to the previous consultants – and more specifically why the owner decided to rather simply proceed with the unlawful activities than to have it lawfully regulated, probably in line with advice from his erstwhile consultants. We will, in short, request you to specifically deal with the previous intended applications as this is critical to consider why the owner proceeded (having full knowledge of the process).
12. We trust you will find it in order and kindly request you to acknowledge receipt.

Yours faithfully,

VAN DER MERWE & VAN DER MERWE

PER: PIETER VAN DER MERWE

24G Consultation: 14/2/4/1/D6/28/0004/20

Notice of Referral to Criminal Investigations

The Director
Outeniqua Game Farm CC
P. O. Box 59
RUITERBOS
6499

Cell: (082)2189633
Email: ogfcc1@gmail.com

Attention: Kerry G. Smith

NOTICE OF REFERRAL OF THE 24G PRE-APPLICATION CONSULTATION TO ENVIRONMENTAL CRIMINAL INVESTIGATIONS REGARDING THE UNLAWFUL CLEARANCE OF VEGETATION AND CONSTRUCTION OF INFRASTRUCTURE WITHIN 32 METRES OF A WATERCOURSE ON ERF 373 AND 420, OUTENIQUA GAME FARM, MOSSEL BAY

1. This Department's Pre-Compliance Notice dated 18 March 2019, the Compliance Notice dated 27 May 2020, and the Information Requirement's letter dated 04 June 2020, has reference.
2. Please be advised that more than 4 years have passed since the issuing of the above-mentioned Information Requirements letter and to date no section 24G application has been submitted to the Department.
3. Please be advised that the above-mentioned consultation file (reference: 14/2/4/1/D6/28/0004/20) is hereby closed for all administrative purposes, and as such, the Directorate has closed the 24G Consultation case file for all administrative purposes with effect from the date of issue of this letter.
4. In light of the fact that no section 24G application has been received, the matter will now be referred for criminal investigative action.

5. Please be reminded that it is an offence in terms of Section 49A of the *National Environmental Management Act, 1998 (Act 107 of 1998)* ("NEMA") for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. A person convicted of an offence is liable to a fine not exceeding R10 million or imprisonment for a period not exceeding ten years, or to both such fine and imprisonment.



Mrs Z Toefy

Head of Rectification

Directorate: Environmental Governance

Zaidah Toefy

Digitally signed by Zaidah Toefy

Date: 2025.02.13 12:26:04

+02'00'

cc: (1) Andrew West (EAP)

(2) Jan Vlok (Botanist)

(3) Diana Mouton (DEA&DP: Environmental Law Enforcement)

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Email: Diana.mouton@westerncape.gov.za

Email: janet@ecoroute.co.za

REFERENCE: 14/1/1/E3/9/10/3/L1019/19
ENQUIRIES: D Mouton

BY EMAIL

Mr Clint Smith
PO Box 59
Ruitersbos
6499

[:ogfcc2@gmail.com](mailto:ogfcc2@gmail.com)

PRE-COMPLIANCE NOTICE

Dear Sir

**INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998**

1. During an investigation into allegations of the commencement of listed activities in contravention of section 24F of the National Environmental Management Act, 1998 ("NEMA") a site inspection was conducted at Farm Outeniqua Game No 420 and Farm No 373, Mossel Bay ("the properties") by Environmental Management Inspectors (EMIs) from the Department's Directorate: Environmental Law Enforcement together with officials from the Mossel Bay Municipality and accompanied by yourself on 13 February 2019, which confirmed that you have commenced with the clearing of indigenous vegetation of more than 1 ha, the clearing of endangered ecosystem vegetation (Garden Route Granite Fynbos) of more than 300m², the construction of a road wider than 4

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metres as well as infilling / moving of material within a watercourse on the aforesaid properties without environmental authorisation.

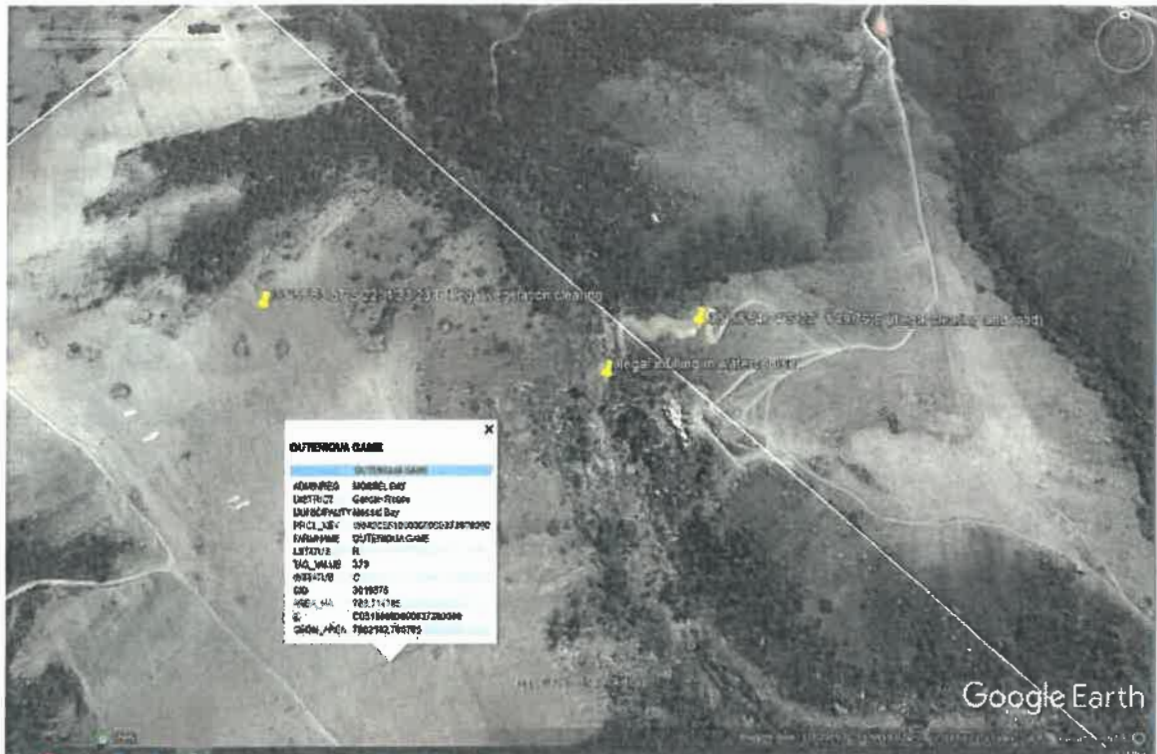


Aerial map 1: Location of some of the areas that have allegedly unlawfully been cleared on Farm No. 420 (Outeniqua Game Farm), Mossel Bay.

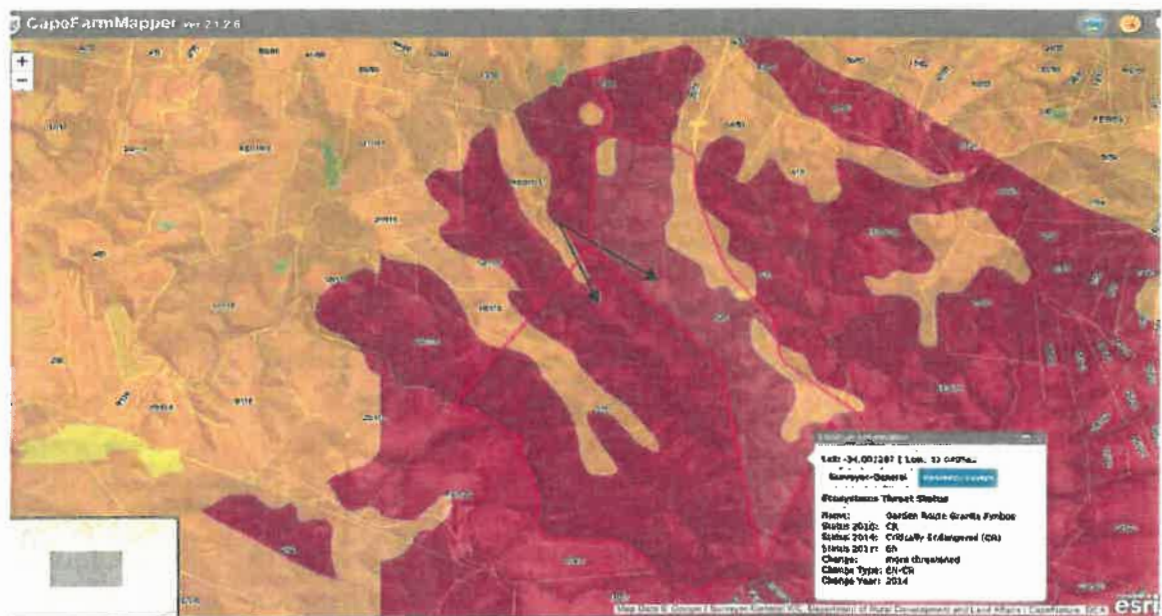
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Aerial map 2: Location and indication of alleged illegal vegetation clearing, illegal construction of a road and illegal infilling within a watercourse on Farm No 420 and 373, Mossel Bay.



Aerial map 3: Indication of the Ecosystem Threat Status classification of Critical Endangered Garden Route Granite Fynbos evident on the properties.

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Aerial map 4: Indication of the Ruiterbos River traversing through the properties and as indicated in white the area of concern regarding road construction and infilling within the watercourse that occurred.

2. In terms of section 24F of the NEMA, no activity listed in the Environmental Impact Assessment ("EIA") Regulations Listing Notice 1 and 3 of 2014 may commence without environmental authorisation from the competent authority.
3. On considering the evidence before me, there are reasonable grounds to believe that you have commenced the following listed activities without environmental authorisation:

EIA Regulations Listing Notice 1 of 2014:

Activity no. 19:

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;

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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.

Activity no. 27:

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) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.

Activity no. 28:

Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:

- (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or
- (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;

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excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.

EIA Regulations Listing Notice 3 of 2014:

Activity no. 2:

The **development of reservoirs**, excluding dams, with a capacity of more than 250 cubic metres.

i. **Western Cape**

- ii. A protected area identified in terms of NEMPAA, excluding conservancies;
- iii. **In areas containing indigenous vegetation;** or
- iv. Inside urban areas:
 - (aa) Areas zoned for use as public open space; or
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.

Activity no. 4:

The **development of a road wider than 4 metres with a reserve less than 13,5 metres.**

i. **Western Cape**

- ii. Areas zoned for use as public open space or equivalent zoning;
- iii. **Areas outside urban areas;**
 - (aa) **Areas containing indigenous vegetation;**
 - (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or
- iv. Inside urban areas:
 - (aa) Areas zoned for conservation use; or
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.

Activity no. 12:

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. Western Cape

- ii. 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;***
- iii. Within critical biodiversity areas identified in bioregional plans;***
- iv. 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;***
- v. 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***
- vi. 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.***

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Photo 1: View of alleged unlawful development of a dwelling within 32 metres from a watercourse and construction of an access road through the watercourse below on Farm 373 and Farm 420, Mossel Bay.



Photo 2: Another view of the construction of a road and associated infilling within a watercourse on Farm 373 and Farm 420, Mossel Bay.

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Photo 3: View of alleged unlawful vegetation clearing expansion occurred on Farm 420, Mossel Bay.



Photo 4: View of alleged unlawful vegetation clearing that occurred on another portion of Farm 420, Mossel Bay.

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Photo 5: View of alleged unlawful vegetation clearing and the development of a reservoir that occur on Farm 420, Mossel Bay.

4. The Department wishes to advise that on 4 December 2014, the Minister of Environmental Affairs promulgated the 2014 EIA Regulations. These Regulations came into effect on 8 December 2014 and was amended on 7 April 2017. Accordingly, activities which commenced prior to 7 April 2017 and which are similarly listed in the 2014 Regulations require prior environmental authorisation.
5. In terms of section 49A of the NEMA it is an offence to commence a listed activity without environmental authorisation. A person convicted of such an offence is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

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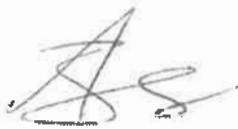
Page 10 of 12

6. As such, you are hereby given notice of the Department's intention to issue you with a Compliance Notice in terms of section 31L of the NEMA, which will instruct you to:
 - 6.1 immediately cease the above listed activities;
 - 6.2 investigate, assess and evaluate the impact that the listed activity has / has had on the environment;
 - 6.3 rehabilitate the entire site to its original condition;
 - 6.4 carry out any other measure necessary to rectify the effects of the unlawful activity
7. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of failing to comply with a Compliance Notice is liable to a maximum fine of R5 million or 5 years imprisonment or both such fine and such imprisonment.
8. You are afforded a period of **7 (seven) calendar days** from the date of receipt of this Pre-Compliance Notice to make written representations to the Department as to why a Compliance Notice should not be issued.
9. If you inform the Department, in respect of paragraph 7 above that you intend to rectify the non-compliance, you must cease the above listed activities and submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Pre-Compliance Notice, a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
 - 9.1 assessment and evaluation of the impact on the environment;
 - 9.2 identification of proposed remedial and/or mitigation measures
10. If the above plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.

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11. Approval of the above report by the Department does not remedy the unlawful commencement of the above activity, which remains unlawful in terms of section 49A(1) (a) and/or (d) of the NEMA.
12. If you wish to continue with the listed activity you may apply for environmental authorisation by way of a section 24G application. However, such application does not constitute permission to continue with the listed activity, which remains unlawful unless environmental authorisation is granted.
13. Notwithstanding the section 24G application, the Department may issue a Compliance Notice and/or commence criminal proceedings should circumstances so require.



Achmad Bassler

Director: Environmental Law Enforcement

Grade 1: Environmental Management Inspector

Date: 18/08/2019

CC:

Mr W Manuel (Mossel Bay Municipality) Email: wmanuel@mosselbay.gov.za

Mr R Leroux (Mossel Bay Municipality) Email: rleroux@mosselbay.gov.za

Ms S Pullen (DEA&DP - D:DM) Email: Shireen.Pullen@westerncape.gov.za

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REFERENCE: 14/1/1/E3/9/10/3/L1019/19
ENQUIRIES: D Mouton

BY EMAIL

Mr Clint Smith
PO Box 59
Ruiterbos
6499

E-mail: ogfcc2@gmail.com

COMPLIANCE NOTICE

Dear Sir

COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998

1. The Department's Pre-Compliance Notice dated 18 March 2019 and the S24G application Project Schedule (PS) dated 6 March 2020 received from your appointed Environmental Assessment Practitioner (EAP), Andrew West Environmental Consultancy, has reference.
2. Having considered your representations and the evidence before me, I, Achmad Bassier, in my capacity as an Environmental Management Inspector

Grade 1, hereby issues Mr Clint Smith, with a Compliance Notice in terms of section 31L of the National Environmental Management Act, 1998 ("NEMA").

3. This Compliance Notice relates to non-compliance with the provisions of section 24F of the NEMA. No activity listed in the Environmental Impact Assessment ("EIA") Regulations Listing Notice 1 and 3 of 2014 may commence without environmental authorisation from the competent authority.

Details of conduct constituting non-compliance

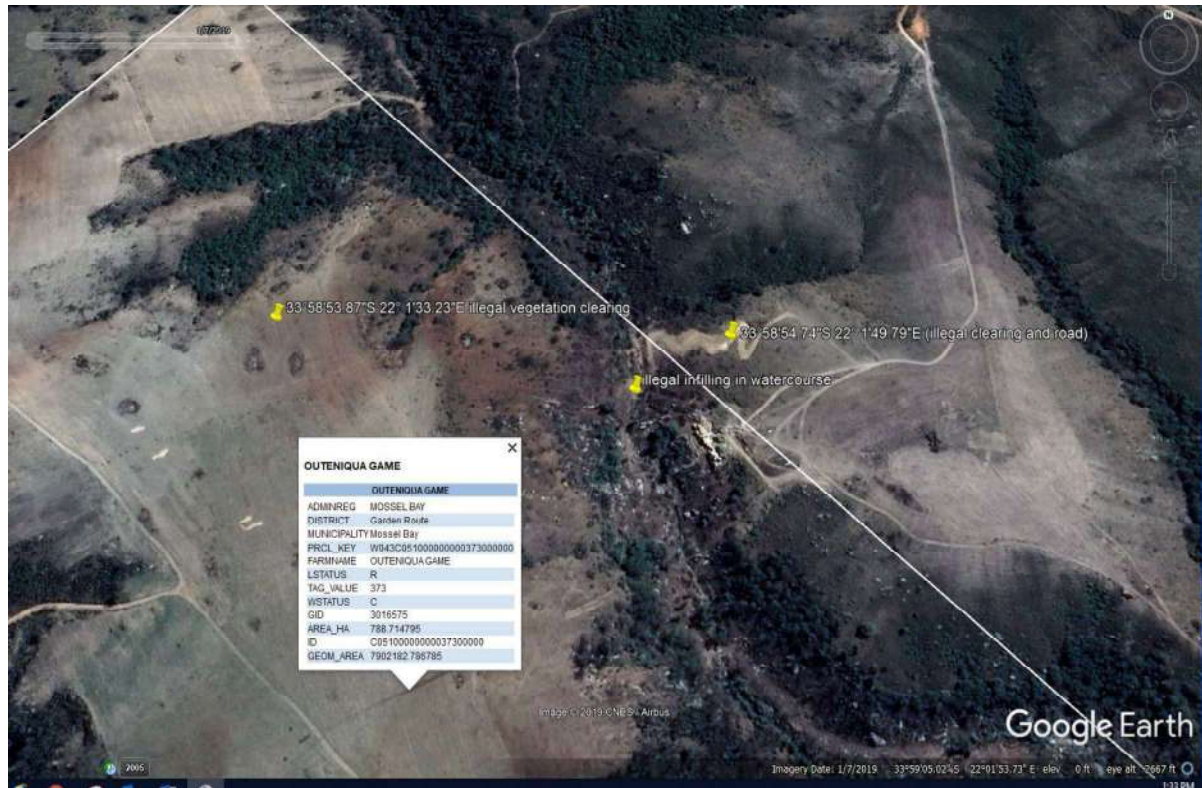
4. During an investigation into allegations of the commencement of listed activities in contravention of section 24F of the NEMA a site inspection was conducted at Farm Outeniqua Game No 420 and Farm No 373, Mossel Bay ("the properties") by Environmental Management Inspectors ("EMI's") from the Department's Directorate: Environmental Law Enforcement ("this Directorate") together with officials from Mossel Bay Municipality and accompanied by yourself on 13 February 2019 it was confirmed that you have commenced with clearing of an indigenous vegetation of more than 1 ha, clearing of endangered ecosystem vegetation (Garden Route Granite Fynbos) of more than 300m² , the development of a road wider than 4 metres and possible infilling / moving of material within a watercourse on the above properties without the requisite environmental authorisation.



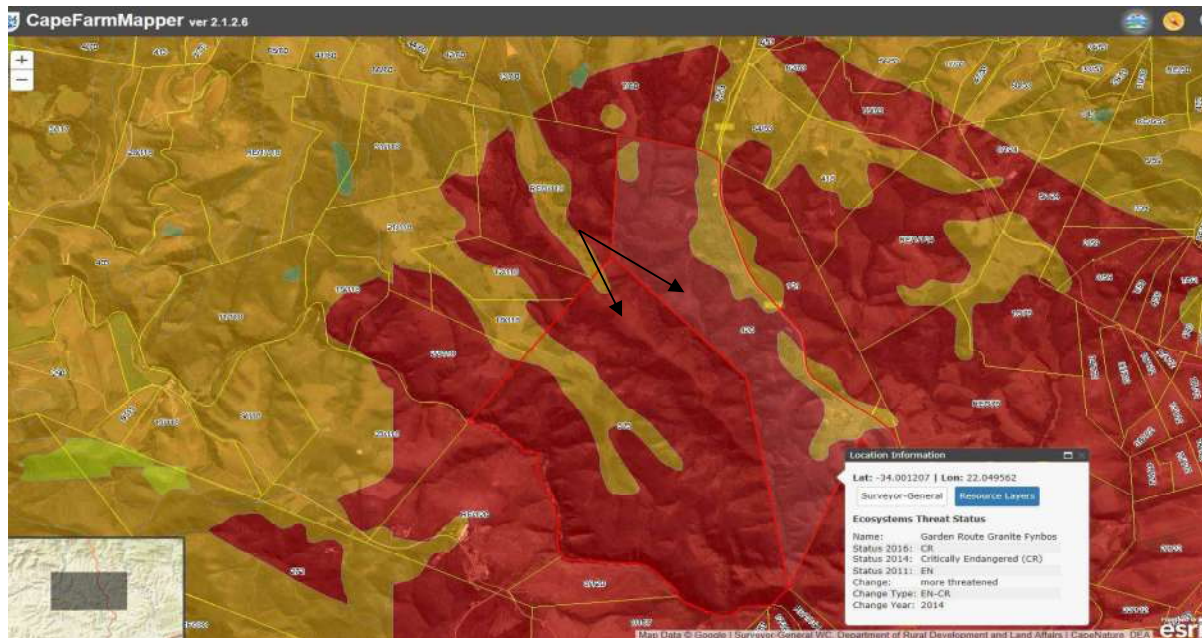
Aerial map 1: Location of some of the areas that have allegedly unlawfully been cleared on Farm No. 420 (Outeniqua Game Farm), Mossel Bay.

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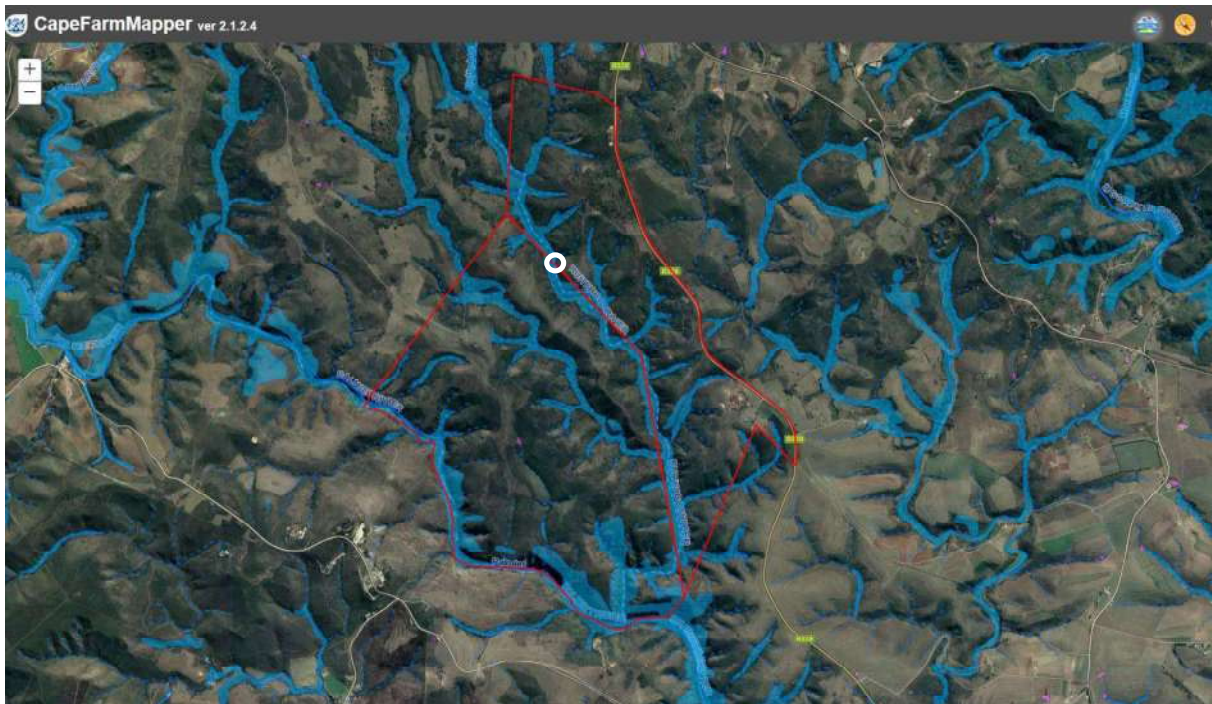
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Aerial map 4: Indication of the Ruiterbos River traversing through the properties and as indicated in white the area of concern regarding road construction and infilling within the watercourse that occurred.

5. On considering the evidence before me there are reasonable grounds to believe that you have commenced the following activities without environmental authorisation:

EIA Regulations Listing Notice 1 of 2014:

Activity no. 19:

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—

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- (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.

Activity no. 27:

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) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan.

Activity no. 28:

Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:

- (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or
- (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;**

excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.

EIA Regulations Listing Notice 3 of 2014:

Activity no. 2:

*The **development of reservoirs**, excluding dams, with a capacity of more than 250 cubic metres.*

- i. **Western Cape***
- ii. A protected area identified in terms of NEMPAA, excluding conservancies;*
- iii. **In areas containing indigenous vegetation;** or*
- iv. Inside urban areas:*
 - (aa) Areas zoned for use as public open space; or*
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority or zoned for a conservation purpose.*

Activity no. 4:

*The **development of a road wider than 4 metres with a reserve less than 13,5 metres.***

- i. **Western Cape***
- ii. Areas zoned for use as public open space or equivalent zoning;*
- iii. **Areas outside urban areas;***
 - (aa) **Areas containing indigenous vegetation;***
 - (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or*
- iv. Inside urban areas:*
 - (aa) Areas zoned for conservation use; or*
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.*

Activity no. 12:

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. **Western Cape**
- ii. ***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;***
- iii. *Within critical biodiversity areas identified in bioregional plans;*
- iv. *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;*
- v. *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*
- vi. *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.*



Photo 1: View of alleged unlawful development of a dwelling within 32 metres from a watercourse and construction of an access road through the watercourse below on Farm 373 and Farm 420, Mossel Bay.



Photo 2: Another view of the construction of a road and associated infilling within a watercourse on Farm 373 and Farm 420, Mossel Bay.

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Photo 3: View of alleged unlawful vegetation clearing expansion occurred on Farm 420, Mossel Bay.



Photo 4: View of alleged unlawful vegetation clearing that occurred on another portion of Farm 420, Mossel Bay.

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Photo 5: View of alleged unlawful vegetation clearing and the development of a reservoir that occur on Farm 420, Mossel Bay.

6. In light of fact that you have decided to apply for the regularisation of the unlawful commencement of a listed activity in terms of section 24G of the NEMA and have submitted a section 24G PS, you are hereby instructed to:

- 6.1 Immediately cease the above listed activities;
- 6.2 Adhere to the section 24G PS and specified timeframes dated 6 March 2020 (attached hereto); and
- 6.3 Inform the Department of any delays/changes in respect of the section 24G PS on the following details; Ms Zaidah Toefy (Head of Sub-Directorate: Rectification) email: zaidah.toefy@westerncape.gov.za **and** Mrs Diana Mouton (Directorate: Environmental Law Enforcement) email: diana.mouton@westerncape.gov.za.

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7. Approval of the section 24G application PS by the Department does not remedy the unlawful commencement of the above activities which remain unlawful in terms of section 49A(1) (a) and/or (d) of the NEMA, until such time that environmental authorisation is granted.
8. Notwithstanding the section 24G application, the Department may commence criminal proceedings should circumstances so require.

Varying this Compliance Notice

9. If you would like me to vary this Compliance Notice or extend the period to which it relates, you may make representations to me, in writing, to do so.

Failure to comply with this Compliance Notice (section 31N of the NEMA) and related offences in terms of the NEMA

10. In terms of section 49A(1)(a) of the NEMA it is an offence to commence a listed activity without environmental authorisation. A person convicted of such an offence is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.
11. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of such an offence is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, and in both instances to both such fine and such imprisonment.

12. Any non-compliance with the Compliance Notice must be reported to the Minister, who may:

- 12.1. revoke any permit or authorisation to which this Compliance Notice relates; and/or
- 12.2. take any steps necessary to ensure compliance with the provisions of the law, permit or authorisation to which this Compliance Notice relates and recover from you the cost of doing so.

Procedure for lodging an objection to this Compliance Notice (section 31L and 31M of the NEMA)

- 13. If you wish to lodge an objection to this Compliance Notice, you may do so by making representations, in writing, to the Provincial Minister of Environmental Affairs and Development Planning ("the Minister") within 30 days of receipt of this Compliance Notice.
- 14. You may also make representations, in writing, to the Minister to suspend the operation of this Compliance Notice pending finalisation of the objection.
- 15. The objection must be in writing and forwarded to the Appeal Administrator, Mr Marius Venter at the contact details below and must be accompanied by a statement detailing the grounds of the objection and supporting documentation, if any.

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning

Private Bag X9186

CAPE TOWN

8000

Directorate: Environmental Law Enforcement
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Diana.Mouton@westerncape.gov.za
Private Bag X6509, George, 6530
www.westerncape.gov.za/deadp

By facsimile: (021) 483 4174

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)

Room 809

8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

By email: DEADP.Appeals@westerncape.gov.za

16. Irrespective of any representations you may make to me or to the Minister, you must comply with this Compliance Notice within the time period stated in the Compliance Notice, unless the Minister agrees to suspend the operation of this Compliance Notice.



Achmad Bassier

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 27/05/2020

Cc:

Mr Danie Swanepoel (DEA&DP)

Email: Danie.Swanepoel@westerncape.gov.za

Ms Zaidah Toefy (DEA&DP)

Email: Zaidah.Toefy@westerncape.gov.za

Mr Andrew West (EAP)

Email: andrewwest@isat.co.za

Mrs Kerry Smith

Email: ogfcc1@gmail.com

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"A-4"



BETTER TOGETHER

Development Management
(Region 3)

REFERENCE: 16/3/3/6/6/D6/29/0136/18
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 2018 -10- 30

DELplan

2018 -10- 30

URBAN AND REGIONAL PLANNING

The Municipal Manager
 Mossel Bay Municipality
 PO Box 25
MOSSEL BAY
 6500

Attention: Mr. W. Manuel

Fax: (044) 606 5163

Email: admin@mosselbay.gov.zawmanuel@mosselbay.gov.za

Dear Sir

RE: PROPOSED APPLICATION FOR CONSENT USE FOR ADDITIONAL DWELLING UNITS: FARM NO. 373 AND 420, MOSSEL BAY

1. The abovementioned information received by this Department on 17 August 2018 refer.
2. It is noted that the proposal entails the construction of 6 units (one primary dwelling and 5 additional dwellings) on each of the above-mentioned farms (cumulatively larger than 100 hectares). It is proposed that the units be constructed along the Ruitersbosch River as depicted in Annexure 5 of the aforementioned application.
3. The site
 - 3.1 Most of the site is considered sensitive from an environmental perspective and contains large areas of Critical Biodiversity Areas (CBAs) (Terrestrial and Aquatic), as well as Terrestrial and Aquatic Ecological Support Areas.
 - 3.2 According to the Vegetation Map 2009 and in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEM: BA) the vegetation type affected by the proposal is Garden Route Granite Fynbos, which has a conservation status of Critically Endangered.
 - 3.3 The area is identified as an area in natural condition that is required to meet biodiversity targets for species, ecosystems or ecological processes and infrastructure.
 - 3.4 The objective of this specific CBA is to maintain the subject property in a natural or near-natural state, with no further loss of natural habitat. Degraded areas should be rehabilitated. Only low-impact, biodiversity-sensitive land uses are appropriate.
4. It is noted that the units will be placed on old agricultural areas, however, there is not sufficient information to make a determination on whether all the structures and infrastructure will be on old agricultural land.

5. In light of the above, please note that this Department is of the opinion that the proposal constitutes the following activity/ies listed in terms of the Environmental Impact Assessment Regulations Listing Notices GN No. R. 984 of 4 December 2014 as promulgated under Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"):

Listing Notice 1

Activity 12

The development of—

- (a) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or
- (b) 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 metres of a watercourse, measured from the edge of a watercourse;

1) 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.

~~Activity 19A~~

~~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) the seashore;~~
 - ~~(ii) 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; or~~
 - ~~(iii) the sea; —~~
- ~~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~~
- ~~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.~~

Activity 28**Activity Description**

Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture or afforestation on or after 01 April 1998 and where such development:

- (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or
- (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;

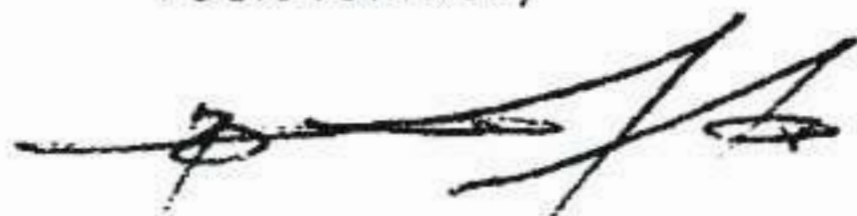
excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.

Listing Notice 3**Activity 12**

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. 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 on even in urban areas; or
 - 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.
6. Written authorisation is therefore required from the relevant authority (as defined in GN No R. 982 of 4 December 2014) prior to the undertaking of the said activity. The onus is on the applicant to ensure that all the applicable listed activities are applied for and assessed as part of the environmental impact assessment (EIA) process.
7. Should you not agree with the determination made by this Department, you are welcome to submit substantial proof of how and why you differ from this determination.
8. The Department reserves the right to revise initial comments and request further information based on any new or revised information received.

Yours faithfully



HEAD OF DEPARTMENT

CC Mr. D. Viljoen

DELPlan Consulting

Fax: 044 873 4568
Email: planning@delplan.co.za



REFERENCE: 16/3/3/6/1/D6/29/0004/19
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 21 FEB 2019

The Director
Outeniqua Game Farm Cc
PO Box 59
RUITERBOS
6499

Attention: Mr. K. G. Smith

Tel: 076 8022581
Email: ogfcc1@gmail.com

**CHECKLIST FOR THE DETERMINATION OF THE APPLICABILITY OF THE NEMA EIA REGULATIONS 2014,
AS AMENDED: PROPOSED APPLICATION FOR CONSENT USE FOR ADDITIONAL DWELLING UNITS:
FARM NO. 373 AND 420, MOSSEL BAY**

1. The following refer:
 - 1.1 The application for consent use submitted to this Department on 17 August 2018 and subsequent response thereto dated 30 October 2018;
 - 1.2 The meeting held on 21 November 2018 and attended by Andrew West, Delarey Viljoen from Delplan and Shireen Pullen and Malcolm Fredericks from the Directorate: Development Management Region 3 (hereinafter referred to as "this Directorate");
 - 1.3 The applicability checklist received by this Department on 21 January 2019; and
 - 1.4 The email correspondence between Shireen Pullen from this Department and Mr. Andrew West (Andrew West Environmental Consulting).
2. A determination was made by this Directorate that the proposal triggers listed activities in terms of the NEMA EIA Regulations. A meeting was then held and it was decided that a checklist will be completed in an attempt to obtain more information with regards to the development proposal and site specific attributes. Following receipt and review of the aforementioned checklist it was evident that there was still critical information outstanding with regards to services (e.g. provision of roads; water and sewerage infrastructure) and details regarding the extent of critically endangered vegetation that will potentially be affected or disturbed as a result of the proposed development.
3. It recently came to the attention of this Directorate that the Sub-Directorate: Environmental Law Enforcement is in the process of investigating alleged unlawful commencement of listed activities on Farm 373 and 420, Mossel Bay and that vegetation was removed in order to construct unit/s and a road.
4. As such and in light of the above, this Directorate can no longer administer your request regarding the applicability of any NEMA EIA listed activities that may potentially be

triggered by the development proposal until such time that Law Enforcement has concluded their Investigation.

5. This Department reserves the right to revise initial comments and request further information from you based on any new or revised information received.

Yours faithfully



HEAD OF DEPARTMENT

CC

Mr. W. Manuel
Ms. D. Mouton
Mr. A. West
Mr. D. Viljoen

Mossel Bay Municipality
Environmental Law Enforcement
Andrew West Environmental Consulting
DELPlan Consulting

Email: wmanuel@mosselbay.gov.za
Email: diana/moutoni@westerncape.gov.za
Email: andrewwest@isat.co.za
Fax: 044 873 4568
Email: planning@delplan.co.za

Outeniqua Game Farm
R328
Ruiterbos
6499
Date: 29 November 2019

Attention :Ms D Mouton.

ALLEGED UNLAWFUL CLEARANCE OF VEGETATION AND CONSTRUCTION OF
INFRASTRUCTURE WITHIN 32 METRES OF A WATERCOURSE ON ERF 420 AND ERF
373, OUTENIQUA GAME FARM, MOSSELBAY.
(Response to the letter dated 30 October 2019)

Dear Ms Mouton,

Thank you for taking the time to peruse our representation sent through on the 12th of June 2019. We acknowledge your response and have the following comments relating to the points made in your letter dated 30 October 2019.

2.2 With reference to the historical Google images, it is interesting to note that the lands were in fact cleared from 2005 and earlier (unfortunately the early Google Earth images are not very clear). In the latter years, after the 2013 fire, the lands were clearly neglected which led to the infestation of black wattle that we have cleared.

We have made contact with Dawie De Villiers from the Agricultural Department and are in the process of sourcing the relevant historical documentation for the clearing of the lands. As to the verbal account given to us and the attached affidavit from AI Meyer, OGF in its history was used as a cattle farm and perennial grasses were planted in early years.

In addition to this please see a copy of the relevant page of our purchase agreement with the previous owner stating that the farm was used as pastures by a tenant who ran 65 head of cattle on the farm before we bought in 2015.

If no records are found at the Agricultural department, we will update all the relevant departments with the necessary information.

2.3 As above.

2.4 We respectfully request that you give more clarity as to the type of proof and / or evidence that you require.

2.5 Please see the approved site plan of Outeniqua Game Farm showing the cumulative footprint size of all the approved buildings on OGF totalling 4421.5 m²

2.7 We are in the process of getting advice on the rehabilitation of the said road that admittedly is wider than 4 m in sections. Unfortunately due to year end we are struggling to secure a specialist.

2.8 This is noted

2.9 We have contacted Mr Stiaan Kotze at DEFF, and we will compile and submit *another* Invasive Control Plan to the National Department of Environmental Affairs and ensure that this plan meets DEFF specifications and requirements.

Note that in April 2018 we submitted our application for Herbicide Assistance. This application contained the initial report on the alien infestation that detailed the invasive aliens on OGF and

provided mapped areas of the infestation. We continue to submit monthly reports to the Environmental Department on the clearing progress.

3. We have met and been in discussions with Mr Andrew West and Dr Jan Vlok; our appointed Environmental Consultant and Botanist; who will unfortunately not be able to furnish us with the required rehabilitation plan for the road in the required time frame therefore we request an extension of time until approximately 28 February 2020. We will rehabilitate the road in a manner prescribed and acceptable to all parties.

We await your confirmation of the above and assure you of our commitment to the environment and to finding solutions to the issues raised.

Yours Sincerely,

Kerryn Smith

REFERENCE: 14/1/1/E3/9/10/3/L1019/19

ENQUIRIES: Diana Mouton

BY EMAIL: ogfcc2@gmail.com

Mr Clint Smith
PO Box 59
Ruiterbos
6499

Dear Sir

**ALLEGED ILLEGAL CLEARANCE OF VEGETATION AND CONSTRUCTION OF
INFRASTRUCTURE CLOSER THAN 32 METRES FROM A WATERCOURSE ON FARM 420 AND
FARM 373 OUTENIQUA GAME FARM, MOSSEL BAY ("THE PROPERTIES")**

1. The above matter has reference.
2. The Department's Directorate: Environmental Law Enforcement ("this Directorate") hereby acknowledges that you are in the process to apply for rectification through the Section 24G application process for the alleged unlawful activities that transpired on the abovementioned properties.
3. This Directorate hereby wishes to thank you for your co-operation in this regard.

4. Kindly be advised that the investigation conducted by this Directorate has been concluded and the file will be closed.



Achmad Bassier

Director: Environmental Law Enforcement

Date: 30/04/2021

CC:

Mrs K Smith (property owner)

Email: ogfcc1@gmail.com

Mr A West (A West Environmental Services)

Email: andrewwest@isat.co.za

Mr Ziyaad Allie (DEA&DP: Rectification)

Email: Ziyaad.allie@westerncape.gov.za

Mrs S Pullen (DEA&DP: Development Management)

Email: Shireen.Pullen@westerncape.gov.za

Musfiqah Abrahams (Mossel Bay Municipality)

Email: Musfiqah.Abrahams@mosselbay.gov.za

ANNEXURE "B-1" - VISUAL TIMELINE SUPPORTING THE CHRONOLOGY OF UNLAWFUL DEVELOPMENTS

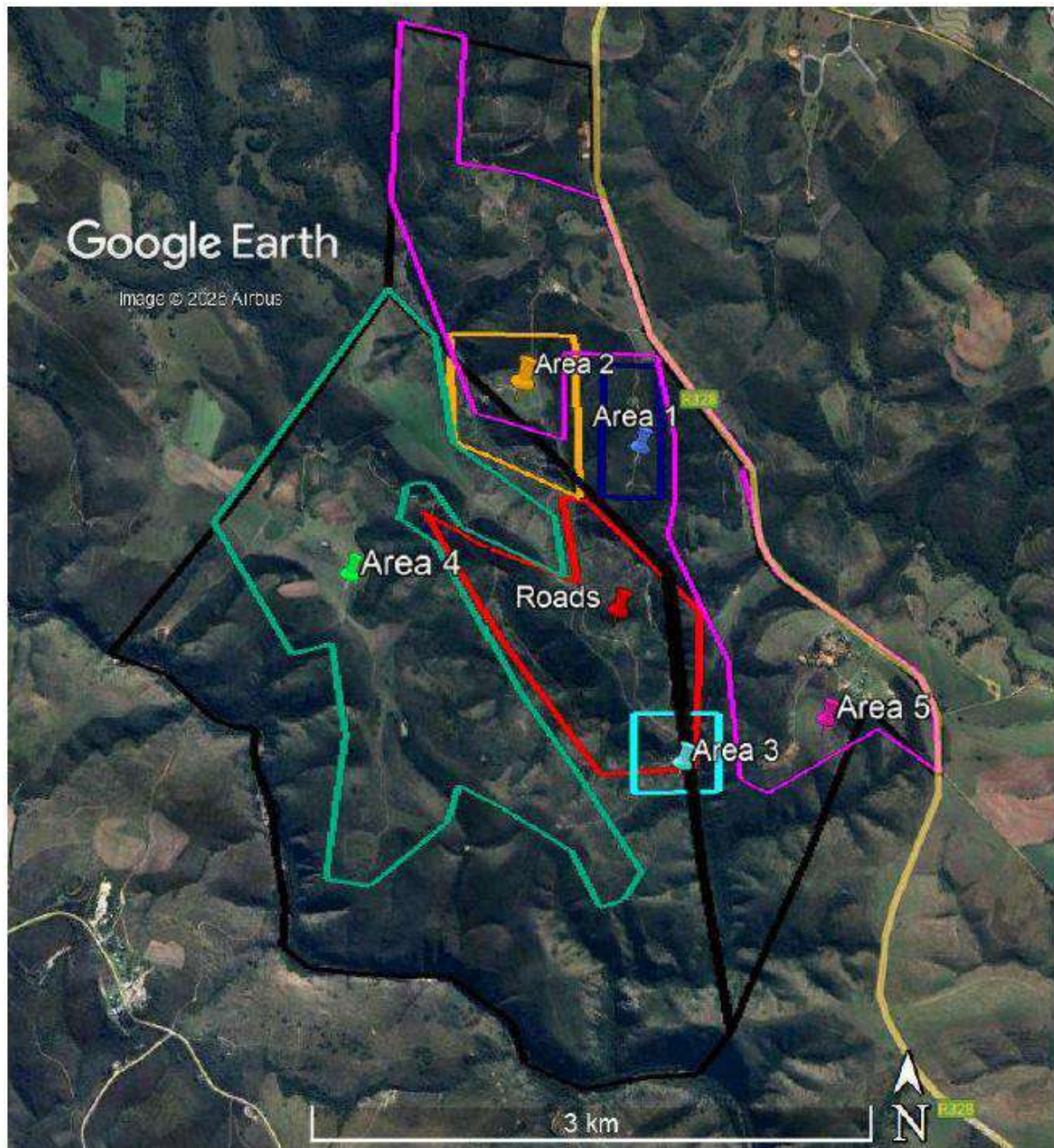


Figure 1: Areas (1-5) assessed on ptns 373 (west) and 420 (east), Outeniqua Game Farm (Source: Section 24G application form)

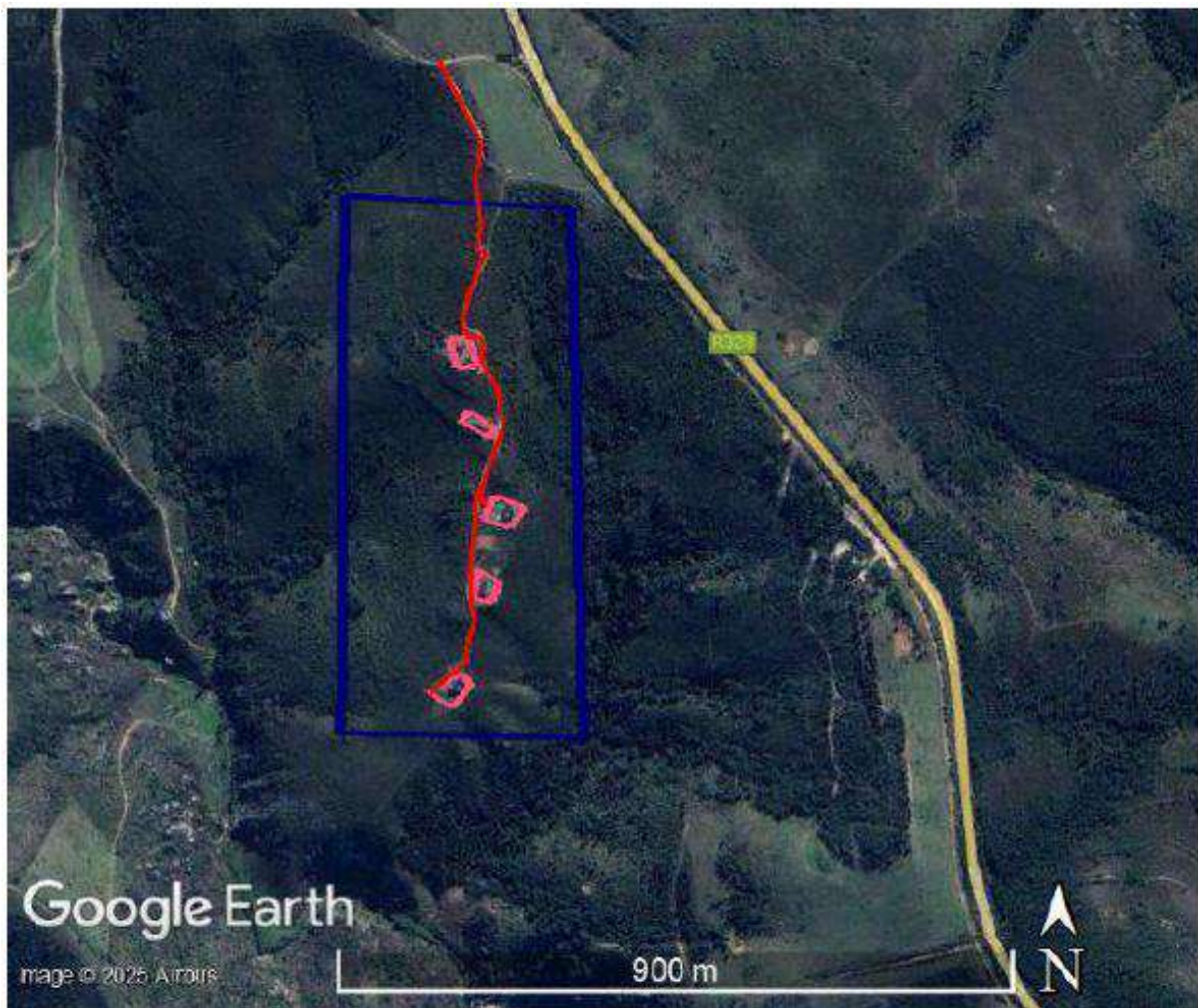


Figure 2: Area 1 (5 dwellings) (Source: Section 24G application form).

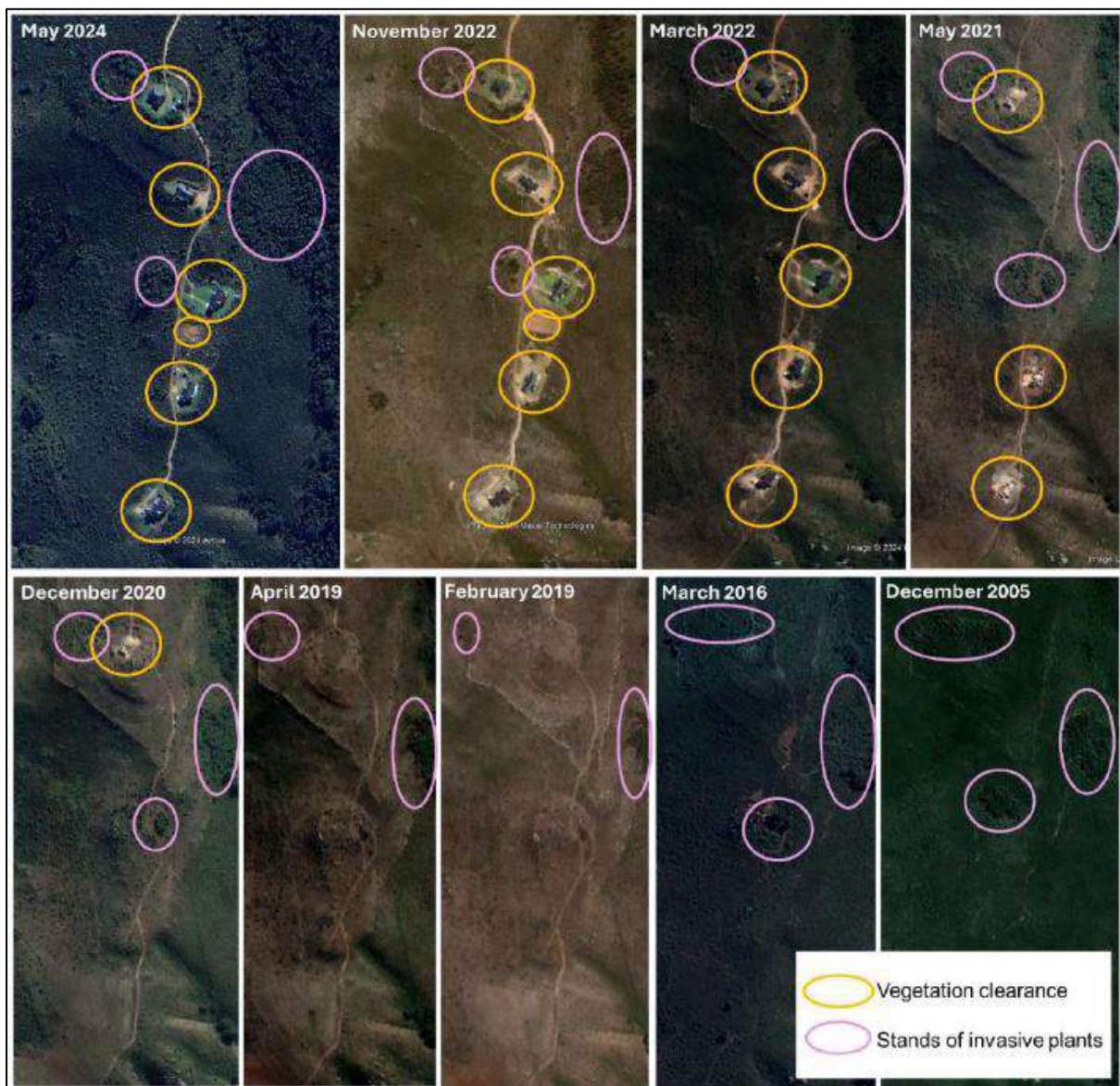


Figure 3: A series of historical imagery sourced from Google Earth for Area 1: five dwellings that have been constructed on Portion 420 (Source: Confluent Environmental, 21 August 2024).

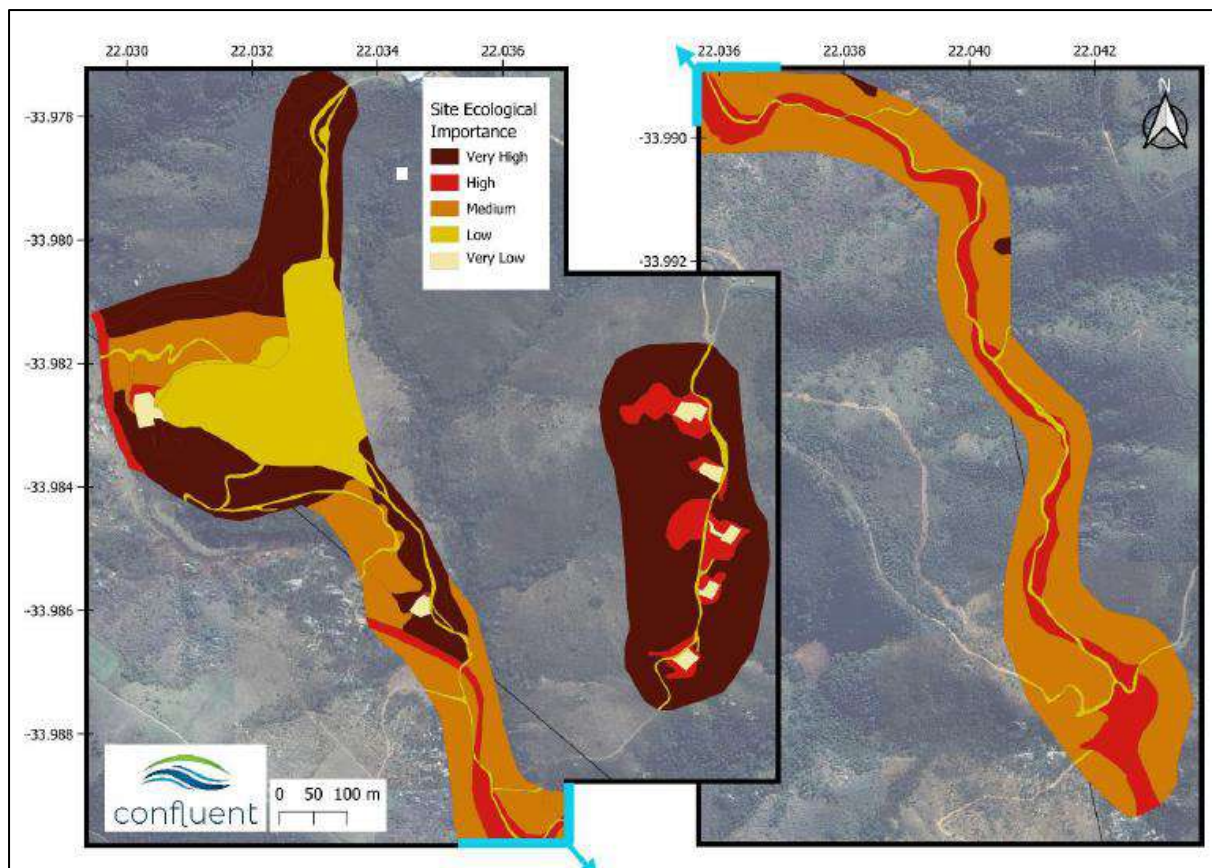


Figure 4: The SEI map for the assessed sections of Portions 420 and 373 (Source: Confluent Environmental, 21 August 2024).

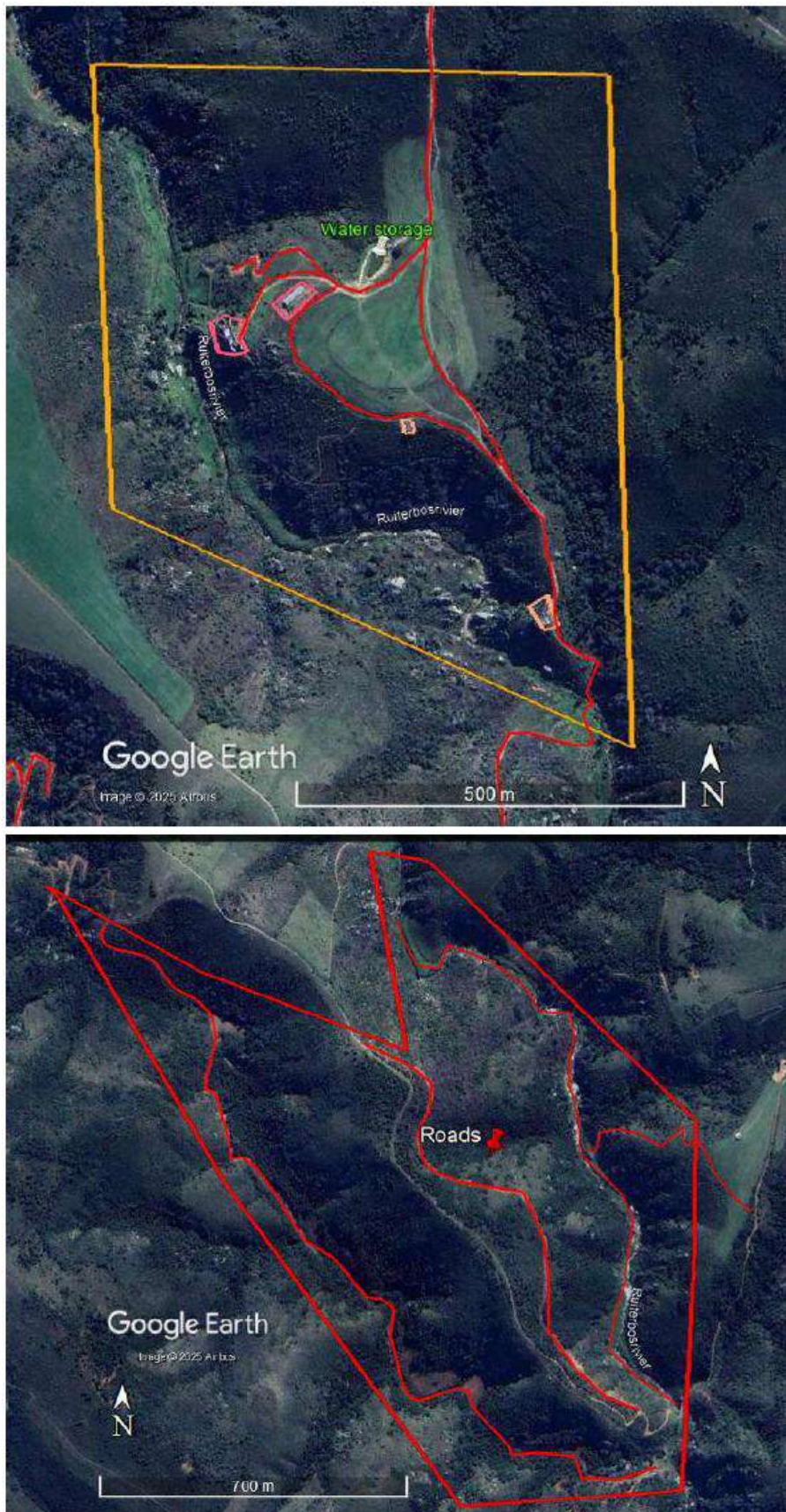


Figure 5: Area 2: Dwellings, structures, road, water storage (Source: Section 24G application form).

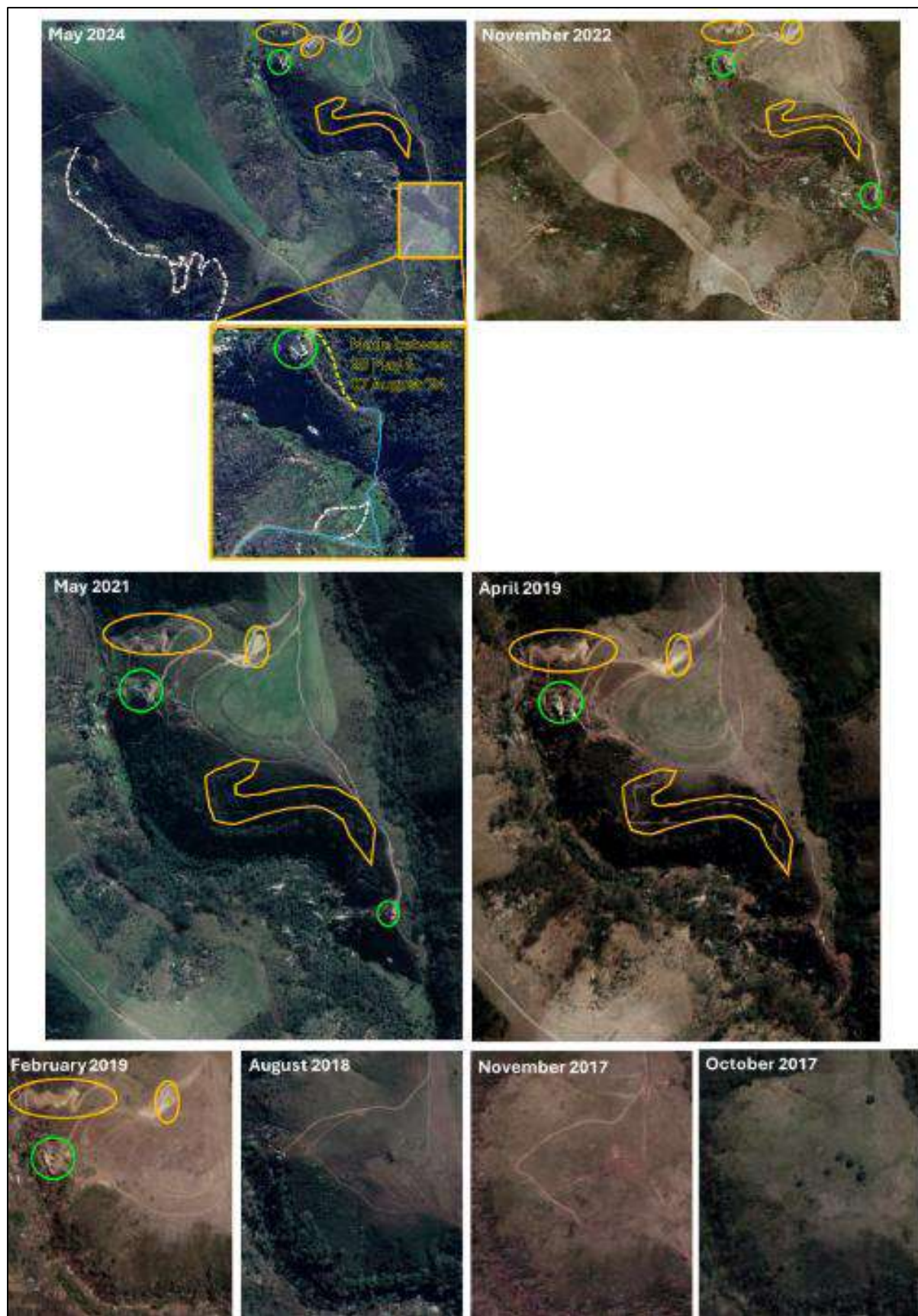


Figure 6: Area 2: A series of historical imagery from Google Earth for Area 2: the two dwellings and illegal road (Source: Confluent Environmental, 21 August 2024).

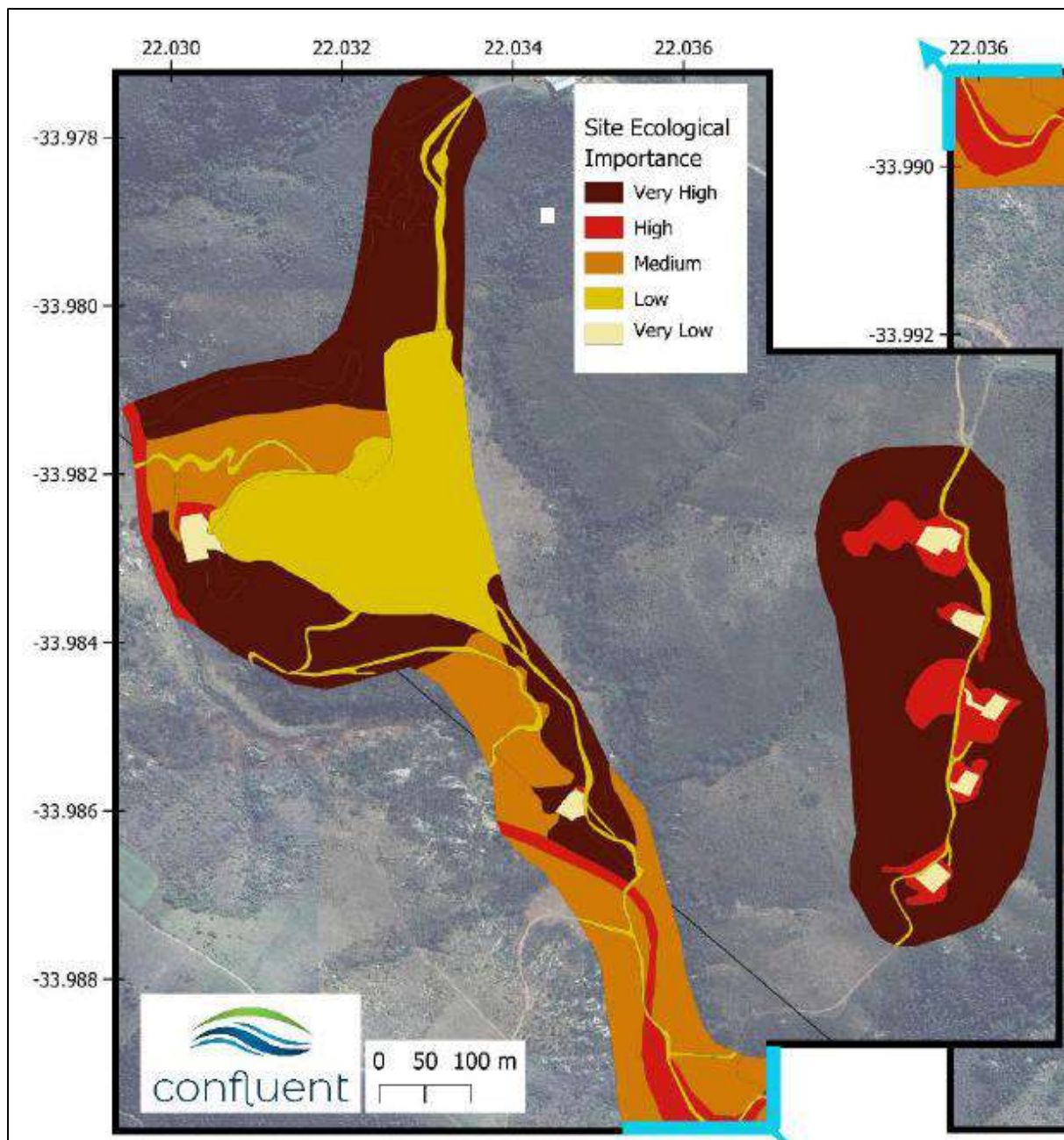


Figure 7: Area 2: SEI map for Area 2: The two dwellings and illegal road (Source: Confluent Environmental, 21 August 2024)

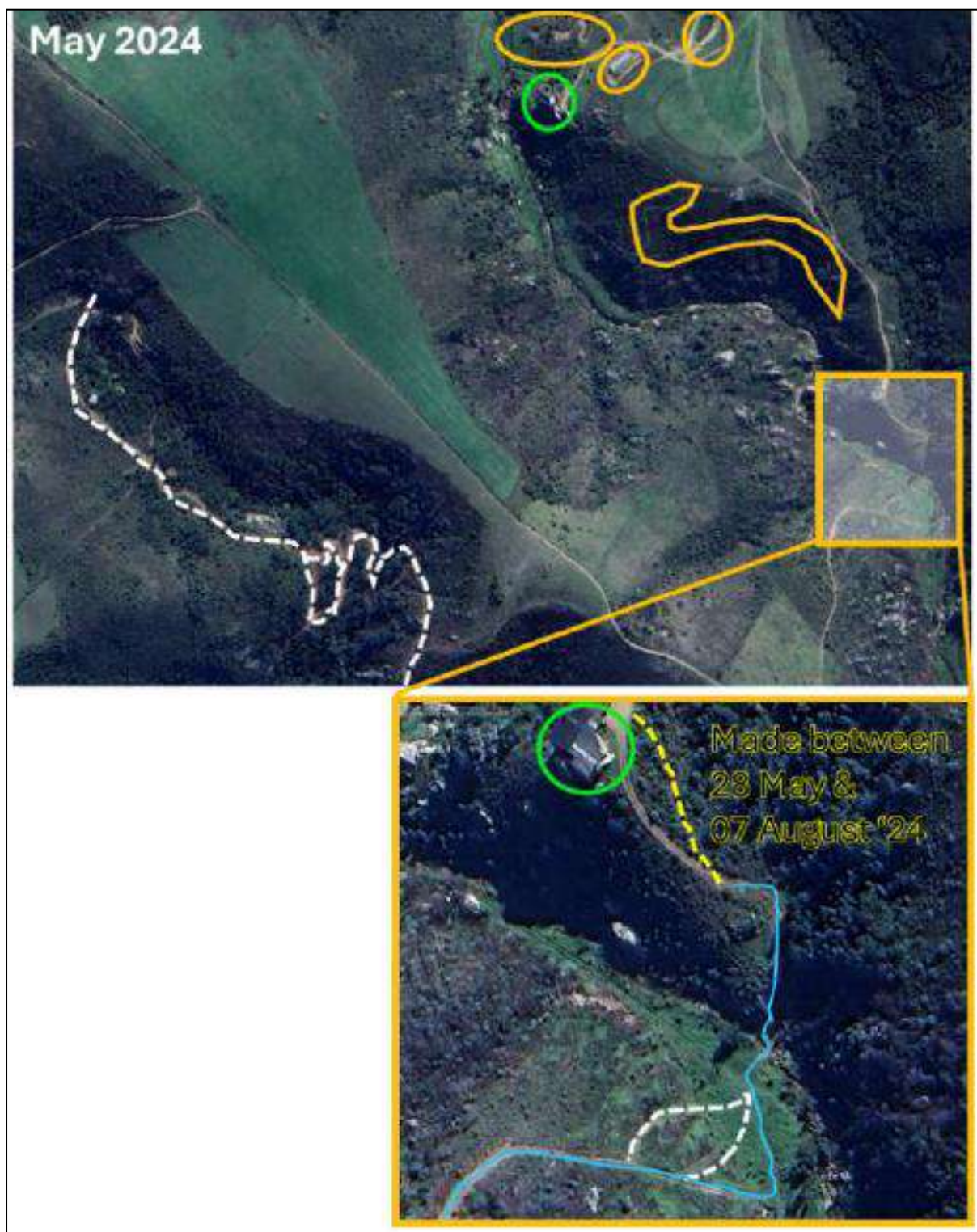


Figure 8: Area 2: A series of historical imagery from Google Earth for Area 2: the two dwellings and illegal road (Source: Confluent Environmental, 21 August 2024).

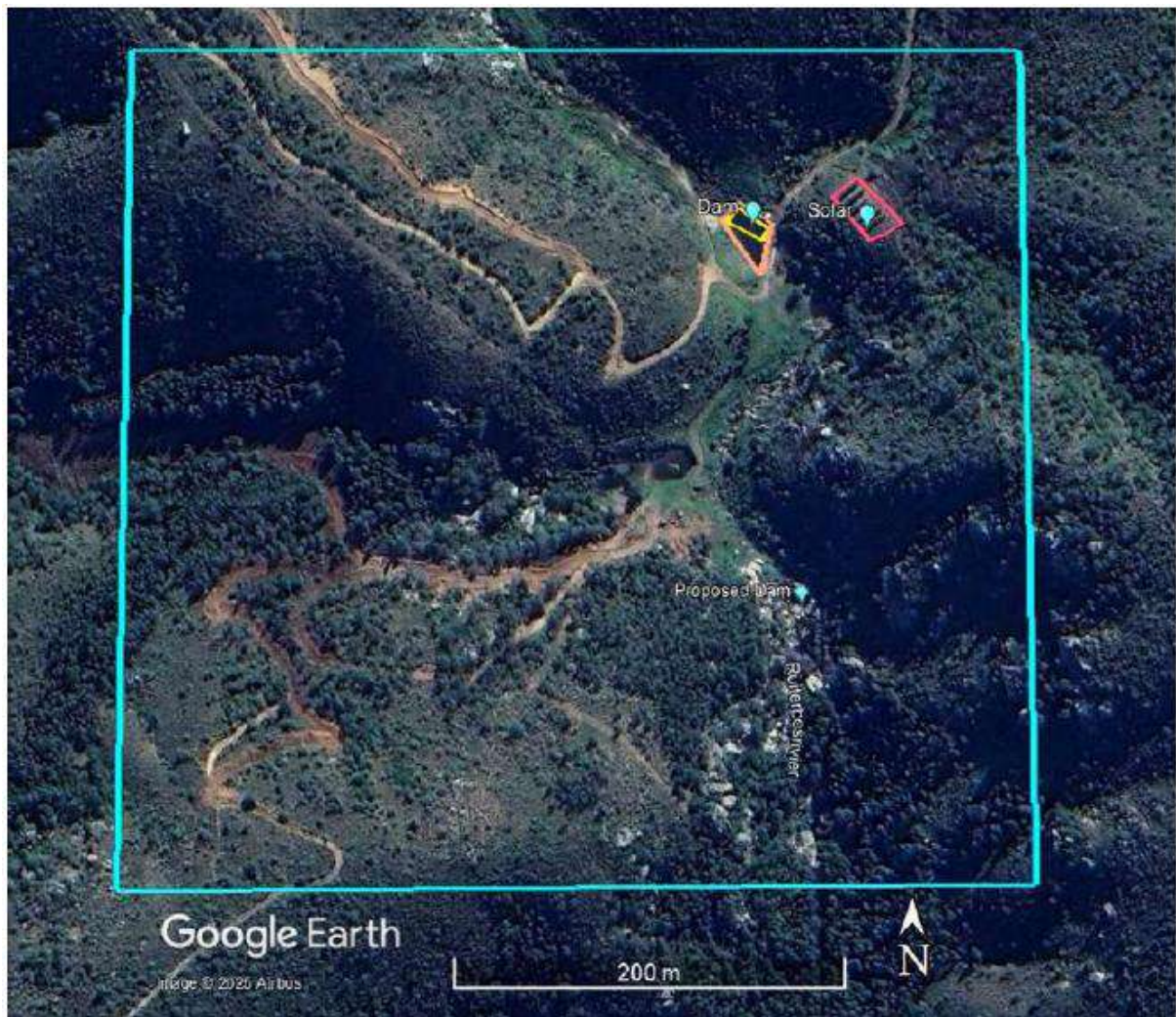


Figure 9: Area 2: A series of historical imagery from Google Earth for Area 2: the two dwellings and illegal road (Source: Section 24G application form).

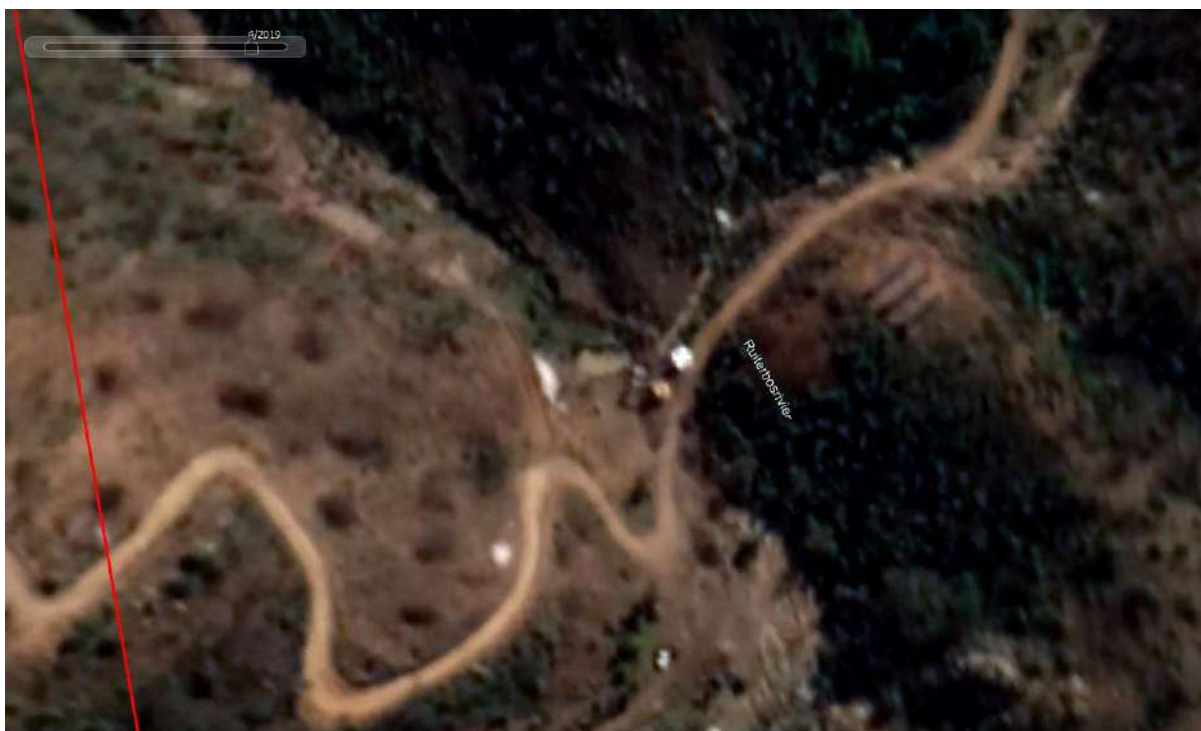


Figure 10: Google Earth image of April 2019 (Source: Google Earth)

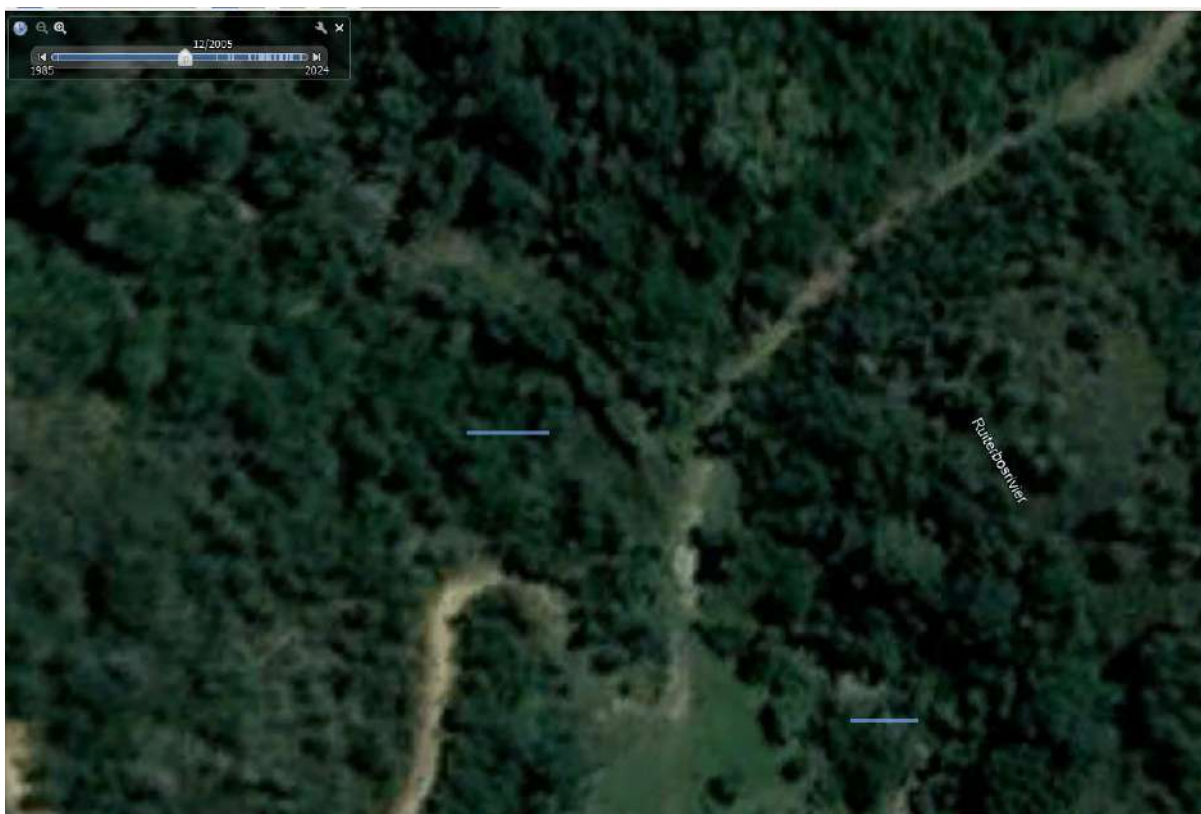


Figure 11: Google Earth image of December 2005 (Source: Google Earth)



Figure 12: Google Earth image of May 2024 (Source: Google Earth)

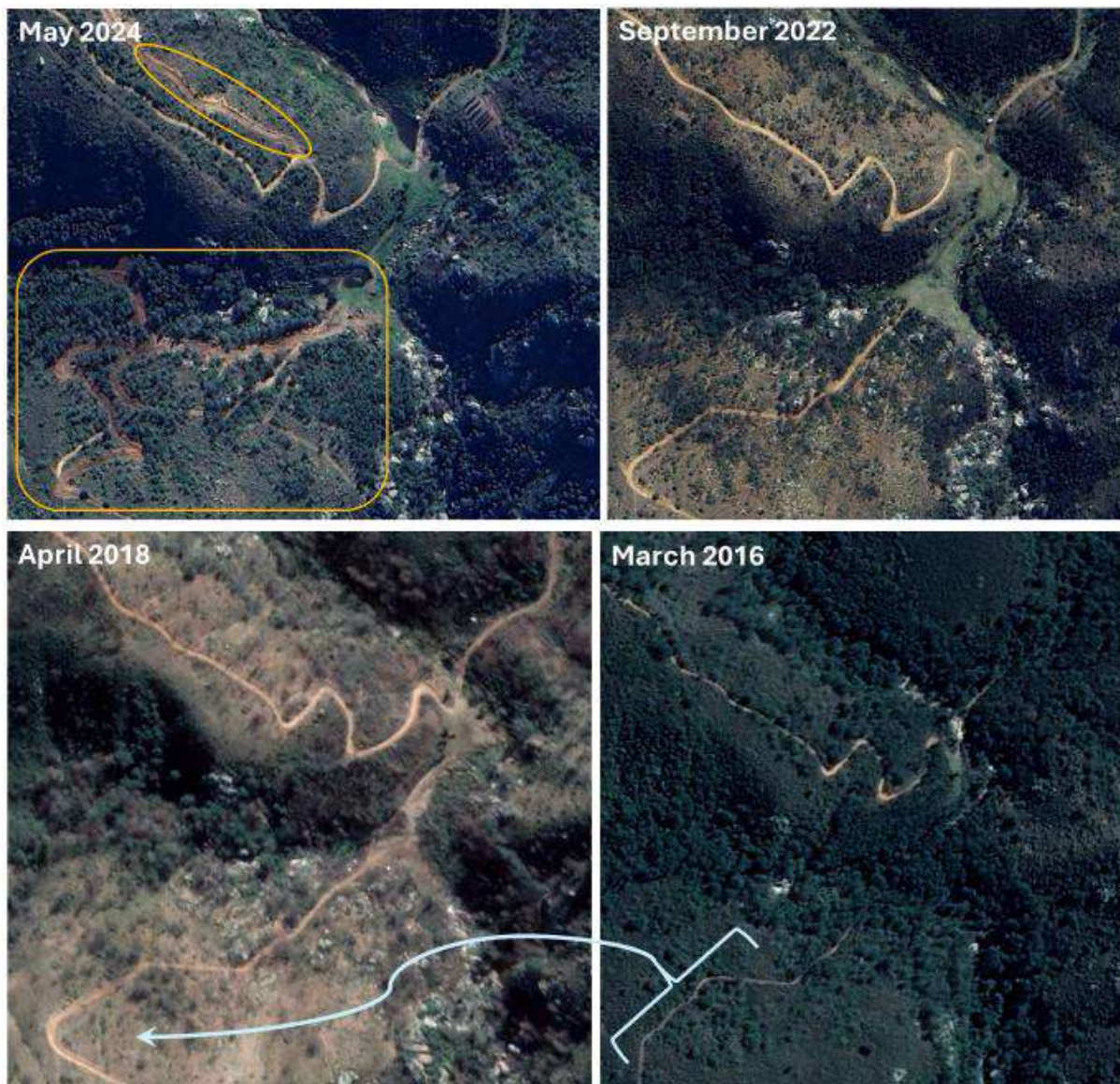


Figure 13: A series of historical imagery sourced from Google Earth for Area 3: the weir & dam area (Source: Confluent Environmental, 21 August 2024).

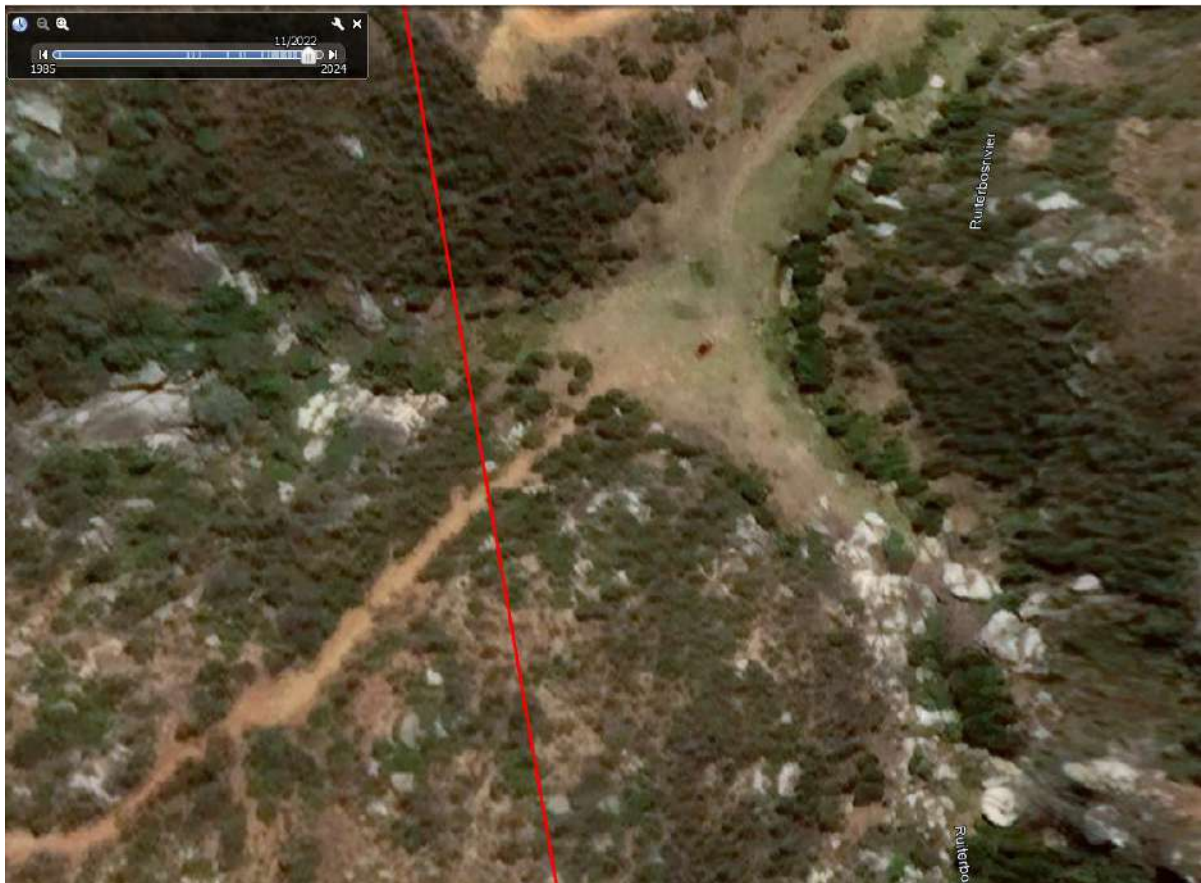


Figure 14: Google Earth image of November 2022 (Source: Google Earth)



Figure 15: Google Earth image of May 2024 (Source: Google Earth)

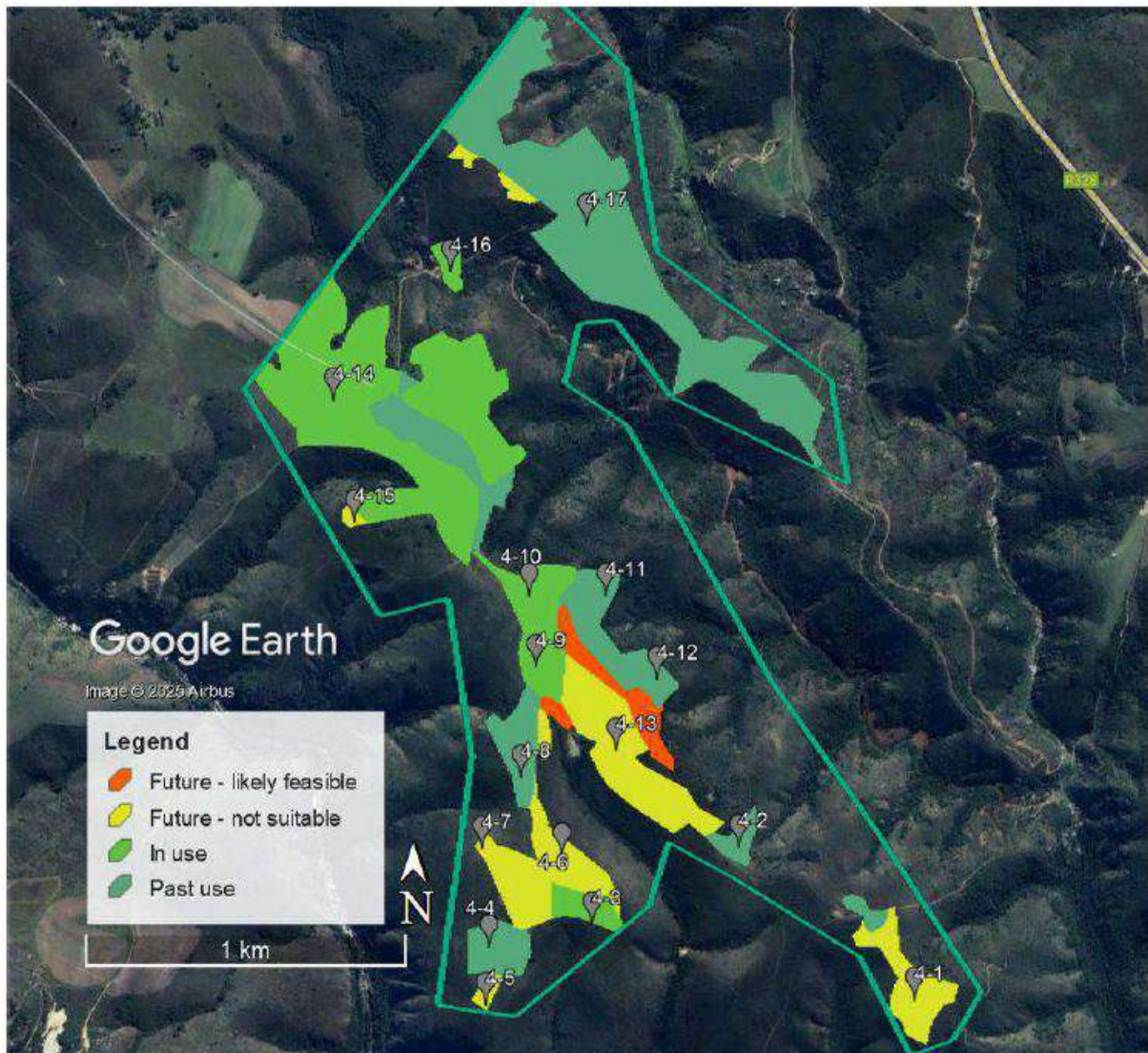


Figure 16: Area 4: Agricultural areas (past, current and not feasible) – ptn 373 (Source: Section 24G application form).



Figure 17: Google Earth Image preceding 10 years before clearance December 2006 (Source: Google Earth).



Figure 18: Clearance activities in October 2017 (Source: Google Earth).



Figure 19: Google Earth Image preceding 10 years before clearance November 2006 (Source: Google Earth)



Figure 20: Clearance activities completed December 2018 (Source: Google Earth).



Figure 21: Google Earth Image preceding 10 years before clearance December 2005 (Source: Google Earth)

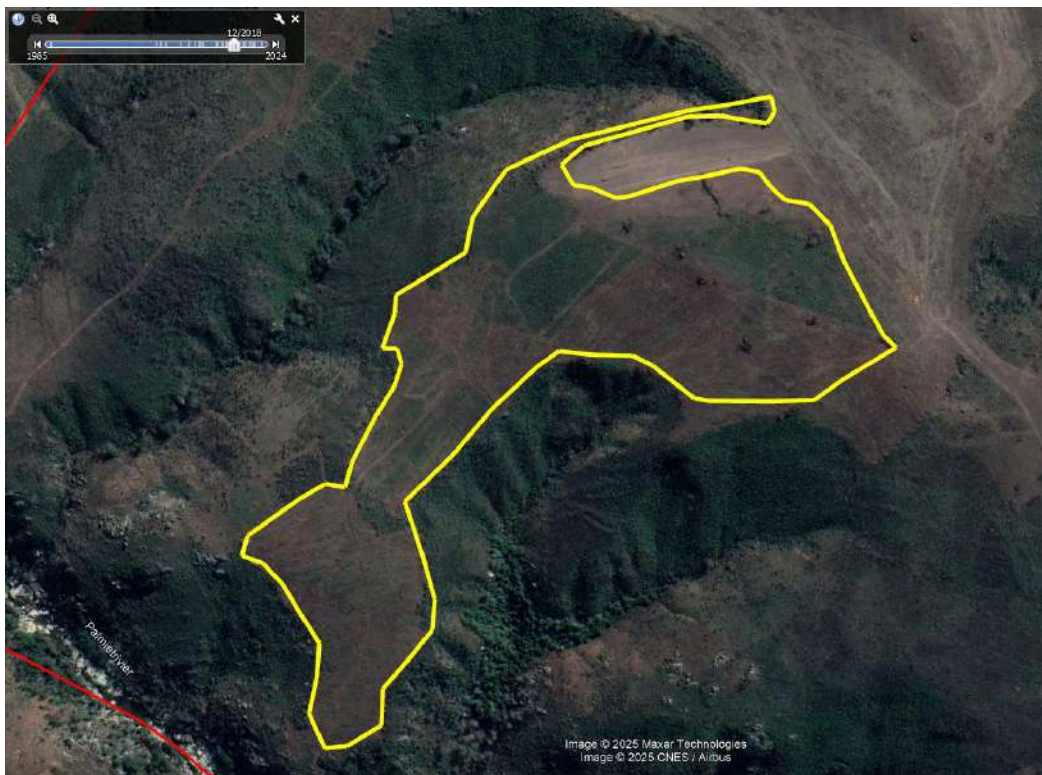


Figure 22: Clearance activities completed December 2018 (Source: Google Earth).



Figure 23: Google Earth Image preceding 10 years before clearance January 2001 (Source: Google Earth)



Figure 24: Clearance activities completed May 2024 (Source: Google Earth).

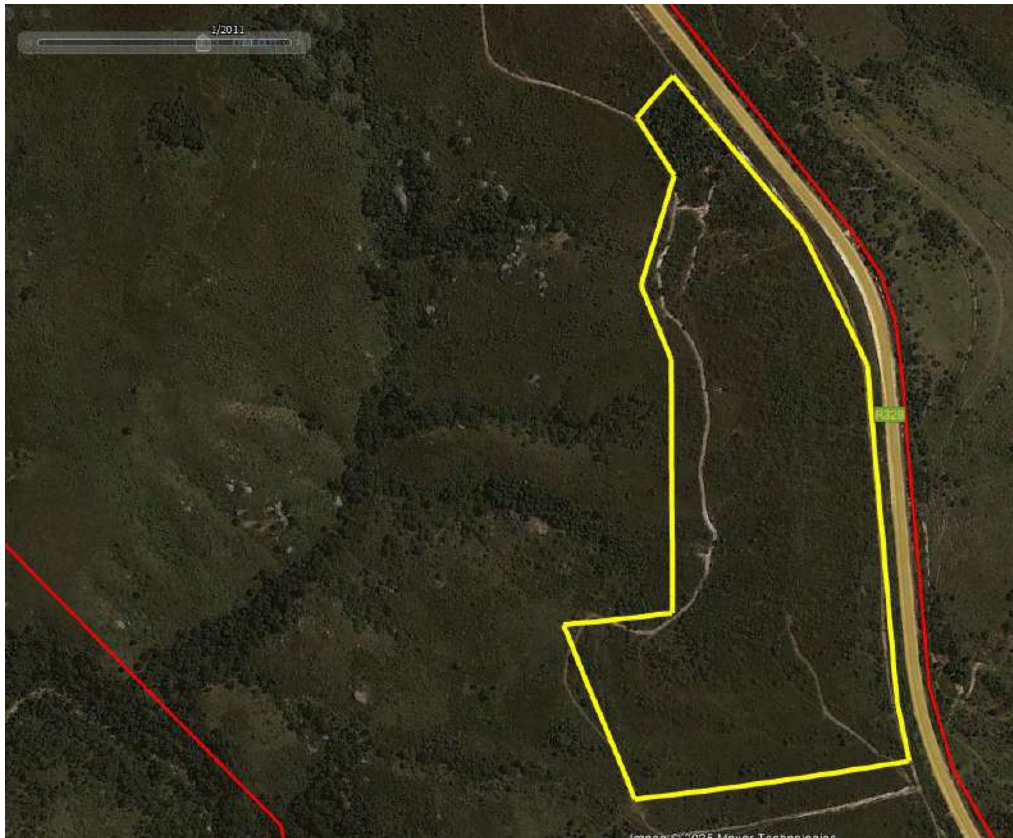


Figure 25: Proposed Predator enclosure area January 2011 (Source: Google Earth).

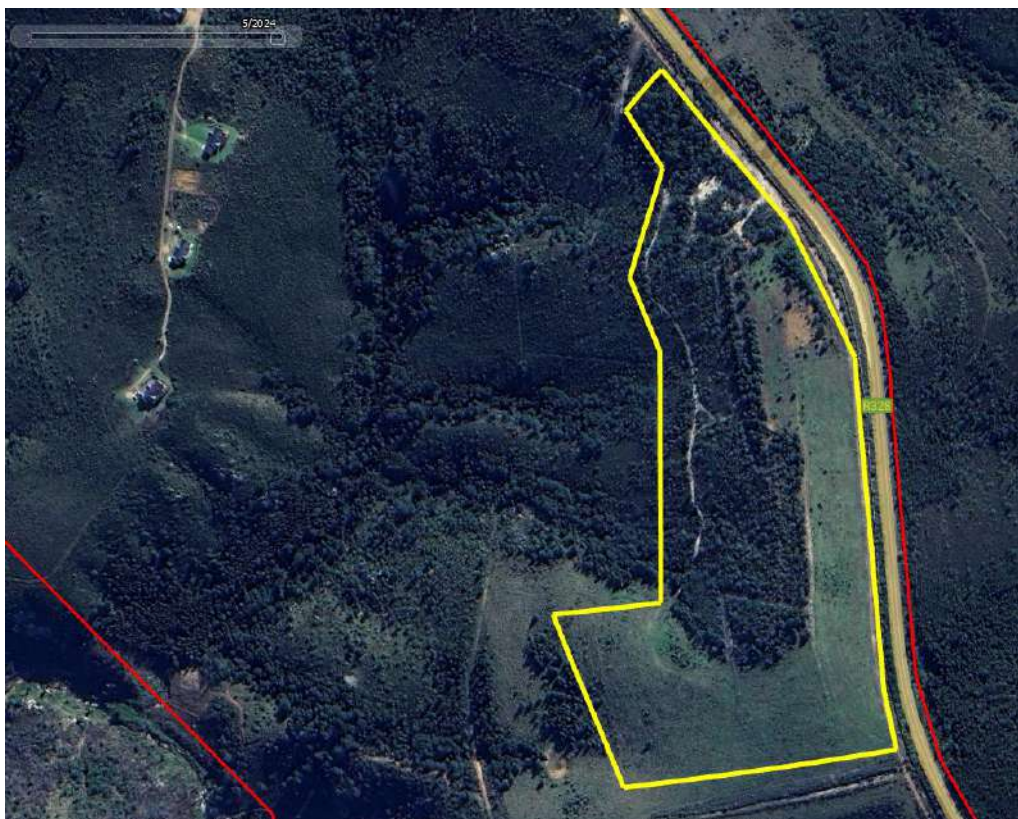


Figure 26: Proposed Predator enclosure area May 2024 (Source: Google Earth).

physical 4th Floor, York Park Building,
York Street, George, 6530
website www.capenature.co.za
enquiries Megan Simons
telephone 087 087 3060
email msimons@capenature.co.za
Reference LE14/2/6/1/6/6/420&373_Agriculture_Ruitersbosch
date 17 July 2025

Eco Route Environmental Consultancy,
P.O. Box 1252,
Sedgefield,
6573

Attention: Ms Claire De Jongh
By email: claire@ecoroute.co.za

Dear Ms Claire, De Jongh

THE SECTION 24 G RECTIFICATION PROCESS FOR AGRICULTURAL ACTIVITIES ON FARM PORTIONS 420 AND 373, OUTENIQUA GAME FARM, MOSSEL BAY LOCAL MUNICIPALITY, WESTERN CAPE.

CapeNature would like to thank you for the opportunity to review the above report. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application. CapeNature wishes to make the following comments:

According to the Western Cape Biodiversity Spatial Plan (CapeNature 2024)¹ the property has Critical Biodiversity Areas (CBA 1: Terrestrial; Aquatic and CBA 2: Terrestrial). The fine-scale vegetation map describes the vegetation as Leeukloof Fynbos-Renoster-Thicket, Hartenbos River and Floodplain, and Wolwedans Grassy Fynbos (Vlok and de Villiers 2007)². According to the National Biodiversity Assessment (Skowno *et al.* 2018)³ the vegetation units are Swellendam Silcrete Fynbos and Garden Route Granite Fynbos which are **Endangered** and **Critically Endangered** respectively (NEM:BA, 2022)⁴. The property has numerous rivers and Channelled valley-bottom wetlands⁵ which flows through, and these watercourses are poorly protected (Van Deventer *et al.* 2019)⁶. Following a review of the application, CapeNature wishes to make the following comments:

¹ CapeNature. 2024. 2023 Western Cape Biodiversity Spatial Plan and Guidelines. Unpublished Report

² Vlok JHJ, de Villiers R (2007) Vegetation Map for the Riversdale Domain. Unpublished 1:50 000 maps and report supported by CAPE FSP task team and CapeNature.

³ Skowno, A. L., Poole, C. J., Raimondo, D. C., Sink, K. J., Van Deventer, H., Van Niekerk, L., Harris, L. R., Smith-Adao, L. B., Tolley, K. A., Zengeya, T. A., Foden, W. B., Midgley, G. F. and Driver, A. 2019. National Biodiversity Assessment 2018: The status of South Africa's ecosystems and biodiversity. Synthesis Report. Pretoria, South Africa. 214 pp.

⁴ National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004). The Revised National List of Ecosystems that are Threatened and in need of protection. 2022. Government Gazette No. 47526

⁵ Nel, J.L., Murray, K.M., Maherry, A.M., Petersen, C.P., Roux, D.J., Driver, A., Hill, L., Van Deventer, H., Funke, N., Swartz, E.R., Smith-Adao, L.B., Mbona, N., Downsborough, L. & Nienaber, S. (2011). Technical Report for the National Freshwater Ecosystem Priority Areas project. WRC Report No. K5/1801

⁶ Van Deventer, H., van Niekerk, L., Adams, J., Dinala, M.K./ Gangat, R., Lamberth, S.J., Lötter, M., MacKay, F., Nel, J.L., Ramjukadh, C.J., Skowno, A., Weerts, S. 2019. National Wetland Map 5-An Improved Spatial Extent and representation of inland aquatic and estuarine ecosystems in South Africa.

1. The Garden Route Granite Fynbos was listed as one of the seven high risk Critically Endangered vegetation types (Fig.1) in South Africa. This vegetation type is not protected and has 37% of the natural remaining extent .

Table 15. List of high-risk ecosystem types by realm (in realm colours)

Terrestrial (7)	CR: Cape Flats Sand Fynbos CR: Garden Route Granite Fynbos CR: Mossel Bay Shale Renosterveld CR: Motherwell Karroid Thicket CR: Namib Seashore Vegetation EN: Alexander Bay Coastal Duneveld EN: KwaZulu-Natal Coastal Belt Grassland
Estuarine (3)	CR: Subtropical – Estuarine Bay EN: Cool Temperate – Large Fluvially Dominated EN: Cool Temperate – Predominantly Open
Marine (3)	EN: KwaZulu-Natal Bight Mid Shelf Reef Complex EN: Orange Cone Inner Shelf Mud Reef Mosaic EN: Orange Cone Muddy Mid Shelf

Figure 1: A table from the NBA 2018 synthesis document listing the most high-risk ecosystems in South Africa (Skowno *et al.* 2018).

2. The property owner/s has a long-standing history of unlawful activities spanning over a decade. This is unacceptable, and we do not support any further development as is not in line with the management objectives of CBA. The area should have been rehabilitated with no further expansion and compensation for the biodiversity loss should have been sought.
3. The 2019 Botanical Impact Assessment was included but differs from the conclusions of the 2025 Terrestrial Botanical report. It is uncertain whether the six-year gap in assessments are a contributing factor, and the EAP should provide clarity.
4. Given the very high and high sensitivity rating from the Terrestrial Botanical report, should rehabilitation potential for the terrestrial biodiversity not be considered?
5. The rehabilitation plan is supported for the freshwater system; however, significant measures must be implemented to mitigate erosion and address existing eroded areas. A full-time ECO or qualified rehabilitation specialist must be on-site during rehabilitation and provide written progress reports.
6. The ongoing eradication of invasive alien vegetation is supported, though it is unclear whether eradication is being conducted in accordance with an alien control plan. This plan must be in accordance with the National Environmental Management: Biodiversity Act (Act 10 of 2004)⁷ and its associated Alien and Invasive Species Regulations⁸ .

⁷ National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004), Government Gazette No. 26436

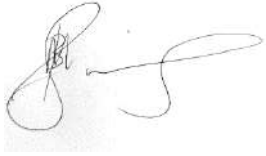
⁸ Regulations under the National Environmental Management: Biodiversity Act (Act No. 10 of 2004): Alien and Invasive Species Regulations, Government Gazette No. 43735

The Western Cape Nature Conservation Board trading as **CapeNature**

Board Members: Ms Marguerite Loubser (Chairperson), Prof Gavin Maneveldt (Vice Chairperson), Mr Tom Blok, Ms Reyhana Gani, Dr Colin Johnson, Ms Ayanda Mvandaba, Prof Nicolaas Olivier, Ms Chwayita Shude-Mareka, Dr Razeena Omar

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Megan Simons', with a long horizontal flourish extending to the right.

Megan Simons
For: Manager (Conservation Intelligence)