

REFERENCE: 14/1/1/E2/6/9/3/0886/24
ENQUIRIES: Najah Ben Jeddou

EMAIL: kleinsoutrivier@gmail.com

Mr. Danie Fourie

Kleinsoutrivier Farm No. 2/39

Napier

7270

Attention: Mr. D Fourie

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 13 December 2024, the Department's email correspondence dated 4 February 2025, and your representation letter received on 7 February 2025, and the Department's email correspondence dated 20 March 2025, has reference.
2. Having considered your representation and the evidence before me, I, Achmad Bassier, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Mr. Danie Fourie 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.

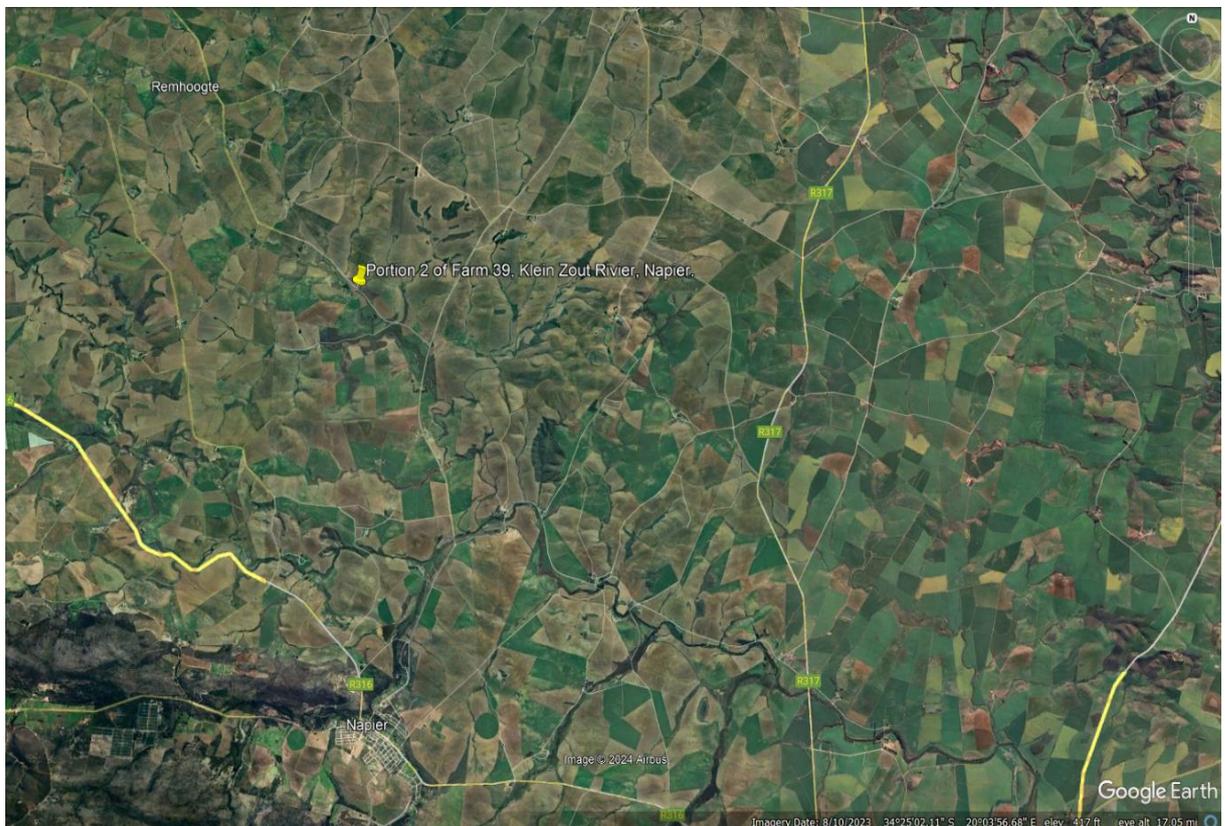
Details of conduct constituting non-compliance

4. During an investigation into allegations of the commencement of a listed activity in contravention of section 24F of the National Environmental Management Act, 1998 ("NEMA"), a site inspection was conducted at Portion 2 Farm 39, Klein Zout Rivier, by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 24 October 2024, which confirmed that you have commenced with the clearing of indigenous vegetation without an environmental authorisation
5. Furthermore, a desktop investigation and analysis of aerial imagery depict that the site may have been previously worked/cultivated as depicted in 2006 aerial imagery. However, from 2006 until January 2023, no additional work /ploughing took place during the preceding 10 years. Vegetation clearing /or ploughing is visible as of January 2024. The size of cleared area on the property, as measured on Google Earth is approximately 7.7 Hectares.
6. According to CapefarmMapper, the Ecosystem Threat Status on the property and surrounding areas, is mapped as Critically Endangered. The vegetation type that was cleared is mapped as Central Ruens Shale Renosterveld, a Critically Endangered vegetation type, as confirmed on the

Revised National List of Threatened Ecosystems GN No 2747 of 18 November 2022 of s52 of NEM:BA.

- Your attention is drawn to the definition of indigenous vegetation in terms of the NEMA EIA Regulations: ***“indigenous vegetation” refers to vegetation consisting of indigenous plant species occurring naturally in an area, regardless of the level of alien infestation and where the topsoil has not been lawfully disturbed during the preceding ten years;***

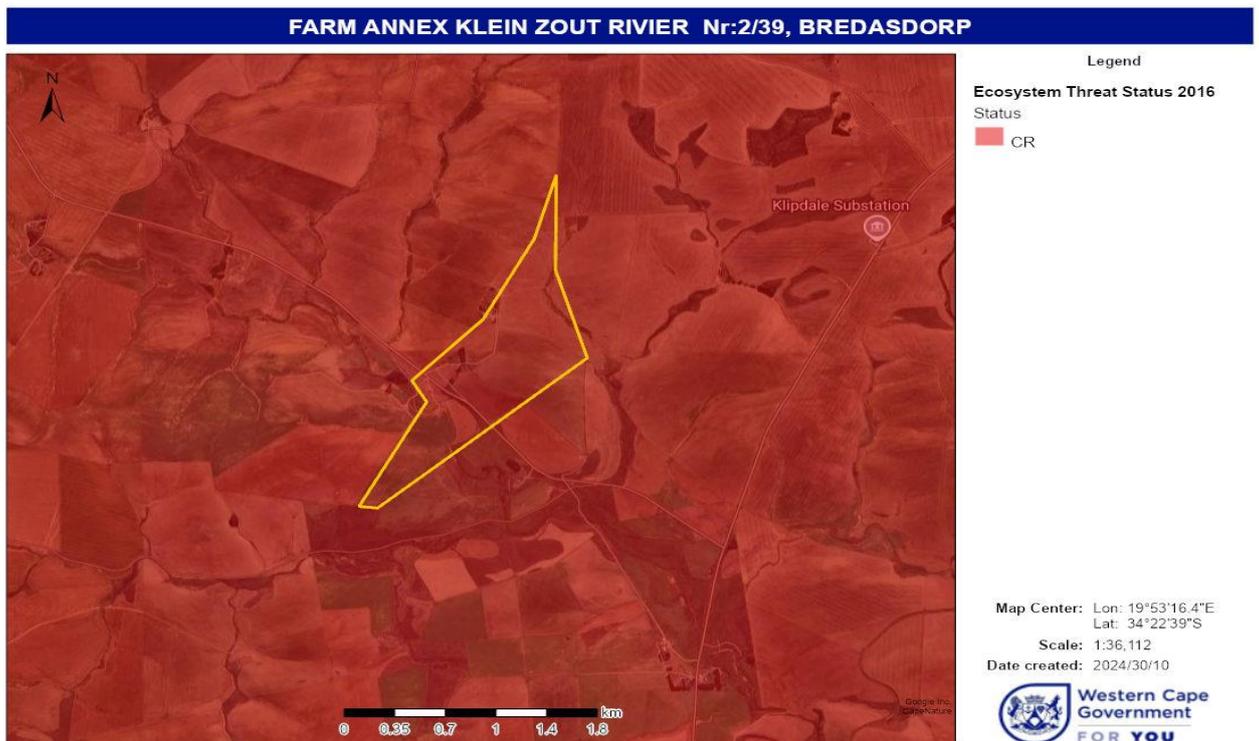
34°21'28.49"S 19°46'19.04"E



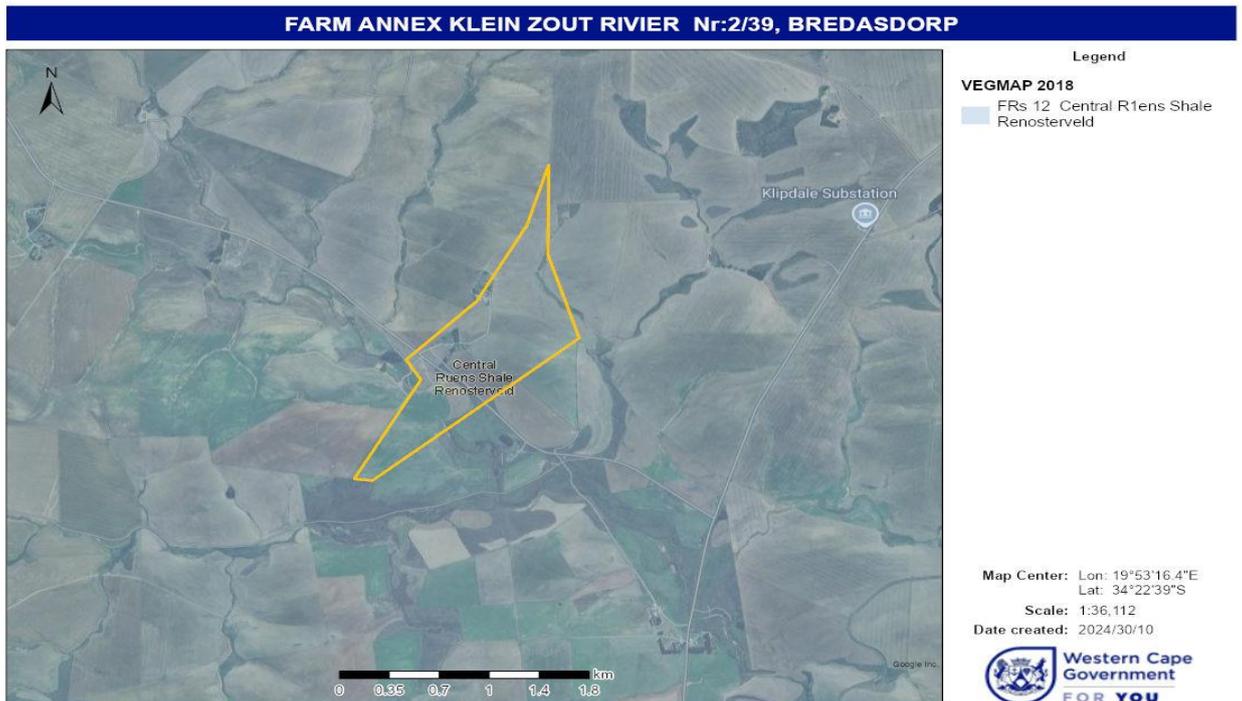
Map 1: Location of alleged illegal activity.



Map 2: Zoomed in location of alleged illegal activity and details of the property, Portion 2 of Farm 39, Klein Zout Rivier, Napier/ Bredasdorp



Map 3: Vegetation map: Ecosystem Threat Status - the property and surrounding area is mapped as Critically Endangered species. The Vegetation is mapped to contain Central Ruens Shale Renosterveld. This Vegetation type, according to the Revised National List of Threatened Ecosystems GN No 2747 of 18 November 2022 of s52 of NEMBA, is classified as Critically Endangered species



Map 4: Vegetation map: Vegetation type on the property and surrounding area is mapped as Central Ruens Shale Renosterveld. This Vegetation type, according to the Revised National List of Threatened Ecosystems GN No 2747 of 18 November 2022 of s52 of NEMBA, is classified as Critically Endangered species.



Map 5: Water Resource Map: showing a river crossing the property.



Map 7: Zoomed in location of cleared area (within the red polygon)



Map 8: Aerial image dated 2006 –depicting lines on this section of the property – this may be an indication that this section was worked on /before this date.



Map 9: Aerial image dated 2009- lines /activity is more visible.



Map 10: Aerial image dated 2011 – no change from previous year.



Map 11: Aerial image dated 2012- no change or new activity is visible from previous year.



Map 12: Aerial image dated 2017- no change or new activity visible from previous year.



Map 13: Aerial image dated 2019- no change or new activity visible from previous years.



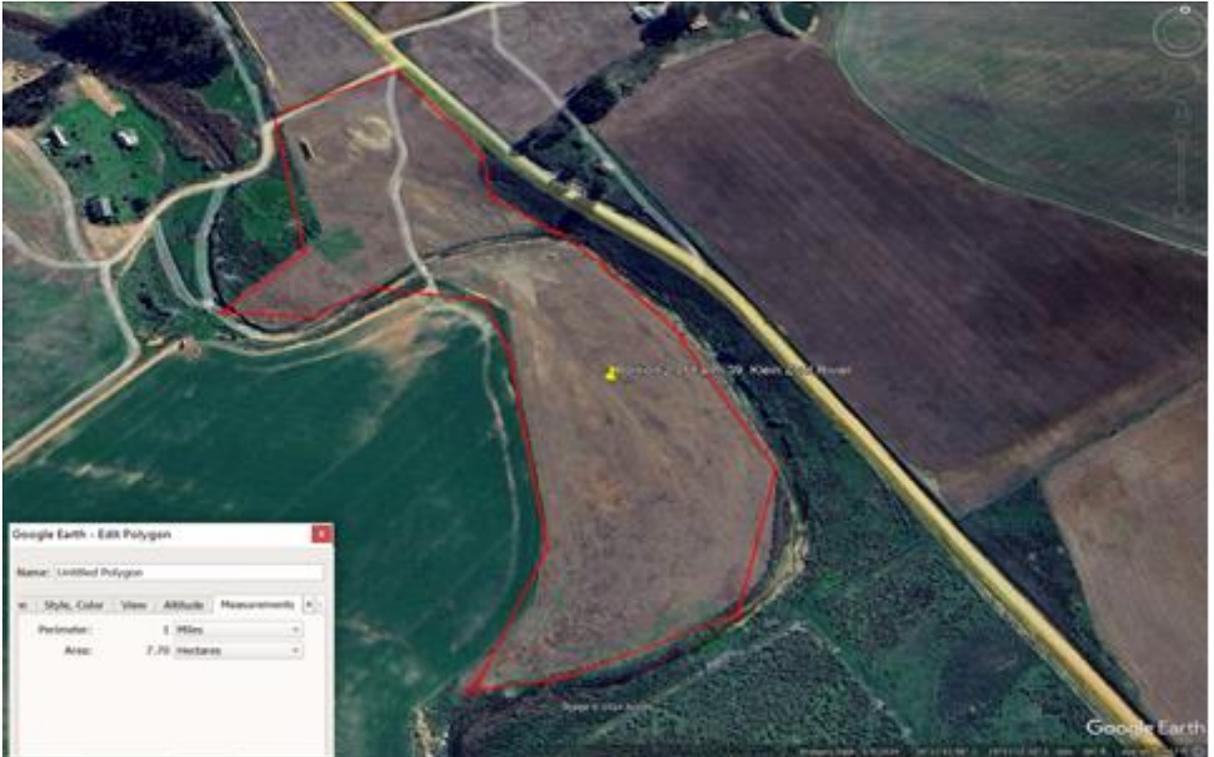
Map 14: Aerial image dated 2023- no change or new activity visible from previous year.



Map 15: Aerial image dated January 2024- visible change is depicted as of this date.



Map 16: Aerial image dated May 2024- visible change is depicted as of this date. The area is completely cleared.



Map 17: Aerial image dates October 2024, showing visible clearing. The size of cleared area as measured on Google Earth is 7.70 Hectares

8. 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. 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*

EIA Regulations Listing Notice 3 of 2014
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

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.

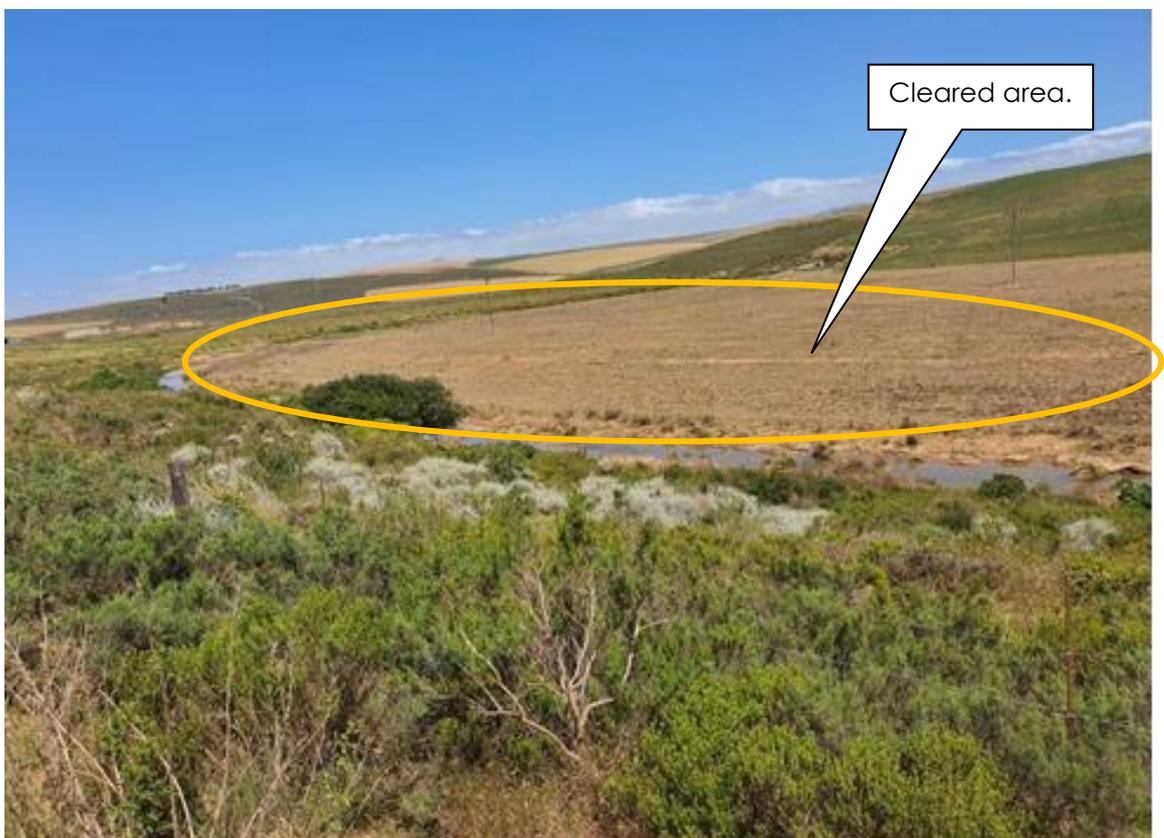


Photo 1: View facing South, showing the cleared area (yellow circle).



Photo 2: View of the middle section of cleared area.



Photo 3: View facing West of the cleared area- intact natural vegetation remaining on the property, adjacent to the cleared area.



Photo 4: Inside view of the cleared area.



Photo 5: View of remaining natural vegetation, adjacent to the cleared area- an indicative of the type of vegetation that was cleared on the property.



Photo 6: Closer view of the above photograph: showing what appears to be indigenous plant adjacent to the cleared area.



Photo 7: View of vegetation cover on the neighboring farm containing a mixture of natural and alien species, similar to the vegetation that was present on the property before the clearing.

9. **You are hereby instructed to:**

9.1 submit to the Department within **30 (thirty) calendar days** of receipt of this Compliance Notice a rehabilitation plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:

9.1.1 assessment and evaluation of the impact on the environment;

9.1.2 identification of proposed remedial and/or mitigation measures;

10. Approval of the plan 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.

11. If the above plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.

12. If you wish to continue with the listed activity you may apply for environmental authorisation by way of a section 24G ("s24G") application. However, such application does not constitute permission to continue with the listed activity, which remains unlawful unless environmental authorisation is granted.

13. Should you choose to apply in terms of s24G of the NEMA, you must submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Compliance Notice, a project schedule compiled by a suitably qualified and experienced independent environmental assessment practitioner. The project schedule must clearly stipulate the time frames in terms of the s24G process and by when a s24G application will be submitted to the Sub-Directorate: Rectification.

14. Notwithstanding the section 24G application, the Department may commence criminal proceedings should circumstances so require.

Varying this Compliance Notice

15. 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

16. 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.

17. 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.

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

18.1 revoke any permit or authorisation to which this Compliance Notice relates; and/or

18.2 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)

19. 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 calendar days** of receipt of this Compliance Notice.
20. Note further, that the lodgement of an objection does not automatically suspend the operation of this Compliance Notice. You may, accordingly, within **30 (thirty) calendar days** from the date of receipt of this Notice, apply to the Minister to suspend the operation of this Notice (or any part thereof), pending the finalisation of the appeal.
21. The objection and the application for the suspension of the operation ("suspension") of the Compliance Notice (if applied for) must be done independently and in writing to the of Ministry of Local Government, Environmental Affairs and Development Planning (for Attention Marius Venter) and contain the following:
 - 21.1. The objection must be accompanied by a statement detailing the grounds of the objection as well as supporting documentation, if any;
 - 21.2. The application for suspension must be accompanied by a motivation for the suspension of the Compliance Notice, as well as supporting documentation, if any.
22. 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

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

23. 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



Mr A. Bassier

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Date: 26/06/2025

Cc:

Mr. Thys Fourie (Klein Zout Rivier)

Email: matthys@gmail.com