



REFERENCE: 14/1/1/E2/5/2/3/L1214/22

ENQUIRIES: Leigh Kelly

BY EMAIL : Leon.Egen1@gmail.com

Mr Leon Egen
Portion 128 of 202
Hans Moes Kraal
Pacaltsdorp
George
6526

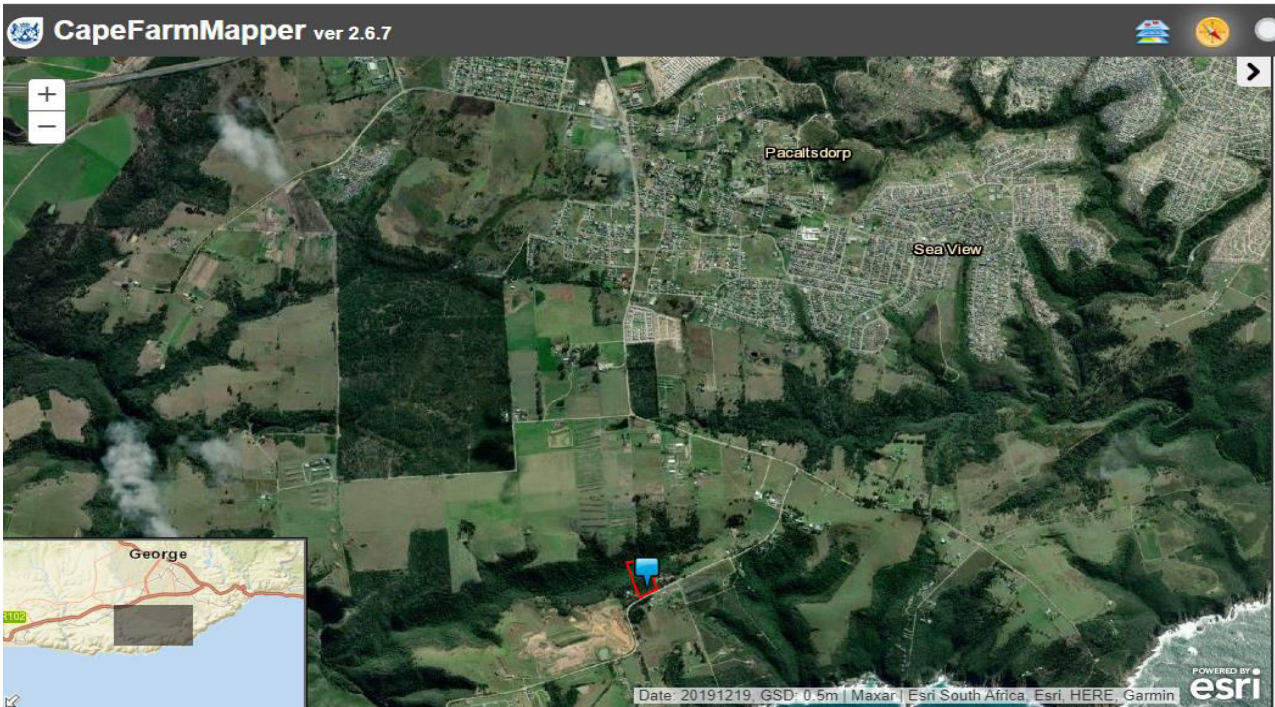
PRE-COMPLIANCE NOTICE

Dear Sir

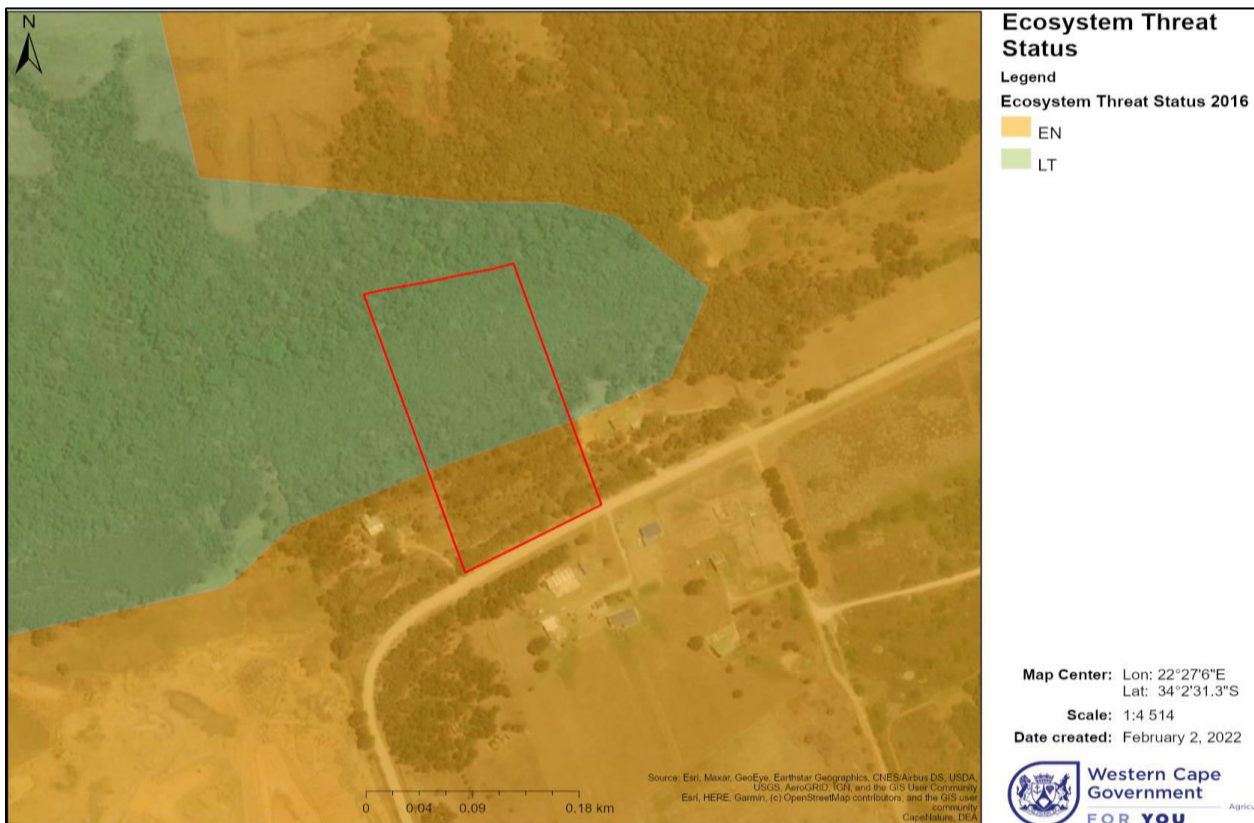
INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998

1. During an investigation into allegations of the commencement of a listed activity in contravention of section 24F of the National Environmental Management Act, 1998 ("NEMA"), a site inspection was conducted at Portion 128 of 202 of the Farm Hans Moes Kraal, George, by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 09 February 2022, and it was confirmed that you have commenced with the unlawful clearance of endangered indigenous vegetation without the pre-requisite environmental authorisation.

[34° 2' 34.35" S 22° 27' 6.97" E]



Aerial Map 1: Location of alleged illegal activity.



Aerial Map 2: The alleged transgression was undertaken within an endangered ecosystem.

2. In terms of section 24F of the NEMA, no activity listed in the Environmental Impact Assessment (“EIA”) Regulations Listing Notice 1 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.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



Photo 1: Cleared area at the front section of the property.



Photo 2: The extent of soil disturbance and plant debris indicate that the area was cleared by heavy machinery.



Photo 3: The cleared area at the back section of the property.



Photo 4: The road that was cleared on the property.



Photo 5: The stockpiled plant debris from the vegetation cleared.

4. 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.

5. 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:
 - 5.1 immediately cease the above listed activity;
 - 5.2 investigate, assess and evaluate the impact that the listed activity has / has had on the environment;
 - 5.3 rehabilitate the entire site to its original condition; and
 - 5.4 carry out any other measure necessary to rectify the effects of the unlawful activity.

6. 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.

7. 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.

8. 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 activity 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:
 - 8.1 assessment and evaluation of the impact on the environment; and
 - 8.2 identification of proposed remedial and/or mitigation measures.

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

10. Approval of the above plan 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.
11. 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.
12. Should you choose to apply in terms of s24G on the NEMA, you must submit to the Department for approval, **within 30 (thirty) calendar days** of receipt of this Pre-Compliance Notice, a project schedule compiled by a suitably qualified and experience 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.
13. Notwithstanding the section 24G application, the Department may issue a Compliance Notice and/or commence criminal proceedings should circumstances so require.



Achmad Bassier
Director: Environmental Law Enforcement
Grade 1 Environmental Management Inspector
Date: 28/03/2022



REFERENCE: 14/1/1/E3/5/2/3/L1214/22

ENQUIRIES: Leigh Kelly

BY EMAIL: Leon.Egen1@gmail.com

Mr Leon Egen

Portion 128 of 202

Hansmoeskraal

Pacaltsdorp

George

6526

COMPLIANCE NOTICE

Dear Sir

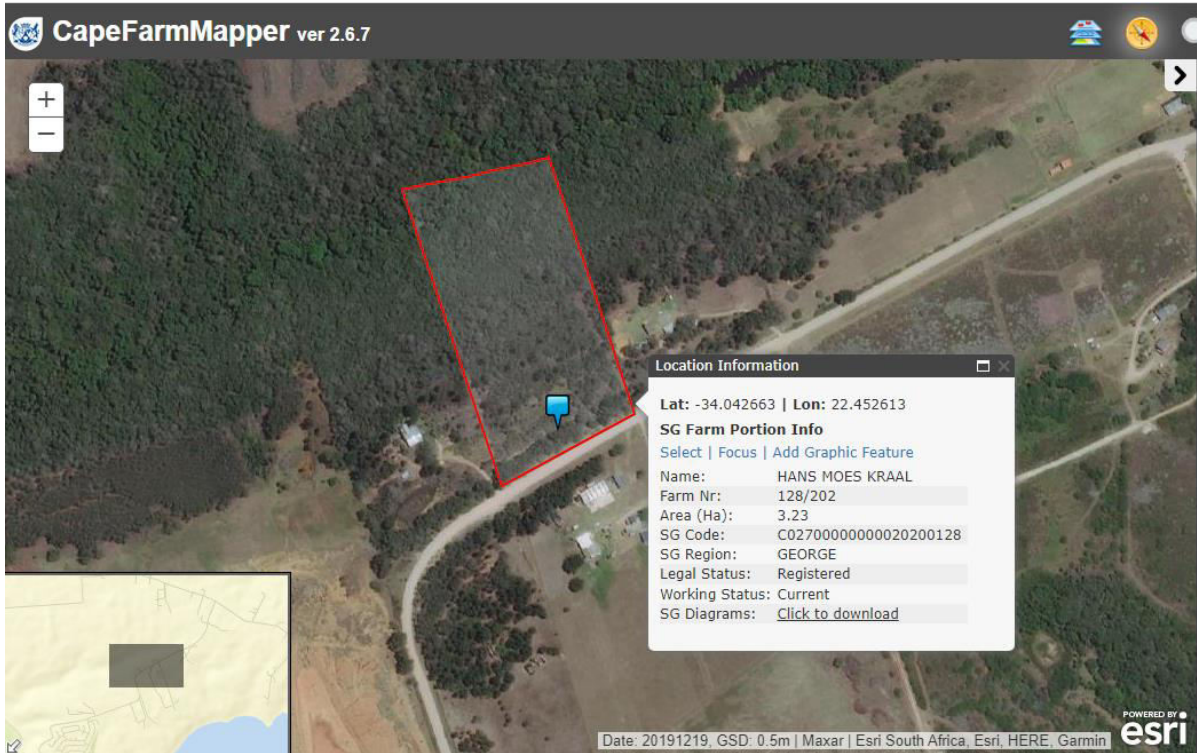
COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998

1. The Department's Pre-Compliance Notice dated 28 March 2022, and the unsatisfactory representation received from your appointed Environmental Assessment Practitioner (EAP), HillLand Environmental (Pty) Ltd, dated 04 May 2022, and the meeting held with yourself, your appointed attorney, Mr Fanie Roux, your EAP, and the Directorate: Development Management ("D: DM") on 29 September 2022, refers.

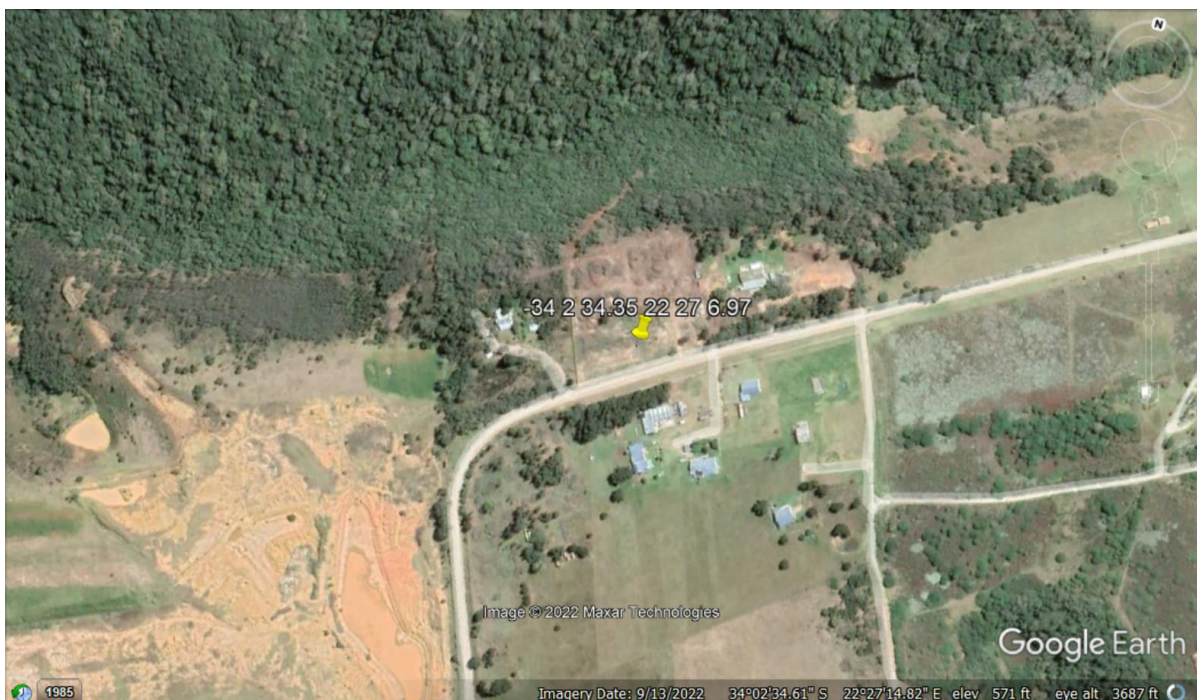
2. Having considered the evidence before me, I, Achmad Bassier, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Mr. Leon Egen with a Compliance Notice in terms of section 31L of the National Environmental Management Act, 1998 (“NEMA”).
3. This Compliance Notice relates 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 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 NEMA, a site inspection was conducted at Portion 128 of 202 of the Farm Hansmoeskraal, George by an Environmental Management Inspector from the Department's Directorate: Environmental Law Enforcement on 09 February 2022 and it was confirmed that you have commenced with the unlawful clearance of endangered indigenous vegetation without the pre-requisite environmental authorisation.



Map 1: Location of the recently cleared area indicating property details.



Map 2: Location of the recently cleared portion of the property.

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

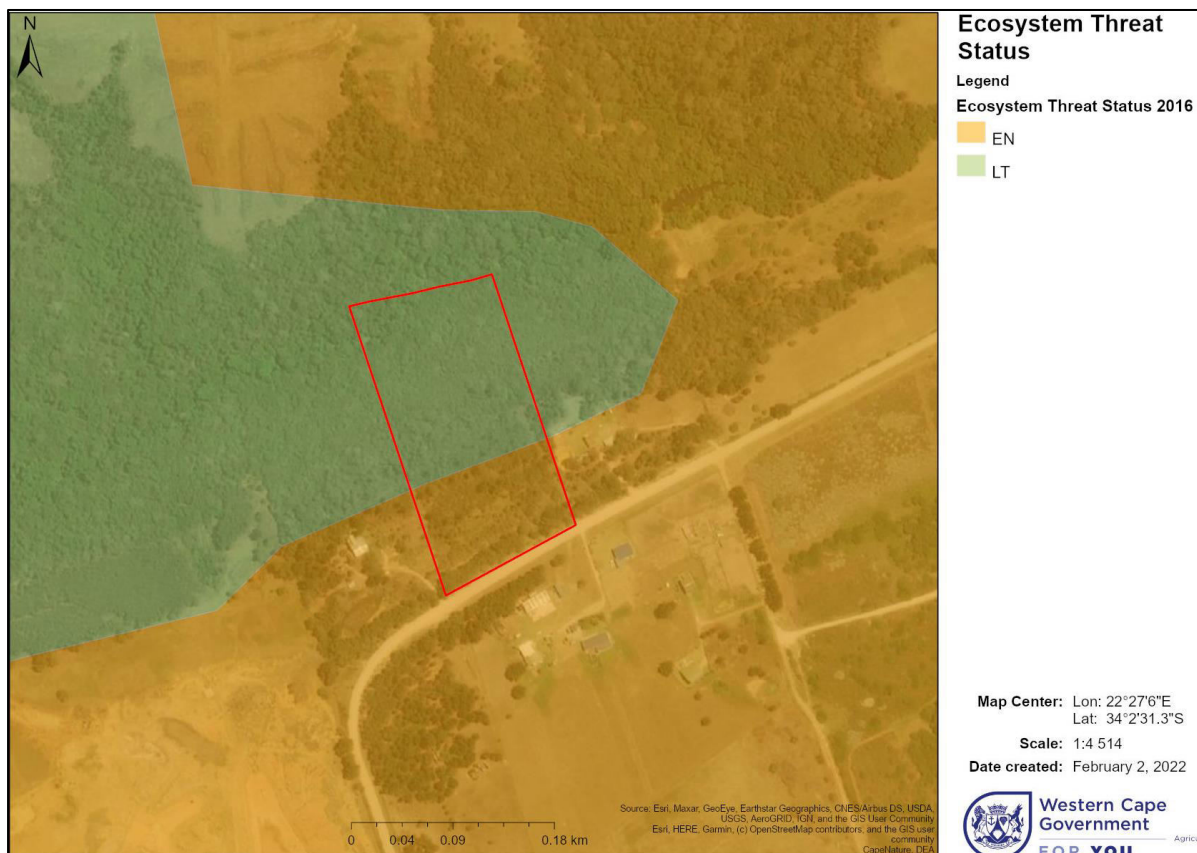
EIA Regulations Listing Notice 1 of 2014:

Activity no.27:

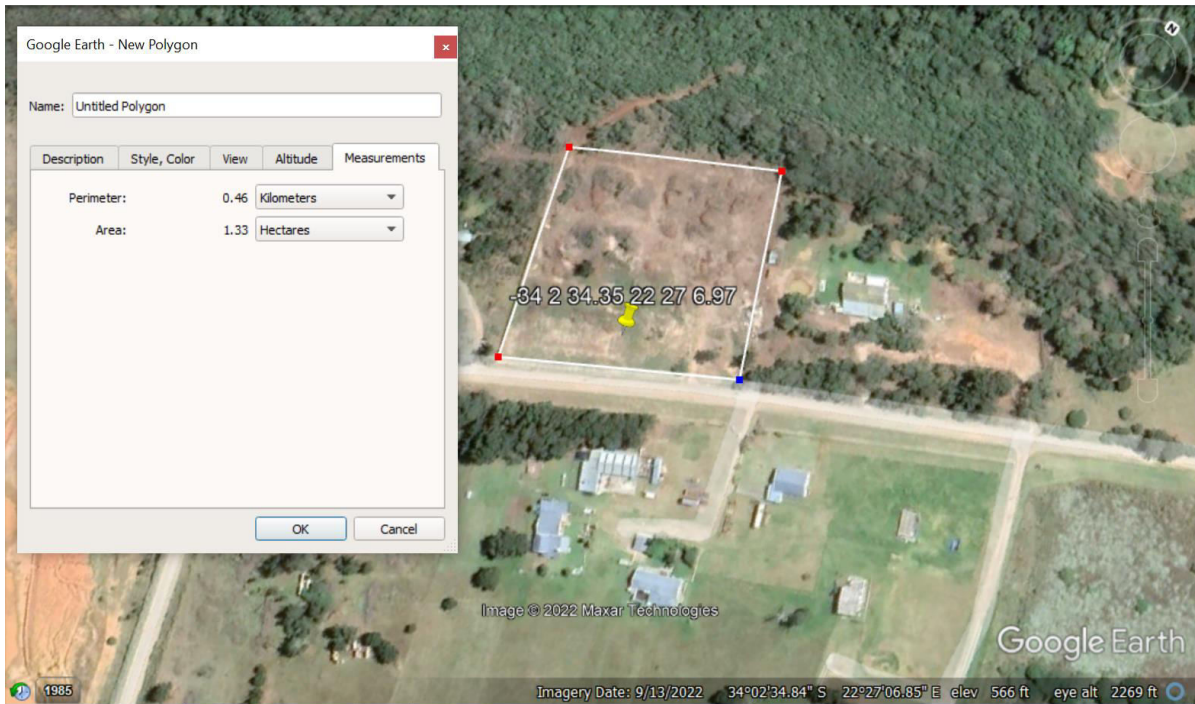
The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

(i) the undertaking of a linear activity; or

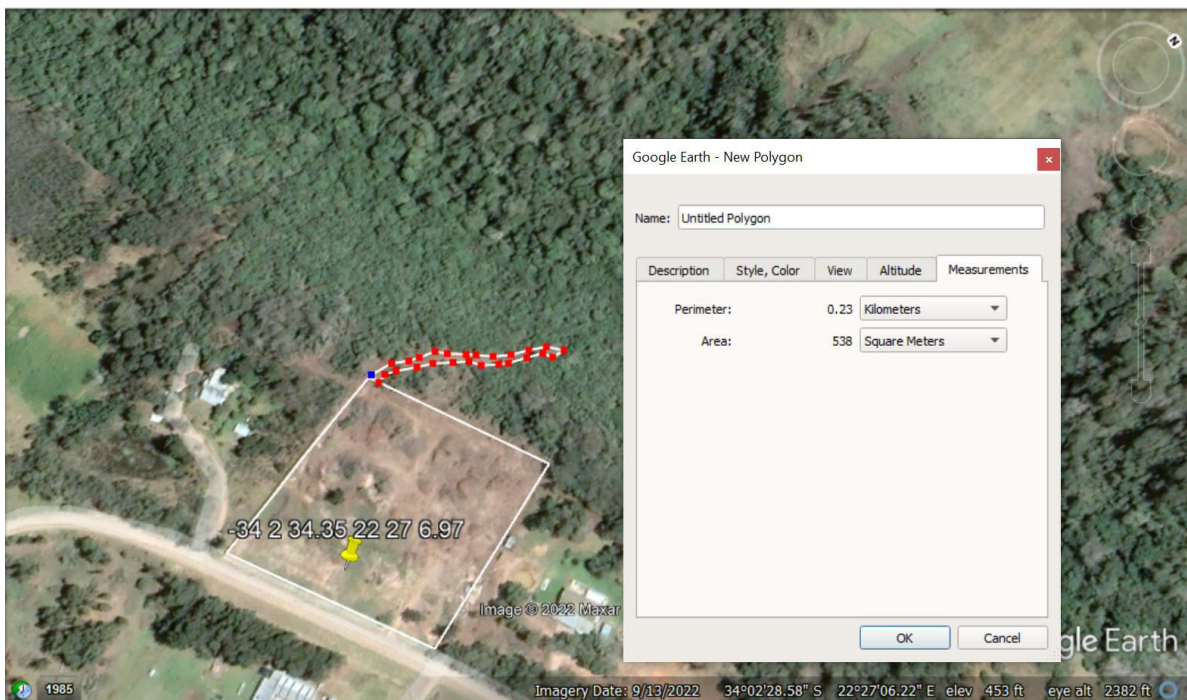
(ii) maintenance purposes undertaken in accordance with a maintenance management plan



Map 3: Ecosystem Threat Status of the cleared area, indicating that it was comprised of Endangered Groot Brak Strandveld, and Least Threatened Southern Cape Afrotropical Forest.



Map 4: View of the area cleared indicated by the white polygon, measuring at 1.33 hectare, which exceeds the threshold.



Map 5: View of the road cleared indicated by the white polygon with the red points, measuring at 538 square meters, which cumulatively exceeds the threshold.



Photograph 1: View of the recently cleared area at the front section of the property.



Photo 2: View of the extent of soil disturbance and plant debris indicate that the area was cleared by heavy machinery.



Photo 3: View of the recently cleared back section of the property.



Photo 4: View of the recently cleared road into the dense forest section of the property.



Photo 5: View of the stockpiled plant debris from the vegetation cleared.

6. You are hereby instructed to:

6.1 Immediately cease the above listed activities;

6.2 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:

6.2.1 an assessment and evaluation of the impact on the environment;

and

6.2.2 identification of proposed remedial and/or mitigation measures in order to rehabilitate the site to its original condition.

7. Approval of the section 24G application 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 authorization is granted.

8. If the above Plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.
9. 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.
10. 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 experience 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.
11. Notwithstanding the section 24G application, the Department may commence criminal proceedings should circumstances so require.

Varying this Compliance Notice

12. 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

13. 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.

14. 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.
15. Any non-compliance with the Compliance Notice must be reported to the Minister, who may:
 - 15.1 revoke any permit or authorisation to which this Compliance Notice relates; and/or
 - 15.2 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)

16. 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.
17. You may also make representations, in writing, to the Minister to suspend the operation of this Compliance Notice pending finalisation of the objection.
18. 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

19. 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: 29/11/2022

Cc:

1. Mr. F Roux

Roux A Attorneys

Email: fanie@rouxprok.co.za

2. Ms C. Avierinos

HillLand Environmental (Pty) Ltd

Email: cathy@hilland.co.za