



**24G Application: 14/2/4/2/2/E4/5/0005/20**

---

## ENVIRONMENTAL AUTHORISATION

The Trustees  
Van Niekerk Boerdery Trust  
P O Box 483  
Caledon  
7230

Tel: (028) 215 8914

Email: spesbona@com2000.co.za

### **Attention: Mr Eben van Niekerk**

Dear Sir

### **APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"); UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: THE UNLAWFUL ENLARGEMENT OF SANDGAT DAM AND RAISING OF VOOR NIEKIE DAM ON PORTION 2 OF FARM BRAKFRONTEIN NO. 123, CALEDON**

With reference to your application dated 26 March 2021 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

#### **A. DECISION**

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with the preferred alternative as described in the application and environmental assessment dated 26 March 2021.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

## B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Van Niekerk Boerdery Trust

c/o Mr Eben van Niekerk

P O Box 483

Caledon

7230

Tel: (028) 215 8914

Email: spesbona@com2000.co.za

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "the holder".

## C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R. 327 of 7 April 2017</p> <p><b>Activity Number:</b> 19</p> <p>Activity Description: <i>"The infilling or depositing of any material of more than 10 m<sup>3</sup> into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 m from a watercourse."</i></p>	<p><u>Voor Niekie Dam</u></p> <ul style="list-style-type: none"> <li>• Clearing the diversion channel of sediment and vegetation (completed)</li> <li>• Removal of 1000 m<sup>3</sup> of sediment within dam basin (completed).</li> <li>• Raising of the dam wall by 1m (completed).</li> </ul> <p><u>Sandgat Dam</u></p> <ul style="list-style-type: none"> <li>• Deposition of material for the dam wall (not complete).</li> </ul>

<p>Government Notice No. R. 327 of 7 April 2017</p> <p><b>Activity Number:</b> 48</p> <p>Activity Description: "The expansion of infrastructure or structures where the physical footprint is expanded by 100 m<sup>2</sup> or more; or(ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100m<sup>2</sup> or more; where such expansion occurs (a) within a watercourse; or (c) if no development setback exists, within 32m of a watercourse, measured from the edge of a watercourse."</p>	<p><u>Sandgat Dam</u></p> <ul style="list-style-type: none"> <li>• Deposition of material for the dam wall (not complete).</li> </ul>
<p>Government Notice No. R. 324 of 7 April 2017</p> <p><b>Activity Number:</b> 4</p> <p>Activity Description: "The development of a road wider than 4 m with a reserve less than 13.5 m (i) Western Cape (ii) Areas outside urban areas (aa) areas containing indigenous vegetation.</p>	<p>The realignment of the existing farm road (300m of this road would be inundated by the proposed dam). The existing road is 5m in width. The road would be realigned to an area containing disturbed Western Rûens Shale Renosterveld.</p>
<p>Government Notice No. R. 324 of 7 April 2017</p> <p><b>Activity Number:</b> 12</p> <p>Activity Description: "The clearance of an area of 300 m<sup>2</sup> 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; (ii) Within critical biodiversity areas identified in bioregional plans."</p>	<p>The existing farm road would need to be realigned as 300m of this road would be inundated by the proposed dam. The road would be realigned to an area containing disturbed Western Rûen Shale Renosterveld which has the conservation status of Critically Endangered A1. The development of the road would affect a small area of Critical Biodiversity Area 1 (CBA1) and CBA2 area east of the gravel road.</p>
<p>Government Notice No. R. 324 of 7 April 2017</p> <p><b>Activity Number:</b> 23</p>	<p>The completion of the enlargement of Sandgat Dam would allow for a total storage capacity of 500 000 m<sup>3</sup> and a</p>

<p>Activity Description: <i>"The expansion of dams or weirs where the dam or weir is expanded by 10m<sup>2</sup> or more; or</i>  <i>ii) infrastructure or structures where the physical footprint is expanded by 10m<sup>2</sup> or more; where such expansion occurs (a) within a water course"</i></p>	<p>17.7m high embankment. The repair of Voor Niekie Dam has been completed within 32 m of a watercourse.</p>
---	--

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

#### D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Portion 2 of Farm 123, Brakfontein near Caledon.

The SG digit code is: C01300000000012300002

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	34° 05' 01.65" South	19° 21' 24.49" East
2	34° 04' 55.16" South	19° 22' 19.33" East
3	34° 06' 37.39" South	19° 22' 12.32" East
4	34° 06' 08.98" South	19° 23' 45.49" East

The co-ordinates for the site boundary are:

Sandgat Dam		
Point	Latitude (S)	Longitude (E)
1	34° 05' 36.34" South	19° 22' 31.74" East
2	34° 05' 39.04" South	19° 22' 40.70" East
3	34° 05' 48.83" South	19° 22' 29.46" East
4	34° 05' 51.39" South	19° 22' 39.36" East

Voor Niekie Dam		
Latitude (S)	Latitude (S)	Latitude (S)
1	34° 05' 24.13" South	19° 22' 45.67" South
2	34° 05' 24.75" South	19° 22' 47.82" South
3	34° 05' 26.10" South	19° 22' 45.35" South
4	34° 05' 26.50" South	19° 22' 46.89" South

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.  
 Herein-after referred to as "the site".

#### **E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")**

Holland & Associates Environmental Consultants

c/o Mr Ross Holland & Ms Emily Herschell

P O Box 31108

TOKAI

7966

Tel: (021) 712 9120

Fax: (086) 653 1765

Email: ross@hollandandassociates.net / emily@hollandandassociates.net

#### **F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN**

The development entails the unlawful enlargement of Sandgat Dam and raising of Voor Niekie dam on portion 2 of Farm Brakfontein No. 123, Near Caledon.

In 2018, the applicant upgraded the existing Voor Niekie Dam on the farm by clearing its diversion channel and the dam of sediment. Up to 1000m<sup>3</sup> of sediment has been removed. The dam wall was raised by 1m during the upgrade, and the new dam wall height is 4.2m. The

original storage capacity was increased from 4451m<sup>3</sup> to 7070m<sup>3</sup>. Work on this project component is complete.

The applicant also initiated the expansion of Sandgat Dam, a dam within what used to be a sand-mine pit. The placement of the sand for the dam wall was done in furtherance of the dam enlargement, which is currently used as a cattle watering point.

The completion of the scheme would include:

- Completion of the Sandgat Dam (500 000m<sup>3</sup> total storage capacity and 17.7m high embankment); and
- Completion of two 315 mm diameter water supply pipelines (0.4 km and 0.5 km respectively).

Water would gravitate from the existing pump station at Langs Eben Dam to the incomplete Sandgat Dam via a 315mm diameter water supply pipeline (approximately 0.4km). An additional pipeline, 315mm diameter (approximately 0.5km) would be connected to the Sandgat Dam outlet pipe to gravitate water to the existing pump station at Voor Niekie Dam. Borrow areas are to be located within the existing dam basin (previously a sand mine). The total construction footprint would thus be 10.8 ha and the operational footprint would be 10.2 ha.

## G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

### PART I

#### Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to the preferred alternative described in the application and assessment report dated 26 March 2021 on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision.
3. The development must be concluded within 2 years from the date of continuation of the first listed activity.

4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
5. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

## **PART II**

### **Written notice to the competent authority**

6. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of the construction activities.
  - 6.1 The notice must make clear reference to the site details and 24G Reference number given above.
  - 6.2 The notice must also include proof of compliance with the following condition:  
Condition 7

## **PART III**

### **Notification and administration of an appeal**

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision—
  - 7.1 notify all registered Interested and Affected Parties (“I&APs”) of –
    - 7.1.1 the outcome of the application;
    - 7.1.2 the reasons for the decision as included in Annexure 3;
    - 7.1.3 the date of the decision; and
    - 7.1.4 the date when the decision was issued.
  - 7.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* detailed in Section I below.

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

7.4 provide the registered I&APs with:

7.4.1 the name of the holder (entity) of this Environmental Authorisation;

7.4.2 name of the responsible person for this Environmental Authorisation;

7.4.3 postal address of the holder;

7.4.4 telephonic and fax details of the holder;

7.4.5 e-mail address, if any, of the holder; and

7.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.

8. The listed activities, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

## **PART IV**

### **Management of the activity/development**

9. The draft Environmental Management Programme ("EMPr") of March 2021 compiled by Holland and Associates and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

10. The draft Maintenance Management Plan ("MMP") of March 2021 compiled by Holland and Associates and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

11. The EMPr and MMP must be included in all contract documentation for all phases of implementation.



## **PART V**

### **Monitoring**

12. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") before continuation of commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
13. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and must be made available to anyone on request.
14. Access to the site referred to in Section D must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

## **PART VI**

### **Auditing**

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

## **PART VII**

### **Activity/ Development Specific Conditions**

16. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and

other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

17. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
18. Dam spillways, pipeline alignments, access roads and all disturbed areas must be monitored for signs of erosion on a regular basis. Any erosion problems observed must be rectified, using appropriate erosion control structures and revegetation techniques, as laid out within the Operational EMPr.

## **H. GENERAL MATTERS**

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.

(3) It is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the competent authority has not granted an environmental authorisation for the undertaking of the activity.

4. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:

Amendments to the EMPr must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

## **I. APPEALS**

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –

- 1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –

- 2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20

(twenty) calendar days from the date the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and Organ of State must submit their responding statements, if any, to the Appeal Authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.

4. This appeal and responding statement must be submitted to the address listed below -

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

By facsimile: (021) 483 4174; or

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

By e-mail: [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za)

**Note:** You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za).

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

## J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

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

## K. DISCLAIMER

The Western Cape Government, appointed in terms of the conditions of this Environmental Authorisation, shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Yours faithfully

---

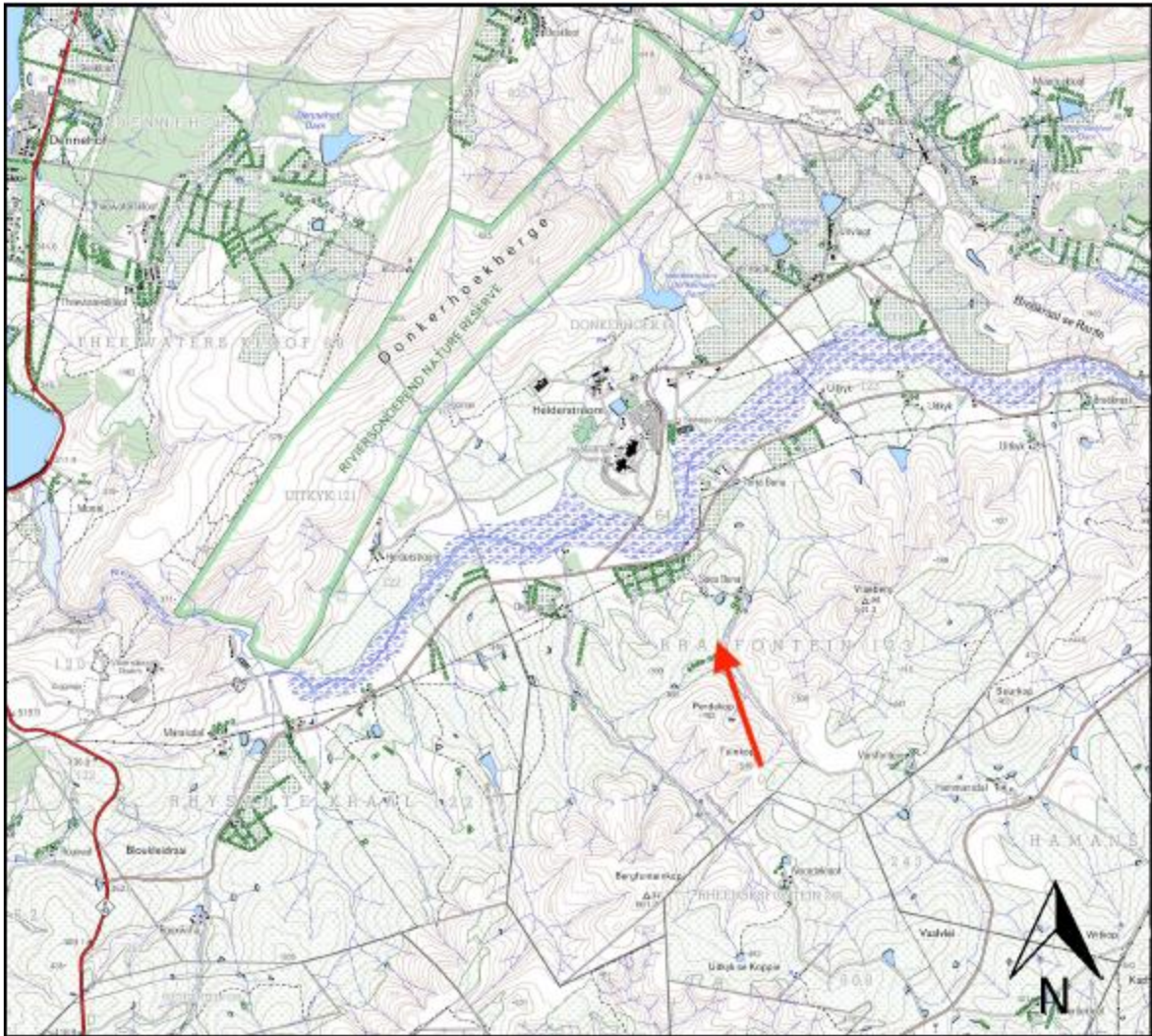
**ZAIDAH TOEFY**  
**ACTING DIRECTOR: ENVIRONMENTAL GOVERNANCE**

Copied to:

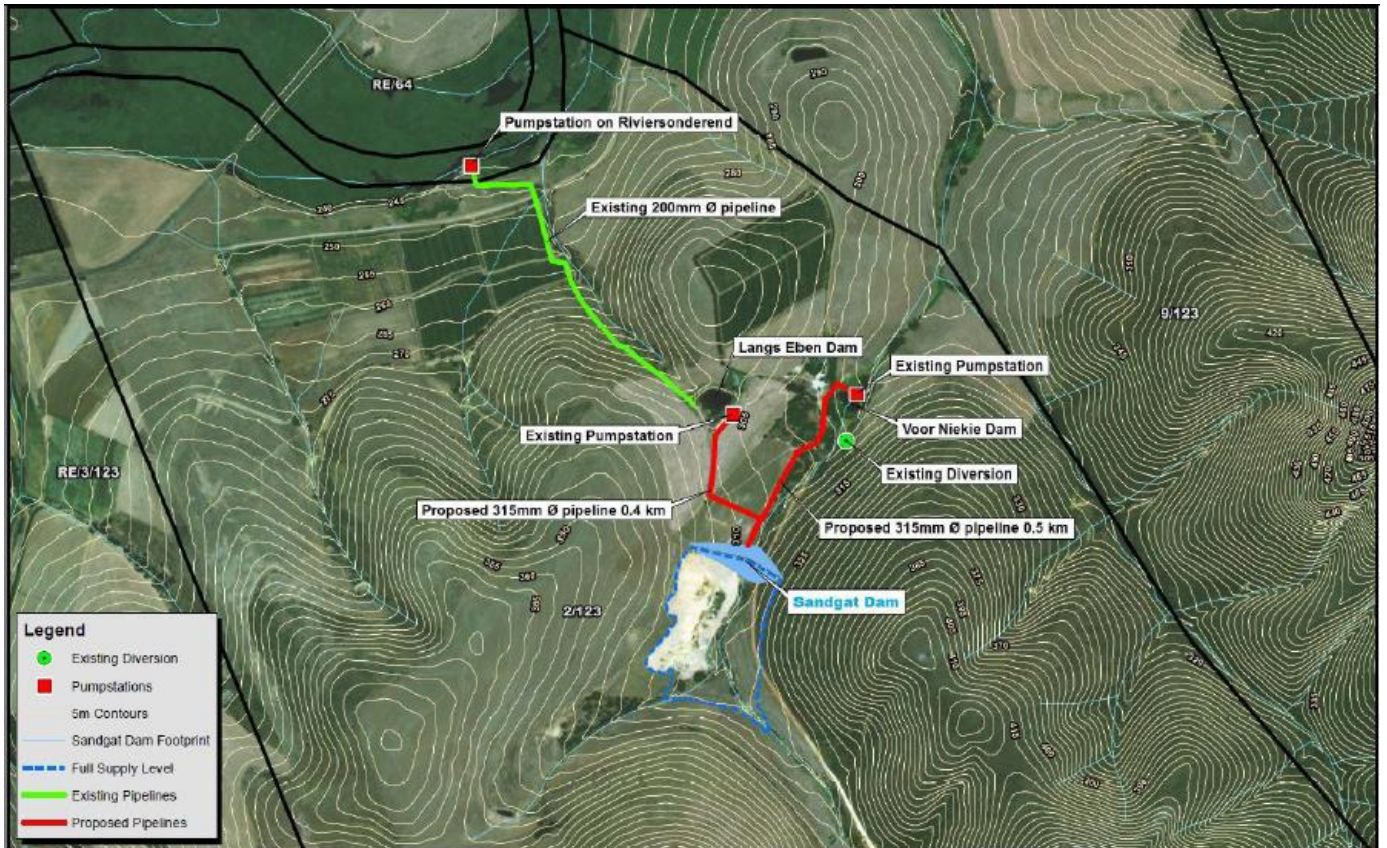
(1) Emily Herschell (EAP)

Email: [Emily@hollandandassociates.net](mailto:Emily@hollandandassociates.net)

# ANNEXURE 1: LOCALITY MAP



## ANNEXURE 2: SITE PLAN



**FOR OFFICIAL USE ONLY:**

**S24G REFERENCE:**

**14/2/4/2/2/E4/5/0005/20**

**ANNEXURE 3: REASONS FOR THE DECISION**

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R250 000 (Two hundred and fifty thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 26 March 2021 with supporting environmental impact assessment and mitigation measures.
- b) The Environmental Management Programme ("EMPr") of March 2021 submitted together with the s24G application.
- c) The Maintenance Management Plan (MMP) of March 2021 submitted for the application.
- d) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- f) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- g) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- h) The site visit conducted on 21 October 2020 attended by officials of the Directorate: Environmental Governance.



All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

## 1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...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 ...", is required.

The public participation process conducted by the EAP comprised of the following:

- identification of and engagement with I&APs.
- fixing a notice board at the site where the listed activities unlawfully commenced on 18 March 2020.
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities were undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 16 & 17 March 2020, respectively.
- the placing of a newspaper advertisement in the **Theewaterskloof Gazette** on 17 March 2020.
- I&APs were afforded the opportunity to provide comments on the application.

### Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- Department of Agriculture, Forestry and Fisheries: Land Use and Soil Management (DALRRD)
- Western Cape Department of Agriculture (DoA)
- Breede Gouritz Catchment Management Agency (BGCMA) (on behalf of the Department of Water and Sanitation)
- Heritage Western Cape (HWC)
- CapeNature (CN)
- Western Cape: Department of Rural Development and Land Reform (DRDLR)
- Western Cape: Department of Transport and Public Works (DTPW)
- Western Cape: Department of Health (DoH)

DALRRD noted that the draft S24G application report, the EMP and the MMP makes provision for soil and sedimentation control measures, wind erosion and stockpile measures, rehabilitation and storm water management measures which are in accordance with the regulations 4, 5, 6 and 14 of the *Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983)* ("CARA"). The draft S24G application report refers to the clearing of weeds and invasive plants on the land concerned which is in accordance with the regulation 15 of the CARA. The MMP makes provision for mitigating measures to mitigate the severity of the impact of the proposed activities during the maintenance and repair of infrastructure which includes the clearing of vegetation and sediment (including weeds and invasive plants) in the stipulated watercourses. The landowner should ensure the removal of vegetation in any of the watercourses concerned on the farm are done to such an extent that it will not constitute an obstruction during a flood that could cause excessive soil loss as result of erosion through the action of water.

According to Regulation 7 (2) of CARA: "Every land user shall remove the vegetation in a water course on his farm unit to such an extent that will not constitute an obstruction during a flood that could cause excessive soil loss as a result of erosion through the action of water."

The DoA noted that certain activities had not commenced and indicated that the landowner must apply for a cultivation permit from the DoA. This must be done for any piece of land the applicant would like to cultivate if the land is virgin soil and has not been cultivated in the last 10 years as per the definition in terms of the CARA.

According to regulation 4 & 5 of CARA, the landowner must protect the cultivated land on his farm effectively against excessive soil loss as a result of erosion through the action of water and wind. Measures that may be applicable is:

- a suitable soil conservation work to be constructed and thereafter be maintained in order to divert run-off water from other land or to restrict the speed of run-off water,
- The landowner must ensure the completed Voor Niekie Dam and the Sandgat Dam are impermeable, to prevent soil erosion.
- Any rehabilitation and remedial action in relation to soil erosion (or the removal of topsoil) in the event it does occur needs to be in accordance with regulation 14 of the CARA.
- The weeds and invasive plants present on the respective farms need to be controlled and removed annually through continuous monitoring and maintenance programs as they can cause damage to the surrounding natural vegetation.
- clearing on the dam banks or in a water course in accordance with clearing methods that will have the least environmental damage.

In terms of the Water Use Authorisation, the BGCMA indicated that the above Water Use require water use authorisation in terms of the *National Water Act, 1998 (Act 36 of 1998)*. The available information indicates that the water user does not have confirmed Water Use Authorisation and is therefore unlawful. The matter will therefore be referred for Compliance, Monitoring and Enforcement.

Additionally, no water may be stored in the dams. No pollution of surface water or ground water resources may occur due to any activity. No storm water runoff from any premises containing waste, or water containing waste emanating from industrial activities and premises may be discharged into a water resource. All relevant sections and regulations of the *National Environmental Management: Waste Act 2008 (Act 59 of 2008)* regarding the disposal of solid waste must be adhered to.

The DTPW requested clarity on the transportation of material to and from the site. The EAP indicated that machinery used on the farm was utilized for the work that have already been completed and did not involve any trips to or from the site. Works undertaken to date can be classified as being general earthworks in nature (i.e., no import or export of material). The bulk of work still to be undertaken involves the completion of the proposed Sandgat Dam. However, the engineers have confirmed that all necessary construction materials can be sourced from within the dam basin. As such, the only truck trips generated by the project would be approximately 10 trips during the site establishment phase (to transport the Contractors Earth Moving Machinery to site), and then the equivalent number of trips at the end of the project (i.e., 3 to 4 months after commencement), to remove the Machinery after construction is complete.

DTPW indicated that, should it become necessary to haul material to or from the site, the Branch is to be informed immediately before the activity starts.

The DoA would like to see the dam wall spillway design and how that impact on the surroundings.

Feedback from the consulting engineers with regards to the spillway design noted that the spillway will be an open channel excavated in erosion resistant rock at the end of the right flank and have further noted that based on the geotechnical investigation the founding conditions at the end of the left flank are soft (erodible). The engineers have further noted that the detail spillway design will be finalised further on in the process, during the design phase. This will take place in accordance with the Pre-Construction EMP requirements.

The EMPr for the project includes detailed Operational and Management specifications for the prevention of erosion of the spillway and other disturbed areas, in order to minimise the sedimentation impact on the downstream environment.

CN noted that historical aerial photographs contained in the freshwater impact assessment confirmed that the historically ploughed land extended higher up the slope than what is currently practiced. The WCBS mapping also supports that this area was previously ploughed. However, the road has not been assessed in the botanical impact assessment nor mentioned in the terms of reference and it is possible that the renosterveld in this section was not previously ploughed. The southern section of the road additionally traverses CBA1. It is therefore recommended that an addendum to the botanical impact assessment is compiled to assess the impact of the relocation of the road on the vegetation.

The EAP indicating that a strip of Western Rûens Shale Renosterveld is located at the foot of a koppie next to the gravel farm road. A trench is located alongside the road to prevent runoff. The veld is natural but in poor condition due to past agricultural activities, such as bush-clearing and ploughing.

CN agrees with the mitigation measures relating to the watercourse and should be included as conditions in the decision, including ensuring environmental flow requirement releases and reducing the existing water allocation from the Riviersonderend River. CN recommends that the mitigation measures for alien clearing should be for the implementation of an alien clearing programme for the entire property.

It is recommended that the construction of the dam should be dependent on the issuing of a closure certificate from the Department of Mineral Resources, in terms of the relevant legislation.

The Western Cape Department of Health indicated that, from an Environmental Health point of view, there is no objection against the application to enlarge Sandgat Dam and to raise Voor Niekie Dam on condition that: *(a) No nuisance or any pollution (water, ground, air) takes place during the construction phase; (b) All further requirements of the applicable Municipal Health Services authority (Overberg District Municipality: Environmental Health Component) are adhered to.*

A Notice of Intent to Develop was submitted to HWC for consideration – no further comment from HWC is required.

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

## 2. Alternatives

### 2.1 Site Alternatives

#### Alternative 1

This involved enlarging one of the existing two dams on the farm and was considered an alternative option before construction of the Sandgat Dam began. The enlargement of Langs Eben Dam would have required the relocation of the existing farm owner's residential house downstream of the dam. This option was found to be unfeasible and discarded since relocating the existing residential house was not a viable option envisaged by the farm owner. This alternative would also not have assisted in rehabilitating the existing sand mine.

#### Alternative 2

This involved the possible enlargement of the Voor Niekie Dam. This would have required a road and houses on the left abutment of the dam to be relocated and was therefore not considered as a suitable and feasible alternative option. From an ecological perspective, this alternative would also not have assisted in rehabilitating the existing sand mine.

#### Alternative 3 (Herewith authorized)

This would entail the upgrading of the existing Voor Niekie Dam on the farm by clearing its diversion channel and the dam of sediment. The original storage capacity was increased from 4451m<sup>3</sup> to 7070m<sup>3</sup>. This alternative also includes the expansion of the Sandgat Dam, a dam within what used to be a sand-mine pit. The placement of the sand for the dam wall was done in furtherance of the dam enlargement, which is currently used as a cattle watering point.

The completion of the scheme would include:

- Completion of the Sandgat Dam (500 000m<sup>3</sup> total storage capacity and 17.7m high embankment); and
- Completion of two 315 mm diameter water supply pipelines (0.4 km and 0.5 km respectively).

## 2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

The No-Go Option has been assessed and it is not considered a feasible alternative in light of the possible impacts that would result. Retaining the status quo would be considered as a lost opportunity for the following reasons:

- job insecurity for existing employees (due to the uncertain viability of the farm experiencing increased costs of production and farming operations as well as the effects of climatic variability and future climate change); and
- there would be no associated job creation or skills development during construction and possibly operation.

The proposed site is zoned Agriculture, and this proposal is for the streamlining and improved resource efficiency of water supply for agricultural use. The "No-Go" alternative therefore would mean that the dams on the farm remain at their current storage capacity and that no agricultural activities beyond those of the landowner's existing rights would be allowed on the site.

There have been no assessed negative environmental impacts associated with the commencement of this development which are of sufficient significance to justify the implementation of the No-Go Alternative.

According to the freshwater ecology specialist, accepting the No-Go Option would likely result in little to no rehabilitation of the Sandgat tributary, nor the management of alien plants on the property. The watercourses within the property would remain in their existing ecological condition and may degrade further.

The botanical specialist noted that the land with the existing sand mine would remain undeveloped and the habitat would remain much as it is. Implementing the No-Go Option would have a negligible impact on natural vegetation with no significant further loss in the short- to long-term.

## 3. **Environmental Impact Assessment (EIA) and Mitigation Measures**

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

### 3.1. Activity Need and Desirability

The completion of the project would result in the increased security of the applicant's farming operations, as it allows for better resilience to future climatic variation as well as

to the predicted impacts of climate change. This will result in improved job security for the existing 20 permanent and 60 seasonal employees on the farm. It is anticipated that skills development would also occur for all employees during construction and operation. The proposed project would likely increase revenue to the landowner and indirectly to the area's local economy and would also provide additional revenue to the national fiscus.

### 3.2. Regional/ Planning Context

The completion of the project would result in the increased compatibility with socio-economic and spatial forward planning for the area, such as the Western Cape Provincial Strategic Plan: 2014 – 2019 (WCPSP). The first Provincial Strategic Goal (PSG1) is to create opportunities for growth and jobs. The commencement of the project ensured job stability and work opportunities for low-skilled workers and further benefits (on a larger scale would accrue if the proposed project were to be completed). In addition, the Theewaterskloof Local Municipality Spatial Development Framework has identified the development of agricultural production in suitable locations as a priority.

### 3.3. Biodiversity Impacts

The consequence of commencement and associated scheme of the preferred alternative for the enlargement of the Sandgat Dam construction would be Very Low Negative before any mitigation. Additionally, the direct impacts of the pipelines for the preferred scheme layout would also be Very Low Negative and no mitigation is necessary. Increasing the Voor Niekie Dam capacity would have had a small impact on the flow in the river, given that more water could be diverted into the dam from the river. There may also have been a localised water quality impact during the works, associated with the additional available sediment during the activities, however this is likely to have taken place during the dry season, when no impact would have occurred. The significance of the potential impact of the enlargement of Sandgat Dam, the relocation of the diversion structure at the dam and construction of the pipelines would be of a low negative significance due to the existing degraded condition of the Spes Bona Tributary.

### 3.4. Visual / Sense of Place

The development is in keeping with the surrounding environment, as dams and farm roads are consistent with an agricultural landscape. Additionally, the provincial heritage authority, Heritage Western Cape, were consulted for the application and concluded

that the development did not raise any concerns regarding potential negative impacts on heritage resources.

#### 4. NEMA Principles

The National Environmental Management Principles (set out in section 2 of the NEMA), which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the competent authority is satisfied that the listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

-----END-----