



**REFERENCE:** 14/2/4/2/2/B1/17/0004/19

**ENQUIRIES:** Ziyaad Allie

**REGISTERED MAIL**

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**Attention: Mr Anton Stephanus Viljoen Jnr**

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: UNLAWFUL CLEARANCE OF INDIGENOUS VEGETATION, ENLARGEMENT OF OUDE SCHUUR DAM AND THE UPGRADING OF A PUMP STATION ON ERF 25/451, FARM OUDE SCHUUR, WORCESTER**

With reference to your application dated 14 March 2019 and the Report received by the Department on 09 April 2020 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

**ENVIRONMENTAL AUTHORISATION**

**A. DECISION**

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below as described in the application and environmental assessment dated 14 March 2019.

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

AS Viljoen Jnr Trust  
c/o Mr Anton Stephanus Viljoen Jnr  
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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 December 2014</p> <p><b>Activity Number: 16</b></p> <p>Activity Description: "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."</p>	<p>More than 10 cubic metres of material was removed/ moved during the enlargement of Dam 4.</p>

<p>Government Notice No. 327 of December 2014</p> <p><b>Activity Number: 27</b></p> <p>Activity Description: <i>"The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation."</i></p>	<p>The expansion of agricultural areas on the farm resulted in the removal of 1.5 hectares of indigenous vegetation.</p>
<p>Government Notice No. 327 of December 2014</p> <p><b>Activity Number: 48</b></p> <p>Activity Description: <i>The expansion of (i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or (ii) dams and weir, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more; where such expansion occurs (a) within a watercourse; or (c) if no development setback line exists, within 32 metres of a watercourse."</i></p>	<p>Dam 4 was enlarged by more than 10 square metres and is located within a watercourse. The location of the pump station upgrade is within 32 metres of a watercourse and within an area mapped as a Critical Biodiversity Area (CBA).</p>
<p>Government Notice No. 324 of December 2014</p> <p><b>Activity Number: 12</b></p> <p>Activity Description: <i>"The clearance of an area of 300 square metres or more of indigenous vegetation; (i) in the Western Cape (ii) within critical biodiversity areas identified in bioregional plans."</i></p>	<p>The area of indigenous vegetation that was cleared for agricultural development is mapped as Critical Biodiversity Area 1 and is greater than 300 square metres (1.5ha).</p>
<p>Government Notice No. 324 of December 2014</p> <p><b>Activity Number: 23</b></p> <p>Activity Description: <i>"The expansion of (i) dams or weirs where the dam or weir is expanded by 10 square metres or more; or (ii) infrastructure or structures where the physical footprint is expanded by 10 square metres or more; where such development occurs (a) within a watercourse or (c) within 32 metres from a watercourse; i. in the Western Cape (i) outside urban areas (ff) in critical biodiversity areas or ecosystem service areas."</i></p>	<p>Dam 4 was enlarged by more than 10 square metres and is located within a watercourse. The pump station upgrade is located within 32 metres of a watercourse and is in an area mapped as a CBA.</p>

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

#### **D. PROPERTY DESCRIPTION AND LOCATION**

The listed activities commenced on Remainder 453 and Erf 25/451, Farm Oude Schuur, Worcester.

The SG digit codes are: C08500000000045100025 and C08500000000045300000

The co-ordinates where activities were undertaken:

Point	Latitude (S)	Longitude (E)
Enlarged and lined dam	33° 40' 49.127" South	19° 36' 51.57" East
Agricultural Expansion (Vegetation clearance)	33° 42' 13.838" South	19° 38' 5.65" East
Upgraded Pump Station	33° 40' 49.127" South	19° 36' 51.57" East

Refer to Annexure 1: Locality Map  
Herein-after referred to as "the site".

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

Holland and Associates Environmental Consultants

C/o Mr Ross Holland

Ross Holland

TOKAI

7966

Tel: (021) 712 9120

Fax: 086 653 1765

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

## **F. DETAILS OF THE ACTIVITIES UNDERTAKEN**

The project includes completed activities related to the enlargement and lining of an existing dam on the farm that commenced in the first quarter of 2017. The dam was enlarged with the following specifications:

- Dam wall height increased from 4m to 6m;
- Full supply level area enlarged from 3.2ha to 3.7ha;
- Full supply level increased from 75 000m<sup>3</sup> to 111 000m<sup>3</sup>.

Furthermore, the development on the property includes the clearance of 1.5ha of indigenous vegetation for agricultural expansion that commenced in the second half of 2016 as well as the upgrade to an existing pump station.

The total physical spatial size of the activities are as follows:

- Cleared land = 15 000m<sup>2</sup>
- Dam enlargement = 6500m<sup>2</sup>
- Pump station = 375m<sup>2</sup>
- Total area 21 875m<sup>2</sup>

## **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 implemented alternative described in the application and assessment report dated 14 March 2019 on the site as described in Section D above.
2. The development must be concluded within 5 years from the date of continuation of the first listed activity.
3. 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.

4. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

## **PART II**

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

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

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

## **PART III**

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

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

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

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

6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* detailed in Section I below.

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

6.4 provide the registered I&APs with:

- 6.4.1 the name of the holder (entity) of this Environmental Authorisation;
- 6.4.2 name of the responsible person for this Environmental Authorisation;
- 6.4.3 postal address of the holder;
- 6.4.4 telephonic and fax details of the holder;
- 6.4.5 e-mail address, if any, of the holder; and
- 6.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.

7. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

#### **PART IV**

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

8. The draft Environmental Management Programme ("EMPr") of March 2019 compiled by Holland & Associates Environmental Consultants and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

9. The EMPr must be included in all contract documentation for all phases of implementation.

#### **PART V**

##### **Monitoring**

10. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, 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, including a publicly accessible website (if applicable).

11. 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**

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

## **PART VII**

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

13. 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.

14. 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.
15. The recommendations of the Freshwater specialist in the report of February 2019 must be implemented. The recommendations relate to the on-going alien vegetation



clearance and management as well as continuous monitoring of the erosion of the disturbed areas around the dam. .

16. The mitigation measures outlined by the botanical specialist in the Botanical Impact Assessment of November 2018 must be implemented. These mitigation measures as outlined in the report is as follows:

16.1. The areas disturbed by completed developments are susceptible to invasion by exotic species and this is the greatest threat to the terrestrial ecological functioning of the area postconstruction. All disturbed areas must be monitored once a year for three years following construction in order to ensure that no invasive species or exotic weeds or grasses establish in the disturbed areas or adjacent veld.

16.2. The area to the east of the Dam that has been disturbed through construction should be rehabilitated to ensure that the area is colonized by indigenous species rather than exotics that would spread into adjacent vegetation. Locally occurring indigenous species should be used as far as possible and the work must be undertaken by a suitably qualified restoration ecologist, horticulturalist or botanist.

## **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, the Municipality, committees or any other public authority or organisation 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



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**ADV. CHARMAINE MARÉ**

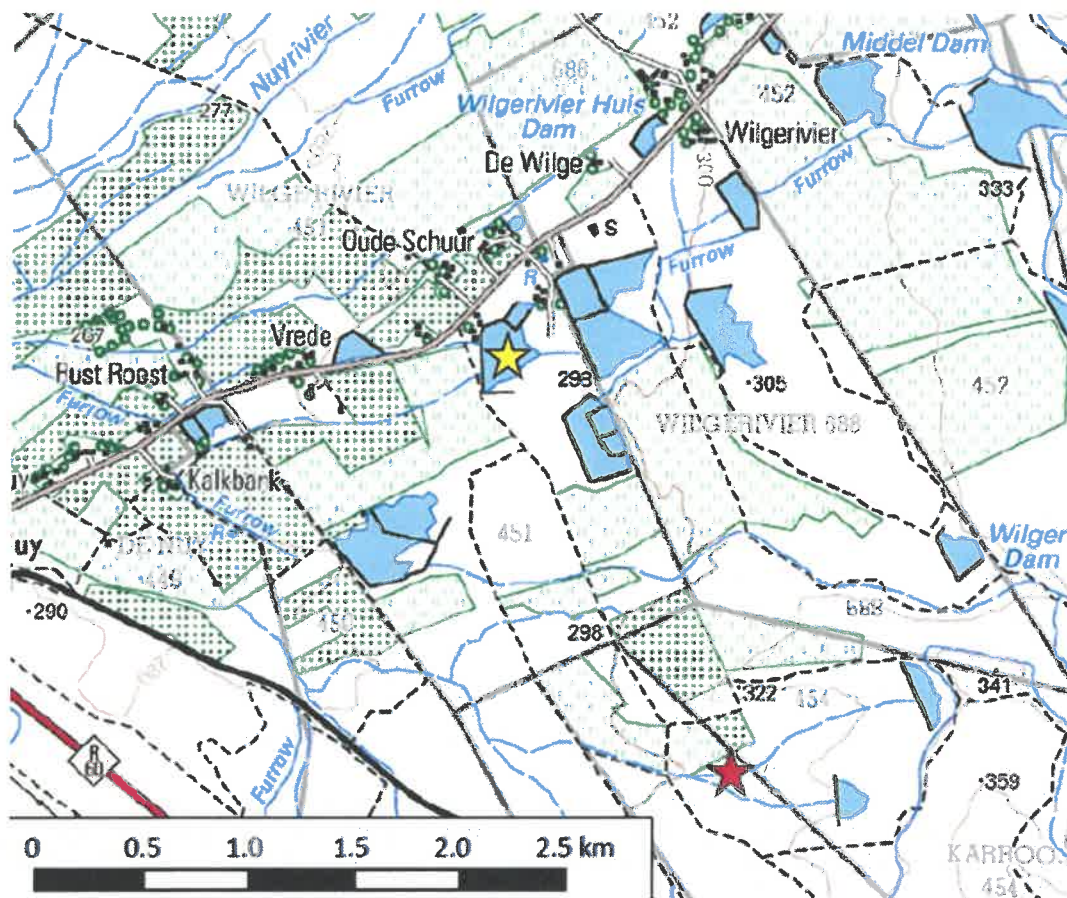
**DIRECTOR: ENVIRONMENTAL GOVERNANCE**

DATE OF DECISION: 30 SEPTEMBER 2020

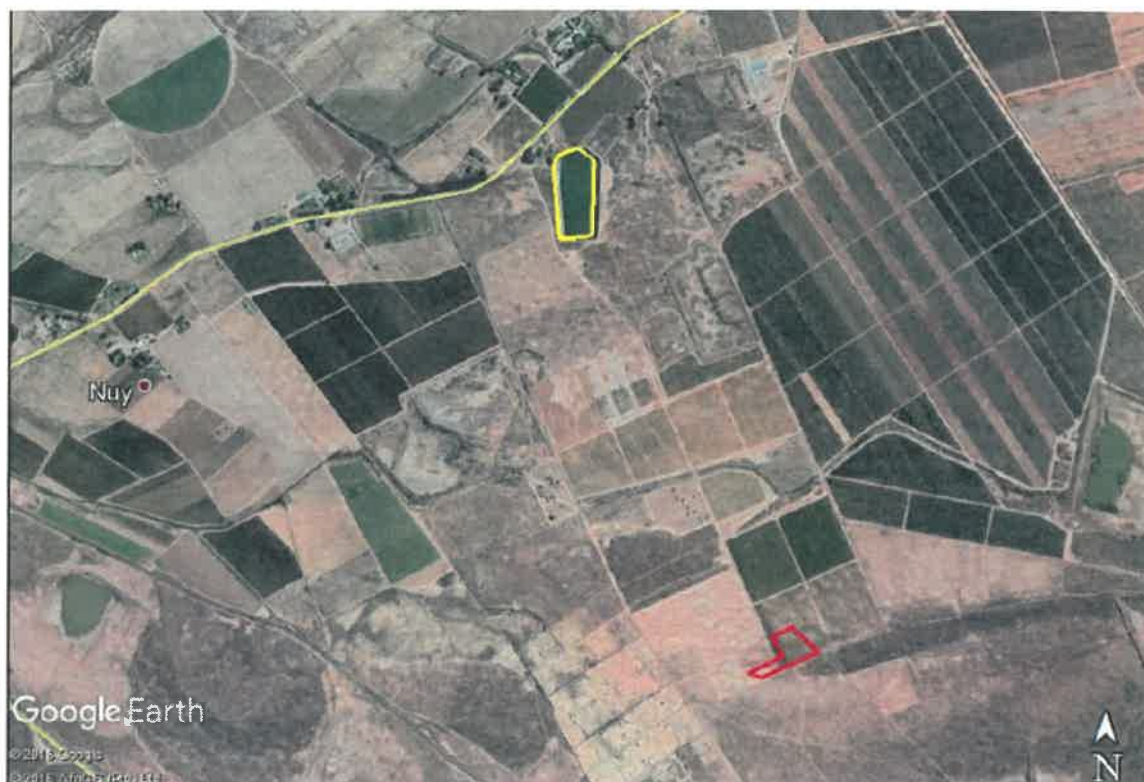
Copied to: (1) Ross Holland (EAP)

Email: ross@hollandandassociates.net

**ANNEXURE 1: LOCALITY MAP**



The yellow star marks the dam that was enlarged, and the red star marks the 1.5 ha area of indigenous vegetation that was cleared.



Aerial view showing the cleared indigenous vegetation (red shaded polygon) and the dam that has been upgraded (yellow polygon).

## **ANNEXURE 2: 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 14 March 2019 and the EMPr submitted together with the application as well as the additional information received by the Department on 09 April 2020.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- f) No site inspection was conducted on the property as the processing of the section 24G Application took place during the National State of Disaster Lockdown in place since 27 March 2020 due to the COVID-19 Pandemic. The information contained within the section 24G Application was deemed sufficient by the delegated competent authority to make an informed decision regarding the unlawful activities commenced with on the property. 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:

- An advertisement was placed in the **Worcester Standard** newspaper on 14 March 2019;
- A site notice was erected on 14 March 2019; and
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor on 15 March 2019.
- I&APs were afforded the opportunity to provide comments on the application.

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

The following organs of state provided comment on the application:

- Breede Gouritz Catchment Management Agency ("BGCMA")
- CapeNature

A summary of their comments follows below.

#### BGCMA

The comments received from the BGCMA related to the Validated water uses as well as the validity of the Water Use Licences Applications ("WULA") for all the properties of Oude Schuur. The EAP responded by stating that an intergraded WULA process will be undertaken. Further comments from the BGCMA related to general conditions relating to water use management on the property to which the EAP responded by stating that the conditions are addressed within the Environmental Management Programme.

## CapeNature

CapeNature stated that there are Critical Biodiversity Areas (CBA1 Terrestrial and Aquatic) mapped as being present on this site. The desired management objective for CBAs is that they are kept natural with no further loss of habitat. Degraded areas should be rehabilitated. The area of 1.5 ha cleared of indigenous vegetation for cultivation is mapped as CBA 1 (Terrestrial). This is correctly reflected on the layout maps which form part of the application. Furthermore, CapeNature's comments related to both botanical and aquatic impacts of the unlawful activities. In terms of botanical impacts, CapeNature agreed with the Botanical Specialist report and stated the following, *"It is thus accepted based on the evidence provided that the vegetation cleared is more likely to have been Robertson Karoo than Breede Alluvium Renosterveld. Robertson Karoo is classified as Least Threatened but can host species of conservation concern. The botanical report indicates that no species of conservation concern were found in the indigenous vegetation adjacent to the cleared site. The impact is thus seen as being of a local significance. Enlargement of dam and pump station upgrade: According to the WCBSP, the area impacted by the enlargement of the dam is mapped as ESA1. The botanical assessment confirms that the enlargement of the dam resulted in the loss of approximately 0.4 ha and the disturbance of approximately 0.25 ha of intact indigenous vegetation. The on-site botanical assessment concluded that the surrounding vegetation is more closely associated with Robertson Karoo than the mapped Breede Alluvium Renosterveld. The impacts are rated as Medium Negative. The mitigation measures as presented by the botanical specialist are supported. It is accepted that with mitigation the impact can be reduced to Low Negative and of a local significance. The pump station is located in a highly degraded area with no loss of indigenous vegetation occurring as a result of the upgrade."*

CapeNature agreed with the findings of the Freshwater Assessment which and stated the following, *"the activities that took place at the existing dam and that are to take place at the pump station are in, and adjacent to, a highly modified drainage feature and concludes that flow modification of the drainage feature would have resulted from the construction of the original dam and would not have changed as a result of the upgrade to the dam. The potential freshwater impact associated with the dam upgrade thus relates largely to disturbance of aquatic habitat. The freshwater assessment found the instream and riparian habitat of the drainage line to be largely to seriously modified. The impact is considered to be of a low negative significance with mitigation. Additionally, the impact is considered to be of local significance."*



All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

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 Location/Site/Activity Alternatives

#### Alternative 1 (Herewith authorised)

The project entails the completed activities related to the enlargement and lining of an existing dam on the farm that commenced in the first quarter of 2017. The dam was enlarged with the following specifications:

- Dam wall height increased from 4m to 6m;
- Full supply level area enlarged from 3.2ha to 3.7ha;
- Full supply level increased from 75 000m<sup>3</sup> to 111 000m<sup>3</sup>.

Furthermore, the development on the property includes the clearance of 1.5ha of indigenous vegetation for agricultural expansion that commenced in the second half of 2016 as well as the proposed upgrade to an existing pump station.

The total physical spatial size of the activities are as follows:

- Cleared land = 15 000m<sup>2</sup>
- Dam enlargement = 6500m<sup>2</sup>
- Pump station = 375m<sup>2</sup>
- Total area 21 875m<sup>2</sup>

There were no property and location/ site alternatives considered for the enlargement and lining of the dam as the dam is pre-existing infrastructure. The clearance of indigenous vegetation took place on property owned by the Applicant for the purpose of further agricultural development. The existing pump station that is proposed to be upgraded, is located within a previously disturbed footprint, and is related to the already enlarged dam

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

The "No Go" alternative would entail the decommissioning of the enlarged portion of the dam and returning it to its original capacity, removing the lining and restoring the 1.5ha area of agricultural expansion to its pre-commencement state. The "No-Go" Alternative would also imply not upgrading the existing pump station.

### **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 development is within the Breede Valley Municipality's Integrated Development Plan and Spatial Development Framework vision and objectives, as well as adhering to the principles of using environmental resources sustainably and encouraging economic development.

#### 3.2. Regional/ Planning Context

The activities included the unlawful enlargement and lining of a dam and the unlawful clearance of indigenous vegetation for the expansion of agricultural development on the property. The properties on which the activities took place are zoned for Agriculture; therefore, the activity is permitted in the land use rights of the property.

#### 3.3. Biophysical/Biodiversity Impacts

According to the EAP and the Specialist Assessments undertaken, the unlawful vegetation clearance has resulted in the loss of 1.5 ha of intact vegetation that is classified as a Critical Biodiversity Area 1. Although the loss is not ideal from a botanical perspective, the vegetation that has been lost is considered to have been of low to medium sensitivity. The potential freshwater impact associated with the dam upgrade relates largely to a disturbance of aquatic habitat. This impact is considered to be of a very low to negligible negative significance with mitigation. Flow modification of the drainage feature would have resulted from the construction of the original dam and would not have changed as a result of the upgraded dam. Water quality impacts (sedimentation) would have been short term and of negligible significance.

#### 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.

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