



REFERENCE: 14/2/1/2/B2/32/0016/16

ENQUIRIES: Ziyaad Allie

BY REGISTERED MAIL

The Trustees
Beukes Broers Trust
P. O. Box 292
DE DOORNS
6875

Tel:(023) 354 8740
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Email: jbeukes@modderdrif.co.za

Attention: Jacques Beukes

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL CONSTRUCTION OF THE BRANDWAGT UPPER DAM ON THE REMAINDER OF PORTION 77 OF THE FARM BRANDWAGT NO. 187, WORCESTER

With reference to your application dated 28 July 2016 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 Environmental Impact Assessment Report received by the Department on 24 August 2017 and the Amended Final EIA Report received by the Department on 21 August 2018.

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

Beukes Broers Trust
c/o Mr Jacques Beukes
P.O. Box 292
DE DOORNS
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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. R386 of 2006 – Activity Number: 1 Activity Description: "The construction of facilities or infrastructure, including associated structures or infrastructure, for (m) any purpose in the one in ten-year flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line</p>	<p>The construction of the Upper Brandwagt Dam. The dam has a current storage capacity of 94 272m³ and portions of the dam wall falls within 32m of a watercourse.</p>

<p>is unknown, excluding purposes associated with existing residential use, but including – (iv) dams”</p>	
<p>Government Notice No. R386 of 2006 – Activity Number: 12 Activity Description: “The transformation or removal of indigenous vegetation of 3 hectares or more or of any size where the transformation or removal would occur within a critically endangered or an endangered ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).”</p>	<p>The construction of the Upper Brandwagt Dam would have resulted in the clearance of 3ha of vegetation mapped as Breede Alluvium Fynbos.</p>
<p>Government Notice No. R386 of 2006 Activity Number: 15 Activity Description: “The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long.”</p>	<p>The existing access road of approximately 5.1m wide surrounding the Brandwagt Middle dam was lengthened by approximately 450m.</p>
<p>Government Notice No. R387 of 2006 Activity Number: 6 Activity Description: “The construction of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more.”</p>	<p>The Upper Brandwagt Dam wall is 10.38m in height.</p>
<p>As similarly listed in Government Notice No. R327 of 17 April 2017 Activity Number: 12 Activity Description: “The development of (i) dams or weirs, where the dam or weir, including infrastructure and water surface</p>	<p>The Upper Brandwagt Dam has a water surface area in excess of 100m², a current storage capacity of</p>

<p>area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs— (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse."</p>	<p>94 272m³ and is within 32m of watercourse.</p>
<p>Government Notice No. R327 of 17 April 2017 Activity Number: 19 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; but excluding where such infilling, depositing, dredging, excavation, removal or moving— (a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;"</p>	<p>The expansion (continuation of the original activity) of the Upper Brandwagt dam to approximately 292 040m³.</p>
<p>Government Notice No. R327 of 17 April 2017– Activity Number: 27 Activity Description: "The clearance of an area of 1 hectare 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</p>	<p>The construction of the Upper Brandwagt Dam would have resulted in the clearance of 3ha of vegetation mapped as Breede Alluvium Fynbos.</p>

<p>management plan."</p>	
<p>Government Notice No. R327 of 17 April 2017– Activity Number: 48 Activity Description: "The expansion of— (i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or (ii) dams or weirs, 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; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;"</p>	<p>The expansion of the Upper Brandwagt dam to approximately 292 040m³ (continuation of the activity to its intended capacity). The dam falls within 32m of a watercourse.</p>
<p>Government Notice No. R327 of 17 April 2017– Activity Number: 50 Activity Description: "The expansion of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, where the combined capacity will be increased by 50 000 cubic metres or more."</p>	<p>The expansion of the Upper Brandwagt dam to approximately 292 040m³. The dam falls within 32m of a watercourse.</p>
<p>Government Notice No. R327 of 17 April 2017– Activity Number: 66 Activity Description: The expansion of a dam where— (i) the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, was originally 5 metres or higher and where the height of the wall is increased by 2,5 metres or more.</p>	<p>The proposed expansions will result in a wall height of 17m, an increase from the 10.38m of the original dam.</p>
<p>Government Notice No. R325 of 17 April 2017– Activity Number: 16</p>	

<p>Activity Description: <i>The development of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more.</i></p>	<p>The proposed expansions will result in a wall height of 17m, an increase from the 10.38m of the original dam.</p>
<p>Government Notice No. R324 of 17 April 2017– Activity Number: 2 Activity Description: <i>"The development of reservoirs, excluding dams, with a capacity of more than 250 cubic metres i. Western Cape</i> <i>i. A protected area identified in terms of NEMPAA, excluding conservancies;</i> <i>ii. In areas containing indigenous vegetation;"</i></p>	<p>The dam was constructed in an area containing indigenous vegetation.</p>
<p>Government Notice No. R324 of 17 April 2017– Activity Number: 4 Activity Description: <i>"The development of a road wider than 4 metres with a reserve less than 13,5 metres</i> <i>i. Western Cape</i> <i>i. Areas zoned for use as public open space or equivalent zoning;</i> <i>ii. Areas outside urban areas;</i> <i>(aa) Areas containing indigenous vegetation."</i></p>	<p>The existing 5.1m access road surrounding the dam was lengthened by approximately 450m.</p>
<p>Government Notice No. R324 of 17 April 2017– Activity Number: 12 Activity Description: <i>"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></p>	<p>The expansion of the Upper Brandwagt dam will result in the clearance of more than 300m² of indigenous vegetation.</p>

<p>i. Western Cape</p> <p>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;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans."</p>	
<p>Government Notice No. R324 of 17 April 2017–</p> <p>Activity Number: 16</p> <p>Activity Description: The expansion of reservoirs, excluding dams, where the capacity will be increased by more than 250 cubic metres</p> <p>i. Western Cape</p> <p>i. A protected area identified in terms of NEMPAA, excluding conservancies;</p> <p>ii. In areas containing indigenous vegetation.</p>	<p>The intended expansion of the dam will result in a capacity increase of more than 250m³ in an area containing indigenous vegetation.</p>

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

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Remainder of Portion 77 of Farm Brandwagt No. 187, Worcester.

The SG digit code is: C08500000000018700077

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 34' 44" South	19° 23' 53" East
2	33° 34' 43" South	19° 24' 10" East
3	33° 35' 8" South	19° 23' 40" East
4	33° 35' 22" South	19° 24' 26" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 34' 44" South	19° 23' 52" East
2	33° 34' 43" South	19° 24' 8" East
3	33° 34' 48" South	19° 24' 8" East
4	33° 34' 47" South	19° 23' 52" East

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 and Associates Environmental Consultants

C/o Mr Ross Holland

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F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The construction and expansion of the Upper Brandwagt Dam to a capacity of 94 272m³, with a wall height of 10.38m which commenced in mid-January 2010. The expansion was undertaken as part of phase 1 of the expansion project. The Holder proposes to enlarge the dam from the capacity of 94 272m³ to the originally intended capacity of approximately 292 040m³. This will result in a wall height of 17m and a water surface area at full supply level of 3.6ha and a storage capacity of 292 040m³, thereby completing the development of the Upper Brandwagt Dam. Water abstraction activities include the feeding of water to the Upper Brandwagt Dam via an existing gravity inlet pipe from the Waterkloof River.

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 Alternative 2 (Enlarged Option 2) described in the application and assessment report dated 20 August 2018 on the site as described in Section D above.
2. The development must be concluded within 3 years from the date of continuation of the development and expansion of the activity as described in Section F above.
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his 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 commencement 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. 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

8. The draft Environmental Management Programme ("EMPr") of August 2018 compiled by Holland and Associates 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*.

The holder must, within 7 (seven) days of the submission of the report to the competent authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

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. Alien trees and shrubs on the mountain slopes above the Brandwagt Farm should be cleared. A follow up Alien Vegetation Management Plan ("AVMP") must be submitted to the competent authority within 3 months of date of issue of this EA. The AVMP must be implemented for at least 4 years to ensure that the population of invasive alien plants is kept in check.
16. The drainage line, upstream of the footprint of the enlarged dam site should not be disturbed by construction activities.
17. Any disturbed areas (tracks from vehicles and machinery) or areas which are left bare of vegetation (new dam walls) after the enlargement is complete must be revegetated with appropriate indigenous species. Any alien plant species growing in the disturbed areas or along the drainage line should be removed.

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/Jaap de Villiers
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/Jaap de Villiers
Room 809, 8th floor Utilitas Building

1 Dorp Street, Cape Town, 8000; or

By e-mail: 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.

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 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



ADV. CHARMAINE MARÉ

DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: 27 September 2019

Copied to: (1) Mr. Ross Holland (EAP)

(2) Alana Duffel-Canham (CapeNature)

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ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



Proposed completion of the Brandwagt Upper Dam to its full intended capacity.

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 R50 000 (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 July 2016, the Amended Final EIA Report ("FEIAR") received by the Department on 21 August 2018, and the EMPr submitted together with the FAEIAR.
- 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) The site visits conducted on
Date/s: 11 September 2017 and 13 November 2018
Attended by: Officials from this Department
- g) The appeal decision on the 24G administrative fine dated 12 September 2019.

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 "**Standard**" newspaper;
- A site notice was erected on 02 February 2017; and
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor on 06 February 2017;
- I&APs were afforded the opportunity to provide comments on the draft and final EIA Reports.
- An additional round of PPP was conducted to afford I&APs an opportunity to comment on the revised Final EIR. This was undertaken from 22 August till 21 September 2018.

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:

- CapeNature
- Department of Agriculture

CapeNature

Impacts on vegetation

CapeNature ("CN") stated that if the dam had been applied for lawfully, it is unlikely that CN would have supported this application as any loss of Breede Alluvium Fynbos ("BAF") is considered to have high negative impact on biodiversity at a local and regional scale. Furthermore, had the dam been lawfully applied for, a biodiversity offset should have been considered as part of the conditions. Unfortunately, the applicant has insufficient natural land to use as an offset. CN then stated that although part of the proposed expansion area has been previously disturbed, the presence of certain resprouter plants indicate that the site was not heavily disturbed and could fully rehabilitate with time.

The EAP responded by stating that the analysis could apply to the approx. 2ha portion of the proposed expansion area which contains disturbed but rehabilitating fynbos. The remainder of the expansion footprint is highly disturbed.

CN then stated that from a terrestrial perspective, CN cannot support the proposed dam expansion without further mitigation. Unfortunately, options are extremely limited on this farm and the feasibility of alien clearing being carried out on the adjacent farm which is not owned by the applicant is questionable.

The EAP responded by stating that CN concerns are noted. An audit was undertaken for the applicant's other properties which contain a combined total of 214ha of undeveloped natural land for conservation offset. The vegetation on those properties does not represent a like for like replacement but it's the only opportunity that exists. Of the 213ha identified, 38ha is classified as Ecological Support Area ("ESA") whilst 176ha falls with the Matroosberg mountain catchment area (MCA). The vegetation in the proposed area is South Hex Sandstone Fynbos (Least threatened). Given the size of the proposed conservation area relative to the size of the area impacted by the proposed expansion of the Upper Brandwagt Dam (a ratio in excess of 100:1) as well as the areas status as ESA and MCA.

Impacts on Freshwater Ecology

CN stated that in terms of freshwater ecology and according to the specialist there is already evidence of erosion due to existing structures and the proposed expansion could exacerbate this which will result in sedimentation of the dam. This application could therefore warrant the inclusion of a Maintenance Management Plan.

The EAP responded by stating that the area where erosion is evident falls within the dam basin of the proposed expanded dam. Erosion and consequent sedimentation of the dam is therefore not considered to be a significant risk and the erosion control and monitoring of the Operational Environmental Management Plan are considered adequate.

CN then stated that the main mitigation for the expansion of the dam will be the reduction of summer flow abstraction from the Waterkloof River and if the expansion is authorised due to socio-economic and safety reasons, this should be strictly monitored. In addition, both "Dam 1" and the middle dam must be decommissioned.

The EAP responded by stating that according to the FWS, the project should be authorised due to the benefit on the aquatic ecosystem of the Waterkloof River (specifically the reduction in summer flow abstraction). Should the project be authorised, the decommissioning of Dam 1 and the middle dam will be undertaken.

CapeNature additional comments on amended Final EIA Report

CN stated that many of the species found on the area surrounding the site are typically found in both BAF and Breede Shale Renosterveld and the more arid alluvium Fynbos types. CN is of the opinion that the natural vegetation that was on site

was not purely typical of either BAF or Breede Shale Renosterveld but was probably a Fynbos Renosterveld mosaic. The vegetation can still be considered of conservation value as it has a more localised distribution than Breede Shale Renosterveld. Therefore, any remaining natural vegetation on the farm should ideally be kept in a natural condition but very little will remain once the proposed dam expansion is completed. The section of the upstream dam must be maintained to prevent erosion and be kept clear of alien invasive plant species so that some natural aquatic and riparian habitat can be kept intact. If the dam enlargement is authorised, summer abstraction from the Waterkloof River should be stopped entirely. A biodiversity offset as previously contemplated in terms of the National Offset Policy and the Draft Western Cape Guideline on Biodiversity Offsets will not apply to the vegetation found on site, illegal clearing and construction was conducted which cannot be adequately mitigated through the standard mitigation hierarchy. Additional compensation should be sought through alien clearing and restoration on similar habitat elsewhere as discussed in our previous letter.

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 Activity Alternatives

Alternative 1 (Enlarged Option 2-Herewith authorised)

This entails the increase of the dam wall height by 6.62m to a total wall height of 17m. This will increase the surface area at full supply level from 1.5ha to 3.6ha. The storage capacity of the dam will be the intended capacity of 292 040m³.

Alternative 2(Enlarged Option 1)

This entails the increase of the dam wall height by 1.62m to give a total wall height of 12m. This will increase the surface area at full supply level from 1.5ha to 2.9ha.

The storage capacity of the dam will be 194 472m³, which is less than the intended capacity. This alternative would imply the continued operation of the Middle Dam, since the capacity will be insufficient to replace the capacity contained within the existing Middle Dam. Due to dam safety concerns related to the existing Middle Dam, this alternative would also entail extensive and costly rehabilitation works to the Middle Dam to address the dam safety concerns.

Alternative 3 (Enlarged Option 3)

This alternative entails the consolidation of the Upper and Middle Bradwagt dams, thereby targeting the intended capacity of 292 040m³. This alternative will entail the increase in the dam wall height to 19m with a surface area of the combined dams being 2.3ha. According to the EAP, this option is less economical than options 1 and 2 due to the quantity of earthworks required for the enlarged embankment as well as for a new core trench and outlet pipe. Operational pump costs for this alternative would be higher than for the preferred option.

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

The "no-go" alternative implies the decommissioning of the Brandwagt Upper dam and the rehabilitation of the area to its pre-commencement state.

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 activity entailed the construction of the Brandwagt Upper Dam, which is permitted within the current land use rights of the property.

3.2. Regional/ Planning Context

The expansion of the Brandwagt Upper Dam occurred on the property zoned as Agriculture. The activities undertaken are in line with the Breede Valley's Integrated Development Plan and Spatial Development Framework.

3.3. Biophysical and Biodiversity Impacts

The unlawful activities have resulted in the loss of approximately 3ha of endangered BAF. The applicant indicated that the dam construction was undertaken in 2010 by the previous owner of the property and since the applicant purchased the farm in 2015, he has sort to rectify the unlawfully commenced activities. The intention is to expand the dam to its original intended storage capacity of 292 040m³ from the current 92 272m³. This will result in the further loss of 2ha of BAF on the property. To mitigate this, it was proposed to offset an area of 213ha on the applicant's other properties. However, the offset area proposed does not constitute a "like for like" replacement of the endangered BAF, but instead consists of Hex Sandstone Fynbos vegetation. However, in the revised comments of September 2018 received from CapeNature, it was stated that the natural vegetation that was on site was not purely typical of either BAF or Breede Shale Renosterveld but was probably a Fynbos Renosterveld mosaic. The vegetation can still be considered of conservation value as it has a more localised distribution than Breede Shale Renosterveld. Therefore, any remaining natural vegetation on the farm should ideally be kept in a natural condition but very little will remain once the proposed dam expansion is completed. A biodiversity offset as previously contemplated in terms of the National Offset Policy and the Draft Western Cape Guideline on Biodiversity Offsets will not apply to the vegetation found on site, illegal clearing and construction was conducted which cannot be adequately mitigated through the standard mitigation hierarchy. Additional compensation should be sought through alien vegetation clearing and restoration on similar habitat elsewhere.

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

Ziyaad Allie

From: Ziyaad Allie
Sent: Friday, September 27, 2019 10:20 AM
To: jbeukes@modderdrif.co.za
Cc: ross@hollandandassociates.net; 'aduffell-canham@capenature.co.za'
Subject: Farm Brandwagt Worcester Environmental Authorisation
Attachments: Brandwagt_Environmental_Authorisation_September_2019.pdf

Good day

Kindly find the attached document for your attention.

Kind regards

Ziyaad Allie

Specialised Environmental Officer
Directorate: Environmental Governance
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