



24G Application: 14/2/4/2/3/D1/13/0011/22

ENVIRONMENTAL AUTHORISATION

The Owner
PO Box 257
PLETTENBERG BAY
6600

Email: b-niehaus@mweb.co.za

Attention: Brenda Niehaus

Dear Madam

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF AN ACTIVITY: THE UNLAWFUL CLEARANCE OF INDIGENOUS VEGETATION; EXPANSION AND CLEARANCE OF SEDIMENT AND LITTORAL VEGETATION FROM IN-STREAM DAMS ON PTNS 66 (CONSOLIDATION OF PTN 4 & 1A (SUBDIVISION OF PTN 1) AND PTN 9 ON FARM 232 REDFORD, THE CRAGS, PLETTENBERG BAY

With reference to your application dated 25 May 2022 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 holder 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 25 May 2022.

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

Ms Brenda Niehaus
 PO Box 257
 PLETTENBERG BAY
 6600

Cell: (082) 880 7235
 Email: b-niehaus@mweb.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>Activity Number: 19</p> <p>Activity Description: <i>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</i></p>	<p>More than 10 cubic metres of soil was removed from the four dams, wetlands and riparian areas during the clearing of littoral vegetation, sediment and enlarging of three of the four dams.</p> <ul style="list-style-type: none"> • Ptn 9 Dam 1 – 2018 cleared sediment and littoral veg, enlarged dam

<p>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; (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p>	<ul style="list-style-type: none"> • Ptn 66 Dam 2 – 2020/2021 cleared sediment and littoral veg, enlarged dam • Ptn 66 Dam 3 – 2021 cleared sediment and littoral veg to maintain dam capacity • Ptn 66 Dam 4 – 2020/2021 cleared sediment and littoral veg, enlarged dam
<p>Government Notice No. R. 327 of 7 April 2017</p> <p>Activity Number: 27</p> <p>Activity Description: <i>The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for— (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>	<p>A further 10 ha of almond trees are to be established on previously cultivated land that had lain fallow resulting in alien vegetative infestation. From GIS mapping and specialist reports, it can be assumed that small pockets indigenous vegetation was present. Therefore, it is difficult to establish the exact footprint size of indigenous vegetation clearance on the property.</p>
<p>Government Notice No. R. 327 of 7 April 2017</p> <p>Activity Number: 48</p> <p>Activity Description: <i>The expansion of—</i></p>	<p>Three of the four dams across portions 66 and 9 Redford 232 have been enlarged by more than 100 square metres. The dams are all in-stream and occur within</p>

<p>(i) <i>infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or</i></p> <p>(ii) <i>(ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more;</i></p> <p><i>where such expansion occurs—</i></p> <p><i>(a) within a watercourse;</i></p> <p><i>(b) in front of a development setback;</i></p> <p><i>or</i></p> <p><i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</i></p> <p><i>excluding—</i></p> <p><i>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</i></p> <p><i>(bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</i></p> <p><i>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</i></p> <p><i>(dd) where such expansion occurs within an urban area; or</i></p>	<p>National Freshwater Ecosystem Priority Areas (NFEPA) wetlands.</p> <ul style="list-style-type: none"> • Ptn 9 Dam 1 – 2018 cleared sediment and littoral veg, enlarged dam • Ptn 66 Dam 2 – 2020/2021 cleared sediment and littoral veg, enlarged dam • Ptn 66 Dam 3 – 2021 cleared sediment and littoral veg to maintain dam capacity <p>Ptn 66 Dam 4 – 2020/2021 cleared sediment and littoral veg, enlarged dam</p>
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<p>(ee) where such expansion occurs within existing roads, road reserves or railway line reserves.</p>	
<p><i>Government Notice No. R. 324 of 7 April 2017</i></p> <p>Activity Number: 23</p> <p>Activity Description: <i>The expansion of—</i></p> <ul style="list-style-type: none"> <i>(i) dams or weirs where the dam or weir is expanded by 10 square metres or more; or</i> <i>(ii) infrastructure or structures where the physical footprint is expanded by 10 square metres or more;</i> <p><i>where such expansion occurs—</i></p> <ul style="list-style-type: none"> <i>(a) within a watercourse;</i> <i>(b) in front of a development setback adopted in the prescribed manner; or</i> <i>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;</i> <p><i>excluding the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</i></p> <p><i>i. Western Cape</i></p> <p><i>i. Outside urban areas:</i></p> <ul style="list-style-type: none"> <i>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</i> 	<p>Three of the four dams on the activity site were expanded. The dams are all in-stream and occur within NFEPA wetlands. The activity site is outside an urban area and occurs within a sensitive area as per the Garden Route EMF.</p>

<p><i>(bb) National Protected Area Expansion Strategy Focus areas;</i></p> <p><i>(cc) World Heritage Sites;</i></p> <p><i>(dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</i></p> <p><i>(ee) Sites or areas listed in terms of an international convention;</i></p> <p><i>(ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</i></p> <p><i>(gg) Core areas in biosphere reserves; or</i></p> <p><i>(hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined.</i></p>	
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The abovementioned list is hereinafter referred to as "the listed activities/development".

D. PROPERTY DESCRIPTION AND LOCATION

The activities commenced on Portions 66 (consolidation of portion 4 and 1A (a subdivision of portion 1) & 9 of Farm Redford no.232, The Craggs, Plettenberg Bay.

The SG digit codes are: C03900000000023200001

C03900000000023200004

C03900000000023200009

The co-ordinates for the property boundary are:

Property Boundary Portion 66		
Point	Latitude (S)	Longitude (E)
1	33° 56' 27.70" South	23° 27' 27.06" East
2	33° 56' 32.28" South	23° 27' 15.63" East
3	33° 56' 50.84" South	23° 27' 39.28" East
4	33° 56' 42.15" South	23° 27' 43.79" East

Property Boundary Portion 9		
Point	Latitude (S)	Longitude (E)
1	33° 56' 42.03" South	23° 27' 28.04" East
2	33° 56' 50.66" South	23° 27' 39.17" East
3	33° 56' 46.60" South	23° 27' 20.82" East
4	33° 56' 50.84" South	23° 27' 39.28" East

The co-ordinates for the site boundary are:

Portion 66 – Dam 3		
Point	Latitude (S)	Longitude (E)
1	33° 56' 29.69" South	23° 27' 26.90" East
2	33° 56' 30.18" South	23° 27' 28.07" East
3	33° 56' 30.68" South	23° 27' 25.97" East
4	33° 56' 31.63" South	23° 27' 27.58" East

Portion 66 – Dam 4		
Point	Latitude (S)	Longitude (E)
1	33° 56' 31.51" South	23° 27' 25.84" East
2	33° 56' 31.90" South	23° 27' 26.53" East
3	33° 56' 33.93" South	23° 27' 23.82" East
4	33° 56' 35.66" South	23° 27' 25.99" East

Portion 66 – Dam 2		
Point	Latitude (S)	Longitude (E)
1	33° 56' 42.83" South	23° 27' 41.12" East
2	33° 56' 43.83" South	23° 27' 41.78" East
3	33° 56' 45.27" South	23° 27' 38.11" East
4	33° 56' 46.43" South	23° 27' 39.75" East

Portion 9 – Dam 1		
Point	Latitude (S)	Longitude (E)
1	33° 56' 47.60" South	23° 27' 34.73" East
2	33° 56' 48.03" South	23° 27' 35.27" East
3	33° 56' 49.42" South	23° 27' 29.20" East
4	33° 56' 50.33" South	23° 27' 31.39" East

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

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (“EAP”)

Eco Route Environmental Consultancy

C/o Ms Samantha Teeluckdhari

P.O Box 1252

SEDGEFIELD

6573

Cell: (072) 773 5397

Email: samantha@ecoroute.co.za

F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN

The development consisted of the clearance of sediment and littoral vegetation from all four existing dams and the enlargement of dams 1,2 & 4. In addition, the holder has planted 4.2ha of almond trees. A further 10 ha of almond trees are to be established on previously cultivated land that had lain fallow.

A Water Use License Application (WULA) has been submitted to BGCMA and the WULA process is underway.

Completed on site:

The holder cleaned and cleared the property of alien vegetation, removed skip loads of building rubble, plastic bottles, abandoned broken down furniture, carpets and other human garbage, and safely removed and disposed of 2 large skip loads of asbestos to a site in Port Elizabeth.

Secondly, the holder established infrastructure on the properties which included fencing, fire breaks, roads, dam maintenance, water infrastructure for domestic use, irrigation infrastructure, electricity and solar installation, home and building renovations and the demarcation of the properties into different land use zones. The demarcation of 3 different zones or land uses: residential, agricultural and indigenous with a targeted and differentiated management plan for each zone.

Although, the holder did not specifically identify a wetland zone and riparian buffer zone, the indigenous zone does incorporate the more sensitive catchment areas where reforestation and rehabilitation processes are already well underway. The holder has expressed that her goal has always been to restore the indigenous habitat over time. To date, the holder has planted over 12 400 trees and plants in this zone, many of them on the list of plants recommended by the aquatic specialist for rehabilitation.

In an effort to minimise the negative impacts of erosion, the holder had planted Kikuyu grass. However, the holder has already begun removing Kikuyu grass in the identified wetland zones, where appropriate, to replace with more suitable indigenous vegetation as per the aquatic report.

In terms of the agricultural zone, the holder has implemented a regenerative agricultural approach which includes the use of diverse cover crops in the work rows and on the orchard ridges. In addition, an integrated pest management plan has been put in place. The holder conducts regular soil analysis including both the chemical composition of the soil as well as the soil microbial health.

As previously stated, the holder had already established buffer zones around the riparian areas; however, based on the recommendation made by the aquatic specialist regarding 25m buffer zones, the established buffer zones require extending.

Activities undertaken on dams:

Portion 1A and 4 of farm Redford no.232 have been consolidated to form portion 66:

Portion 1 of Farm Redford no. 232: The holder had purchased a portion of this property in 2021 which is referred to in this report as portion 1A. The purchased land was subdivided and consolidated into portion 4/232. One instream dam (Dam 3) was constructed by the previous owner of the property without environmental authorisations between 2006 and 2009. The current landowner recently cleared sediment and littoral vegetation from the dam to maintain its capacity.

Portion 4 of Farm Redford no. 232: The holder had purchased portion 4/232 Redford in 2020. Two instream dams were constructed pre-1998 (Dam 2 and Dam 4). The current landowner recently cleared out both dams to remove sediment and littoral vegetation. Both dams were enlarged from their previous capacity during this process, which occurred during 2020 and 2021.

Portion 9 of Farm Redford no. 232: The holder purchased portion 9/232 Redford in 2017. One instream dam (Dam 1) was constructed between 2000 and 2004 by the previous landowner with no environmental authorisation. The current landowner recently cleared sediment and littoral vegetation from the dam and enlarged the dam during this process.

In furtherance of the commencement and still to be completed: Planting of a further 10 ha of almond trees on portion 66 and rehabilitation processes of the two properties.

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 activity/ies specified in Section C above in accordance with and restricted to the preferred alternative described in the application and assessment report dated 25 May 2022 on the site as described in Section D above.
2. 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.
3. 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

4. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement and the maintenance activities.

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

4.2 The notice must also include proof of compliance with the following condition:
Condition 5

PART III

Notification and administration of an appeal

5. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision—
 - 5.1 notify all registered Interested and Affected Parties (“I&APs”) of –
 - 5.1.1 the outcome of the application;
 - 5.1.2 the reasons for the decision as included in Annexure 3;
 - 5.1.3 the date of the decision; and
 - 5.1.4 the date when the decision was issued.
 - 5.2 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.
 - 5.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
 - 5.4 provide the registered I&APs with:
 - 5.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 5.4.2 name of the responsible person for this Environmental Authorisation;
 - 5.4.3 postal address of the holder;
 - 5.4.4 telephonic and fax details of the holder;
 - 5.4.5 e-mail address, if any, of the holder; and
 - 5.4.6 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*.
6. 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

7. The draft Environmental Management Programme ("EMPr") of May 2022 compiled by Eco Route Environmental Consultancy and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.
8. The EMPr must be included in all contract documentation for all phases of implementation.

PART V

Monitoring

9. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") before continuation of commencement of maintenance activities to ensure compliance with the EMPr and the conditions contained herein.
10. 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.
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, the EMPr and submit Environmental Audit Reports to the competent authority bi-annually for the first 2 years and upon receiving such request in writing from the competent. 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.

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. 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.

4. 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

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, 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

MRS Z TOEFY

ACTING DIRECTOR: ENVIRONMENTAL GOVERNANCE

Copied to:

(1) Samantha Teeluckdhari (EAP)

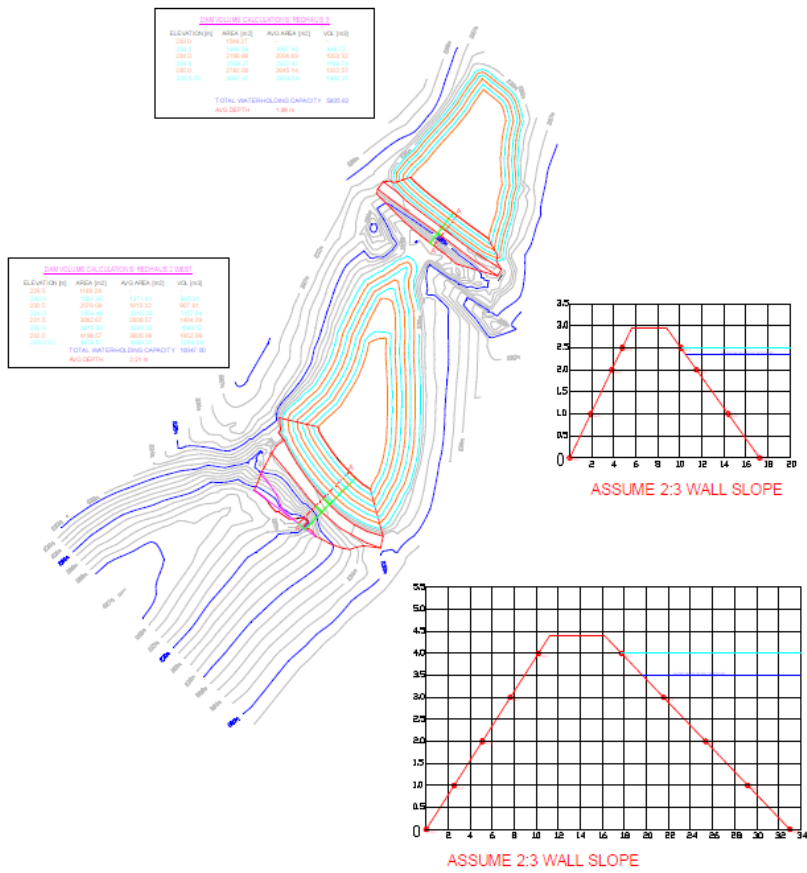
Email: samantha@ecoroute.co.za

ANNEXURE 1: LOCALITY MAP

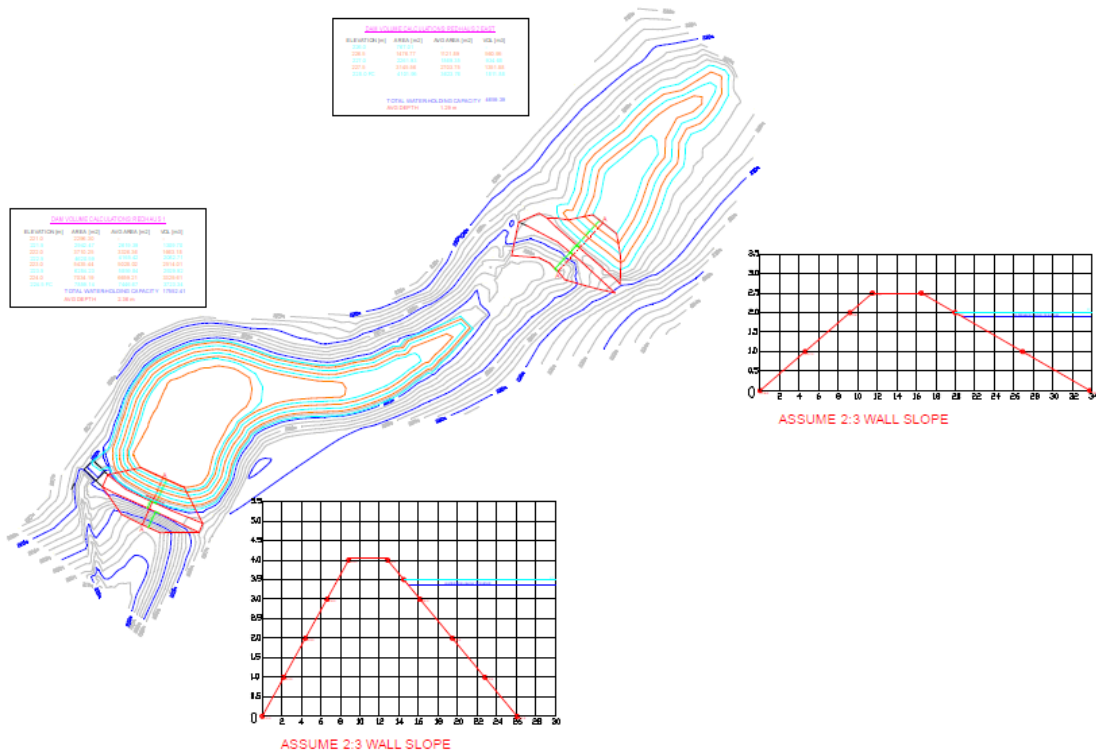


ANNEXURE 2: SITE PLAN (A)

Dams – Redhaus 2 West & 3



Dams – Redhaus 1 & 2 East



ANNEXURE 2: SITE PLAN (B)

Map of the current almond orchards (green crosses) and proposed areas (red crosses) to be established for almond orchards



FOR OFFICIAL USE ONLY:

S24G REFERENCE:

14/2/4/2/3/D1/13/0011/22

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 R25 000 (Twenty-Five 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 25 May 2022 with supporting environmental impact assessment and mitigation measures.
- b) The Environmental Management Programme ("EMPr") Of May 2022 submitted together with the s24G application.
- c) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- d) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- e) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- f) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- g) The site visit conducted on 9 September 2022
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.
- 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 8 June 2022.
- the placing of a newspaper advertisement in the **Knysna-Plett Herald** on 3 February 2022.
- I&APs were afforded the opportunity to provide comments on the application.

The Plettenberg Bay Community Environment Forum (PBCEF) highlighted the fact that, for many years, there has been a very practical concern to those dependent on the water supply of Whiskey Creek. This was due to the fact that the system has a very limited capacity and has been known to dry up (an unreliable system). The system requires as much inflow as possible in order to feed properties that are dependent on this river and who have existing water rights. Considering this, it would appear from the reports that not enough investigation or forethought was given to the requirements for 20 hectares of almond trees or the legalities of constructing dams.

It remains unacceptable, in PBCEF's opinion, that the dams remain, particularly as they are in wetland /instream areas that feed into Whiskey Creek. The precedent that would be set is not acceptable and the potential impacts of this damming on the health of the system and the needs of downstream water users is also unacceptable. At the very least, the dams that were in existence with change of ownership should be rehabilitated and the new dams decommissioned.

The PBCEF therefore object to the existence of the new dams and recommend that the dams are decommissioned and restored as wetland areas, understandably not as per their historic state as the soils have already been impacted.

Furthermore, the Forum believes that the cumulative impact of past and ongoing illegal and legal dams that are being developed in this catchment needs to be investigated. Considering the above, the PBCEF recommends that a water audit is done for the area and that an

agricultural specialist is appointed to investigate best land use practices for the area. Possibly a Biodiversity and Agriculture (WWF-SA) programme could be initiated to the benefit of everyone in the area.

The EAP indicated that no new dams were constructed by the present owner. All the dams were constructed by previous owners and existed prior to the properties being purchased - some storage is therefore considered legal as they are an Existing Lawful Use.

The dams on these properties are on two tributaries of the Whiskey Creek. Both tributaries have existing neighbouring dams located downstream which would collect and store water that is not stored upstream. Therefore, removal of the dams does not mean the water will end up in the Whiskey Creek. To ensure the ecological reserve or any Existing Lawful Uses that have been Validated and Verified are met and maintained in the Whiskey Creek, a broader catchment scale Reserve Determination would need to be undertaken. The hydrological study (Confluent 2022) confirms this.

The landowner has an agreement with the neighbour downstream of Dam 4 which allows for the periodic release of water to ensure adequate levels are sustained in their dam. This demonstrates the willingness of the holder to ensure downstream water users are not negatively impacted by their water use.

When dam walls were maintained and upgraded to prevent leakage on Dams 2 and 4, outlet valves were incorporated to allow water to trickle out and maintain wetland habitat downstream.

The hydrological study has addressed the water requirements for irrigation of 20 ha of almond trees and has determined that 60 000m³ of surface water supplemented by 24 000m³ of groundwater will be sufficient for irrigation of the orchards. This historical unauthorised construction of the dams, and more recent enlargement of 3 of the 4 dams is the subject of the Water Use License Application. It is agreed that a water audit should be conducted for the area, as many unauthorised water uses are being undertaken. In terms of maintaining water quantities in the Whiskey Creek, the only way of ensuring that legitimate water users and the ecological reserve are met is to, a) conduct a Validation and Verification of water use for all users in the catchment, and b) to commission a Reserve Determination study for the catchment. These studies are beyond the scope of a single holder's Water Use Licence Application (WULA) but are recommended.

An I&AP highlighted her concerns that that allowing the plantation of 20ha of almonds, which are not proven to be successfully grown in The Craggs, will require 60 000 m³ of water per annum most of which will unlawfully come from two non-perennial watercourses. This, according to

the I&AP, is beyond belief. No landowner should be allowed to divert the flow of a natural watercourse for their financial gain. Why should they be allowed to use water from a natural watercourse because it flows through their land? Filling a dam for recreation purposes should be seen differently.

20ha of almonds needs a huge number of bees to pollinate the trees. Has an environmental assessment been conducted on what happens to local bees when scores of new hives are brought into the area? The I&AP also stated that any reference to creating employment through these endeavours is not strictly above board either as most of these farms are employing unregistered Malawians either directly or via contractors.

The I&AP objects to this application - the water courses should be returned to their natural state. Any water for trees should come from water runoff. The landowners should be fined for their actions and should be refrained from carrying on with their intended plan. Too many people are buying property in the area, tearing the land up for financial gain with very little regard to the environmental impact (short and long term) and asking for forgiveness and not permission. This has to stop before even more irreversible damage is done to the environment.

The EAP indicated that, in response to the comment about underground water, A geohydrological assessment was requested by the Breede-Gouritz Catchment Management Agency (BGCMA) for the WULA and was done by a qualified specialist to determine the sustainability and impacts of abstracting groundwater through the borehole for supplementing irrigation. The proposed abstraction was found to pose a 'negligible negative' impact to the groundwater environment. The specialist stated that up to 25 000m³ could be applied for without detrimental effect. The application is for 24 000m³ and the borehole is metered ensuring abstraction can be monitored.

On the question of the bees, the bees for pollination are brought in from outside the area only for the short pollination period and removed again afterwards.

The statement about employment of unregistered Malawians either directly or via contractors is factually incorrect. 9 full time workers and 8 temp workers employed all of which are South African.

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

The following organs of state provided comment on the application:

- National Department of Agriculture, Land Reform and Rural Development (DALRR)
- DEA&DP: Environmental Impact Management Services Region 3 (DEA&DP: EIMS)
- The Department of Forestry, Fisheries & the Environment: Forestry Western Cape (DFFE)
- Breede Gouritz Catchment Management Agency (BGCMA)

- Garden Route District Municipality (GRDM)
- SANParks (SP)
- CapeNature (CN)

The DALRR highlighted various requirements and recommendations related to the *Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983) (CARA)*.

Any action taken to control alien plants shall be extended with caution and in a manner that will cause least possible damage to the environment.

Detailed rehabilitation plan including all mitigation plans must be included in EMP report, as the plan will be used as a guideline for ongoing monitoring of rehabilitation/mitigation plans. Such plan should be considered for decommissioning and post closure of the proposed development in ascertaining all mitigations conditions are compiled and adhered to.

The EAP indicated that majority of the property has already been rehabilitated; therefore, the need for a rehabilitation plan would be irrelevant. The holder is currently undertaking rehabilitation as per the recommendations provided in the aquatic impact assessment.

The DFFE is responsible for the implementation and enforcement of the *National Forest Act (NFA), Act 84 of 1998 as amended* and the *National Veld and Forest Fire Act, Act 101 of 1998 as amended (NVFFA)*.

The NVFFA prohibits the cutting, disturbing, damaging or destroying of protected tree species without a licence as well as provides for the prohibition of the destruction of indigenous trees in any natural forest without a license.

According to the information provided only alien vegetation and old orchards were cleared, thus Forestry's mandate under the NFA is not affected. The DFFE recommends that the disturbed/ cleared areas, along the watercourse, be rehabilitated with indigenous/ endemic forest tree species. That the areas along the watercourse with indigenous forest patches be kept intact.

The BGCMA indicated that the illegal water uses were reported to the Compliance Monitoring and Enforcement (CME) unit to conduct further investigation for further investigation.

In light of the above, all illegal water uses should be ceased or discontinued until such time that a licence is issued or approval to continue with water uses is approved in writing by CME.

DEA&DP:EIMS indicated that the mitigation measures contemplated in the Terrestrial Biodiversity Environmental Sensitivity Report (of February 2022) must be implemented and incorporated into the Environmental Management Programme (EMPr).

The mitigation measures to restore wetland vegetation and revegetate buffers must be included in the EMP and be implemented.

The revegetation plan provided by the Aquatic Specialist Impact Assessment for the Section 24G, and Water Use License Application required for Portions 4 and 9 / 232 Redford Farm, Knysna (Dated October 2021) must be implemented and be adhered to.

With reference to the aquatic specialist recommendation of a 25m buffer zone, the GRDM indicated that the holder must ensure that this riparian buffer zone includes the wetland systems, as well as the natural dams, streams and/or rivers occurring on the farm.

With regards to the development setback line of 32m around water bodies such as wetlands, streams and dams, as set within the National Environmental Management Act, 1998 (Act No.107 of 1998), please maintain this setback distance in the case of any development as per the NEMA Listing Notices.

The GRDM requested confirmation on the efforts made to include indigenous vegetation as is occurring within the direct neighbouring area/environment, and not just general indigenous vegetation. The EAP indicated that Indigenous vegetation that naturally occurs within the direct environment has been/will be used for rehabilitation.

Additionally, the GRDM requested confirmation on the type of pesticides and application methods which will be used, and possible impacts these will have on the water bodies/groundwater due to direct exposure, as well as surface and/or stormwater flows into these water bodies. The EAP indicated that as far as possible the holder is following a biological approach on the farm and only use chemical pesticides when necessary. Pesticides are either spot applied using a manual backpack sprayer, or for the Almond Orchard, pesticides are applied using an orchard sprayer. All spraying is done when there is no wind to ensure there is no drift of pesticides. There is no direct exposure to the water bodies/ground water. There is no risk of pesticides entering the surface and/or stormwater flows into these water bodies.

Portions 66 and 9 of the Farm Redford fall within the buffer zone of the Garden Route National Park (GRNP) and achieving a conservation outcome on these properties is important to SANParks. The activity that took place on these properties set a very bad precedent in terms of environmental impact and significant rehabilitation is required to benefit biodiversity conservation and landscape functionality.

SANParks supports the proposed mitigation measures in the Aquatic Specialist Impact Assessment. The following mitigation measures are particularly important:

- the 25m riparian buffers; rehabilitation of wetlands;
- revegetation of dam walls, spillways and outflow points;

- management of orchards for the protection of water resources and improved biodiversity and that no exotic fish species should be introduced in the dams.

SANParks support the mitigation measure for ongoing dam maintenance. SANParks recommends that the generic draft EMPr developed by Eco Route Environmental Consultancy is revised to reflect all the mitigation measures proposed in the Aquatic Specialist Impact Assessment, before it is approved.

CN indicated that, although 85 % of the property was infested by invasive alien plants and the vegetation is Least Threatened, it should not have been used as a reason to construct the dams. Infestation by alien plants does not necessarily mean that an area is not important for biodiversity. Some vegetation types are particularly prone to invasive alien infestation but may recover when cleared of alien vegetation and rehabilitated. Thus, the eradication of invasive alien plants must be a high priority.

As stipulated in the Western Cape Spatial Biodiversity Plan (WCSBP) Land Use Guidelines Handbook it is the landowner's responsibility to ensure their property is suitably maintained at a level consistent with Land Use Ordinance guidelines.

Having corridors for animal movement is important for conserving biodiversity and we therefore recommend maintaining ecological corridors across the landscape.

In conclusion, the activity (and the historical disturbance by agricultural activities) has compromised the indigenous vegetation on the site. The wetlands play a vital role and are important corridors for the Whiskey Creek Nature Reserve. Thus, to protect the Critical Biodiversity Area's (CBA), Ecological Support Area's (ESA), and sensitive water sources CapeNature does not support the continuation of this activity due to its cumulative negative impact on the biodiversity at the site as well as the impact on the water sources of the area which are CBAs. The remaining areas on the property should remain undeveloped.

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 (Herewith authorized)

The dams on Portions 66 and 9 of Redford farm 232 were cleared of sediment and littoral vegetation in order to utilise the dams to irrigate the almond orchard which the landowner had planned on cultivating.

During this process several negative impacts occurred; however, specialists were appointed as part of the S24G process to mitigate against these negative impacts.

The following summarised list of activities have been recommended by specialists to mitigate and manage further negative impacts:

Biodiversity:

1. As the watercourse areas are generally sensitive the holder must conduct activities carefully and reuse or relocate as much plant material as is practical where densities allow for transplanting.
2. It is recommended that a suitably qualified experienced ECO be appointed to assist in rehabilitation planning with the landscaper and holder. This plan to form the basis of continued mitigation measures. The ECO then to monitor and report on rehabilitation progress every 6 months next 2 years to satisfy authority of mitigation implementation Particular attention should be given to the progress of wetland habitat recovery.
3. Ensure drainage and runoff is managed to prevent erosion and soil loss during the operational lifespan of the activities.
4. Most areas have been cleared of alien plants. Ongoing measures are continuing and preventing the spread of Invasive Alien Species from entering or dispersing from the set aside natural areas and from within the study area. The ongoing management is being done with manual labour on a regular basis with consideration to disturbance of the remnant indigenous vegetation. Any Alien management plan required must build on this.

Aquatic:

1. Activities to mitigate against clearance of littoral, wetland and riparian vegetation during dam maintenance – erosion control, dam volume control, dam size control, increase wetland vegetation growth at the inflow areas of the dams, limit access by heavy machinery, rehabilitation of disturbed areas, and silt removal must be scheduled.
2. Establish riparian buffer zones.
3. Restoration of wetland vegetation to improve structure, function and habitat diversity.

4. Revegetation of dam walls, spillways and outflow points.
5. Use of pesticides - develop an Integrated Pest Management Plan (IPM) with the assistance of a consultant (if there isn't one already). The aim is to ensure that the correct pesticides are applied at the lowest possible rates and non-target impacts in terrestrial and aquatic habitats are kept to a minimum.

Hydrology:

1. The total storage capacity of 38 000 m³ is optimal with regards to storage of surface flows from the Redhaus catchments. Lower storage results in substantial deficits in irrigation requirements over a 50-year simulation period, while increasing dam volume does not yield a significant increase in assurance of supply that would warrant a larger dam volume;
2. Supplementary irrigation from a borehole will be required, particularly during very dry periods when surface inflows will be insufficient to meet the irrigation demands.
3. Any implementation of the Reserve must focus on discharging from the lowest dam in the Whiskey Creek catchment to determine whether these flows are sufficient to meet the ecological flow requirements. Any shortfall in ecological flow requirements must be addressed through a catchment scale study that focusses on ensuring equitable releases from all farm dams located throughout the catchment area.

Geohydrology:

1. Over-abstraction of groundwater from boreholes is likely to lead to depletion of the water levels in the area over time. This can cause damage to the aquifer and might impact on neighbouring and registered groundwater users that are reliant on the same source of water. Reduced baseflow to streams/rivers and groundwater dependent eco systems (wetlands).

Yield testing of boreholes as per "SANS 10299-4:2003" standards. Do not exceed calculated sustainable yield of boreholes. (2) Groundwater level monitoring - reduce abstraction in the event of anomalous lowering of groundwater levels. (3) Take "Ecological Water Reserve" into account during water balance.

2. Groundwater quality deterioration as a result of over-abstraction - Do not exceed calculated safe yield of boreholes. Groundwater level & quality monitoring - reduce abstraction in the event of anomalous lowering of groundwater levels and/or deteriorating water quality.

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

The "no-go" alternative entails returning the site to the condition before many of the major works were done on site linked to the agricultural activities of the farm.

Ceasing the activity would result in the following negative impacts:

1. The agricultural practises on the farm will in all probability fail as a result of not having enough water to irrigate the existing and proposed Almond trees.
2. Socio-economic impacts that could have resulted in employment opportunities and skill developments of the local community would disappear.
3. The socio-economic contribution to the economy with the local sale and potential export of Almond nuts would no longer exist.
4. Alien Invasive Plants s would re-infest the property. This will negatively affect the landowner's financial income and ability to support her family and staff.

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 activities will not arise in any negative socio-economic impacts. The dams provide water for agricultural purposes in an area zoned for Agricultural use. The activity would result in positive socio-economic impacts as the success of cultivating crops would support food production and continuously provide employment opportunities for the local community.

3.2. Biodiversity Impacts

The biodiversity impact was based on the conclusions of the Terrestrial Biodiversity Environmental Sensitivity Report, the Aquatic Specialist Impact Assessment, the Hydrological Assessment, as well as the Geohydrological Assessment conducted for the site. It was confirmed that there has been a localized biodiversity impact due to the removal of terrestrial and aquatic vegetation linked to the expansion of the in-stream dams. This resulted in the loss of habitat and the modification of the natural flow of water. Although, the applicant did not specifically identify a wetland zone and riparian buffer zone, the indigenous zone does incorporate the more sensitive catchment areas where reforestation and rehabilitation processes are already well underway. The holder has

expressed that her goal has always been to restore the indigenous habitat over time. To date, the holder has planted over 12 400 trees and plants in this zone, many of them on the list of plants recommended by the aquatic specialist for rehabilitation.

3.3. Visual / Sense of Place

The activity is located on an agricultural farm; therefore, sense of place is not affected. In addition, the activity is not located in close proximity to any cultural heritage site or areas of traditional value/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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