



REFERENCE NO: 14/3/1/E4/5/0423/19

Mr Clint Stewart
Overberg Water Board
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Dear Mr Stewart

APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE ENVIRONMENTAL AUTHORISATION AND MAINTENANCE MANAGEMENT PLAN GRANTED AND ADOPTED FOR THE PROPOSED DEVELOPMENT OF A WATER PIPELINE TO AUGMENT THE SUPPLY OF WATER TO THE SAB MALTINGS PLANT, CALEDON

1. Your appeal lodged against the Environmental Authorisation ("EA") granted on 2 July 2019, refers.
2. After careful consideration of your appeal, as well as supporting documentation received, in terms of section 43(2) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") and regulation 7(3) of the 2014 National Appeal Regulations, I have decided to dismiss your appeal and confirm the abovementioned decision of the competent authority granted on 2 July 2019.
3. The abovementioned EA and the conditions under which the authorisation was granted must be complied with.

4. REASONS FOR THIS APPEAL DECISION:

The reasons outlined in the original EA are applicable to the appeal decision and the following are additional reasons:

Overberg water can provide bulk water and the strategic pipeline near the maltings

- 4.1. In terms of regulation 41 of the 2014 EIA Regulations, a 30 days public participation process must be conducted to provide an opportunity to the interested and affected parties to submit comments on the proposed development and:
"The person conducting a public participation process ... must give notice to all potential interested and affected parties of an application or proposed application which is subjected to public participation by—
(a) fixing a notice board at a place conspicuous to and accessible by the public at the boundary, on the fence or along the corridor of—

(i) the site where the activity to which the application or proposed application relates is or is to be undertaken; and
(ii) any alternative site;

(b) giving written notice, in any of the manners provided for in section 47D of the Act, to—

(i) the occupiers of the site and, if the proponent or applicant is not the owner or person in control of the site on which the activity is to be undertaken, the owner or person in control of the site where the activity is or is to be undertaken and to any alternative site where the activity is to be undertaken;

(ii) owners, persons in control of, and occupiers of land adjacent to the site where the activity is or is to be undertaken and to any alternative site where the activity is to be undertaken;

(iii) the municipal councillor of the ward in which the site and alternative site is situated and any organisation of ratepayers that represent the community in the area;

(iv) the municipality which has jurisdiction in the area;

(v) any organ of state having jurisdiction in respect of any aspect of the activity; and

(vi) any other party as required by the competent authority;

(c) placing an advertisement in—

(i) one local newspaper; or

(ii) any official Gazette that is published specifically for the purpose of providing public notice of applications or other submissions made in terms of these Regulations;

(d) placing an advertisement in at least one provincial newspaper or national newspaper, if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or district municipality in which it is or will be undertaken: Provided that this paragraph need not be complied with if an advertisement has been placed in an official Gazette that is referred to in paragraph (c)(ii);..."

- 4.2. To comply with section 24O of the NEMA and regulation 41 of the 2014 EIA Regulations, the applicant undertook a public participation process, detailed in the reasons for the EA, to give the interested and affected parties the opportunity to comment on the proposed development.
- 4.3. During the public participation process which informed the EA, Overberg Water Board was also provided with an opportunity to make representations in terms of the proposed activity. Overberg Water Board provided the following comments:
 - 4.3.1. Overberg Water Board is currently completing their master planning for the region and one of the items to be considered is additional water supply to the industry within the Caledon area.
 - 4.3.2. Overberg Water Board has a pipeline near the malting facility which will require an upgrade to meet the requirements of the facility. From what they understood, the Theewaterskloof Municipality submitted a request to Overberg Water Board to reduce its allocation in the future. Although the exact details of this process were not known, the appellant stated that this may be an opportunity to provide this water directly to the malting facility.
- 4.4. In the comments and responses report, the environmental assessment practitioner ("EAP"), which was appointed to conduct the Basic Assessment process which

informed the EA, responded adequately to the comments of Overberg Water Board, *inter alia*, as follows:

- 4.4.1. SAB Maltings (Pty) Ltd has been in discussion with Overberg Water Board regarding its proposal to supply SAB Maltings (Pty) Ltd with water.
 - 4.4.2. The supply from the Overberg Water Board, which would come from a dam, would not provide a secure water supply during the drought periods. However, the augmentation of supply using groundwater, as proposed, would ensure continued uninterrupted operation of their facility during periods of drought.
- 4.5. When this appeal was received, the applicant submitted the following statement, which I concur with, in response to the grounds of appeal:
- 4.5.1. The alternative of augmenting the water supply to the malting plant with water, from Overberg Water Board was discussed with the Theewaterskloof Municipality on 23 April 2019. At this meeting, they were informed by the Municipality that the water supply from Overberg Water Board would not be allowed in terms of the local municipal by-law.
 - 4.5.2. It is their understanding from the meeting referenced above that the Theewaterskloof Municipality is not in favour of an arrangement, where water is provided directly to consumers in its jurisdiction by the Overberg Water Board. SAB Maltings (Pty) Ltd has, however, indicated that the use of the borehole water would be acceptable and as such, SAB Maltings (Pty) Ltd embarked on such a project.
 - 4.5.3. Notwithstanding the above, in a meeting held with the Theewaterskloof Municipality in December 2018, the proposed strategic pipeline was discussed where the upgrading requirements and costs were clarified. The total cost of Overberg Water Board's strategic upgrade amounted to approximately R 31.5 million (excluding VAT), which would need considerable funding by SAB Maltings, as Overberg Water Board did not have the budget for the proposed upgrades at the time.
 - 4.5.4. The total cost of the proposed pipeline included in their application amounts to approximately R 18 million (excluding VAT), which is considerably less than the amount above. Thus, SAB Maltings believe it would be less economical for SAB Maltings to implement the proposed Overberg Water Board pipeline.
 - 4.5.5. Further to the above, the proposed Overberg Water Board strategic upgrade would also require an EA, which has not yet been applied for and is not a responsibility of SAB Maltings. This would add to the overall cost of that project, add significant delays in the time of implementation and thus delay SAB Maltings in securing additional water supply.
- 4.6. Considering the above, this ground of appeal must be dismissed as it has been adequately addressed.

Alternatives

- 4.7. Section 24(4)(b)(i) of the NEMA, in terms of the procedures for the investigation, assessment and communication of the potential consequences or impacts of activities on the environment, require with respect to every application for EA "*investigation of the potential consequences or impacts of the alternatives to the activity on the environment and assessment of the significance of those potential consequences or impacts, including the option of not implementing the activity*".

- 4.8. In terms of the criteria to be considered by the competent authorities when considering applications, section 24O(1)(b)(iv) of the NEMA further states that if the competent authority considers an application for an EA, it must consider "where appropriate, any feasible and reasonable alternatives to the activity which is the subject of the application and any feasible and reasonable modifications or changes to the activity that may minimise harm to the environment." Therefore, the alternatives must be considered as reasonable and feasible for inclusion in the EA process.
- 4.9. The definition and assessment requirements relating to "alternatives" makes it clear that the obligation to consider alternatives may be achieved in a variety of different ways including site locations, types of activities, design or layout; and technological or operational aspects of undertaking the activity (either in combination or in isolation of each other).
- 4.10. During the public participation process which informed the EA, the interested and affected parties stated/asked *inter alia* that:
- 4.10.1. The botanical report did not survey the routes of the pipeline alternatives and the full routes of alternatives must be assessed.
- 4.10.2. Where are other alternatives sought that may be far less viable to the Theewaterskloof Municipality and the SAB Malting in sourcing additional bulk water supplies to the industry?
- 4.11. In the comments and responses report, the EAP, which was appointed to conduct the Basic Assessment process which informed the EA, responded adequately to the issues, *inter alia*, as follows:
- 4.11.1. Two main Alternatives were considered:
- 4.11.1.1. Alternative 1 (preferred alternative) which is described in the Final Basic Assessment Report ("BAR") and authorised in the EA subject to the appeal.
- 4.11.1.2. Alternative 2: A borehole was considered on JD Kriel's property, which is located to the west of Caledon, directly south of the N2, on the farm Klipheuwel on Farm 29/410. This alternative was not considered viable as the borehole is not registered and a legal agreement could also not be obtained between the relevant parties.
- 4.11.2. With regards to the casino warm water spring option, the water quality would require major expansive water treatment. The volume of their water is also very low compared to the SAB Malting requirement.
- 4.11.3. SAB Maltings also been in discussion with Overberg Water Board regarding other alternatives as detailed above.
- 4.12. When this appeal was received, the applicant submitted the following statement, which is concurred with, in response to the grounds of appeal:
- 4.12.1. It is not uncommon for new pipelines to be constructed in parallel to existing Overberg Water Board's infrastructure and, in many cases, is necessary as the type and use of the pipeline differs from that of the existing Overberg Water Board pipelines.
- 4.12.2. In several areas, municipal pipelines are constructed parallel to Overberg Water Board's pipelines. Furthermore, Overberg Water Board's pipeline,

which their proposed pipeline will be constructed adjacent to, is a gravity main that feeds in the opposite direction to their proposed pipeline.

4.12.3. It would be difficult to reverse the flow direction of the existing pipeline to feed the maltings facility. There are also other users downstream that are serviced by the Overberg Water Board's pipeline and to ensure water from the borehole is not distributed to these users will be difficult.

4.13. Considering the above, this ground of appeal must be dismissed as it has been adequately addressed.

The project is unsustainable and will result in job losses and undue environmental pressures

4.14. Section 24 of the NEMA states that: "[i]n order to give effect to the general objectives of integrated environmental management laid down in this Chapter, the potential consequences for or impacts on the environment of listed activities or specified activities must be considered, investigated, assessed and reported on to the competent authority or the Minister responsible for mineral resources, as the case may be, except in respect of those activities that may commence without having to obtain an environmental authorisation in terms of this Act."

4.15. In the BAR and the public participation process which informed the EA, the interested and affected parties stated *inter alia* that:

4.15.1. There must be no pollution of surface and ground waters due to the proposed activities.

4.15.2. The botanical and freshwater studies were undertaken during the spring season, which is ideal for identifying spring-flowering bulbs and sub-surface water.

4.16. The EAP, which was appointed to conduct the Basic Assessment process which informed the EA, addressed the environmental impacts, *inter alia*, as follows:

4.16.1. A containerised water treatment plant is proposed to increase or buffer the pH and re-mineralising the water. The water will be filtered to remove oxidised suspended solids and reduce turbidity and then this water will be disinfected with chlorine. The backwash water from the treatment plant, which will be in the order of 4.5m³ per day will be discharged into a 10kl silo tank where any particulate matter (consisting of iron and manganese sediment) in the backwash water will settle out. Settled particulate matter (in the order of 0.5 m³ per year) will be removed via a solenoid valve to a drying bed (7.6m³) which, when necessary, will be disposed of at a licenced landfill site. The remaining clarified backwash water from the silo tank will be discharged into the adjacent stream that drains into an existing farm dam, which is managed and used for irrigation on the farm.

4.16.2. The recent drought and water restrictions imposed by the Theewaterskloof Municipality have negatively affected operations at the SAB Maltings Plant in Caledon. The proposed water augmentation project will ensure continued uninterrupted operation at the maltings plant and sustained employment, which is a low positive impact.

4.16.3. Two alternative pipeline routes are proposed, both of which are located largely within disturbed agricultural lands. This has mitigated the potential impact on indigenous vegetation to a large extent. Alternative 1 (SAB's

preferred route) will pass through a small remnant patch of Western Ruens Shale Renosterveld, which is highly disturbed and in a poor condition. The impact on this sensitive vegetation can, however, be suitably mitigated, which will improve the existing condition of this renosterveld patch. With the implementation of the proposed mitigation measures, both pipeline routes are considered to have a similar impact on indigenous vegetation (very low significance). Although both pipeline alternatives are assessed to be of similar significance, alternative 1 is preferred as it is shorter and will result in less disturbance of agricultural lands compared to Alternative 2.

- 4.16.4. Although both alternatives will result in similar short-term impacts on freshwater resources in terms of habitat loss (low significance), flow modification (very low significance) and reduced water quality (low significance), alternative 1 is also preferred from a freshwater perspective.
 - 4.16.5. With regards to the treatment plant alternatives, both Alternative 1 (SAB's preferred alternative) and Alternative 3 are considered acceptable as they are located in disturbed areas where the original natural vegetation has already been removed (very low significance). Although Alternative 4 (located at the maltings plant) will result in the least biophysical impacts, the preference is to treat water before it enters the pipeline due to the corrosive nature of the groundwater. Alternative 2, which is located in undisturbed indigenous vegetation (Overberg Sandstone Fynbos)- critically endangered), would result in a more significant impact on vegetation (medium significance). Thus, Alternatives 1 and 3, which are located in a disturbed area, are preferred from a botanical perspective.
 - 4.16.6. A concern raised by farmers is the potential impact on the current and future agricultural activities. As the pipeline will be buried, it will allow aboveground agricultural activities to continue after installation. However, during the construction farming activities could be disrupted or result in crop losses. Thus, it is recommended that the pipeline installation should avoid key agricultural periods, which occur between April (sowing/planting) and beginning of December (harvesting). Alternatively, landowners would need to be compensated for crop losses, which have an insignificant impact on farmers. Crops could also be indirectly impacted after pipeline installation due to potential topsoil loss or contamination during installation, which could reduce soil fertility. This potential impact can, however, be prevented with good topsoil management mitigating the impact to very low significance.
 - 4.16.7. During operation, the proposed abstraction of groundwater has the potential to impact groundwater dependent ecosystems in the area. However, compliance with the recommended abstraction rate and groundwater monitoring will reduce this impact to low significance. The discharge of backwash water from the treatment plant into the proposed silo settlement tank (which will allow particulate matter to settle out), prior to discharge into the adjacent stream, will reduce the impact on water quality to low significance.
- 4.17. When this appeal was received, the applicant submitted the following statement, which is concurred with, in response to the grounds of appeal:
- 4.17.1. It is not agreed with the appeal which states that the project will result in undue environmental pressures due to the new pipeline, water treatment, pumping, etc.

- 4.17.2. Based on the findings of the basic assessment, several specialist studies (including geohydrology, heritage, freshwater ecology and vegetation) quantified the environmental impacts of the proposed project.
- 4.17.3. The geohydrological study indicated that the proposed abstraction rate from the borehole would be sustainable and would have a minimal (if any) impact on the surrounding aquifer. The water treatment proposed is minimal and would only involve the raising of the water pH, removal of iron and manganese and filtration. The backwash sludge waste produced by the plant containing benign iron and manganese oxides will be contained on the site of the treatment plant and dried in sludge drying beds. Final backwash water will be clarified prior to discharge. These mitigation measures, in their opinion, would have less of an impact to that associated with any proposed upgrade to the Overberg Water Board's treatment plants. The heritage, freshwater ecology and vegetation studies also confirmed that the impacts associated with the proposed water pipeline would be minimal.
- 4.17.4. The environmental impacts of the proposed Overberg Water Board upgrading projects is yet to be established (since Overberg Water Board has not yet commenced with the EIA process) and thus cannot be compared to that of the SAB project. Furthermore, the Overberg Water Board project could potentially result in more significant impacts.
- 4.17.5. It is not agreed that the recent drought was a 1:200-year event and is not likely to occur in the short to long term gain. The research community is endeavouring to improve the accuracy of weather forecasts, but the longer-term climate forecast for the region is a drier Western Cape. The Western Cape and the Overberg Region is also fast approaching the limit of the surface water resources, as was evident from the level of the Theewaterskloof Dam in the crisis period between May and November 2018. During this time, the plant was forced to shut down 4 times totalling 83 days (23% of the year).
- 4.17.6. Since the drought, rainfall has increased and the dam levels have returned to some resemblance of normality, to think that a drought may not occur again in the future and for their organisation not to plan for a potential future drought to ensure continued uninterrupted operation at the maltings plant and sustained employment would be imprudent.

4.18. Considering the above, this ground of appeal must be dismissed as it has been adequately addressed.

5. CONCLUSION:

In view of the above, the NEMA principles, compliance with the conditions stipulated in the Appeal EA and compliance with the conditions of the Environmental Management Programme, the proposed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and any potentially detrimental environmental impacts resulting from the activities can be mitigated to acceptable levels.

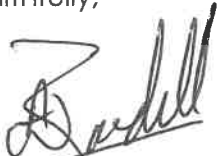
6. DISCLAIMER:

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this EA 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.

Since I have discharged my decision-making powers when making the decision I am *functus officio* in this regard. My decision is final and your only recourse, should you still be aggrieved by my decision, is to apply to the Western Cape High Court to review my decision.

Yours faithfully,



ANTON BREDELL

**PROVINCIAL MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 5/12/2019

Copied to:

Mr J. Blood (SLR Consulting SA (Pty) Ltd)
Mr Zaahir Toefy (Directorate: Development Management (1))
Mr J. Viljoen (Theewaterskloof Municipality)
Mr J. Roberts (Department of Water and Sanitation)
Mr R. le Roux (BGCMA)

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REFERENCE NO: 14/3/1/E4/5/0423/19

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Dear Mr Otto

APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE ENVIRONMENTAL AUTHORISATION AND MAINTENANCE MANAGEMENT PLAN GRANTED AND ADOPTED FOR THE PROPOSED DEVELOPMENT OF A WATER PIPELINE TO AUGMENT THE SUPPLY OF WATER TO THE SAB MALTINGS PLANT, CALEDON

1. The appeal lodged against the Environmental Authorisation ("EA") granted on 2 July 2019, refers.
2. After careful consideration of the appeal, as well as supporting documentation received, in terms of section 43(2) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") and regulation 7(3) of the 2014 National Appeal Regulations, I have decided to dismiss the appeal and confirm the abovementioned decision of the competent authority granted on 2 July 2019.
3. The abovementioned EA and the conditions under which the authorisation was granted must be complied with.
4. **AMENDMENTS/EXCLUSIONS TO THE ENVIRONMENTAL AUTHORISATION:**
 - 4.1. Section G of the abovementioned EA is excluded from this authorisation.
 - 4.2. Condition E8 of the EA is excluded from this authorisation.
 - 4.3. The following conditions of the EA are substituted and must be complied with:

SECTION E: CONDITIONS

Condition E2:

"The Appeal Environmental Authorisation is valid for a period of five (5) years from the date of this appeal decision, within which commencement must occur."

Condition E7:

"7. The holder of the Appeal Environmental Authorisation must, in writing, within 14 (fourteen) calendar days of the date of this appeal decision notify registered interested and affected parties of-

- 7.1 The outcome of the appeal;
- 7.2 The reasons for the decision;
- 7.3 The date of the decision; and
- 7.4 The date of issue of the decision."

5. REASONS FOR THIS APPEAL DECISION:

The reasons outlined in the original EA are applicable to the appeal decision and the following are additional reasons:

Overberg water can provide bulk water and the strategic pipeline near the matings

5.1. In terms of regulation 41 of the 2014 EIA Regulations, a 30 days public participation process must be conducted to provide an opportunity to the interested and affected parties to submit comments on the proposed development and:

"The person conducting a public participation process ... must give notice to all potential interested and affected parties of an application or proposed application which is subjected to public participation by—

(a) fixing a notice board at a place conspicuous to and accessible by the public at the boundary, on the fence or along the corridor of—

(i) the site where the activity to which the application or proposed application relates is or is to be undertaken; and

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(b) giving written notice, in any of the manners provided for in section 47D of the Act, to—

(i) the occupiers of the site and, if the proponent or applicant is not the owner or person in control of the site on which the activity is to be undertaken, the owner or person in control of the site where the activity is or is to be undertaken and to any alternative site where the activity is to be undertaken;

(ii) owners, persons in control of, and occupiers of land adjacent to the site where the activity is or is to be undertaken and to any alternative site where the activity is to be undertaken;

(iii) the municipal councillor of the ward in which the site and alternative site is situated and any organisation of ratepayers that represent the community in the area;

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(c) placing an advertisement in—

(i) one local newspaper; or

(ii) any official Gazette that is published specifically for the purpose of providing public notice of applications or other submissions made in terms of these Regulations;

(d) placing an advertisement in at least one provincial newspaper or national newspaper, if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or district municipality in which it is or will be undertaken: Provided that this paragraph need not be complied with if an advertisement has been placed in an official Gazette that is referred to in paragraph (c)(ii);..."

5.2. To comply with section 24O of the NEMA and regulation 41 of the 2014 EIA Regulations, the applicant undertook a public participation process, detailed in

the reasons for the EA, to give the interested and affected parties the opportunity to comment on the proposed development.

- 5.3. During the public participation process which informed the EA, Overberg Water Board was also provided with an opportunity to make representations in terms of the proposed activity. Overberg Water Board provided the following comments:
 - 5.3.1. Overberg Water Board is currently completing their master planning for the region and one of the items to be considered is additional water supply to the industry within the Caledon area.
 - 5.3.2. Overberg Water Board has a pipeline near the malting facility which will require an upgrade to meet the requirements of the facility. From what they understood, the Theewaterskloof Municipality submitted a request to Overberg Water Board to reduce its allocation in the future. Although the exact details of this process were not known, the appellant stated that this may be an opportunity to provide this water directly to the malting facility.
- 5.4. In the comments and responses report, the environmental assessment practitioner ("EAP"), which was appointed to conduct the Basic Assessment process which informed the EA, responded adequately to the comments of Overberg Water Board, *inter alia*, as follows:
 - 5.4.1. SAB Maltings (Pty) Ltd has been in discussion with Overberg Water Board regarding its proposal to supply SAB Maltings (Pty) Ltd with water.
 - 5.4.2. The supply from the Overberg Water Board, which would come from a dam, would not provide a secure water supply during the drought periods. However, the augmentation of supply using groundwater, as proposed, would ensure continued uninterrupted operation of their facility during periods of drought.
- 5.5. When this appeal was received, the applicant submitted the following statement, which I concur with, in response to the grounds of appeal:
 - 5.5.1. The alternative of augmenting the water supply to the malting plant with water, from Overberg Water Board was discussed with the Theewaterskloof Municipality on 23 April 2019. At this meeting, they were informed by the Municipality that the water supply from Overberg Water Board would not be allowed in terms of the local municipal by-law.
 - 5.5.2. It is their understanding from the meeting referenced above that the Theewaterskloof Municipality is not in favour of an arrangement, where water is provided directly to consumers in its jurisdiction by the Overberg Water Board. SAB Maltings (Pty) Ltd has, however, indicated that the use of the borehole water would be acceptable and as such, SAB Maltings (Pty) Ltd embarked on such a project.
 - 5.5.3. Notwithstanding the above, in a meeting held with the Theewaterskloof Municipality in December 2018, the proposed strategic pipeline was discussed where the upgrading requirements and costs were clarified. The total cost of Overberg Water Board's strategic upgrade amounted to approximately R 31.5 million (excluding VAT), which would need considerable funding by SAB Maltings, as Overberg Water Board did not have the budget for the proposed upgrades at the time.
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- 5.5.5. Further to the above, the proposed Overberg Water Board strategic upgrade would also require an EA, which has not yet been applied for and is not a responsibility of SAB Maltings. This would add to the overall cost of that project, add significant delays in the time of implementation and thus delay SAB Maltings in securing additional water supply.
- 5.6. Considering the above, this ground of appeal must be dismissed as it has been adequately addressed.

Alternatives

- 5.7. Section 24(4)(b)(i) of the NEMA, in terms of the procedures for the investigation, assessment and communication of the potential consequences or impacts of activities on the environment, require with respect to every application for EA "*investigation of the potential consequences or impacts of the alternatives to the activity on the environment and assessment of the significance of those potential consequences or impacts, including the option of not implementing the activity*".
- 5.8. In terms of the criteria to be considered by the competent authorities when considering applications, section 24O(1)(b)(iv) of the NEMA further states that if the competent authority considers an application for an EA, it must consider "*where appropriate, any feasible and reasonable alternatives to the activity which is the subject of the application and any feasible and reasonable modifications or changes to the activity that may minimise harm to the environment.*" Therefore, the alternatives must be considered as reasonable and feasible for inclusion in the EIA process.
- 5.9. The definition and assessment requirements relating to "alternatives" makes it clear that the obligation to consider alternatives may be achieved in a variety of different ways including site locations, types of activities, design or layout; and technological or operational aspects of undertaking the activity (either in combination or in isolation of each other).
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- 5.11.1. Two main Alternatives were considered:
- 5.11.1.1. Alternative 1 (preferred alternative) which is described in the Final Basic Assessment Report ("BAR") and authorised in the EA subject to the appeal.
- 5.11.1.2. Alternative 2: A borehole was considered on JD Kriel's property, which is located to the west of Caledon, directly south of the N2, on the farm Klipheuwel on Farm 29/410. This alternative was not considered viable as the borehole is not registered and a legal

agreement could also not be obtained between the relevant parties.

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The project is unsustainable and will result in job losses and undue environmental pressures

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5.15.2. The botanical and freshwater studies were undertaken during the spring season, which is ideal for identifying spring-flowering bulbs and sub-surface water.

5.16. The EAP, which was appointed to conduct the Basic Assessment process which informed the EA, addressed the environmental impacts, *inter alia*, as follows:

5.16.1. A containerised water treatment plant is proposed to increase or buffer the pH and re-mineralising the water. The water will be filtered to remove oxidised suspended solids and reduce turbidity and then this water will be disinfected with chlorine. The backwash water from the treatment plant, which will be in the order of 4.5m³ per day will be discharged into a 10kl silo

tank where any particulate matter (consisting of iron and manganese sediment) in the backwash water will settle out. Settled particulate matter (in the order of 0.5 m³ per year) will be removed via a solenoid valve to a drying bed (7.6m³) which, when necessary, will be disposed of at a licenced landfill site. The remaining clarified backwash water from the silo tank will be discharged into the adjacent stream that drains into an existing farm dam, which is managed and used for irrigation on the farm.

- 5.16.2. The recent drought and water restrictions imposed by the Theewaterskloof Municipality have negatively affected operations at the SAB Maltings Plant in Caledon. The proposed water augmentation project will ensure continued uninterrupted operation at the maltings plant and sustained employment, which is a low positive impact.
- 5.16.3. Two alternative pipeline routes are proposed, both of which are located largely within disturbed agricultural lands. This has mitigated the potential impact on indigenous vegetation to a large extent. Alternative 1 (SAB's preferred route) will pass through a small remnant patch of Western Ruens Shale Renosterveld, which is highly disturbed and in a poor condition. The impact on this sensitive vegetation can, however, be suitably mitigated, which will improve the existing condition of this renosterveld patch. With the implementation of the proposed mitigation measures, both pipeline routes are considered to have a similar impact on indigenous vegetation (very low significance). Although both pipeline alternatives are assessed to be of similar significance, alternative 1 is preferred as it is shorter and will result in less disturbance of agricultural lands compared to Alternative 2.
- 5.16.4. Although both alternatives will result in similar short-term impacts on freshwater resources in terms of habitat loss (low significance), flow modification (very low significance) and reduced water quality (low significance), Alternative 1 is also preferred from a freshwater perspective.
- 5.16.5. With regards to the treatment plant alternatives, both Alternative 1 (SAB's preferred alternative) and Alternative 3 are considered acceptable as they are located in disturbed areas where the original natural vegetation has already been removed (very low significance). Although Alternative 4 (located at the maltings plant) will result in the least biophysical impacts, the preference is to treat water before it enters the pipeline due to the corrosive nature of the groundwater. Alternative 2, which is located in undisturbed indigenous vegetation (Overberg Sandstone Fynbos)- critically endangered), would result in a more significant impact on vegetation (medium significance). Thus, Alternatives 1 and 3, which are located in a disturbed area, are preferred from a botanical perspective.
- 5.16.6. A concern raised by farmers is the potential impact on the current and future agricultural activities. As the pipeline will be buried, it will allow aboveground agricultural activities to continue after installation. However, during the construction farming activities could be disrupted or result in crop losses. Thus, it is recommended that the pipeline installation should avoid key agricultural periods, which occur between April (sowing/planting) and beginning of December (harvesting). Alternatively, landowners would need to be compensated for crop losses, which have an insignificant impact on farmers. Crops could also be indirectly impacted after pipeline installation due to potential topsoil loss or contamination during installation, which could reduce soil fertility. This potential impact can, however, be prevented with good topsoil management mitigating the impact to very low significance.

- 5.16.7. During operation, the proposed abstraction of groundwater has the potential to impact groundwater dependent ecosystems in the area. However, compliance with the recommended abstraction rate and groundwater monitoring will reduce this impact to low significance. The discharge of backwash water from the treatment plant into the proposed silo settlement tank (which will allow particulate matter to settle out), prior to discharge into the adjacent stream, will reduce the impact on water quality to low significance.
- 5.17. When this appeal was received, the applicant submitted the following statement, which is concurred with, in response to the grounds of appeal:
- 5.17.1. It is not agreed with the appeal which states that the project will result in undue environmental pressures due to the new pipeline, water treatment, pumping, etc.
- 5.17.2. Based on the findings of the basic assessment, several specialist studies (including geohydrology, heritage, freshwater ecology and vegetation) quantified the environmental impacts of the proposed project.
- 5.17.3. The geohydrological study indicated that the proposed abstraction rate from the borehole would be sustainable and would have a minimal (if any) impact on the surrounding aquifer. The water treatment proposed is minimal and would only involve the raising of the water pH, removal of iron and manganese and filtration. The backwash sludge waste produced by the plant containing benign iron and manganese oxides will be contained on the site of the treatment plant and dried in sludge drying beds. Final backwash water will be clarified prior to discharge. These mitigation measures, in their opinion, would have less of an impact to that associated with any proposed upgrade to the Overberg Water Board's treatment plants. The heritage, freshwater ecology and vegetation studies also confirmed that the impacts associated with the proposed water pipeline would be minimal.
- 5.17.4. The environmental impacts of the proposed Overberg Water Board upgrading projects is yet to be established (since Overberg Water Board has not yet commenced with the EIA process) and thus cannot be compared to that of the SAB project. Furthermore, the Overberg Water Board project could potentially result in more significant impacts.
- 5.17.5. It is not agreed that the recent drought was a 1:200-year event and is not likely to occur in the short to long term gain. The research community is endeavouring to improve the accuracy of weather forecasts, but the longer-term climate forecast for the region is a drier Western Cape. The Western Cape and the Overberg Region is also fast approaching the limit of the surface water resources, as was evident from the level of the Theewaterskloof Dam in the crisis period between May and November 2018. During this time, the plant was forced to shut down 4 times totalling 83 days (23% of the year).
- 5.17.6. Since the drought, rainfall has increased and the dam levels have returned to some resemblance of normality, to think that a drought may not occur again in the future and for their organisation not to plan for a potential future drought to ensure continued uninterrupted operation at the maltings plant and sustained employment would be imprudent.
- 5.18. Considering the above, this ground of appeal must be dismissed as it has been adequately addressed.

6. CONCLUSION:

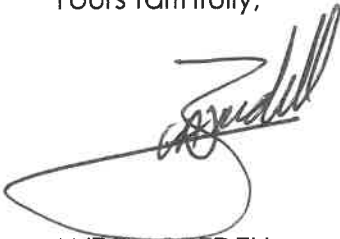
In view of the above, the NEMA principles, compliance with the conditions stipulated in the Appeal EA and compliance with the conditions of the Environmental Management Programme, the proposed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and any potentially detrimental environmental impacts resulting from the activities can be mitigated to acceptable levels.

7. DISCLAIMER:

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this EA 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.

Since I have discharged my decision-making powers when making the decision I am *functus officio* in this regard. My decision is final and your only recourse, should you still be aggrieved by my decision, is to apply to the Western Cape High Court to review my decision.

Yours faithfully,



ANTON BREDELL

**PROVINCIAL MINISTER OF LOCAL GOVERNMENT,
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 5/12/2019

Copied to:

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