



REFERENCE: 14/3/1/D2/28/0403/19

The Managing Director
Herold Meander (Pty) Ltd
PO Box 2388
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6530

Attention: Mr T. Adams

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APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE ENVIRONMENTAL AUTHORISATION GRANTED FOR THE PROPOSED ESTABLISHMENT OF HEROLD MEANDER ON PORTION 27, 38, 48 AND 49 OF THE FARM DOORN RIVER, HEROLD, WESTERN CAPE

With reference to your application for the abovementioned, find below the outcome with respect to the appeal.

APPEAL ENVIRONMENTAL AUTHORISATION

In terms of section 43(6) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA"), I have decided to **uphold your appeal and vary the decision** issued on 5 March 2019 by the Director: Development Management (Region 3) of the Department of Environmental Affairs and Development Planning, taken in terms of the *Environmental Impact Assessment Regulations, 2014*. This Appeal Environmental Authorisation ("EA") replaces the EA issued on 5 March 2019.

Authorisation is granted for Alternative 4. The applicant for this Appeal EA is required to comply with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Managing Director

Herold Meander (Pty) Ltd

% Mr. T. Adams

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The abovementioned applicant is the holder of this Appeal EA (hereinafter referred to as "the holder").

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Government Notice No. 983 of 4 December 2014 -Listing Notice 1	
<p>Activity Number 6</p> <p>Activity Description:</p> <p>The development and related operation of facilities, infrastructure or structures for aquaculture of—</p> <ol style="list-style-type: none">i. <u>finfish, crustaceans, reptiles or amphibians, where such facility, infrastructure or structures will have a production output exceeding 20 000 kg per annum (wet weight);</u>ii. <u>molluscs and echinoderms, where such facility, infrastructure or structures will have a production output exceeding 30 000 kg per annum (wet weight);</u> oriii. <u>aquatic plants, where such facility, infrastructure or structures will have a production output exceeding 60 000 kg per annum (wet weight);</u>	<p>This activity will be phased by implementation of a finfish aquaculture facility not exceeding 20 tons in Phase 2a of the development and the expansion of the finfish aquaculture facility up to a 300-ton volume in Phase 2b of the implementation of the Herold Meander development.</p>

<p>excluding where the development of such facilities, infrastructure or structures is for purposes of sea-based cage culture in which case activity 7 in this Notice applies</p>	
<p>Activity Number: 8 Activity Description:</p> <p>The development and related operation of hatcheries or agri-industrial facilities outside industrial complexes where the development footprint covers an area of 2 000 square metres or more</p>	<p>Buildings associated with the proposed agri-park (agri-industrial) will have a development footprint not exceeding 4000 square metres.</p>
<p>Activity Number: 12 Activity Description:</p> <p>The development of—</p> <ul style="list-style-type: none"> i. dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or ii. infrastructure or structures with a physical footprint of 100 square metres or more; <p>where such development occurs—</p> <ul style="list-style-type: none"> (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; — <p>excluding—</p> <ul style="list-style-type: none"> (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; 	<p>The proposed Herold Meander development will entail construction of structures and infrastructures crossing tributaries and within 32 metres of a watercourse (Afgunst River, dams on the property and canals) located outside of the urban edge with buffers of 15 on unnamed tributaries and 30 metres on rivers as recommended by the freshwater specialist.</p>

<p>(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;</p> <p>(dd) where such development occurs within an urban area;</p> <p>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</p> <p>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</p>	
<p>Activity Number: 19</p> <p>Activity Description:</p> <p>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(e) 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>	<p>The proposed development entails the refurbishment of existing furrows and dams for maintenance, as well as crossing of infrastructure over tributaries that would likely result in the movement of more than 10 cubic metres of soil, sand, pebbles or rock within a watercourse (clearing of dams and proposed earth canals).</p>
<p>Activity Number: 27</p> <p>Activity Description:</p>	<p>The proposed development will, upon full completion, result in the phased clearance of more than 1 hectare of</p>

<p>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—</p> <ul style="list-style-type: none"> (a) the undertaking of a linear activity; or (b) maintenance purposes undertaken in accordance with a maintenance management plan 	<p>indigenous vegetation. This includes an additional 46 hectares of cultivated land plus development footprint.</p> <p>The development of the agricultural areas, over time throughout Phase 2a and Phase 2b will start to exceed 1 hectare at some point.</p>
<p>Activity Number: 28</p> <p>Activity Description:</p> <p>Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</p> <ul style="list-style-type: none"> i. will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or ii. will occur outside an urban area, where the total land to be developed is bigger than 1 hectare; <p>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>The proposed development entails the development of a mixed-development that will be more than 1 hectare in extent and which includes residential, commercial and retail development component.</p> <p>The development is proposed to be developed in two phases.</p> <p>This activity will be phased through the development affordable houses in Phase 2a which will be less than 1 hectare in extent and the development of affordable and houses in Phase 2b.</p>
<p>Activity Number: 67</p> <p>Activity Description:</p> <p>Phased activities for all activities—</p> <ul style="list-style-type: none"> i. listed in this Notice, which commenced on or after the effective date of this Notice or similarly listed in any of the previous NEMA notices, which 	<p>The development is proposed to be developed in two phases with housing, agri-processing and agricultural activities that will be below certain thresholds during the initial phase, but will exceed thresholds into Phase 2. e.g.</p>

<p>commenced on or after the effective date of such previous NEMA Notices;</p> <p>excluding the following activities listed in this Notice-</p> <p>17(i)(a-d); 17(ii)(a-d); 17(iii)(a-d); 17(iv)(a-d); 17(v)(a-d); 20; 21; 22; 24(i); 29; 30; 31; 32; 34; 54(i)(a-d); 54(ii)(a-d); 54(iii)(a-d); 54(iv)(a-d); 54(v)(a-d); 55; 61; 64; and 65; or</p> <p>ii. listed as activities 5, 7, 8(ii), 11, 13, 16, 27(i) or 27(ii) in Listing Notice 2 of 2014 or similarly listed in any of the previous NEMA notices, which commenced on or after the effective date of such previous NEMA Notices;</p> <p>where any phase of the activity was below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold.</p>	<p>Phase 1 to Phase 2a; Phase 1 to Phase 2b; Phase 2a to 2b</p>
<p>Government Notice No. 984 of 4 December 2014 -Listing Notice 2</p>	
<p>Activity Number: 15</p> <p>Activity Description:</p> <p>The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—</p> <p>i. the undertaking of a linear activity; or</p> <p>ii. maintenance purposes undertaken in accordance with a maintenance management plan.</p>	<p>Completion of the two (2) phases of the proposed development will result in the clearance of more than 20 hectares of indigenous vegetation to accommodate the additional 46 hectares of new agricultural areas and development footprint areas.</p>
<p>Government Notice No. 985 of 4 December 2014 -Listing Notice 3</p>	
<p>Activity Number: 2</p> <p>Activity Description:</p> <p>The development of reservoirs, excluding dams, with a capacity of more than 250 cubic metres.</p>	<p>A reservoir with a storage capacity of 320 cubic metres, located at an area containing indigenous vegetation, is proposed with its associated access route of 3 metres wide.</p>

<p>i. Western Cape</p> <ul style="list-style-type: none"> <i>i. A protected area identified in terms of NEMPAA, excluding conservancies;</i> <i>ii. In areas containing indigenous vegetation; or</i> <i>iii. Inside urban areas:</i> <ul style="list-style-type: none"> <i>(aa) Areas zoned for use as public open space; or</i> <i>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose.</i> 	
<p>Activity Number: 4 Activity Description:</p> <p><i>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</i></p> <p><i>i. Western Cape</i></p> <ul style="list-style-type: none"> <i>i. Areas zoned for use as public open space or equivalent zoning;</i> <i>ii. Areas outside urban areas;</i> <ul style="list-style-type: none"> <i>(aa) Areas containing indigenous vegetation;</i> <i>(bb) 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> <i>or</i> <i>iii. Inside urban areas:</i> <ul style="list-style-type: none"> <i>(aa) Areas zoned for conservation use; or</i> <i>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</i> 	<p>The internal road associated with the housing component is proposed to have a 4-metre wide road surfaces, plus road verges to accommodate services and street lighting (road reserve of 10 metre wide for all internal roads) and small portions will be located in areas containing indigenous vegetation.</p>
<p>Activity Number: 6 Activity Description:</p>	<p>The proposed development will make provision for a 120 tourism accommodation camp sites alongside the</p>

<p>The development of resorts, lodges, hotels, tourism or hospitality facilities that sleeps 15 people or more.</p> <p>i. Western Cape</p> <p>i. Inside a protected area identified in terms of NEMPAA;</p> <p>ii. Outside urban areas;</p> <p>(aa) Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or</p> <p>(bb) Within 5km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve; -</p> <p>excluding the conversion of existing buildings where the development footprint will not be increased.</p>	<p>Doorn River which will be within 5 kilometres from the Outeniqua Mountain (complex) World Heritage Site.</p>
<p>Activity Number: 14</p> <p>Activity Description:</p> <p>The development of—</p> <p>i. dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or</p> <p>ii. infrastructure or structures with a physical footprint of 10 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;</p>	<p>Crossing of tributaries with services; Development of storm water infrastructure and outlet structures within 32 metres of watercourses; Construction of buildings within 32 metres from the unnamed tributaries on the property that are permitted to be within 32 metres but not closer than the 15 metre buffer as per the freshwater specialist findings.</p>

excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.

i. Western Cape

i. Outside urban areas:

- (aa) A protected area identified in terms of NEMPAA, excluding conservancies;
- (bb) National Protected Area Expansion Strategy Focus areas;
- (cc) World Heritage Sites;
- (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;
- (ee) Sites or areas listed in terms of an international convention;
- (ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;
- (gg) Core areas in biosphere reserves; or
- (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.

Activity Number: 26

Activity Description:

Phased activities for all activities—

- i. listed in this Notice and as it applies to a specific geographical area, which commenced on or after the effective date of this Notice; or
- ii. similarly listed in any of the previous NEMA notices, and as it applies to a specific geographical area, which commenced on or after the effective date of such previous NEMA Notices—

The development is proposed to be developed in two phases with housing, Agri-processing and agricultural activities that will be below certain thresholds during the initial phase, but will exceed thresholds into Phase 2. E.g. Phase 1 to Phase 2A; Phase 1 to Phase 2b; Phase 2a to 2b

where any phase of the activity was below a threshold but where a combination of the phases, including expansions or extensions, will exceed a specified threshold; —

excluding the following activities listed in this Notice—

7; 8; 11; 13; 20; 21; and 24.

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

The holder is herein authorised to undertake the following alternative that includes the listed activities as it relates to the development and development footprint area (See Annexure 1):

The establishment of Herold Meander mixed-use development on Portions 27, 29, 48 & 49 of Farm 98 Doorn Rivier. The development will occur in 3 phases, of which Phase 1 does not require an EA and Phase 2a and 2b will comprise the following:

Phase 2a:

- Establishment of a closed-system finfish aquaculture facility with a maximum production output of 20 tonnes wet weight per annum with borehole water supply and associated aquaponics to re-use effluent water from the aquaculture facility.
- Construction of a 0.32Mℓ reservoir with associated pipe supply network that will replace water tanks
- Construction of affordable housing units (See Annexure 1). Occupiers of this housing node will be employed by the Herold Meander (Pty) Ltd.
- Construction of "touch-farm" buildings (850 square metres) with a conservancy tank
- Construction of the "Heritage Precinct" (1100 square metres) with a conservancy tank
- Construction of 6 Agro-processing buildings (500 square metres) each with a combined conservancy tank and water supply from the reservoir
- 2ha picnic area along the Doorn River and existing farm dam (alternatively to be used for grazing purposes) with a conservancy tank and water supply from the reservoir.
- 120 grassed camping sites (alternatively used for grazing purposes) with a conservancy tank and water supply from the reservoir.
- Establishment of an additional 20ha agricultural area and 16 ha pitting area.

Phase 2b:

- Construction of a waste water treatment works (115 cubic metres per day capacity) with 6 sludge drying beds of 114 square metres in total.
- Construction of 26 Agri-village houses in the northern node (erf sizes between 267 square metres and 416 square metres).
- Construction of 92 affordable housing units (See Annexure 1). Occupiers of this housing node will be persons employed by the Herold Meander (Pty) Ltd. or persons which adhere to the qualifying criteria for current occupiers described in the Guidelines for Management of Herold Meander Farm Housing (dated 19 August 2016).
- Expansion of the Phase 2a aquaculture facility to 300 tonnes (wet weight) production output per annum facility with associated aquaponics tunnels (10 400 square metres combined footprint).
- Construction of two (2) agro-processing units of 500 square metres each.
- Construction of a Multipurpose centre of 1900 square metres.

C. SITE DESCRIPTION AND LOCATION

The development site is located on Portions 27, 29, 48 & 49 of Farm 98 Doorn Rivier, Herold which can be accessed via the Montagu Pass from George or from the N9 (National road between George and Uniondale).

The centre points of the development site where the listed activities will be undertaken are:

Portion 27 of Farm Doorn Rivier no. 98:	33°	50'	58.39"	South	22°	26'	43.54"	East
Portion 29 of Farm Doorn Rivier no. 98:	33°	50'	44.10"	South	22°	26'	40.25"	East
Portion 48 of Farm Doorn Rivier no. 98:	33°	50'	45.07"	South	22°	26'	422.46"	East
Portion 49 of Farm Doorn Rivier no. 98:	33°	50'	44.59"	South	22°	26'	42.24"	East

The Biological Waste Water Treatment Plant ("BWWTP") will be undertaken on a portion of Portion 27 of Farm Doorn Rivier no. 98, approximate to:

33° 50' 37.86" South
22° 26' 36.55" East

SG digit codes:

Portion 27 of Farm Doorn Rivier no. 98:	C02700000000009800027
Portion 29 of Farm Doorn Rivier no. 98:	C02700000000009800029
Portion 48 of Farm Doorn Rivier no. 98:	C02700000000009800048
Portion 49 of Farm Doorn Rivier no. 98:	C02700000000009800049

The above is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

CAPE ENVIRONMENTAL ASSESSMENT PRACTITIONERS (PTY) LTD.

% Ms. Louise-Mari van Zyl

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E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with Preferred Alternative (Alternative 4) described in the FEIAR dated 22 October 2018 on the site as described in Section C above which entails: -

The development will occur in 3 phases, of which Phase 1 does not require authorisation and Phase 2a and 2b will comprise the following:

Phase 2a:

- Establishment of a closed-system finfish aquaculture facility with a maximum production output of 20 tonnes wet weight per annum with borehole water supply and associated aquaponics to re-use effluent water from the aquaculture facility.
- Construction of a 0.32Mℓ reservoir with associated pipe supply network that will replace water tanks.
- Construction of affordable housing units. Occupiers of this housing node will be employed by the Herold Meander (Pty) Ltd.
- Construction of "touch-farm" buildings (850 square metres) with a conservancy tank.
- Construction of the "Heritage Precinct" (1100 square metres) with a conservancy tank.
- Construction of 6 Agro-processing buildings (500 square metres) each with a combined conservancy tank and water supply from the reservoir.
- 2ha picnic area along the Doorn River and existing farm dam (alternatively to be used for grazing purposes) with a conservancy tank and water supply from the reservoir.

- 120 grassed camping sites (alternatively used for grazing purposes) with a conservancy tank and water supply from the reservoir.
- Establishment of an additional 20ha agricultural area and 16 ha pitting area.

Phase 2b:

- Construction of a waste water treatment works (115 cubic metres per day capacity) with 6 sludge drying beds of 114 square metres in total.
- Construction of 26 Agri-village houses in the northern node (erf sizes between 267 square metres and 416 square metres).
- Construction of 92 affordable housing units. Occupiers of this housing node will be persons employed by the Herold Meander (Pty) Ltd. or persons which adhere to the qualifying criteria for current occupiers described in the Guidelines for Management of Herold Meander Farm Housing (dated 19 August 2016).
- Expansion of the Phase 2a aquaculture facility to 300 tonnes (wet weight) production output per annum facility with associated aquaponics tunnels (10 400 square metres combined footprint).
- Construction of two (2) agro-processing units of 500 square metres each.
- Construction of a Multipurpose centre of 1900 square metres.

2. The holder must adopt and implement the following development parameters; restrictions and measures to the proposed development. The revised proposal and layout plan must be submitted to the competent authority for approval prior to site preparation or construction activities commencing on site. The following must be addressed-

2.1. The proposed development layout plan must be amended to address the following:

- 2.1.1. No new buildings to be constructed may encroach into the 15 metre buffer around dams and tributaries. As such, the positions of these buildings must be moved back behind the 15 metre buffer.
- 2.1.2. All services must be installed directly adjacent to erf boundaries.
- 2.1.3. The access road to the affordable housing node must compacted and overlain with suitable gravel or paved prior to construction of any units.

3. The non-operational component (construction phase) of the Environmental Authorisation is granted for a period until **5 March 2040**, during which period the holder must—

- 3.1. start with and conclude the non-operational aspects of the listed activities (construction phase) for both Phase 2a and Phase 2b; and

3.2. finalise the post construction rehabilitation and monitoring requirements within a period of 12-months from the date the development activities (construction phase) are concluded for Phase 2a and Phase 2b respectively.

Failing which, this Appeal Environmental Authorisation shall lapse, unless the environmental authorisation is amended in accordance with the relevant process contemplated in the Environmental Impact Assessment Regulations promulgated under the NEMA.

4. The operational aspects of this Appeal Environmental Authorisation are granted until **5 March 2046** during which period all rehabilitation and monitoring requirements and final environmental auditing and reporting must be finalised.

Note:

- The holder may on written application, prior to the validity period lapsing, apply to the relevant competent authority to extend the validity period for which the operational aspects have been granted.
- The operational aspects related to the development and related operation or expansion and related operation of the facility or infrastructure for aquaculture, is granted for the specified period or until the activity is decommissioned prior to said date. Where "decommission" means to take out of active service permanently, or dismantle partly or wholly, or closure of a facility to the extent that it cannot be readily re-commissioned. The holder shall need to obtain the necessary Appeal Environmental Authorisation for the decommissioning of the aquaculture facility.

5. 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.

6. Any changes to, or deviations from the scope of the alternative described in section B 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 in order 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.

Notification of the Appeal Decision

7. The holder of the Appeal Environmental Authorisation must in writing, within 14 (fourteen) days of the date of the appeal decision notify all registered interested and affected parties ("I&AP's")–
 - 7.1. The outcome of the appeal;
 - 7.2. The reasons for the appeal decision; and
 - 7.3. The date of the decision.

Written notice to the Competent Authority

8. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.
 - 8.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 8.2. The notice must also include proof of compliance with the following conditions described herein: **Condition no.: 2, 9 and 11.**

Management of activity

9. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended to address the following aspects, and must then be re-submitted to the Competent Authority and approved prior to commencement of construction.
 - 9.1. Incorporate all the conditions given in this Appeal EA;
 - 9.2. Include comment on the Fire Management Plan from the Southern Cape Fire Protection Association ("SCFPA")
 - 9.3. Comply with section 24N of the NEMA and Appendix 4 of the Environmental Impact Assessment Regulations, 2014;
 - 9.4. Include detail on soil protection and rehabilitation measures that can be installed in areas where erosion may occur.
 - 9.5. Include a site plan that indicates the services on the site in terms of the sewer pipelines, water supply and electrical infrastructure.
10. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

11. The holder must appoint a suitably experienced environmental control officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
12. The ECO must—
 - 12.1. be appointed prior to commencement of any vegetation clearing or construction activities commencing;
 - 12.2. ensure compliance with the EMPr and the conditions contained herein;
 - 12.3. keep record of all activities on site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
 - 12.4. remain employed until all development activities are concluded and the post construction rehabilitation and monitoring requirements are finalised.
13. A copy of the Appeal EA, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the holder has website, such documents must be made available on such publicly accessible website.
14. Access to the site referred to in Section C 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.

Auditing

15. The holder must, for the period during which the Appeal EA and EMPr remain valid—
 - 15.1. Ensure the compliance with the conditions of the Appeal Environmental Authorisation and the EMPr, is audited;
 - 15.2. During the construction phase, the holder must undertake annual environmental audit(s) and submit these Environmental Audit Report(s) to the Competent Authority.

The final construction phase Environmental Audit Report(s) must be submitted to the Competent Authority within **three (3)** months of completion of construction of Phase 2a and Phase 2b respectively;

15.3. During the operation phase, the holder must ensure that environmental audit(s) are performed regularly and submit these Environmental Audit Report(s) to the Competent Authority.

During the operational phase the frequency of the auditing of compliance with the conditions of the Appeal Environmental Authorisation and of compliance with the EMPr **may not exceed intervals of 5 years;**

15.4. The environmental audit report must be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise;

16. The Environmental Audit Report, must –

16.1. provide verifiable findings, in a structured and systematic manner, on–

16.1.1 the level of compliance with the conditions of the Appeal Environmental Authorisation and the EMPr and whether this is sufficient or not; and

16.1.2 the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.

16.2. identify and assess any new impacts and risks as a result of undertaking the activity;

16.3. evaluate the effectiveness of the EMPr;

16.4. identify shortcomings in the EMPr;

16.5. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;

16.6. indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;

16.7. indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;

16.8. include a photographic record of the site applicable to the audit; and

16.9. be informed by the ECO reports.

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

Specific Conditions

18. Prior to commencing with the listed activities, the holder must ensure that all services (i.e. water, electricity, solid waste and sewerage) and bulk infrastructure will be made available for the proposed development.

19. The holder must develop and operate a Biological Waste Water Treatment Plant ("BWWTP") (sewage package plant) facility and infrastructure for the transportation, treatment and disposal of effluent, wastewater and sewage generated on the Herold Meander development. Further to this—

19.1. The BWWTP facility must be completed and operational (operation ready) prior to 50% of the affordable housing node being occupied.

19.2. Prior to the construction and operation of the new BWWTP, no septic tanks may be installed for any new buildings. Only conservancy tanks may be installed for the collection and storage of sewage, effluent and wastewater. The holder must ensure that all sewage, effluent and wastewater collected and stored in the conservancy tanks, is disposed of at a licenced wastewater treatment facility which has sufficient spare capacity to accept the volume of waste generated by the Herold Meander development.

19.3. Once the BWWTP is developed, the holder must ensure that all sewage, effluent and wastewater from the development (including existing buildings and residences) is transported and treated at the BWWTP facility. This will require service infrastructure to existing buildings and residences to the facility.

19.4. The holder must ensure the correct operation and maintenance of the BWWTP / Sewage Package Plant to treat the sewage effluent generated by the proposed development to the prescribed final effluent standard.

19.5. The holder shall be responsible for the monitoring and reporting on the operation of the BWWTP.

- 19.6. Sewage pumps must have standby non- electrical pumps available in case of power failure/outages or mechanical failure of the electrical pumps.
- 19.7. The holder may enter into an agreement with the George Municipality to transfer the BWTP and operation requirements thereof to the George Municipality.
20. The development of buildings or infrastructure for the reticulation/transport of water, sewage, effluent and wastewater, must be setback from the watercourse buffer. No buildings or reticulation infrastructure may encroach on or be placed on the watercourse side of the buffer. Further to this –
- 20.1. Reticulation infrastructure must be along existing watercourse crossings (i.e. bridges);
- 20.2. Reticulation infrastructure for the Affordable Housing node must be setback above the agricultural field.
21. The transformation of land and clearance of vegetation must be restricted to existing lawfully disturbed areas as well as the authorised development footprint of the proposed development/listed activities depicted in Annexure 1. Areas of indigenous vegetation which fall outside of the development footprint or which are rehabilitated back to indigenous vegetation / natural veld / virgin land, must be utilised for a conservation use and may not be transformed unless authorised in writing by the competent authority.
22. 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 ("HWC"). Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from HWC. Heritage remains may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

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; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.

Operational Aspects

23. The holder shall, for the duration of the operational phase of the development, be responsible for the monitoring and reporting on the operation of the sewage treatment and disposal systems. This must include the transition from existing septic tanks to BWWTP / Sewage Package Plant and the disposal of the treated effluent (i.e. French Drains and irrigation of treated effluent).
24. The BWWTP/sewage package plant must be properly maintained and correctly operated and the effluent treated to the prescribed standard.
25. For the duration of the operational phase, the properties must be maintained clear of all alien invasive plant species, with a dedicated long-term follow-up clearing programme.

F. GENERAL MATTERS

1. Notwithstanding this Appeal EA, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.

Amendment of Appeal EA and EMPr

2. If the holder does not start with all listed activities and/ or exceed the threshold of each listed activity within the period referred to in Section E, this Appeal EA shall lapse for that activity, and a new application for Appeal EA must be submitted to the relevant Competent Authority.

If the holder wishes to extend a validity period specified in the Appeal EA, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of such a period.

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Appeal EA will result in the lapsing of the Environmental Authorisation.
- (b) It is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity if the competent authority has not granted an Appeal EA for the undertaking of the activity.

3. The holder is required to submit an application for amendment of the Appeal EA to the Competent Authority where any detail with respect to the Appeal EA must be amended, added, substituted, corrected, removed or updated.

In assessing whether to grant such approval or not, the Competent Authority may request information in order 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.

The onus is on the holder to verify whether such changes to the Appeal EA must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note:

The Appeal EA may be amended or replaced without following a procedural requirement contained in the Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially.

4. The manner and frequency for updating the EMPr is as follows:
 - (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
 - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMP has been approved by the competent authority.

The onus is however on the holder to confirm the legislative process requirements for the above scenarios at that time.

5. Where an amendment to the impact management outcomes of an EMPr is required before an environmental audit is required in terms of the environmental authorisation, an EMPr may be amended on application by the holder of the environmental authorisation.

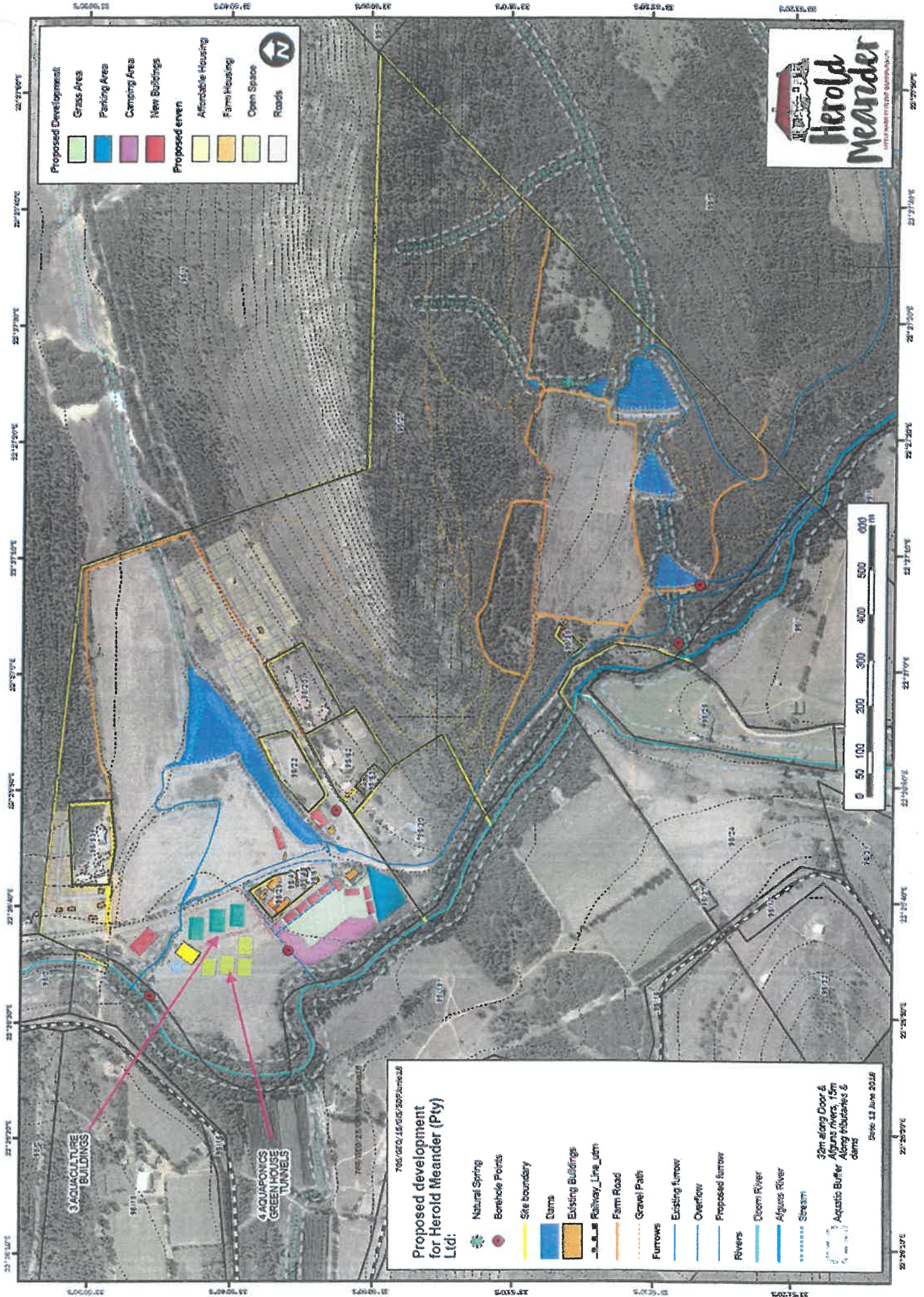
Compliance with Appeal Environmental Authorisation and EMPr

6. Non-compliance with a condition of this Appeal EA or EMPr is an offence in terms of Section 49A(1)(c) of the NEMA.

7. In the event that the Appeal EA should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Appeal Environmental Authorisation for the undertaking of the activity.

8. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

ANNEXURE 1: AUTHORISED LAYOUT



ANNEXURE 2: REASONS FOR THE DECISION

In reaching its decision, I considered, inter alia, the following:

- a) The information contained in the Application Form received on 17 January 2018, the Environmental Impact Assessment Report ("FEIAR") and EMPri submitted together with the FEIAR on 22 October 2018;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA;
- d) The comments received from I&APs and responses to these, included in the FEIAR dated 22 October 2018;
- e) The application of the "One Environmental System" and the relevant information which was submitted to the authorities;
- f) The balancing of negative and positive impacts and proposed mitigation measures; and
- g) The site visit conducted on 27 February 2019 - Ms Jessica Christie, Mr. Francois Naudé, Mr. Danie Swanepoel and Mr. Gavin Benjamin from the Department.
- h) The Appeal submitted by Mr. Theo Adams.
- i) The Responding Statement submitted by Mr. G. Benjamin, the Director: Development Management (Region 3) from the Department of Environmental Affairs and Development Planning.
- j) The comment dated 3 June 2019 from the Western Cape Department of Agriculture.
- k) The site visit conducted on 25 July 2019 by officials from the Sub-directorate: Environmental Appeals Management.

All information presented above was taken into account in the consideration of the Appeal Environmental Authorisation and the appeal.

A. LEGISLATIVE MANDATE

1. In terms of the relevant legislation, the decision-making powers afforded to the appellate authority are such that it may, "confirm, set aside or vary the decision, provision, condition or directive or make any other appropriate decision". The assessment of appeals raises substantive and policy-laden issues and a determination of whether the proposed application will result in a development that is sustainable, that avoids detrimental impacts on the environment, or where it cannot be avoided, ensure mitigation and management of impacts to acceptable levels, and to optimise positive environmental impacts.

2. Section 24 of the *Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996)* ('the Constitution'), provides:

"24 Environment

Everyone has the right-

- (a) to an environment that is not harmful to their health or well-being; and*
- (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that-*
 - (i) prevent pollution and ecological degradation;*
 - (ii) promote conservation; and*
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development."*

3. The power of the National Environmental Minister or a provincial MEC to regulate environmental matters is now under the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") (a law enacted to give effect to the environmental right in section 24 of the Constitution):

3.1 Section 2 of the NEMA lays down certain generally-applicable principles of environmental management which must be applied by persons when deciding whether or not to grant authorisations under section 24 of the NEMA. See section 2(1)(c) and (e) of NEMA, which provide that the NEMA principles:

3.1.1 "serve as guidelines by reference to which any organ of state must exercise any function when taking any decision in terms of this Act or any statutory provision concerning the protection of the environment" (section 2(1)(c)); and

3.1.2 "guide the interpretation, administration and implementation of this Act, and any other law concerned with the protection or management of the environment" (section 2(1)(e)).

3.2 The NEMA principles include the following:

3.2.1 Environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably' (section 2(2));

3.2.2 "Development must be socially, environmentally and economically sustainable" (section 2(3));

- 3.2.3 sustainable development – a term defined in section 1 of the NEMA as meaning – ‘the integration of social, economic and environmental factors into planning, implementation and decision-making so as to ensure that development serves present and future generations’ – “requires the consideration of all relevant factors . . .” in environmental decision-making (section 2(4)(a));
- 3.2.4 " Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decisions on all aspects of the environment and all people in the environment by pursuing the selection of the best practicable environmental option" (section 2(4)(b)); and
- 3.2.5 "the social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment" (section 2(4)(i)).
- 3.3 The key legislation that provided the framework and guidelines for undertaking the Environmental Impact Assessment ("EIA") process includes:
- 3.3.1 EIA Regulations, 2014 as promulgated in terms of NEMA.
 - 3.3.2 National Heritage Resources Act, 1999 (Act No. 25 of 1999).
 - 3.3.3 Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983).

B. KEY FACTORS

APPEAL REVIEW

1. The Decision

The reasons cited in the EA dated 5 March 2019 in support of the partial authorisation included:

- (a) *Proposed development on a portion of agricultural land north of the gravel road/overhead powerline:*
- *The WCG: Department of Agriculture raised a concern about the loss of viable agricultural land situated to the north of the road and overhead power line and these lands are labelled as "Existing Irrigation on Water System". Further information from the relevant geographical information system corroborates this information.*

- This Directorate has determined that the portion of land has been productively utilised for agriculture on or after 01 April 1998 and is currently planted with (amongst other) Protea species.
- (b) The row of erven on the upper slope of the southern extent of the affordable housing has been excluded to-
- avoid inappropriate development (i.e. intrusive and consumptive development) on the hill and ridge taking into account the character of the existing environment;
 - ensure that where development does take place, that the layout and design considers sensitive features and environmental constraints, thereby promoting environmentally sensitive development of the project on the hill and ridges where such development is authorised. In this regard the information available shows that this row of houses encroached on steep slopes including areas with a slope of 1 or steeper. Furthermore, a site inspection showed that the area is inappropriate for development.
 - preserve landform features through ensuring that the siting of facilities is related to environmental resilience and visual screening capabilities of the landscape.
 - The visual impact assessment identified visual scarring as a result of new development, from cut and fill slopes for new roads, housing and buildings platforms as a risk. Although said report only classifies the significance as "medium" and a moderate cumulative impact, the practicability of the mitigation measures and low probability of successfully mitigating the impacts are deemed important contributing risk factors.
 - Ensure that the scale, density and nature of the developments are harmonious and in keeping with the sense of place and character of the area. The proposed erven will be above the existing development line established by the existing erven and buildings."

The Western Cape Department of Agriculture ("WC DoA") was opposed to Alternative 1 which included an Eco-Estate component consisting of 26 large stands on 4.83ha, an Agri-Village with 39 erven on 1.26ha and 41 Affordable Housing opportunities on 1.55ha.

Also provided for with this alternative was the Agri-Park, Heritage Precinct, Multi-Purpose Centre, Touch Farm, Picnic Area and associated services such as the package plant, boreholes.

Following meetings with the relevant authorities as well as input from the George Municipality's planning department, it was indicated that the Eco Estate development specifically was not supported as it could result in a sense of segregation. This Alternative was subsequently eliminated and was not assessed further and since the George Municipality would not have considered this alternative, it was not considered feasible and no reasonable expectation of this alternative ever being implemented.

The objective of the development is to revive the agricultural activity by making productive use of the available 55ha of arable land as well as establishing an additional 46ha of agricultural areas for pitting/foilage and cut flowers on the farm. Included in development will be an agri-processing node that will have an integrated aquaculture and aquaponics system which will support the farming business and add value to the products produced on the farm. These activities will require labour for which the appellant has included the housing component of the development that is cognizant of the housing requirements of development.

The development will occur in 3 phases, of which Phase 1 does not require environmental authorisation and Phase 2a and 2b will comprise of the following:

Phase 2a:

- Establishment of a closed-system finfish aquaculture facility with a maximum production output of 20 tonnes wet weight per annum with borehole water supply and associated aquaponics to re-use effluent water from the aquaculture facility.
- Construction of a 0.32Mℓ reservoir with associated pipe supply network that will replace water tanks.
- Construction of affordable housing units. Occupiers of this housing node will be employed by the Herold Meander (Pty) Ltd.
- Construction of "touch-farm" buildings (850 square metres) with a conservancy tank
- Construction of the "Heritage Precinct" (1100 square metres) with a conservancy tank
- Construction of 6 Agro-processing buildings (500 square metres) each with a combined conservancy tank and water supply from the reservoir.
- 2ha picnic area along the Doorn River and existing farm dam (alternatively to be used for grazing purposes) with a conservancy tank and water supply from the reservoir.
- 120 grassed camping sites (alternatively used for grazing purposes) with a conservancy tank and water supply from the reservoir.
- Establishment of an additional 20ha agricultural area and 16 ha pitting area.

Phase 2b:

- Construction of a waste water treatment works (115 cubic metres per day capacity) with 6 sludge drying beds of 114 square metres in total.
- Construction of 26 Agri-village houses in the northern node (erf sizes between 267 square metres and 416 square metres).
- Construction of 92 affordable housing units. Occupiers of this housing node will be persons employed by the Herold Meander (Pty) Ltd. or persons which adhere to the qualifying criteria for current occupiers described in the Guidelines for Management of Herold Meander Farm Housing (dated 19 August 2016).
- Expansion of the Phase 2a aquaculture facility to 300 tonnes (wet weight) production output per annum facility with associated aquaponics tunnels (10 400 square metres combined footprint).
- Construction of two (2) agro-processing units of 500 square metres each.
- Construction of a Multipurpose centre of 1900 square metres.

The preferred alternative, i.e. Alternative 4, was developed as it responded to the issues of:

- fragmentation;
- alienation of agricultural land;
- dwellings must not impact on the farming and agri-tourism activities (units are clustered and set apart from future agricultural farming areas);
- units must not be placed where they will contribute to the loss of 'high potential' agricultural land and therefore dwellings must be clustered outside 'intensive' agricultural areas (the 'affordable housing' node is clustered and the area where the housing node is proposed is labelled 'existing irrigation on water system');
- dwellings must not result in excessive expansion and encroachment onto the farm areas (the affordable housing node is clustered and defined in Alternative 4 to avoid encroachment/expansion beyond the defined node);
- placement of dwellings must not interfere with daily agricultural activities (the 'affordable housing' node will no less interfere with daily agricultural activities of the 'Agri-Village').

The relevant Water Use License Application ("WULA") has been submitted in terms of the *National Water Act, 1998* ("Act No. 36 of 1998") with the Department of Water and Sanitation. The decision on the application is pending.

The Civil Engineering Infrastructure Report compiled for the development concluded that in terms of the Stormwater, the mountain sides on either side of the valley have no defined channels and the overland runoff will be similar to that experienced at the existing Herold Primary School. It is not expected that swales or cut-off channels will be required. It is proposed that the roofs drain to the lawns, and preferably to strategic landscaping areas. Thus, the stormwater impacts associated with the development of the affordable housing component can be effectively mitigated.

A Heritage Impact Assessment ("HIA") that included input from a historian, architect, archaeologist and visual specialist, found that the proposed development is acceptable within the agricultural rural setting. The heritage specialist concluded that the proposed development will impact on the cultural landscape and character of the area, but the influx of people will be managed and the change to the cultural landscape will take place over a period of 10 years. HWC, on 28 September 2018 endorsed the final HIA.

I am satisfied that the impacts associated with heritage, loss of agriculture, visual and stormwater run-off was identified, assessed and can be mitigated to acceptable levels.

Subsequent to the issuance of the EA, the WC DoA and the Department of Environmental Affairs and the Development Planning's Directorate: Spatial Planning submitted comment. The WC DoA noted the anomalies and risks associated with this kind of housing development on a farm. However, the WC DoA supports the anticipated benefits for agriculture and transformation and that the housing development should not be removed from the proposed development.

The Department of Environmental Affairs and Development Planning's Directorate: Spatial Planning noted that the proposed development is broadly aligned with the George Municipal Spatial Development Framework ("MSDF") and supports the development on condition that:

- the additional affordable housing opportunities are for people who will legitimately be living and working in Herold; and
- the capital and operational cost implications of the development have been deemed and confirmed in writing as affordable by the municipality, through their own land development application process.

Thus, in the light of the WC DoA and the Department of Environmental Affairs and Development Planning's Directorate: Spatial Planning's support for the development and

that all the impacts associated with the proposed development can be mitigated to acceptable levels, I have varied the EA. Thus, Alternative 4 is authorised in its entirety.

Alternative 4 is authorised in its entirety, including the 92 affordable housing units.

2. Erven along the upper slope

HWC, is the provincial authority responsible for the implementation of the *National Heritage Resources Act, 1999 (Act No. 25 of 1999)* ("NHRA"). Section 38 (1), (3) and (8) NHR) states –

"Heritage resources management

38. (1)(c)(i) *Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorised as—*

*(c) any development or other activity which will change the character of a site—
(i) exceeding 5 000 m² in extent; or*

must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.

(2) The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection (1)— (a) if there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons approved by the responsible heritage resources authority with relevant qualifications and experience and professional standing in heritage resources management; or (b) notify the person concerned that this section does not apply.

(3) The responsible heritage resources authority must specify the information to be provided in a report required in terms of subsection (2)(a): Provided that the following must be included:

- (a) The identification and mapping of all heritage resources in the area affected;*
- (b) An assessment of the significance of such resources in terms of the heritage assessment criteria set out in section 6(2) or prescribed under section 7;*
- (c) An assessment of the impact of the development on such heritage resources;*
- (d) An evaluation of the impact of the development on heritage resources relative*

to the sustainable social and economic benefits to be derived from the development;

(e) The results of consultation with communities affected by the proposed development and other interested parties regarding the impact of the development on heritage resources;

(f) If heritage resources will be adversely affected by the proposed development, the consideration of alternatives; and

(g) Plans for mitigation of any adverse effects during and after the completion of the proposed development.

(8) The provisions of this section do not apply to a development as described in subsection (1) if an evaluation of the impact of such development on heritage resources is required in terms of the Environment Conservation Act, 1989 (Act No. 73 of 1989), or the integrated environmental management guidelines issued by the Department of Environment Affairs and Tourism, or the Minerals Act, 1991 (Act No. 50 of 1991), or any other legislation: Provided that the consenting authority must ensure that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of subsection (3), and any comments and recommendations of the relevant heritage resources authority with regard to such development have been taken into account prior to the granting of the consent."

Thus, in terms of section 38(8) of the NHRA, HWC can only act as a commenting authority on EIA applications. In terms of this, DEA&DP entered into an Operational agreement/Standard Operation Procedure with HWC. This agreement requires that DEA&DP ensure that the requirement of Section 38(8) of the NHRA has been complied with, the relevant aspects related to impacts on heritage resources have been adequately assessed and addressed and all comments and recommendations have been taken into account in the EA.

HWC, in response to the HIA which included the Visual Impact Assessment undertaken by Megan Anderson Landscape Architects, stated in the interim comment by the Impact Assessment Committee ("IACom") that they *"supports the proposed new workers housing located to the North of the Farm and the affordable housing units in principle."*

Thus, HWC, as the authority on the heritage and visual aspects, is not opposed to the development and specifically the affordable housing component of the development and that the associated impacts can be mitigated to acceptable levels.

I am satisfied that the visual impact of the proposed development has been identified, assessed and will be mitigated to acceptable levels.

3. Affordable Housing component

Section 24 of the Constitution of the Republic of South Africa, 1996 considers the integration of environmental protection and socio-economic development and envisages that environmental considerations will be balanced with socio-economic considerations through the concept of sustainable development, which provides a framework for reconciling socio-economic development and environmental protection. Inherent in environmental protection is the conservation and protection of heritage and cultural aspects.

The NEMA is the primary legislative measure that gives effect to section 24, and the principles in section 2 and the provisions of Chapter 5 of NEMA relating to integrated environmental management are relevant to this matter. Section 2 of NEMA states that for a development to be sustainable, all relevant factors must be considered including, inter alia:

- *that the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;*
- *that the disturbance of landscapes and sites that constitute the nation's cultural heritage is avoided, or where it cannot be altogether avoided, is minimised and remedied;*
- *that the use and exploitation of non-renewable natural resources is responsible and equitable, and takes into account the consequences of the depletion of the resource..."*

In terms of Integrated Environmental Management, section 23(2) of NEMA states: "The general objective of integrated environmental management is to –

- (c) *identify, predict and evaluate the actual and potential impact on the environment, socio-economic conditions and cultural heritage, the risks and consequences and alternatives and options for mitigation of activities, with a view to minimising negative impacts, maximising benefits, and promoting compliance with the principles of environmental management set out in section 2;"*

NEMA requires all developments to be socially, economically and environmentally sustainable and defines sustainable development as *"the integration of social, economic and environmental factors into planning, implementation and decision-making for the benefit of present and future generations"*.

Thus, Section 2 of NEMA sets out binding directive principles that must inform all decisions taken under the Act, including decisions on environmental authorisations. The directive principles serve as guideline by reference to which any organ of state must exercise any function when taking any decision in terms of NEMA or any statutory provision concerning the protection of the environment. They guide the interpretation, administration and implementation of NEMA, and any other law concerned with the protection or management of the environment.

In terms of the above, the Competent Authority, has to take into account the sustainable development principles which promotes the precautionary principle that environmental harms must be avoided, minimised and remedied.

The Department of Rural Development and Land Reform (2016) developed the Agri-Park concept for South Africa as a potential strategy to address the issues of rural poverty, unemployment and inequality and is based on rural economic transformation. The proposed Herold Meander development is based on this concept.

The proposed Herold Meander Development also includes on-site agri-processing, which will enhance and add value to agricultural produce.

Agriculture and food processing in particular were identified as being important economic drivers in the Garden Route area by the Western Cape Provincial Spatial Development Framework ("WCPSDF").

The Local Spatial Development Framework ("LSDF") classifies the town of Herold as a 'rural settlement', with George Municipality indicating that the Spatial Development Framework for George specifically recommends that public and private fixed investment be redirected to existing settlements with economic potential.

In total, the proposed development is anticipated to generate approximately 79 permanent employment opportunities and approximately 41 seasonal employment

opportunities when the entire development is operational. The settlement of Herold will not be able to accommodate the anticipated workforce without the affordable housing component.

Security of tenure for farm workers and farm worker accommodation is a challenge in South Africa. Accommodating farm workers in the property and in Herold forms part of the applicant's vision for the proposed development in order for them to be within walking distance from work and other amenities such schools, shop and churches. Accommodating the proposed development's workforce within Herold will reduce the reliance on motorised transport and extended commutes to get to work.

The housing component included in Phase 2 (a&b) of the proposed development will:

- provide 41 Agri-Village units for farm workers earning minimum wage;
- 92 affordable farm worker units.

The Social Impact Assessment ("SIA") found that the majority of the housing beneficiaries are likely to be local historically disadvantaged members of the community who would have had limited opportunities to own a house. The Affordable Housing component thus creates an opportunity for the local historically disadvantaged members which is a significant social benefit.

To address the potential strain that the development will place on the available services to the area, the development includes, which has been authorised in the EA:

- Construction of a 0.32Ml reservoir with associated pipe supply network that will replace water tanks;
- Construction of a waste water treatment works (115 cubic metres per day capacity) with 6 sludge drying beds of 114 square metres in total.

A service level agreement between the developer and the George Municipality will be concluded after the land use application has been submitted and approved by Council.

Considering the above, I have varied the Environmental Authorisation dated 5 March 2019 to approve the 92 affordable housing units based on:

- provision of security of tenure to farm workers;
- provision of opportunities to own a house for the historically disadvantaged members of the community;
- the number of permanent employment opportunities that will be provided;

- the workforce of the proposed development will be located within walking distance from work and other amenities such schools, shop and churches.

4. Western Cape Department of Agriculture Comment

WC DoA was opposed to Alternative 1 which included an Eco-Estate component consisting of 26 large stands on 4.83ha, an Agri-Village 12 with 39 erven on 1.26ha and 41 Affordable Housing 13 opportunities on 1.55ha.

As such, Alternative 4 was developed and comprises of 3 phases:

Phase 1 does not require authorisation.

Phase 2a:

- Establishment of a closed-system finfish aquaculture facility with a maximum production output of 20 tonnes wet weight per annum with borehole water supply and associated aquaponics to re-use effluent water from the aquaculture facility.
- Construction of a 0.32Mℓ reservoir with associated pipe supply network that will replace water tanks.
- Construction of affordable housing units. Occupiers of this housing node will be employed by the Herold Meander (Pty) Ltd.
- Construction of "touch-farm" buildings (850 square metres) with a conservancy tank
- Construction of the "Heritage Precinct" (1100 square metres) with a conservancy tank
- Construction of 6 Agro-processing buildings (500 square metres) each with a combined conservancy tank and water supply from the reservoir.
- 2ha picnic area along the Doorn River and existing farm dam (alternatively to be used for grazing purposes) with a conservancy tank and water supply from the reservoir.
- 120 grassed camping sites (alternatively used for grazing purposes) with a conservancy tank and water supply from the reservoir.
- Establishment of an additional 20ha agricultural area and 16 ha pitting area.

Phase 2b:

- Construction of a waste water treatment works (115 cubic metres per day capacity) with 6 sludge drying beds of 114 square metres in total.
- Construction of 26 Agri-village houses in the northern node (erf sizes between 267 square metres and 416 square metres).
- Construction of 92 affordable housing units. Occupiers of this housing node will be persons employed by the Herold Meander (Pty) Ltd. or persons which adhere to the

qualifying criteria for current occupiers described in the Guidelines for Management of Herold Meander Farm Housing (dated 19 August 2016).

- Expansion of the Phase 2a aquaculture facility to 300 tonnes (wet weight) production output per annum facility with associated aquaponics tunnels (10 400 square metres combined footprint).
- Construction of two (2) agro-processing units of 500 square metres each.
- Construction of a Multipurpose centre of 1900 square metres.

Alternative 4 responded to the WC DoA's issues of:

- fragmentation;
- alienation of agricultural land;
- dwellings must not impact on the farming and agri-tourism activities (units were clustered and set apart from future agricultural farming areas);
- units must not be placed where they will contribute to the loss of 'high potential' agricultural land and therefore dwellings must be clustered outside 'intensive' agricultural areas (the 'affordable housing' node is clustered and the area where the housing node is proposed is labelled 'existing irrigation on water system');
- dwellings must not result in excessive expansion and encroachment onto the farm areas (the affordable housing node is clustered and defined in Alternative 4 to avoid encroachment/expansion beyond the defined node);
- localities of dwellings must not interfere with daily agricultural activities (the 'affordable housing' node will no less interfere with daily agricultural activities of the 'Agri-Village').

In response to the EA dated 5 March 2019, the WC DoA submitted the following:

"The appellant is one of 50 black commercial farmers who is part of a National Imperative that was implemented by the WC DoA. This project is aligned with the National Development Plan and Provincial Strategic Goals."

The National Imperative is done in terms of the Comprehensive Agricultural Support Programme ("CASP") that is based on the following principles:

- Priority is given to value chains as identified in the Agriculture Policy Action Plan ("APAP").
- Full utilisation of partnerships in order to exploit the strengths of key private sector partners.
- Support for land reform projects.
- Access to markets and potential for job creation.

- Provide a comprehensive support package to farmers.
- Mentorship support to small holder farmers.

The objectives of this strategy are to enhance equitable access and participation to agricultural opportunities; to deracialise land and enterprise ownership; and to unlock the full entrepreneurial potential in the sector. Its focus will be on land reform, start-up support packages for new entrants to farming, partnership and promotion of the sector. This strategy addresses the historical, and encourages the continued participation of those that are already part of the sector. It also promotes the development of a shared vision and common strategy for an inclusive and diverse agriculture that will cover the entire spectrum of enterprises and farm sizes, from the very small to the very large. To promote new entrants into the agricultural sector, focus will be on economic empowerment initiatives: on black people, on women, the disabled and on the youth of all races. The process of enabling black South Africans to become successful in commercial farming and agribusinesses will require well-designed and targeted efforts to level the playing field and to bring about a more representative and diverse sector.

The WC DoA noted the anomalies and risks of this kind of housing development on a farm, however the anticipated benefits for agriculture and transformation is supported and that the housing development should not be removed from the proposed farming operations. The WC DoA thus stated their support for the affordable housing on 3 June 2019, as it is considered essential to the success of the agri-business with conditions:

The WC DoA kindly proposes the following condition:

- *Phase 2b, Finance Linked Individual Subsidy Programme ("FLISP") housing is the last phase and it should only be considered if the project development from the agricultural plan can justify the development. If not required, the land must be preserved for future agricultural use which is in alignment with WC DoA's mandate.*

The WC DoA kindly insists on the following conditions:

- *That only land uses be allowed as per the normal zoning and planning zone scheme of the local authority and that bulk services be provided as per municipal and or DEA&DP requirements.*
- *Registered water should only be used for primary agriculture and agri-processing.*
- *That this project ensures that houses be bought back from workers leaving the employment of this project.*

Thus I have varied the Environmental Authorisation dated 5 March 2019 by authoring Alternative 4 in its entirety, which includes the 92 affordable housing units based on the lead authority for agriculture in the Western Cape i.e. WC DoA's supports for the entire development.

5. National Department of Agriculture Approval

The approval issued in terms of the *Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983)* ("CARA") by the National Department of Agriculture forms part of the suite of approvals that are required in order to lawfully commence with the development.

The loss of agricultural land to the development can be seen as an indirect loss since the area will be used for the affordable housing component for the farm workers, which is directly related to feasibility of the farm.

I am satisfied that the loss of agricultural land with the development of Alternative 4 is deemed acceptable as this alternative responds to principles of sustainable development in terms of the provision of housing to farm workers, preserving the feasibility of the project, focussing development on previously transformed areas and responding to the environmental constraints of the area. The potential impacts have been identified and adequately mitigated to acceptable levels.

REVIEW OF THE ENVIRONMENTAL IMPACT ASSESSMENT APPLICATION

1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- fixing a notice board at the site and at the site on 15 September 2016;
- giving written notice to the owners and occupiers of land adjacent to the site and any alternative site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 23 February 2018;
- the placing of a newspaper advertisement in the 'George Herald' on 15 September 2016; and
- making the draft Scoping Report available to I&APs for public review from 23 February 2018 to 26 March 2018.
- Making the draft EIAR available to I&APs for public review from 23 July 2018 to 23 August 2018.

- Making the revised EIAR available to I&APs for public review from 19 September to 19 October 2018.

The following Organs of State provided comment on the proposal:

❖ *National Department of Agriculture, Forestry and Fisheries (DAFF) – Forestry Section*

According to the information available DAFFs mandate will not be affected. Should any protected trees be identified, they should be retained. The National Veld & Forest Fire Act applies to this property and therefore it is recommended that the owner become part of the Southern Cape Fire Protection Association in the area.

❖ *Breede Gouritz Catchment Management Agency*

The BGCMA acknowledges that the applicant has started to consult this office to enquire about the necessary water use authorisation required in terms of the National Water Act, 1998 (Act 36 of 1998). In a series of pre-application meetings, the latest of them dated 4 August 2016; issues related to potable water supply, waste water and general waste management amongst others were discussed.

Response:

Upon consultation with the BGCMA, it was stated that the application is in its final stage for approval.

❖ *George Municipality*

The Municipality is concerned about the financial ability of the Applicant to provide in all the services requirements of the development. Financial security must be provided by the Applicant as the Municipality will not be responsible for any financial burden created by a private development.

In addition, detail must be provided as to the long-term operation and maintenance of this infrastructure that require very specific expertise.

Response:

The development is proposed in phases each unlocking funding and at the same time increasing demand. Should the phase requiring implementation of the package plant not realise, it will not be implemented. Fraser Consulting Engineers confirmed that a service user's association (SUA) will be established with each user belonging to the association (part of individual title deeds). The SUA will collect levees (similarly to the

municipality) from which it will pay for the operating costs (salaries, insurances, administration, chemicals etc.) as well as the short, medium and long-term maintenance.

Reserves from the farming and development income will be invested in low risk investments to be used for large maintenance expenses thereby avoiding the need for special levees in such instances. Maintenance schedules will be supplied to workers of the SUA (who will also duplicate as farm workers for instance) to allow for daily/monthly and annual maintenance/monitoring of boreholes/reservoir and the package plant. Additional monitoring i.e. annual groundwater monitoring, will be outsourced to professional geohydrologists and the SUA will make use of commercial plumbers for extraordinary maintenance on any of the reticulation networks.

The package plant (BWWTP) must have a full maintenance contract to ensure that preventative maintenance is performed to prevent breakdowns, conditions have been included in this Appeal Environmental Authorisation to address this matter. The package plant must also be registered with both George Municipality, the Department of Water Affairs and the Department of Health to ensure that these entities are all aware of the installation and operational requirements. The package plant will require daily maintenance for which operators will be trained to allow the operators to become familiar with the technology. It is recommended that such training be done at the Sedgefield WWTW which is a similar plant as proposed.

❖ *CapeNature*

In summary, CapeNature had the following comment:

- DAFF must provide clarity on regarding the extent of any protected trees on the property.
- Endangered and protected species may not be picked or removed without the necessary permits and the same applies for the sale of such material.
- In terms of the CARA the owner is responsible for clearing alien invasive vegetation as the area lies within a fire dependent region.
- The area lies within a fire dependent region.
- A detailed No-Go area map must be developed and appended to the EMP to sensitise the developer to the location of sensitive habitats relative to the construction footprint which will also assist the ECO during monitoring.

Response:

DAFF confirmed that no protected tree species occur on the property. Herold Meander (Pty) Ltd. on behalf of the owner has been actively clearing invasive alien vegetation on

the property. The EMPr includes an alien clearing management plan. A Fire Management Plan has also been included in the draft EMPr. A condition is set that a revised EMPr must be submitted to the Competent Authority for approval prior to commencement of the development.

❖ *WCG: Department of Agriculture*

This Department did not support Alternative 1 and they had a concern about the loss of agricultural land.

It is understood that a provincial planning application needs to be submitted in terms of the Western Cape Land Use Planning Act (Act 3 of 2015) in order for the change of land use of agricultural land to any other use, is to occur.

❖ *WCG: Department of Health*

This department had no objections, but had conditions:

An adequate supply of potable water that complies with bacteriological and chemical quality must be available. In addition, water samples of the potable water must be taken at regular intervals and tests for bacteriological and chemical quality. The results of these water samples must be kept on record and made available to competent authority upon request.

The use of septic tanks and soak-aways are only allowed until a water borne waste water treatment system and plant (i.e. BWWTP) is installed and the all the septic tanks must then be connected to the waste water system.

The future waste water treatment works (WWTW) ("BWWTP") must be operated in a nuisance free manner at all times and that a skilled operator must be appointed to operate and maintain the WWTW. Alternatively, the WWTW can be transferred to the George Municipality for operational and maintenance purposes. The WWTW must be effectively fenced off to prevent unlawful entry.

If sewage pumps are to be installed. The sewage pumps must have standby non-electrical pumps available in case of power failure/outages or mechanical failure of the existing pumps. Also, the operator must inform this office and the Eden District Municipality Health Services (George Office) without delay if problems are experienced with the operation of the WWTW or if a health nuisance or environmental pollution/spillage has occurred for monitoring purposes.

The effluent from the WWTW must comply the standards as set by the Department of Water and Sanitation. Water samples of the effluent must be taken at regular intervals and the results kept on record. These results must be made available to any competent authority upon request. The utilisation of the sewage effluent is subject to this Department's "Guide for Permissible Utilization of Sewage Effluent". All sewage sludge generated by the WWTW must be disposed of in a nuisance free manner. All refuse removal is to be incorporated into the George Municipal solid waste stream.

Response:

The development proposal includes the construction of a reservoir and it will be ensured that the water complies with the relevant water quality standards. Water will be tested (bacterial and chemical) on a regular basis and record of the results of these tests will be kept on file and made available to the competent authority on request. The septic tanks/conservancy tanks will be phased out once the BWWTW is operational.

❖ *Garden Route District Municipality*

The EDM has no objection to the proposed development. However, drinking water must comply with the SABS Code 241 of 2001 for domestic use and sewage disposal and effluent waste water must be dealt with in such a manner to prevent surface and subsurface contamination.

2. Alternatives

Alternative Layout: 4 (herewith authorised)

Phase 2a:

- Establishment of a closed-system finfish aquaculture facility with a maximum production output of 20 tonnes wet weight per annum with borehole water supply and associated aquaponics to re-use effluent water from the aquaculture facility.
- Construction of a 0.32Mℓ reservoir with associated pipe supply network that will replace water tanks
- Construction of affordable housing units. Occupiers of this housing node will be employed by the Herold Meander (Pty) Ltd.
- Construction of "touch-farm" buildings (850 square metres) with a conservancy tank
- Construction of the "Heritage Precinct" (1100 square metres) with a conservancy tank
- Construction of 6 Agro-processing buildings (500 square metres) each with a combined conservancy tank and water supply from the reservoir.

- 2ha picnic area along the Doorn River and existing farm dam (alternatively to be used for grazing purposes) with a conservancy tank and water supply from the reservoir.
- 120 grassed camping sites (alternatively used for grazing purposes) with a conservancy tank and water supply from the reservoir.

Establishment of an additional 20ha agricultural area and 16 ha pitting area.

Phase 2b:

- Construction of a waste water treatment works (115 cubic metres per day capacity) with 6 sludge drying beds of 114 square metres in total.
- Construction of 26 Agri-village houses in the northern node (erf sizes between 267 square metres and 416 square metres).
- Construction of 92 affordable housing units. Occupiers of this housing node will be persons employed by the Herold Meander (Pty) Ltd. or persons which adhere to the qualifying criteria for current occupiers described in the Guidelines for Management of Herold Meander Farm Housing (dated 19 August 2016).
- Expansion of the Phase 2a aquaculture facility to 300 tonnes (wet weight) production output per annum facility with associated aquaponics tunnels (10 400 square metres combined footprint).
- Construction of two (2) agro-processing units of 500 square metres each
- Construction of a Multipurpose centre of 1900 square metres.

The proposed development as described in Alternative 4 has been considered and approved.

Alternative Layout 1:

This alternative included an Eco-Estate component consisting of 26 large stands on 4.83ha, an Agri-Village with 39 erven on 1.26ha and 41 Affordable Housing opportunities on 1.55ha.

Also provided for with this alternative was the Agri-Park, Heritage Precinct, Multi-Purpose Centre, Touch Farm, Picnic Area and associated services such as the package plant, boreholes as described for Alternatives 2 & 3.

Following meetings with the relevant authorities as well as input from the George Municipality's planning department, it was indicated that the Eco Estate development specifically was not supported as it could result in a sense of segregation.

This Alternative was subsequently eliminated and was not be assessed further and since the Municipality would not have considered this alternative, it was not considered feasible and no reasonable expectation of this alternative ever being implemented.

Alternative Layout 2:

This alternative comprised the following:

- establishment of a 20-ton closed-system aquaculture facility (fish farming - trout) with borehole water supply and associated aquaponics (greenhouse tunnels) to re-use of effluent water from the aquaculture facility
- 320 cubic metres reservoir (0.32Ml) with associated pipe supply network that will replace water tanks
- 16 affordable houses in southern node (sizes vary between 786 square metres– 987 square metres) with septic tanks and soak-away that will be replaced with water from the reservoir and WWTW sewage system in Phase 2b.
- Touch farm buildings (850 square metres) with combined conservancy tank and water from the reservoir
- Heritage precinct (1100 square metres) with combined conservancy tank and water from the reservoir
- 6 Agro processing buildings (500 square metres each) with combined conservancy tank and water from the reservoir
- 2ha picnic area along the Doorn River and existing farm dam (alternatively to be used for grazing purposes) with conservancy tank and water from the reservoir
- 120 grassed camping sites (alternatively to be used for grazing purposes) with conservancy tank and water from the reservoir
- 20ha additional agricultural areas and 16ha pitting areas
- Waste water treatment works (115 cubic metres per day treatment capacity) with six sludge drying beds of 114 square metres total size¹⁴ that will replace the septic and conservancy tank systems
- Eight (8) consent use dwellings south of the mountain for short term rental
- 26 Agri-Village units in the northern node (ranging in erf size from 267 square metres – 416 square metres)
- 76 affordable housing units in the southern node (sizes vary between 786 square metres – 987 square metres) that will be connected to the reservoir and WWTW
- Expand 20t aquaculture facility to 300t facility with associated aquaponics tunnels (10 400 square metres combined)
- Two (2) remaining agro-processing units (500 square metres each)
- Multipurpose centre of 1 900 square metres (to accommodate the existing SASSA and Clinic for the greater community).

Apart from the eight (8) consent use properties this alternative mostly avoided the majority of the area south of the mountain thereby preserving the environmental attributes of that area allowing it to be more freely utilised for agricultural activities.

Alternative 2 absorbed the 'loss' of the 26 Eco-Estate erven by increasing the agricultural areas which necessitated an increase in farm worker housing opportunities. The 'Agri-Village' units were therefore increased from 39 to 41 and the 'affordable' worker housing from 41 to 92 erven.

The freshwater specialist advised that the houses within the southern 'affordable housing' section, encroaches onto the aquatic buffers that were needed along the main watercourses and tributaries in order to protect the aquatic features. The specialist recommended a 30 metre buffer from the edge of the watercourse on both the Doring and Afgunst Rivers, and a 15m buffer from the centre of all the unnamed tributaries. These buffers were based on ecological functionality that took into consideration sensitivity of the watercourses, wetland and riparian vegetation present, as well as the topography.

Encroachment into aquatic areas was not considered favourably and therefore this alternative was not considered further.

Alternative Layout 3:

Alternative 3 consists of the same components as Alternative 2 with the exception of erven within the southern 'affordable' worker housing component that have subsequently been pulled back and made smaller (sizes ranged from 786 square metres – 987 square metres in Alternative 2 and is now 342 square metres – 987 square metres) in order to stay outside of the recommended aquatic buffers along the main watercourses and tributaries.

This change was made mainly on recommendation of the freshwater specialist who advised that encroachment into the aquatic buffer areas may result in negative impacts. However, this alternative still includes provision for eight (8) consent use dwelling south of the central ridge line.

The Department of Transport and Public Works indicated that it would not support this alternative since it will not approve the access to the eight consent use properties. Without access to these properties, they cannot be implemented. Therefore, this alternative is also deemed unviable and was therefore excluded from the assessment process.

"No-Go" Alternative

This entails no continuation of listed activities applied for. Activities that do not require Appeal Environmental Authorisation have however commenced (Phase 1 of the proposal). Activities on the farm may continue as they currently are without authorisation e.g. agriculture may continue on lawful land and lawful water use may continue.

3. Impact Assessment and Mitigation Measures

3.1 Activity need and desirability

The farm has irrigable/agricultural areas on the property that has been historically transformed, of roughly 55ha (agricultural potential) with existing lawful water rights, which in itself already establishes both the need as well as the desirability of the project.

Expanding the existing farming operations to maximise the farm's potential increases the demand for water, labour and services. The need to then develop the necessary supporting infrastructure (i.e. reservoir, waste water treatment works, water network) arises and must be met with housing for labourers and processing facilities that can add further value to the operation.

The desirability of the development is not only measured by the benefits it will create for the landowner and beneficiaries but there is a strong indication by many locals who reside in and around Herold, and who treasures the quite atmosphere and unique rural character above matters pertaining to this proposal. To them the development is, most notably the accommodation and agri-processing node, an intrusion and something is deemed undesirable.

Similarly, the need for providing all of the components have been questioned and submit that the agricultural component, without the number of houses and agri-processing facilities will be better suited in the current context.

However, Herold has been identified as a rural settlement in terms of the local spatial planning tools, which implies that development in and around Herold will happen in some form or another. In addition, because the municipality's planning criteria for developing the village, is linked to activities that must contribute to the character (rural and agricultural) and enhance economic opportunities and investment (SDF), it is unlikely that the type of development that will be considered favourably by the Authorities, will be low density, high-end residential / estate like developments which although it may seem more 'in-line' with the rural character, does not conform to the planning principles for

rural settlements. Originally Alternative 1 contained such elements, and was subsequently rejected by the planning authorities in favour of the preferred Alternative 4.

3.2 Regional/ planning context

The George Spatial Development Framework (SDF) does not define urban edges for rural nodes. At the outset of the environmental application process this was seen as a potential constraint since the overall perception is that a development should be 'within 'an adopted 'urban edge' for it to be considered favourably. Various meetings were held with the provincial and municipal planning authorities to resolve this matter and it was confirmed by the George Municipality through means of an official 'consistency ruling' that the proposed development is considered consistent with the SDF because it is already considered a 'rural settlement'.

The criteria used in the SDF refers to "*...enhancing the rural character and livelihood by protecting the productive landscape, managing the subdivision of agricultural land and enhancing rural livelihoods and promoting integrated rural development*".

A growing concern for the agricultural sector is the subdivision of farm land, subsequent fragmentation of agricultural potential, loss of agricultural employment opportunities and reduced security of tenure for farm workers.

The proposed Herold Meander development avoids all of these threats by keeping Portion 27 as a functioning agricultural unit (instead of subdividing/fragmenting it), by creating agricultural employment opportunities through revival of the farm and by adding agri-processing, as well as by providing housing for labourers and employees of Herold Meander (Pty) Ltd.

The District Local Economic Development Plan (LED) identifies agriculture opportunities such as "*...floriculture, a few niche products, and expansion of existing production in essential oils, honey, and live-stock and poultry farming, and aqua farming (fish) or aquaculture*". The proposed Herold Meander includes farming with cut flower proteas and honey-bush tea, as well as aquaculture which is in line with the opportunities identified in the LED.

3.3 Services/ bulk infrastructure

Water Supply and Infrastructure –

There are four (4) significant dams on the property with a total storage capacity of 131 180 cubic metres. Three dams are south of the central ridge with one large dam north of the ridge and amongst the development area. The historical supply of water to the farm and the associated residents has been from the Afgunst Rivier into the dams (cut-off channel), and runoff from the local catchments into the dams and these are registered as 'existing lawful water uses' for a total volume of 265 000 square metres. Four out of the five existing boreholes are electrically powered boreholes and the fifth one is wind driven.

The historic water supply to residents has been from the boreholes only with the agricultural use from the surface water sources. It is planned to supply the residential and commercial water consumption (demand) from borehole supply only. Further reporting on planned water infrastructure is limited to the residential and commercial developments and associated groundwater supplies.

Water for the development will be from boreholes on the property and a 0.32Mℓ reservoir will be constructed for water storage.

Sewage –

The existing farm houses are being serviced by chemical toilets, which are essentially conservancy tanks as the sewage is collected by the local authority. There is no plan to change this arrangement during phase 1 of the development. The refurbishing and redevelopment of the other phase 1 facilities are suitable for the use of septic tanks without thresholds being exceeded however, this Department made a condition of this authorisation that no septic tanks will be installed with any new construction and conservancy tanks must be installed.

The development growth from a fully developed Phase 1 to a fully developed Phase 2 will necessitate the development of a Waste Water Treatment Works ("WWTW"). The proposals for Phase 2 include water-borne gravity sewers leading to a package WWTW. The area of the Affordable Housing above the access road and against the ridge is reported to have gravelly-sand soil conditions. These plots are fairly large in extent (average. 550 square metres), and the area is well away from the irrigation dam (150m) and drainage line. These even will be connected to the reticulation system once the WWTW system is commissioned.

3.4 Biophysical Impacts

According to Todd (2018) the footprint of the Herold Meander is located almost entirely within highly impacted and transformed areas except for a 9ha protea pitting area that will encroach into the Medium-High sensitivity area. Only a very small section of the northern most portion of the property is designated as a critical biodiversity area (CBA). Although the ecosystem status of the sections along the Doorn River are indicated as Critically Endangered the ecological specialist, having inspected the site and considered the development proposal determine the potential impacts of the development on fauna and flora to be LOW.

The vegetation in the higher lying areas where no development will take place still consists largely of sandstone fynbos but with a moderate to high density of invasive alien plant growth (primarily black wattle). The cultivated and residential areas within the lower river valley floor have however resulted in large-scale loss of natural Shale Renosterveld vegetation.

It is possible that the development will increase human-wildlife conflict at the site, especially with baboons which are resident in the area. This impact however is likely to have occurred with other lawful agricultural uses (irrespective of this application), which implies that this is not necessary a 'new' impact resulting from this proposal only.

The infrastructure may generate some habitat fragmentation of the area for fauna, which would no longer be able to pass through the areas occupied by development. The development nodes are set far apart however and therefore fauna will still be able to move through the large open agricultural and untransformed areas linking the mountain and river corridors.

3.5 Aquatic

The riparian vegetation along the larger Doring and Afgunst Rivers and the smaller streams also contains moderate to high densities of invasive alien black wattle as well as other invasive plants such as poplars (*Populus spp.*), red river gums (*Eucalyptus camaldulensis*), blackwoods (*Acacia melanoxylon*) and bramble (*Rubus sp.*).

The aquatic features within the study area consist of the Doring River, a tributary of the Olifants River in the Gouritz River System, as well as some of its tributaries of which the Afgunst River is the largest all of which have been highly modified. There are also four

dams constructed within the site, together with dug furrows and some associated wetland areas. It is noted that the wetland features within the site as the wetland areas present are small and fragmented and largely associated with the water infrastructure at the site.

The specialist recommends a 30 metre buffer from the edge of the watercourse on both the Doring and Afgunst Rivers, and a 15m buffer from the centre of all the unnamed tributaries. These buffers were based on ecological functionality that took into consideration sensitivity of the watercourses, wetland and riparian vegetation present, as well as the topography. The aquatic buffers are not related to frequency of areas for inundation during flood events that would occur approximately every 50 years or 100 years. In most cases however the buffers exceed the 1:50 year flood lines, but not the 1:100 year flood lines. Where the 1:100 year flood lines were significantly further away from the watercourse, these areas have for a long period been cultivated and no aquatic ecology occurs that would justify ecological buffers and rehabilitation wider than those recommended, since an aquatic system cannot survive on an infrequent submergence by flood waters, for instance once every 100 years because these submergences, during flood events, will typically be for a few hours only.

When the mitigation measures are effectively implemented the potential for any deterioration in the ecological state of the river and streams at the site should be reduced such that the potential significance of the impact would be LOW to VERY LOW.

3.6 Visual / sense of place

The Over the Mountain Guest Farm will experience additional traffic and pedestrian access as a result of the 'Affordable Housing' node; but the residential node itself will not be visible to them. They will however overlook the much smaller 'Agri-Village' in the distance.

The Landscaping Guidelines by Holme (2018) considered these impacts and although the distant visual impact of the Agri-Village can be mitigated with internal landscaping in and around the village, the most significant benefit to the Guesthouse will be in the form of the recommended landscaping along the streetscape to reduce the direct impact of pedestrian and vehicular traffic passing by the Guesthouse in the long-term. Because the Guesthouse is elevated the proposed landscaping will not affect their general views of the landscape.

The Landscaping Guidelines is relevant to the visual impact assessment has concluded that the impact on this receptor has been further reduced from MODERATE after mitigation, to LOW after mitigation and implementation of the Landscaping Guidelines.

3.7 Heritage & Archaeology

Besides the labourers' cottages on the northern edge of the property related to the Franken School, there are six (6) historic buildings, a Great Trek Centenary commemorative obelisk, a stone cairn, a cemetery and an irrigation water canal on the property; all older than 60 years. Although most of the buildings are in a very poor state of repair and neglect, these buildings are to be key elements in the proposed development and are to be conserved. A permit was obtained for emergency repairs to the buildings in 2015 as part of Phase 1.

As an integral element of the landscape and scenic environment is the Montagu Pass which has Provincial Heritage Status significance. Although the Pass itself will not be directly affected, it is anticipated that additional traffic will occur along this route most notably from cyclists (already a favoured route), tourists (already a favoured route) and potentially new residents. Since the preferred Alternative 4 specifically focuses on housing for farm workers and Herold Meander (Pty) Ltd employees only the likelihood of a significant increase in traffic along this route is low.

The findings of the HIA were that the proposed development will not adversely affect the landscape character and cultural heritage of the village Herold given its agricultural history/rights and rural settlement designated, as such the impacts as expected to be LOW with mitigation.

HWC, in response to the HIA formally endorsed the development proposal.

During the survey no rubbish dumps or middens of historic age were identified in the studied areas. A ruined chimney stack was recorded on the site. Although a few old bricks were seen in the vicinity, there is no evidence of earlier walling. No other cultural remains were seen near the ruin and the absence of plastic suggests that it is fairly old. This find is considered to be of LOW heritage value and its destruction will not detract from the heritage value of the area. Because it was adequately recorded during this study, it is recommended that no further heritage related work is required if this find is damaged or destroyed as a result of development activities.

3.8 Socio-economic

Herold Meander (Pty) Ltd will create employment opportunities over a period of ten (10) years, by means of controlled labour sourcing. Because of the phased approach of the development it will also not result in large numbers of vacancies at any one time that would normally attract the attention of job seekers. Potential job seekers who may pass through Herold or hear of job opportunities, will have little incentive to remain in Herold without a job, since other property owners such as the churches, schools, guesthouse etc. will also not tolerate unlawful land invasion or informal settlement on their properties.

Under private ownership and management therefore, with gradual employment growth, no available housing other than to those employed by Herold Meander (Pty) Ltd, and no opportunity to erect informal housing structures, the chances of experiencing an 'influx' of unemployed people or the establishment of informal areas, will be very small to negligible. On top thereof, the housing nodes will be managed by a Home Owners Association (HOA) which will also prevent potential opportunists from moving into the housing nodes.

From a socio-economic perspective the proposed development is likely to result in LOW negative, but HIGH positive impacts and is therefore supported.

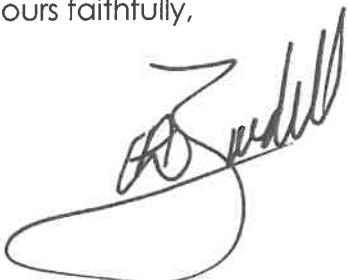
4. National Environmental Management Act Principles

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.

- 5 I am satisfied that the that the proposed development is the best practicable environmental option that addresses the specific heritage aspects of the area and greater landscape, maintains the rural and agricultural character of Herold, officer security of tenure to farm workers and affordable housing opportunities in close proximity to employment while provided development opportunities to the applicant.
- 6 In view of the above, the NEMA principles, compliance with the conditions stipulated in the EA, and compliance with the conditions of the EMP, the proposed development 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 proposed development can be mitigated to acceptable levels.
- 7 I have discharged my decision-making powers when making this decision and I am thus *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: 19/6/2020

Copied to:

1. Ms LM van Zyl
2. Mr. G Benjamin
3. Mr C. van der Walt

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