



REFERENCE: 16/3/3/5/E4/8/1020/22

DATE: 31 August 2022

The Board of Directos
Eikenhof Fruit Farms (Pty) Ltd.
PO Box 24

ELGIN

7180

Attention: Mr A.D Moodie

Tel: (028) 841 4380

E-mail: alastair.moodie@fruitways.co.za

Dear Sir

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND PART 2 OF THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 30 MAY 2017: THE EXPANSION OF A BRIDGE OVER THE PALMIET RIVER AT EIKENHOF FRUIT FARM ON PORTION 9 OF FARM WESSELSGAT NO. 286 AND PORTION 7 OF FARM KLEINE WESSELSGAT NO. 287, ELGIN.

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** the amendment of the Environmental Authorisation ("EA") issued on 30 May 2017 (DEA&DP Ref.: 16/3/3/1/E4/8/1003/17) attached herewith, together with the reasons for the decision.
2. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached amended EA.

Yours faithfully

Zaahir Toefy

Digitally signed by Zaahir Toefy

Date: 2022.08.31 09:14:40

+02'00'

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Cc: (1) Mr Marais Geldenhuys (Doug Jeffery Environmental Consultants (Pty) Ltd)

(2) Theewaterskloof Municipality

E-mail: marais@dougjeff.co.za

E-mail: twkmun@twk.org.za



EIA REFERENCE: 16/3/3/5/E4/8/1020/22
NEAS REFERENCE: WCP/EIA/AMEND/0000616/2022
DATE: 31 August 2022

ENVIRONMENTAL AUTHORISATION

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND PART 2 OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 30 MAY 2017: THE EXPANSION OF A BRIDGE OVER THE PALMIET RIVER AT EIKENHOF FRUIT FARM ON PORTION 9 OF FARM WESSELSGAT NO. 286 AND PORTION 7 OF FARM KLEINE WESSELSGAT NO. 287, ELGIN.

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

A. DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Department herewith **grants** the amendment of the Environmental Authorisation ("EA") issued on 30 May 2017 (DEA&DP Ref.: 16/3/3/1/E4/8/1003/17) in terms of Part 2 of the EIA Regulations, 2014.

The EA is amended as set out below:

1. The description of the proposed development in Section B: List of activities authorised:

"This alternative entails the construction of a bridge across the Palmiet River of approximately 20m in length and 3.6m in width. The bridge will consist of two 2400 x 1200 box culverts and one 900m pipe culvert. 1m x 1m gabions are proposed on either side of the bridge to stabilize the banks of the river. The location is further downstream towards the Eikenhof Dam where there is an existing wooden mountain bike bridge crossing, approximately 1.2m wide, with a cleared pathway through the wetland on either side of the bridge. Existing farm and bike tracks will be used as access roads to and from the bridge, and will be expanded to a maximum width of 4.5m in some places."

Is amended to read:

This alternative entails the construction of a bridge across the Palmiet River with a total length of 28m and a width of 6.85m with seven 525mm pipe culverts. Gabion cut-off walls and a 230mm thick reno mattress apron will be constructed on the downstream side of the bridge. The location is further downstream towards the Eikenhof Dam where there is an existing wooden mountain bike bridge crossing, approximately 1.2m wide, with a cleared pathway through the wetland on either side of the bridge. Existing farm and bike tracks will be used as access roads to and from the bridge, and will be expanded to a maximum width of 4.5m in some places.

2. Condition 1 in Section E: Conditions of Authorisation:

“The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to Site Alternative 2 in the BAR dated February 2017 on the site as described in Section C above. “

Is amended to read:

The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to Site Alternative 2 in the amendment application on the site as described in Section C above.

3. Condition 2 in Section E: Conditions of Authorisation:

*“The Environmental Authorisation is valid for a period of **five years** from the date of issue within which commencement must occur.”*

Is amended to read:

This Environmental Authorisation is valid for a period of **five years** from the date of issue of this Amended Environmental Authorisation, within which commencement must occur.

4. Condition 8 in Section E: Conditions of Authorisation:

“The draft Environmental Management Programme (“EMPr”) submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.

The Maintenance Management Plan (“MMP”) submitted as part of the application for environmental authorization is herewith agreed in terms of the NEMA EIA Regulations 2014 (as amended) relating to Activity 19 of GN No. 327.”

Is amended to read:

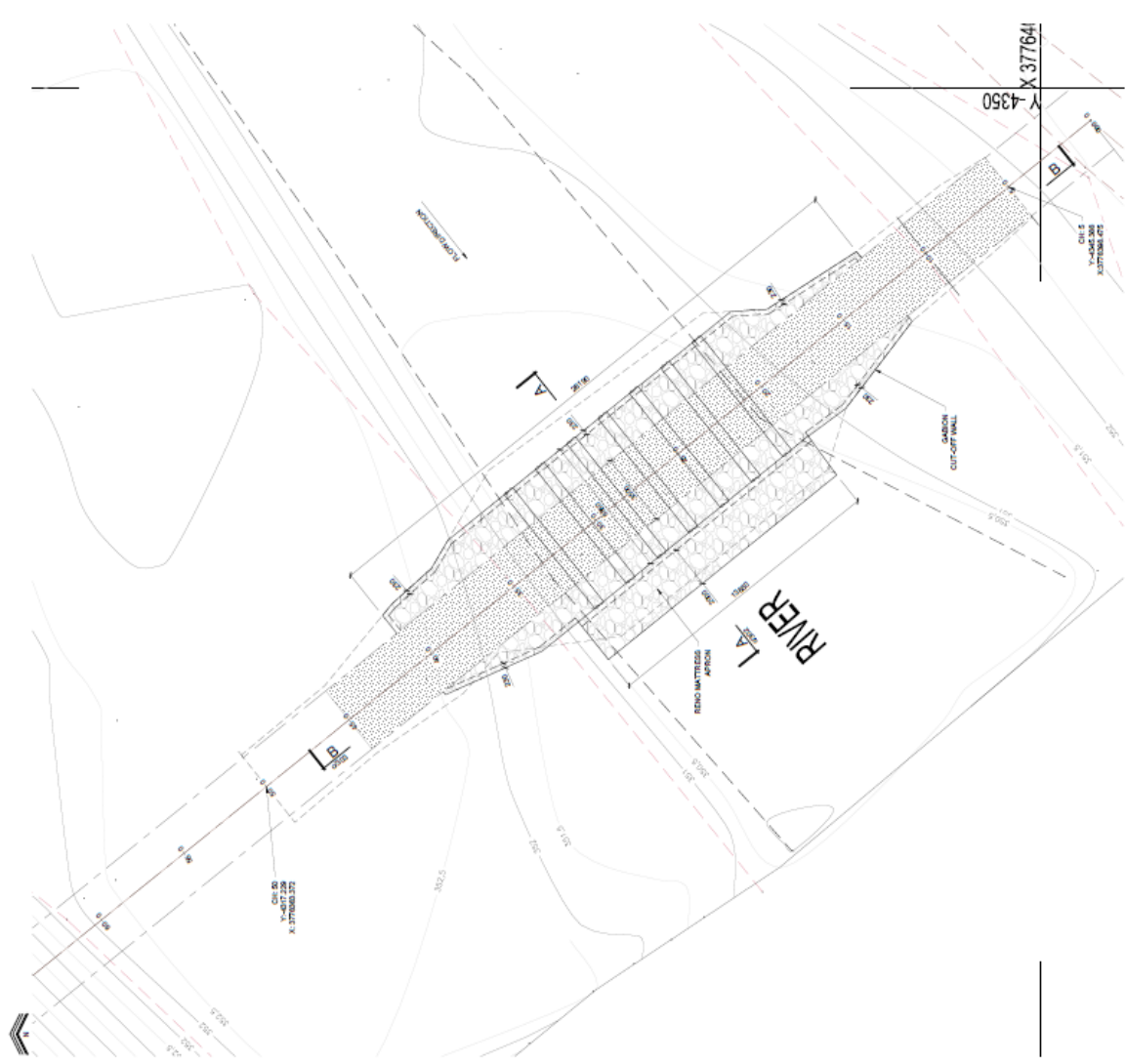
The revised draft Environmental Management Programme (“EMPr”) submitted as part of the amendment application is hereby approved and must be implemented.

The revised Maintenance Management Plan (“MMP”) submitted as part of the amendment application is herewith agreed to in terms of the NEMA EIA Regulations 2014 (as amended) relating to Activity 19 of GN No. 327.

5. ANNEXURE 2: Site Plan is replaced with:

- NOTES**
- GENERAL**
- 1 ALL WORK SHALL BE IN ACCORDANCE WITH:
 - 1) SANS 1000 - THE STANDARDIZED ENGINEERING CONSTRUCTION AS AMENDMENTS
 - 2) ALL DRAWINGS
 - 3) ALL ENGINEERS INSTRUCTIONS AND SPECIFICATIONS
 - 4) ALL DRAWINGS INSTRUCTIONS AND SPECIFICATIONS
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ONLY FOR THE ENGINEER'S USE AND NOT TO BE USED FOR CONSTRUCTION PURPOSES	
COPYRIGHT RESERVED	
1	DATE OF ISSUE: 15/08/2017
2	DATE OF REVISION: 15/08/2017
FRUITWAYS (PTY) LTD 15/08/2017 15/08/2017 15/08/2017	
STOREY ENG (PTY) LTD 15/08/2017 15/08/2017 15/08/2017	
PALMET RIVER CROSSING LAYOUT PLAN	
DATE OF ISSUE	15/08/2017
DATE OF REVISION	15/08/2017
REVISION NO	1
REVISION DESCRIPTION	
PROJECT NO	C18550/102
SCALE	1:100
SHEET NO	2



6. Site Alternative 2 (preferred alternative herewith authorised) included under Annexure 3: Reasons for the Decision:

"This alternative entails the construction of a bridge across the Palmiet River of approximately 20m in length and 3.6m in width. The bridge will consist of two 2400 x 1200 box culverts and one 900m pipe culvert. 1m x 1m gabions are proposed on either side of the bridge to stabilize the banks of the river. The location is further downstream towards the Eikenhof Dam where there is an existing wooden mountain bike bridge crossing, approximately 1.2m wide, with a cleared pathway through the wetland on either side of the bridge. Existing farm and bike tracks will be used as access roads to and from the bridge, and will be expanded to a maximum width of 4.5m in some places. This alternative is preferred for the following reasons:

- The new concrete bridge will replace the wooden bridge, which will reduce the associated impacts.*
- The width of the wetland along this section of the Palmiet River is narrower, resulting in less loss of wetland.*
- The existing tracks and farm roads can be used and therefore no new roads would be required. In some places the existing roads/tracks will be widened by 4.6m.*
- By using the route of the existing pathway as approach roads, the path of riparian woodland situated near the crossing point, can be avoided.*
- The bridge structure is smaller in size, will have a shorter construction period, will be more cost effective and is located within an area that is already disturbed. The smaller disturbance footprint would therefore result in less loss of wetland and riparian habitat and less disturbance to the river itself."*

Is amended to read:

This alternative entails the construction of a bridge across the Palmiet River with a total length of 28m and a width of 6.85m with seven 525mm pipe culverts. Gabion cut-off walls and a 230mm thick reno mattress apron will be constructed on the downstream side of the bridge. The location is further downstream towards the Eikenhof Dam where there is an existing wooden mountain bike bridge crossing, approximately 1.2m wide, with a cleared pathway through the wetland on either side of the bridge. Existing farm and bike tracks will be used as access roads to and from the bridge, and will be expanded to a maximum width of 4.5m in some places. This alternative is preferred for the following reasons:

- The new concrete bridge will replace the wooden bridge, which will reduce the risk associated with the use of the wooden bridge.
- The width of the wetland along this section of the Palmiet River is narrower, resulting in less loss of wetland.
- The existing tracks and farm roads can be used and therefore no new roads would be required. In some places the existing roads/tracks will be widened by 4.6m.
- By using the route of the existing pathway as approach roads, the path of riparian woodland situated near the crossing point, can be avoided.

B. REASONS FOR THE DECISION

In reaching its decision, the Department took, inter alia, the following into consideration:

- (a) During the detailed design phase, it was found that the substrate on the site would not be able to support the originally approved bridge design. The design of the bridge has therefore been amended.
- (b) The Addendum to the Freshwater Impact Assessment compiled by Antonia Belcher on 22 April 2022, indicates that the potential freshwater impacts associated with the proposed new bridge design will not differ significantly from those indicated in the original freshwater assessment. The recommended mitigation measures, as provided in the original freshwater

assessment, will apply to the new bridge design. Furthermore, the freshwater specialist indicated that there is no reason why the new bridge design should not be approved.

- (c) As required in terms of Regulation 41 of the NEMA EIA Regulations 2014 a public participation process was conducted for the amendment application which comprised of the following:
- An advertisement was placed in the local newspaper, the "Hermanus Times" on 25 May 2022;
 - Site Notices were placed at the entrance of the site on 25 May 2022;
 - All previous registered Interested and Affected Parties, including Organs of State which have jurisdiction in respect of any aspect of the relevant activity, were notified of the amendment application on 25 May 2022; and
 - A 30-day commenting period on the Draft Amendment Report was allowed from 26 May 2022.

The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements and the comments raised and responses thereto were included in the comments and response report.

Authority Consultation:

The following authorities were consulted but had no objection to the amendment application:

- Department of Agriculture;
- Breede-Gouritz Catchment Management Agency;
- CapeNature;
- Theewaterskoof Municipality; and
- Overberg District Municipality.

C. CONDITIONS

1. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 1.1 notify all registered I&APs of –
 - 1.1.1 the outcome of the application;
 - 1.1.2 the reasons for the decision as included in Section B;
 - 1.1.3 the date of the decision; and
 - 1.1.4 the date when the decision was issued.
 - 1.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of National Appeals Regulations, 2014 detailed in Section D below;
 - 1.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 1.4 provide the registered I&APs with:
 - 1.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 1.4.2 name of the responsible person for this Environmental Authorisation;
 - 1.4.3 postal address of the holder;
 - 1.4.4 telephonic and fax details of the holder;
 - 1.4.5 e-mail address, if any, of the holder; and
 - 1.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations.
2. One week's notice must be given to the Directorate: Development Management (Region 1) before commencement of construction activities. The said notice must also include proof of compliance with Condition 1 described in Section C of this Environmental Authorisation.

3. All other conditions contained in the Environmental Authorisation issued on 30 May 2017 (attached as Annexure A) remain unchanged and in force.

D. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014.

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision. -
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

E. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this EA shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully

**Zaahir
Toefy**

Digitally signed by
Zaahir Toefy
Date: 2022.08.31
09:15:15 +02'00'

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 31 AUGUST 2022

Cc: (1) Mr Marais Geldenhuys (Doug Jeffery Environmental Consultants (Pty) Ltd)
(2) Theewaterskloof Municipality

E-mail: marais@dougjeff.co.za
E-mail: twkmun@twk.org.za

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ANNEXURE A: ENVIRONMENTAL AUTHORISATION ISSUED ON 30 MAY 2017



Directorate: Development Management
(Region 2)

REFERENCE: 16/3/3/1/E4/8/1003/17
ENQUIRIES: BERNADETTE OSBORNE
DATE OF ISSUE: 30.05.2017

The Board of Directors
Eikenhof Fruit Farms (Pty) Ltd
PO Box 24
ELGIN
7180

Attention: Mr A. D Moodie

Tel: (028) 841 4380
E-mail: alastair.moodie@fruitways.co.za

Dear Sir

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED): THE EXPANSION OF A BRIDGE OVER THE PALMIET RIVER AT EIKENHOF FRUIT FARM ON PORTION 9 OF FARM WESSELSGAT NO. 286 AND PORTION 7 OF FARM KLEINE WESSELSGAT NO. 287, ELGIN.

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014 (as amended), you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

ACTING DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) L. Spiers (Doug Jeffery Environmental Consultants (Pty) Ltd)
(2) J. van Rhyn (Theewaterskloof Municipality)

Fax: (086) 660 2635
Fax: (086) 566 6576

2nd Floor, 1 Dorp Street, Cape Town, 8001
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E-mail: Bernadette.Osborne@westerncape.gov.za

Private Bag X9086, Cape Town, 8000
www.westerncape.gov.za/eadp



Directorate: Development Management
(Region 2)

REFERENCE: 16/3/3/1/E4/8/1003/17
NEAS REFERENCE: WCP/EIA/0000223/2017
ENQUIRIES: BERNADETTE OSBORNE
DATE OF ISSUE: 30.05.2017

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): THE CONSTRUCTION OF A BRIDGE OVER THE PALMIET RIVER ON EIKENHOF FARM PORTION 9 OF WESSELSGAT NO. 286 AND PORTION 7 OF KLEINE WESSELSGAT NO. 287, ELGIN.

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

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to Site Alternative 2, described in the Basic Assessment Report ("BAR"), dated February 2017.

The applicant for this Environmental Authorisation is required to comply with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Board of Directors
Eikenhof Fruit Farms (Pty) Ltd
% Mr A.D Moodie
PO Box 24
ELGIN
7180

Tel: (028) 841 4380
E-mail: alastair.moodie@fruitways.co.za

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "**the holder**".

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R. 327 of 7 April 2017-</p> <p>Activity Number: 19 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; <i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <ul style="list-style-type: none"> <i>a) will occur behind a development setback;</i> <i>b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i> <i>c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i> <i>d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i> <i>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.</i> 	<p>Infilling, movement and removal of soil and sand of more than 10 cubic metres to expand the bridge.</p>
<p>Government Notice No. R. 324 of 7 April 2017-</p> <p>Activity 12 of Government Notice No. R. 324 <i>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p><i>In the Western Cape:</i></p> <ul style="list-style-type: none"> i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004; <i>ii. Within critical biodiversity areas identified in bioregional plans;</i> <i>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;</i> 	<p>Critically endangered vegetation, Kogelberg Sandstone Fynbos, will be removed for the upgrade of existing farm and bike tracks.</p>

- | | |
|--|--|
| <ul style="list-style-type: none"> iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister. | |
|--|--|

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:

Site Alternative 2

This alternative entails the construction of a bridge across the Palmiet River of approximately 20m in length and 3.6m in width. The bridge will consist of two 2400 x 1200 box culverts and one 900m pipe culvert. 1m x 1m gabions are proposed on either side of the bridge to stabilise the banks of the river. The location is further downstream towards the Eikenhof Dam where there is an existing wooden mountain bike bridge crossing, approximately 1.2m wide, with a cleared pathway through the wetland on either side of the bridge. Existing farm and bike tracks will be used as access roads to and from the bridge, and will be expanded to a maximum width of 4.5m in some places.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on portion 9 of Farm Wesselsgat No. 286 and portion 7 of Farm Klein Wesselsgat No. 287, Elgin:

Co-ordinates:

34° 06' 51.17" South
19° 02' 54.39" East

The SG digit codes are:

Portion 9 of Farm Wesselsgat No. 286: C01300280000028600009

Portion 7 of Farm Klein Wesselsgat No. 287: C01300280000028700007

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Environmental Assessment Practitioner:

Doug Jeffery Environmental Consultants (Pty) Ltd
% Ms Lindsay Spiers
PO Box 44
KLAPMUTS
7625

Tel: (021) 875 5272
Fax: (086) 660 2635

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 and restricted to Site Alternative 2 in the BAR dated February 2017 on the site as described in Section C above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of issue within which commencement must occur.
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
4. Any changes to, or deviations from the scope of the alternative described in section 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.

Written notice to the Competent Authority

5. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.
 - 5.1 The notice must make clear reference to the site details and EIA Reference number given above.
 - 5.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 6 and 10

Notification and administration of appeal

6. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision—
 - 6.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1 the decision reached on the application;
 - 6.1.2 the reasons for the decision as included in Annexure 3;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date when the decision was issued.
 - 6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section G below;

- 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
- 6.4 provide the registered I&APs with the:
 - 6.4.1 name of the holder (entity) of this Environmental Authorisation,
 - 6.4.2 name of the responsible person for this Environmental Authorisation,
 - 6.4.3 postal address of the holder,
 - 6.4.4 telephonic and fax details of the holder,
 - 6.4.5 e-mail address, if any, of the holder,
 - 6.4.6 contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
7. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Management of activity

8. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.

The Maintenance Management Plan ("MMP") submitted as part of the application for environmental authorisation is herewith agreed to in terms of the NEMA EIA Regulations, 2014 (as amended) relating to Activity 19 of GN No. R. 327.

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

Monitoring

10. The holder must appoint a suitably experienced environmental control officer ("ECO"), before commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
11. A copy of the Environmental Authorisation, EMPr, MMP, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request.
12. 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

13. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the

Environmental Authorisation and the EMPr and submit Environmental Audit Reports to the Competent Authority. The Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The holder must undertake an environmental audit (quarterly for the duration of the construction phase) and submit Environmental Audit Reports to the Competent Authority (once every six months during the construction phase). The final Environmental Audit Report must be submitted to the Competent Authority (six months after operation commenced).

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

Specific Conditions

14. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts 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.

15. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition of this Environmental Authorisation, EMPr or MMP may render the holder liable to criminal prosecution.
3. If the holder does not commence with a listed activity within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the environmental authorisation.
4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If

a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:
Amendments to the EMPr, other than those mentioned above, must be done in accordance with Regulations 35 to 37 of GN No. R. 326 of 7 April 2017 or any relevant legislation that may be applicable at the time.

G. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision. –
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2 Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:
By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
CAPE TOWN
8000
By facsimile: (021) 483 4174; or
By hand: Attention: Mr Jaap de Villiers (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to Jaap.DeVilliers@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully



MS. MARE-LIEZ OOSTHUIZEN

ACTING DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

DATE OF DECISION: 30-05-2017

CC: (1) L. Spiers (Doug Jeffery Environmental Consultants (Pty) Ltd)
(2) J. van Rhyn (Theewaterskloof Municipality)

Fax: (086) 660 2635
Fax: (086) 566 6576

ANNEXURE 1: LOCALITY MAP

EIKENHOF FARM, ELGIN (Sourced From Government 1:50 000 Scale Map 3419AA)



LEGEND

●
THE SITE

SITE CO-ORDINATES

34° 06' 51.17" S
19° 02' 54.39" E

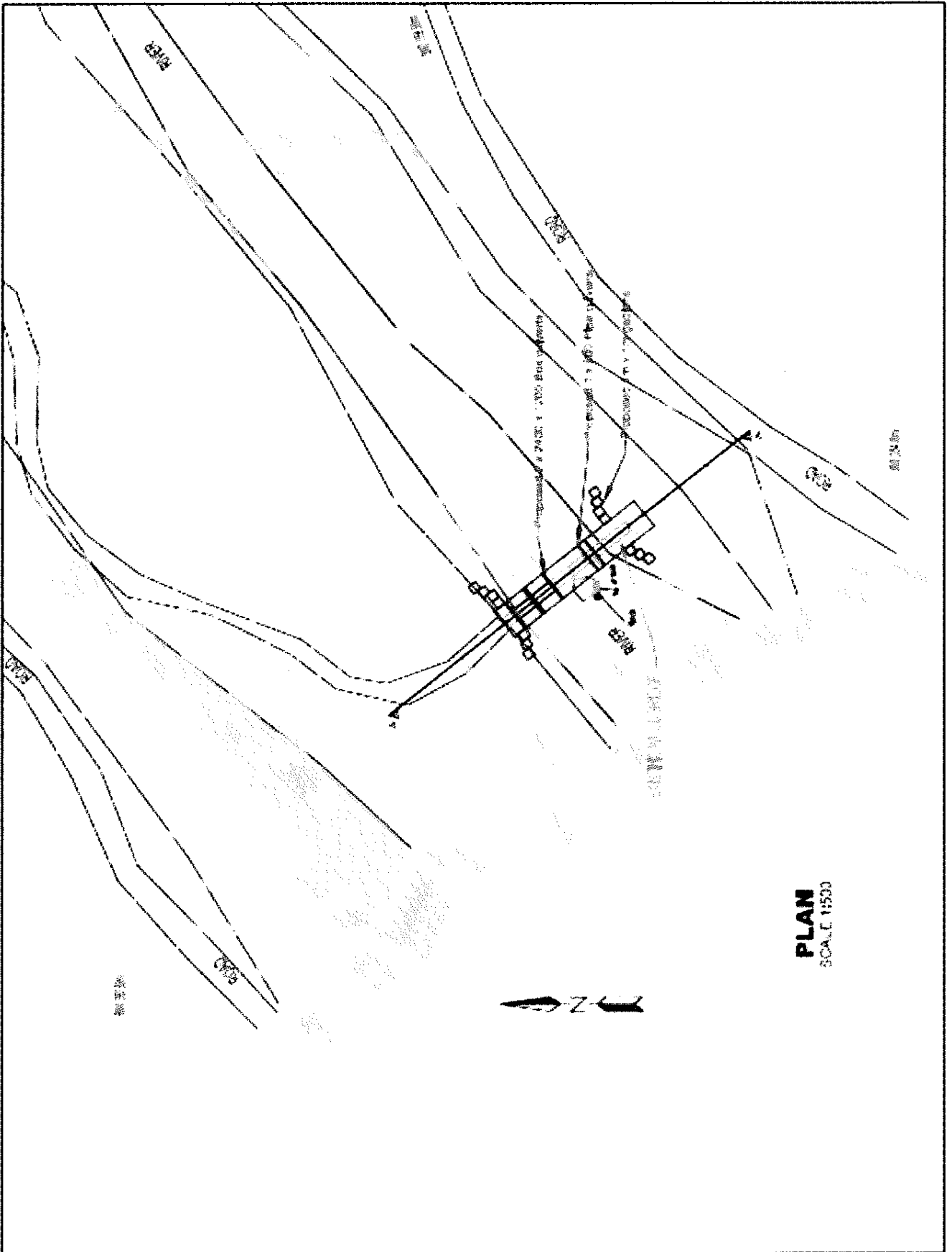


DJEC REF 201517
NOVEMBER 2015



DOUG JEFFERY
Environmental Consultants (Pty) Ltd

ANNEXURE 2: SITE PLAN



ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, inter alia, the following:

- a) The information contained in the Application Form dated 16 January 2017 and the EMPr submitted together with the BAR dated February 2017;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the BAR dated February 2017; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

No site visits were conducted. The Competent Authority had sufficient information before it to make an informed decision without conducting a site visit.

The application was submitted in terms of the NEMA Environmental Impact Assessment ("EIA") Regulations, 2014. This decision takes into account the relevant amendments to the text of the said regulations promulgated on 7 April 2017.

All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- fixing a notice board at the site;
- giving written notice to the owners and occupiers of land adjacent to the site, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 17 January 2017;
- the placing of a newspaper advertisement in the 'Distrikspost' on 19 January 2017; and
- making the Draft BAR available to I&APs for a 30 day commenting period from 19 January 2017.

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

The Competent Authority concurs with the Environmental Assessment Practitioner's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

Two location alternatives were considered for the bridge crossing over the Palmiet River.

Site Alternative 1

This alternative entails a bridge across the Palmiet River of approximately 20m in length and 5m in width, with a 6m wide approach road on either side of the bridge. At this proposed location, the Palmiet River is fringed by a wide strip of wetland that is associated with the river, as well with as a south eastern flowing drainage line. This alternative was not preferred for the following reasons:

- A significant portion of wetland area will be lost and disturbed.
- The drainage line will have to be crossed and will therefore be impacted on.
- This location is not in close proximity to existing farm roads and therefore new roads would have to be cleared and formalised.
- The river banks are steep at this section of the river, which will necessitate a larger bridge structure and more engineering works. This option will not only be more expensive but will also result in more infilling of the wetland area and river and therefore have a more significant impact on the river.
- The additional works will also result in a longer construction period and therefore prolong the impacts associated with the construction phase.

Site Alternative 2 (preferred alternative herewith authorised)

This alternative entails the construction of a bridge across the Palmiet River of approximately 20m in length and 3.6m in width. The bridge will consist of two 2400 x 1200 box culverts and one 900m pipe culvert. 1m x 1m gabions are proposed on either side of the bridge to stabilise the banks of the river. The location is further downstream towards the Eikenhof Dam where there is an existing wooden mountain bike bridge crossing, approximately 1.2m wide, with a cleared pathway through the wetland on either side of the bridge. Existing farms roads and bike tracks will be used as access roads to and from the bridge, and will be expanded to a maximum width of 4.5m in some places. This alternative is preferred for the following reasons:

- The new concrete bridge will replace the existing wooden bridge, which will reduce the associated impacts.
- The width of the wetland along this section of the Palmiet River is narrower, resulting in less loss of wetland.
- The existing tracks and farm roads can be used and therefore no new roads would be required. In some places, the existing road/track will be widened to 4.5m.
- By using the route of the existing pathway as approach roads, the patch of riparian woodland situated near this crossing point, can be avoided.
- The smaller drainage line feeding the wetland can be avoided.
- The bridge structure is smaller in size, will have a shorter construction period, will be more cost effective and is located within an area that is already disturbed. The smaller disturbance footprint would therefore result in less loss of wetland and riparian habitat and less disturbance to the river itself.

No-go Option

This alternative entails the current *status quo*, namely the use of the R321 to gain access to the orchards. The tractors have to travel along the lower section of the Vlijoens Pass, which ends in a blind hairpin bend. Sometimes, other speeding vehicles do not see the slow moving tractors until they are directly behind them, often not allowing sufficient time to stop or slow down. This alternative was there not preferred due to road safety concerns.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The bridge would link orchards on either side of the river and reduce the use of the R321 road by farm vehicles, thereby ensuring that the farm workers have a safe access to and exit from the orchards across the river. The site is zoned Agriculture and the development is in line with the current zoning.

3.2 Biophysical Impacts

The development site falls within the Upper Foothill Zone of the Palmiet River. The Palmiet River is a single channel perennial river, which is in a fairly natural state. A wide strip of wetland area is associated with the Palmiet River upstream from the site, which covers a smaller area at the site and has been modified. The wetland is fed by a small drainage line that flows down from the south eastern facing slope of the foothills of the Hottentots Holland Mountains. The riparian zone of the Palmiet River and the wetland along the river is mapped as a Critical Biodiversity Area. The preferred location is in close proximity to a section of riparian woodland vegetation along the north-western extent of the wetland area, which is bisected by a mountain track. The habitat of the Palmiet River has been moderately modified as a result of modification to the flow by the upstream Nuweberg Dam, as well as vegetation removal, alien vegetation growth and channelisation under the R321. The river does however still provide an important corridor for biota movement. The natural vegetation surrounding the site has been mapped as *Kogelberg Sandstone Fynbos*. This vegetation type is considered critically endangered in terms of Section 52 of the National Environmental Management: Biodiversity Act (Act No. 10 of 2004). The primary concern associated with the proposed development is the loss of wetland and riparian habitat and the facilitated spread of alien invasive plants. The preferred site is however considered as favourable since the area is already disturbed by the existing river crossing and pathway through the wetland. This will result in a minimal loss of wetland and riparian habitat and will have a less significant impact on the river and its associated wetland.

Furthermore, a Maintenance Management Plan ("MMP") has been compiled for the affected area, which includes invasive alien vegetation management. The MMP is approved as part of this environmental authorisation and includes maintenance of the structures authorised.

It must be noted that the accepted maintenance activities only relate to the activities described in the MMP. Should any new activities and associated infrastructure, not included in the MMP, require maintenance and if any of the applicable listed activities are triggered, an environmental authorisation must be obtained prior to the undertaking of such activities. It remains the responsibility of the proponent to determine if any other listed activities are triggered and to ensure that the necessary environmental authorisation is obtained.

The fact that the MMP is agreed to by the competent authority does not absolve the applicant from its general "duty of care" set out in Section 28(1) of the NEMA, which states that "*Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.*" (Note: When interpreting their "duty of care" responsibility, cognisance must be taken of the principles of sustainability contained in Section 2 of NEMA).

The Breede-Gouritz Catchment Management Agency also confirmed that the proposed water use falls within the ambit of the General Authorisation published in Government Gazette No. 40229, Notice No. 509, dated 26 August 2016.

The potential impacts that may result from the development will be effectively mitigated by the implementation of the conditions in this environmental authorisation, EMPr and MMP.

The development will result in both negative and positive impacts:

Negative Impacts:

Negative impacts include the loss of wetland and riparian habitat and the possible spread of alien invasive plants. The conditions of the environmental authorisation contained herein and the EMP and MMP, approved as part of this environmental authorisation, addresses these impacts adequately.

Positive impacts:

The bridge would link orchards on either side of the river and reduces the use of the R321 road by farm vehicles, thereby ensuring safe access to and exit from the orchards across the river. Temporary job opportunities will be created during the construction phase.

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. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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