

EIA REFERENCE NUMBER: 16/3/3/1/D5/7/0012/22
NEAS REFERENCE: WCP/EIA/0001091/2022
DATE OF ISSUE: 24 October 2022

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: THE PROPOSED EXPANSION/ UPGRADING OF THREE DAMS AND ASSOCIATED INFRASTRUCTURE FOR THE PURPOSES OF ESTABLISHING ORCHARDS AS WELL AS THE CONSTRUCTION OF AN AIRSTRIP, HANGAR AND JETTY ON PORTION 4 OF FARM NO. 493 (INHOEK FARM), SWELLENDAM.

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, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to **the Preferred Alternative**, described in the Final Basic Assessment Report ("FBAR"), dated July 2022 as prepared and submitted by *PHS Consulting*, the appointed environmental assessment practitioner ("EAP").

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

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Environmental Impact Assessment Regulations Listing Notice 1 of 2014, Government Notice No. 983 of 4 December 2014, as amended.	
<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; (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; (dd) where such development occurs within an urban area; (ee) where such development occurs within existing roads, road reserves or railway line reserves; or (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>The development of:</p> <ul style="list-style-type: none"> • The “ponds” dam and associated pipeline network for the transportation of water crossing unnamed watercourses. • A floating jetty and boardwalk in the Breede River
<p>Activity Number: 17 Activity Description:</p> <p>Development—</p> <ul style="list-style-type: none"> (i) in the sea; (ii) in an estuary; (iii) within the littoral active zone; (iv) in front of a development setback; or (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater; <p>in respect of—</p> <ul style="list-style-type: none"> (a) fixed or floating jetties and slipways; (b) tidal pools; (c) embankments; (d) rock revetments or stabilising structures including stabilising walls; <p>or</p>	<p>The development of the “ponds” dam and associated pipeline network for the transportation of water within 100 metres from the Breede River Estuary and floating jetty and boardwalk in the Breede River Estuary.</p>

<p>(e) infrastructure or structures with a development footprint of 50 square metres or more —</p> <p>but excluding—</p> <p>(aa) the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) 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>(cc) the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or</p> <p>(dd) where such development occurs within an urban area.</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 excavation and moving of soil of more than 10 cubic metres within an unnamed watercourse for the “Ponds” dam and associated pipeline infrastructure.</p>
<p>Activity Number: 19A</p> <p>Activity Description:</p> <p>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—</p> <p>(i) the seashore;</p> <p>(ii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater; or</p> <p>(iii) the sea; —</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>The excavation and moving of soil of more than 10 cubic metres for development of the “ponds” dam and associated pipeline network for the transportation of water within 100 metres from the Breede River Estuary and floating jetty and boardwalk in the Breede River Estuary.</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>Environmental Impact Assessment Regulations Listing Notice 3 of 2014, Government Notice No. 985 of 4 December 2014, as amended.</p>	
<p>Activity Number: 7 Activity Description:</p> <p>The development of aircraft landing strips and runways 1,4 kilometres and shorter.</p> <p>i. Western Cape All areas outside urban areas.</p>	<p>The development of an airstrip: SE runway 1000m and the SW runway 800m; approx. 25m in width.</p>
<p>Activity Number: 12 Activity Description:</p> <p>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</p> <p>i. Western Cape</p> <ol 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; ii. Within critical biodiversity areas identified in bioregional plans; 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; 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. 	<p>The clearance of more than 300m² of Critically Endangered Cape Lowland Alluvial vegetation, i.e., salt marsh within the basin for the "Ponds" Dam.</p>
<p>Activity Number: 14 Activity Description:</p> <p>The development of—</p> <ol style="list-style-type: none"> (i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or (ii) infrastructure or structures with a physical footprint of 10 square metres or more; <p>where such development occurs—</p> <ol style="list-style-type: none"> (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse; 	<p>The development of:</p> <ul style="list-style-type: none"> • The "ponds" dam and associated pipeline network for the transportation of water crossing unnamed watercourses. • A floating jetty and boardwalk in the Breede River

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*

The abovementioned list is hereinafter referred to as “**the listed activity**”.

The Holder is herein authorised to undertake the following activities that includes the listed activities as it relates to the infilling, excavation, removal and moving of sand of more than 5 cubic metres within 100 metres from the high-water mark of the estuary and a watercourse and the clearance of indigenous vegetation for the construction and installation of the “Ponds” storage dam and associated pipeline infrastructure of approximately 5.7 km. Also, the development of structures and infrastructure within the estuarine functional zone and within the Breede River Estuary and the establishment of an airstrip and hangar.

The specific details of the proposed development on the property comprises of the development of the following:

- Ponds Storage Dam: on the footprint of the existing ponds with a capacity of 10 000m³ and wall height of 2.7 m;
- A network of associated pipelines (300mm diameter) for the transportation of water 5.7km in length - which includes three watercourse crossings;
- Three pump stations will be erected (two of which are to be reinstated at the existing Eskom points to the south) and one is to be newly constructed near the ponds dam. The pump stations will be approx. 3m x 3m in size;
- A floating jetty (with water pump attached) & boardwalk (dual walkway); and
- An airstrip (SE runway 1000m and the SW runway 800m; approximately 25m in width) and associated hangar (approx. 25m x 15m x 4m) will be sited at the runway intersection.

The development must be done in accordance with the layout developed by INGEROP South Africa (Pty) Ltd. (undated) Drawing number CC150900 - L02 (Annexure 2).

C. SITE DESCRIPTION AND LOCATION

The proposed development will take place on Portion 4 of the Farm Inhoek No. 493 which is situated approximately 14km northwest of the town of Witsand and along the Breede River. Access to the farm is from the R324 from Witsand.

Coordinates of the site:

Position:	Latitude (South)	Longitude (East)
Middle Point	34° 19' 31.62"	20° 36' 22.96"

Coordinates of the section along the Breede River where the Jetty and walkway can be located:

Position:	Latitude (South)	Longitude (East)
Start Point	34° 19' 28.85"	20° 36' 17.70"
End Point	34° 19' 30.08"	20° 36' 17.21"

SG digit code of Portion4 of the Farm Inhoek No. 493: C07300000000049300004

Refer to Annexure 1: Locality Plan of this Environmental Authorisation and Annexure 2: Location of the proposed buildings, structures and infrastructure sites on the property.

The above is hereinafter interchangeably referred to as "the site" or "the sites".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

PHS CONSULTING
% Mr Paul Slabbert
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E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **31 October 2029** (validity period), during which period the Holder must ensure that the—
 - (a) physical implementation of all the authorised listed activities is started with and concluded at the sites (each respective site);
 - (b) construction monitoring and reporting requirements are undertaken at the sites and submitted to the Competent Authority in time to allow said authority to process such documents timeously;
 - (c) post construction rehabilitation and monitoring requirements is undertaken and completed at the sites; and
 - (d) environmental auditing requirements are complied with for the sites; and that such auditing is finalised in time to allow the competent authority to be able to process the environmental audits timeously within the specified validity period.

2. The construction phase of the Environmental Authorisation is subject to the following:
 - 2.1 The Holder must finalise the post construction rehabilitation and monitoring requirements within a period of 3-months from the date the development activity (construction phase) is concluded at each of the respective sites.
3. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with the Preferred Alternative described in the FBAR dated July 2022 on the site as described in Section C above.

This Environmental Authorisation is only for the implementation of a part of the Preferred Alternative for the sites which entails:

The Holder is herein authorised to undertake the following activities that includes the listed activities as it relates to the infilling, excavation, removal and moving of sand of more than 5 cubic metres within 100 metres from the high-water mark of the estuary and a watercourse and the clearance of indigenous vegetation for the construction and installation of the "Ponds" storage dam and associated pipeline infrastructure of approximately 5.7 km. Also, the development of structures and infrastructure within the estuarine functional zone and within the Breede River Estuary and the establishment of an airstrip and hangar.

The specific details of the proposed development on the property comprises of the development of the following:

- Ponds Storage Dam: on the footprint of the existing ponds with a capacity of 10 000m³ and wall height of 2.7 m;
- A network of associated pipelines (300mm diameter) for the transportation of water 5.7km in length - which includes three watercourse crossings;
- Three pump stations will be erected (two of which are to be reinstated at the existing Eskom points to the south) and one is to be newly constructed near the ponds dam. The pump stations will be approx. 3m x 3m in size;
- A floating jetty (with water pump attached) & boardwalk (dual walkway)
- An airstrip (SE runway 1000m and the SW runway 800m; approximately 25m in width) and associated hangar (approx. 25m x 15m x 4m) will be sited at the runway intersection.

The development must be done in accordance with the location plan developed by INGEROP South Africa (Pty) Ltd. (undated) Drawing number CC150900 - L02 (Annexure 2 of this Environmental Authorisation).

4. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
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 and administration of appeal

7. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision—
 - 7.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 7.1.1. the decision reached on the application;
 - 7.1.2. the reasons for the decision as included in Annexure 3;
 - 7.1.3. the date of the decision; and
 - 7.1.4. the date when the decision was issued.
 - 7.2. 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;
 - 7.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 7.4. provide the registered I&APs with the:
 - 7.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 7.4.2. name of the responsible person for this Environmental Authorisation,
 - 7.4.3. postal address of the Holder,
 - 7.4.4. telephonic and fax details of the Holder,
 - 7.4.5. e-mail address, if any, of the Holder,
 - 7.4.6. 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).
 - 7.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
 - 7.6. 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.

Written notice to the Competent Authority

8. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any 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:
Conditions no.: 7, 10, 11 and 12.
9. Seven calendar days' written notice must be given to the Competent Authority on completion of the construction activities.

Management of activity

10. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended and submitted to this Department for approval prior to commencement of any activities on the sites:
 - 10.1. The EMPr must be amended to incorporate the following —
 - 10.1.1. Incorporate all the conditions given in this Environmental Authorisation;

- 10.1.2. Include the final designs of the respective building; structures and infrastructure that will be developed in terms of the Environmental Authorisation;
- 10.1.3. Include an implementation programme / schedule addressing the effective administration of the environmental authorisation regarding the milestones related to:
 - (a) the commencement of the physical implementation of all the authorised listed activities at the sites (each respective site) and the period within which said activities will be concluded at each site;
 - (b) detailing when the monitoring and reporting requirements must be undertaken at the sites and such reports will be submitted to the competent authority to enable the authority to timeously process such documents;
 - (c) detailing the periods / dates by when the post construction rehabilitation and monitoring requirements will be undertaken and completed at the sites;
 - (d) detailing when the environmental auditing requirements will be complied with for the sites; and by when such auditing will be finalised in time to allow the competent authority to be able to process the environmental audits timeously.
- 10.1.4. The frequency of the ECO site visits to be weekly during the construction of the "Ponds" Dam, construction of the jetty and installation of the pipeline crossing the watercourses.
- 10.1.5. All monthly ECO reports to be submitted to the competent authority.
- 10.1.6. Include the auditing schedule as set out by this Environmental Authorisation.

11. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

12. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
13. The ECO must–
 - 13.1. be appointed prior to commencement of any works (i.e. removal and movement of soil);
 - 13.2. ensure compliance with the EMPr and the conditions contained herein;
 - 13.3. keep record of all activities on the sites; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
 - 13.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
14. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.
15. Access to the sites 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

16. The Holder must, for the period during which the environmental authorisation and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.
17. The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, must adhere to the following programme:
 - 17.1. Auditing during the non-operational phase (construction activities):
 - 17.1.1. During the period which the development activities have been commenced with on the sites, the Holder must ensure annual environmental audit(s) are undertaken and the Environmental Audit Report(s) submitted annually to the Competent Authority.
 - 17.1.2. A final Environmental Audit Report for the construction phase (non-operational component) must be submitted to the Competent Authority within **three (3) months** of completion of the construction phase.
18. The Environmental Audit Report(s), must–
 - 18.1. be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;
 - 18.2. provide verifiable findings, in a structured and systematic manner, on–
 - 18.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 18.2.2. 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.
 - 18.3. identify and assess any new impacts and risks as a result of undertaking the activity;
 - 18.4. evaluate the effectiveness of the EMPr;
 - 18.5. identify shortcomings in the EMPr;
 - 18.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 18.7. 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;
 - 18.8. indicate the date on which the maintenance/ rehabilitation was commenced with and the progress of the rehabilitation;
 - 18.9. include a photographic record of the site(s) applicable to the audit; and
 - 18.10. be informed by the ECO reports.
19. The Holder must, within 7 calendar 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

20. The clearance of indigenous vegetation is limited to the construction of the Ponds storage dam. Indigenous vegetation may not be cleared from any other areas on the property prior to environmental authorisation being obtained.
21. Should any heritage remains be exposed during excavations or any other actions on the site(s), 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 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.

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.

Amendment of Environmental Authorisation and EMPr

2. If the Holder does not start with the listed activity and conclude the activity within the period referred to in Section E, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

If the Holder wishes to extend a validity period specified in the Environmental Authorisation, 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 Environmental Authorisation 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 Environmental Authorisation for the undertaking of the activity.
3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, the Competent Authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the Holder to apply for further authorisation in terms of the applicable legislation.

The onus is on the Holder to verify whether such changes to the environmental authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note: An environmental authorisation 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 EMPr 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 Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is granted for a set period from date of issue, during which period the listed activity must be commenced with and concluded, including the post-construction rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

The validity period and conditions of the environmental authorisation has been structured to promote the effective administration of the environmental authorisation and guidance has been provided to ensure the compliance thereof within the validity period, for example the following milestones should not be missed:

- Failure to submit the revised EMPr to the Competent Authority at least 90-days prior to the construction activities commencing on site, may result in the competent authority not being able to process / review the revised EMPr prior to the intended date of commencement.
- Failure to complete the post construction rehabilitation and monitoring requirements at least six months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.
- Failure to complete the final auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements and may result in the competent authority not being able to process the audit timeously.
- Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.

Note: It is advised that if any of the milestones as indicated above, might not be achieved, the Holder must consider extending the validity period through an amendment process.

8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (**i.e. 7, 10, 11 and 12**). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
9. In the event that the Environmental Authorisation 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 Environmental Authorisation for the undertaking of the activity.
10. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

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 including any Organ of State with interest in the matter; and
 - 1.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAadmin.George@westerncape.gov.za
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 and any registered I&AP including any Organ of State with an interest in the matter; and
 - 2.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAadmin.George@westerncape.gov.za
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 Appeal Administrator at 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: Appeal Administrator
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 Administrator at: Tel. (021) 483 3721, E-mail DEADP.Appeals@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

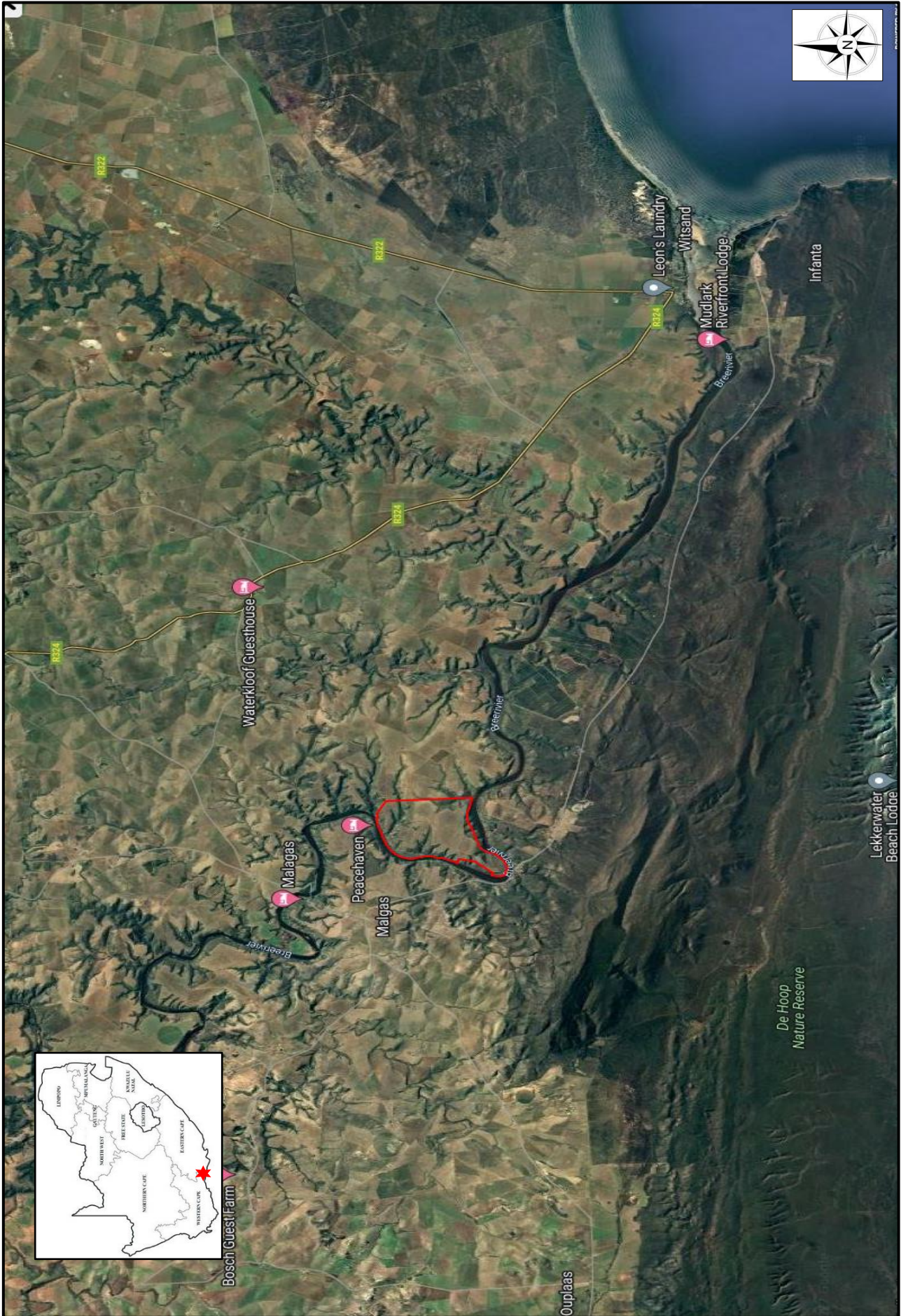
MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT
WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 24 OCTOBER 2022

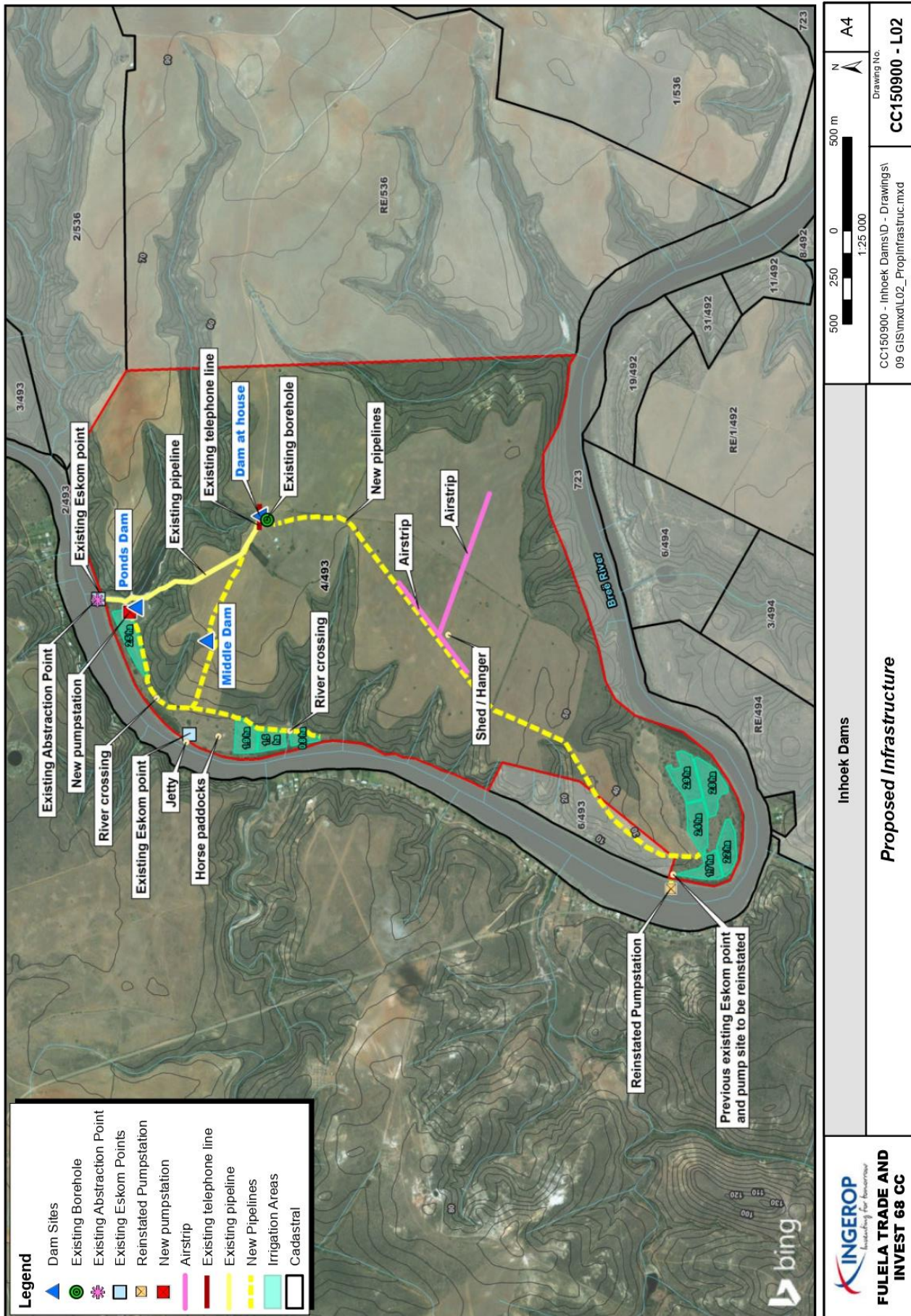
FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/1/D5/7/0012/22
NEAS REFERENCE: WCP/EIA/0001091/2022

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: LOCATION OF THE PROPOSED BUILDINGS, STRUCTURES AND INFRASTRUCTURE SITES ON THE PROPERTY



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 received on 13 April 2022, the Final Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 11 July 2022;
- 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 National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the FBAR dated July 2022;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) A site inspection was conducted by officials from the Directorate on the 19 October 2021 and attended by Ms Jessica Christie and Mr Francois Naudé.

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. Legislative Requirements

The listed activities not authorised in this Environmental Authorisation are:

- Listing Notice 1 (GN No. R983 of 4 December 2014, as amended) Activity 13:
Reason – the house dam and the middle dam are existing dams that are being enlarged (do not require environmental authorisation) and the “Ponds” Dam is a new dam on the footprint of historic ponds. Even though the combined capacity of the 3 dams exceeds 50 000m³, they are not considered as “new” dams or the development of infrastructure for the off-stream storage of water with a combined capacity of 50 000 cubic metres or more.
- Listing Notice 1 (GN No. R983 of 4 December 2014, as amended) Activity 48:
Reason – the development of the “Ponds” Dam is considered a new dam on the footprint of historic ponds and therefore not considered as the expansion of a dam.
- Listing Notice 1 (GN No. R983 of 4 December 2014, as amended) Activity 50:
Reason – the expansion of the house dam and the middle dam (which do not require environmental authorisation) and the development of the “Ponds” Dam do not increase the combined capacity of 50 000m³, of off-stream storage of water.
- Listing Notice 1 (GN No. R983 of 4 December 2014, as amended) Activity 54:
Reason – the development of the “Ponds” Dam is not considered as the expansion of a facility within a distance of 100 metres inland of the high-water mark of an estuary.

Listed Activity 12 of Listing Notice 3 (GN No. R985 of 4 December 2014, as amended) was authorised although the EAP regarded it as not applicable. The impact of this activity was assessed in the Basic Assessment Process, included in the application form for environmental authorisation and regarded as being applicable by the competent authority as it is expected that more than 300m² of indigenous and critically endangered salt marsh vegetation will be cleared for the development of the “Ponds” Dam.

2. Public Participation

A public participation process was undertaken, and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulation 2014 for public involvement. The public participation process was performed in accordance with the Public Participation Plan agreed to by this Department.

The following Organs of State provided comment on the proposal:

- ❖ WCG: Department of Agriculture
- ❖ Breede Gouritz Catchment Management Agency
- ❖ Heritage Western Cape; and
- ❖ CapeNature.

Several Interested and Affected Parties ("I&APs) who registered, provided comments on the reports.

All the comments and issues raised by the respective *Organs of State and I&APs* that were captured in the Basic Assessment Report were responded to by the EAP. The Competent Authority is satisfied with the responses from the EAP to the I&APs comments and concerns.

3. Alternatives

Development proposal (Herewith Approved – a part of Alternative 3):

The Holder is herein authorised to undertake the following activities that includes the listed activities as it relates to the infilling, excavation, removal and moving of sand of more than 5 cubic metres within 100 metres from the high-water mark of the estuary and a watercourse and the clearance of indigenous vegetation for the construction and installation of the "Ponds" storage dam and associated pipeline infrastructure of approximately 5.7 km. Also, the development of structures and infrastructure within the estuarine functional zone and within the Breede River Estuary and the establishment of an airstrip and hangar.

The specific details of the proposed development on the property comprises of the development of the following:

- ❖ Ponds Storage Dam: on the footprint of the existing ponds with a capacity of 10 000m³ and wall height of 2.7 m;
- ❖ A network of associated pipelines (300mm diameter) for the transportation of water 5.7km in length - which includes three watercourse crossings;
- ❖ Three pump stations will be erected (two of which are to be reinstated at the existing Eskom points to the south) and one is to be newly constructed near the ponds dam. The pump stations will be approx. 3m x 3m in size;
- ❖ A floating jetty (with water pump attached) & boardwalk (dual walkway)
- ❖ An airstrip (SE runway 1000m and the SW runway 800m; approximately 25m in width) and associated hangar (approx. 25m x 15m x 4m) will be sited at the runway intersection.

The development must be done in accordance with the layout developed by INGEROP South Africa (Pty) Ltd. (undated) Drawing number CC150900 - L02 (Annexure 2).

Alternative 1 ("Ponds" Dam)

This alternative to the "Ponds" Dam includes the historic ponds in addition an area of intact Renosterveld and large clumps of salt marsh vegetation (*Sarcocornia sp.*) to the south west of the

existing ponds, which have a medium conservation value. This alternative was disregarded as a viable alternative due to the high negative impact.

Other alternatives include the placement of the floating jetty and walkway. This placement would be considered once consultation with CapeNature has taken place for the permitting of the structure. However, a corridor has been authorised in which the placement of the jetty and walkway will be constructed.

"No-Go" Alternative

This alternative is the "no-development alternative". The no-development option will result in the status quo of the property being maintained. This is not a viable option from a socio-economic perspective, for the Applicant or the local community. Furthermore, there will be no incentive for the applicant to sign a Conservation Easement with Overberg Renosterveld Conservation Trust for the proposed 220 ha conservation area.

This alternative also means that aquatic ecosystems would be likely to remain in their current condition –the saltmarsh attenuation area would be likely to remain in situ; grazing of lands proposed for orchards could take place, with associated trampling of riparian areas and low levels of trampling of the riverbed and banks would occur at the launching area where construction of a jetty is proposed. Importantly, the riverbank rehabilitation measures (e.g. machine removal of flood debris likely to trigger erosion) allowed for as mitigation measures in this assessment would not be legally permissible.

4. Impact Assessment and Mitigation Measures

4.1 Activity Need and Desirability

The property is zoned Agriculture Zone I and the proposed activities (upgrading/expanding existing Dams, establishment of Orchards & laying of water pipelines for irrigation purposes) are in keeping with the existing agricultural activities on the property and permitted in terms of the land use rights of the property. As the property is located along the Breede River, a jetty and boardwalk are in keeping with the surrounding properties and will formalise access onto the property from the river. A private airstrip and associated hanger are required as the applicant commutes frequently for business purposes. The airstrip and associated buildings will require a Consent Use in terms of the Hessequa Zoning Scheme Bylaw, July 2018.

4.2 Biophysical Impacts

Except for the Ponds Dam site, all other areas proposed for development fall outside of the designated Critical Biodiversity Areas ("CBA") and Ecological Support Areas ("ESA") for the area. The areas included in the CBA on Inhoek Farm are those areas that have not been ploughed and are excluded from the development application. There are some of the proposed orchard lands defined as Ecological Support Areas (i.e., to restore), most notably the orchard that runs south from the ponds dam site. These are areas that are not essential for meeting biodiversity targets, but that play an important role in supporting the functioning of protected areas or CBAs and are often vital for delivering ecosystem services. The objective of this ESA is to restore and/or manage to minimize impact on ecological processes and ecological infrastructure functioning, especially soil and water-related services, and to allow for faunal movement. However, as the site is currently being cultivated, the orchard development in this area will not negatively impact on natural vegetation from a botanical perspective.

The proposed site for the jetty falls within an area of low conservation value. The jetty site is characterised by weedy species and there are no species of conservation concern present. The site for the airstrip is on agricultural land and will have no impact on indigenous vegetation.

There are existing fields under cultivation and are in some instances, the cultivated area is closer than 32 metres from the edge of the Breede River. The Conservation of Agricultural Resources Act, 1983 (Act no. 43 of 1983) ("CARA"), requires that no land user must cultivate any land on his farm unit within the flood area of a water course or within 10 metres horizontally outside the flood area of a water course. In accordance with the aforementioned and Section 28 of NEMA, it is advised that these existing fields be setback as described in CARA or at a minimum of 32 metres from the Breede River and rehabilitated to riparian vegetation. Further to this, the environmental authorisation has placed a restriction on the clearance of indigenous vegetation to the Ponds Dam area and no indigenous vegetation may be cleared outside of existing cultivated areas.

4.3 *Aspects related to coastal activities:*

When any listed activities are to be carried out within the coastal zone which require an environmental authorisation in terms of the NEMA, the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (NEM:ICMA) provides for additional criteria which must be considered when evaluating an application for an activity which will take place within the coastal zone.

The information which has been provided in the BAR including specialist studies, has provided sufficient information to consider the additional aspects which should be considered in terms of s63 of NEM:ICMA and to inform the decision.

The sites fall within the coastal protection zone as defined in the Integrated Coastal Management Act, 2008. The coastal protection zone includes, amongst others, the following:

- Any rural land unit that is situated within one kilometre (1000 metres) of the HWM which is zoned as agricultural or undetermined.
- Any land that would be inundated (submerged or covered) by a 1:50 year flood or storm event.
- Any coastal wetland, lake, lagoon or dam which is situated completely or partially within a land unit situated within 1000 metres of the HWM that was zoned for agricultural.

The coastal protection zone is established to manage, regulate and restrict the use of land that is adjacent to coastal public property, or that plays a significant role in the coastal ecosystem. More specifically, the coastal protection zone aims:

- To protect the ecological integrity, natural character, and the economic, social and aesthetic value of the neighbouring coastal public property;
- To avoid increasing the effect or severity of natural hazards;
- To protect people, property and economic activities from the risks and threats which may arise from dynamic coastal processes such as wave and wind erosion, coastal storm surges, flooding and sea level rise;
- To maintain the natural functioning of the littoral active zone;
- To maintain the productivity of the coastal zone; and
- To allow authorities to perform rescue and clean-up operations."

The proposed is not in conflict with the intention/purpose of the relevant zones as defined in the ICMA in that the activity involves utilising existing or disturbed footprints wherever possible. Furthermore, a Botanical and Aquatics Specialist have undertaken specialist Impact Assessments to ensure that environmental impacts are avoided and/ or mitigated where necessary. The proposed upgrading/

expansion of the dams are all within areas of existing dam footprints and in the case of the ponds dam, the existing ponds footprint will be utilised and will not be expanded.

The proposed Orchards are to be located in areas already under cultivation. The same applies to the pipeline network which, for the most part, is located along existing gravel roads or within cultivated fields. Furthermore, the property is located along the Breede River and a jetty will formalise access onto the property from the River. The location of the proposed jetty has been utilised informally for decades as an anchoring point for boats. The proposed jetty and boardwalk will formalise this access and thereby safeguard the ecological integrity of the river front at this point.

4.4 Heritage / Archaeological Aspects

The proposed activities are in keeping with the rural/ agricultural sense of place of the property and its surrounds. The Heritage Specialist in the NID also confirmed that, "the proposed expansions of existing agricultural activities will therefore have no negative impact on the existing, predominantly agricultural, cultural landscape of the area." Heritage Western Cape ("HWC") have shown their support for the NID and indicated that no visual or cultural landscape studies were required.

The competent authority is satisfied that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of the National Heritage Resources Act, 1999 and the comments and recommendations of the relevant heritage resources authority with regard to the proposed development have been taken into account.

4.5 General Authorisation in terms of the National Water Act, 1998

A Licence in terms of Chapter 4 of the National Water Act, 1998 was issued to the Holder, authorising the water uses that was applied for. These included Section 21(a), (b), (c) and (i).

4.6 Other Impacts

No other impacts of significance are anticipated for the area that has been authorised in this Environmental Authorisation.

Considering the findings of the impact assessment and proposed mitigation measures to address the aforementioned impacts this Department is satisfied that the activity will not negatively impact on the receiving environment, subject to strict implementation of conditions of this EA and the mitigation measures proposed in the EMPr.

5. Scope and Validity Period of authorisation

This environmental authorisation does not define specific operational aspects. The environmental authorisation's validity period has been granted for a period of seven (7) years, during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit reports for the construction phase. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase.

Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years.

6. 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.

7. Conclusion

After consideration of the information and factors listed above, the Department made the following findings:

- (a) The identification and assessment of impacts are detailed in the FBAR dated July 2022 and sufficient assessment of the key identified issues and impacts have been completed.
- (b) The procedure followed for the impact assessment is adequate for the decision-making process.
- (c) The proposed mitigation of impacts identified and assessed, curtails the identified negative impacts.
- (d) The EMPr proposed mitigation measures for the pre-construction, construction and rehabilitation phases of the development and were included in the FBAR. The mitigation measures will be implemented to manage the identified environmental impact during the construction phase.

Due consideration is also given to the person's duty of care described in Section 28 of NEMA:

"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".

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with an approved 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.

----- **END** -----