



**REFERENCE:** 16/3/3/1/B2/32/1050/22  
**NEAS REFERENCE:** WCP/EIA/0001143/2022  
**DATE:** 26 JANUARY 2023

The Board of Directors  
JS Jordaan Boerdery (Pty) Ltd  
P. O. Box 9  
**DE DOORNS**  
6875

**Attention: Mr. Johan S Jordaan**

Cell: 082 775 1399  
Email: poen@jsjordan.co.za

Dear Sir

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014: THE EXPANSION OF AN EXISTING DAM (KNOWN AS ONDER DAM) ON PORTION 5 OF FARM NO. 342, WORCESTER**

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation and **adopt** the Maintenance Management Plan, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the EIA Regulations, 2014, 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, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Ms M McGregor (McGregor Environmental Services)  
(2) Mr P Hartzenberg (Breede Valley Municipality)

Email: marizannemcgregor@gmail.com  
Email: Pieter2@bvm.gov.za



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**REFERENCE:** 16/3/3/1/B2/32/1050/22  
**NEAS REFERENCE:** WCP/EIA/0001143/2022  
**ENQUIRIES:** Samornay Smidt  
**DATE OF ISSUE:** 26 January 2023

## 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 EXPANSION OF AN EXISTING DAM (KNOWN AS ONDER DAM) ON PORTION 5 OF FARM NO. 342, WORCESTER

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 the Preferred Alternative 1, as described in the Basic Assessment Report ("BAR"), dated 19 September 2022.

In terms of the NEMA, viz, the EIA Regulations, 2014 (Listing Notices 1 and 3 of 2014 in Government Gazette No. 40772 of 7 April 2017) the Competent Authority hereby adopts the Maintenance Management Plan for the proposed expansion of an existing dam (Onder Dam) on Farm 5/342, Worcester (Nuy Area) in the Western Cape, dated March 2022.

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

JS Jordaan Boerdery (Pty) Ltd  
c/o Mr Johan S Jordaan  
P. O. Box 9  
**DE DOORNS**  
6875

Cell: 082 775 1399  
 Email: poen@jsjordan.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 Activity	Activity/Project Description
<p>EIA Regulations Listing Notice 1 of 2014 -</p> <p><b>Activity Number: 19</b></p> <p><i>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <ul style="list-style-type: none"> <li><i>(a) will occur behind a development setback;</i></li> <li><i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></li> <li><i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i></li> <li><i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i></li> <li><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></li> </ul>	<p>More than 10 cubic metres of material will be infilled or moved within the in-stream dam during expansion.</p>
<p>EIA Regulations Listing Notice 1 of 2014 -</p> <p><b>Activity Number: 27</b></p> <p>The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</p> <ul style="list-style-type: none"> <li>(i) the undertaking of a linear activity; or</li> <li>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</li> </ul>	<p>Approximately 1 ha of indigenous vegetation will be cleared during dam expansion. Note, however, that the area around the dam has undergone an authorisation process and a Section 24G Environmental Authorisation ("EA") was granted on 3 March 2017 to cultivate the area around the dam. The EA was however amended on 19 July 2022 to exclude the dam footprint to allow for the expansion of the dam under a new application.</p>
<p>EIA Regulations Listing Notice 1 of 2014 -</p> <p><b>Activity Number: 48</b></p> <p>The expansion of -</p> <ul style="list-style-type: none"> <li>(i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or</li> </ul>	<p>The dam will be expanded by more than 100 m<sup>2</sup> within the minor tributary that drains into the existing dam.</p>

<p>(ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more;</p> <p>where such expansion occurs -</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</p> <p>Excluding -</p> <p>(aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</p> <p>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</p> <p>(dd) where such expansion occurs within an urban area; or</p> <p>(ee) where such expansion occurs within existing roads, road reserves or railway line reserves.</p>	
<p>EIA Regulations Listing Notice 3 of 2014 -</p> <p><b>Activity Number: 12</b></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> <p>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;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>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 or even in urban areas;</p> <p>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</p> <p>v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the</p>	<p>More than 300 m<sup>2</sup> of endangered indigenous vegetation will be removed during the dam expansion. Note, however, that the area around the dam has undergone an authorisation process and a Section 24G Environmental Authorisation ("EA") was granted on 3 March 2017 to cultivate the area around the dam. The EA was however amended on 19 July 2022 to exclude the dam footprint to allow for the expansion of the dam under a new application.</p>

prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.	
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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:

The proposed development entails the following:

- Enlargement of the existing Onder Dam from a 12 400 m<sup>3</sup> to 84 000 m<sup>3</sup> storage capacity, with a dam wall of 9.8 m high.
- The full supply surface area will be approximately 1.6 ha and the development footprint of the expanded dam will be approximately 3 ha.
- A new 200 mm diameter outlet pipe of approximately 55 m long will be constructed from the dam and will be encased in reinforced concrete.

### C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 5 of Farm No. 342, Worcester.

The SG21 digit code is: C08500000000034200005

Co-ordinates of the expanded dam:

Latitude	Longitude
33° 38' 07.29" S	19° 35' 38.63" E

Co-ordinates of the extended 50m wide ecological corridor:

	Latitude	Longitude
Point 1	33° 38.008'S	19° 35.662'E
Point 2	33° 38.006'S	19° 35.693'E
Point 3	33° 38.543'S	19° 35.769'E
Point 4	33° 38.537'S	19° 35.735'E

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

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

### D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

McGregor Environmental Services (Pty) Ltd  
c/o Marizanne McGregor  
PO Box 559  
**WORCESTER**  
6849

Cell: 082 554 2910

Email: marizannemcgregor@gmail.com

## 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 the Preferred Alternative 1, as described in the BAR dated 19 September 2022 on the site as described in Section C above.
2. The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority

This Environmental Authorisation is granted for-

- (a) A period of **five years** from the date of issue, during which period the holder must commence with the authorised listed activities.
  - (b) A period of **ten (10) years**, from the date the holder commenced with the authorised listed activities, during which period the authorised listed activities must be concluded.
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 activity.
  - 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, 7 and 11.

### 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 outcome of 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 Appeals 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:
    - 6.4.1 the 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, and
    - 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 the applicant notified the registered I&APs of this decision. 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.
- 9. The Maintenance Management Plan ("MMP") adopted as part of this Environmental Authorisation must be implemented.
- 10. The EMPr must be included in all contract documentation for all phases of implementation.

### **Monitoring**

- 11. The holder must appoint a suitably experienced environmental control officer ("ECO") before commencement of any land clearing or construction activity to ensure compliance with the EMPr and the conditions contained herein.
- 12. The ECO must report on compliance in writing to this Department and the relevant authorities monthly during the construction phase.



13. 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, including a publicly accessible website.
14. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

### **Auditing**

15. 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, the EMPr and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Report must be prepared by an **independent person** (other than not the ECO appointed in terms of condition 11 above or the appointed Environmental Assessment Practitioner) 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 and submit an Environmental Audit Report to the Competent Authority every six months during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within six months after completion of the construction phase.

The holder must, within 7 days of the submission of each of the above-mentioned reports 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**

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

17. 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.
18. The relevant requirements with respect to occupational health and safety must be adhered to at all times.

## 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 or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with the listed activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse for those activities, 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 must be done in accordance with Regulations 35 to 37 of the EIA Regulations 2014, (as amended) 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 on which 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 on which 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 Organs 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 Organs 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 2659)  
Room 809  
8<sup>th</sup> 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](mailto:DEADP.Appeals@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 [DEADP.Appeals@westerncape.gov.za](mailto: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 (REGION 1)**

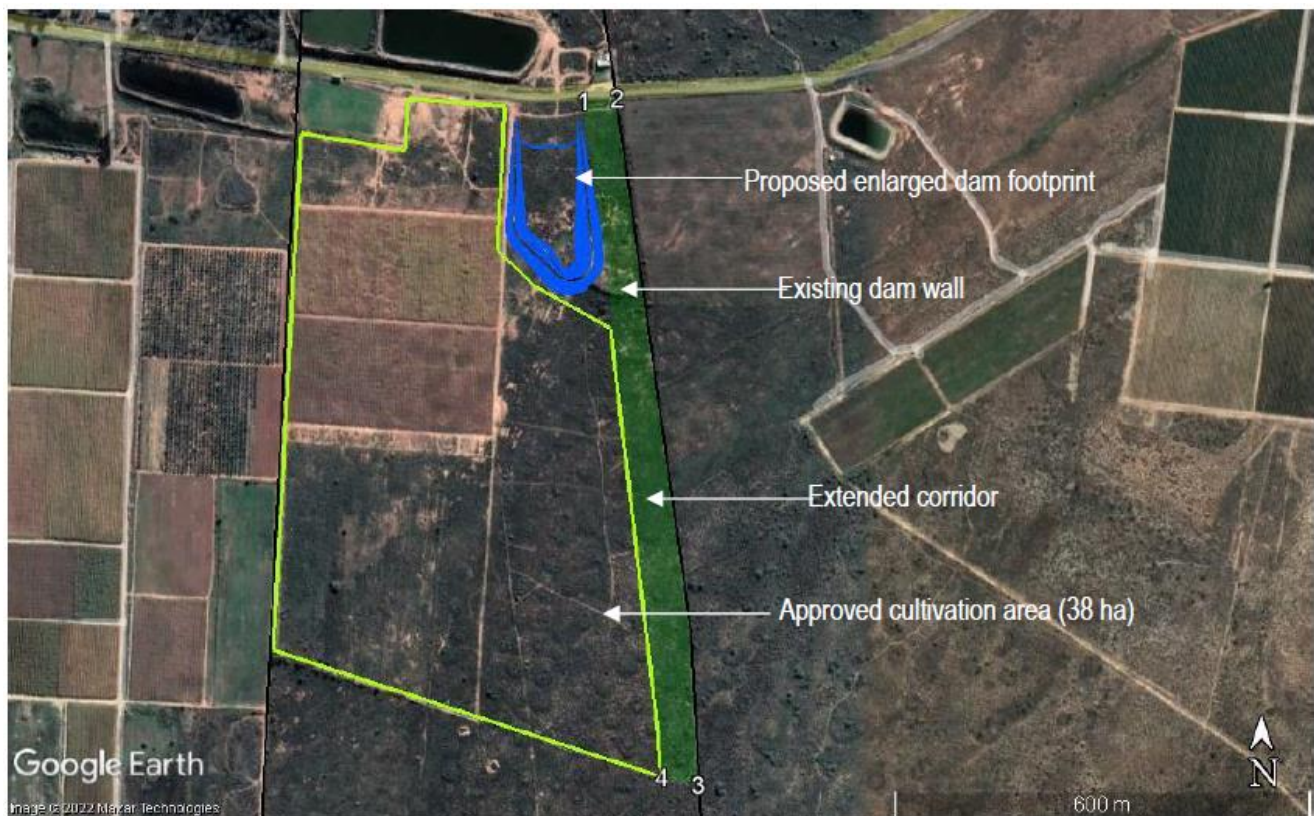
**DATE OF DECISION: 26 JANUARY 2023**

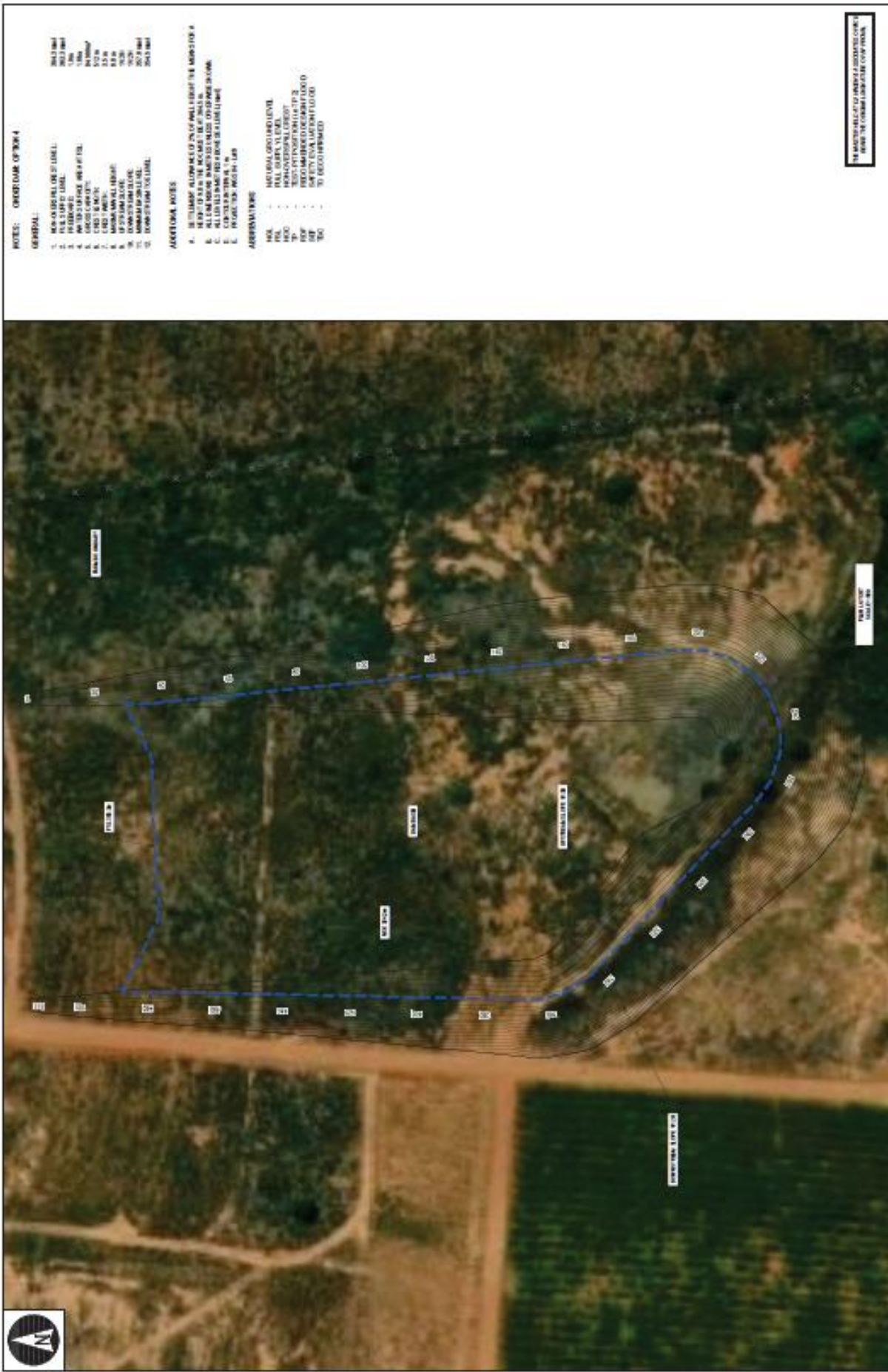
CC: (1) Ms M McGregor (McGregor Environmental Services)  
(2) Mr P Hartzenberg (Breede Valley Municipality)

Email: [marizannemcgregor@gmail.com](mailto:marizannemcgregor@gmail.com)  
Email: [Pieter2@bvm.gov.za](mailto:Pieter2@bvm.gov.za)



## ANNEXURE 2: SITE PLAN





**NOTES: ONDERDAM OF NORA**

- GENERAL:**
1. MAX. ANTI-BRAKE OF LINE 1: 204.2 1000
  2. P.U.S. OF P. LINE 1: 1.0m
  3. P.F. OF LINE 1: 1.0m
  4. P.F. OF LINE 2: 1.0m
  5. P.F. OF LINE 3: 1.0m
  6. P.F. OF LINE 4: 1.0m
  7. P.F. OF LINE 5: 1.0m
  8. P.F. OF LINE 6: 1.0m
  9. P.F. OF LINE 7: 1.0m
  10. P.F. OF LINE 8: 1.0m
  11. P.F. OF LINE 9: 1.0m
  12. P.F. OF LINE 10: 1.0m
  13. P.F. OF LINE 11: 1.0m
  14. P.F. OF LINE 12: 1.0m
  15. P.F. OF LINE 13: 1.0m
  16. P.F. OF LINE 14: 1.0m
  17. P.F. OF LINE 15: 1.0m
  18. P.F. OF LINE 16: 1.0m
  19. P.F. OF LINE 17: 1.0m
  20. P.F. OF LINE 18: 1.0m
  21. P.F. OF LINE 19: 1.0m
  22. P.F. OF LINE 20: 1.0m

**ADDITIONAL NOTES:**

- A. ALL DIMENSIONS ALLOWED TO VARY WITHIN THE TOLERANCES SPECIFIED IN THE DRAWINGS.
- B. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
- C. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
- D. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
- E. PROJECTIONS: 100:1 - 1:1

**ABBREVIATIONS:**

- NEL: NATURAL GROUND LEVEL
- HO: HORIZONTAL DISTANCE
- VER: VERTICAL DISTANCE
- HT: HORIZONTAL DISTANCE
- VT: VERTICAL DISTANCE
- HT: HORIZONTAL DISTANCE
- VT: VERTICAL DISTANCE
- HT: HORIZONTAL DISTANCE
- VT: VERTICAL DISTANCE
- HT: HORIZONTAL DISTANCE
- VT: VERTICAL DISTANCE

THE PROJECT IS THE PROPERTY OF THE WESTERN CAPE GOVERNMENT

<p><b>FOR DISCUSSION</b></p> <p>OPERA DAM</p>		<p>DATE: 15/08/2018</p> <p>SCALE: 1:1000</p>	<p>PROJECT NO: 1001-1001-1001</p> <p>PROJECT NAME: OPERA DAM</p>	<p>CLIENT: J. HUBER</p> <p>DESIGNER: J. HUBER</p>	<p>DATE: 15/08/2018</p> <p>SCALE: 1:1000</p>
<p><b>NOTES:</b></p>		<p><b>DI HAGEN</b></p> <p>CONSULTANTS</p> <p>1001-1001-1001-1001</p> <p>1001-1001-1001-1001</p>		<p><b>NONVIA: PROPOSED ENLARGEMENT OF ONDER DAM</b></p> <p>PLAN LAYOUT OF EMBANKMENT</p>	

## 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 15 August 2022 the EMPr and MMP submitted together with final BAR dated 19 September 2022.
- 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 19 September 2022; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

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;
- the placing of a newspaper advertisement in the 'Worcester Standard' on 9 June 2022;
- fixing notice boards at the site where the listed activities are to be undertaken and public areas on 9 June 2022;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities on 9 June 2022;
- circulating of the pre-application draft BAR to I&AP's from 9 June 2022; and
- circulating the in-process draft BAR to I&APs from 15 August 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.

Specific alternatives, management and mitigation measures have been considered in this Environmental Authorisation, and EMPr to adequately address the concerns raised.

## 2. Alternatives

The option of expanding the existing Onder Dam on Portion 5 of Farm No. 342 in Worcester, is the preferred property and site alternative as it is the most viable option from a water, environmental, farming and engineering perspective. An alternative was to merge two existing dams (Ou Dam and Nuwe Dam) on the same property, north of the Nuy Road. This alternative was however discarded since insufficient space is available to enlarge the two existing dams due to its close proximity to the existing downstream road (Nuy / De Wet Road). In addition, this option would require the relocation of existing dwellings further upstream of the dams.

Four layout alternatives were considered by the project engineers for expanding the existing dam. The Aquatic Biodiversity Assessment dated June 2021, undertaken by Toni Belcher, as well as the Botanical Impact Assessment for new areas of cultivation on the property (Johlene Krige, 2014) also informed the dam design alternatives in terms of minimising the potential biophysical impacts and the provision of the 50m wide ecological corridor to the east of the proposed dam, as required in terms of the S24G EA for the cultivation areas. Layout Options 1,2 and 3 were discarded because it did not meet the required storage capacity and/or accommodate the 50m wide ecological corridor. Preferred Alternative 1 (Layout Option 4) will provide the required dam storage capacity, has the lowest biophysical impact on the receiving environment and makes adequate provision for the prescribed ecological corridor.

### Preferred Alternative 1 - Layout Option 4 (Herewith authorised)

The proposed development entails the following:

- Enlargement of the existing Onder Dam from a 12 400 m<sup>3</sup> to 84 000 m<sup>3</sup> storage capacity, with a dam wall of 9.8 m high.
- The full supply surface area will be approximately 1.6 ha and the development footprint of the expanded dam will be approximately 3 ha.
- A new 200 mm diameter outlet pipe of approximately 55 m long will be constructed from the dam and will be encased in reinforced concrete.

### Alternative 2 (Layout Option 1)

This alternative was discarded because the storage capacity (116 290 m<sup>3</sup>) was higher than the storage capacity needed to meet the current irrigation water demands and the development footprint encroached into the mapped Critical Biodiversity Area ("CBA") and the 50m wide ecological corridor to the east of the site that is a condition of the S24G EA issued for the cultivation of the farm.

### Alternative 3 (Layout Option 2)

This alternative provides the required storage capacity (84 000m<sup>3</sup>) but was discarded as it would be located entirely within the mapped CBA.

### Alternative 4 (Layout Option 3)

This alternative was the most economical dam option with a water/wall ratio of 2.68 and a storage capacity of 84 000 m<sup>3</sup> but was discarded since it did not allow for the required 50m wide ecological corridor and mapped CBA to the east of the development site.

### "No-Go" Alternative

The no-go alternative was considered. However, it was not preferred since the proposed dam enlargement and all of the associated activities, would not take place. This is not desirable from a socio-economic and viability point of view as the landowner needs to store more of his enlisted water to sustain the approved cultivation.



### 3. Impact Assessment and Mitigation measures

#### 3.1 Activity need and desirability

The proposed development entails the expansion of an existing farm dam for irrigation purposes, on land zoned for agricultural use. It is therefore allowed in terms of the land use rights of the property. The applicant wishes to increase his storage capacity on the farm to 60% of his existing lawful enlistment under the Worcester East Water User Association, which will improve the viability and economic value of the farm. In addition, the proposed development will contribute to the economic development of the area and is therefore in line with the forward planning policies for the area. Expansion of the existing dam limits the biophysical impacts associated with the proposal and the expanded dam will be filled with water from an existing lawful water use. The specialist studies conducted during the EIA process and input obtained during the public participation process further informed the preferred layout to prevent and minimise the potential impacts associated with the proposed development.

#### 3.2 Biophysical Impacts

Historically, the site contained Breede Alluvium Renosterveld vegetation, which is classified as endangered. The site has been largely modified due to intensive agriculture and limited indigenous vegetation remains within the development footprint. A Terrestrial Biodiversity and Plant Species Assessment was not regarded necessary as part of this application since the proposed enlarged dam footprint falls within an area previously assessed by a botanical specialist and received a S24G EA on 3 March 2017. The EA is still valid and was amended on 19 July 2022 to exclude the dam footprint to allow for the expansion of the dam under this application. The botanical specialist, Johlene Krige, who previously conducted the botanical study in 2014 on the site as part of the S24G application, confirmed that the proposed enlargement of the dam does not require additional botanical specialist input since the area was already assessed and approved for cultivation and the proposed dam enlargement does not change the assessed impact.

The area consists of several southward-flowing tributaries of the Breede River, east of the town of Worcester. The Nonna and Nuy Rivers, to the east of the site, are larger tributaries in the area, where the Nonna River is a tributary of the Nuy River. The site itself consists of a mix of cultivated and natural areas with only a minor tributary of the Nuy River draining as two channels into the Onder Dam. Very little of the watercourse channel and associated vegetation is visible downstream of the dam. Due to the very dry conditions associated with the watercourse and dam, limited wetland habitat exists within the Onder Dam basin. However, the vegetation immediately upstream of the dam is still largely in a natural condition and comprises mainly terrestrial vegetation. The recommended ecological category that the remaining watercourse at the site should be maintained in is C/D (moderately to largely modified).

Based on the findings of the Aquatic Biodiversity Assessment dated June 2021, conducted by Ms. Toni Belcher, with mitigation, the enlargement of Onder Dam and the associated works will have a potential negative impact of very low significance during construction and a low positive impact during operation. The recommended mitigation measures informed the preferred dam layout and have been incorporated into the EMPr accepted with this EA. With sufficient rehabilitation, the proposal would be an improvement on the current situation where the existing Onder Dam is a barrier within the ecological corridor and to the watercourse that will be incorporated into the corridor.

A Water Use Licence Application ("WULA") in terms of the National Water Act, 1998 (Act 38 of 1998) was also submitted to the BGCMA, who will further consider the watercourse related impacts. The WULA does

not include an application for additional water use rights since the proposed expanded dam will be filled from the applicant's existing lawful water use rights.

Furthermore, a MMP has also been compiled to address routine maintenance activities taking place in the affected stretch of the watercourses. The maintenance of the structures authorised in this Environmental Authorisation forms part of this MMP. 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 adopted 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)

**Negative Impacts:**

- The proposed development will have a limited negative biophysical impact during the construction phase. The impacts will however be mitigated to a satisfactory level with the implementation of the preferred alternative and adherence to the EMPr.

**Positive impacts:**

- Increasing the existing dam's capacity holds a positive socio-economic contribution for the farming operation as it will create the opportunity to store more water for summer irrigation.
- Employment 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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