



Directorate: Development Management, Region 1 Ndivhuho.Mudau@westerncape.gov.za | Tel: 021 483 2881

**EIA REFERENCE:** 16/3/3/1/B5/11/1011/22 **NEAS REFERENCE:** WCP/EIA/0001060/2022 **DATE OF ISSUE:** 04 November 2022

The Board of Directors Verdun Farming Estates (Pty) Ltd. P. O. Box 38 **Prince Alfred Hamlet** 6840

Attention: Mr. Peter Wolfaardt

Dear Sir

Cell: 083 956 9070

E-mail: <u>peter@verdun.co.za</u>

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 PROPOSED DECOMMISSIONING OF AN EXISTING DAM AND THE CONSOLIDATION OF TWO EXISTING DAMS ON PORTION 44 AND 57 OF FARM NO. 372, PRINCE ALFRED HAMLET.

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

Yours faithfully

MR. ZAAHIR TOEFY

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)** 

Copies to: Mr. J. Barnard (Witzenberg Municipality)
Ms. T. Oberholzer (Groenberg Enviro)

E-mail: <u>joseph@witzenberg.gov.za</u>
E-mail: <u>therina@groenbergenviro.co.za</u>



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#### **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 PROPOSED DECOMMISSIONING OF AN EXISTING DAM AND THE CONSOLIDATION OF TWO EXISTING DAMS ON PORTION 44 AND 57 OF FARM NO. 372, PRINCE ALFRED HAMLET.

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 as described in the Basic Assessment Report ("BAR"), received on 21 July 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

The Board of Directors
Verdun Farming Estates (Pty) Ltd.
P. O. Box 38
Prince Alfred Hamlet
6840

Cell: 083 956 9070

E-mail: <u>peter@verdun.co.za</u>

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

# **B.** LISTED ACTIVITIES AUTHORISED

Listed Activities	Project Description
Listing Notice 1 Activity Number: 27 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—  (i) the undertaking of a linear activity; or  (ii) maintenance purposes undertaken in accordance with a	More than 1ha of indigenous vegetation will be cleared.
maintenance management plan.  Listing Notice 1  Activity Number: 31  The decommissioning of existing facilities, structures or infrastructure for—  (i) any development and related operation activity or activities	The proposed development will include the decommissioning of a dam with a storage capacity of 250 000m³.
<ul> <li>listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;</li> <li>(ii) any expansion and related operation activity or activities listed in this Notice, Listing Notice 2 of 2014 or Listing Notice 3 of 2014;</li> <li>(iii)</li></ul>	
listed in this Notice or Listing Notice 3 of 2014; or  (v) any activity regardless the time the activity was commenced with, where such activity:  (a) is similarly listed to an activity in (i) or (ii) above; and  (b) is still in operation or development is still in progress;	
excluding where—  (aa) activity 22 of this notice applies; or  (bb) the decommissioning is covered by part 8 of the National  Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management:  Waste Act, 2008 applies.	
Listing Notice 1  Activity Number: 66  The expansion of a dam where—  (i) the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, was originally 5 metres or higher and where the height of the wall is increased by 2,5 metres or more; or  (ii) where the high-water mark of the dam will be increased with 10 hectares or more.	The wall height of the dam will be increased by more than 2,5 metres.

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

The holder is herein authorised to undertake the following alternative as it relates to the listed activities:

The proposed development will entail the decommissioning of a dam and the expansion of two existing dams to function as one off-stream dam on Portions 44 and 57 of the Farm No. 372, Prince Alfred Hamlet.

The expanded dam will have a wall height of approximately 18m, a crest length of 1160m, a water surface area at full supply level of 16ha and a maximum storage capacity of approximately 641 000m<sup>3</sup>. The decommissioning of the existing dam will take place once the new expanded dam is in operation and the water from the existing dam has been transferred to the new expanded dam.

The footprint of the proposed development will be approximately 18ha. Existing access is available to the proposed site.

#### C. SITE DESCRIPTION AND LOCATION

The authorised listed activities will be undertaken on Portions 44 and 57 of Farm No. 372, Prince Alfred Hamlet and has the following co-ordinates:

Latitude (S)	33°	17'	31.78"
Longitude (E)	19°	18'	49.85"

The SG digit code: C0190000000037200044

C0190000000037200057

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

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

## D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Ms. Therina Oberholzer GroenbergEnviro (Pty) Ltd P. O. Box 1058

WELLINGTON

7654

Cell: 072 089 5750

Email: therina@groenbergenviro.co.za

## 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 described in the BAR received on 21 July 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 (5) 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.
- The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
- 4. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

## Written notice to the Competent Authority

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

Conditions: 6, 7, 10 and 17.

## Notification and administration of appeal

- 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 detailed in Section F 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. telephone and fax details of the holder,
  - 6.4.5. e-mail address, if any, of the holder,
  - 6.4.6. the contact details (postal and/or physical address, contact number, facsimile and email 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.
- 7. The listed activities, including site preparation, may not commence within **20 (twenty**) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

## Management of activity

- 8. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
- 9. The EMPr must be included in all contract documentation for all phases of implementation.

## Monitoring

- 10. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of the proposed development to ensure compliance with the provisions of the EMPr, and the conditions contained herein. The ECO must conduct site visits once a month and must submit ECO reports on a monthly basis to the competent authority for the duration of the construction phase.
- 11. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activity, and must be made available to anyone on request, including a publicly accessible website.
- 12. Access to the site referred to in Section C above must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

## **Auditing**

13. In terms of Regulation 34 of the NEMA EIA Regulations, 2014, the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation as well as the content of the EMPr and must submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Reports must be prepared by an independent person, that is not the ECO referred

to in Condition 10 above and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014.

The Audit Reports must be compiled and subsequently submitted to the Department in the following manner:

- 13.1. The holder must undertake an environmental audit and submit an Environmental Audit Report to the Competent Authority within three (3) months of commencement of construction activities.
- 13.2. A final Environmental Audit Report must be submitted within three months after the development is completed.

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**

- 14. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.
  - Heritage remains include meteorites, archaeological and/or palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.
- 15. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under directive from the relevant heritage resources authority.
- 16. An integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a landfill licensed in terms of the applicable legislation.
- 17. The development areas must be clearly demarcated prior to the commencement of the proposed development. All areas outside the demarcated areas must be regarded as "no-go" areas.

## 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 the 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 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 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.

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

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning

Private Bag X9186

**CAPE TOWN** 

8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)

Room 809, 8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

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

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

#### 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: 04 NOVEMBER 2022** 

Copies to: Mr. J. Barnard (Witzenberg Municipality)
Ms. T. Oberholzer (Groenberg Enviro)

E-mail: joseph@witzenberg.gov.za E-mail: therina@groenbergenviro.co.za

## **ANNEXURE 1: LOCALITY MAP**



Figure 1: Proposed location.

## **ANNEXURE 2: SITE PLAN**

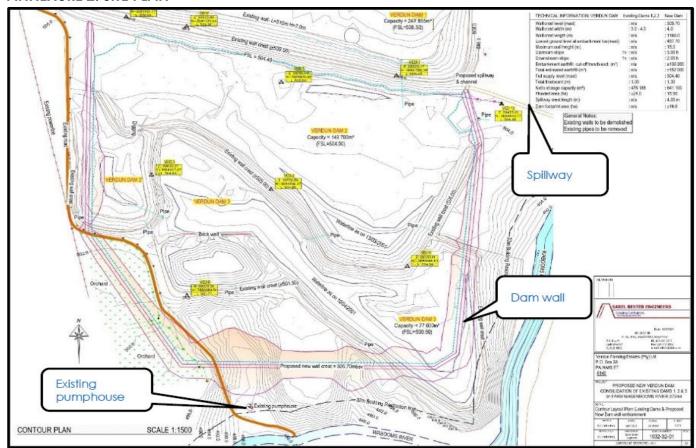


Figure 2: Proposed site plan.

#### **ANNEXURE 3: REASONS FOR THE DECISION**

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

- a) The information contained in the Application Form received by the Department on 16 March 2022 and the EMPr submitted together with the Basic Assessment Report on 21 July 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 Basic Assessment Report received on 21 July 2022; and
- The balancing of negative and positive impacts and proposed mitigation measures.

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

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 the most significant for the decision is set out below.

### 1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- fixing a notice board at the site where the listed activities are to be undertaken;
- the placing of a newspaper advertisement in the local newspaper, the "Witzenberg Herald" on 25 February 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 councilor, and the various Organs of
  State having jurisdiction in respect of any aspect of the listed activities;
- making the pre-application draft BAR available to I&APs for comment from 25 February to 28 March 2022); and
- making the post application draft BAR available to I&AP's for comment from 16 March 2022 to 18 April 2022 and from 11 June to 12 July 2022.

The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements and that 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

Two dam design alternatives were identified and investigated.

## Dam Design Alternative A

Wall height 7.4m
Crest length 900m
Storage capacity 332 500m³
Full supply level 10ha

## Dam Design Alternative B: Preferred alternative – (Herewith authorised)

Wall height 18m
Crest length 1160m
Storage capacity 641 000m³
Full supply level 16ha

Dam design Alternative B was preferred for the following reasons:

- It is the best overall option when taking into consideration cost, the environment, space used and the available infrastructure.
- The proposed expansion will be easily accessible via the existing roads. The existing access and infrastructure (roads) will be utilised for the project, keeping project costs low.
- Dam Design Alternative B would consolidate the storage capacities of all three existing dams, making the area of the existing Dam 1 available for future developments/use once it has been demolished.

## Preferred alternative (herewith authorised)

The preferred alternative will entail the decommissioning of a dam and the expansion of two existing dams to function as one off-stream dam on Portions 44 and 57 of Farm No. 372, Prince Alfred Hamlet.

The expanded dam will have a wall height of approximately 18m, a crest length of 1160m, a water surface area at full supply level of 16ha and a maximum storage capacity of approximately 641 000m<sup>3</sup>. The decommissioning of the existing dam will take place once the new expanded dam is in operation and the water from the existing dam has been transferred to the new expanded dam.

The footprint of the proposed development will be approximately 18ha. Existing access is available to the proposed site.

#### The "No-Go" Alternative

The "No-Go" option of not proceeding with the enlargement of the dam was not preferred as it would not meet the increased demand for sufficient water supply, will not increase the financial viability of the farm and will not ensure employment security.

# 3. Impact Assessment and Mitigation measures

### 3.1. Activity needs and desirability

The proposed property is zoned Agriculture, and the proposed activity is therefore in line with the land use planning rights of the property. The proposed dam will allow the applicant to increase the financial viability of the farm, ensure employment security and sufficient water storage and supply for irrigation. Furthermore, the dam will store water in accordance with the existing lawful water use rights.

### 3.2. Biophysical impacts

According to the Botanical Statement (dated 28 March 2022, complied by Johlene Krige), the vegetation occurring on the site is Ceres Shale Renosterveld, which is classified as a vulnerable ecosystem in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEM:BA"), List of Threatened Ecosystems in Need of Protection of December 2011. The Botanical specialist further states that none of the medium sensitive plant species listed in the screening report or species of conservation concern were recorded on the proposed site. The specialist report further indicates that the natural plant diversity is very low and not representative of the original ecosystem on site. As such, the proposed development will not have any significant impact on terrestrial vegetation and habitat.

According to the Freshwater Statement (dated 10 December 2021, complied by Everwater Freshwater Consulting Services), the Waboomsrivier stream runs along the dam walls. However, no development or expansion will occur within 32m of this watercourse. The specialist further states that the Waboomsrivier stream has been modified from its original state and is expected that the proposed development will have a low negative impact on the stream.

## 3.3. Impact on Heritage Resources

Heritage Western Cape confirmed in correspondence dated 22 February 2022, that no further action under Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) is required. Additionally, the applicant will comply with Conditions 14 and 15 of this Environmental Authorisation. This will help to ensure the protection of any heritage resources that may be encountered on the site.

The development will result in both negative and positive impacts.

## **Negative Impacts:**

Loss of natural vegetation.

## Positive impacts:

- The creation of temporary employment opportunities during the construction phase and permanent employment during the operational phase;
- The proposed expanded dam will secure a water resource for irrigation for the farm; and
- The proposed development will increase the economic viability of the farm and secure continued income.

## 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.

