



EIA REFERENCE: 16/3/3/1/B5/2/1007/22
NEAS REFERENCE: WCP/EIA/0001048/2022
DATE OF ISSUE: 10 August 2022

The Director
Witzenberg Properties (Pty) Ltd.
P. O. Box 120
CERES
6845

Attention: Mr. N. Verhoef

Tel: 023 316 1915
E-mail: nico@witzen.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 REGULATIONS, 2014, (AS AMENDED): THE PROPOSED CLEARANCE OF INDIGENOUS VEGETATION FOR CULTIVATION ACTIVITIES AND ASSOCIATED INFRASTRUCTURE ON THE FARM WELGEGUND NO. 474, CERES.

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)

CC: (1). Mr. R. Holland (Holland and Associates Environmental Consultants)
(2). Mr. J. Barnard (Witzenberg Municipality)
(3). Ms. E. Rossouw (BGCMA)

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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 CLEARANCE OF INDIGENOUS VEGETATION FOR CULTIVATION ACTIVITIES AND ASSOCIATED INFRASTRUCTURE ON THE FARM WELGEGUND NO. 474, CERES.

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 activity specified in section B below with respect to the Preferred alternative as described in the Basic Assessment Report ("BAR"), received on 25 April 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 Director
Witzenberg Properties (Pty) Ltd.
P. O. Box 120
CERES
6845
Tel: 023 316 1915
E-mail: nico@witzen.co.za

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

B. LISTED ACTIVITY AUTHORISED

Listed Activity	Project Description
Listing Notice 1 Activity Number: 27 <i>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> <i>(i) the undertaking of a linear activity; or</i> <i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i>	The proposed development entails the clearance of 14.4 ha of indigenous vegetation.

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

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

The proposed development will entail the clearance of approximately 14.4ha of indigenous vegetation for the cultivation of cherries on the Farm Welgegund No. 474, Ceres. The footprint of the proposed expansion will be approximately 15.1 ha and will include internal roads which will be less than 4m wide.

C. SITE DESCRIPTION AND LOCATION

The authorised listed activity will be undertaken on the Farm Welgegund No. 474, Ceres and has the following co-ordinates:

Latitude (S)	33°	23'	13.43"
Longitude (E)	19°	29'	17.82"

The SG digit code: C01900000000047400000

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

c/o Mr. R. Holland
Holland & Associates Environmental Consultants
P. O. Box 31108
TOKAI
7690

Cell: 072 601 0803

Email: ross@hollandandassociates.net

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activity specified in Section B above in accordance with and restricted to the preferred Alternative described in the BAR received on 25 April 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.
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
 4. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Written notice to the Competent Authority

5. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.
 - 5.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 5.2. The notice must also include proof of compliance with the following conditions described herein:
Conditions: 6, 7, 10 and 18

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 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. telephonic 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 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.
7. The listed activity, 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 expansion to ensure compliance with the provisions of the EMPr, and the conditions contained herein. The ECO must conduct site visits as prescribed in the EMPr.
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. The ECO must submit ECO reports on a quarterly basis for the duration of the proposed activity.
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, the EMPr and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Report must be prepared by an independent person, that is not the ECO referred to in Condition 11 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. An audit report must be submitted to the Competent Authority within six (6) months of the commencement of the clearance of vegetation; and
- 13.2. A final audit report must be submitted within three (3) months of the completion of the proposed activity.

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

Specific Conditions

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

Heritage remains include: meteorites, archaeological and/or palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

15. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
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. All noise and sounds generated during the proposed agricultural expansion must comply with the relevant SANS codes and standards and the relevant noise regulations.

18. The proposed expansion footprint must be clearly demarcated prior to the commencement of the clearance of indigenous vegetation. All areas outside the expansion footprint must be demarcated 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 activity.
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 activity within the period referred to in Condition 2, this Environmental Authorisation shall lapse for the activity, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 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 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: 10 AUGUST 2022

CC: (1). Mr. R. Holland (Holland and Associates Environmental Consultants)
(2). Mr. J. Barnard (Witzenberg Municipality)
(3). Ms. E. Rossouw (BGCMA)

Email: ross@hollandandassociates.net

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Email: erossouw@bgcma.co.za

ANNEXURE 1: LOCALITY MAP

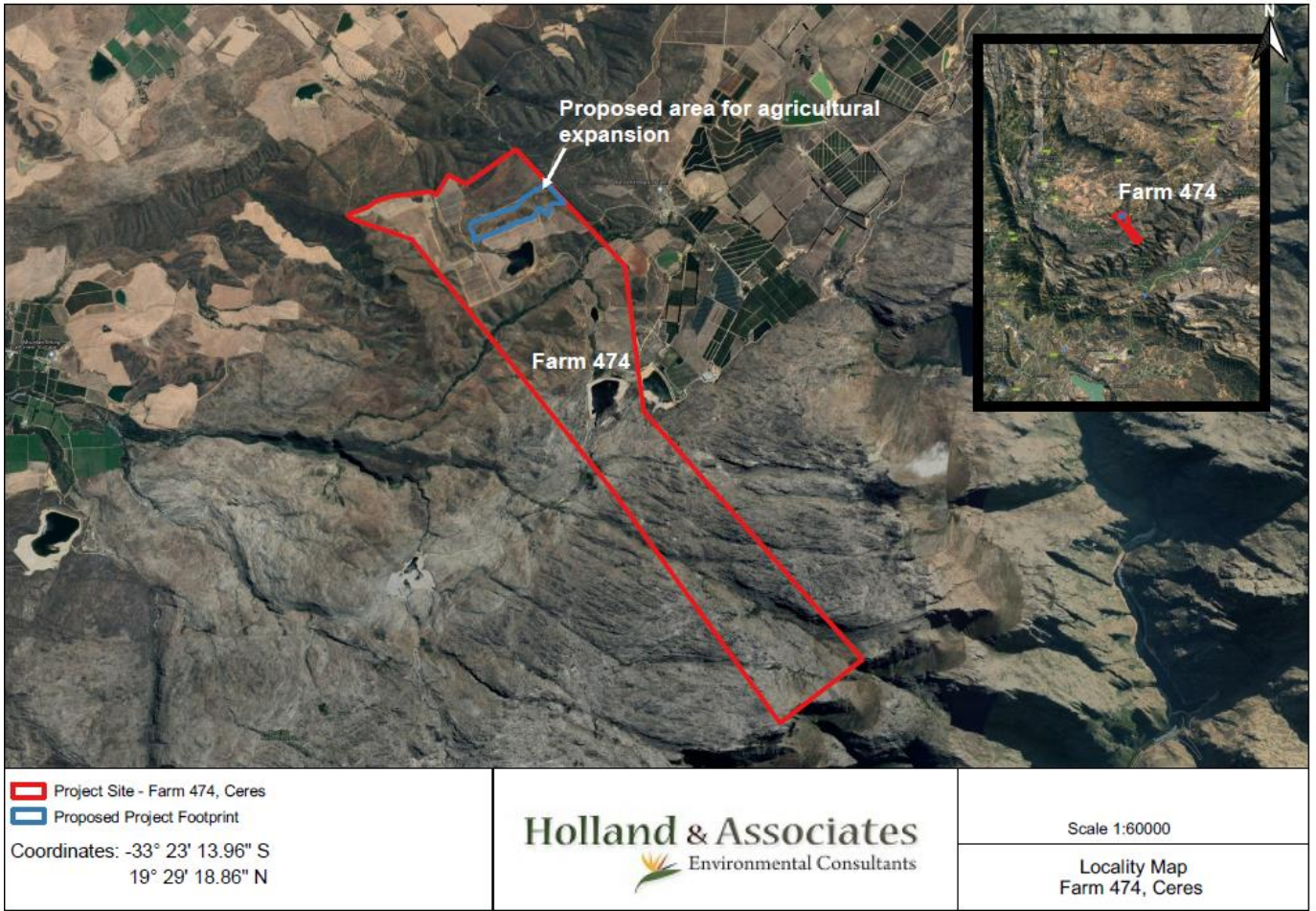


Figure 1: Location of on Farm 474, Ceres

ANNEXURE 2: SITE PLAN

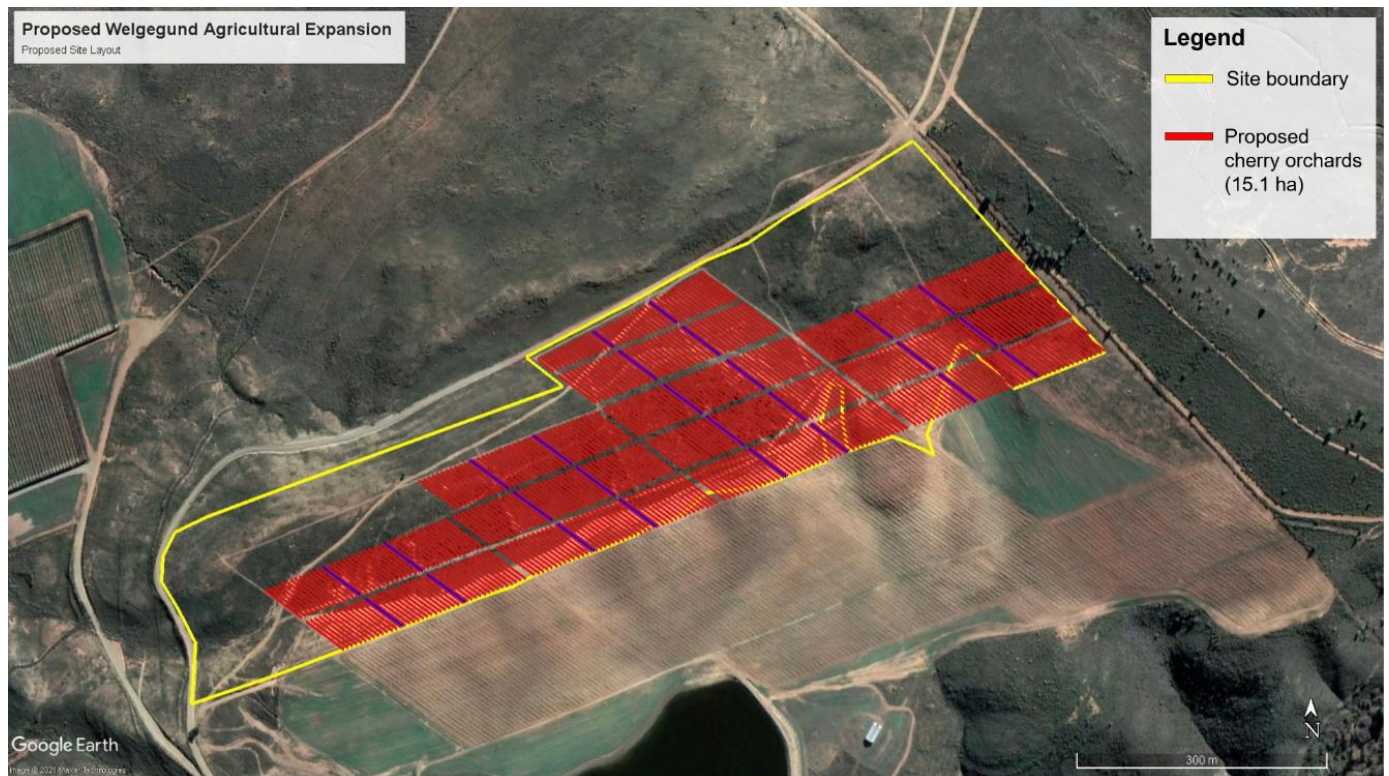


Figure 2: Proposed site plan

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 1 March 2022 and the EMPr submitted together with the Basic Assessment Report on 25 April 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 25 April 2022; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

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

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 activity is to be undertaken were placed at the site entrance from 5 November 2021;
- the placing of a newspaper advertisement in the “*Witzenberg Herald*” on 5 November 2021;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activity is to be undertaken, the municipality and ward councilor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activity, on 5 November 2021;
- making the pre-application draft BAR available to I&APs for comment from 5 November 2021 to 6 December 2021; and
- making the draft BAR available to I&AP's for comment from 1 March 2022 to 4 April 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

Layout Alternatives

The 20,6ha area that was initially identified for potential agricultural expansion, was assessed by various specialists. Inputs from the specialists were used to conduct a constraints mapping exercise, which resulted in all areas deemed by the specialists as unsuitable for development, being removed from the proposal, or protected by buffer areas (where applicable). Subsequently, the applicant identified new potential agricultural expansion areas, which were then also assessed by the specialists. A total area of 22,4ha was assessed, whereafter all areas deemed as unsuitable for cultivation were once again removed from the proposal. The final proposed development footprint of 15,1ha was determined through an iterative process, informed by the site sensitivities identified by the various specialists and the Environmental Assessment Practitioner. The proposed development footprint includes a small area of existing agricultural land and associated farm tracks. A total area of 14,4ha of indigenous vegetation will be cleared for the proposed agricultural expansion.

Activity alternatives

The cultivation of apples was initially considered by the applicant. However, the comment from the BGCMA indicated that the lawful water use for the property is insufficient for the total crop requirement. Since the soil is also suitable for the cultivation of cherries, the proposed activity was changed to the cultivation of cherries (preferred alternative-herewith authorised). This alternative was preferred as sufficient water is available for the cultivation of cherries.

The preferred alternative (herewith authorised)

This alternative entails the clearance of approximately 14.4ha of indigenous vegetation for the cultivation of cherries on the Farm Welgegund No. 474, Ceres. The footprint of the proposed expansion will be approximately 15.1 ha and will include internal roads which will be less than 4m wide.

The “No-Go” Alternative

The “No-Go” option of not proceeding with the proposed expansion is not preferred, as the opportunity of increasing the economic viability of the farm will be lost.

3. Impact Assessment and Mitigation measures

3.1. Activity need and desirability

The proposed site is zoned as Agriculture and the proposed expansion of agricultural activities are in line with the existing land use rights. The proposed expansion will increase the economic viability of the farm and secure continued income. Furthermore, the proposed expansion will secure the jobs of the existing employees and is anticipated to generate up to 51 additional long-term jobs for the operation and maintenance of the additional cultivation areas. The proposed expansion will utilise water from existing allocations and will therefore not require any additional water rights.

3.2. Biophysical impacts

According to the Botanical Impact Assessment (dated April 2021 and compiled by Capensis), the vegetation type that occurs on the proposed site is mapped as Kouebokkeveld Shale Fynbos which is classified as a vulnerable ecosystem in terms of the National Environmental Management: Biodiversity Act, (Act 10 of 2004) (“NEM:BA”), List of Threatened Ecosystems in Need of Protection, December 2011. The proposed site has been mapped as Ecological Support Area and two species of conservation concern (“SCC”) are located on the proposed site. One of the areas that contains the SCC will be excluded from the proposed expansion. Furthermore, the specialist identified the areas where the proposed expansion will occur as being of Low and Medium sensitivity as they represent mostly degraded and some semi-intact vegetation. The botanical specialist further recommended that the development is acceptable from a botanical perspective provided that the essential mitigation is undertaken.

According to the Freshwater Impact Statement (dated July 2021 and compiled by BlueScience), there are watercourses located adjacent to the site, but none are located on the proposed site. No impacts on watercourses are expected as a result of the proposed development.

3.3. Impact on Heritage Resources

Heritage Western Cape confirmed in correspondence dated 14 June 2022 that no further action in terms of 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 indigenous vegetation; and
- Noise and dust disturbance is likely to occur during the clearing and planting of the agricultural area.

Positive impacts:

- Job security for existing employees;
- Creation of additional permanent employment opportunities; 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 activity 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 activity can be mitigated to acceptable levels.

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