



**EIA REFERENCE:** 16/3/3/1/B2/32/1087/19

**NEAS REFERENCE:** WCP/EIA/0000715/2019

**DATE OF ISSUE:** **07 JULY 2020**

## **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 EXPANSION OF THE HEX BERRIES STORAGE DAM ON THE REMAINDER OF PORTION 12 OF FARM UITVLUGT NO. 310, 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 activity specified in Section B below with respect to Location Alternative 2 and Design Alternative 3 described in the Basic Assessment Report ("BAR"), dated 25 February 2020.

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**

Hex Berries (Pty) Ltd  
% Mr. Pieter van Schalkwyk  
Private Bag 3036  
PAARL  
7620

Cell: 084 588 8677

Email: [pieter.vanschalkwyk@ozblu.com](mailto:pieter.vanschalkwyk@ozblu.com)

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

## B. LISTED ACTIVITY AUTHORISED

Listed activity	Activity/Project Description
<p><b>EIA Regulations Listing Notice 1 of 2014:</b>  <b>Activity 50 of Listing Notice 1:</b>  <i>"The expansion of facilities or infrastructure for the off-stream storage of water, including dams and reservoirs, where the combined capacity will be increased by 50000 cubic metres or more."</i></p>	<p>The development entails the expansion of an off-stream dam from 3000m<sup>3</sup> to 250 000m<sup>3</sup>.</p>

The abovementioned is hereinafter referred to as "**the listed activity**".

The holder is herein authorised to undertake the following alternative:

The expansion of the existing Hex Berries dam located on Part B of the Remainder of Portion 12 of Farm Uitvlugt No. 310, Worcester, with the following dam specifications:

- a storage capacity of 250 000m<sup>3</sup>;
- wall height of 9.2m; and
- a surface area at full supply level of approximately 5.6ha.

The dam will be lined with clay and all the material for the expansion of the dam will be sourced from the proposed basin area.

The proposal also includes the following:

- a new rising main pipeline with a diameter of 315mm and a length of approximately 500m which will connect the dam to the existing diversion structure/weir. The pipeline will follow the route of the existing road; and
- a new outlet connection at the deep end of the proposed enlarged dam. A new water pipeline with a diameter of 315mm and approximate length of 300m to be installed in the same trench as the proposed rising main pipeline.

## C. SITE DESCRIPTION AND LOCATION

The listed activity will take place on Part B of the Remainder of Portion 12 of Farm Uitvlugt No. 310, Worcester.

The co-ordinates for the proposed enlarged dam:

	Latitude	Longitude
Point A	33° 37' 01.96" S	19° 29' 33.06" E
Point B	33° 37' 06.15" S	19° 29' 36.61" E
Point C	33° 37' 09.16" S	19° 29' 41.30" E
Point D	33° 37' 07.73" S	19° 29' 45.70" E

The co-ordinates for the rising main pipeline:

	Latitude	Longitude
Point A	33° 37' 09.82" S	19° 30' 02.04" E
Point B	33° 37' 12.95" S	19° 29' 53.57" E
Point C	33° 37' 07.54" S	19° 29' 47.61" E
Point D	33° 37' 06.45" S	19° 29' 46.21" E

The co-ordinates for the water pipeline:

	<b>Latitude</b>	<b>Longitude</b>
Point A	33° 37' 07.54" S	19° 29' 47.61" E
Point B	33° 37' 06.45" S	19° 29' 46.21" E

The SG digit code is: C08500000000031000012

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

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

#### **D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER**

Cederberg Environmental Assessment Practice (Pty) Ltd  
% Ms. Susan de Kock  
P. O. Box 1593  
**UPINGTON**  
8800

Cell: 082 679 6780

E-mail: susandkn@telkomsa.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, Location Alternative 2 and Design Alternative 3, as described in the BAR dated 25 February 2020 at the site as described in Section C above.
2. The holder must commence with the listed activity on site within a period of **five (5) years** from the date of issue of this Environmental Authorisation.
3. The development must be concluded within **10 years** from the date of commencement of the first listed activity.
4. 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.
5. 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**

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities. The notice must:
  - 6.1 make clear reference to the site details and EIA Reference number given above; and

6.2 include proof of compliance with the following conditions described herein:

Conditions: 7, 8 and 12

### **Notification and administration of appeal**

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
  - 7.1 notify all registered Interested and Affected Parties ("I&APs") of –
    - 7.1.1 the outcome of the application;
    - 7.1.2 the reasons for the decision as included in Annexure 3;
    - 7.1.3 the date of the decision; and
    - 7.1.4 the date when the decision was issued.
  - 7.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 (as amended) detailed in Section G below;
  - 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
  - 7.4 provide the registered I&APs with:
    - 7.4.1 the name of the holder (entity) of this Environmental Authorisation;
    - 7.4.2 name of the responsible person for this Environmental Authorisation;
    - 7.4.3 postal address of the holder;
    - 7.4.4 telephonic and fax details of the holder;
    - 7.4.5 e-mail address, if any, of the holder; and
    - 7.4.6 contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
8. The listed activity, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notifies 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 activity, including site preparation, must not commence until the appeal is decided.

### **Management of activity**

9. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation, is hereby approved and 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"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the provisions of the EMPr and the conditions contained herein. The ECO must conduct compliance monitoring as described in the EMPr (accepted as per Condition 9 of this EA) and compile the associated compliance monitoring reports, accordingly.

12. The ECO must conduct fortnightly compliance monitoring inspections during the construction phase. Monthly Environmental Compliance Reports must be compiled and quarterly Environmental Compliance Reports must be submitted to the Competent Authority for the duration of the construction phase. The final Environmental Compliance Report must be submitted to the Competent Authority within six months after construction has been complete.
13. 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 on 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 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 at the completion of the construction phase of the development and submit the Environmental Audit Report to the Competent Authority within three months after operation commenced.

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 paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; 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.

## 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 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 3721)  
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.

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



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**MR. ZAAHIR TOEFY**  
**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**  
**DATE OF DECISION: 07 JULY 2020**

CC: (1) Ms. S. de Kock (CEAP) E-mail: susandkn@telkomsa.net  
(2) Mr. P. Hartzenberg/ Mr. J. Steyn (Breede Valley Municipality) E-mail: jsteyn@bvm.gov.za  
(3) Ms. E. Rossouw (Breede- Gouritz Catchment Management Agency) E-mail: erossouw@bgcma.co.za  
(4) Ms. P. Huntly (CapeNature) E-mail: phuntly@capenature.co.za  
(5) Mr. C. van der Walt (WCG: Department of Agriculture) E-mail: corvdw@elsenburg.com



# ANNEXURE 1: LOCALITY MAP





## ANNEXURE 2: SITE DEVELOPMENT PLAN



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

In reaching its decision, the Competent Authority considered, amongst others, the following:

- a) The information contained in the Application Form dated 22 November 2019, the draft BAR dated 21 January 2020, the final BAR dated 25 February 2020 and the EMPr submitted together with the final BAR;
- 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 NEMA;
- d) The comments received from I&APs and responses to these, included in the BAR dated February 2020;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) The site visit that was undertaken by officials of this Department on 7 July 2020.

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

#### **1. Public Participation**

The public participation process included:

- identification of and engagement with I&APs;
- fixing notice boards at strategic locations where the listed activity is to be undertaken;
- the placing of a newspaper advertisement in the '*Worcester Standard*' on 21 November 2019;
- 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 councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activity, on 18 November 2019, 19 November 2019, 21 January 2020, 22 January 2020 and 27 January 2020;
- making the pre-application draft BAR available to I&APs for public review from 20 November 2019; and
- making the in-process draft BAR available to I&APs for public review from 24 January 2020.

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

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

#### **2. Alternatives**

The intention of the proposal is to increase the water storage capacity on the property to successfully cultivate blueberries. Three location alternatives and three design alternatives were considered and are discussed below:

Location Alternatives

The farm consists of three parts; Part A is 30.07ha, Part B is 23.97ha and Part C is 51.02ha in extent. Part A and Part B are located south of the N1 highway. A railway line divides Parts B and C which forms the southern boundary of Part B and the northern boundary of Part C.

- Location Alternative 1:

This alternative entails the enlargement of the existing Rainbow Dam on Part A of the Remainder of Portion 12 of Farm Uitvlugt No. 310, Worcester. This is not preferred as the proposed enlarged dam will extend beyond the property boundary.

- Location Alternative 2 (herewith approved):

This alternative entails the expansion of the existing Hex Berries dam on Part B of the Remainder of Portion 12 of Farm Uitvlugt No. 310, Worcester, with the following dam specifications:

- a storage capacity of 250 000m<sup>3</sup>;
- wall height of 9.2m; and
- a surface area at full supply level of approximately 5.6ha.

The proposed enlarged dam will be lined with clay and all the material for the dam will be sourced from the proposed basin area.

The proposal also includes the following:

- a new rising main pipeline with a diameter of 315mm and a length of approximately 500m which will connect the dam to the existing diversion structure/weir. The pipeline will follow the route of the existing road; and
- a new outlet connection at the deep end of the proposed enlarged dam. A new water pipeline with a diameter of 315mm and approximate length of 300m will be installed in the same trench as the proposed rising main pipeline.

This alternative is preferred for the following reasons:

- the dam specifications meet the storage capacity requirements for irrigation purposes;
- the footprint of the proposed enlarged dam will be on previously cultivated land; and
- the associated irrigation infrastructure will connect to existing points and the pipeline trenches will be underneath existing roads.

- Location Alternative 3:

This alternative entails the construction of a new dam on Part C of the Remainder of Portion 12 of Uitvlugt No. 310, Worcester. This alternative is not preferred as a large portion of the property is covered in netted blueberry plantations with the southwestern portion of the property containing undisturbed natural vegetation (Breede Alluvium Renosterveld).

Design Alternatives

All three design alternatives are located on the same site and entails the enlargement of the existing Hex Berries dam.

Dam Site	Dam Alternatives	Storage Capacity (m <sup>3</sup> )	Full Supply Level (m) (expected water level at height)	Surface Area at FSL (ha)	Wall Height (m)	Water/Wall Ratio	R/m <sup>3</sup>



			above sea level)				
Hex Berries Dam	Existing	3 000	295.5	0.1	1.0		
	Alternative 1	244 000	299.7	5.4	7.13	3.0	18.58
	Alternative 2	249 000	299.8	5.5	7.2	3.0	18.57
	<b>Alternative 3 (preferred)</b>	<b>250 000</b>	<b>299.7</b>	<b>5.6</b>	<b>9.2</b>	<b>2.7</b>	<b>29</b>

The specifications of each design alternative differ slightly, however, Design Alternative 3 is the most feasible and is preferred as it has a water/wall ratio of 2.7 compared to the water/wall ratio of 3 for Alternatives 1 and 2. In addition Design Alternative 3 will achieve the required storage capacity and prevent water losses due to being clay lined.

#### "No-Go" Alternative

The "no-go" alternative was considered and is not preferred as it would not allow the applicant to expand the blueberry production on the farm. The purpose of the proposal is to construct a water storage dam in order to receive winter rainfall. Without reliable water availability the production of blueberries on the farm would not be economically feasible.

### **3. Impact Assessment and Mitigation measures**

#### 3.1 Activity Need and Desirability

The expansion of the Hex Berries dam will increase the efficiency of water storage on the property and enhance the blueberry production on the farm. An application for the additional storage of water has been lodged with the Department of Water and Sanitation.

#### 3.2 Biodiversity and Biophysical Impacts

The site falls within an area that historically comprised of Breede Alluvium Renosterveld, an ecosystem classified as endangered in terms of Section 52 of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEMBA"). However, the site is transformed from its original state due to previous agricultural activities. The property is under agriculture with little to no areas of natural vegetation remaining. The proposed development will not impact on natural vegetation and is supported by CapeNature with the implementation of the recommendations and mitigation measures included in the draft EMPr (approved as per Section E: Condition 9).

Furthermore, a Water Use Licence Application ("WULA") in terms of the National Water Act, 1998 (Act 38 of 1998) has been submitted to the Department of Water and Sanitation, for the proposed development.

The development will result in both negative and positive impacts.

#### **Negative Impacts:**

- The development will result in impacts such as noise and dust during the construction activities. Mitigation measures will be implemented to effectively reduce the significance of the potential impacts.

#### **Positive impacts:**

- The proposed development will increase the efficiency of water storage on the farm i.e. the utilisation of existing lawful use of water on the property, to its full potential.

- The management of the water resource and water use will be improved.
- Employment opportunities will be created during the construction and operation phases of the development.

#### **4. National Environmental Management Act Principles**

The NEMA 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 EMP, 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 NEMA and that any potentially detrimental environmental impacts resulting from the listed activity can be mitigated to acceptable levels.

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