



**Western Cape
Government**

Environmental Affairs and
Development Planning

Directorate: Development Management
(Region 1)

EIA REFERENCE: 16/3/3/2/B2/32/1005/18
NEAS REFERENCE: WCP/EIA/0000357/2018
ENQUIRIES: Lorretta Osborne
DATE OF ISSUE: 2018 -11- 1 2

Mr AJ van Zyl
PO Box 220
WORCESTER
6849

Cell: 082 576 3653
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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): CLEARING OF VEGETATION FOR CULTIVATION ON PORTION 47 OF FARM DOORNRIVIER NO. 369, WORCESTER

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

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

CC: (1) Mr W Marnewil (Boland Environmental Consultants CC)
(2) Mr J Steyn (Breede Valley Municipality)

Fax: (086) 512 0154
Fax: (023) 348 2630



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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): CLEARING OF VEGETATION FOR CULTIVATION ON PORTION 47 OF FARM DOORNRIVIER NO. 369, 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 Layout Alternative 2, described in the Environmental Impact Assessment Report ("EIAR"), dated August 2018.

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

Mr AJ van Zyl
PO Box 220
WORCESTER
6849

Cell: 082 576 3653

E-mail: petro@dekleipot.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	Activities/Project Description
<p>Listing Notice 2 of 2014 –</p> <p>Activity Number: 15</p> <p><i>The clearance of an area of 20 hectares or more indigenous vegetation is required for-</i></p> <p><i>(i) the undertaking of a linear activity; or</i></p> <p><i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>	<p>The development entails the clearance of approximately 65 hectares of indigenous vegetation for the cultivation of pecan nut trees and olive trees.</p>

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

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

The proposal entails the clearing of vegetation with a development footprint of approximately 65 hectares for the cultivation of pecan nut trees and olive trees on Portion 47 of Farm Doornrivier No. 369, Worcester. Two irrigation pipelines of 440m in length with diameters of 200mm and 160mm respectively, will be laid within the development footprint. A natural corridor will be demarcated and maintained as a no-go area along the north-eastern boundary of the development footprint.

C. SITE DESCRIPTION AND LOCATION

The listed activity will be undertaken on Portion 47 on Farm Doornrivier No. 369, Worcester.

The SG21 digit code is: C08500000000036900047,

Co-ordinates: Latitude: 33° 41' 57.26" South
 Longitude: 19° 31' 1.75" East,

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

Boland Environmental Consultants CC
% Mr W Marnewil
PO Box 250
WORCESTER
6849

Tel.: (023) 347 0336

Fax: (086) 668 0241

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, Layout Alternative 2, described in the EIAR dated August 2018 on the site as described in Section C above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of issue within which commencement must occur.
3. The development must be concluded within **ten years** from the date of commencement of the 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 clearing and construction activities. The notice must:
 - 6.1 make clear reference to the site details and EIA Reference number given above; and
 - 6.2 also include proof of compliance with the following conditions described herein:

Conditions: 7, 8, 11, 17 and 20.

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 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 i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Management of activities

9. The draft Environmental Management Programme ("EMPr") dated August 2018 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 clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, EMPr, 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 on a publicly accessible website.
13. 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

14. 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 quarterly for the duration of the construction phase and submit Environmental Audit Reports to the Competent Authority once every six months during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority six 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

15. 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.

16. 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.
17. The development area must be clearly demarcated prior to commencement of clearing and construction activities.
18. The area eastwards of the development footprint as per Layout Alternative 2, illustrated in Annexure 2, on page 10 of this Environmental Authorisation must be treated as a no-go area to ensure habitat connectivity. Development is not permitted within this corridor.
19. All areas west of the western farm track must be excluded from any development to preserve the individuals of the Near Threatened species, *Euphorbia nesemanii*.

20. A Search and Rescue operation must be conducted within the development footprint and a representative number of at least 50 individuals of the Near Threatened species, *Euphorbia nesemanii*, must be relocated to adjacent natural areas of similar habitat west of the farm track. This relocation must be undertaken by a suitably qualified and experienced botanical specialist prior to commencement of clearing and confirmation thereof submitted to CapeNature. The relocation must be conducted during winter and the relocation area must be treated as a no-go area.

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 that 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 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 Jaap de Villiers (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 Jaap.DeVilliers@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 Jaap.DeVilliers@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: 12/11/2018

CC: (1) Mr W Marnewil (Boland Environmental Consultants CC)
(2) Mr J Steyn (Breede Valley Municipality)

Fax: (086) 512 0154
Fax: (023) 348 2630

ANNEXURE 1: LOCALITY MAP

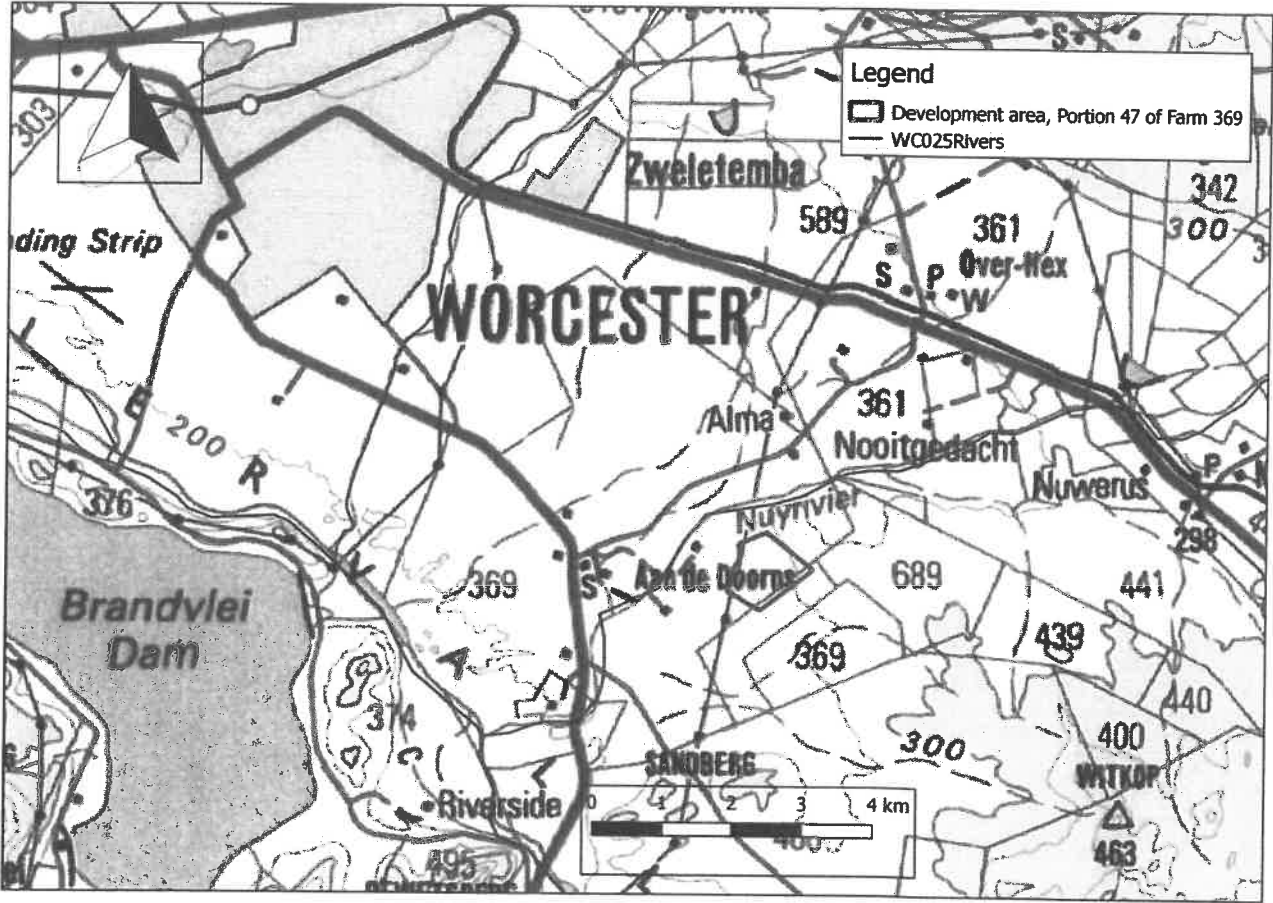


Figure 1: Locality map of Portion 47 of Farm Doornrivier No. 369, Worcester

ANNEXURE 2: SITE PLAN

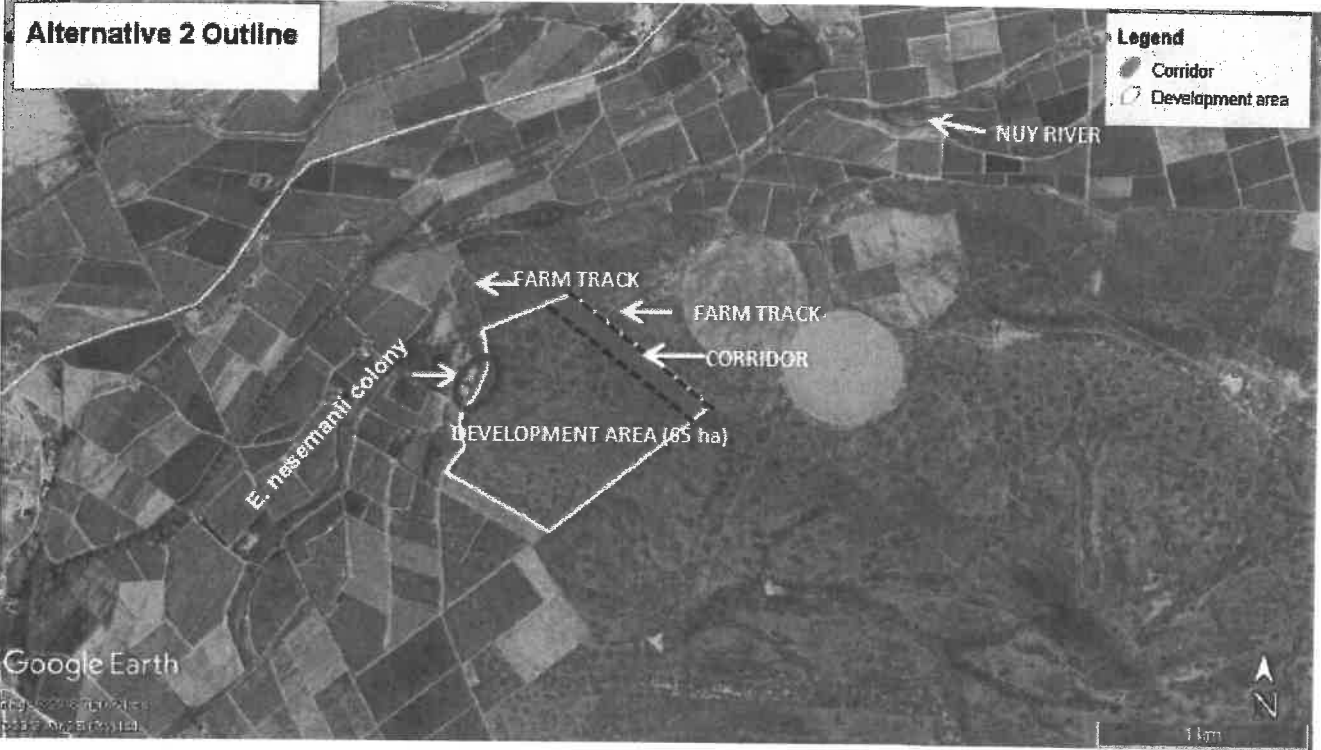


Figure 2: Site Plan of the area to be cleared for cultivation on Portion 47 of Farm Doornrivier No. 369, Worcester

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 submitted on 29 January 2018, the EIAR dated August 2018, the EMPr submitted together with the EIAR on 2 August 2018 and the additional information dated 31 October 2018 and 2 November 2018;
- 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 EIAR dated August 2018 and the additional information dated 31 October 2018 and 2 November 2018; 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 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:

- 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 15 February 2018;
- Placing site notices on 15 February 2018;
- Placing a newspaper advertisement in the "Worcester Standard" newspaper on 15 February 2018;
- Copies of the draft Scoping Report for public review at the Worcester library, the BolandEnviro offices and on their website: www.BolandEnviro.co.za/project;
- Circulating the draft Scoping Report to I&APs for public review from 15 February 2018;
- Placing a newspaper advertisement in the "Worcester Standard" newspaper on 17 May 2018;
- Copies of the draft EIAR for public review at the Worcester library, the BolandEnviro offices and on their website: www.BolandEnviro.co.za/project; and
- Circulating the draft EIAR for comment to I&APs for public review from 17 May 2018.

The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements and all 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 the EMPr to adequately address the concerns raised.

2. Alternatives

The following alternatives were considered:

Layout Alternative 1:

This alternative entails the clearing of vegetation with a development footprint of approximately 75 hectares for the cultivation of pecan nut trees and olive trees on Portion 47 of Farm Doornrivier No. 369, Worcester. Two irrigation pipelines of 440m in length with diameters of 200mm and 160mm respectively, will be laid within the development footprint.

From a botanical perspective this alternative is not preferred, since a natural corridor will not be maintained to allow connectivity with the Nuy River and natural areas directly adjacent to the river.

Layout Alternative 2 (Herewith authorised):

This alternative entails the clearing of vegetation with a development footprint of approximately 65 hectares for the cultivation of pecan nut trees and olive trees on Portion 47 of Farm Doornrivier No. 369, Worcester. Two irrigation pipelines of 440m in length with diameters of 200mm and 160mm respectively, will be laid within the development footprint. A natural corridor will be demarcated and maintained as a no-go area along the north-eastern boundary of the development footprint.

From a botanical perspective, this alternative is preferred, since a natural corridor will be maintained to allow connectivity with the Nuy River and natural areas directly adjacent to the river.

"No-Go" Alternative

The 'no-go' alternative was considered. However, it is not preferred since it will not provide an opportunity to increase the economic viability of the farm. In addition, the opportunity to conserve the sensitive areas on the farm will also be lost.

3. Impact Assessment and Mitigation measures

3.1 Activities need and desirability

The proposed development entails the cultivation of pecan nut trees and olive trees on land zoned for Agriculture. Cultivation of the development area will increase the production capacity and economic viability of the farm, which in turn will sustain existing and future employment opportunities. Furthermore, the development is consistent with the surrounding land use and is therefore in line with the objectives of the Western Cape Provincial Spatial Development Framework.

3.2 Biodiversity and Biophysical Impacts

The property is located adjacent to the Aan De-Doorns and Overhex Roads, approximately 15km north-west of Worcester. The site is currently undeveloped and comprises Worcester Renosterveld Karoo vegetation (nationally known as Robertson Karoo vegetation), which is classified as least threatened in terms of Section 52 of the National Environmental Management Biodiversity Act,

2014 (Act No. 10 of 2004) ("NEMBA"). The entire site is mapped as a terrestrial Critical Biodiversity Area ("CBA"). The site connects natural habitat within and adjacent to the Nuy River (aquatic CBA) with larger natural areas in the south-east. A Botanical Impact Assessment was conducted by Ms Johlene Krige, dated August 2017.

According to the Assessment, one Near Threatened species, namely *Euphorbia nesemanii*, was identified on the site. One large colony of approximately 100-150 individuals was evident within the north-western portion of the site. A representative number of at least 50 individuals of the Near Threatened species, *Euphorbia nesemanii*, will be relocated. Layout Alternative 2 incorporates the specialist's findings and recommendations, input provided by CapeNature and allows for continued habitat connectivity along the Nuy River and natural areas eastwards of the farm. The potential impacts on vegetation that may result from the proposed development will be mitigated by the implementation of the conditions of this Environmental Authorisation and the mitigation measures in the EMPr (accepted in Section E, Condition 9).

The Nuy River is located approximately 1km and another smaller tributary is evident approximately 200-300m north-west of the site. There are no wetland areas, drainage lines, or other important ecological process areas on the development area. However, the potential impacts that may result from the proposed development will also be mitigated by the implementation of the EMPr.

The development will result in both negative and positive impacts.

Negative Impacts:

- The development will result in the loss of natural vegetation during site preparation and construction period for associated infrastructure.
- The development will result in construction related impacts such as dust, noise and visual intrusion during the clearance of vegetation.

Positive impacts:

- The sensitive botanical aspects will be demarcated as no-go areas during development and operation.
- The development will ensure the economic viability of the farm and provide additional employment opportunities.

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, 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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