



REFERENCE: 16/3/3/2/D7/10/0000/20
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 5 August 2021

The Director
Klein Karoo Saadproduksie (Pty) Ltd
PO Box 241
OUDTSHOORN
6620

Attention: Mr. D. Malan

Tel: (044) 203 5259
E-mail: dmalan@kleinkaroo.com

APPLICATION FOR ENVIRONMENTAL AUTHORISATION (EA) IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: PROPOSED CONSTRUCTION OF A NEW KANAAL DAM ON PORTION 12 OF FARM KAMANATIELOOP NO. 139, OUDTSHOORN ENVIRONMENTAL AUTHORISATION

ENVIRONMENTAL AUTHORISATION

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, described in the Final Environmental Impact Assessment Report received by this Department on 31 March 2021.

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
Klein Karoo Saadproduksie (Pty) Ltd

% Mr. D. Malan
 PO Box 241
OUTSHOORN
 6620

Tel: (044) 203 5259
 E-mail: dmalan@kleinkaroo.com

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice 327 (Listing Notice 1)</p> <p><i>Activity Number: 12</i> <i>Activity Description</i> The development of—</p> <ul style="list-style-type: none"> (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; <p>where such development occurs—</p> <ul style="list-style-type: none"> (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; — <p>excluding—</p> <ul style="list-style-type: none"> (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing 	<p>The proposal entails the construction of a dam with a capacity of 88 000 m³. The dam will be constructed within a non-perennial drainage line and the dam will be filled with irrigation supply scheme water taken from the Bo Kanaal that forms part of the Kammanassie Irrigation Scheme, sourcing water from the Kammanassie Dam.</p>

<p>Notice 3 of 2014, in which case that activity applies;</p> <p>(dd) where such development occurs within an urban area;</p> <p>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</p> <p>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</p> <p><i>Activity Number: 19</i> <i>Activity Description</i> The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p> <p><i>Activity Number: 27</i> <i>Activity Description</i> The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation.</p> <p>Government Notice 325 (Listing Notice 2) <i>Activity Number: 16</i> <i>Activity Description</i></p>	<p>The proposal will require earthworks of more than 10m³ within the watercourse for the construction of the dam wall.</p> <p>The proposed development will result in the clearance of approximately 3.75 ha of indigenous vegetation.</p>
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<p>The development of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more.</p> <p>Government Notice 324 (Listing Notice 3) <i>Activity Number: 12</i> <i>Activity Description</i> The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</p> <p>Western Cape</p> <ol style="list-style-type: none"> i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004; ii. Within critical biodiversity areas identified in bioregional plans; iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line or even in urban areas; iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister 	<p>The proposed dam, with a capacity of 88 000 m³, will have a wall height of 8 m.</p> <p>The construction of the proposed dam will require the clearance of 3.75 ha of indigenous vegetation. Part of the dam falls within an area mapped as Critically Endangered - Muscadel Riviere.</p>
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The abovementioned list is hereinafter referred to as “**the listed activities**”.

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

The proposed development entails the construction of dam and new concrete side canal with a capacity of 88 000 m³. The dam will be filled by the 'Bo Kanaal' which forms part of a scheduled allocation supplied by the Stompdrift Kammanassie Water Use Authorisation (SKWUA). The proposed dam site is cut off from the watercourse by the existing earth channel (kanaal), which forms part of the aforementioned supply scheme and as such the new dam site will receive no natural water flow from the watercourse above the channel and can be considered to be an off-stream dam.

The dam will have the following specifications:

- Full Supply Area (FSA): approximately 36 271m²
- Dam Wall Height (WH): approximately 8m
- Dam Wall Depth (WD): approximately 6m
- Sole of the embankment and spillway: approximately 48 500m²

The dam will be constructed approximate to Site Development Plan attached to this EA as Annexure 2).

C. SITE DESCRIPTION AND LOCATION

The proposed development will be located on Portion 12 of the Farm 139 Kamanatieloo, Oudtshoorn and situated approximately 10km from central Oudtshoorn. The dam will be constructed in the middle-western side of the property, adjacent to the existing Bo Kanaal. The property consists of various agricultural lands, including onion fields, new bunching onion, leek, radish, beetroot, Swiss chard etc. The dam will be constructed within a historic unnamed tributary to the Olifant's River and is regarded technically as an in-channel dam although it will be storing off-channel irrigation water and receives no in-stream flow water due to the cut-off channel upstream.

Coordinates:

Latitude (S)	Longitude (E)
33° 36' 55.6" South	22° 18' 53.7" East

The SG digit code
C05400000000013900012

Refer to Annexure 1: Locality Plan, Annexure 1 and Annexure 2: Site Development Plan.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

The Director
HillLand Environmental
% Ms. C. Avierinos/ Ms. Inge Delpont
PO Box 590
GEORGE
6530

Tel: 044 889 0229
Email: cathy@hilland.co.za/ environment2@hilland.co.za

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **31 April 2031**, the date on which all the listed activities, including post construction rehabilitation and monitoring requirements, will be deemed to be concluded at the site.

Further to the above, the Environmental Authorisation is subject to the following:

- 1.1. The Holder must start with the physical implementation and exceed the threshold of all the authorised listed activities on the site by 31 April 2026.
- 1.2. The post construction rehabilitation and monitoring requirements must be finalised at the site within a period of 6-months from the date the construction activities (construction phase) are concluded; but by no later than 31 October 2030.

Note: The post-construction rehabilitation and monitoring requirements should be completed at least six (6) months prior to expiry of the validity period of an environmental authorisation to ensure the Holder is able to comply with the environmental auditing requirements in time.

Failing which, this Environmental Authorisation shall lapse, unless the environmental authorisation is amended in accordance with the relevant process contemplated in the Environmental Impact Assessment Regulations promulgated under the National Environmental Management Act, 1998 (Act no. 107 of 1998).

2. The holder is authorised to undertake the listed activities specified in Section B above in accordance with the Preferred Alternative described in the FBAR received by this Department on the site as described in Section C above in accordance with the development footprint depicted in Annexure 2 of this Environmental Authorisation.
3. 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 by this Department on 31 March 2021 on the site as described in Section C above.

The proposed development entails the removal or critically endangered and other indigenous vegetation and the excavation of a watercourse for the construction of dam and new concrete side canal with a capacity of 88 000 m³. The dam will be filled by the 'Bo Kanaal' which forms part of a scheduled allocation supplied by the Stompdrift Kammanassie Water Use Authorisation (SKWUA). The proposed dam site is cut off from the watercourse by the existing earth channel (kanaal), which forms part of the aforementioned supply scheme and as such the new dam site will receive no natural water flow from the watercourse above the channel and can be considered to be an off-stream dam.

The dam will have the following specifications:

- Full Supply Area (FSA): 36 271m²
- Dam Wall Height (WH): 8m
- Dam Wall Depth (WD): 6m
- Sole of the embankment and spillway: 48 500m²

The dam will be constructed approximate to the Site Development Plan attached to this EA as Annexure 2.

4. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
5. 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.
6. 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.

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 –
 - (a) the decision reached on the application;
 - (b) the reasons for the decision as included in Annexure 3;
 - (c) the date of the decision; and
 - (d) 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 Appeal 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;
 - 7.4. provide the registered I&APs with the:
 - (a) name of the Holder (entity) of this Environmental Authorisation,
 - (b) name of the responsible person for this Environmental Authorisation,

- (c) postal address of the Holder,
- (d) telephonic and fax details of the Holder,
- (e) e-mail address, if any, of the Holder,
- (f) contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).

7.5. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.

7.6. 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.

Written notice to the Competent Authority

- 8. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
 - 8.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 8.2. The notice must also include proof of compliance with the following conditions described herein: **Conditions: 4, 7, 9, 11, 19 and 20**

Management of activity

- 9. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended to comply with the following requirements and submitted to this Directorate for approval:
 - 9.1. The EMPr must be amended to incorporate the following —
 - (a) A detailed stormwater management plan which complies with condition 20 of the EA.
 - (b) The access upgrade requirements as per the findings of the traffic impact assessment.
 - (c) The submission on monthly Environmental Control Officer ("ECO") compliance reports to the Directorate Development Management (Region 3) of this Department.
 - (d) Rehabilitation plan; and
 - (e) All the conditions contained in this Environmental Authorisation.
 - 9.2. The amended EMPr must be submitted to the Competent Authority and be approved, prior to construction activities commencing on the site.

Note: The revised EMPr should be submitted to the Competent Authority at least 90-days, prior to the construction activities commencing on site to ensure the competent authority is able to process / review the revised EMPr, prior to the intended date of

commencement.

10. The EMPr must be included in all contract documentation.

Monitoring

11. The Holder must appoint a suitably experienced ECO for the duration of the construction and rehabilitation phases.

12. The ECO must—

12.1. be appointed prior to commencement of any works (i.e. site clearance; removal and movement of soil and / or rubble or construction activities commencing);

12.2. ensure compliance with the provisions of the EMPr and the conditions contained in this EA;

12.3. keep record of all activities on the site; problems identified; transgressions noted; and a task schedule of tasks undertaken by the ECO;

12.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.

13. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has a website, such documents must be made available on such platform where it is publicly accessible.

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. The holder must, for the period during which the environmental authorisation and EMPr remain valid—

15.1 ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited;

15.2 during the construction phase, the holder must undertake annual environmental audit(s) and submit these Environmental Audit Report(s) to the Competent Authority.

15.3 the final construction phase Environmental Audit Report must be submitted to the Competent Authority within **six (6) months** of completion of construction;

15.4 the environmental audit report must be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise;

16. The Environmental Audit Report, must provide verifiable findings, in a structured and systematic manner, on–
 - 16.1 the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - 16.2 the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.
 - 16.3 identify and assess any new impacts and risks as a result of undertaking the activity;
 - 16.4 evaluate the effectiveness of the EMPr;
 - 16.5 identify shortcomings in the EMPr;
 - 16.6 identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 16.7 indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
 - 16.8 indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
 - 16.9 include a photographic record of the site applicable to the audit; and
 - 16.10 be informed by the ECO reports.
17. The Holder must, within 7 calendar days of the submission of the audit 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).

Operational aspects

18. The holder must, for as long as the dam is operational, ensure compliance with the conditions of the environmental authorisation and provisions of the EMPr, in so far as it relates to the operational phase

Specific Conditions

19. Building rubble and concrete dumped on site during previous construction activities on the property as well as all newly generated construction material and rubble must be removed and disposed of at a suitably licenced facility, prior to commencement of construction activities.
20. A plant search and rescue mission must be undertaken late autumn to winter (May-August) to give the plants an adequate chance to establish before summer. This must be done by a suitably qualified botanist and be executed prior to commencement of construction activities. The botanical specialist must be present during the plant search and rescue (transplanting). Livestock may not be allowed to graze/browse within the area to which the plants are translocated for a period of at least 5 years.
21. A suitable rehabilitation plan must be compiled and with input from the specialists (botanical and freshwater) for the biodiversity that will be impacted by the construction.
22. The construction phase must be undertaken during the dry season to minimize the effects of erosion and sedimentation.

23. Topsoil must be managed effectively and must be properly protected during the construction phase.
24. 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 may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

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

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.

Amendment of Environmental Authorisation and EMPr

2. If the Holder does not start with all listed activities and exceed the threshold of each listed activity within the period referred to in Section E, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

If the Holder wishes to extend a validity period specified in the Environmental Authorisation, an application for amendment in this regard must be made to the relevant Competent Authority, prior to the expiry date of such a period.

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.
 - (b) It is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity if the competent authority has not granted an Environmental Authorisation for the undertaking of the activity.
3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, the Competent Authority may request information 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.

The onus is on the Holder to verify whether such changes to the environmental authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note: An environmental authorisation may be amended or replaced without following a procedural requirement contained in the Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially

4. The manner and frequency for updating the EMPr is as follows:
 - (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
 - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMPr has been approved by the competent authority.

The onus is however on the Holder to confirm the legislative process requirements for the above scenarios at that time.

5. Where an amendment to the impact management outcomes of an EMPr is required before an environmental audit is required in terms of the environmental authorisation, an EMPr may be amended on application by the Holder of the environmental authorisation.

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is granted for a set period from date of issue, during which period all the listed activities must be commenced with and concluded, including the post-construction rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

The validity period and conditions of the environmental authorisation has been structured to promote the effective administration of the environmental authorisation and guidance has been provided to ensure the compliance thereof within the validity period, for example:

- ❖ Failure to submit the revised EMPr to the Competent Authority at least 90-days prior to the construction activities commencing on site, may result in the competent authority

not being able to process / review the revised EMPr prior to the intended date of commencement.

- ❖ Failure to complete the post construction rehabilitation and monitoring requirements at least six months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.
- ❖ Failure to complete the auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements and may result in the competent authority not being able to process the audit timeously.

8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e. 4, 7, 9, 11, 19 and 20). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
9. In the event that the Environmental Authorisation should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.
10. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

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 (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 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 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 Appeal Administrator at 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: Appeal Administrator

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 the Appeal Administrator 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. GAVIN BENJAMIN

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION3)

DATE OF DECISION: 05 AUGUST 2021

CC:

Mr. A. Carelse

Mr. C. Avierinos

Ms. I. Delpont

Oudtshoorn Municipality

Hilland Environmental

Hilland Environmental

Email: ambrose@oudtmun.gov.za

Email: cathy@hilland.co.za

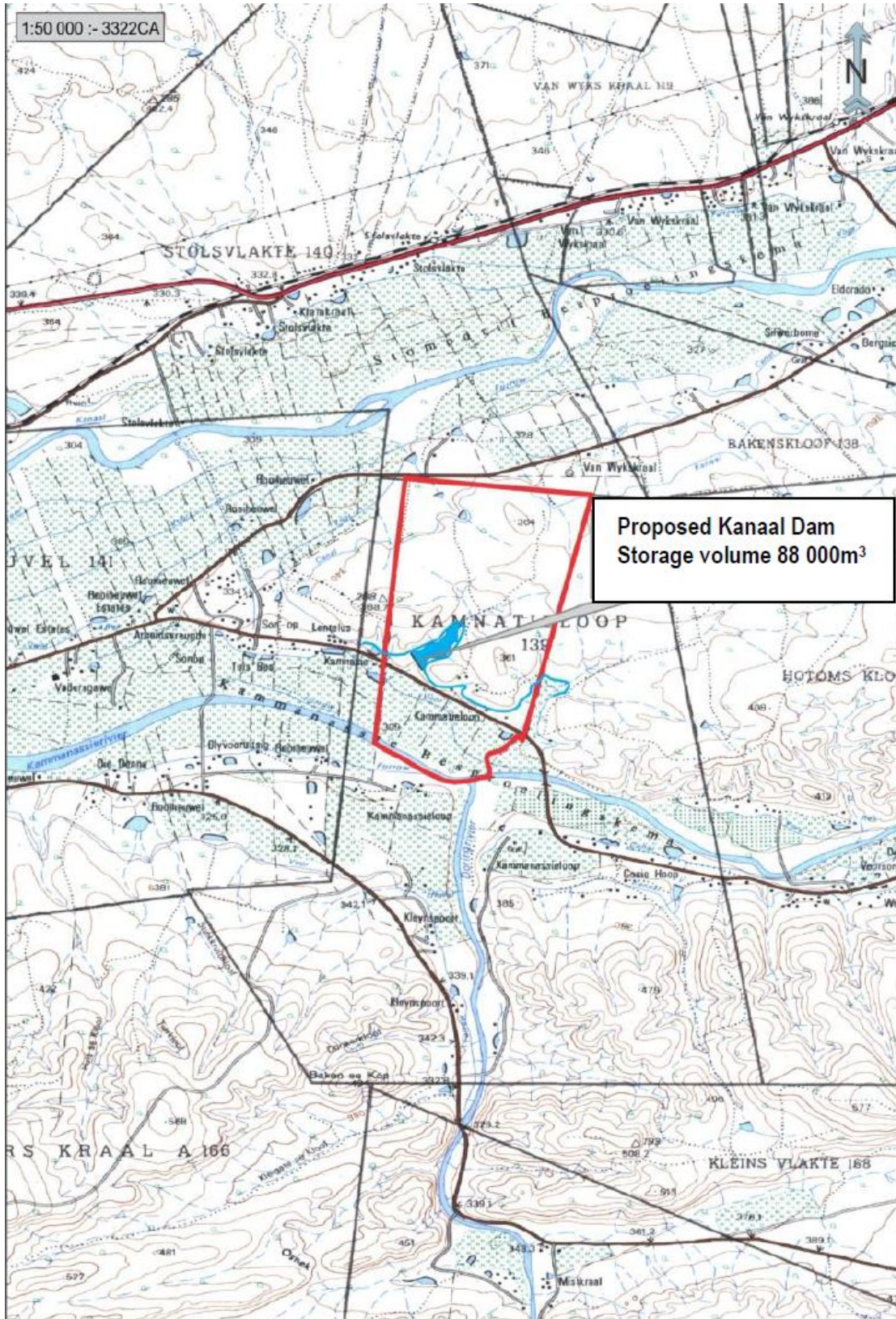
Email: environmental2@hilland.co.za

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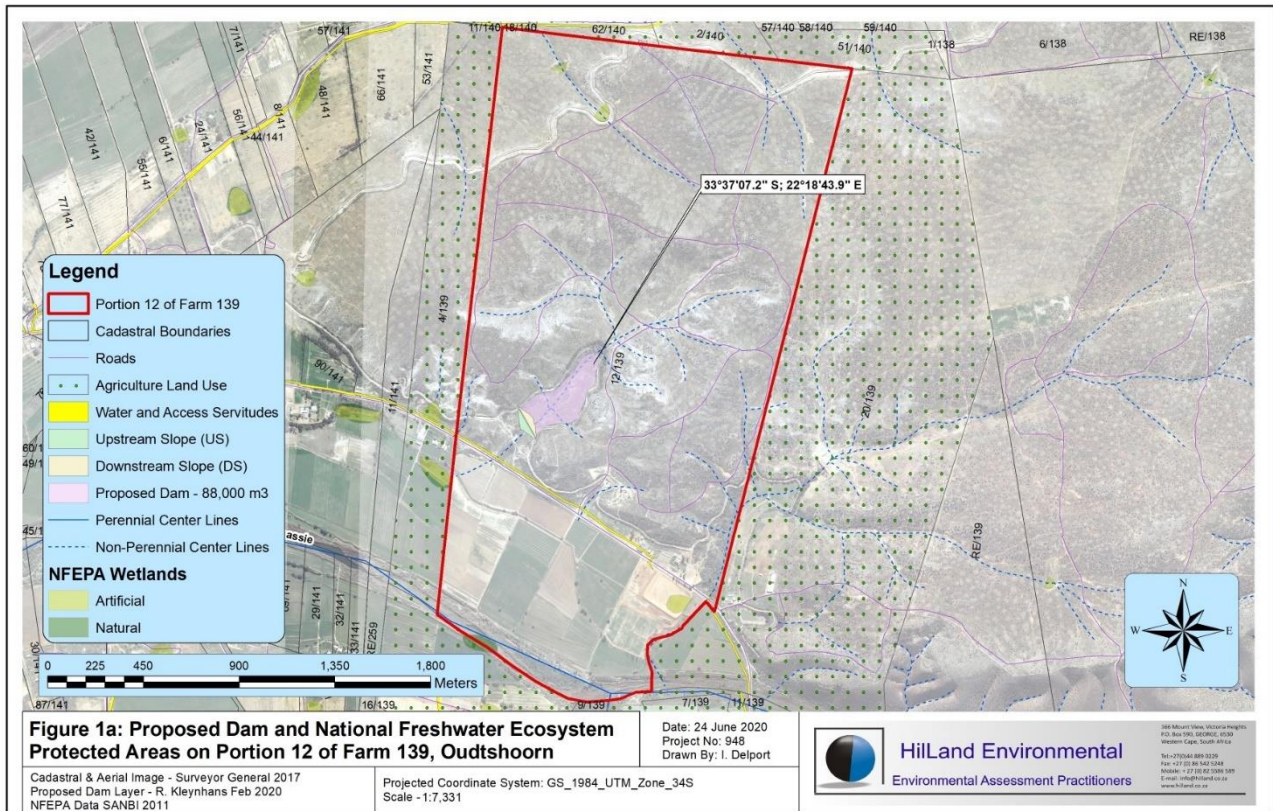
EIA REFERENCE NUMBER: 16/3/3/2/D7/10/0000/20

NEAS REFERENCE: WCP/EIA/0000829/2020

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE DEVELOPMENT PLAN



ANNEXURE 3: REASONS FOR THE DECISION

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

- The information contained in the Application Form received on 18 September 2020, the Final Environmental Impact Report (EIR) and EMPr submitted together with the Final EIR on 31 March 2021;
- Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- 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);
- The comments received from interested and affected parties (I&APs) and responses to these, included in the FBAR received by this Department on 23 November 2020; and
- The balancing of negative and positive impacts and proposed mitigation measures.

A site inspection attended by Malcolm Fredericks and Shireen Pullen from this Department, Cathy Avierinos and Inge Delpont from Hilland Environmental and Mkhanyiseni Zimu from Breede Gouritz Catchment Management Agency (BGCMA) was conducted on 20 November 2020.

In addition to the above, the Department had sufficient information at its disposal to understand the environmental and spatial context and the case officer is also familiar with the site and surrounding area. All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations 2014 for public involvement. The public participation process included the following:

- The placing of a newspaper advertisement in the 'Oudtshoorn Courant' on 1 March 2019
- Placement of a site notice on 3 November 2019;
30-day registration period 14 June – 14 July 2019
- Identification of and engagement with I&APs including organs of state which have jurisdiction in respect of the activity to which the application relates; 5 September 2019;
- Letter drops was made on 15 May 2019;
- Giving written notice to the owners and occupiers of land adjacent to the site, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 15 May 2019;
- Fixing a notice board at the site 03 November 2019;
- The pre-application Scoping Report was made available for 30 days;
- The draft Scoping Report was made available from 20 September 2019 - 30 October 2019;
- A draft EIR was made available from 26 February 2021 - 29 March 2021

The following Organs of State provided comment on the proposal:

- ❖ *Breede Gouritz Catchment Management Agency (BGCMA)*
- ❖ *CapeNature*
- ❖ *Department of Agriculture;*
- ❖ *Heritage Western Cape*
- ❖ *Department of Agriculture, Fisheries and Forestry;*
- ❖ *Oudtshoorn Municipality*
- ❖ *Garden Route District Municipality*

During the public participation, numerous concerns were raised pertaining the proposed dam. It was made clear that the proposed dam is for the off-stream storage of allocated water and no impact on down-stream users is expected as the proponent will only be storing allocated water. According to the applicant's submission the proposed dam is for the storing of allocated water in terms of the existing lawful use, and water will only be stored when it is available.

This Department raised concerns regarding the consideration of alternatives and the synchronisation of the EIA and the Water Use Processes. The applicant could however clearly demonstrate that a process of considering alternatives preceded the application process and that BGCMA confirmed on 30 March 2021 via email that no further comment is required as the WULA process is complete and has been recommended for the issue of a Water Use Licence for the proposed preferred alternative.

All issues and concerns raised by I&APs were adequately addressed and responded to. All other comments and issues raised by I&APs and respective Organs of State that were captured in the final EIR were responded to by the EAP.

2. Alternatives

Various alternative sites were considered for the location of the dam, however, these were scoped out, as the proposed dam needed to be located below the kanaal (to avoid pumping) and be able to store the required capacity. Two other locations which were in a valley below the kanaal, but this was also rejected as it falls within the natural vegetation and could not meet the storage requirements. The other site alternative was rejected as it falls outside the property boundary. The dam could not be built within the agricultural lands as that would result in the loss of agricultural resources which are severely limited in this area and are all well utilized.

In addition to the above, a dam of 300 000m³ was also considered, but found not feasible as it was rejected by the Breede Gouritz Catchment Management Agency (BGCMA). In light of the afore-mentioned, only the preferred alternative and the no-go alternative were considered and investigated further in the EIA process.

Preferred alternative

This alternative entails the construction of a dam and new concrete side canal with a capacity of 88 000 m³. The dam will be filled by the 'Bo Kanaal', which forms part of a scheduled allocation supplied by the Stompdrift Kammanassie Water Use Authorisation (SKWUA). The proposed dam site is cut off from the watercourse by the existing earth channel (kanaal), which forms part of the aforementioned supply scheme and as such the new dam site will receive no natural water flow from the watercourse above the channel and can therefore be considered to be an off-stream dam.

The dam will have the following specifications:

- Full Supply Area (FSA): 36 271m²
- Dam Wall Height (WH): 8m
- Dam Wall Depth (WD): 6m
- Sole of the embankment and spillway: 48 500m²

The dam will be constructed approximate to the Site Development Plan attached to this EA as Annexure 2.

"No-Go" Alternative

This alternative entails no development of a the new Kanaal dam and on-site storage of the ELU and continuation of the use of the existing dam and irrigation system (water to remain in the Kamanassie dam and be led by 6km kanaal when required). By not constructing the dam, the need to enhance the assurance of supply for the irrigation water demands of the existing 63 ha of export seeds planting is not met. This is therefore not the applicant's preferred alternative.

3. Impact Assessment and Mitigation Measures

3.1 Planning Context

According to the submission the proposed development entails the construction of a kanaal dam for water storage on a farm in order to expand the agricultural lands on the property and thus maximizing the current agricultural potential of the farm.

Western Cape Spatial Development Framework (PSDF, 2014)

The proponent submits that the proposal is in line with the PSDF in that it complements the spatial goals that aim to take the Western Cape on a path forward:

- Greater productivity, competitiveness and opportunities with the spatial economy;
- More inclusive development and strengthening the economy in rural areas; and
- Strengthening resilience and sustainable development.

The proposal is also in line with the PSDF in that it protect biodiversity and agricultural resources with the aim to "promote consolidation of farming landscapes and prevent their fragmentation and provide for land and agrarian reform; improve the economic viability of farming by facilitating diversification of agricultural production; promote enterprise opportunities within the food system and promote sustainable farming practices"

Western Cape Land Use Planning: Rural Areas Guideline, 2019

According to the submission the proposed development is in line with the above-mentioned guideline as it will ensure that agricultural practices continue on the site. It will protect, maintain and enhance the viable agricultural units on the property; it will improve drought resilience and water security and increase irrigation and seed production. The proposal entails additional water storage capacity assures the irrigation and economic viability of the existing farm. No fragmentation of agricultural landscape will be allowed.

3.2 Activity Need and Desirability

The Final Environmental Impact Assessment Report (EIAR) articulates that the Klein Karoo Saad Produksie (Pty) Ltd (KKSP) consists of various agricultural lands of export seed plantings. In addition to the proposed new large dam, the property only has one (1) storage dam with a capacity of approximately 50 000 m³. The irrigation water used to fill the dam and irrigate the agricultural lands is currently being obtained from the 'Bo Kanaal', which forms part of a scheduled allocation supplied by the Stompdrift Kammanassie Water Use Authorisation (SKWUA). The existing irrigated area calculates to 63 ha and the crop / water requirement is approximately 7 000 m³/ha/a (as recommended by the Western Cape Department of Agriculture for the specific climatic conditions and associated rainfall for the Oudtshoorn area).

Recent drought conditions highlighted the importance of keeping / storing water as a buffer for irrigation during water restrictions or during low flow conditions. In terms of the capacity of the existing dam, the dam does not provide the surety of water supply. The construction of a larger new dam will enhance the assurance of supply of irrigation water demands.

The EIAR further states that the KKSP is currently functioning only at a 60% capacity due to water shortages and a lack of sustainable water storage supply. Seed production is a water-intensive crop and requires an ensured and constant delivery of water. In December and March, the crop demand intensifies to a point where the seedlings have to be irrigated every 2 hours for 20 minutes at a time. In times of abundant water in the furrow, the farm cannot use all of the supplied water and have to let their allocation pass in the furrow. In times of drought, they do not have enough water to sustain the seedlings.

This Directorate therefore agrees that there is currently a need for an additional storage dam and that the proposed site at this specific time is desirable for such a dam, as it will nearly double the production of the property as the property will then have a sustainable water resource, which will provide water security and furthermore lead to an increase in employment opportunities and ensure the sustainability of three (3) previously disadvantaged individuals' entrants to the agricultural markets.

3.3 The Site

According to Cape Farm Mapper, the dam is proposed in a non-perennial drainage line and the property has a wetland on it which forms part of a National Freshwater Ecosystem Priority Area (FEPAs). The Kammanassie River flows along the southern boundary of the farm. The farm is mapped as being part of the Southern Folded Mountains Watercourse Protection. According to the Western Cape Biodiversity Spatial Plan the site where the dam is proposed contains Ecological Support Area (ESA 1: Wetlands and ESA 2) and the northern section is mapped as Other Natural Areas.

The vegetation units present at the farm are Critically Endangered Muscadel Riviere and Vulnerable Eastern Little Karoo as listed in the 2011 NEM:BA threatened ecosystems gazette. The dam is proposed in CBA 1: Terrestrial and this is delineated due to the critically endangered and vulnerable vegetation units present at the site. However, during a site inspection conducted by officials from this Department, BGCMA and CapeNature, it was confirmed that the proposed site has been transformed.

3.4 Botanical Assessment

According to the Botanical Specialist Report, the site is located within threatened vegetation types, a CBA and at least three threatened plant species are present on the site. The impacts of the dam will largely be local, with respect to the loss of threatened vegetation types and species. The three threatened plant species, *Euphorbia colliculina*, *Glottiphyllum cruciatum* and *Glottiphyllum linguiforme* will be translocated to suitable micro-habitats on the property to be determined by the botanical specialist. However, the EIAR submits that the vegetation present within the proposed development footprint is moderately to severely transformed, with several roads intersecting the area, part of the basin is used for the dumping of unused agricultural material and part of the basin has been planted with alien invasive Oumansoutbos (*Atriplex nummularia*).

It must however be noted that the specialist report was done for a dam with the capacity of 300 000m³ and not 880 000m³ as per the preferred alternative. The anticipated impact on the botanical aspects of the site will therefore be much smaller.

3.5 Freshwater Assessment

The specialist assessment conducted by Confluent Environmental concluded that given the degraded ecological state of the watercourse, along with the disconnection between the watercourse and its catchment, the proposed dam represents a low risk to the aquatic ecosystem. The lower storage volume would reduce the assessed risk even further, because the surface area of the dam will be reduced, and less terrestrial and aquatic habitat will be inundated as a result. The specialist therefore supports the preferred alternative.

3.6 Impacts

The proposed development will result in both positive and negative environmental biophysical, social and economic impacts.

Negative Impacts

The proposed development may result in the following negative impacts:

- Clearance of vegetation required and relocation of various individual endangered species;
- Potential for erosion during the construction phase;
- Disturbance to the bed and banks of the watercourse; and
- Potential sedimentation of the downstream watercourse.

Positive Impacts

The proposed development will result in the following positive impacts:

- Efficient land use - utilising a property zoned for agriculture and an area in close proximity to the water source (canal);
- Improve drought resilience and water security;
- Increase irrigation and seed production;
- Provide job security to current employees;
- Increase new employment opportunities;
- Increase foreign currency earned and spent in the local economy;
- Increase the sustainability and production of previously disadvantaged individual partners; and
- Create further opportunities for Historically Disadvantaged Individuals in the agricultural sector.

Considering the above, the positive impacts of the proposed development, largely outweighs the negative impacts that will result from the proposed development.

3.7 Heritage

According to the submission the proposed dam is located on a property which has been transformed historically, as it is an agricultural farm. The only known historical feature is the Irrigation Channel, which supplies water to the farms as part of the irrigation scheme and was installed in around 1939. There is no proposed change to this irrigation scheme and the work in the dam basin is largely in areas already transformed. Heritage Western Cape has confirmed that there is no need for further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999).

4. Scope and Validity Period of Authorisation

This environmental authorisation does not define specific operational aspects. The applicant has indicated that the construction activities (non-operational aspects) should be completed within a period of 10 years. The validity period of the environmental authorisation

is for a period of ten years (10) years, during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring, and submission of the final environmental audit. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase. The Holder is required to substantially implement the proposal within a period of 5-years after the environmental authorisation is issued. Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years.

5. 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.

6. Conclusion

After consideration of the information and factors listed above, the Department has made the following determination:

- (a) The identification and assessment of impacts were adequately described in the FEIAR dated 31 March 2021 and the key identified issues and impacts have been addressed and assessed adequately.
- (b) The procedure that was followed to conduct the environmental impact assessment was considered adequate to inform the decision-making process.
- (c) The mitigation measures proposed in the EMPr for the pre-construction, construction and rehabilitation phase of the proposed development are deemed to be sufficient to avoid and mitigate any potential negative impacts on the receiving environment during the construction phase.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with an approved 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.

END
