



REFERENCE: 16/3/3/2/F5/16/2055/20
NEAS REFERENCE: WCP/EIA/0000835/2020
DATE: 10 August 2021

The Board of Directors
One Vision Investments 461 (Pty) Ltd.
P. O. Box 7139
STELLENBOSCH
7599

Attention: Mrs. Debra Pam Theunissen

Cell.: 079 138 4316

E-mail: debbie@chemtoll.co.za

Dear Madam

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED CONSTRUCTION OF THE BOVENVLEI DAM AND ASSOCIATED INFRASTRUCTURE AND THE ESTABLISHMENT OF A CULTIVATION AREA ON PORTION 9 OF FARM BERG RIVIER NO 151, MALMESBURY.

1. With reference to the above application, this 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 Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

Copied to: (1) Mr. Pieter de Villiers (Cornerstone Environmental Consultants (Pty) Ltd.)
(2) Mr. Alwyn Burger (Swartland Municipality)

Email: pieter@cornerstoneenviro.co.za / info@cornerstoneenviro.co.za
Email: swartlandmun@swartland.org.za



REFERENCE: 16/3/3/2/F1/13/2023/20
DATE OF ISSUE: 10 August 2021

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, AS AMENDED: PROPOSED CONSTRUCTION OF THE BOVENVLEI DAM AND ASSOCIATED INFRASTRUCTURE AND THE ESTABLISHMENT OF A CULTIVATION AREA ON PORTION 9 OF FARM BERG RIVIER NO 151, MALMESBURY.

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 activities specified in section B below with respect to Dam option 3A, described in the Final EIA Report, dated April 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

One Vision Investments 461 (Pty) Ltd.
c/o Mrs. Debra Pam Theunissen
P. O. Box 7139
STELLENBOSCH
7599

Cell.: 079 138 4316
E-mail: debbie@chemtoll.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 Activities	Activity/Project Description
<p>Listing Notice 1 of the EIA Regulations, 2014 (as amended)–</p> <p>Activity Number: 12</p> <p>Activity Description: “<i>The development of—</i></p> <p>(i) <i>dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</i></p> <p>(ii) <i>infrastructure or structures with a physical footprint of 100 square metres or more;</i></p> <p><i>where such development occurs—</i></p> <p>(a) <i>within a watercourse;</i></p> <p>(b) <i>in front of a development setback; or</i></p> <p>(c) <i>if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</i></p> <p><i>excluding—</i></p> <p>(aa) <i>the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</i></p> <p>(bb) <i>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;</i></p> <p>(cc) <i>activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</i></p> <p>(dd) <i>where such development occurs within an urban area;</i></p> <p>(ee) <i>where such development occurs within existing roads, road reserves or railway line reserves; or</i></p> <p>(ff) <i>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.”.</i></p>	<p>The proposed dam with a surface area of approximately 103 000m², as well as associated infrastructure will be constructed within a watercourse.</p>

<p>Listing Notice 1 of the EIA Regulations, 2014 (as amended)–</p> <p>Activity Number: 19</p> <p>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;</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <p><i>(a) will occur behind a development setback;</i></p> <p><i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></p> <p><i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i></p> <p><i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i></p> <p><i>(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”.</i></p>	<p>Construction of an in-stream dam and associated infrastructure will require the removal and infilling of more than 10 cubic metres material from and into the watercourse.</p>
<p>Listing Notice 1 of the EIA Regulations, 2014 (as amended)–</p> <p>Activity Number: 27</p> <p>Activity Description: <i>“The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i></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 proposed development requires the clearance of more than 1 hectares of indigenous vegetation.</p>
<p>Listing Notice 2 of the EIA Regulations, 2014 (as amended)–</p> <p>Activity Number: 15</p> <p>Activity Description: <i>“The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of 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 proposed development requires the clearance of more than 20 ha indigenous vegetation.</p>

<p>Listing Notice 2 of the EIA Regulations, 2014 (as amended)–</p> <p>Activity Number: 16</p> <p>Activity Description: <i>“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.</i></p>	<p>The highest part of the dam wall will measure approximately 9.1m and covers an area of approximately 10.3ha.</p>
<p>Listing Notice 3 of the EIA Regulations, 2014 (as amended)–</p> <p>Activity Number: 12</p> <p>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.</i></p> <ul style="list-style-type: none"> i. Western Cape i. <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;</i> ii. <i>Within critical biodiversity areas identified in bioregional plans;</i> iii. <i>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 on erven in urban areas;</i> iv. <i>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</i> v. <i>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.</i> 	<p>The proposed development requires the clearance of more than 300m² of Critically Endangered listed vegetation.</p>

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 activities relating to the development proposal:

The proposed development includes the following components:

Construction of an instream dam with a downstream main embankment comprising a -

- Maximum Wall Height - approximately 9.1m;
- Maximum Wall Height of the diversion dam - approximately 6.1m;
- Full Supply Level ("FSL") - approximately 20.1m;
- Water Surface Area at FSL - approximately 10.3ha;
- Storage Capacity - approximately 450 000m³; and
- Wall Water Ratio - approximately 6.54m³.

The dam will be filled with enlisted water from the Berg River.

The associated infrastructure includes the construction of -

- an approximate 315 mm wide diameter and 1 350m long Polyvinyl chloride ("PvC") pipe;
- an approximate 200 mm wide and 120m long irrigation pipe;
- an approximate 110 mm diameter and 500m long PvC bypass pipeline;
- a raft pump station within the proposed dam basin; and
- a sand borrow area to obtain material for the construction of the dam measuring approximately 0.7 ha.

Approximately 9 ha of new orchards will be planted on the previously cultivated sections of the site.

The total development footprint will amount to approximately 20.03 ha.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 9 of the Farm Berg Rivier No. 151, Malmesbury, which is located approximately 40 km west of Piketberg and accessible from Koringberg Road.

The SG digit code is: C04600000000015100009

The site co-ordinates are:

32° 55' 48.46" South; 18° 36' 49.99" East

The co-ordinates for the sand borrow area are:

32° 55' 58.86" South; 18° 36' 47.88" East

The co-ordinates for the cultivation area are:

32° 55' 0.99" South; 18° 36' 55.83" East

The co-ordinates for the for the dam:

32° 55' 12.04" South; 18° 36' 45.65" East

The co-ordinates for the undisturbed north-eastern parts of site are:

32° 55' 08.98" South; 18° 37' 16.25" East

The co-ordinates for the associated for the western pipeline are:

32° 55' 10.32" South; 18° 36' 36.64" East (Start point)

32° 55' 10.17" South; 18° 36' 43.84" East (Middle point)

32° 55' 22.07" South; 18° 36' 41.07" East (End point)

The co-ordinates for the associated for the northern pipeline are:

32° 55' 10.17" South; 18° 36' 43.84" East (Start point)

32° 55' 08.81" South; 18° 36' 53.88" East (Middle point)
32° 55' 11.76" South; 18° 37' 05.37" East (End point)

Refer to Annexure 1: Locality Plan.

Refer to Annexure 2: Site Development Plan.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Cornerstone Environmental Consultants (Pty) Ltd.
c/o Mr. P. J. de Villiers
P. O. Box 12606
Die Boord
STELLENBOSCH
7613

Cell.: 083 243 0994

Email: info@cornerstoneenviro.co.za / pieter@cornerstoneenviro.co.za

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the preferred alternative: Dam option 3A, described in the Final EIA Report dated April 2021 on the site as described in Section C above.
2. Authorisation of the activities is subject to compliance with the conditions set out in this Environmental Authorisation. The holder must ensure 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.
3. The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.

This Environmental Authorisation is granted for–

- (a) A period of five (5) years, from the date of issue, during which period the holder must commence with the authorised listed activities.
 - (b) A period of ten (10) years, from the date the holder commenced with an authorised listed activity, during which period the authorised listed activities for the construction phase, must be concluded.
4. The activities that have been authorised may only be carried out at the site described in Section C above in terms of the approved "Environmental Management Programme" ("EMPr").
 5. Any changes to, or deviations from the scope of the description set out in Section B and Condition 2 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 such 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.

Notification of authorisation and right to appeal

6. The holder of the authorisation must in writing, within 14 (fourteen) calendar days of the date of this decision –

- 6.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1 the outcome of the application;
 - 6.1.2 the reasons for the decision;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date of issue of the decision;
- 6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended);
- 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
- 6.4 provide the registered I&APs with:
 - 6.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 6.4.2 name of the responsible person for this Environmental Authorisation;
 - 6.4.3 postal address of the holder;
 - 6.4.4 telephonic and fax details of the holder;
 - 6.4.5 e-mail address, if any; and
 - 6.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the National Appeal Regulations, 2014 (as amended).

Commencement

7. 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.
8. In the event that an appeal is lodged with the Appeal Administrator, the effect of this Environmental Authorisation is suspended until such time as the appeal is decided. In the instance where an appeal is lodged the holder may not commence with the activity, including site preparation, until such time as the appeal has been finalised and the holder is authorised to do so.

Written notice to the competent authority

9. A minimum of seven calendar days' notice, in writing, must be given to the competent authority before commencement of construction activities. Commencement for the purpose of this condition includes site preparation.
 - 9.1 The notice must make clear reference to the site details and EIA Reference number given above.
 - 9.2 The notice must also include proof of compliance with the following conditions described herein:
 Conditions: 6, 7, 14, 18.1 and 19.2.

Management of activity

10. The EMPr submitted, as dated April 2021 is hereby approved and must be implemented.
11. An application for amendment of the EMPr must be submitted to the competent authority in terms of Chapter 5 of the EIA Regulations, 2014 (as amended), if any amendments are to be made to the outcomes of the EMPr and these may only be implemented once the amended EMPr has been authorised by the competent authority.
12. The EMPr must be included in all contract documentation for all phases of implementation.
13. A copy of the Environmental Authorisation and the EMPr must be kept at the site where the listed activities will be undertaken. Access to the site referred to in Section C above must be granted and the Environmental Authorisation and EMPr must be produced to any authorised official

representing the competent authority who requests to see these for the purposes of assessing and/or monitoring compliance with the conditions contained herein. The Environmental Authorisation and EMPr must also be made available for inspection by any employee or agent of the applicant who works performs work at the site.

Monitoring

14. The holder must appoint a suitably experienced Environment Control Officer ("ECO"), for the duration of the construction phase and rehabilitation phases of implementation.

The ECO must–

- 14.1 be appointed prior to commencement of any land clearing or construction activities commencing;
- 14.2 ensure compliance with the EMPr and the conditions contained herein; and
- 14.3 keep record of all activities on site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO.

Environmental audit reports

15. The holder must, for the period during which the Environmental Authorisation and EMPr remain valid –

- 15.1 ensure that compliance with the conditions of the Environmental Authorisation and the EMPr is audited;
- 15.2 submit at least two environmental audit reports to the relevant competent authority during the construction phase. The holder must submit one audit report three (3) months after commencement of the construction phase and another audit report six (6) months after completion of the construction phase; and
- 15.3 submit an environmental audit report every five (5) years while the Environmental Authorisation remains valid.

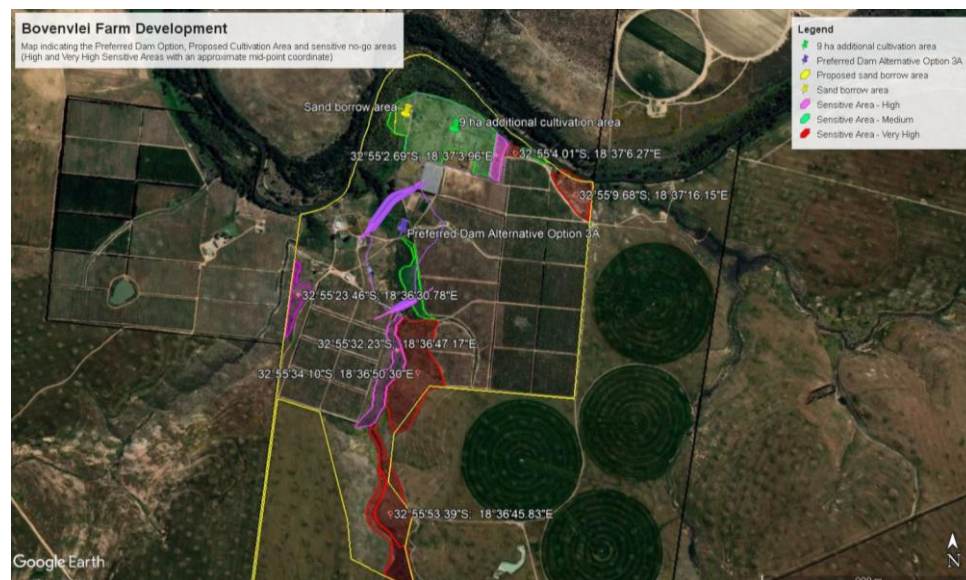
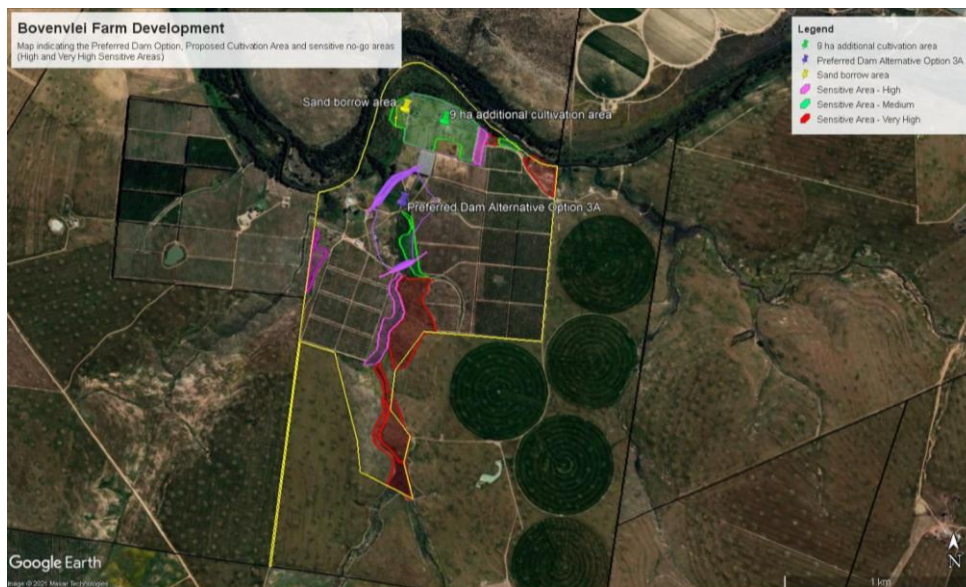
16. The environmental audit report must be prepared by an independent person and must address the objectives and contain all the information set out in Appendix 7 of the EIA Regulations, 2014 (as amended).

In addition to the above, the environmental audit report, must –

- 16.1 provide verifiable findings, in a structured and systematic manner, on–
 - (a) the level of compliance with the conditions of the Environmental Authorisation and the EMPr and whether this is sufficient or not; and
 - (b) the extent to which the avoidance, management and mitigation measures provided for in the EMPr achieve the objectives and outcomes of the EMPr and highlight whether this is sufficient or not;
 - 16.2 identify and assess any new impacts and risks as a result of undertaking the activity;
 - 16.3 evaluate the effectiveness of the EMPr;
 - 16.4 identify shortcomings in the EMPr;
 - 16.5 identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 16.6 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;
 - 16.7 include a photographic record of the site applicable to the audit; and
 - 16.8 be informed by the ECO reports.
17. The holder must, within 7 days of the submission of the environmental 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, where the holder has such a facility, place on a publicly accessible website.

Specific conditions

18. The following measures adapted from the Final EIA Report, dated April 2021 compiled by Mr. Pieter de Villiers of Cornerstone Environmental Consultants (Pty) Ltd must be implemented:
 - 18.1 A detailed Rehabilitation Plan which includes *inter alia*, all relevant measures for mitigation and ongoing monitoring of rehabilitation, must be compiled. The Rehabilitation Plan must be submitted to this Department for consideration, prior to the commencement of the authorised activities.
 - 18.2 A 30 m wide buffer area must be maintained between the new cultivation area and the Berg River.
 - 18.3 The areas on the site of High and Very High sensitivity, as displayed in the figures below must not be disturbed or developed (as these contain Species of Conservation Concern (SoCC)):



19. The following measures as recommended in the Botanical Assessment Report dated 21 August 2020, as compiled by Nick Helme Botanical Surveys and CapeNature's correspondence dated 19 March 2021, must be implemented:
 - 19.1 The approved development footprint of Dam Option 3A must be surveyed and must be clearly demarcated and closely monitored to ensure that no-go areas are not encroached upon during construction, inundation or operational activities.

- 19.2 A botanical specialist must be on site when the site is demarcated. A letter confirming the appointment of the botanical specialist must be submitted to this Department prior to any demarcation actions taking place.
 - 19.3 No excavation, dumping of any soil, rocks or anything else may take place outside the designated and surveyed Dam Option 3A footprint.
 - 19.4 The appointed ECO must be on site when clearing commences and at least weekly thereafter.
 - 19.5 The condition of the downstream habitat must be closely monitored and additional water released from the dam, if necessary to prevent degradation.
 - 19.6 The 0.7 ha High sensitivity area identified within the eastern part of the proposed new cultivation area must not be cultivated or developed and must form part of the conservation area on the property. This strip of habitat is a minimum of 75 m wide, as measured from the current track west of an adjacent the orchards.
 - 19.7 The proposed conservation area must be presented to CapeNature's stewardship steering committee. The outcomes of any agreements with CapeNature in this regard must be submitted to this Department with the final environmental audit report.
20. The following measures as recommended in the Heritage Impact Assessment dated April 2018 compiled by Jonathan Kaplan of Agency for Cultural Resource Management, must be implemented:
 - 20.1 Excavations in the proposed sand borrow area must be monitored by a professional archaeologist. Alternatively, excavations can also be monitored by the ECO, who must be briefed by the archaeologist prior to excavations commencing.
 - 20.2 If any unmarked Khoisan human remains, or ostrich eggshell caches, for example, are exposed or uncovered during excavations in the sand borrow area near the Berg River, these must immediately be reported to Heritage Western Cape (Andrew September, 021 483 9543), or the archaeologist (Jonathan Kaplan 082 321 0172). Burials must not be disturbed until inspected by the archaeologist.
 21. The following measures as recommended in the Freshwater Assessment dated September 2020 compiled by Ms. Jeanne Snyman of everWater Freshwater Consulting, as included in the EMPr, must be implemented:
 - 21.1 In order to reduce the impact, the downstream section (below the new dam wall) must be treated as a no-go area from 30m below the toe of the new dam wall.
 - 21.2 After construction, the newly constructed dam banks as well as the stream section affected downstream of the dam must be rehabilitated and revegetated with appropriate vegetation.
 - 21.3 All alien invasive species must be removed from the stream section downstream of the dam towards the Berg River.
 - 21.6 The area disturbed by the installation activities must be kept within a 5m corridor and rehabilitated and revegetated with appropriate vegetation afterwards.
 - 21.7 Access to the pump must be kept to a 3m wide corridor leading to the pump station.
 - 21.8 Contaminated runoff from the construction site must be prevented from directly entering the water features.
 - 21.9 Riparian zones within the catchment upstream and downstream of the dam must be established and maintained.
 - 21.10 Construction activities associated with the berm wall must be kept (and clearly demarcated) within 10m buffer upstream of the mapped berm wall, and all areas upstream thereof be treated as a no-go area. No machinery, vehicles, people or rubble must be allowed within the upstream wetland area.
 22. The Maintenance Management Plan ("MMP") dated March 2021 and compiled by Mr Pieter de Villiers of Cornerstone Environmental Consultants (Pty) Ltd is hereby approved and must be implemented.

23. Surface or ground water must not be polluted due to any actions on the site. The applicable requirements with respect to relevant legislation pertaining to water must be met.
24. An integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a waste disposal facility licensed in terms of the applicable legislation.
25. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). 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: archaeological remains (including fossil bones and fossil shells); 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; rock art and rock engravings and graves or unmarked human burials.

A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.

F. 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 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 Interested and Affected Parties, 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 Interested and Affected Parties -
 - 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 Interested and Affected Party, 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 Interested and Affected Party and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:

By post: Attention: Marius Venter
Western Cape Ministry of Local Government, Environmental Affairs and
Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are 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 Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

G. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this environmental authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 10 AUGUST 2021

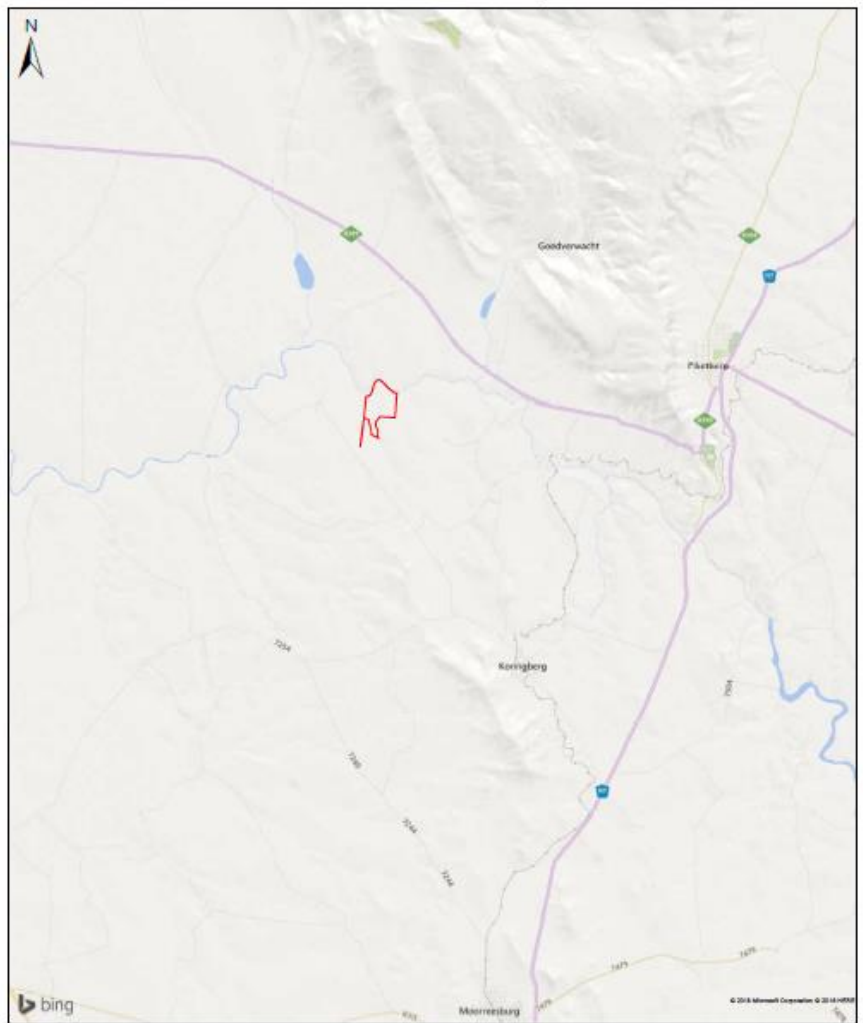
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(2) Mr. Alwyn Burger (Swartland Municipality)

Email: pieter@cornerstoneenviro.co.za / info@cornerstoneenviro.co.za
Email: swartlandmun@swartland.org.za

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/2/F5/16/2055/20

ANNEXURE 1: LOCALITY MAP



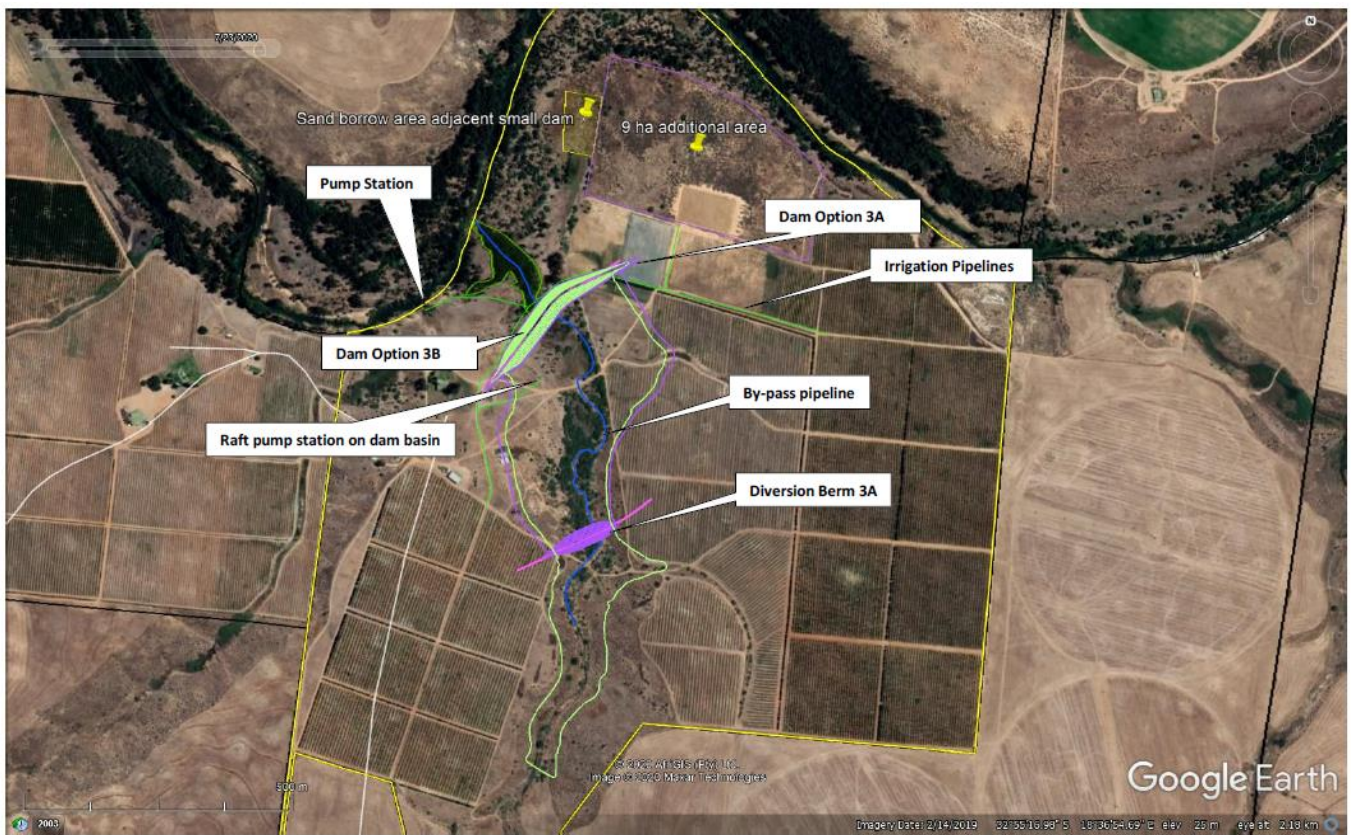
0 2.5 5 10 km

Scale: 1:144 448

Date created: March 12, 2018



ANNEXURE 2: THE SITE DEVELOPMENT PLAN



ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form dated 9 July 2020, the Final Scoping Report dated 20 August 2020, the Final EIA Report dated 16 January 2021 and EMPr dated 11 January 2020 and the additional information received on 27 July 2021 and 28 July 2021.
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the NEMA; and
- d) The comments received from I&APs and responses to these, included in the Final Scoping Report and Final EIA Report.

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

The public participation process included:

- notices regarding the proposed development were distributed to all relevant I&APs as well as key authorities;
- an advertisement was placed in the 'Die Weslander' newspaper on 15 March 2018;
- Two site notices, i.e. at the main entrance to the farm and next to an internal farm road were put up on 16 October 2017;
- Two additional site notices were put up on 2 October 2020;
- copies of the Scoping Reports were circulated to all I&APs for a 30-day commenting period;
- a hardcopy of the Scoping Report was placed at the Piketberg Public Library;
- electronic copies of reports were placed on the website: www.cornerstoneenviro.co.za; and
- copies of the EIA Reports were circulated to all I&APs for a 30-day commenting period.

This Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements. All the comments and responses made were included in both the Scoping as well as EIA Reports.

2. Alternatives

Site Alternative 1 (Preferred by the applicant)

Site Alternative 1 entails the development of the proposed dam and associated infrastructure on Portion 9 of Farm Berg Rivier No. 151, Malmesbury. This is the only and preferred site alternative, as the applicant is the registered owner of the said property.

Three Location Alternatives (Preferred by the applicant)

The available area for the new dam and associated infrastructure is limited by the extensive existing cultivation areas, the Bergriver floodplain to the north and the farm boundary to the south. In this instance the instream dam is proposed to be located in the unnamed tributary of the Berg River, and is therefore the only practical, feasible and preferred alternative. The sand borrow area site is devoid of indigenous vegetation and was therefore selected as the preferred location alternative. The location of the cultivation area comprises medium botanical sensitivity with no major botanical constraints expected and was therefore selected as the preferred location alternative.

Design and Layout Alternatives

Four layout alternatives were considered, which included a middle-stream dam (dam option 1), an upstream dam (dam option 2), a downstream dam (dam option 3A) and a downstream dam (dam option 3B).

Dam option 1 does not inundate on any part of the wetland and comprises the following dimensions (rejected by the applicant):

- Maximum Wall Height of the main dam - approximately 12.7m
- Maximum Wall Height of the diversion dam - approximately 6.7m
- FSL - approximately 25.7m
- Water Surface Area at FSL - approximately 9.5ha
- Storage Capacity - approximately 450 000m³
- Wall Water Ratio - approximately 9.97m³

Dam option 2 comprises the following dimensions (rejected by the applicant):

- Maximum Wall Height - approximately 11.1m
- Maximum Wall Height of the diversion dam - approximately 9.1m
- FSL - approximately 28.1m
- Water Surface Area at FSL - approximately 7.7ha
- Storage Capacity - approximately 450 000m³
- Wall Water Ratio - approximately 6.02m³

Dam option 3A comprises the following dimensions (preferred by the applicant and herewith authorised):

- Maximum Wall Height - approximately 9.1m
- Maximum Wall Height of the diversion dam - approximately 6.1m
- FSL - approximately 20.1m
- Water Surface Area at FSL - approximately 10.3ha
- Storage Capacity - approximately 450 000m³
- Wall Water Ratio - approximately 6.54m³

Dam option 3B comprises the following dimensions (rejected by the applicant):

- Maximum Wall Height - approximately 8.0m
- FSL - approximately 19.0m
- Water Surface Area at FSL - approximately 13.6ha
- Storage Capacity - approximately 450 000m³
- Wall Water Ratio - approximately 10.69m³

Dam option 3A was specifically reduced in size to avoid impacting on Critically Endangered vegetation, i.e. *Oxalis fragilis* located within the upper part of the main stream that feeds into the dam area. Dam option 3A, when compared with the other dam options is therefore acceptable from a botanical perspective. Dam option 3A also includes a main embankment and an upstream diversion dam to prevent inundation to all the sensitive habitats and endangered vegetation located upstream. Dam option 3A is therefore the preferred alternative and the 3 layout alternatives were thus rejected.

No-go alternative (rejected by the applicant):

The no-go alternative entails maintaining the *status quo*, i.e. no construction of the dam and its associated infrastructure nor the establishing of the new cultivation areas. The no-go alternative is rejected as it would mean that no water storage capacity or newly cultivation areas can be established, which will result in the loss of the associated economic benefits of expanding the existing agricultural enterprise.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The proposed dam is required to store water to irrigate the proposed cultivated areas and thereby expand the existing agricultural enterprise and economic viability of the farm. Improving the economic viability of the farm is closely linked to the site's soils high agricultural potential and therefore making the proposed cultivation of orchards desirable. The Soil Suitability Study dated 18 February 2021 further confirms that the soil is suitable for the proposed cultivation of orchards, including pomegranates, citrus, almonds and granadillas.

The dam will be filled only with enlisted water from the Berg River and not with water from the unnamed tributaries' catchment (i.e. under the under the Benede-Bergrivier Irrigation Board). The farm has a 35-ha summer enlistment (7 000 m³/ha = 245000 m³) and a Water Use Licence of 517

510 m³/a from the Berg River (all year-round abstraction). As such, the cumulative impact on the natural water systems is expected to be low.

3.2 Regional/Planning Context

The site is zoned as Agriculture and the proposed development is permitted in terms of the property's existing land use rights. The proposed development is consistent with the forward planning and strategic context for the area which earmarked the area as appropriate for agricultural activities, as also proposed.

3.3 Freshwater Impacts

A Freshwater Impact Assessment Report dated September 2020 was undertaken by everWater Freshwater Consulting Services, to assess the potential freshwater impacts associated with the proposed development.

On-site freshwater features include the Berg River, two unnamed tributaries and two wetland areas. The ecological state of these features ranges from natural to moderately and largely modified. The construction and operation of the proposed dam will result in the loss of riparian and aquatic habitat, erosion potential and impacts on water quality. The preferred dam option 3A will as far as possible be located in the most disturbed areas of the farm while also having the least negative impacts from a freshwater perspective and is therefore deemed the best environmental option. It is for these reasons why the proposed Spatial Development Plan underwent various iterations to avoid and minimise negative environmental impacts, as far as possible. Dam Option 3A will also entail filling the dam only with enlisted water from the Berg River. As such, no additional water from the unnamed tributaries' catchment will be used. Further, no impact on the Ecological Water Requirements of the downstream habitat is expected, as water from the upstream tributaries above the dam, will be diverted and released to just below the proposed dam wall.

Overall, dam option 3A will fall over a much smaller area, inundating mostly the moderately modified section of the unnamed stream and its associated floodplain wetland in comparison with dam option 3B which falls over a larger instream area, of which a significant part is still in very good condition.

A Rehabilitation Plan will be compiled for the rehabilitation of the freshwater systems after completion of the construction period. A MMP which contains measures to avoid and reduce negative impacts on freshwater systems during the maintenance activities will also be implemented.

The recommended measures provided by the freshwater specialist, has been included in the approved EMPr and Conditions of this Environmental Authorisation. With the effective implementation of the recommended mitigation measures, the impacts will be of low negative significance.

3.4 Botanical Impacts

Approximately 9 ha near the Berg River will serve as the new cultivation area, which will potentially lead to loss of riparian habitat. Similarly, the 0.7 ha sand borrow area will be located next to an area that was originally a small artificial farm dam, and the potential impacts includes the loss of habitat and vegetation at the small dam and impacting the riparian edge of the Berg River. To avoid these impacts as well as reduce its significance, the EMPr includes the provision that a 30 m buffer from the top of bank/riparian edge from the Berg River must be implemented and treated as a no-go area, while the MMP also includes further mitigation measures in this regard.

The potential impacts during the operational phase of the proposed development includes habitat fragmentation and associated loss of ecological connectivity and pesticide drift. The disruption of natural fire regimes is not expected to be a major impact. According to the Botanical Impact Assessment dated 21 August 2020, the significance of the impact regarding habitat fragmentation and associated loss of ecological connectivity is expected to be low in terms of dam option 3A, with ecological connectivity largely remaining unaffected along the

Berg River. The potential impact regarding pesticide drift is estimated to be fairly localised, i.e. within 30m of the edge of the development areas, and thus of low to medium significance.

The Botanical Impact Assessment further indicates, it is largely the north-eastern parts of site that contains very high sensitivity patches of habitat that support a sparse but botanically important plant cover. As such, the preferred dam option 3A will be located in the most disturbed areas of the farm, and thereby avoiding the botanically sensitive north-eastern parts of site. The new cultivation will impact 0.7ha of high sensitivity vegetation and 8ha of medium vegetation sensitivity, whereas the sand borrow pit will not impact on any high or very high sensitivity vegetation. The preferred dam option 3A was therefore also deemed the best environmental option from a botanical perspective. All mitigation measures proposed in the Botanical Impact Assessment were included in the EMPr and conditions of this Environmental Authorisation.

3.5 Visual/Sense of place

The land use in the greater area consists primarily of agricultural use. The proposed development will therefore not be out of character with the immediate surrounds.

3.6 Heritage

According to the Heritage Impact Assessment dated April 2018 and compiled by ACRM, no archaeological remains were located during the field assessment and no historical graves are present on the site. A few Early Stone Age and Middle Stone Age scattered implements were recorded in the dam inundation area, however, the proposed development is not expected to impact on any significant historical archaeological resources. Furthermore, the site does not form part of a sensitive archaeological landscape. The heritage specialist however recommended that excavations in the sand borrow area must be monitored by a professional archaeologist and must be monitored by the ECO, who must be briefed by the archaeologist prior to excavations. These recommendations have been included in the EMPr and conditions of this EA.

The final comment provided by Heritage Western Cape dated 4 May 2021, indicated that the amended workplan regarding the collection of archaeological material is endorsed.

3.7 Socio-economic

The proposed development will benefit the broader community by means of providing employment opportunities, while also sustaining its own agricultural enterprise.

The development will result in both negative and positive impacts.

Negative Impact:

- The dam construction will result in the loss of vegetation, loss of riparian and aquatic habitat, erosion potential and impact on water quality.

Positive impacts:

- Some employment will be created during the construction phase.
- Expansion of agricultural activities with resultant economic benefits.
- Contribution to the local economy.

4. National Environmental Management Act Principles

The National Environmental Management Principles (set out in section 2 of the NEMA, which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;

- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

You are reminded of your general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: *“Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.”*

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