



**Western Cape
Government**

Environmental Affairs and
Development Planning

Directorate: Development Management
(Region 2)

REFERENCE: 16/3/3/2/E3/10/1003/17
NEAS REFERENCE: WCP/EIA/0000367/2018
ENQUIRIES: Samornay Smidt
DATE OF ISSUE: 2018 -06- 20

The Board of Directors
Dasberg Boerdery (Pty) Ltd
P O Box 21
RIVERSONDEREND
7250

Attention: Mr Schalk Viljoen

Tel: (028) 261 1565
Fax: (086) 768 5817

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): PROPOSED CONSTRUCTION OF A NEW DAM ON PORTION 5 OF FARM VAN DER WATSKRAAL NO. 399, SWELLENDAM

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation and to **adopt** the Maintenance Management Plan, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014 (as amended), you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) I Erasmus (EnviroAfrica)
(2) R Brunnings (Swellendam Municipality)
(3) Mr R Smart (CapeNature)
(4) Ms. E. Rossouw (BGCMA)

Fax: (086) 512 0154
Fax: (028) 514 2694
Fax: (086) 529 4992
Fax: (023) 347 2012

2nd Floor, 1 Dorp Street, Cape Town, 8001
Tel: +27 21 483 5828 Fax: +27 21 483 3633
E-mail: Samornay.Smidt@westerncape.gov.za

Private Bag X9086, Cape Town, 8000
www.westerncape.gov.za/eadp



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ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): THE PROPOSED CONSTRUCTION OF A NEW DAM ON PORTION 5 OF FARM VAN DER WATSKRAAL NO. 399, SWELLENDAM

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 the Site Alternative A, described in the Environmental Impact Assessment Report ("EIAR"), dated March 2018.

In terms of the NEMA, viz, the EIA Regulations, 2014 (as amended) (Government Notice ("GN") No. 324, 325, 326 and 327 in Government Gazette No. 40772 of 7 April 2017) the Competent Authority hereby adopts the Maintenance Management Plan for the watercourse elements for the construction of the Dasberg Dam included as Appendix 13 in the EIAR dated March 2018.

The applicant for this Environmental Authorisation is required to comply with the conditions set out in Section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Board of Directors
Dasberg Boerdery (Pty) Ltd
% Mr. Schalk Viljoen
P O Box 21

RIVERSONDEREND

7250

2nd Floor, 1 Dorp Street, Cape Town, 8001
Tel: +27 21 483 5828 Fax: +27 21 483 3633
E-mail: Samornay.Smidt@westerncape.gov.za

Private Bag X9086, Cape Town, 8000
www.westerncape.gov.za/eadp

Tel: (028) 261 1565

Fax:(086) 768 5817

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	Activities/Project Description
<p>Government Notice No. 327 of 7 April 2017-</p> <p>Activities Number: 12</p> <p>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 Notice 3 of 2014, in which case that activity applies;(dd) where such development occurs within an urban area;(ee) where such development occurs within existing roads, road reserves or railway line reserves; or(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>The development entails the construction of an in-stream dam with a surface area of 8.8 ha.</p>

<p>Activity Number: 19</p> <p>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 -</p> <p>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 activities 21 in this Notice, in which case that activities 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 activities 26 in Listing Notice 2 of 2014 applies.</p>	<p>The development entails the construction of an in-stream dam with a surface area of 8.8 ha.</p>
<p>Activity Number: 27</p> <p>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 -</p> <p>(i) the undertaking of a linear activity; or</p> <p>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p>	<p>The proposed dam will result in the clearance of more than a hectare of indigenous vegetation.</p>
<p>Government Notice No. 325 of 7 April 2017 –</p> <p>Activity Number: 12</p> <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 highwater mark of the dam covers an area of 10 hectares or more.</p>	<p>The dam wall will be 19.5m in height.</p>
<p>Government Notice No. 324 of 7 April 2017 –</p> <p>Activity Number: 12</p> <p>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</p>	<p>The development will require the clearance of more than 300 square metres of critically endangered indigenous vegetation.</p>

maintenance management plan.

Western Cape

- 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 on erven 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.

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 as it relates to the development:

The proposed construction of an in-stream storage dam and the extension of an existing irrigation pipeline to the new dam. The dam will have a:

- Storage capacity of 625 000m³.
- Wall length of 550m.
- Dam wall height of 19.5m.
- Surface area of 8.8ha.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 5 of Farm van der Wattskraal No. 399, Swellendam.

The SG21 digit code is: C07300000003990005

Co-ordinates: Latitude: 34° 07' 52.79" South
 Longitude: 20° 02' 53.51" East

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

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

EnviroAfrica (Pty) Ltd
% Ms Inge Erasmus
PO Box 5367
HELDERBERG
7135

Tel.: (021) 851 1616
Fax: (086) 512 0154

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 Site Alternative A, described in the EIAR dated March 2018 on the site as described in Section C above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of issue within which commencement must occur.
3. The development must be concluded within **ten years** from the date of commencement of the listed activities.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
5. Any changes to, or deviations from the scope of the alternative described in Section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information, in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Written notice to the Competent Authority

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

Conditions: 7, 8, 12, 17 and 18

Notification and administration of appeal

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

Management of activities

9. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
10. The MMP adopted as part of this Environmental Authorisation must be implemented.
11. The EMPr and MMP must be included in all contract documentation for all phases of implementation.

Monitoring

12. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
13. A copy of the Environmental Authorisation, EMPr, MMP, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request, including on a publicly accessible website.
14. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

15. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr, MMP, and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The holder must undertake an environmental audit quarterly for the duration of the construction phase and submit Environmental Audit Reports to the Competent Authority once every six months during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority six months after operation commenced.

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

Specific Conditions

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

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

17. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
18. A "Search and Rescue" exercise must be undertaken in the area of the affected remnant of Central Rûens Shale Renosterveld and the rescued plants must be relocated into the area from waypoint VDW5 westwards, as specified in the Botanical Assessment, dated October 2017 and conducted by Bergwind Botanical Surveys and Tours.
19. The construction footprint of the dam must be clearly demarcated prior to commencement of any construction activities and all vehicles and construction related activities must be prohibited outside of the demarcated footprint area.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with the listed activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activities, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry of the environmental authorisation.
4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:
Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of the EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.

G. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date on which notification of the decision was sent to the holder by the Competent Authority –
 - 1.1 Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2 Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date on which the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1 Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2 Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organs of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organs of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:

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

By facsimile: (021) 483 4174; or

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

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to Jaap.DeVilliers@westerncape.gov.za.

- A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully



MR HENRI FORTUIN

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

DATE OF DECISION: 20-6-18

CC: (1) I Erasmus (EnviroAfrica)
(2) R Brunnings (Swellendam Municipality)
(3) Mr R Smart (CapeNature)
(4) Ms. E. Rossouw (BGCMA)

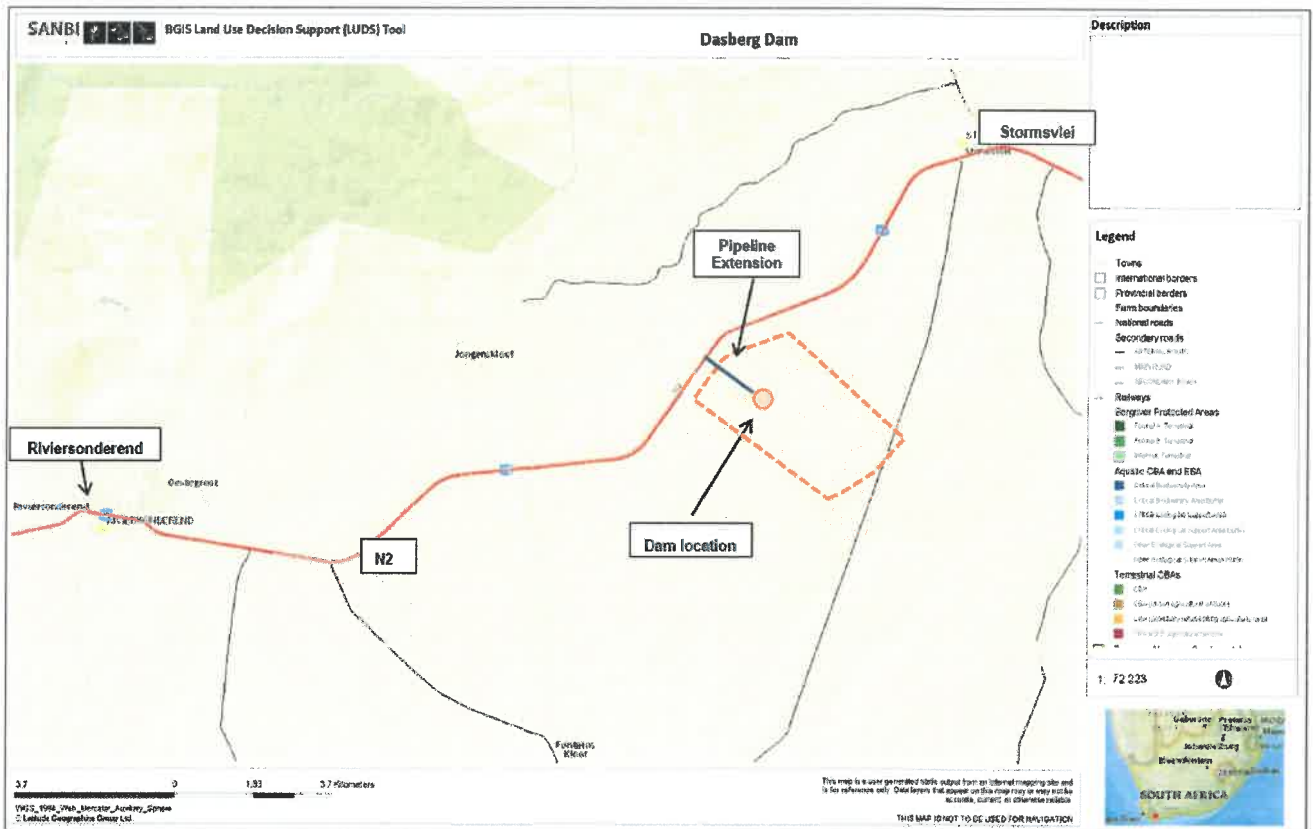
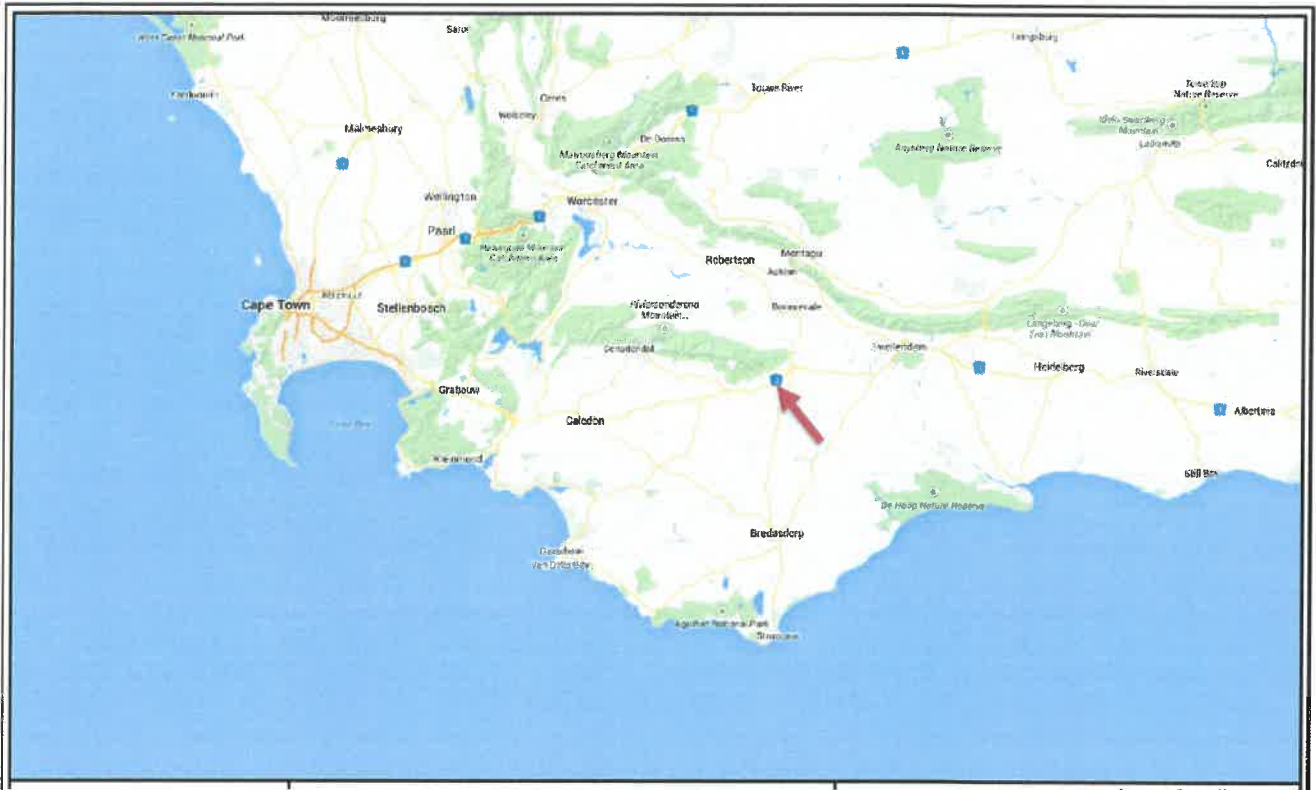
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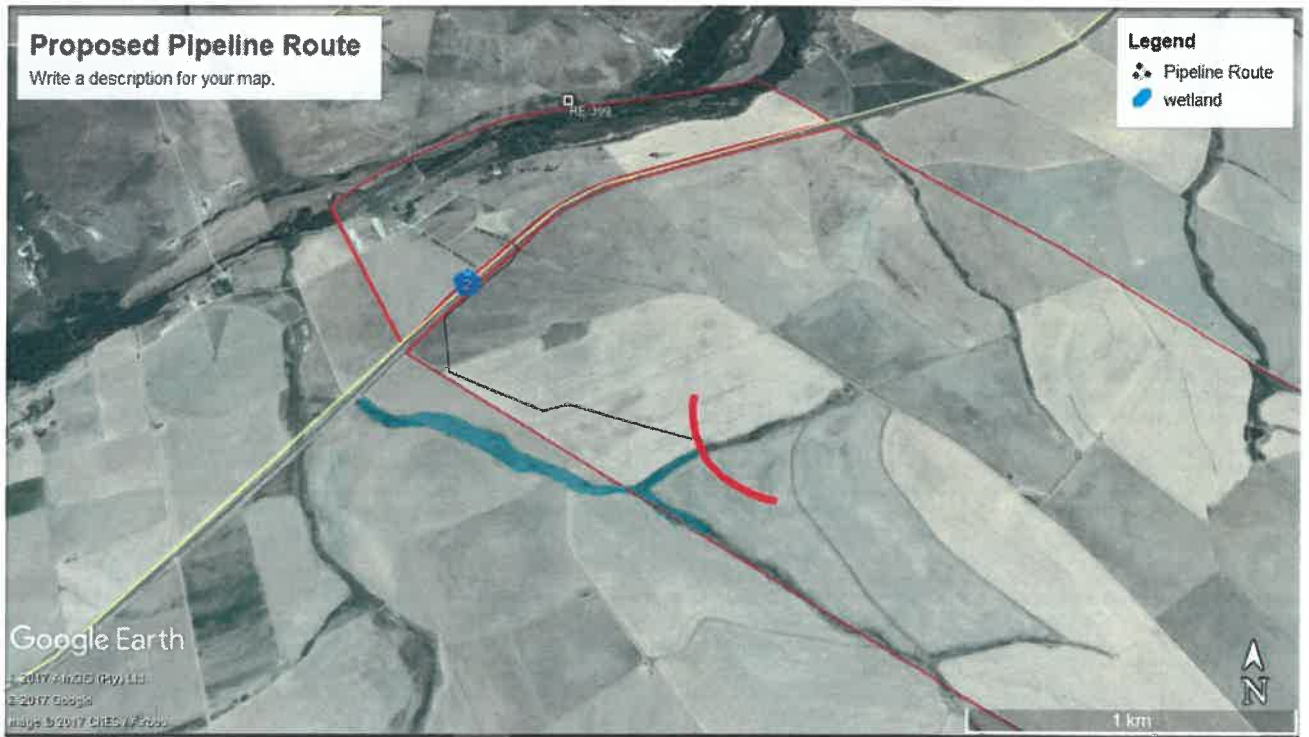
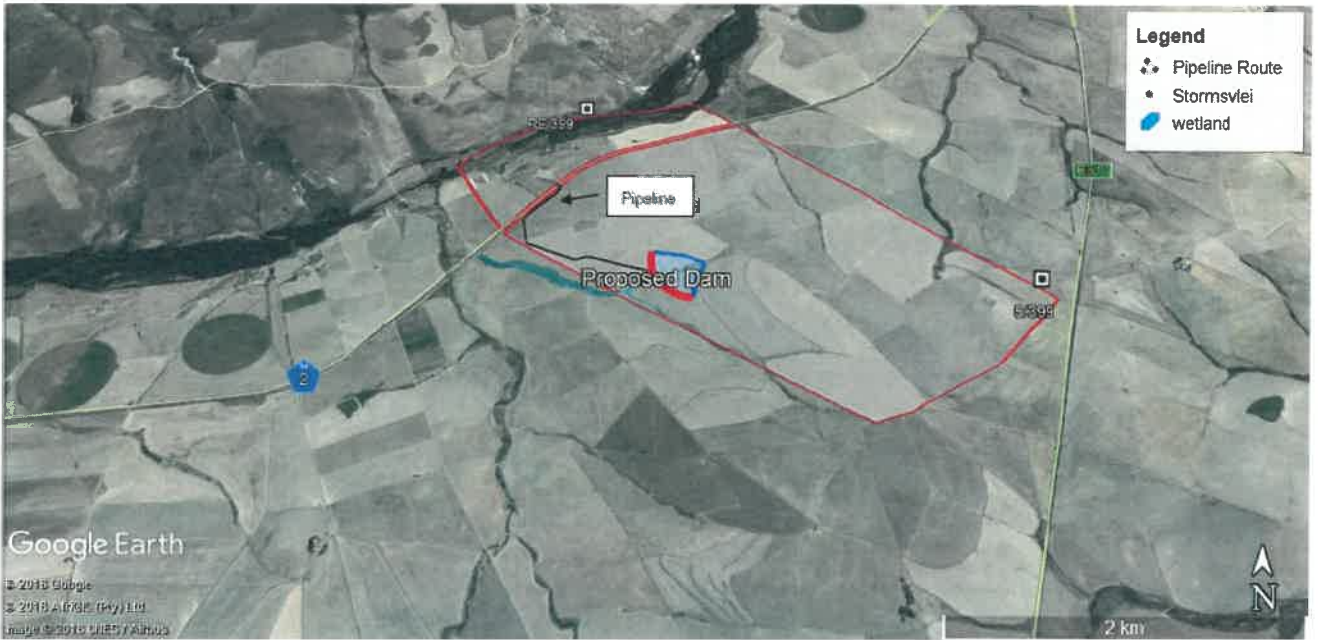
Fax: (086) 529 4992

Fax: (023) 347 2012

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form submitted on 12 June 2017, the EIAR together with the EMPr and MMP submitted on 2 March 2018;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the EIAR dated March 2018; and
- e) The balancing of negative and positive impacts and proposed mitigation measures;

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

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

1. Public Participation

The public participation process included:

- Giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities on 16 September 2016;
- Placing site notices on 16 September 2016;
- Circulating the pre-application draft Scoping Report for comment to I&APs for public review from 16 September 2016;
- Placing a newspaper advertisement in the "Langeberg Bulletin" on 31 March 2017;
- Circulating the in-process draft Scoping Report to I&APs for public review from 27 June 2017;
- Circulating the draft EIAR for comment to I&APs from 6 November 2017; and
- Circulating the second draft EIAR for comment to I&APs from 18 January 2018.

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

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

2. Alternatives

Site Alternative A (Herewith authorised):

This alternative entails the construction of an in-stream storage dam on Portion 5 of Farm van der Wattskraal No. 395 and the extension of an existing irrigation pipeline to the new dam. The dam will have a:

- Storage capacity of 625 000m³.
- Wall length of 550m.
- Dam wall height of 19.5m.
- Surface area of 8.8ha.

This site is preferred since it is in closer proximity to the new citrus orchards than Alternative B. No neighbouring farmers will be impacted or lose agricultural land by the proposed construction of the new in-stream dam, since its entire footprint will be restricted to the owner's farm. The dam will also have reduced operational costs since no pump station will be required and water will gravity feed from the water source to the dam.

The irrigation pipeline will extend from the dam over cultivated land and connect with the existing pipeline on the remainder of Farm van der Wattskraal No. 399. This pipeline route is preferred since it avoids the watercourse to the west of the property and will extend through cultivated land. No additional vegetation will be disturbed during the construction phase of the pipeline, which will significantly decrease the potential environmental impact thereof.

Site Alternative B:

This alternative entails the construction of an in-stream storage dam spanning across the farm and the neighbouring property, as well as the extension of an existing irrigation pipeline to the new dam. This alternative was suggested by the engineers, as it would provide a more suitable catchment area and require in less earth movement. However, a portion of the dam would encroach onto the neighbouring farm and the landowner did not consent to the dam being constructed on his property. This alternative would also require a pump station to be constructed, thereby resulting in increased operational costs and was therefore rejected.

"No-Go" Alternative

The 'no-go' alternative was considered. However, it is not preferred since it will not provide an opportunity to increase the economic viability of the farm.

3. Impact Assessment and Mitigation measures

3.1 Activities need and desirability

The owner wishes to minimise his risks by diversifying the agricultural produce of the farm and therefore wants to convert existing wheat fields into citrus orchards. The proposed construction of the dam is primarily to increase the efficiency of water storage on the said farm and to ensure that there will be sufficient supply and storage of irrigation water for the proposed new citrus orchards. The proposed development will not only promote water efficiency, but also enhance the economic viability of the farm. Furthermore, the development is consistent with the surrounding land use, with storage dams providing the requisite water supply to support the farming activities.

3.2 Biodiversity and Biophysical Impacts

The site falls within an area historically covered by Central Rûens Shale Renosterveld, an ecosystem classified as critically endangered in terms of Section 52 of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEMBA"). The site has however been

disturbed by agricultural activities such as the cultivation of land therefore only a small extent of this vegetation type will be lost. Loss of natural vegetation within the surrounding area and river corridors is also expected to be low, as the site is almost entirely surrounded by agricultural land. Based on the findings of the Botanical Assessment, dated October 2017 and conducted by Bergwind Botanical Surveys and Tours, it is estimated that approximately 1.5ha of the remnant Central Rûens Shale Renosterveld would be lost due to the construction of the dam and inundation during operation. The impact of the loss at a local scale would result in a Medium negative impact. In addition, it is recommended that a "Search and Rescue" exercise be conducted in the affected area (particularly bulbs and succulents) and that the rescued plants be relocated to the area from waypoint VDW5 westwards (as specified in the Botanical Assessment) This would provide adequate mitigation for the lost habitat, lowering the impact to Low negative.

According to the Western Cape Biodiversity Spatial Plan, 2017 ("WCBP") the proposed dam will be located in a watercourse that has been indicated as a combination of a floodplain wetland and valleyhead seep wetland. However, based on the findings of the Freshwater Impact Assessment, dated April 2017 and conducted by Enviroswift, the watercourse is considered to be more representative of an unchannelled valley bottom wetland. The wetland is dominated by obligate wetland species and the extent of the natural vegetation along the watercourse has been significantly reduced as a result of surrounding cultivation activities and three small impoundments in the upper reaches of the freshwater feature. The disturbance has reduced the Present Ecological State ("PES") of the wetland to a Category C (moderately modified), which will be further reduced to a Category D (largely modified), with the construction of the dam. The wetland was also determined to be of moderate Ecological Importance and Sensitivity and is considered to be of increased importance in terms of moderating water quality and erosion control, especially due to the extent to which the wetland catchment is cultivated. The Freshwater Impact Assessment recommends that the PES of the wetland is maintained as a Category C, which will be possible with the implementation of the proposed mitigation measures and monitoring guidelines. In addition, a Water Use Licence Application ("WULA") in terms of the National Water Act, 1998 (Act 38 of 1998) has been submitted to the Breede-Gouritz Catchment Management Agency, for the proposed construction of the dam, who will further investigate the watercourse related impacts.

Furthermore, a MMP has also been compiled to address routine maintenance activities taking place in the affected stretch of the watercourse. The maintenance of the structures authorised in this Environmental Authorisation forms part of this MMP. It must be noted that the accepted maintenance activities only relate to the activities described in the MMP. Should any new activities and associated infrastructure, not included in the MMP, require maintenance and if any of the applicable listed activities are triggered, an Environmental Authorisation must be obtained prior to the undertaking of such activities. It remains the responsibility of the proponent to determine if any other listed activities are triggered and to ensure that the necessary Environmental Authorisation is obtained.

The fact that the MMP is adopted by the Competent Authority does not absolve the applicant from its general "duty of care" set out in Section 28(1) of the NEMA, which states that *"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." (Note: When interpreting their "duty of care" responsibility, cognisance must be taken of the principles of sustainability contained in Section 2 of NEMA). The development will result in both negative and positive impacts.

Negative Impacts:

- The development will result in the loss of natural vegetation and impact on the freshwater resource during construction and operation, which will be effectively mitigated to a low negative significance.
- It was determined that the potential negative impacts during the construction phase of the development, such as noise and visual impacts, will be of low significance after mitigation.

Positive impacts:

- The proposed development will increase the efficiency of water storage on the farm in order to utilise its full potential.
- The development will ensure the economic viability of the farm and provide additional employment opportunities.

4. National Environmental Management Act Principles

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

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

5. Conclusion

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

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