



**Western Cape
Government**

Environmental Affairs and
Development Planning

**DIRECTORATE: ENVIRONMENTAL GOVERNANCE
SUB-DIRECTORATE: RECTIFICATION**

24G APPLICATION REF: 14/2/4/2/3/D2/30/0018/20

ENQUIRIES: Ziyaad Allie

The Managing Director
Turvey Broers (Pty) Ltd
PO Box 146
HOEKWIL
6538

Email: willieturvey@gmail.com

Cell: (082) 673 9194

Attention: Willie Turvey

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): THE UNLAWFUL CLEARANCE OF INDIGENOUS VEGETATION ON PORTION 17 AND 19 OF FARM 166 AVONTUUR, HOEKWIL, GEORGE

With reference to your application dated 09 November 2020 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

ENVIRONMENTAL AUTHORISATION

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below as described in the application and environmental assessment dated 09 November 2020.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Turvey Broers Pty. Ltd
 c/o Mr Petrus Willem Turvey
 P.O. Box 146
 HOEKWIL
 6538

Cell: 082 673 9194
 Email: willieturvey@gmail.com

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

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R. 983 of 4 December 2014</p> <p>Activity Number: 19</p> <p>Activity Description:</p> <p><i>"The infilling or depositing of any material more than 5 cubic meters into, or dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic meters from –</i></p>	<p>More than 5 cubic meters of soil was excavated from a watercourse for the enlargement of a dam on Portion 19/166 Avontuur. Several wetland areas associated with tributaries were</p>

<p>(i) Watercourse (ii) the seashore; or (iii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater but excluding where such infilling, depositing, dredging, excavation, removal or moving; (a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; or (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies."</p>	<p>infilled during clearance works. In addition, the stream channel was straightened.</p>
<p>Government Notice No. 983 of 4 December 2014 - Activity Number: 27 Activity Description: <i>The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for –</i> i. <i>The undertaking of a linear activity; or</i> ii. <i>Maintenance purposes undertaken in accordance with a maintenance management plan</i></p>	<p>Approximately 12.43ha of indigenous vegetation was cleared.</p>
<p>Government Notice No. 983 of 4 December 2014 - Activity Number: 48 Activity Description: <i>The expansion of-</i> (i) <i>canals where the canal is expanded by 100 square metres or more in size ;</i></p>	<p>Dam 1 was expanded by approximately</p>

<p>(ii) channels where the channel is expanded by 100 square metres or more in size ;</p> <p>(iii) bridges where the bridge is expanded by 100 square metres or more in size;</p> <p>(iv) dams, where the dam, including infrastructure and water surface area, is expanded by 100 square metres or more in size;</p> <p>(v) weirs, where the weir, including infrastructure and water surface area, is expanded by 100 square metres or more in size;</p> <p>(vi) bulk storm water outlet structures where the bulk storm water outlet structure is expanded by 100 square metres or more in size; or where such expansion or expansion and related operation occurs-</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</p>	<p>10 345.17m².</p>
<p>Government Notice No R. 324 of 2017</p> <p>Activity Number: 12</p> <p>Activity Description: <i>"The clearance of an area of 300 meters 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> <p><i>i. Western Cape</i></p> <p><i>i. Within any critically endangered or</i></p>	<p>Approximately 12.43ha of indigenous vegetation was cleared.</p>

<p>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;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans”</p>	
<p>Government Notice No R. 327 of 2017</p> <p>Activity Number: 19</p> <p>Activity Description: “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; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p>	<p>More than 10 cubic meters of soil was excavated from a watercourse for the enlargement of a dam on Portion 19/166 Avontuur. Several wetland areas associated with tributaries were infilled during clearance works. In addition, the stream channel was straightened.</p>
<p>Government Notice No R. 327 of 2017</p> <p>Activity Number: 27</p> <p>Activity Description: “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.</p> <p>or</p> <p>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.”</p>	<p>Approximately 12.43 ha of indigenous vegetation was cleared.</p>

<p>Government Notice No R. 327 of 2017</p> <p>Activity Number: 48</p> <p>Activity Description: <i>“The expansion of—</i></p> <p><i>(i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or</i></p> <p><i>(ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more; where such expansion occurs—</i></p> <p><i>(a) within a watercourse;</i></p> <p><i>(b) in front of a development setback;</i></p> <p><i>or</i></p> <p><i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse”</i></p>	<p>Dam 1 was expanded by approximately 10 345.17m².</p>
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The abovementioned list is hereinafter referred to as “the listed activities”.

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Avontuur Portion 17&19, Hoekwill, George

The SG digit code are: C0270000000001660017/ C0270000000001660019

The co-ordinates for the property boundary of Portion 19/166 are:

Point	Latitude (S)	Longitude (E)
1	33° 57' 28.81" South	22° 41' 32.65" East
2	33° 57' 30'37" South	22° 41' 37'25" East
3	33° 58' 13'58" South	22° 41' 07,99" East
4	33° 58' 08'76" South	22° 40' 47,01" East

The co-ordinates for the property boundary of Portion 17/166 are:

Point	Latitude (S)	Longitude (E)
1	33° 57' 28.81" South	22° 41' 32.65" East
2	33° 57' 30'37" South	22° 41' 37'25" East
3	33° 58' 13'58" South	22° 41' 07,99" East
4	33° 58' 08'76" South	22° 40' 47,01" East

Clearing was undertaken within this site boundary

Point	Latitude (S)	Longitude (E)
1	33° 57' 37.72" South	22° 40' 42.65" East
2	33° 57' 40.00" South	22° 41' 30.50" East
3	33° 58' 0.92" South	22° 41' 15.10" East
4	33° 58' 2.27" South	22° 40' 45.88" East

Refer to Annexure 1: Locality Plan

Herein-after referred to as "the site".

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")

Eco Route Environmental Consultancy

C/o Ms Samantha Robertson

P.O. Box 1252

SEDGEFIELD

6573

Cell: 072 773 5397

Email: samantha@ecoroute.co.za

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The activities undertaken entail the clearance of indigenous vegetation and the expansion of an existing dam on the properties, Portion 17/166 and Portion 19/166.

Portion 17/166

The landowner commenced with the clearing of vegetation to expand the area of Macadamia orchards. Due to excavations and infilling of the wetland area approximately 80m of an unnamed watercourse was straightened and has resulted in loss of riparian vegetation. The applicant had excavated and straightened the watercourse to remove the decaying carcasses of cattle buried within the river by the previous owner. Approximately 12.43ha of indigenous and alien invasive plant species were cleared.

Portion 19/166

The activities undertaken on this portion entail the enlargement of a dam 1 increasing its footprint and water storage capacity from 25000m³ to 75000m³. The dam wall before construction was not surveyed; however, it was estimated to be approximately 3m in height. The dam wall "as built" now measures 6.9m in height. This resulted in more than 5 cubic meters of soil being excavated from a watercourse for the enlargement of the dam and several wetland areas associated with tributaries were infilled during clearance works.

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to the implemented Alternative described in the application and assessment report dated 09 November 2020 on the site as described in Section D above.
2. 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.

3. Any changes to, or deviations from the scope of the alternative described in Section F 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 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.

PART II

Written notice to the competent authority

4. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement for the purpose of undertaking maintenance and rehabilitation activities.
 - 4.1 The notice must make clear reference to the site details and 24G Reference number given above.

PART III

Notification and administration of an appeal

5. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 5.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 5.1.1 the outcome of the application;
 - 5.1.2 the reasons for the decision as included in Annexure 2;
 - 5.1.3 the date of the decision; and
 - 5.1.4 the date when the decision was issued.
 - 5.2 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* detailed in Section I below.
 - 5.3 draw the attention of all registered I&APs to the manner in which they may access the decision.

5.4 provide the registered I&APs with:

- 5.4.1 the name of the holder (entity) of this Environmental Authorisation;
- 5.4.2 name of the responsible person for this Environmental Authorisation;
- 5.4.3 postal address of the holder;
- 5.4.4 telephonic and fax details of the holder;
- 5.4.5 e-mail address, if any, of the holder; and
- 5.4.6 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*.

6. The listed activities, including site preparation, may not commence within 34 (thirty-four) 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.

PART IV

Management of the activity/development

- 7. The draft Environmental Management Programme ("EMPr") of November 2020 compiled by Eco Route Environmental Consultants and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.
- 8. The EMPr must be included in all contract documentation for all phases of implementation.

PART V

Monitoring

- 9. 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 activity/ies, and must be made available to anyone on request, including a publicly accessible website (if applicable).
- 10. Access to the site referred to in Section D 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.

PART VI

Auditing

11. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and the closure plan (where applicable) and submit Environmental Audit Reports to the competent authority upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

PART VII

Activity/ Development Specific Conditions

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

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

13. 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.

14. The recommendations of the Freshwater specialist as outlined in the Freshwater Assessment of February 2018 must be implemented.

15. The recommendations contained in the Riparian and Wetland Rehabilitation plan of April 2018 must be implemented.

16. The Holder must ensure the establishment of appropriate buffers of at least 30m in order to ensure that the freshwater features are rehabilitated as close as possible to their natural state. All future agricultural practices should be kept outside of the 30m buffer area.
17. The dams on Portion 17 and 19 must be fitted with release valves which release a controlled quantity of water regularly to ensure water supply continues to reach the downstream watercourses.

H. 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 or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. 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* 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.

4. 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* or any relevant legislation that may be applicable at the time.

I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –

1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –

2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and 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. This appeal and responding statement must be submitted to the address listed below -

By post: Attention: Marius Venter

Western Cape Ministry of Local Government, Environmental Affairs &
Development Planning

Private Bag X9186, Cape Town, 8000; or

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, 8000; or

By e-mail: DEADP.Appeals@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator 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 office of the appeal authority/ at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, 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.

Yours faithfully

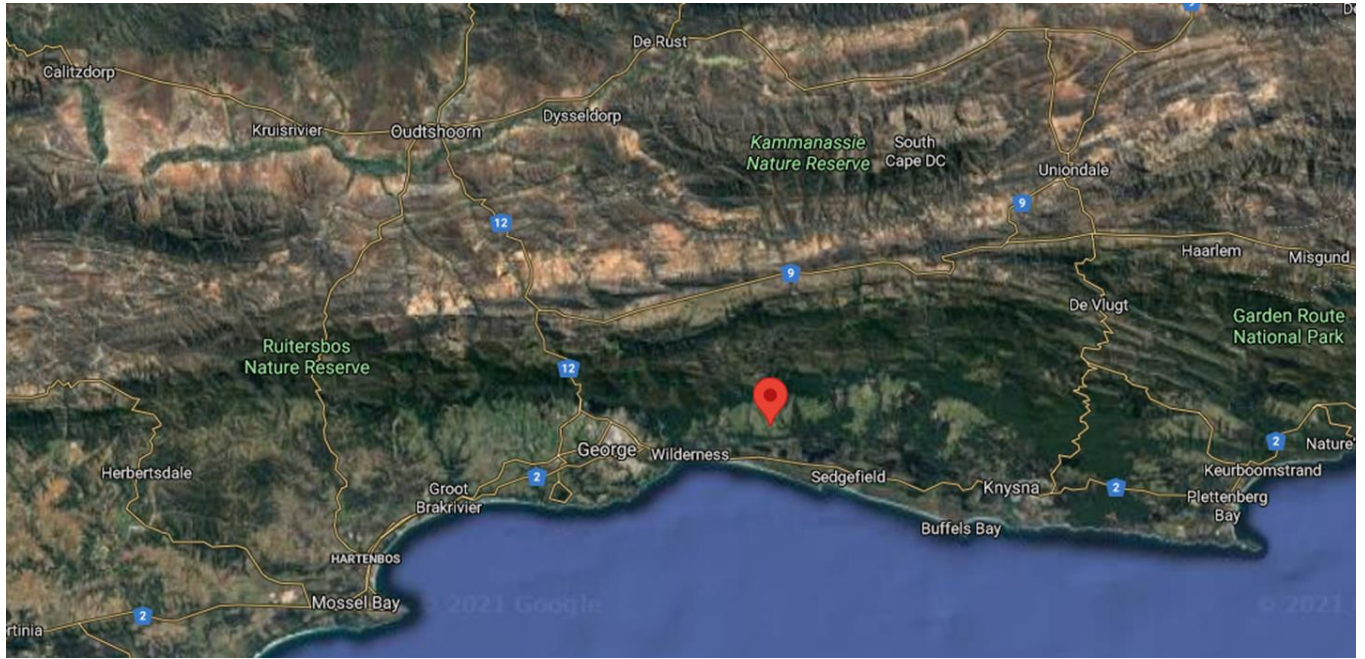
ADV. CHARMAINE MARÉ
DIRECTOR: ENVIRONMENTAL GOVERNANCE

Copied to: (1) Samantha Robertson (EAP)
(2) Clinton Petersen (George Municipality)

Email: samantha@ecoroute.co.za

Email: Cpetersen@george.gov.za

ANNEXURE 1: LOCALITY MAP



FOR OFFICIAL USE ONLY:

S24G REFERENCE: 14/2/4/2/3/D2/30/0018/20

APPEAL REFERENCE: 14/3/6/D2/30/0534/21

ANNEXURE 2: REASONS FOR THE DECISION

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R250 000 (Two hundred and fifty thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 09 November 2020.
- b) The Environmental Management Programme ("EMPr") of November 2020 submitted together with the application.
- c) The Riparian and Wetland Rehabilitation plan of April 2018.
- d) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- f) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- g) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- h) The appeal decision on the 24G administrative fine dated 13 September 2021.

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 which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- An advertisement was placed in the CXpress newspaper;
- A site notice was erected; and
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor.
- I&APs were afforded the opportunity to provide comments on the application.

Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- Breede Gouritz Catchment Management Agency ("BGCMA")
- Department of Agriculture, Forestry and Fisheries ("DAFF")
- This Department's Directorate: Development Management Region 3 ("D:DM")

A summary of the comments received, and the responses thereto follows below.

BGCMA

The BGCMA stated that the activities of infilling and straightening of the river channel triggers the use for a water use authorization in terms of the *National Water Act 36 of 1998*. The BGCMA further stated that the whole freshwater system (including the unnamed streams and drainage lines), are to be properly rehabilitated and re-vegetated with appropriate vegetation. This is to be done according to a formal rehabilitation plan as prepared by EverWater Freshwater Consulting Services. All future agricultural practices should be kept outside of the 30m buffer area. A river Maintenance and Management Plan should be followed for any future work in this area. The EAP responded by stating that the recommendations have all been included in the Environmental Impact Report.

DAFF

The DAFF recommended that the disturbed/ cleared areas, along the watercourse, be rehabilitated with indigenous/ endemic forest tree species, and that the areas along the watercourse with indigenous forest patches be kept intact.

D:DM

The DEA&DP:DM stated that the recommendations made by the freshwater specialist are supported and that the establishment of appropriate buffers (30m) is also key to ensure that the freshwater features are rehabilitated as close as possible to their natural state.

Comment received from I&APs

Wilderness and Lakes Environmental Action Forum ("WALEAF")

WALEAF stated that that Dam 2 did not exist in April 2016, and that the area of the new Dam 2 was partially covered in trees. They felt that this Dam 2 should in fact be removed, and the area be rehabilitated.

The EAP responded by stating that the dam did exist in April 2016. The dam was unlawfully enlarged. The relevant specialists have provided rehabilitation and maintenance recommendations for the affected area to reduce the impacts caused by the dam enlargement and vegetation clearance.

WALEAF then stated that a resident downstream of this activity whose property the stream crosses, and who has lived in the area for 30-40 years, states that the stream used to flow 365 days a year, but now it very seldom flows due to all the dams upstream.

The EAP responded by stating that as per GIS imagery obtained from Google Earth, it is clear to see that the dams on Portion 17 and 19 of the Farm Avontuur 166 have been in existence in the last 17 years. Therefore, it is unlikely that the reduction in stream flow is isolated to the applicant's recent activities. Upstream from the dam several instream dams occur within the stream channel, abstracting a significant amount of the flow that would naturally exist in the stream together with farmlands adjacent to the stream often encroaching onto the little riparian area still left.

Further comments received from WALEAF related to water use rights of downstream properties, as well as the reduced water quality for downstream users due to the unlawful activities which were undertaken on Portion 17 and 19 of Farm Avontuur.

The EAP responded by stating that the expansion of the dam would only result in a water abstraction increase of 0.11%, which is considered negligible. The reduction of water quality was most likely a result of the previous owner who buried carcasses in the watercourse. The applicant had removed the carcasses and straightened the river to remove the terrible smell and potential pollution due to the decaying carcasses.

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 and in the EMPr to adequately address the concerns raised.

The competent authority concurs with the EAP'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

2.1 Location Alternatives

Alternative 1 (Herewith authorised)

The activities undertaken entail the clearance of indigenous vegetation and the expansion of an existing dam on the properties, Portion 17/166 and Portion 19/166.

Portion 17/166

The landowner commenced with the clearing of vegetation to expand the area of Macadamia orchards. Due to excavations and infilling of the wetland area approximately 80m of an unnamed watercourse was straightened and has resulted in loss of riparian vegetation. The applicant had excavated and straightened the watercourse to remove the decaying carcasses of cattle buried within the river by the previous owner. Approximately 12.43ha of indigenous and alien invasive plant species were cleared.

Portion 19/166

The activities undertaken on this portion entail the enlargement of a dam 1 increasing its footprint and water storage capacity from 25000m³ to 75000m³. The dam wall before construction was not surveyed; however, it was estimated to be approximately 3m in height. The dam wall "as built" now measures 6.9m in height. This resulted in more than 5 cubic meters of soil being excavated from a watercourse for the enlargement of the dam and several wetland areas associated with tributaries were infilled during clearance works.

2.2 Activity alternatives

The proposed activity itself does not have an alternative; however, specialists have provided recommendations which would result in the said activity having a decreased negative environmental impact.

Design / layout alternatives

The Dam Safety report compiled by Gorra Water, dated August 2020 provides design mitigation measures to ensure the safety of the dam and surrounding environment. In addition, it is recommended that the dams on Portion 17 and 19 be fitted with release valves which release a controlled quantity of water regularly to ensure water supply continues to reach the downstream watercourses.

Technology alternatives

Alternative methods of irrigation can be examined to result in the least amount of water use.

Operational alternatives

It is highly recommended that organic pest control is used on orchards in order to prevent the pollution of the soil and downstream watercourses.

2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

Ceasing the activity would result in the severe reduction of a water source to irrigate the orchards, which would negatively impact the farmers and workers livelihood, and decrease agricultural food crop production. Rehabilitation of the assigned 30m Buffer Zone and downstream habitats would be required regardless of ceasing the activity.

3. Environmental Impact Assessment (EIA) and Mitigation Measures

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

3.1. Activity Need and Desirability and Planning context

The property is zoned Agriculture and is being used for agricultural practices. Due to the need to ensure successful agricultural practises on the property, the dam required enlarging.

3.2. Biophysical and Biodiversity Impacts

The unlawful activities undertaken on the sites have resulted in a localised loss of indigenous vegetation through the unlawful clearance. The loss of aquatic vegetation normally associated with the larger drainage line has resulted in a larger impact than that of the terrestrial vegetation. With the removal of most of the vegetation in these freshwater features, the excavation of stream banks and beds and the type of soils around the site, there has been some erosion, sedimentation and contamination of the run-off from these aquatic features and surrounding

area, which has impacted on the downstream section of the unnamed stream. Taking into account the size of the section of the stream together with above mentioned factors, the impact arising from the change in flow is found to be a Low to Moderate Negative impact with mitigation.

4. NEMA 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.

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 listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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