

REFERENCE: 16/3/3/1/B2/32/1047/20
NEAS REFERENCE: WCP/EIA/0000802/2020
ENQUIRIES: Ntanganedzeni Mabasa
DATE OF ISSUE: 16 March 2021

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: THE PROPOSED EXPANSION OF THE EXISTING RESERVOIR SYSTEM LOCATED ON THE REMAINDER OF ERF NO. 19909, WORCESTER.

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activity specified in section B below with respect the Preferred Alternative described in the Basic Assessment Report ("BAR"), dated 27 November 2020.

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

Breede Valley Municipality
c/o Jaco Steyn
30 Baring Street
WORCESTER
6849
Cell: 079 342 8123
Email: jsteyn@bvm.gov.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	Project Description
<p>Listing Notice 3 – Activity Number: 16 <i>The expansion of reservoirs, excluding dams, where the capacity will be increased by more than 250 cubic metres.</i></p> <p>i. Western Cape:</p> <ul style="list-style-type: none"> I. A protected area identified in terms of NEMPAA, excluding conservancies; ii. In areas containing indigenous vegetation; or iii. Inside urban areas: <ul style="list-style-type: none"> (aa) Areas zoned for use as public open space; or (aa) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose, including residential areas. 	<p>The proposal entails the construction of an additional 20 Ml reservoir at the existing Pre-Loads Reservoir site to increase the reservoir’s storage capacity. Indigenous vegetation will be cleared to accommodate the additional reservoir.</p>

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

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

The proposal entails the construction of an additional 20 Ml reservoir at the existing Pre-Loads Reservoir site on the Remainder of Erf No. 19909 in Worcester to increase the reservoir’s current storage capacity of 45.85Ml. Both the proposed reservoir tank and associated pipelines will be located adjacent to the existing system. Two pipelines will be constructed (one to the north and one to the south of the existing footprint) to link the new reservoir with the existing pipeline, which runs to the town of Worcester. A cut-off trench will also be constructed below the new reservoir. The development footprint of the expansion will be 5374m². This includes the portion of the access road, approximately 200m in length, that will be re-routed around and west of the additional reservoir. The expanded reservoir site will be fenced off.

C. SITE DESCRIPTION AND LOCATION

The site where the authorised listed activity will be undertaken is on the Remainder of Erf No. 19909, Worcester and has the following co-ordinates:

	Latitude (S)	Longitude (E)
Coordinates	33° 37' 21.79" South	18° 26' 25.52" East

The SG digit code is: C08500040001990900000

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

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Guillaume Nel Environmental Consultants cc (GNEC)
c/o Heloise Groenewald/ Carina Becker
P.O. Box 2632

PAARL

7620

Tel: (021) 870 1874

Email: hdp@gnec.co.za

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activity specified in Section B above in accordance with and restricted to Preferred Alternative described in the Basic Assessment Report ("BAR"), dated 27 November 2020 on the site as described in Section C above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of issue within which commencement must occur.
3. The development must be concluded within **ten years** from the date of commencement of the listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.

5. Any changes to, or deviations from the scope of the alternative described in section B above must be accepted or approved, in writing, by the Competent Authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Competent Authority may request information in order to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Written notice to the Competent Authority

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

Conditions: 7, 8 and 11

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 detailed in Section F below;
 - 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 7.4 provide the registered I&APs with:
 - 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,

7.4.6 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 2014 National Appeals Regulations.

8. The listed activity, including site preparation, may 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.

Management of activity

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 EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

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

Auditing

14. In terms of Regulation 34 of the NEMA EIA Regulations, 2014, the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation and the EMPr. 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.

The holder must undertake an environmental audit and submit an Environmental Audit Report to the Competent Authority once a year during the construction phase and a final Environmental Audit Report within three months after the development is completed.

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

Specific Conditions

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

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

16. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activity.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with a listed activity within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, 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 date 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 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 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 the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.

4. The appeal and the responding statement must be submitted to the 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 Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

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

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

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 16 MARCH 2021

Cc: (1) Heloise Groenewald (Guillaume Nel Environmental Services)
(2) Sean Swartz (Breede Valley Municipality)
(3) Siyabulela Lups (BGCMA)
(4) Alana Duffel-Canham (CapeNature)

Email: hdp@gnec.co.za
Email: csd@bvm.gov.za
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Email: aduffel-canham@capenature.co.za

ANNEXURE 1: LOCALITY MAP







 <p>Guillaume Nel REVOLUTIONARIAL CONSULTANTS Tel: (021) 870 1874 Fax: 086 6933 802 Cell: 072 1571 321</p>	<p>Locality Map of the Remainder of Portion 19809, Worcester, Western Cape.</p> <p>Source: Cape Farm Mapper</p>	
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Figure 9: Locality Map of the subject property.

ANNEXURE 2: SITE PLAN

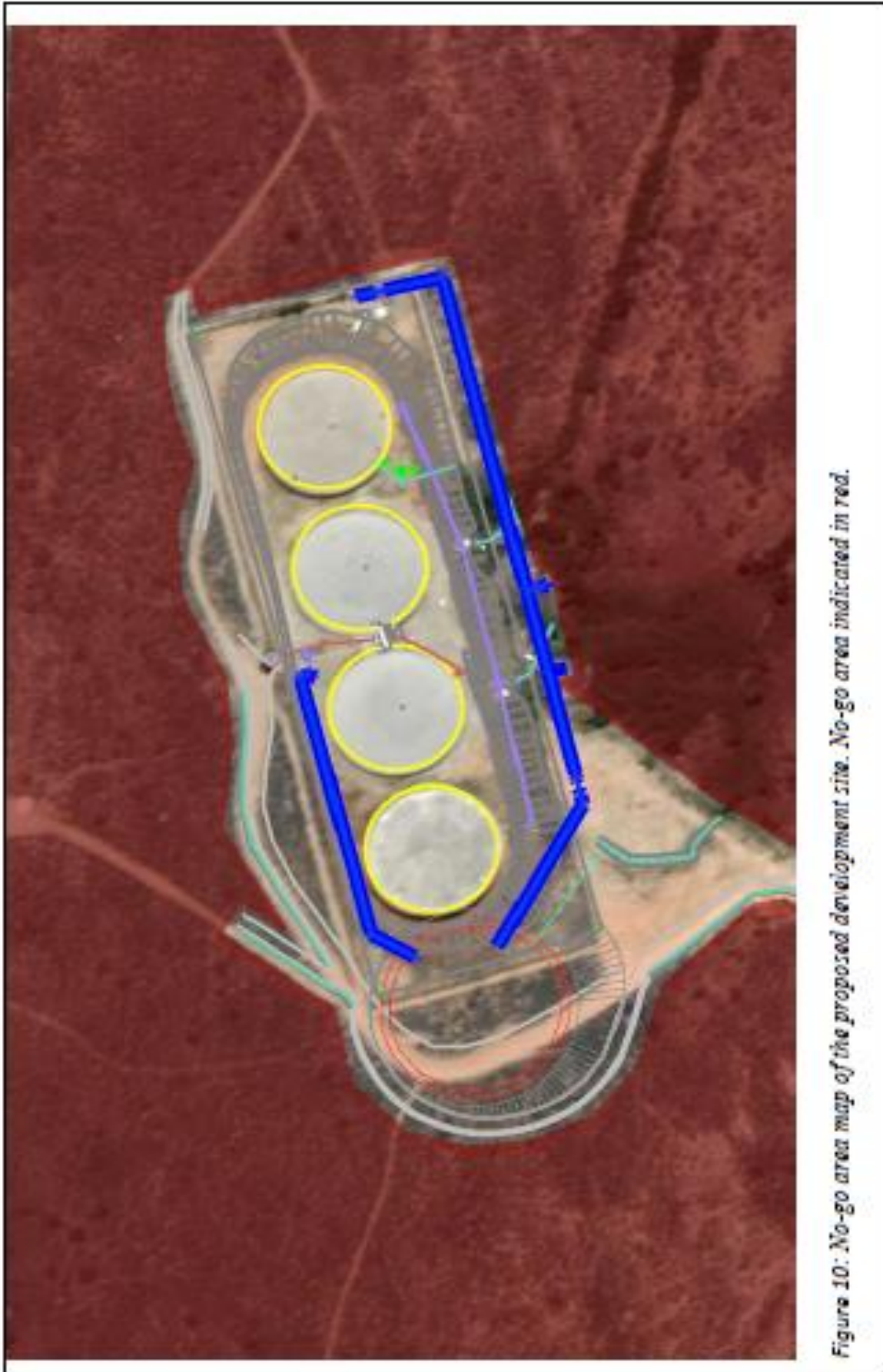


Figure 10: No-go area map of the proposed development site. No-go area indicated in red.

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 received on 21 September 2020, and the EMPr submitted together with the final Basic Assessment Report dated 27 November 2020 and received on 1 December 2020;
- 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 final Basic Assessment Report 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 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 ("PPP") included:

- identification of and engagement with I&APs;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activity is to be undertaken, the municipality and ward councilor, and the various organs of state having jurisdiction in respect of any aspect of the listed activity on 20 February 2020;
- notice boards were placed at the site where the listed activity is to be undertaken on 20 February 2020;
- the placing of a newspaper advertisement in the 'Worcester Standard' on 20 February 2020;
- Circulating the pre-application draft BAR to I&APs for public review from 24 February 2020 and the in-process draft BAR from 30 September 2020.

The Department is satisfied that the PPP that was followed met the minimum legal requirements and the comments raised and responses thereto were included in the comments and response report.

Specific alternatives, management and mitigation measures have been considered in this Environmental Authorisation and EMPr to adequately address the concerns raised.

2. Alternatives

The following alternatives were considered:

Preferred Alternative: (Preferred alternative herewith authorised):

The preferred alternative will entail the construction of an additional 20 Ml reservoir at the existing Pre-Loads Reservoir site on the Remainder of Erf No. 19909 in Worcester to increase the reservoir's current storage capacity of 45.85Ml. Both the proposed reservoir tank and associated pipelines will be located adjacent to the existing system. Two pipelines will be constructed (one to the north and one to the south of the existing footprint) to link the new reservoir with the existing pipeline, which runs to the town of Worcester. A cut-off trench will also be constructed below the new reservoir. The development footprint of the expansion will be 5374m². This includes the portion of the access road, approximately 200m in length, that will be re-routed around and west of the additional reservoir. The expanded reservoir site will be fenced off. This is the preferred alternative since it incorporates the specialist recommendations and input from the relevant authorities received during the Basic Assessment Process. Expanding the existing reservoir system will also be more cost effective.

Design Alternative: Separate reservoir system

A new reservoir system on the site, but separate from the existing reservoir system, was considered as a design alternative. This was not preferred since it would not be able to connect to the existing reservoir system, which in turn will require a new and longer pipeline to be constructed, resulting in a larger disturbance footprint and an increased botanical impact. In addition, this alternative will also have higher cost implications.

No-go Option

This alternative entails not constructing the additional 20Ml reservoir. This was not preferred since the system is currently under pressure to provide the growing commercial and residential developments in Worcester with adequate access to potable water.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The current reservoir system has been in existence for numerous years, providing the town of Worcester with potable water. In recent years, the town of Worcester has undergone rapid growth in terms of residential and commercial developments. As a result of this rapid growth, the bulk provision of infrastructure needs to be timeously planned and implemented to keep up with rising service delivery demands. The proposed additional reservoir and associated infrastructure will be located adjacent to the existing reservoir site on a partially disturbed area to limit the overall potential impacts of the proposed development.

3.2 Biophysical Impacts

The site is mapped to contain Robertson Karoo vegetation, which is not classified as a threatened habitat type. The site is located in a Critical Biodiversity Area ("CBA"). The expanded footprint will however be confined to a small section at the edge of the CBA where the site is partially degraded due to the existing reservoir development. Based on the findings of the Biodiversity Survey dated January 2020 compiled by Mark Berry Environmental Consultants, the proposed development will impact approximately 1850m² of good quality Robertson Karoo vegetation and approximately 1400m² of disturbed vegetation, with the rest of the site already being transformed into a dirt road. The impact that the proposed expansion will have on the vegetation type is considered to be of Low to Moderate significance with the implementation of the recommended mitigation measures. A Spring Survey was also undertaken to identify any potential Species of Conservation Concern that may require to be transplanted. This informed the footprint of the proposed re-routed access road and the recommendation that the area outside the construction site be fenced off and demarcated as a no-go area prior to commencement. A rehabilitation plan has been compiled for implementation, which includes an alien clearing management plan, a search and rescue exercise of the endemic species prior to construction and rehabilitation of the affected areas following construction.

The existing reservoir system was designed with an overflow system, which has given rise to an artificial wetland below the existing reservoirs. This was confirmed during a site visit undertaken by the Breede-Gouritz Management Agency ("BGCMA") who consequently advised that the proposed development does not trigger any water uses in terms of the National Water Act, 1998 (Act 38 of 1998) ("NWA"). This is based on the fact that the wetland is man-made and is not considered as a watercourse as defined in terms of the NWA and the EIA Regulations, 2014 (as amended). Notwithstanding this, mitigation measures were proposed by the BGCMA in their comment dated 20 November 2020 to limit the potential impact of the portion of the development that encroaches into the artificial wetland and these have been included in the EMPr approved in Condition 9 of this Environmental Authorisation.

The development will result in both negative and positive impacts.

Negative Impacts:

- The proposed development will require the clearance of indigenous vegetation.
- During the construction phase traffic, noise and dust impacts can be expected, which will only be temporary and is expected to be negligible.
- These impacts will however be mitigated to a satisfactory level with the implementation of the recommended mitigation measures, the preferred alternative and adherence to the EMPr.

Positive impacts:

- The proposed development will ensure adequate service delivery for the expanding town of Worcester and enable economic growth for the municipal area;
- Temporary employment opportunities will be created during the construction phase.;

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 activity will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activity can be mitigated to acceptable levels.

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