

**REFERENCE:** 16/3/3/1/B2/32/1026/17  
**NEAS REFERENCE:** WCP/EIA/0000290/2017  
**ENQUIRIES:** Samornay Smidt  
**DATE OF ISSUE:** 2018 -02- 16

The Board of Directors  
Graaff Fruit (Pty) Ltd  
PO Box 5  
HEX RIVER  
6855

**Attention:** Mr. Johan van Tonder

Tel: (023) 357 9656  
Fax: (023) 357 9218

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 DEVELOPMENT OF NEW VINEYARDS ON THE REMAINDER OF THE PINES FARM NO. 74, HEX RIVER VALLEY**

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

Yours faithfully



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

Cc: (1) Erasmus (EnviroAfrica)  
(2) Breede Valley Municipality

Fax: (086) 512 0154  
Fax: (023) 348 2709



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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): PROPOSED DEVELOPMENT OF NEW VINEYARDS ON THE REMAINDER OF THE PINES FARM NO. 74, HEX RIVER VALLEY

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 activity specified in section B below with respect to Alternative 2, as described in the Basic Assessment Report ("BAR"), dated 11 October 2017.

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  
c/o Mr. Johan van Tonder  
Graaff Fruit (Pty) Ltd  
PO Box 5  
**HEX RIVER**  
6855

Tel: (023) 357 9656  
Fax: (023) 357 9218

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><b>Activity Number: 27</b></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 development entails the clearance of indigenous vegetation for the establishment of vineyards.</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 development of approximately 6.3 hectares of new vineyards on undeveloped land on the lower slopes of the Matroosberg mountains within the Hex River Valley, which will comprise of two new vineyard blocks:

- Block 1: ±4.5ha and
- Block 5: ±1.8ha.

## C. SITE DESCRIPTION AND LOCATION

The listed activity will be undertaken on the remainder of The Pines Farm No. 74, Hex River Valley.

The co-ordinates of the site are:

Block 1: Co-ordinates: Latitude: 33° 29' 08.6" South  
Longitude: 19° 34' 53.6" East,

Block 5: Co-ordinates: Latitude: 33° 29' 20.9" South  
Longitude: 19° 34' 33.2" East,

The SG digit code is: C0850000000007400000

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

Environmental Assessment Practitioner:

EnviroAfrica cc  
c/o Ms Inge Erasmus  
P.O. 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 activity specified in Section B above in accordance with and restricted to Alternative 2, as described in the BAR dated October 2017 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, 11, 18 and 19.

### **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;
  - 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 activity, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision. 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 activity, including site preparation, must not commence until the appeal is decided.

### **Management of activities**

9. The draft Environmental Management Programme ("EMPr") dated May 2017, 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 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 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 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation and the EMPr and submit Environmental Audit Reports to the Competent Authority. The 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 the report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

### **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.
17. The relevant requirements with respect to occupational health and safety must be adhered to at all times.

18. Blocks 2, 3 and 4 must be demarcated as no-go areas prior to commencement of clearing activities and managed for conservation with CapeNature.
19. The areas that will be cleared in Blocks 1 and 5 must be clearly demarcated prior to commencement of any clearing activities.
20. Block 1 and 5 must not be extended any further northwards beyond the authorised footprint to prevent it from encroaching into the Mountain Catchment 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 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 the 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 (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 GN No. 326 of 7 April 2017 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  
8<sup>th</sup> 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](mailto:Jaap.DeVilliers@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 [Jaap.DeVilliers@westerncape.gov.za](mailto: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**

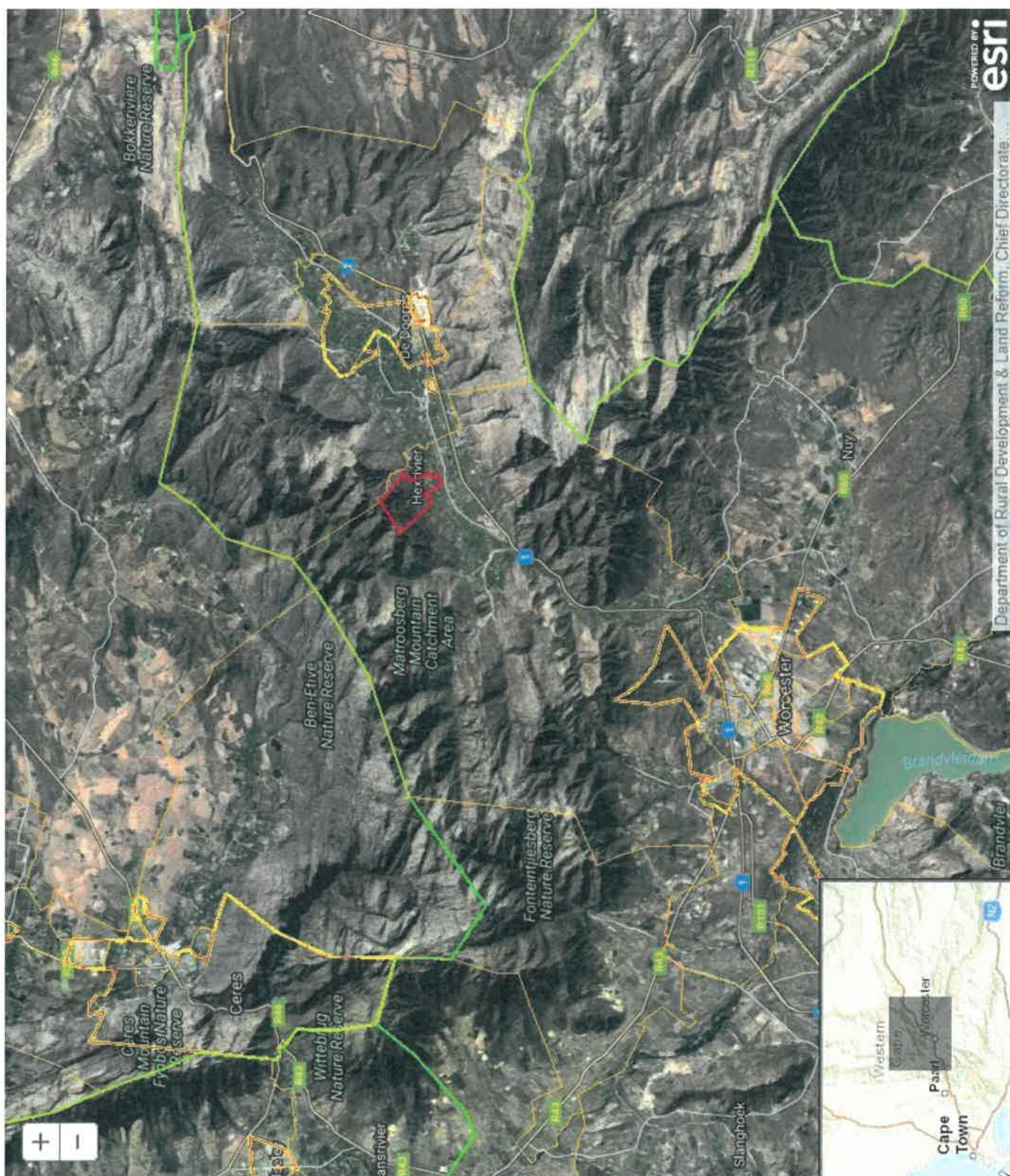
**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)**

DATE OF DECISION: 15-2-18

Cc: (1) I Erasmus (EnviroAfrica)  
(2) Breede Valley Municipality

Fax: (086) 512 0154  
Fax: (023) 348 2709

# ANNEXURE 1: LOCALITY MAP



**ANNEXURE 2: SITE PLAN**



## **ANNEXURE 3: REASONS FOR THE DECISION**

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

- a) The information contained in the Application Form dated 25 July 2017 and the BAR together with the EMPr submitted on 11 October 2017;
- 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 BAR dated October 2017; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

A site visit was not 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 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 councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activity on 16 September 2016;
- fixing notice boards at the site where the listed activity is to be undertaken on 16 September 2016;
- the placing of a newspaper advertisement in the 'Standard' newspaper on 22 September 2016;
- circulating the pre-application draft BAR to I&APs from 19 May 2017;
- circulating the in-process draft BAR to registered I&APs from 1 August 2017;

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

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

## 2. Alternatives

### Alternative 1

This alternative entails the development of four different vineyard blocks, namely Blocks 1 – 4, covering an area of approximately 10 hectares containing natural vegetation. Based on the findings of the Botanical Assessment, the development of Blocks 2, 3 and 4 is not supported since it is considered environmentally sensitive as a result of biodiversity features, as well as being in close proximity to watercourses.

### Alternative 2 (Preferred Alternative herewith authorised)

This alternative entails the development of 2 different vineyard blocks comprising of approximately 6.3 hectares on areas covered by natural vegetation:

Block 1: ~ 4.5ha; and

Block 5: ~1.8ha

This alternative is preferred since it excludes the sensitive areas (i.e. Blocks 2, 3 & 4) as recommended by the Botanical Assessment, which will be conserved. These blocks are also located more than 32m from the watercourses traversing the site.

### "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. In addition, the opportunity to conserve the sensitive areas on the farm will also be lost.

## 3. Impact Assessment and Mitigation measures

### 3.1 Activities need and desirability

The Hex River Valley is intensively cultivated and there are not many more available areas suitable for cultivation. One of the objectives of the Western Cape Spatial Development Framework is sustainability and resilience whereby agricultural resources should be protected and existing agricultural activities and soils with high grazing and cultivation capabilities be retained to ensure agriculture's key position in the regional economy. The site is located in the agricultural area of the Breede Valley and is zoned Agriculture Zone I. The blocks identified for cultivation are located on the only remaining viable land feasible for agricultural development, since the remaining extent of the farm forms part of the Matroosberg Mountain Range. The cultivation of these additional vineyard blocks will increase the production capacity and economic viability of the farm, which in turn will sustain existing and future employment opportunities.

### 3.2 Biophysical Impacts

Farm The Pines No. 74 is located in the lower Hex River Valley on the south-facing slopes below the Matroosberg Mountain Catchment Area. According to Mucina *et. al* (2005, 2009) and Rebelo *et. al.* (2006), the site comprises of South Hex Sandstone Fynbos in the upper part and Breede Alluvium Fynbos in the lower section, which is classified as an endangered vegetation type. However, a more recent and detailed study conducted by Helme (2007) shows that the vegetation types encountered are in fact South Hex Sandstone Fynbos and De Doorns Sandstone Fynbos, both classified as least threatened vegetation types. The 2017 Western Cape Biodiversity Spatial Plan ("WCBSP") has mapped all proclaimed Mountain Catchment Areas ("MCAs") as Protected Areas. Most of this farm is MCA and some of the areas below the MCA has been mapped as aquatic and terrestrial Ecological Support Areas. The applicant's initial preferred alternative included Blocks 1-4,

located directly above already cultivated vineyards on the foot slopes of the mountain. The areas where Blocks 2, 3 and 4 are located are however classified as Critical Biodiversity Areas in the 2017 WCBSA as its importance as a water source area and support area for the MCA was deemed to be very high. Based on the findings of the Botanical Assessment dated August 2016, compiled by Bergwind Botanical Surveys & Tours, Block 1 is suitable for cultivation, whereas Blocks 2, 3 and 4 should be viewed as no-go areas and managed for conservation. An additional area, Block 5, was consequently identified and found to be suitable for cultivation. This was also confirmed by CapeNature in their comments dated 31 May 2017 and 16 August 2017.

The development will result in both negative and positive impacts.

**Negative Impacts:**

- The cultivation of vineyards will have an impact on the natural vegetation. However, these impacts will be mitigated to a satisfactory level.

**Positive impacts:**

- 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, 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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