



REFERENCE: 16/3/3/6/7/1/B5/2/1358/17
ENQUIRIES: Bernadette Osborne
DATE: 2018-08-14

The Board of Directors
Agterfontein Boerdery (Pty) Ltd
PO Box 77
CERES
6835

Attention: Mr D G Malherbe

Tel: (023) 312 1244
Fax: (023) 616 2675

Dear Sir

COMMENT ON THE PRE-APPLICATION DRAFT BASIC ASSESSMENT REPORT ("BAR") IN TERMS OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): THE PROPOSED ENLARGEMENT OF DRIEFONTEIN DAM ON PORTION 33 OF FARM RIETVALLEY NO. 364, CERES.

1. The pre-application Draft BAR and letter dated 12 July 2018, received by this Department on the same day and this Department's acknowledgement thereof on 17 July 2018, refer.
2. This letter serves as comment on the aforementioned document by this Department.
3. According to the information submitted to this Department, the following is noted:
 - The proposed development entails the enlargement of the Driefontein Dam on portion 33 of Farm Rietvalley No. 364, Ceres.
 - The proposed dam expansion will be implemented in two phases. During phase 1 the dam will be enlarged to a storage capacity of approximately 320 000m³ and during phase 2 the dam will be enlarged to a storage capacity of approximately 420 000m³.
 - The existing spillway will be demolished and a new spillway will be constructed within the same footprint but with a total increase in height of 2.15m. During phase 1 the spillway will be increased with 1.55m and a further 0.6m during phase 2.
 - The proposed development will enable the cultivation of an additional 22ha of deciduous fruit orchards on previously cultivated land. Water will be pumped from the proposed dam to the new orchards for irrigation.
 - The site is surrounded by agricultural activities.

- The site historically contained indigenous vegetation, namely Ceres Shale Renosterveld vegetation, which is classified as vulnerable. It has however been transformed due to past and ongoing agricultural activities of wheat farming with no indigenous vegetation remaining on the site.
- The dam is an in-stream dam and will only store the existing lawful water use.
- The site is located outside the urban area of Ceres and is zoned for agriculture use.

4. This Department's comments are as follows:

- 4.1 In terms of the NEMA EIA Regulations, 2014 as defined in Listing Notices 1, 2 and 3, please note the following:
- Since the proposal entails the expansion of an in-stream dam, Activity 48 of Listing Notice 1 will be triggered by the proposal and must be included in the list of activities applied for, as indicated in this Department's letter dated 16 November 2017.
 - It is indicated that the new irrigation pipes "*should not trigger any listed activities*". The new or extended irrigation pipes might however trigger Activity 12 and/or Activity 48 of Listing Notice 1. This must be clarified and included, if applicable.
 - Since little to no indigenous vegetation remains on the site, Activity 27 of Listing Notice 1 and Activity 12 of Listing Notice 3 will not be triggered by the proposal.
 - Since the vegetation on the site is not classified as endangered / critically endangered Activity 12 of Listing Notice 3 will not be triggered by the proposal.
 - If the height of the dam will not be increased by 2.5m and if the high watermark will not be increased by 10ha, Activity 66 of Listing Notice 1 will not be triggered by the proposal.
- 4.2 A comment from the Department of Water and Sanitation ("DWS") must be included in the BAR. Please be advised that in terms of the Standard Operating Procedure between this Department and the Department of Water and Sanitation, which came into effect on 1 July 2017, the Environmental Assessment Practitioner must submit a written water use application request to the Department of Water and Sanitation to determine whether or not a General Authorisation or WULA in terms of the National Water Act, 1998 (Act No. 36 of 1998) is required. In terms of the Agreement for the One Environmental System (section 50A of the NEMA and sections 41(5) and 163A of the NWA) the processes for a WULA and for an EIA must be aligned and integrated with respect to the fixed and synchronised timeframes, as prescribed in the EIA Regulations, 2014 (as amended), as well as the 2017 WULA Regulations.
- 4.3 Since Activity 19 of Listing Notice 1 is triggered, and future maintenance related work may be required, the Department recommends that a Maintenance Management Plan ("MMP") forms a component of the Environmental Management Programme ("EMPr"). Should the Department agree to the proposed MMP, future maintenance work specified within the MMP would not require an Environmental Authorisation prior to the undertaking thereof. Please refer to the attached document. Please be advised that the MMP relates to the aforementioned listed activity only.
- 4.4 On Page 11 the following is stated, "*The applicant might have to ask for an amendment of the EA for construction phase 2*". The basic assessment process includes both phases of the development. If Environmental Authorisation is

granted for both phases, the activities must commence within 5 years and be completed within 10 years from the date of commencement.

- 4.5 The Water Use License Application must be included under Appendix I and not only on request, as indicated.
- 4.6 Appendix J2, the Impact Risk Matrix only includes the preferred alternative. As required under Section G (2) (b) of the BAR, the table must be repeated for each alternative considered to ensure a comparative assessment.
- 4.7 Based on the design specifications included in the Botanical Statement dated 30 May 2018, the Technical Report dated March 2018, the Heritage Impact Assessment dated May 2018 and the Palaeontological Heritage Report dated April 2018, only phase 1 of the proposed dam enlargement was considered. An updated statement for the entire proposal, i.e Phase II must be included to confirm whether the initial findings remains applicable.
- 4.8 Omission of any required information in terms of Appendices 1 and 4 of the EIA Regulations 2014 with regards to the final submission of the BAR and EMP, respectively to the Department, may result in the application for Environmental Authorisation being refused.
- 4.9 Please include the original signed applicant declaration in the BAR. No copies of faxes will be accepted. Be advised that an original signed and dated applicant declaration is required to be submitted with the final BAR to this Department for decision-making. It is important to note that by signing this declaration, the applicant is confirming that they are aware and have taken cognisance of the contents of the report submitted for decision-making. Furthermore, through signing this declaration, the applicant is making a commitment that they are both willing and able to implement the necessary mitigation, management and monitoring measures recommended within the report with respect to this application.
- 4.10 In addition to the above, please ensure that original signed and dated Environmental Assessment Practitioner ("EAP") declaration is also submitted with the final BAR for decision-making.
5. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.
6. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.

7. This Department reserves the right to revise or withdraw any comments or request further information from you based on any information received.

Yours faithfully

Joetree

PP

HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 2

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Cc: (1) Inge Erasmus (EnviroAfrica CC)

(2) Hennie Taljaard (Witzenberg Municipality)

Fax: (086) 512 0154

Fax: (023) 316 1877

Request for the relevant Competent Authority to define or adopt a Maintenance Management Plan for a watercourse in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), Environmental Impact Assessment Regulations, 2014 (as amended).

File Reference Number:
Date Received by Department:
Date Received by Component:
Form Duly Signed and Dated:

(For official use only)	
	Yes No

PROJECT TITLE

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A. SCOPE AND IMPORTANT INFORMATION

- 1) This document is to be used to ensure that the request for adopting or defining a Maintenance Management Plan (MMP) in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), Environmental Impact Assessment (EIA) Regulations, 2014 (as amended) is undertaken to the sufficient standard and requirements as defined by the competent authority, the Department of Environmental Affairs and Development Planning of the Western Cape Government (henceforth the Department). It is advised that the determination of applicability regarding the scale of the proposed maintenance/management activity(ies) be undertaken through a pre-application consultation with the Department.
- 2) The geographical scope of the MMP is limited to watercourses as defined in the EIA Regulations, 2014(as amended). The document does not relate to coastal activities or activities to be undertaken in an estuary.
- 3) The use of this document for the development of a MMP for a watercourse **will only** be considered when the proposed maintenance activities constitute any one of the following listed activities identified in terms of the NEMA EIA Regulations, 2014 (as amended):

EIA Regulations Listing Notice 1 of 2014 (as amended)

- Activity 19, Listing Notice 1: The infilling or depositing of any material of more than 10 cubic meters into, or the dredging, excavation, removal or moving of soil, sand, 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-

- (a) will occur behind a development setback;
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- (N.B. Points (d) and (e) does not apply as these activities fall within the coastal zone)
- Activity 27, Listing Notice 1: The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for-
 - i. The undertaking of a linear activity; or
 - ii. Maintenance purposes undertaken in accordance with a MMP.

EIA Regulations Listing Notice 2 of 2014 (as amended)

- Activity 15, Listing Notice 2: The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for-
 - i. The undertaking of a linear activity; or
 - ii. Maintenance purposes undertaken in accordance with a MMP.
- Activity 24, Listing Notice 2: The extraction or removal of peat or peat soils, including the disturbance of vegetation or soils in anticipation of the extraction or removal of peat or peat soils, but excluding where such extraction or removal is for the rehabilitation of wetlands in accordance with a MMP.

EIA Regulations Listing Notice 3 of 2014 (as amended)

- Activity 12, Listing Notice 3: 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 MMP.

i. 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;
- 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.

(NB. Point iii does not apply as this activity falls within the coastal zone)

- 4) In deciding the request, the competent authority may define conditions related to auditing compliance with the MMP; monitoring requirements; reporting requirements, review; updating and amending the document and period for which the MMP is defined/adopted.
- 5) The purpose of the MMP is to maintain both man-made and ecological infrastructure in a manner that either improves the current state of, and/or reduces the negative impacts on a

watercourse to ensure that ecosystems services are preserved/improved and to prevent further deterioration of the watercourse.

- 6) Notwithstanding the MMP possibly being defined or adopted by the Competent Authority, any other applicable statutory requirement must still be complied with (e.g. any obligations under the National Water Act, 1998 (Act 36 of 1998) or the Conservation of Agricultural Resources Act, 1983 (Act 43 of 1983)).
- 7) The proponent must note that a MMP for a watercourse **must** be undertaken through consultation with the Department of Water and Sanitation and/or the relevant Catchment Management Agency (responsible water authority). This is to ensure compliance in terms of a Permissible Water Use as set out in the National Water Act, 1998 (Act No. 36 of 1998). It is recommended that this process for authorisation in terms of the National Water Act be clarified prior to the drafting and submission of the MMP.
- 8) The development of this document has been done in such a way so as to meet the requirements of both this Department as the competent authority in terms of the NEMA EIA Regulations, 2014 (as amended), as well as the requirements of the delegated water authority, regarding general authorisation considerations for sections 21(c) and (i) of the National Water Act, 1998 (Act No. 36 of 1998), to ensure alignment between the two authorities when defining or adopting the MMP.
- 9) In situations where a Water Use Licence Application (WULA) is required by the water authority regarding the proposed activities within a MMP, this will not prevent the proponent from submitting a request for a MMP to be defined or adopted by the Department.
- 10) Unless protected by law, all information contained in, and attached to this document, shall become public information on receipt by the competent authority.
- 11) A duly dated and originally signed copy of this document together with one hard copy and one electronic copy of the MMP must be posted, to the Department at the postal address given below, or delivered to the Registry Office of the Department.
- 12) A copy of the final defined/adopted MMP and cover letter **must** be submitted to the responsible water authority.
- 13) **NOTE: Adopting or defining the MMP does not absolve the proponent from complying with any applicable legislation or the general "duty of care" set out in Section 28(1) of the NEMA that states, "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment." (Note: When interpreting this "duty of care" responsibility, cognisance must be taken of the national environmental management principles contained in Section 2 of the NEMA.**
- 14) **NOTE: This document can be used as a template to assist in the information required and is to be filled out in full. The Department reserves the right to request any additional information during the initial development and submission of the draft MMP.**

- 15) **NOTE:** The Department reserves the right to not adopt the MMP and require that an application be submitted to obtain Environmental Authorisation for the respective activities. Furthermore, consideration for the review should also be aligned to the periodic reviews of the General Authorisation for sections 21 (c) and (i) of the National Water Act, 1998 (Act No. 36 of 1998) to ensure continued alignment and compliance.

B. MAINTENANCE MANAGEMENT PRINCIPLES

- 1) The following are overarching principles to be used by landowners and managers when considering the development and implementation of a MMP:
 - a. The anticipation and prevention of negative impacts and risks, then minimisation, rehabilitation or 'repair', where a sequence of possible mitigation measures to avoid, minimize, rehabilitate and/or remedy negative impacts is explicitly considered;
 - b. Avoid and reduce unnecessary maintenance;
 - c. Maintenance and management of a watercourse must be informed by the condition of the physical and ecological processes that drive and maintain aquatic ecosystems within a catchment, relative to the desired state of the affected system;
 - d. Management actions must aim to prevent further deterioration to the condition of affected watercourses and, overall, be guided by a general commitment to improving and maintaining ecological infrastructure for the delivery of ecosystem services;
 - e. Managers and organs of state must identify, address and, where feasible, eliminate the factors that necessitate intrusive, environmentally-damaging maintenance; and
 - f. A process of continuous management improvement be applied, namely Planning; Implementing; Checking (monitoring, auditing, determine corrective action) and Acting (management review).
- 2) The following table provides a simple overview for the determination of the need for a MMP:

	Question	If the answer to any of the questions is YES, then a MMP may be applicable.
2.1	Is there a watercourse on or adjacent to the property?	
2.2	Has there been a history of flood damage or vandalism to the existing infrastructure or watercourse – erosion and/or sedimentation?	
2.3	Is there infrastructure or any community at risk of being damaged by flooding?	
2.4	Is the design of infrastructure considered inadequate in terms of managing the risk of flooding, erosion and/or sedimentation?	
2.5	Would you consider an improved design to existing infrastructure to reduce maintenance needs?	
2.6	Are there specific incidences where the watercourse is obstructed or blockages occur that alter the flow of the river during floods?	
2.7	Is there an existing obstruction in the watercourse that has changed the flow of the river under normal conditions?	
2.8	Is there a marked increase in the rate of erosion/sedimentation being experienced which threatens operations and assets?	
2.9	Is there a presence of alien or bush encroachment vegetation within the watercourse and/or the presence of woody debris after flooding?	

- 3) It is important to consider that the type of maintenance required will impact on the level of assessment needed in terms of the impact the activity will have on the system and how best to mitigate the impact. Types of maintenance can broadly be classified in the following categories, with recognition that maintenance activities vary across the rural and urban context:

Maintenance Category	Types of maintenance activities (examples only)
Category A: Sediment removal as a result of deposition or sediment deposition as a result of erosion	<ul style="list-style-type: none"> • Clearing sediment or placing sediment at: <ul style="list-style-type: none"> ◦ Pump hole/trench ◦ Return flow (irrigation) ◦ Off-take weir ◦ Stormwater outfall ◦ Detention/retention ponds ◦ Canalized urban rivers ◦ Bridges, culverts and drifts • Prevent formation of islands in the channel of the river • Dredging of in-stream dams
Category B: Emergency repairs – urgent action required to manage risk and damage to assets	<ul style="list-style-type: none"> • Repair to erosion of river bank or servicing infrastructure (e.g. pipelines/roads) • Removal of material built up as a result of flooding/sedimentation and increasing risk to infrastructure • Address damage or replacement of infrastructure (e.g. bridge, pipeline, pump house) • Manage the condition of flood protection berms, and existing structures such as gabions, canalized and stormwater systems • Installing temporary gravel approaches at flood-damaged river crossings
Category C: Managing alien invasive and bush encroachment plant species	<ul style="list-style-type: none"> • Clearing of alien invasive vegetation out of a watercourse to reduce maintenance requirements as they relate to erosion and sedimentation • Management of indigenous species categorized as bush encroachment, to improve hydrological flow and reduce associated flooding impacts
Category D: Rehabilitation and restoration activities for maintaining ecological infrastructure	<ul style="list-style-type: none"> • Development and maintenance of ecological buffering systems to improve and/or restore functioning (e.g. wetlands and stormwater detention ponds) • Actively rehabilitating riparian zones through planting of locally indigenous species • Bank grading and movement/removal of berms and barriers to flow

- 4) The development of appropriate method statements to mitigate the impact of the maintenance needs, should be aligned within the framework of these considerations:
- a. Watercourses experience a natural process of sedimentation and erosion, with varying rates depending on the geomorphology and the integrity of the land-uses within the catchment;

- b. Manipulation of the watercourse results in increased erosion and/or deposition being experienced further downstream, perpetuating greater need for manipulation and more drastic and costly maintenance interventions;
 - c. Locally indigenous riparian and wetland vegetation assists in the stabilization of river banks through effective root structures, while contributing to improve in-stream habitat and water quality conditions;
 - d. Invasive alien and bush encroachment vegetation significantly impacts on the functioning of a watercourse, often leading to increased flood associated damage, with further implications and a reduction in water quality and availability;
 - e. Persons undertaking maintenance activities have a responsibility to ensure a sense of duty of care is applied as prescribed within NEMA Section 28(1).
- 5) It is recognized that within urban areas, sedimentation and erosion rates are significantly amplified as a result of development in urban areas and thus systems associated with watercourses in such areas can no longer be considered as 'natural'. In such a context, the drivers of such a process are often located outside the control of the landowner or responsible authority (i.e. Municipality). Therefore, the response taken to address the needs of a maintenance management plan for a watercourse within the urban environment may be limited in mitigating the requirement for maintenance to be undertaken.

C. REQUEST FOR THE COMPETENT AUTHORITY TO DEFINE OR ADOPT A MAINTENANCE MANAGEMENT PLAN FOR A WATERCOURSE IN TERMS OF THE NEMA, EIA REGULATIONS 2014 (AS AMENDED).

The following information must be submitted as part of the request for the competent authority to define or adopt the MMP:

1. PERSONAL DETAILS

Highlight the Departmental Sub-Region(s) in which the maintenance is to be undertaken. (mark the appropriate box with an 'X'). For Departmental details see Annexure A.

REGION 1 (City of Cape Town Metropolitan and West Coast District) <input type="checkbox"/>	REGION 2 (Cape Winelands District, Overberg District) <input type="checkbox"/>	REGION 3 (Eden & Central Karoo Districts) <input type="checkbox"/>
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Name of person/authority who will undertake responsibility for the activity:			
Contact person (if other):			
Postal address:			
Telephone:	()	Postal code:	
Fax:	()	Cell:	
Email:			

Name of person who has prepared the MMP:			
Contact Person (if other):			
Postal address:			
Telephone:	()	Postal code:	
Fax:	()	Cell:	
E-mail:			

Name of landowner(s) on whose behalf the plan has been developed:*			
Contact person(s):			
Postal address:			
Telephone:	()	Postal code:	
Fax:	()	Cell:	
E-mail:			

Municipality for proposed project:	
Farm name(s), erf(s) and portion number(s) etc*:	
Magisterial District or Town:	
Name(s) of watercourse(s) in question:	

***In instances where there is more than one landowner, please attach a list of landowners with their full names, contact details, farm name, farm number, portion number, Erf number, coordinates and signed declaration confirming approval for development and responsibility of the MMP**

2. DECLARATION

THE PERSON THAT WILL BE UNDERTAKING THE MAINTENANCE

I, in my **personal capacity** or **duly authorised** (please circle the applicable option) by (name of legal entity) thereto hereby declare that I/we:

- Request the MMP to be adopted by the Competent Authority;
- Regard the information contained herein to be true and correct for this Maintenance Management Plan;
- Am fully aware of my responsibilities in terms of the National Environmental Management Act of 1998 ("NEMA") (Act No. 107 of 1998) and that, notwithstanding the adoption of this MMP, I/we shall comply with any other statutory requirement applicable, which may include, but not limited to the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983), the National Water Act, 1998 (Act No. 36 of 1998) and the Environmental Impact Assessment Regulations, 2014 (as amended) ("EIA Regulations"), in terms of NEMA;
- Am fully aware that the proposed maintenance constitutes a listed activity in terms of the NEMA EIA Regulations, 2014 (as amended) and that an environmental assessment for environmental authorisation may be required for any other listed activities not included as part of this MMP;
- Acknowledge that any activity undertaken that does not form part of the defined and adopted MMP, will be subject to the Section 24(F) of NEMA and that appropriate enforcement and compliance requirements will follow;
- Shall undertake only those tasks described in the MMP, failing which environmental authorisation will be required, where applicable;
- Shall provide the competent authorities with access to all information at my disposal that is relevant to this request;
- Shall be responsible for any costs incurred in complying with environmental legislation;
- Hereby indemnify the government of the Republic, the competent authority and all its officers, agents and employees, from any liability arising out of, inter alia, any loss or damage to property or person as a consequence of undertaking this MMP; and
- Am aware that a false declaration is an offence in terms of Regulation 48(1)(a) GN No. R. 982 of 4 December 2014 (as amended).

Signature of the proponent:

Date:

Name of institution/company:

3. BACKGROUND AND INTRODUCTION

The MMP (MMP) must be submitted with the signed declaration (see above) for the MMP to be defined or adopted in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), Environmental Impact Assessment Regulations, 2014 (as amended).

Provide a strategic overview of the need for the development of the MMP – what is the need for this plan; how this plan will aim to contribute to furthering sustainable practices and reducing and/or mitigating the need for maintenance.

This section must also include details of the responsible party who will implement the MMP, engineers or other specialists appointed and the specifications for their appointment to assess the needs for the maintenance work, the Environmental Assessment Practitioner (EAP) or consultant appointed to compile the MMP. A short portfolio of evidence which indicates the relevant freshwater/ aquatic experience of the EAP/consultant or the person who prepared the MMP is required as supporting information to the introduction.

Should sufficient expertise and resources be available for the development of an MMP by the proponent, the process of appointing an EAP for the final compilation and submission of the MMP to the Department is still required.

3.1 DEFINITIONS OF TERMS AND ACRONYMS

Acronyms and technical terms used in the MMP must be defined or clarified so that the person(s) who must implement the plan understands the document clearly.

4. ENGAGEMENT PROCESS

4.1 AUTHORITY ENGAGEMENT

Please indicate (with an 'x') which of the following authorities have been consulted to provide input based on the proposed maintenance activities:

- ☐ Department of Water and Sanitation
- ☐ Catchment Management Agency
- ☐ CapeNature
- ☐ SANParks
- ☐ Western Cape Department of Agriculture, Directorate: Sustainable Resource Management
- ☐ District Municipality
- ☐ Local Municipality
- ☐ Irrigation Board / Water Users Association
- ☐ Heritage Western Cape
- ☐ Department of Agriculture, Forestry and Fisheries
- ☐ Department of Environmental Affairs & Development Planning
- ☐ Other (please list):

For each of the indicated authorities, please provide an explanation as to their required involvement. Details of interactions with each of the respective authorities should be captured by providing an attendance register and minutes of meetings attended with the authority in question. Comments received from the authorities must be submitted and referenced within the final application.

For a MMP where multiple property owners are involved or a plan is developed for members of an association, it is recommended that a Project Liaison Committee is setup, to achieve the following objectives:

- Present the project work plan and objectives for approval;
- Present the initial findings and draft of the plan for discussion and approval;
- Present the final accepted plan for agreement and clarification.

In cases where the Municipality is the proponent, it is advised that the Project Liaison Committee represent the multiple departments involved with the maintenance and management of watercourse, which could include but is not limited to departments of, Stormwater, Water and Sanitation, Environment, Parks and Wastewater. Such an approach seeks to ensure alignment and an understanding of the roles and responsibilities of the varying maintenance requirements within the Municipality.

4.2 PUBLIC PARTICIPATION

You are required to notify any and all potential interested and affected party(ies) of the proposed activity(ies) and allow them the opportunity to comment on the MMP for a watercourse. The detail required is outlined below, however this can be further discussed and determined as part of the pre-consultative meeting with the Department, which would ensure due diligence and good governance principles are applied.

It is noted, that for the development of MMPs for watercourses within the urban area, by Municipalities, public notice can be undertaken through the advertisement of the development of a MMP within local/community newspapers for the respective areas, with the relevant evidence of such an advertisement included in the final submission.

The following public participation recommendations, regarding the different scale or geographical extent of the request, are as follows. If no, then motivation must be given as to why a particular process was not undertaken.

Single property / maintenance and management activities along a watercourse occurring along a stretch of no more than 1 kilometer (≤1000 meters):

(i) Given written notice to the owner or person in control of that land if the person undertaking the maintenance activity is not the owner or person in control of the land.	Yes No	/	<i>Evidence to be letter from landowner acknowledging development of MMP.</i>
(ii) Given written notice to adjacent landowners (up to 500m upstream and downstream from furthest upstream and downstream maintenance site and opposite side of the banks)	Yes No	/	<i>Evidence to be dated letters addressed to landowner and/or manager of adjacent</i>

of the development of the MMP.		properties.
(iii) Stakeholder meeting held for adjacent landowners, in which MMP is presented. This must include an opportunity for adjacent landowners to provide comment.	Yes / No	Evidence will consist of meeting requests, attendance register of said meeting, minutes / notes of the meeting, and comments provided.
(iv) Given written notice to any organ of state having jurisdiction in respect of any aspect of the activity(ies) proposed within the development of the MMP.	Yes / No	Evidence will include relevant dated letters to the relevant government agencies and departments.
(v) Provided written notice and confirmation to the relevant Water Users Association (WUA) or Irrigation Board (IB) of the development of the MMP, if applicable.	Yes / No	Evidence to be dated letter(s) to management body (secretary and chairperson) for the WUA/IB.

Single or Multiple properties / WUA / IB / local authority applying for a single MMP to cover a stretch of a watercourse longer than 1 kilometer (>1000 meters) OR a catchment or sub-catchment area

(i) Given written notice to the owner(s) or person(s) in control of the land if the person(s) undertaking the maintenance activity(ies) is not the owner or person in control of the land.	Yes / No	Evidence to be letter from landowner acknowledging development of MMP.
(ii) Given written notice to non-participating adjacent landowners (up to 1km upstream and downstream from furthest upstream and downstream maintenance site and opposite side of the river banks) of the development of the MMP. This must also include general notice to adjacent WUA or IB of the proposed MMP development if application is made by a WUA or IB.	Yes / No	Evidence to be dated letters addressed to landowner and/or manager of adjacent properties.
(iii) Stakeholder meeting held for all participating and non-participating landowners, in which details and methodology of MMP is presented. A minimum of two meetings are required, to present on the development of the plan and a final draft version of the plan.	Yes / No	Evidence will consist of meeting requests, attendance register of said meeting, minutes/ notes of the meeting, and comments provided.
(iv) Given written notice to any organ of state having jurisdiction in respect of any aspect of the activity(ies) proposed within the development of the MMP.	Yes / No	Evidence will include dated letters to the relevant government agencies and departments.
(v) Provide written notice and confirmation to the relevant Water Users Association (WUA) or Irrigation Board (IB), of the	Yes / No	Evidence to be dated letter(s) to management

development of the MMP (if a MMP is not requested and managed through a WUA/IB).	No	body (secretary and chairperson) for the WUA/IB.
(vi) Describe any other measures taken to inform the public about this MMP. A complete list of measures that are in place to deal with interactions with the public, if it becomes necessary and required by the competent authority during implementation of the project, must be provided for.	Yes / No	Evidence to be referenced accordingly based on the measures taken and/or developed.

Kindly note, the Department may request further or allow reduced requirements for public participation, noting the specific circumstances applied to each request to define or adopt an MMP. Please include or delete the respective sections as agreed to with the Department in the pre-consultative meeting, with supporting evidence of this agreement included.

Please circle the appropriate answer above to indicate the public participation process that has been followed to give notice of this request to potential interested and affected parties and attach any comments and/or objections received, with evidence provided and referenced.

5. DATA COLLECTION AND ASSESSMENT

[This section is intended to provide the required information on the needs for the scientific content and methodology statements of a MMP. It provides headings for the various sections that a MMP must contain, as well as a brief description of typical content and the level of detail required under each heading]

Note: Information relating to the specifications and Terms of Reference used for the appointment of all specialist inputs must be provided.

Information required for maintenance and management activities for a single/ multiple owner along a watercourse.

- 5.1 Provide a map (at an appropriate scale) of the watercourse or stretch of watercourse being applied for within the stretch where maintenance activities will take place being clearly defined – consideration must be made to mapped features relating to Critical Biodiversity Areas (CBAs) and National Freshwater Ecosystem Priority Areas (NFEPA's).
- 5.2 GPS coordinates must be provided for all site(s) at which maintenance activities will take place and included on the map which defines the stretch of watercourse. Coordinates must be provided in degrees, minutes and seconds using the Hartebeesthoek94 WGS84 co-ordinate system. Where numerous properties/sites are involved (e.g. linear activities), you may attach a list of property descriptions and co-ordinates to this form.
- 5.3 Specialist assessment to be undertaken to determine (NOTE: information relating to the specifications and Terms of Reference used for the appointment of all specialist inputs must be provided):
 - Hydrological (incl. flood hydrological data etc.) and geomorphological assessment of watercourse functioning;
 - The relevant Present Ecological Status (PES) of the stretch of watercourse in question, if not available an assessment is to be done to determine PES in accordance with the Department of Water and Sanitation (DWS) guidelines;
 - What is the reason/cause for the maintenance activities based on an ecological and hydrological assessment of the watercourse within the context of the larger catchment;
 - What are the drivers of system functioning within the watercourse and what is the ecological objective – based on historical condition and PES;
 - What is the management objective given the ecological status of the watercourse based on historical and PES data; as set out in agreement with the person(s) responsible for undertaking the maintenance activities;
 - What is the impact on the watercourse/river system (resource quality characteristics: flow regime, geomorphology, water quality, habitat and biota) for a minimum of 500m both up and downstream of the proposed maintenance activities, with the mitigation measures included;
 - An appropriate assessment for risk for each of the proposed types of maintenance activities and linked management actions in terms of the risk matrix for General Authorisations (GA) of Section 21 (c) and (i) by the DWS (GN 509 of 2016) or where applicable.

- 5.4 Mapped biodiversity features such as Critical Biodiversity Area, Ecological Support Area, National Freshwater Ecosystem Priority Area (NFEPA), and the National list of Ecosystems that are threatened and in need of protection (2011) gazetted in terms of Section 52 of the National Environmental Management: Biodiversity Act (Act No. 10 of 2004) (NEMBA), the Western Cape Biodiversity Spatial Plan 2017, as well as relevant provincial specific plans and classifications etc. Please consult the website www.bgis.sanbi.org.za to determine mapped features.
- 5.5 Include a description of existing or previous protection measures or reinforcements (eg. gabions or groynes etc.) and infrastructure. Describe any evidence of erosion and/or siltation at the various sites and outlining possible causal factors and maintenance practices.
- 5.6 Provide historical maps and data (images/flow/water quality/land use) of the river channel (if available) in order to assess the natural to changing flow patterns of the watercourse to determine cause of maintenance and possible impact of the maintenance activities, to inform mitigation measures.
- 5.7 Provide a photographic record for the condition of the riparian habitat around maintenance sites, with the presence of important and/or sensitive habitat/species noted.
- 5.8 For sites prone to flood damage, a description regarding the history and effect of past floods and include dates of most recent events must be provided. This must inform the process to understand what actions are required along the stretch of the watercourse to reduce such impacts to the resource quality characteristics.
- 5.9 Explain the risks associated with the no-go option for the MMP i.e. the risk of not undertaking the maintenance activities as stated in the MMP.
- 5.10 Reference must be made to any strategic plan where available, for example, a Catchment Management Strategy, with the objectives of the MMP shown to be in alignment with such plans.

6. METHOD STATEMENT

- 6.1 The method statement must provide a step-by-step plan (which may include a schematic diagram etc.) to inform the responsible person(s) on the process and actions to take in a sequential and logical manner, which aims to reduce the impact of undertaking the activity within a reasonable timeframe and cost.
- 6.2 A method statement should be compiled for each individual activity given the likely specific circumstances and conditions of a site requiring maintenance. However, in situations whereby uniform conditions and circumstances are evident for multiple sites requiring the same type of activity, a method statement can be given for a specific type of activity to be undertaken at multiple sites given the aforementioned requirements.
- 6.3 The detail of the method statement will be assessed by the Department and other relevant regulatory authorities to ensure actions that are taken are such that they do not perpetuate increased incidences of erosion/deposition of material.

- 6.4 Time periods must be given within which the maintenance actions contemplated need to be implemented. An indication must be made whether maintenance actions will be repeated, e.g. clearing of silt/debris from under a bridge annually or after flood events.
- 6.5 The following serves as a general guide required to minimise the spatial impact of the maintenance activity:
- Repairs and maintenance should be undertaken within the dry season, except for emergency maintenance works.
 - Where at all possible, existing access routes should be used. In cases where none exist, a route should be created through the most degraded area avoiding sensitive/indigenous vegetation areas.
 - Responsible management of pollutants through ensuring handling and storage of any pollutants is away from the watercourse. When machinery is involved, ensure effective operation with no leaking parts and refuel outside of the riparian area, at a safe distance from the watercourse to manage any accidental spillages and pose no threat of pollution.
 - At no time should the flow of the watercourse be blocked (temporary diversions may be allowed) nor should the movement of aquatic and riparian biota (noting breeding periods) be prevented during maintenance actions.
 - No new berms can be created.
 - In circumstances which require the removal of any top soil, this must be sufficiently restored through sustainable measures and practices.
 - Concerted effort must be made to actively rehabilitate repaired or reshaped banks with indigenous local vegetation.
 - No deepening of the watercourse beyond the original, pre-damage determined thalweg, unless such deepening is directly related to the natural improved functioning and condition of such a watercourse.
 - Where at all possible, limit the disturbance to the zone of the thalweg. This is due to the ecological importance of the low flow channel and respective habitat being allowed to re-establish improving the ecological condition.
 - The build-up of debris/sediment removed from a maintenance site may:
 - be utilised for the purpose of in-filling or other related maintenance actions related to managing erosion, which form part of an adopted MMP;
 - not be used to enlarge the height, width or any extent of existing berms;
 - not be deposited anywhere within the watercourse or anywhere along the banks of a river where such action is not part of the proposed maintenance activity (ies). Material that cannot be used for maintenance purposes must be removed out of the riparian area to a suitable stockpile location or disposal site. Further action and consideration may be required where the possibility of contaminated material may occur, such as in urban watercourses.
 - The use of foreign material, such as concrete, rubble, woody debris and/or dry land based soil, is strictly prohibited from being used in maintenance actions, unless for the specific purpose of repairs to existing infrastructure, coupled with appropriate mitigation measures.

- On completion of the maintenance action, the condition of the site in terms of relative topography should be similar to the pre-damaged state (i.e. the shape of the river bank should be similar or in a state which is improved to manage future damage). This ultimately dictates that the channel, banks and bed cannot be made narrower, higher or deepened respectively. Exceptions are considered for systems involved with the management of stormwater and improvements for water quality within the urban context.

7. MONITORING AND REPORTING

It is important to note that any and all activities undertaken outside the scope of the adopted MMP, in terms of the action outlined within the given method statement, the responsible person(s) will be subject to Section 24(F) of NEMA and that appropriate enforcement and compliance requirements will follow.

The specific reporting information required by the competent authority should be discussed during the consultation phase between the proponent and the Department. The relevant information required should be considered on a case-by-case basis.

The following Forms A and B are to be considered as a guideline in terms of the type of information required. It is proposed that Form A below must be completed by the relevant person(s) before maintenance activities are undertaken and Form B after a maintenance activity has been completed. A copy of each completed Form A & B must be sent to the relevant WUA/IB/local authority management if they have undertaken the development of the MMP. For any individual landowner applications, the landowner is responsible to ensure a record of all maintenance activities is recorded as per Form A & B below. Form A and B must also be sent to the Provincial Department of Agriculture, Directorate: Sustainable Resource Management.

The Department may, within a reasonable notice period, request to evaluate the maintenance activities and assess the maintenance sites as per the adopted MMP.

Form A should be completed at least 7 working days before the commencement of any maintenance activity and Form B at least 3 working days following the completion of the maintenance activity(ies). At least two photographs are required from two different points of perspective (A and B) looking at the site (coordinates of these points are required). When listing the type and reference code, this must be done by specifically listing the relevant detail within the adopted MMP.

REPORTING FOR INTENT TO UNDERTAKE MAINTENANCE ACTIVITIES – FORM A				
Section A: Landowner Details				
Name	Surname	Farm No.	Erf No.	Today's Date
Section B: Details of proposed maintenance activity				
WUA/GA reference number and DEA&DP reference number for MMP.	Activity Type:	Reference code (make reference to MMP)	Footprint area (m ²)	Volume of material (m ³)
Equipment to be used:	Description of method for planned activity:			Date when work will commence:
Date of last flood event for site:	Note any further damage and comments regarding the state of the site			
Section C: Photographs of activity location before maintenance				
Before A Coordinates: S E				
Before B Coordinates: S E Date of photos taken:				

REPORTING FOR COMPLETION OF MAINTENANCE ACTIVITIES – FORM B				
Section A: Landowner Details				
Name	Surname	Farm No.	Erf No.	Today's Date
Section B: Details of proposed maintenance activity				
WUA/GA reference number and DEA&DP reference number for MMP.	Activity Type:	Reference code (make reference to MMP)	Footprint area (m ²)	Volume of material (m ³)
Equipment that was used:	Description of method for completed activity and if commence date changed			Date activity completed
Date of last flood event for site:	Note any challenges or difficulties experienced in following the MMP method statement			
Section C: Photographs of activity location after maintenance				
After A Coordinates: S E				
After B Coordinates: S E Date of photos taken:				

DEFINITIONS

"Activity" means an activity identified in any notice published by the Minister or MEC in terms of section 24D(1)(a) of the Act as a listed activity or specified activity. Activity in this document refers to the activities as listed in Listing Notice 1, 2 and 3 of the Environmental Impact Assessment Regulations, 2014 (as amended).

"Bush Encroachment" means stands of plants of the kinds specified in column 1 of Table 4 of the Conservation of Agricultural Resources Act (Act No. 43 of 1983) where individual plants are closer to each other than three times the mean crown diameter.

"Diverting" as defined in the General Authorisation, in terms of section 39 of the National Water Act, 1998 (Act no 36 of 1998) for Water Uses as defined in Section 21(c) and 21(i) (GN. 509 of 26 August 2016), means to, in any manner, cause the instream flow of water to be rerouted temporarily or permanently.

"Ecological Infrastructure" refers to naturally functioning ecosystems that deliver valuable services to people, such as water and climate regulation, soil formation and disaster risk reduction.

"Estuary" has the meaning assigned to it in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008)

"Flood event" is the event where land is inundated by the overflowing of water from a river channel and where this event causes significant damage to infrastructure or results in watercourse erosion and/or sediment deposition.

NOTE that flooding can be a natural phenomenon in many river or wetland systems which, due to encroachment and human modification of the form and function of the affected system, may have evolved into a potential hazard to life or property.

"Flow-altering" as defined in the General Authorisation, in terms of section 39 of the National Water Act, 1998 (Act no 36 of 1998) for Water Uses as defined in Section 21(c) and 21(i) (GN. 509 of 26 August 2016), means to, in any manner, alter the instream flow route, speed or quantity of water temporarily or permanently.

"General Authorisation" in this document refers to the General Authorisation in terms of section 39 of the National Water Act, 1998 (Act no 36 of 1998) for Water Uses as defined in Section 21(c) or Section 21(i) (GN. 509 of 26 August 2016).

"Impeding" as defined in the General Authorisation, in terms of section 39 of the National Water Act, 1998 (Act no 36 of 1998) for Water Uses as defined in Section 21(c) and 21(i) (GN. 509 of 26 August 2016), means to, in any manner, hinder or obstruct the instream flow of water temporarily or permanently, but excludes the damming of flow so as to cause storage of water.

"Indigenous vegetation" refers to vegetation consisting of indigenous plant species occurring naturally in an area, regardless of the level of alien infestation and where the topsoil has not been lawfully disturbed during the preceding ten years.

"Maintenance" means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint.

"Maintenance Management Plan" means a management plan for maintenance purposes defined or adopted by the competent authority.

"River Management Plans" as defined in the General Authorisation, in terms of section 39 of the National Water Act, 1998 (Act no 36 of 1998) for Water Uses as defined in Section 21(c) and 21(i) (GN. 509 of 26 August 2016), any river management plan developed for the purposes of river or storm water management in any municipal/metropolitan area or described river section, river reach, entire river or sub quaternary catchment that considers the river in a catchment context.

"River reach", a length of river characterised by a particular channel pattern and channel morphology, resulting from a uniform set of local constraints on channel form. A river reach is typically hundreds of meters in length.

"Stretch" a section of watercourse, delineated between two or more mapped coordinates, within which proposed maintenance activities are to take place as guided by a MMP.

"Thalweg" refers to the line of lowest elevation within a valley or watercourse.

"Watercourse" means:

- (a) a river or spring;
- (b) a natural channel in which water flows regularly or intermittently;
- (c) a wetland, lake or dam into which, or from which, water flows; and
any collection of water which the Minister may, by notice in the Gazette, declare to be a watercourse as defined in the National Water Act, 1998 (Act No. 36 of 1998); and

a reference to a watercourse includes, where relevant, its bed and banks.

"Wetland" means, land which is transitional between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is periodically covered with shallow water, and which land in normal circumstances supports or would support vegetation typically adapted to life in saturated soil.

ACRONYMS

CBA	Critical Biodiversity Area
DEA&DP	Department of Environmental Affairs & Development Planning
DWS	Department of Water & Sanitation
EAP	Environmental Assessment Practitioner
EIA	Environmental Impact Assessment
GA	General Authorisation, in terms of the National Water Act, 1998 (Act No. 36 of 1998)
GN	Government Notice
IB	Irrigation Board
MEC	Member of Executive Council
MMP	Maintenance Management Plan
NEMA	National Environmental Management Act, 1998 (Act No. 107 of 1998)
NEMBA	National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004)
NFEPA	National Freshwater Ecosystem Priority Areas
NWA	National Water Act, 1998 (Act No. 36 of 1998)
PES	Present Ecological State
SANParks	South African National Parks Authority
WUA	Water Users Association
WULA	Water Use Licence Application

REFERENCE GUIDE FOR DRAFTING MMPs FOR A WATERCOURSE

Ecosystem Guidelines for Environmental Assessment in the Western Cape, Edition 2, 2016. Available at: www.bgis.org.za

Wetland offsets: A best practice guideline for South Africa, 2016. Available at: <http://www.wrc.org.za>

Preliminary guideline for the determination of buffer zones for rivers, wetlands and estuaries, 2014. Available at: <http://www.wrc.org.za>

National Water Act, 1998 (Act No. 36 of 1998). Available at: <http://www.gov.za/documents/national-water-act>

General Authorisation, in terms of Section 39 of the National Water Act, 1998 (Act No. 36 of 1998) for water uses as defined in Section 21 (c) or Section 21 (i).

ANNEXURE A

DEPARTMENTAL DETAILS

CAPE TOWN OFFICE: REGION 1 (City of Cape Town & West Coast District)	CAPE TOWN OFFICE: REGION 2 (Cape Winelands District & Overberg District)	GEORGE OFFICE: REGION 3 (Central Karoo District & Eden District)
Requests for competent authority to adopt an MMP must be sent to the following details: Department of Environmental Affairs and Development Planning Attention: Directorate: Development Management (Region 1) Private Bag X 9086 Cape Town, 8000 Registry Office 1 st Floor Utilitas Building 1 Dorp Street, Cape Town Queries should be directed to the Directorate: Development Management (Region 1) at: Tel: (021) 483-5829 Fax (021) 483-4372	Requests for competent authority to adopt an MMP must be sent to the following details: Department of Environmental Affairs and Development Planning Attention: Directorate: Development Management (Region 2) Private Bag X 9086 Cape Town, 8000 Registry Office 1 st Floor Utilitas Building 1 Dorp Street, Cape Town Queries should be directed to the Directorate: Development Management (Region 2) at: Tel: (021) 483-5842 Fax (021) 483-3633	Requests for competent authority to adopt an MMP must be sent to the following details: Department of Environmental Affairs and Development Planning Attention: Directorate: Development Management (Region 3) Private Bag X 6509 George, 6530 Registry Office 4 th Floor, York Park Building 93 York Street George Queries should be directed to the Directorate: Development Management (Region 3) at: Tel: (044) 805-8600 Fax (044) 8058650

WESTERN CAPE DEPARTMENT OF AGRICULTURE DETAILS

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