



**Western Cape
Government**

Environmental Affairs and
Development Planning

DIRECTORATE: DEVELOPMENT MANAGEMENT

(REGION 2)

REFERENCE: 16/3/3/6/7/1/B5/2/1366/17

ENQUIRIES: D. Matthews

DATE OF ISSUE: 2017 -11- 10

The Trustees and Board of Directors
Harmony Trust & Morester Boerdery
P. O. Box 20
KOUE BOKKEVELD
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Attention: Mr H. Jurries and Mr D. van der Merwe

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Dear Sir

ACKNOWLEDGEMENT AND ACCEPTANCE OF THE NOTICE OF INTENT ("NOI") TO SUBMIT AN APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT (ACT NO. 107 OF 1998) ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED CONSTRUCTION OF THE TOEKA DAM ON THE REMAINDER OF FARM NO. 415; CERES

1. The correspondence dated 26 October 2017, as received by the Department on 2 November 2017, refer.
2. Following the review of the information submitted to this Department, the following is noted:
 - 2.1 The proposal entails the construction of a new dam with the following specifications:
 - 2.1.1 Dam wall length: 636m
 - 2.1.2 Dam wall height: 14m
 - 2.1.3 Dam capacity: 2 000 000m³
 - 2.1.4 Dam surface area: 35ha
3. Please note the following advice pertaining to the NOI:
 - 3.1 It is noted that a NOI for the construction of the Harmony Dam on the same property description as the Toeka Dam is being proposed. You are required to provide an explanation as to why two separate NOI's have been submitted, since the applicants are the same for both dams. Furthermore, the Department recommends that one process be followed for the two dam options being proposed instead of two separate processes.
 - 3.2 Section 5.2 of the NOI form indicates the requirement for a Water Use Licence Application ("WULA") in terms of the National Water Act, 1998 (Act No. 36 of 1998) ("NWA"). 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.

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Process

4. A Scoping/Environmental Impact Reporting ("Scoping/EIR") must be followed in order to apply for Environmental Authorisation. Only those activities applied for shall be considered for authorisation. The onus is on the applicant to ensure that all the applicable listed activities are applied for and assessed as part of the Scoping/EIR process.
5. You are advised that when undertaking the Scoping/EIR process, you must take into account the applicable guidelines including the guidelines developed by the Department. The Department's guidelines can be downloaded from the Department's website (<http://eadp-westerncape.kznsshf.gov.za/your-resource-library>). In particular, the guidelines that may be applicable to the proposed development include, inter alia, the following:
 - Circular EADP 0028/2014: One Environmental Management System
 - Guideline for the Review of Specialist Input in the EIA process (June 2005).
 - Guideline for Environmental Management Plans (June 2005).
 - Guideline on Alternatives (March 2013).
 - Guideline on Need and Desirability (March 2013).
6. Please ensure the Scoping Report, Environmental Impact Report and Environmental Management Programme ("EMPr") contain all information requirements outlined in Appendices 2, 3 and 4 respectively of GN No. 326.

Public Participation

7. A public participation process ("PPP") that meets the requirements of Regulation 41 of the EIA Regulations, 2014 (as amended) must be undertaken. You are advised that public participation may be undertaken prior to the submission of the application, although this is not mandatory. It is the Environmental Assessment Practitioner's discretion at what stage the requirements of Regulation 41 are met, whether during the proposed application (pre-application) process or formal application process. You are reminded that a period of at least 30 days must be provided to all potential or registered interested and affected parties to submit comment on the Scoping and Environmental Impact Reports and EMPr.
8. Should a public participation process, which includes the circulation of the pre-application Scoping Report for comment, be undertaken prior to submission of an Application Form to the Department, in terms of Regulation 40, the pre-application Scoping Report may also be submitted to the Department for commenting purposes. Please ensure a minimum of two printed copies of the pre-application Scoping Report is submitted to the Department for commenting purposes.
9. In terms of Section 24O (2) and (3) of NEMA and Regulations 7(2) and 43(2) of the EIA Regulations, 2014 (as amended), any State Department that administers a law relating to a matter affecting the environment relevant to the application must be requested to comment within 30 days. **Please note that the Environmental Assessment Practitioner ("EAP") is responsible for such consultation.** Therefore, it is requested that the EAP include proof of such notification to the relevant State Departments in terms of Section 24O (2) and (3) of NEMA in the Scoping and Environmental Impact Reports, where appropriate.

10. 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 undertaking it. Failure to comply with the requirements of Section 24F of the NEMA shall 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.


11. Please note that the pre-application consultation is an advisory process and does not pre-empt the outcome of any future application which may be submitted to the Department.

No information provided, views expressed and/or comments made by officials during the pre-application consultation should in any way be seen as an indication or confirmation:

- that additional information or documents will not be requested of the outcome of the application.

12. The Department reserves the right to revise or withdraw comments or request further information based on any information received.

Yours faithfully



HEAD OF DEPARTMENT

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

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