



REFERENCE: 16/3/3/6/7/1/F5/16/2037/19

ENQUIRIES: Natasha Bieding

DATE: 2020 -01- 31

The Board of Directors
Black Orchard (Pty) Ltd
P O Box 6100
ROGGEBAAI
8012

Attention: Hannah Young

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Dear Madam

COMMENT ON THE PRE-APPLICATION BASIC ASSESSMENT REPORT FOR THE PROPOSED EXPANSION OF AN INSTREAM DAM ON THE REMAINDER OF FARM NO. 792, ZWARTFONTEIN, MALMESBURY

1. The pre-application Basic Assessment Report ("BAR") dated 28 November 2019 and the correspondence dated 2 December 2019 from Inge Erasmus of EnviroAfrica as received by this Department on the same date, the correspondence from this Department dated 30 December 2019 acknowledging receipt of the pre-application BAR and the site inspection which took place on 15 January 2020, refer.
2. Having considered the information contained in the aforementioned report, this Department in accordance with Regulation 7 (5) of the Environmental Impact Assessment ("EIA") Regulations, as defined in Government Notice ("GN") No. R. 982 of 2014 (as amended), hereby provides the following comments with regard to the development proposal:
 - 2.1. It is stated in the pre-application BAR that the expansion of the dam is required in order to ensure adequate water supply to irrigate existing orchards. As such, it is this Department's understanding that no expansion of existing agricultural activities forms part of the current development proposal. However, please be informed that should any expansion of existing agricultural activities be proposed, you will be required to assess the impacts thereof, including the measures to avoid and if not possible mitigate such impacts. Furthermore, the assessment will have to include, *inter alia* the suitability of the soil, depending on the type of cultivation/agricultural activities being proposed.
 - 2.2. It is mentioned throughout the pre-application BAR that existing water use rights are in place from the Berg River Irrigation Board. You are hereby reminded to provide and include the said licenses in all future reports that will be circulated from comment.

- 2.3. Please ensure that the Construction Phase Environmental Management Programme ("EMPr") is revised in order to include safety aspects for when the dam expansion works will be commenced with. This must include safety aspects for downstream users as well as on-site staff and/or contractors who will be employed to manage/oversee the dam expansion works.
- 2.4. It is indicated throughout the pre-application BAR that electrical infrastructure from Eskom will need to be relocated as a result of the proposed dam expansion. As such, it is hereby requested that Eskom be included as part of the list of stakeholders who will be consulted during any follow-up Public Participation Process.
- 2.5. It is noted that no technology alternatives are proposed. As such, it is hereby recommended that the feasibility of technology alternatives be investigated and in particular, water and energy saving technology/solutions.
- 2.6. It is indicated on page 64 of the pre-application BAR that information regarding social and economic aspects will be included "in the next BAR". You are hereby reminded to include all outstanding information in all future reports that will be circulated for comment.
- 2.7. It is mentioned on page 77 of the pre-application BAR that graves and the modern kraal will be suitably buffered to avoid impacting on these resources. It is however unclear as to where these resources are located on the site. As such, you are hereby requested to provide detailed information on the location of these resources on the site as well as provide a map which spatially illustrates how these resources will be buffered from the proposed development.
- 2.8. It is mentioned in the pre-application BAR that rehabilitation as well as maintenance works forms part of the overall development project. As such, you are hereby requested to provide more detail on what the rehabilitation and maintenance works will entail. Furthermore, you must specify the stages at which the actions/activities relating to the rehabilitation and maintenance works will take place, respectively. Please note that aspects of rehabilitation and maintenance works can also be addressed as part of two separate plans appended to the BAR. You therefore have the option of including the proposed rehabilitation and maintenance works into two plans.
- 2.9. This Department requires proof of the submittal of the application to the National Department of Water and Sanitation for a Water Use Licence and the proof must be appended to the Final BAR.
- 2.10. You are reminded that only those activities applied for will be considered for authorisation. The onus is on the applicant to ensure that the applicable listed activities are assessed as part of the EIA process.
- 2.11. In terms of Section 2(h)(iii) of Appendix 2 of GN No. R. 982 of 4 December 2014 (as amended), please be reminded to include all comments received from Interested and Affected Parties (which includes the commenting authorities and private individuals/organisations) during the Public Participation Process, as well as the responses to those comments in the future reports which will be submitted to this Department. In this regard, it is important to obtain the comments/input from the Department of Water and Sanitation and the Western Cape Department of Agriculture.
- 2.12. Please be reminded to include all proof of the Public Participation Process which was conducted in terms of Regulation 41 of GN No. R. 982 of 2014 (as amended). This must include, *inter alia*, proof of fixing a notice board at the site where the activity will take

place, giving written notice to Interested and Affected Parties and placing an advertisement in the local newspaper.

- 2.13. Please be reminded to include the original signed declaration forms in the final report.
 - 2.14. Please be reminded to include a spatial development plan of the overall development. The plan should include all of the associated environmental constraints, such as the sensitive areas that will be avoided, e.g. buffer areas.
 - 2.15. Your attention is drawn to Appendix 4 of GN No. R. 982 of 4 December 2014 (as amended), for the requirements with respect to the '*Content of Environmental Management Programme*'. Please ensure that you fulfil these requirements.
 - 2.16. Your attention is drawn to Appendix 1 of GN No. R. 982 of 4 December 2014 (as amended), for the requirements with respect to the '*Content of basic assessment reports*'. Please ensure that you fulfil these requirements.
 - 2.17. Your attention is drawn to Appendix 6 of GN No. R. 982 of 4 December 2014 (as amended), for the requirements with respect to the '*Content of specialist reports*'. Please ensure that you fulfil these requirements.
3. Please note that the activity must not be commenced with prior to an environmental authorisation being granted by this Department. It is prohibited in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) 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 in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.
 4. Kindly quote the abovementioned reference number in any future correspondence in respect of this pre-application case.
 5. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.

Yours faithfully


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HEAD OF DEPARTMENT
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

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