

DRAFT EIR: BONATHABA DAM, PORTION 2 & 3 FARM 1100, MALMESBURY; SWARTLAND MUNICIPALITY



APPLICANT: BLACK ORCHID FARMING (PTY) LTD

COMMENT AND RESPONSE REPORT

(DEA&DP Ref. No: 16/3/3/2/F5/16/2015/21)

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
COMMENTS RECEIVED ON NOI			
1	<p>Format: Email Letter I&AP: Department of Environmental Affairs and Development Planning (DEA&DP) Bernard.Kgosana@westerncape.gov.za</p>	<p>COMMENTS ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION (“NOI”) FOR SCOPING AND ENVIRONMENTAL IMPACT ASSESSMENT IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) (“NEMA”) AND ENVIRONMENTAL IMPACT ASSESSMENT (“EIA”) REGULATIONS, 2014 (AS AMENDED): THE PROPOSED DEVELOPMENT OF AN IN-STREAM DAM ON PORTION 2 AND 3 OF THE FARM NO. 1100, BONATHABA, MALMESBURY</p> <p>1. Your ‘Notice of Your ‘Notice of Intent’ and accompanying information, as received by this Department via electronic mail from Enviro Africa cc on 25 June 2020 and this Department’s electronic mail correspondence dated 24 July 2020 I which your Public Participation Plan (“PPP”) was approved, refers.</p> <p>2. This letter serves as an acknowledgement of receipt of the aforementioned documents by this Directorate.</p> <p>3. Following a review of the information submitted to this Department, the following is hereby noted: 3.1. The proposed development entails the development of an in-stream dam on Portion 2 and Portion 3 of the Farm No.1100, Bonathaba,</p>	<p>1. Noted, thank you.</p> <p>2. Noted, we confirm receipt of the Acknowledgment of Receipt of the NOI and Supporting Information.</p> <p>3.1. Noted.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>Malmesbury. The proposed instream dam will have a wall of 18m in height and a spillway channel.</p>	
		<p>4. Applicable listed activities</p> <p>4.1. Based on the information submitted, your proposed development will trigger the following listed activities in terms of the NEMA and EIA Regulations, 2014 (as amended), namely:</p> <p>Listing Notice 1 of the EIA Regulations, 2014 (as amended): Activity Number: 9 Activity Description: <i>“The development of infrastructure exceeding 1 000 metres in length for the bulk transportation of water or storm water”—</i> <i>(i) with an internal diameter of 0,36 metres or more; or</i> <i>(ii) with a peak throughput of 120 litres per second or more; excluding where—</i> <i>(a) such infrastructure is for bulk transportation of water or storm water or storm water drainage inside a road reserve or railway line reserve; or</i> <i>(b) where such development will occur within an urban area”.</i></p> <p>Listing Notice 1 of the EIA Regulations, 2014 (as amended): Activity Number: 12 Activity Description: <i>“The development of -</i> <i>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</i> <i>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</i> <i>where such development occurs -</i> <i>(a) within a watercourse;</i> <i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;”</i></p>	<p>4.1. The Applicable Listed Activities listed below are confirmed. Please note that LN3 (GN324) Activity 4 (The development of a road wider than 4 meters with a reserve less than 13,5m (i) Western Cape (ii) Areas outside urban areas), and LN3 (GN324) Activity 12 (Clearance of an area of more than 300 m² of indigenous vegetation (i) Western Cape (i) Within any critically endangered or endangered ecosystem listed in terms of Section 53 of the NEMBA or prior to the publication of such a list, within an area that has be identified as critically endangered in the National Spatial Biodiversity Assessment 2004; (ii) within a CBA identified in a bioregional plan) were included in the Application Form and Scoping Phases.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>Listing Notice 1 of the EIA Regulations, 2014 (as amended): Activity Number: 19 Activity Description: <i>“The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, 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—</i> <i>(a) will occur behind a development setback;</i> <i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i> <i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i> <i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i> <i>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies”.</i></p> <p>Listing Notice 1 of the EIA Regulations, 2014 (as amended): Activity Number: 27 Activity Description: <i>“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> <i>(i) the undertaking of a linear activity; or</i> <i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan”.</i></p> <p>Listing Notice 2 of the EIA Regulations, 2014 (as amended): Activity Number: 16 Activity Description: <i>“The development of a dam where the highest part of the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more”.</i></p>	

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>Listing Notice 3 of the EIA Regulations, 2014 (as amended): Activity Number: 14 Activity Description: <i>“The development of—</i> <i>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area exceeds 10 square metres; or</i> <i>(ii) infrastructure or structures with a physical footprint of 10 square metres or more;</i> <i>where such development occurs—</i> <i>(a) within a watercourse;</i> <i>(b) in front of a development setback; or</i> <i>(c) if no development setback has been adopted, within 32 metres of a watercourse, measured from the edge of a watercourse;</i> <i>excluding the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour.</i> i. Western Cape <i>i. Outside urban areas:</i> <i>(aa) A protected area identified in terms of NEMPAA, excluding conservancies;</i> <i>(bb) National Protected Area Expansion Strategy Focus areas;</i> <i>(cc) World Heritage Sites;</i> <i>(dd) Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act and as adopted by the competent authority;</i> <i>(ee) Sites or areas listed in terms of an international convention;</i> <i>(ff) Critical biodiversity areas or ecosystem service areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans;</i> <i>(gg) Core areas in biosphere reserves; or</i> <i>(hh) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined”.</i></p> <p>4.3 A Scoping and EIR process must be followed in order to apply for Environmental Authorisation. Only those listed 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 and EIA process.</p>	<p>4.3. Noted. This Application will follow a Scoping & EIR process due to the triggering of Activity No. 16 of Listing Notice 2 of the EIA Regulations, 2014 (as amended).</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>5. Screening Tool</p> <p>5.1. This Directorate notes that a Screening Report was not submitted and that confirmation of the relevant specialist studies or motivation as to why certain specialist studies will not be conducted has not been provided.</p> <p>5.2. The Screening Tool Report provides an indication of the specialist assessments that should be conducted for proposed developments and your NOI contains only information relating to Heritage Notice of Intent to Develop ("NID"). Please submit a Screening Tool Report for the proposed development so that issues relating to the specialist assessments identified as necessary in the Screening Tool Report can be addressed during the pre-application process.</p> <p>5.4. The "Procedures for the Assessment and Minimum Criteria for Reporting on identified Environmental Themes in terms of Sections 24(5)(a) and (h) and 44 of the National Environmental Management Act, 1998, when applying for Environmental Authorisation" ("the Protocols") (Government Notice No. 320 as published in Government Gazette No. 43110 on 20 March 2020) came into effect on 9 May 2020. These protocols must be taken into account regarding all proposed developments.</p> <p>5.7.1. According to the Protocols, before commencing with a specialist assessment, the current use of the land and environmental sensitivity of the site under consideration identified by the screening tool must be confirmed by undertaking a site sensitivity verification.</p> <p>5.7.2. Where an assessment is prescribed for one of the environmental themes included in the Protocol (for example agriculture, terrestrial and aquatic biodiversity), the specialist assessment must comply with the protocol. 16/3/3/6/1/F5/16/2089/20 Page 4 of 6</p> <p>5.7.3. Where applicable, a signed copy of the compliance statement for an applicable theme (for example agriculture) must be appended to the EIA Report.</p> <p>5.7.4. Where a specialist assessment is required, but no specific environmental theme protocol has been prescribed, the level of assessment must be based on the findings of the site verification and must comply with Appendix 6 of the NEMA EIA Regulations, 2014 (as amended).</p>	<p>5.1. Noted. The DEA Screening Report and motivation of specialist studies were attached to the email of response to the NOI comments, dated 20th October 2021.</p> <p>5.2. Noted, please see comment above.</p> <p>5.4. Noted. Commissioned specialists will conduct the necessary assessments in relation to these protocols.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>6. Please note the following pertaining to the 'NOI':</p> <p>6.1. Consultation with State Departments/Organs of State: In terms of Section 24O of the NEMA, the competent authority must consult with every State Department that administers a law relating to a matter affecting the environment when the competent authority considers an application for an environmental authorisation.</p> <p>6.2. Confirmation of availability of services: Confirmation of the availability of services where relevant, from the relevant service providers must be provided together with the Scoping Report and/or EIA Report.</p> <p>6.3. Application fee: This Department hereby reminds you that the "Request for a specific fee reference number" form must be completed and submitted to this Department prior to submission of the formal application. Upon receipt of the specific fee reference number, the reference number must be inserted into the Application Form and proof of payment of the applicable fee attached when the Application Form is submitted to this Department.</p>	<p>6.1. Noted.</p> <p>6.2. Noted.</p> <p>6.3. Noted. The Request for Specific Fee Reference Number was requested and received. To date, the application fee has been paid.</p>
		<p>7. This Department notes that you do not intend to apply for exemption from any of the requirements of the Public Participation Process as stipulated by Regulation 41, from any other provisions contained in the EIA Regulations, 2014 (as amended) or the NEMA. Please note that should you fail to meet a requirement of the NEMA or EIA Regulations, 2014 (as amended) and if no exemption from that provision was applied for, your application for environmental authorisation may be refused.</p> <p>8. Be advised that in terms of the EIA Regulations, 2014 (as amended) and the NEMA, the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In this regard it must be noted that this Department may grant authorisation for an alternative as if the alternative has been applied for or may grant authorisation in respect of all or part of the activity applied for as specified in Regulation 20 of the NEMA and EIA Regulations, 2014 (as amended). Alternatives are not limited to activity alternatives, but include layout alternatives, design, activity, operational and technology alternatives.</p>	<p>7. Noted.</p> <p>8. Noted. Alternatives will be identified, investigated, and addressed in this Application.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>9. You are hereby reminded that it is mandatory to investigate and assess the option of not proceeding with the proposed activity (<i>i.e.</i>, the “no-go” option) in addition to other alternatives identified. Every EIA process must therefore identify and investigate alternatives, with feasible and reasonable alternatives to be comparatively assessed. If, however, after having identified and investigated alternatives, no feasible and reasonable alternatives were found, no comparative assessment of alternatives, beyond the comparative assessment of the preferred alternative and the option of not proceeding, is required during the assessment. What would, however, be required in this instance is proof that the investigation was undertaken and motivation indicating that no reasonable or feasible alternatives other than the preferred option and the ‘no-go’ option exist.</p>	<p>9. Noted. The “no-go” option will be investigated and addressed in this Application.</p>
		<p>10. Public Participation 10.1. This Department has reviewed and approved the abovementioned Public Participation Plan that was submitted together with your ‘NOI’. Please continue with the public consultation process as per the approved Public Participation Plan. 10.4. Should a Public Participation Process, which includes the circulation of the pre-application Scoping Report for comment, be undertaken prior to the submission of an Application Form to this Department, in terms of Regulation 40, the pre-application Scoping Report may also be submitted to this Department for commenting purposes. Please ensure that an electronic copy of the pre-application Scoping Report is submitted to this Department for commenting purposes. A hard copy submission may be required at a later stage. This Department will advise you when a hard copy submission will be required. 10.5. In terms of good environmental practice, you are encouraged to engage with State Departments and other Organs of State in the pre-application phase or early in the Scoping process to solicit their inputs on any of their requirements to be addressed in the EIA process. Please note that this does not replace the requirement of making the Scoping as well as EIA Reports available to State Departments as stipulated above. 10.6. The person conducting the Public Participation Process must fulfil the requirements outlined in Chapter 6 of the EIA Regulations, 2014 (as amended) and must take into account any applicable guidelines published in terms of Section 24J of the NEMA, the Department’s Circular EADP 0028/2014 on the “One Environmental Management System” and</p>	<p>10.1. Noted, thank you.</p> <p>10.4. Noted. We will await to be advised by DEA&DP should a hard copy of any report be required.</p> <p>10.5. Noted.</p> <p>10.6. Noted.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		the EIA Regulations, 2014 (as amended) as well as any other guidance provided by this Department.	
		<p>11. Collapsing of Scoping and EIA Report Please be advised that the Scoping and EIA Phase of the EIA process are two distinctly separate phases, with each having its own requirements and reports to be submitted. This Directorate will not accept Scoping and EIA reports where the process or information of the two phases were collapsed into a single process or report. You are hereby advised that the Scoping Report must contain all the information outlined in Appendix 2 of the EIA Regulations, 2014 (as amended) and the EIA report must contain all the information outlined in Appendix 3 of the EIA Regulations, 2014 (as amended).</p> <p>12. Mandatory Plan of study for EIA You are hereby reminded that a plan of study for EIA which sets out the approach to the EIA of the application in accordance with Appendix 2(2)(i) must be compiled and submitted together with the Scoping Report.</p> <p>13. You are referred to Appendix 2 of the EIA Regulations, 2014 (as amended) for the requirements with respect to the 'Content of the scoping report'. You are advised that when undertaking the scoping process, you must take into account the applicable guidelines, including the guidelines developed by this Department.</p> <p>14. You are referred to Appendix 3 of the EIA Regulations, 2014 (as amended) for the requirements with respect to the 'Content of environmental impact assessment reports'. You are advised that when undertaking the EIA process, you must take into account the applicable guidelines, including the guidelines developed by this Department.</p> <p>15. In terms of the EIA Regulations, 2014 (as amended) when considering an application, this Department must take into account a number of specific considerations including <i>inter alia</i>, the need for and desirability of any proposed development. As such, the need for and desirability of the proposed activity must be considered and reported on in the Scoping report as well as in the EIA report. The Scoping report and</p>	<p>11. Noted.</p> <p>12. Noted. This Plan of Study will be included in the Scoping Report Phase.</p> <p>13. Noted with thanks.</p> <p>14. Noted with thanks.</p> <p>15. Noted. The Need and Desirability of the proposed project will be addressed. The concept of need and desirability can be explained in terms of the general meaning of its two components in which need refers to the time and desirability to the place – i.e. is this the right time and is it the right place for locating the type of land-use/activity being proposed?</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>EIA report must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability.</p> <p>16. In addition to the above, you must clearly show how the proposed development complies with the principles contained in Section 2 of the NEMA and how the proposed development meets the requirements of sustainable development.</p> <p>17. It is prohibited in terms of Section 24F 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 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 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>18. This Department awaits the submission of the pre-application Scoping Report and/or the application form for environmental authorisation.</p> <p>19. 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 this 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:</p> <ul style="list-style-type: none"> • that additional information or documents will not be requested; or • the outcome of the application. <p>This Department reserves the right to revise initial comments and request further information based on any new or revised information received.</p>	<p>Need and desirability can be equated to wise use of land – i.e. the question of what is the most sustainable use of land?</p> <p>16. Noted. One of the crucial aims of an EIA is to ensure that the demands of sustainable development (defined as development which meets the needs of the current generation without compromising the ability of future generations to meet their own needs¹) are met on the project level as well as within the context of the greater area. This EIA will therefore be undertaken with sustainable development as a goal.</p> <p>17. Noted.</p> <p>18. Noted. The Pre-Application Scoping Report will be submitted shortly. Thank you for advising on the way forward.</p> <p>19. Noted. Thank you for your comments.</p>

¹As defined by the International Institute for Sustainable Development (IISD). Accessed at: <https://www.iisd.org/about-iisd/sustainable-development>.

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager			
COMMENTS RECEIVED ON PRE-APPLICATION SCOPING REPORT						
2	Format: Email Letter I&AP: Department of Agriculture: Sustainable Resource Management (Mr Jan Smit) jans@elsenburg.com	Please provide postal address, email and contact number of the office. Also provide the name of a contact person for the land user, landowner or applicant.	Respondent: EAP Please see details below:			
		Proponent Name of Applicant/Proponent: Name of contact person for Applicant/Proponent (if other): Company/ Trading name/State Department/Organ of State: Company Registration Number: Postal address: Telephone: E-mail:	Black Orchid Farming Pty (Ltd)			
			Ms Mine van Wyk			
			Black Orchid Farming Pty (Ltd)			
			P.O. Box 6100			
			Roggebaai		Postal code: 8012	
			(021) 421 2129		Cell: 082 511 6036	
			Mine.van.wyk@uff.co.za		Fax: (021) 421 0510	
		Company of EAP: EAP name: Postal address: Telephone: E-mail: Qualifications: EAPASA registration no:	EnviroAfrica			
			Anthony Mader			
			P.O. Box 5367,			
			Helderberg		Postal code: 7135	
			(021) 851 1616		Cell: 083 309 9211	
anthony@enviroafrica.co.za			Fax: (086) 512 0154			
BSc; BSc (Honours) - in Environment, Ecology and Conservation; PhD (currently completing)						
N/A						

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>It is stated that, the application is for the storage of an existing water use that could never be potted before. Appendix 9 was not included. Does this "existing water use" refer to summer or winter water listed at the Irrigation Board?</p>	<p>Respondent: EAP and</p> <p>Please note that as per the notification email (dated 15th December 2020), the link to our website, containing the pertinent document, was provided under the "Projects for Public Participation" Tab -> "Bonathaba Dam_ Pre-Application Scoping Report" -> "Appendix 9_ Water Use Rights – Bergrivier Besproeingsraad – 06 June 2019". Please see link provided to site for convenience: https://enviroafrica.co.za/wp-content/uploads/2020/12/Appendix-9_-Water-Use-Rights-Bergrivier-Besproeingsraad-06-June-2019.pdf.</p>
		<p>The Botanical Study (Annexure 8.1) was not included in the e-mail.</p>	<p>Respondent: EAP</p> <p>Please note that as per the notification email (dated 15th December 2020), the link to our website, containing the pertinent document, was provided under the "Projects for Public Participation" Tab -> "Bonathaba Dam_ Pre-Application Scoping Report" -> "Appendix 8.1_ Botanical Report". Please see link provided to our site for convenience: https://enviroafrica.co.za/wp-content/uploads/2020/12/Appendix-8.1_-Botanical-Report.pdf.</p>
		<p>The proposed development will impact on HUAL. It is stated that on the context of the entire farm the clearance of 10.4ha of agricultural crops will not significantly impact on the potential of the farm. This is an unsubstantiated statement.</p> <ul style="list-style-type: none"> • What is the actual impact on production and loss of jobs? • How, when and where will the existing perennial crops be replaced? Is there enough HUAL on the farming unit to do the replacement? • What is the potential of the land that will be lost? 	<p>Respondent: Applicant</p> <p>The impact on production and job losses would not be affected due to the following reasons. The current plantings on the area affected consist of the following. 3Ha lemons, planted in 1994. 2.2Ha Tawny grapes, planted 2014. 2.5 Ha Magenta planted 2016. 1.5 Ha Sugra 19 planted in 2012 and Crimson 1.2 Ha planted in 2008.</p> <ul style="list-style-type: none"> • The lemons are already reaching the end of the profitability in terms of tree age, production and quality of fruits. This area was earmarked for replacement in the short term. 6Ha new Lemons were planted in 2016 to replace the current 5 ha's that needs to be replanted due to age. • The Tawny and Magenta cultivars are currently under a lot of pressure from international markets due to very low demand for this specific cultivars due to cultivar characteristics that is not acceptable because of quality, condition and shelf life. Therefor also needs to be uprooted due to very low income. • The Crimson and Sugra 19 field struggles with consistent low yields that is also not viable to continue with. • Alternative area's on the farm can also be utilized for new plantings of the 10.4 Ha's that will be used for the dam. 6 Ha's

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
			<p>has already been newly planted with lemons. Only 4.4 Ha's will be needed to replace the total area of the fields lost. This would be covered in the yearly long term replanting strategy for the farm that consist between 5% to 10 % of the farms planted area.</p> <ul style="list-style-type: none"> Although there is an area of land lost the total area of the dam in reflection of the farms size is less than 3%. If the dam and water security does not take place this can have a huge implication crop losses in case of drought's and water shortages. This will have a direct negative influence on employment security e.g., job losses as well as loss of production and loss of income.
		<p>Freshwater: The drainage lines (± 3.3km) is mostly dry, but runoff will accumulate during rains. Steep slopes may have a high erosion potential.</p> <ul style="list-style-type: none"> Where the drainage line has been straightened, the channels have eroded. How will the erosion be managed, mitigated and prevented. How will silting up of the dam be prevented? What is the quality of the runoff water? Will contaminated saline water enter the dam and contaminate the potted water? 	<ul style="list-style-type: none"> Erosion mitigation measures (including but not limited to gabions, silt fences, retention basins, detention ponds, interceptor ditches, seeding and sodding, riprap of exposed embankments, erosion mats and/or mulching, etc.) shall be implemented where applicable. Exposed areas, susceptible to erosion, must be rehabilitated. Soils can also be stabilized by planting indigenous vegetation characteristic of the vegetation type. Silting will be reduced / prevented by the implementation of erosion mitigation measures. It is not envisaged that saline water will enter the dam as water will be abstracted from the Bergvrievier (please see Appendix 9 - Water Use Rights).
		<p>The two alternatives are located within the same footprint with one marginally larger than the other.</p> <ul style="list-style-type: none"> What informed the size of the proposed dam and how does the smaller dam alternative impact on the long term development, irrigation requirements and risk management of the farm? 	<p>Respondent: Applicant</p> <p>Although there is an area of land lost the total area of the dam in reflection of the farms size is less than 3%. If the dam and water security does not take place this can have a huge implication crop losses in case of drought's and water shortages. This will have a direct negative influence on employment security e.g. job losses as well as loss of production and loss of income.</p> <p>Moreover, although the larger size layout (Alternative 2) will result in a larger footprint, the cost/storage ratio is considered viable under the</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
			circumstances relative to the (i) irrigational requirements of the Bonathaba Farm and (ii) site conditions.
3	<p>Format: Email Letter I&AP: Department of Environmental Affairs and Development Planning (DEA&DP) Bernard.Kgosana@westerncape.gov.za</p>	<p>COMMENT ON THE PRE-APPLICATION DRAFT SCOPING REPORT AND PLAN OF STUDY FOR ENVIRONMENTAL IMPACT ASSESSMENT REPORTING IN TERMS OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): THE PROPOSED DEVELOPMENT OF AN INSTREAM DAM ON PORTION 2 AND 3 OF THE FARM NO.1100, BONATHABA, MALMESBURY</p> <p>1. The draft Scoping Report, Appendices and Plan of Study for Environmental Impact Reporting dated December 2020 that were received by this Department via electronic mail on 15 December 2020, refer.</p> <p>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 proposed development:</p>	<p>Respondent: EAP</p> <p>1. Thank you for commenting on the Pre-Application Scoping Report. The Application Form and Draft Scoping Report will be submitted in due course.</p>
		<p>2.1. Alternatives: It is noted that a single site/location alternative, two layout alternatives and the ‘no-go’ alternative were considered. These alternatives have been satisfactorily described in your Draft pre-application Scoping Report.</p>	<p>2.1. The proposed site for the development of the Bonathaba Dam is considered the best and most economically feasible site (Alternative 1) relative to the existing conditions (i.e. disturbed vegetation, gravitational benefits, etc) of the area-to-be-developed. No other feasible alternatives were considered as the remainder of Portion 2 and Portion 3 are undesirable for the nature of the proposed development due to (i) contours associated with the remainder of the site are not suitable for the development of a dam, and (ii) already transformed (namely agricultural crops and processing facility) where the development of the dam on remaining area of Portion 2 and Portion 3 of Farm No. 1100, Bonathaba, will result in a larger impact on existing agricultural fields. Thus, the proposed location is the only available site on the two properties owned by the applicant for the proposed development. As per the Botanical Assessment (Appendix 8.1), the majority of the proposed developmental</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>2.2. Water Use Licence Application: It is noted that a Water Use Licence (“WULA”) is required from the National Department of Water and Sanitation for the proposed development. Please ensure that proof of having lodged the WULA is submitted together with your Draft Environmental Impact Report (“EIR”), should you decide to proceed with the pre-application process to the Environmental Impact Reporting phase.</p> <p>Specialist Assessment Reports: It is noted that you intend to conduct a Freshwater Impact Assessment, Botanical Impact Assessment and to also submit a Notice of Intent (“NID”) to Heritage Western Cape regarding the potential heritage-related impacts of the proposed development. Please include the comment from CapeNature and the National Department of Water and Sanitation on the pre-application Draft Scoping Report when submitting your next pre-application report. Furthermore, the Heritage Impact Assessment must also be conducted if Heritage Western Cape requests that the Heritage Impact Assessment be undertaken or if any Interested and Affected Party requests that the Heritage Impact Assessment be undertaken and provides sufficiently strong motivation for making the request.</p> <p>2.3. Plan of Study: Please be informed that this Department has not noted any issues of significant concern in the Plan of Study included in your pre-application Draft Scoping Report.</p>	<p>footprint will overlap areas currently under permanent crops (mostly table grapes) whereas approximately 8.8ha of already disturbed vegetation will be impacted [as area was previously under wheat cultivation (see Figure 7 of Appendix 8.1) until 2006 and subsequently left lying fallow]. Few indigenous plant species were observed with most plants observed being weeds or pioneer species. The specialist also noted that the small watercourse associated with the study area has been previously impacted – the nature of the impact characteristic of intensive agricultural landscape practices. Therefore, no other site alternatives were considered and investigated.</p> <p>2.2. Noted. A WULA will be lodged.</p> <p>Noted. A Botanical Impact Assessment (Appendix 8.1) and Freshwater Report (Appendix 8.2) have been conducted. A NID has been submitted to HWC (Appendix 8.3.2; case reference number: 20051901).</p> <p>2.3. Noted. It is acknowledged that the competent authority does not have any significant concern regarding the plan of study.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>3. In terms of Section 2(1)(g)(iii) of Appendix 2 of the EIA Regulations, 2014 (as amended), please include the issues raised by Interested and Affected Parties, and an indication of the manner in which the issues were adequately taken into account in your next pre-application report,</p> <p>4. Please note that the activity must not be commenced with prior to an environmental authorisation being granted by the competent authority. It is prohibited in terms 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 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 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.</p> <p>5. Kindly quote the abovementioned reference number in any future correspondence regarding the pre-application case.</p> <p>6. This Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.</p>	<p>3. Noted. All issues raised have been addressed / will be addressed in the Draft Environmental Impact Report (EIR) phase.</p> <p>4. Noted.</p> <p>5. Noted.</p> <p>6. Noted. Thank you for providing comment on the Pre-Application Scoping Report.</p>
COMMENTS RECEIVED ON APPLICATION FORM AND DRAFT SCOPING REPORT			
	<p>Format: Email Letter I&AP: Department of Environmental Affairs and Development Planning (DEA&DP) eldon.vanboom@westerncape.gov.za</p>	<p>We have received your application for Scoping and the copy of a Draft Scoping Report in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended ("NEMA"), Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended) for Bonathaba Dam: Proposed Development of an In-Stream Dam on Portions 2 and 3 of Farm No. 1100, Bonathaba, (NOI Ref: 16/3/3/6/1/F5/16/2089/20).</p> <p>The NOI file will be closed, and we will provide you with an application reference number on the acknowledgement of receipt letter. Please note that I have a new supervisor and you can include her on all our</p>	<p>Noted, thank you for confirming receipt of the Application Forms and Draft Scoping Reports.</p> <p>Noted. Thank you for the information.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>correspondence (email: keagan-leigh.adriaanse@westerncape.gov.za), Maboe is no longer with the Department.</p> <p>Please do not hesitate to contact us should you have any queries regarding the application.</p>	
5	<p>Format: Email Letter I&AP: Department of Environmental Affairs and Development Planning (DEA&DP) eldon.vanboom@westerncape.gov.za</p>	<p>The application fee of R10,000 (Specific fee Ref: W-SEIR-EIA-G12) paid on 07 April 2021, the Application Form submitted on 7 April 2021, the draft Scoping Report and the Public Participation Plan both dated March 2021 and received by this Department via electronic mail correspondence on 07 April 2021 February 2021, refer.</p> <p>1. This letter serves as an acknowledgement of receipt of the aforementioned documents by this Directorate.</p> <p>2. The application form for submitted for the above-mentioned Scoping and Environmental Impact Reporting is not signed both by the applicant and the Environmental Assessment Practitioner ("EAP"), please sign the form and resubmit urgently.</p> <p>3. Applicable listed activity</p> <p>3.1. You are reminded that only that activity applied for will be considered for authorisation. The onus is on the applicant to ensure that the applicable listed activity is assessed as part of the EIA process</p> <p>4. Screening Report, Protocols and Specialist Assessments</p> <p>4.1. This Directorate notes that a Screening Report (dated 13 October 2020) has been included in the application for environmental authorisation. This Directorate further notes that a site sensitivity verification report has been provided and that a motivation on why some of the specialist studies (as highlighted in the screening report), not to be undertaken.</p> <p>4.2. The applicant proposes to appoint the following Specialist to be part of the EIA Process:</p> <ul style="list-style-type: none"> • Botanical Specialist; • Freshwater Specialist; and 	<p>Noted. Thank you for confirming receipt of application payment, Application Form, Draft Scoping Report, and PP plan.</p> <p>1. Noted, thank you for your comments.</p> <p>2. Please note that the Applicant and EAP declaration form was attached as a separate appendix (accessible via the submitted link) on the 7th March 2021.</p> <p>3.1. Noted.</p> <p>4.1. It is noted that the Site Sensitivity Verification (SSV) Report was received by the DEA&DP.</p> <p>4.2. Noted and confirmed.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<ul style="list-style-type: none"> • Heritage Specialist. <p>5. Water Use Licence Application: It is noted that a Water Use Licence (“WULA”) is required from the National Department of Water and Sanitation for the proposed development.</p> <p>6. Exemption It is evident that you do not intend to apply for exemption from any provisions contained in the NEMA or the EIA Regulations, 2014 (as amended).</p> <p>7. Content of a Scoping Report You are referred to Appendix 2 of the NEMA EIA Regulations, 2014 (as amended) for the requirements with respect to the ‘Content of the Scoping Report’.</p> <p>8. Alternatives Be advised that in terms of the NEMA EIA Regulations, 2014 (as amended) and the NEMA the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In this regard it must be noted that the Department may grant authorisation for an alternative as if it has been applied for or may grant authorisation in respect of all or part of the activity applied for as specified in Regulation 20 of GN No. R. 326 of 07 April 2017.</p> <p>Alternatives are not limited to activity alternatives, but include layout alternatives, design, activity, operational and technology alternatives. Every EIA process must therefore identify and investigate alternatives, with feasible and reasonable alternatives to be comparatively assessed. If, however, after having identified and investigated alternatives, no feasible and reasonable alternatives were found, no comparative assessment of alternatives, beyond the comparative assessment of the preferred alternative and the “no-go” alternative, is required during the assessment. What would, however, be required in this instance is that proof of the investigation undertaken and motivation indicating that no reasonable or feasible alternatives other than the preferred and the “no-go” alternatives exist must be provided to the Directorate.</p>	<p>5. It is confirmed that a WUA will be applied for.</p> <p>6. It is confirmed that no exemption has been applied for.</p> <p>7. Noted.</p> <p>8. The proposed site for the development of the Bonathaba Dam is considered the best and most economically feasible site (Alternative 1) relative to the existing conditions (i.e., disturbed vegetation, gravitational benefits, etc) of the area-to-be-developed. Sites 1-4 were initially identified and considered for the proposed location of the Bonathaba Dam however, based on the steep topography, expensive construction estimates, and the environmental impact of these sites on virgin land, it was decided that only the preferred layout (33°31'13.66"S 18°55'17.53"E; Figure 3 and Table 1 of the Final Scoping Report) should be considered. It must also be noted that no feasible alternatives were identified on Portions 2 and 3 of Farm No. 1100 due to (i) contours associated with the remainder of the site are not suitable for the development of a dam, and (ii) level of already transformed land (namely crops and processing facility) where an alternative location will impact a greater proportion of land under cultivation. Thus, the proposed location is the only available site on the two properties owned by the applicant for the proposed development. The purpose of the proposed dam is to provide Bonathaba Farm with enough water for its irrigation requirements. Two storage capacity (i.e., layout) alternatives, relative to the size of the dam were investigated. Although Alternative 2 will result in a larger footprint, the cost/storage ratio is considered viable under the circumstances relative to the (i) irrigational requirements of the Bonathaba Farm and (ii) site</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
			conditions. Therefore, Alternative 2 is the preferred layout. The “no-go” alternative has also been included.
		<p>9. Public Participation</p> <p>9.1. Please be advised that the requirements of the public participation process (“PPP”) are specified in Regulation 41(2) of the NEMA EIA Regulations, 2014 (as amended).</p> <p>9.2. Public Participation Plan</p> <p>9.2.1. This Directorate notes that a Public Participation Plan (dated 09 July 2020) was approved by this Directorate on 24 July 2020 (NOI Ref. No. 16/3/3/6/1/F5/16/2089/20) and public participation process conducted and submitted together with the preapplication draft scoping report.</p> <p>9.2.2. Public participation process described in 9.2.1 has remained unchanged for the application phase of the proposed development.</p> <p>9.3. The SR must be made available to the Interested and Affected Parties (“I&APs”), including all the relevant State Departments that administer laws relating to a matter affecting the environment, for comment for a period of 30 days. It is noted that a copy of the SR has been submitted to this Directorate for comment in accordance with Regulation 40(3) of the NEMA EIA Regulations, 2014 (as amended).</p>	<p>9.1. Noted.</p> <p>9.2. Noted.</p> <p>9.3. Noted. The Draft Scoping Report was made available to all I&APs for a 30-day comment period. All I&APs were notified on the 7th April 2021.</p>
		<p>10. Guidelines</p> <p>When undertaking the EIA process, the EAP must take into account all applicable guidelines, including the guidelines developed by this Department. These can be downloaded from the Department's website (http://www.westerncape.gov.za/eadp). In particular, the guidelines that may be applicable to the proposed development include, inter alia, the following:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Guideline for Environmental Management Plans (June 2005). <input type="checkbox"/> Guideline on Alternatives (March 2013). <input type="checkbox"/> Guideline on Need and Desirability (March 2013). 	10. Noted. These guidelines have been considered.

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>11. Need and Desirability In terms of the NEMA EIA Regulations, 2014 (as amended), when considering an application, this Directorate must take into account a number of specific considerations including, <i>inter alia</i>, the need for and desirability of any proposed development. As such, the need for and desirability of the proposed activity must be considered and reported on in the Scoping Report. The Scoping Report must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability.</p>	<p>11. The Needs and Desirability has been considered and incorporated into the Final Scoping Report (please refer to <i>Section 2</i>). In terms of the National Environmental Management Act, and EIA 2014 regulations, as amended, the Scoping/EIA report must describe the need and desirability of the proposed activity. The consideration of “need and desirability” in EIA decision-making processes requires the consideration of the strategic context of the development proposal along with the broader societal needs and the public interest. While the concept of need and desirability relates to the <i>type of development being proposed</i>, essentially, the concept of need and desirability can be explained in terms of the general meaning of its two components in which <i>need refers to time</i> and <i>desirability to place</i> – i.e. is this the right time and is it the right place for locating the type of land-use/activity being proposed? Need and desirability can be equated to the wise use of land – i.e. the question of what is the most sustainable use of land.</p>
		<p>12. General</p> <p>12.1. In addition to the above requirements, you must clearly show how the proposed development complies with the principles contained in Section 2 of the NEMA and must also show how the proposed development meets the requirements of sustainable development.</p> <p>12.2. You are reminded that the social context of the proposed development must always be considered. This includes the impact that the proposed development may have on the prevalence of HIV/AIDS, sexually transmitted infections (STI) and Tuberculosis (TB), as well as equity and gender related concerns.</p> <p>12.3. You are hereby advised that the Scoping Report must contain all the information outlined in Appendix 2 of the NEMA EIA Regulations, 2014, and must also include the information requested in this letter. Omission of any of the said information may result in the refusal of Environmental Authorisation.</p> <p>12.4. Further note, in terms of Regulation 45 of the NEMA EIA Regulations, 2014 (as amended), an application in terms of the NEMA EIA Regulations, 2014 (as amended) lapses and the competent authority will deem the application as having lapsed, if the applicant fails to meet any of the timeframes prescribed in terms of these Regulations, unless extension has been granted in terms of Regulation 3(7).</p>	<p>12.1. Noted.</p> <p>12.2. Noted.</p> <p>12.3. Noted.</p> <p>12.4. Noted.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>12.5. The Scoping and EIA phases of the EIA process are two distinctly separate phases, each having its own requirements and reports to be submitted. The Department will not accept Scoping and EIA Reports where the processes or information of the two phases were combined into a single process or report.</p> <p>13. Please note that the activity may not commence prior to obtaining an Environmental Authorisation. It is an offence for a person to commence with a listed activity unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.</p> <p>14. Kindly quote the above-mentioned reference number in any future correspondence regarding this application.</p> <p>The Directorate reserves the right to revise or withdraw comments or request further information based on any information received.</p>	<p>12.5. Noted. The next phase is the submission of the Final Scoping Report. Once the Final Scoping Report and Plan of Study have been accepted / accepted on condition by the DEA&DP, the Draft EIR will be submitted as a separate report. Registered I&APs will be given the opportunity to comment on the Draft EIR. Once the comment period has ended, comments will be responded to accordingly, and the Final EIR will be submitted to the DEA&DP for decision-making.</p> <p>13. Noted.</p> <p>14. Noted.</p> <p>Noted.</p> <p>Thank you for your comments.</p>
6	<p>Format: Email Letter I&AP: Berg Rivier Besproeiingsraad/Irrigation Board (Mr Giel van Deventer) giel@bergriverib.co.za</p>	<p>We have no objection against the proposed building of the Bonathaba Dam.</p>	<p>Thank you for your response regarding the aforementioned project. It is noted that the Berg Rivier Irrigation Board has no objection to the proposed development of the Bonathaba Dam.</p>
7	<p>Format: Email Letter I&AP: Department of Environmental Affairs and Development Planning (DEA&DP) Bernard.Kgosana@westerncape.gov.za</p>	<p>COMMENT ON THE DRAFT SCOPING REPORT AND PLAN OF STUDY FOR ENVIRONMENTAL IMPACT ASSESSMENT REPORTING IN TERMS OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED DEVELOPMENT OF AN IN-STREAM DAM ON PORTION 2 AND 3 OF THE FARM NO. 1100, BONATHABA, MALMESBURY.</p> <p>The application form dated March 2021 and received by this Department via electronic mail correspondence on 07 April 2021, this Directorate's electronic mail correspondence dated 08 April 2021, the electronic mail correspondence from the Environmental Assessment Practitioner ("EAP") dated 12 April 2021, the draft Scoping Report ("dSR") dated</p>	<p>Noted. Thank you for your comments raised on the aforementioned.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>March 2021 and received by this Department via electronic mail correspondence on 07 April 2021 and this Directorate's acknowledgment thereof dated 26 April 2021, refer.</p>	
		<p>2. Comments on the draft Scoping Report are as follows:</p> <p>2.1. Application for Environmental Authorisation 2.1.1. As indicated in this Directorate's correspondence dated 26 April 2021, you are urgently required to submit the duly dated and signed declarations of the applicant and EAP.</p> <p>2.2. Activity Description 2.2.1. The draft Scoping Report indicates that an access road will be developed and that no new access roads will be developed. Clarification is therefore required.</p> <p>2.3. Potential impacts 2.3.1. The potential impacts on the down-stream users must be identified in the Scoping Report.</p> <p>2.4. General 2.4.1. The cover page of the draft SR contains the incorrect reference number. Please correct this error.</p> <p>2.4.2. All reference to "Pre-application Scoping Report" where the draft Scoping Report should be referred to must be removed.</p> <p>2.4.3. Page 46 of the draft Scoping Report indicates that "It is therefore recommended that authorization for the commencement of an EIA for the proposed development is granted." Please note that upon the submission of the final Scoping Report, in accordance with Regulation 22 of the NEMA EIA Regulations, 2014 (as amended) the competent authority</p>	<p>2.1. Noted. Please note that the signed declaration forms by both the applicant and the EAP were included in the link provided with the submission of the Application Form notification letter (submitted on the 7th April 2021). Applicant and EAP declaration forms were re-sent on the 10th May 2021.</p> <p>2.2.1. A new access road will be developed to access the proposed Bonathaba Dam. This has been rectified accordingly in the Final Scoping Report.</p> <p>2.3.1. Noted. The potential impact on the downstream users has been incorporated into the Final Scoping Report, the Impact Assessment Rating (Appendix 10.1), and the EMP (Appendix 11). Mitigation measures have also been included in the Impact Assessment Rating and EMP.</p> <p>2.4.1. Noted. This has been rectified accordingly.</p> <p>2.4.2. Noted. This has been rectified accordingly.</p> <p>2.4.3. Noted. This has been rectified accordingly.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>must accept the scoping report or refuse environmental authorization. Please correct this error.</p> <p>3. The BAR to be submitted to the competent authority for decision making must be submitted via email to the case officer, with attached pdf versions of the report or, if too large to attach to an email, to be made available via an electronic link provided in the email that is accessible by the Directorate.</p> <p>4. The Directorate may require that a hard copy of the reports also be submitted to the Department by a certain date, but will advise you accordingly.</p> <p>5. You are reminded that the Scoping Report must contain all the information outlined I Appendix 2 of the NEMA EIA Regulations, 2014 (as amended) and must include the information requested in this letter. Omission of any of the said information may result in the refusal of Environmental Authorisation.</p> <p>6. You are reminded that the Scoping Report must be duly dated and signed by the applicant and the environmental assessment practitioner. In addition, you are reminded that the Scoping Report must be submitted within 44 days of the date of receipt of the application by the Department.</p> <p>The Directorate reserves the right to revise or withdraw comments or request further information based on any information received.</p>	<p>3. Noted. Please note that due to the listed activities triggered by the proposed development, namely GN No. R. 325 (Listing Notice 2), Activity No. 16 [“<i>The development of a dam where the dam wall, as measured from the outside toe of the wall to the highest part of the wall, is 5 metres or higher or where the high-water mark of the dam covers an area of 10 hectares or more.</i>”], this Environmental Application will follow a Scoping/ Environmental Impact Report (EIR) process.</p> <p>4. Noted. Hard copies of requested reports will be submitted to the DEA&DP when / as advised.</p> <p>5. Noted. Information requested in this letter have been incorporated into the Final Scoping Report and relevant appendices.</p> <p>6. Noted. The Final Scoping Report (<i>this report</i>) will be submitted within the legislated timeframe.</p>
8	<p>Format: Email Letter I&AP: Department of Environmental Affairs and Development Planning (DEA&DP) Bernard.Kgosana@westerncape.gov.za</p>	<p>ACKNOWLEDGEMENT OF RECEIPT OF THE FINAL SCOPING REPORT AND PLAN OF STUDY FOR AN ENVIRONMENTAL IMPACT ASSESSMENT FOR THE PROPOSED DEVELOPMENT OF AN IN-STREAM DAM ON PORTIONS 2 AND 3 OF THE FARM NO. 1100, BONATHABA, MALMESBURY.</p> <p>1. The final Scoping Report dated May 2021 and received by this Department via electronic mail correspondence on 17 May 2021, refers.</p> <p>2. This letter serves as an acknowledgement of receipt of the final Scoping Report by this Directorate.</p> <p>3. This Directorate will now review the final Scoping Report and notify you of the outcome within the legislated timeframe.</p>	<p>1. Noted, thank you for acknowledging receipt of the Final Scoping Report submitted to the DEA&DP on the 17th May 2021.</p> <p>2. Noted with thanks.</p> <p>3. Noted.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>4. Kindly quote the above-mentioned reference number in any future correspondence regarding this application.</p> <p>The Directorate reserves the right to revise or withdraw comments or request further information based on any information received.</p>	4. Noted.
9	<p>Format: Email Letter I&AP: Department of Environmental Affairs and Development Planning (DEA&DP) Bernard.Kgosana@westerncape.gov.za</p>	<p>ACCEPTANCE OF THE FINAL SCOPING REPORT (“SR”) AND PLAN OF STUDY FOR AN ENVIRONMENTAL IMPACT ASSESSMENT REPORTING PROCESS IN TERMS OF THE NEMA EIA REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED DEVELOPMENT OF AN IN-STREAM DAM ON PORTION 2 AND 3 OF THE FARM NO. 1100, BONATHABA, MALMESBURY.</p> <p>1. The final SR dated May 2021 and received by this Department via electronic mail correspondence on 17 May 2021 and this Directorate’s acknowledgement dated 27 May 2021, refers.</p> <p>2. This letter serves to inform you that the abovementioned document has been accepted by the Directorate on condition that the Plan of Study be amended to include the following: 2.1. This Directorate notes that the very high sensitivity rating for the agricultural theme, as identified by the Screening Report (dated 13 October 2020), has been disputed and determined to be of medium significance by the EAP due to the fact that although agricultural land will be lost, the proposed development is required to ensure that the long-term viability and sustainability of the production of table grapes an citrus through a reliable water supply. According to the Protocols, where the information gathered from the site sensitivity verification differs from the designation of very high and it is found to be medium sensitivity, an Agricultural Compliance Statement must be provided.</p> <p>3. Contents of the Environmental Impact Assessment (“EIA”) Report 3.1. You are hereby advised that the Environmental Impact Assessment (“EIA”) Report must contain all information set out in Appendix 3 of the NEMA EIA Regulations, 2014 (as amended) and must also include the information requested in this letter. Omission of any of the said information may result in the application for Environmental Authorisation being refused.</p> <p>4. Draft Environmental Management Programme (“EMPr”) 4.1. The EMPr must contain all information set out in Appendix 4 of the NEMA EIA Regulations, 2014 (as amended) and must address the potential environmental impacts of the activity on the environment throughout the project life cycle, i.e. the EMPr must address impacts in respect of the planning and design, pre-construction and construction</p>	<p>1. Noted.</p> <p>2. It is noted that the Final Scoping Report and Plan of Study has been accepted by the DEA&DP.</p> <p>2.1. Noted. An Agricultural Compliance Statement, compiled by Agrimotion, has been appended as Appendix 13.</p> <p>3.1. Noted.</p> <p>4.1. Noted.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		<p>activities, operation of the activity, rehabilitation of the environment and closure/decommissioning (if applicable). The Department would like to advise that in compiling the EMPr the Department's Guideline for Environmental Management Programmes (available from the Department's website (https://www.westerncape.gov.za/eadp) must be taken into account.</p>	
		<p>5. Specialist studies 5.1. Note that the specialist report(s) must be appended to the EIA \ Report. Please ensure that these specialist reports contain all the information specified in Appendix 6 of the NEMA EIA Regulations, 2014 (as amended).</p>	5.1. Noted.
		<p>6. Public Participation 6.1. In addition to the above, the Environmental Assessment Practitioner ("EAP") must submit a minimum of one electronic copy of the draft EIA Report and EMPr to this Directorate for a 30- day comment period. The draft EIA Report and EMPr must also be made available to all relevant State Departments/Organs of State that administer laws relating to a matter affecting the environment, for a 30-day comment period. The EAP must notify the Department in writing of the date the draft EIA Report and EMPr was submitted to the relevant State Departments/Organs of State and clearly indicate whether or not such State Departments/Organs of State were notified of the 30-day comment period in terms of Section 24O of NEMA. It is imperative that State Departments/Organs of State are in possession of the draft Reports when the EAP issues them with the notice in terms of Section 24O of NEMA. Please note that the EAP is responsible for such consultation. Therefore, it is requested that the EAP include proof of such notification to the relevant State Departments/Organs of State in terms of Section 24O(2) and (3) of NEMA in the draft EIA Report, where appropriate.</p> <p>6.2. The EAP must record and respond to all comments received. The comments and responses must be captured in a Comments and Responses Report and must also include a description of the public participation process followed. This report must also be included in the public participation information to be attached to the EIA report submitted for decision making purposes.</p> <p>6.3. Please ensure that comments from all the relevant Organs of State, including any comments from the Department, are submitted with the EIA Report.</p>	<p>6.1. Noted. Please refer to Appendices 6.1 (I&AP Register) and Appendices 6.2.1.2 - 6.2.1.7 for notification of State Departments/Organs of State</p> <p>6.2. Noted. Please refer to Appendix 6 for comments received on the Pre-Application Scoping Report and Draft Scoping Report. All comments have been captured in this Comments and Responses Report and addressed accordingly.</p> <p>6.3. Comments have been appended to the Draft EIR (this report).</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		7. You may now proceed with the EIA process in accordance with the tasks outlined in the plan of study for the EIA.	7. Noted. The Draft EIR will be submitted in due course.
		8. The Department awaits the submission of the EIA Report and EMPr as prescribed by the NEMA EIA Regulations 2014 (as amended) and which must be submitted to this Department for decision-making within a period of 106 days from the date of this letter. If however, significant changes have been made or significant new information has been added to the EIA Report, the applicant/EAP must notify the Department that an additional 50 days (i.e. 156 days from the date of the acceptance of the Scoping Report by the Department) would be required for the submission of the EIA Report. The additional 50 days must include a minimum 30-day commenting period to allow registered I&APs to comment on the revised report and/or additional information.	8. It is noted that the Final EIR must be submitted to the Department within 106 days from the date that the Approval / Acceptance of the Final Scoping Report was received (1 st July 2021). This includes the submission of the Draft EIR with the legislated 30-day comment period. Therefore, the deadline for the submission of the Final EIR is the 15th October 2021 .
		9. If the EIA Report and EMPr is not submitted within the prescribed timeframe, the application will lapse in terms of Regulation 45 of the NEMA EIA Regulations, 2014 (as amended) and your file will be closed. Should you wish to pursue the application again, a new application process would have to be initiated. A new Application Form would have to be submitted.	9. Noted. The Applicant has been made aware of these requirements.
		<p>10. Please note that Circular DEA&DP No. 0001/2021 which must be read together with Circular DEA&DP No. 0024/2020 dated 30 September 2020 as well as Circular DEA&DP No. 0023/2020 (dated 8 December 2020, must be considered when submitting reports and other documentation to this Department.</p> <p>11. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.</p> <p>12. Please note that the activity may not commence prior to an Environmental Authorisation being granted by the Department. It is an offence in terms of Section 49A of the NEMA for a person to commence with a listed activity unless the Department has granted an environmental authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F and 49A of the NEMA may result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department for further consideration. 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.</p>	<p>10. Noted.</p> <p>11. Noted.</p> <p>12. Noted.</p> <p>Noted.</p>

No.	Comment Date, Comment Format, Organisation/I&AP	Comment	Response from EAP/Applicant/Specialist/Project Manager
		The Directorate reserves the right to revise or withdraw comments or request further information based on any information received.	We thank you for your Department's comments on this Application for the Proposed Development of the Bonathaba Dam. The Draft EIR will be submitted to the DEA&DP in due course.