



**EIA REFERENCE NUMBER:** 16/3/3/2/F5/16/2015/21  
**ENQUIRIES:** Bernard Kgosana  
**DATE OF ISSUE:** 26 April 2021

The Director  
Black Orchid Farming (Pty) Ltd.  
PO BOX 6100  
**ROGGEBAAI**  
8012

**Attention: Mr. H. Young**

Tel.: (021) 421 2129

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Dear Sir

**ACKNOWLEDGEMENT OF RECEIPT OF THE APPLICATION FORM FOR SCOPING AND ENVIRONMENTAL IMPACT REPORTING (“EIR”) PROCESS, THE PUBLIC PARTICIPATION PLAN AND ACKNOWLEDGMENT OF DRAFT SCOPING REPORT 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.**

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.

1. This letter serves as an acknowledgement of receipt of the aforementioned documents by this Directorate.
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.
3. Applicable listed activity
  - 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
4. Screening Report, Protocols and Specialist Assessments
  - 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.
  - 4.2. The applicant proposes to appoint the following Specialist to be part of the EIA Process.:
    - Botanical Specialist;
    - Freshwater Specialist; and
    - Heritage Specialist.

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.

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).

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'.

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. 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.

9. Public Participation

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).

9.2. Public Participation Plan

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 pre-application draft scoping report.

9.2.2. Public participation process described in 9.2.1 has remained unchanged for the application phase of the proposed development.

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).

10. Guidelines

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:

- Guideline for Environmental Management Plans (June 2005).
- Guideline on Alternatives (March 2013).
- Guideline on Need and Desirability (March 2013).

## 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, inter alia, 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.

## 12. General

- 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.
  - 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.
  - 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.
  - 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).
  - 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.
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.
  14. Kindly quote the above-mentioned reference number in any future correspondence regarding this application.

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

Yours faithfully

**p.p. \_\_\_\_\_**  
**HEAD OF DEPARTMENT**

Copied to: Emile Esquire (EnviroAfrica cc)  
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