



## Comments and Response Report

**THE PROPOSED CULTIVATION OF 11 HECTARES OF LAND TO PLANT MACADAMIA AND AVOCADO TREES ON ERF 385, SEVEN PASSES ROAD, HOEKWIL, GEORGE MUNICIPALITY, WESTERN CAPE**

**DEA&DP Ref. No: 16/3/3/1/D2/30/0006/25**

COMMENTS	RESPONSE
<b>COMMENTS RECEIVED IN RESPONSE TO NOTICE OF INTENT -</b>	
<b>STATE DEPARTMENTS</b>	
<b>Department of Environmental Affairs and Development Planning (DEA&amp;DP) – Steve Kleinhans – 06.08.2024</b>	
<p><b>ACKNOWLEDGMENT AND COMMENT ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 FOR THE PROPOSED ESTABLISHMENT OF AN ADDITIONAL 11HA OF AGRICULTURAL FIELDS FOR THE CULTIVATION OF MACADAMIA AND AVOCADO TREES ON ERF 385, HOEKWIL</b></p> <p>1. The abovementioned Notice of Intent ("NOI") dated July 2024 compiled on your behalf by your appointed Environmental Assessment Practitioner ("EAP"), Ms. Samantha Teeluckdhari (EAPASA No: 2023/6443) of Ecoroute Environmental Consulting, ("Ecoroute") as received by the Directorate: Development Management (Region 3) ("this Directorate") on 1 July 2024, refers.</p>	Noted
<p>2. This letter serves as acknowledgement of receipt of the abovementioned report on 1 July 2024.</p>	Noted.
<p>3. The Directorate: Development Management (Region 3) ("this Directorate") has reviewed the information in the NOI and provides the following comment:</p> <p>3.1. The proposal</p>	<b>The EAP is not aware of the information received by the Department in the past; however, the activity being applied for is subject to a Basic Assessment process.</b>

<p>According to the information provided in the NOI the proposal entails the establishment of an additional 11ha of agricultural fields for the cultivation of macadamia and avocado trees on Erf 385 in Hoekwil. Furthermore, it is understood that the proposal it is also proposed to develop an irrigation system (drip irrigation) within the fields to water the trees.</p> <p>3.2. Process to obtain environmental authorisation Based on the information submitted to this Directorate a Basic Assessment process 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 proponent / EAP to ensure that all the applicable listed activities are applied for and assessed as part of the Scoping and Environmental Impact Reporting process.</p> <p>NOTE: This Directorate has previously received information which suggests that activities listed in Environmental Impact Assessment Regulations, 2014 ("EIA Regulations, 2014") Listing Notice 2 may be triggered. In this regard, please be advised that the success of an application for environmental authorisation may be prejudiced should it be found that the incorrect process is followed.</p>	
<p>With due consideration of the location of the proposed fields, this Directorate believes that not all listed activities may have been identified by the EAP. In this regard the following must be considered:</p> <p>Associated structures and infrastructure crossing a watercourse: From the relevant GIS data and confirmed by the aquatic specialist there is a perennial watercourse (unchanneled valley-bottom wetland) present along the western boundary and a non-perennial watercourse along the eastern boundary of the proposed field. In this regard, it is understood that infrastructure for the irrigation of the proposed fields are required and based on the location of the dams (and existing infrastructure) the proposed new irrigation infrastructure may have to cross the watercourse along the western boundary of the proposed fields.</p> <p>In light of the above, consideration should be given to the applicability of Activities 12 and 19 of Environmental Impact Assessment Regulations, 2014 ("EIA Regulations, 2014") Listing Notice 1 for the development of infrastructure (including roads) within a watercourse. In this regard, the alignment of the proposed infrastructure must be depicted on a Site Development Plan ("SDP").</p>	<p><b>The EIA application and BAR have included the correct Listed Activities.</b></p>
<p>Access Roads:</p> <p>The watercourse along the western boundary also isolates the proposed new fields from the existing orchards to the west. In this regard, it is unclear where access to the proposed new fields will be obtained from and what the required specifications for such access road are.</p>	<p><b>There is an existing access road crossing the western wetland; however, it would need to be upgraded as it has been completely inundated and revegetated by wetland plant species.</b></p>

<p>In light of the above, consideration should be given to Activity 4 of EIA Regulations, 2014 Listing Notice 3 for the development of access roads to the proposed fields. Furthermore, the access roads must be depicted on the SDP.</p>	
<p>3.3. Specific fee reference number The Department notes your "Request for a specific fee reference number". The following specific fee reference number G-BA-EIA-K24 must be inserted into the Application Form and proof of payment of the application fee attached when the Application Form is submitted to the Department.</p> <p>IMPORTANT: With reference to the NOTE under Point 3.2 above, should it be determined that the process in accordance with Regulations 21, 22, 23 and 24 of the EIA Regulations, 2014 must be followed, the relevant application fee must be paid.</p> <p>3.4. Pre-Application Consultation It is noted that the Environmental Assessment Practitioner ("EAP") does not request a pre-application consultation meeting. Should the EAP reconsider this decision, please be advised that it will be the responsibility of you or your EAP to make the necessary arrangements for the meeting. Kindly note that virtual meetings via Microsoft Teams are preferred. 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"> <li>• that additional information or documents will not be requested;</li> <li>• of the outcome of the application</li> </ul>	<p><b>Noted.</b></p>
<p>3.5. Public Participation Process</p> <p>According to the information in the NOI the EAP does not intend to conduct a pre-application phase public participation process. Therefore, the EAP is reminded to ensure that Regulation 41 of the Environmental Impact Assessment, 2014 (Government Notice No. R. 982 of 4 December 2014, as amended) is complied with simultaneously during the application phase.</p> <p>Relevant State Departments / Organs of State The Department notes the State Departments / Organs of State that will be informed of the proposal. In addition to the identified authorities, you are also required to notify the following authorities which is administers aspects related to the proposed development:</p>	<p><b>Noted.</b></p>

<ul style="list-style-type: none"> <li>● Breede-Olifants Catchment Management Agency % Mr. Carlo Abrahams      E-mail: <a href="mailto:cabrahams@bocma.co.za">cabrahams@bocma.co.za</a> Tel: 023 346 8031</li> </ul> <p>With due consideration that access may be required of Main Road 355 (MR00355), you are advised to also include the Western Cape Government: Department of Infrastructure at:</p> <ul style="list-style-type: none"> <li>● District Roads Engineer: Oudtshoorn % Mr. Xander Smuts      E-mail: <a href="mailto:Xander.Smuts@westerncape.gov.za">Xander.Smuts@westerncape.gov.za</a> Tel: 044 272 6071</li> <li>● Road Network Management: % Ms. Grace Swanepoel      E-mail: <a href="mailto:Grace.Swanepoel@westerncape.gov.za">Grace.Swanepoel@westerncape.gov.za</a> Tel: 021 483 4669</li> </ul> <p>Furthermore, you are advised to consult the following Directorates within the Western Cape Government: Department of Agriculture –</p> <ul style="list-style-type: none"> <li>● Land Use Management: % Mr. Cor van der Walt      E-mail: <a href="mailto:Cor.VanderWalt@westerncape.gov.za">Cor.VanderWalt@westerncape.gov.za</a> Tel: 021 808 5099</li> <li>● Sustainable Resource Use and Management: % Mr. Dawie de Villiers      E-mail: <a href="mailto:Dawie.DeVilliers@westerncape.gov.za">Dawie.DeVilliers@westerncape.gov.za</a> Tel: 044 803 3719 / 044 874 2047</li> </ul>	
<p>3.6. Screening Tool Report and Site Sensitivity Verification Reports</p> <p>In accordance with the applicable protocols or minimum information requirements, which have been published in the Government Gazette (i.e. Government Gazette No. 43110 of 20 March 2020 and Government Gazette No. 43855 of 30 October 2020) you are required to submit a site sensitivity verification report(s) which confirms or disputes the site sensitivities for each of the themes identified in the Screening Tool Report. Furthermore, the report(s) must include a motivation for the exclusion of any of the specialist assessments identified in the Screening Tool Report, which in the opinion of the EAP are not considered relevant or required.</p> <p>The Department has reviewed the Site Sensitivity Verification Report ("SSVR") dated June 2024, compiled by the EAP. Please be reminded that where a protocol has been published for an identified theme, that the respective specialist reports must adhere to the requirements of the protocol. Where a specific protocol has not been identified for a specialist study, such specialist study must comply with the requirements of Appendix 6 of the Environmental Impact Assessment Regulations, 2014 (as amended).</p>	<p><b>Noted.</b></p>

<p><b>Agricultural Theme</b></p> <p>According to the Screening Tool Report ("STR") submitted with the NOI the sensitivity rating for the Agricultural Theme is HIGH. According to the SSVR a Soil Classification Assessment was compiled which identified the cultivation zones, relevant soil types, soil depth, cultivation capability, etc. This assessment appears to have been commission for business planning purposes. Furthermore, the SSVR indicates that the proposal will continue to be used for agricultural purposes and will therefore not result in the loss of agricultural production potential.</p> <p>Notwithstanding, the findings of the report and the EAP's recommendation that no further study is required, the report does not fully comply with the requirements of a SSVR nor the Protocol, and the EAP's conclusion is contrary to the requirements regarding the minimum information requirement set in the Protocol for this theme. The sensitivity rating is not clearly disputed, however, based on the available information it is assumed that the EAP regards the sensitivity rating to be "Medium".</p> <p>In this regard, you are advised that if the sensitivity rating is regarded to have a "medium" or "low" sensitivity rating, then as a minimum, a soil scientist or agricultural specialist registered with the SACNASP, must undertake the assessment and prepare an Agriculture Compliance Statement which must inform the BAR, and be appended thereto.</p> <p>Nonetheless, the EAP must consult the Western Cape Government: Department of Agriculture (DoA) - Land Use Management and LandCare in the public participation process and specifically obtain written confirmation from said organ of state regarding the delineation of the theme as well as the requirements for any agricultural protection measures.</p>	<p><b>Noted. A soil scientist was appointed in order to meet the requirements of the protocols. Further information is contained in the BAR.</b></p>
<p><b>Animal Species Theme</b></p> <p>The STR specifies a HIGH sensitivity rating for the Animal Species Theme. According to the SSVR two Species of Conservation Concern ("SCC's") were recorded in the study area, and a further four SCC's may be present due to the habitat present on the site and surrounding area. The SSVR indicates that an animal species specialist was been appointed and that an Animal Species Assessment Report has been compiled.</p> <p>In light of the above, this Directorate acknowledges that an Animal Species Assessment will be undertaken and Animal Species Assessment Report will be submitted. It must be ensured that the report complies with the requirements of the Terrestrial Animal Species Specialist Assessment as stipulated in the protocol.</p>	<p><b>The relevant report has been included in the BAR.</b></p>
<p><b>Aquatic Biodiversity Theme</b></p>	<p><b>The relevant report has been included in the BAR.</b></p>

<p>The STR specifies a VERY HIGH sensitivity rating for the Aquatic Biodiversity Theme. According to the SSVR there are unchanneled valley-bottom wetlands which borders along the eastern and western sides of the proposed fields. The sensitivity rating has not been disputed in the SSVR but it is indicated that an Aquatic Biodiversity Assessment has been undertaken. In this regard, it must be ensured that the assessment report complies with the requirements for the Aquatic Biodiversity Impact Assessment as stipulated in the protocol.</p>	
<p>Archaeological and Cultural Heritage; and Palaeontological Themes</p> <p>The procedure for site sensitivity verification where no specific assessment protocol has been prescribed, has been gazetted in Government Notice No. 320 of 20 March 2020. In this regard it is noted that Heritage Western Cape ("HWC") has been consulted and that said authority has indicated that no further studies are required. The correspondence dated 18 April 2024 (HWC Case No: HWC24030717SB0326) refers in this regard.</p>	<p><b>Noted.</b></p>
<p>Civil Aviation Theme</p> <p>The STR specifies a MEDIUM sensitivity for the Civil Aviation Theme. The EAP disputes the sensitivity and recommends a Low sensitivity as the proposal is located approximately 29km from the Airports Company South Africa: George Airport and will not have any impact on civil aviation. In light of the aforementioned, this Directorate acknowledges the findings of the SSVR.</p> <p>Nonetheless, the EAP must consult the SACAA (% Ms. Lizell Stroh at E-mail: Strohl@caa.co.za and / or Tel: (011) 545 1232) in the public participation process and specifically obtain written confirmation from said organ of state regarding the delineation of the theme, and necessity for any further studies regarding the Civil Aviation Theme.</p>	<p><b>Noted.</b></p>
<p>Plant Species Theme</p> <p>The STR specifies a MEDIUM sensitivity in terms of the Plant Species Theme. With reference to Section 4.6 of the Plant Species protocol, please be informed that where SCC are found on site or have been confirmed to be likely present, a Terrestrial Plant Species Specialist Assessment must be submitted in accordance with the requirements specified for "very high" and "high" sensitivity in the protocol. In this regard, it is noted that SCC's have been recorded within the study area. In light of the above, a Terrestrial Plant Species Specialist Assessment must be submitted in accordance with the requirements specified for "very high" and "high" sensitivity in the protocol. According to the SSVR a Terrestrial Biodiversity Assessment will be undertaken to inform the EIA process. In this regard please be advised that the assessment must comply with the requirements of the Terrestrial Plant Species Specialist Assessment.</p>	<p><b>The relevant report has been included in the BAR.</b></p>

<p>Terrestrial Biodiversity Theme</p> <p>The STR specifies a VERY HIGH for the Terrestrial Biodiversity Theme. The SSVR does not dispute the finding and indicates that a terrestrial biodiversity specialist was been appointed to conduct a site visit and compile an assessment report. In this regard, the assessment report must adhere to the requirements of the Terrestrial Biodiversity Impact Assessment as stipulated in the protocol.</p>	<p><b>The relevant report has been included in the BAR.</b></p>
<p>Combining specialist studies / reports</p> <p>Kindly note that it to combine the requirements of two or more protocols in a single report. However, it must be ensured that the report addresses the all the minimum information requirements of all the relevant themes as specified in the respective protocols. Furthermore, the specialist must provide the necessary proof that he/she is appropriately registered with SACNASP for the respective Protocols. For example, it may be possible to combine an assessment report for the Terrestrial Biodiversity and Plant Species themes if the person undertaking the respective assessments can demonstrate that she/he complies with all the requirements for the respective Protocols.</p>	<p><b>Noted and complied with.</b></p>
<p>Other relevant considerations</p> <p>National Water Act, Act No. 36 of 1998 and existing lawful water uses</p> <p>Please be advised that the National Environmental Management Laws Amendment Act, Act 2 of 2022 (NEMLAA), came into effect on 30 June 2023. This Act added sub-section 24C(11) to the National Environmental Management Act, Act 107 of 1998, as amended (NEMA) which requires that "a person who requires an environmental authorisation which also involves an activity that requires a licence or permit in terms of any of the specific environmental management Acts (i.e., NWA), must simultaneously submit those applications to the relevant competent authority or licensing authority, as the case may be, indicating in each application all other licences, authorisations and permits applied for".</p>	<p><b>Noted. The EAP and relevant specialist are in contact with BOCMA to submit an application for General Authorisation. The process is underway.</b></p>
<p>EXISTING WATER USES ON THE PROPERTY:</p> <p>According to the information in the NOI property has water use rights and a dam on site. Furthermore, it has been reported that there is a Water Use License ("WUL") and the authorised volume for the relevant water uses in the WUL is adequate for the proposed development. The proponent has attached documentation from the Department of Water and Sanitation to the NOI.</p> <p>A review of the documentation indicates that the document is not a WUL, but a National Register of Water Use Registration Record 29008038 dated 3 October 2018</p>	<p><b>A Validation and Verification of 21 (b) Water Use on Erf 385 Hoekwil was submitted together with a Section 35(1) Notice to BOCMA. We are awaiting the written ELU. Please see Appendix L of the BAR.</b></p>

<p>which merely indicates that there are water use activities registered on the property namely: Taking of water from a water resource in terms of Section 21 (a) of the NWA:</p> <p>For the abstraction of a volume of 133 770m<sup>3</sup> annually of water from an unknown tributary of the Kaaimans River at coordinates Latitude: 33°56'22.70"S Longitude: 22°35'5.50"E.</p> <p><u>Storing water in terms of Section 21(b) of the NWA:</u></p> <ul style="list-style-type: none"> <li>▪ Dam with 20 000m<sup>3</sup> capacity at coordinates Latitude: 33°57'09.60"S Longitude: 22°34'49.40"E</li> <li>▪ Dam with 7 500m<sup>3</sup> capacity at coordinates Latitude: 33°57'05.80"S Longitude: 22°34'46.80"E</li> <li>▪ Dam with 15 000m<sup>3</sup> capacity at coordinates Latitude: 33°57'22.40"S Longitude: 22°34'44.50"E</li> <li>▪ Dam with 17 000m<sup>3</sup> capacity at coordinates Latitude: 33°57'32.20"S Longitude: 22°34'44.70"E</li> </ul> <p>However, the review of the document suggests that at the time of the issuing of the registration record that the lawfulness of the water uses is still to be determined. A review of the relevant aerial imagery and analysis thereof suggests that the some of the dams (17 000m<sup>3</sup> dam and 15 000m<sup>3</sup> dam) have been filled in and the area converted to cultivated fields. Furthermore, the 20 000m<sup>3</sup> and 7 500m<sup>3</sup> dams have been combined to form one large dam of which the volume has not been specified.</p> <p>The aerial imagery suggests that there also is a dam located at approximate coordinates: Latitude: 33°57'10.97"S Longitude: 22°35'09.66"E. However, the dam is not listed on the National Register of Water Use Registration Record 29008038 dated 3 October 2018 and the volume thereof is unknown.</p> <p>In light of the above, correspondence from the relevant authority i.e. the Breede-Olifants Catchment Management Agency ("BOCMA") is required regarding the lawfulness of the water uses on the property.</p>	
<p>POSSIBLE NEW WATER USES:</p> <p>Notwithstanding the above, according to the information available to this Directorate the proposed development will be located within the "regulated area of a watercourse" as defined in the General Authorisations in terms of Section 39 of the National Water Act, Act 36 of 1998 for water uses as defined in Section 21 (c) or Section 21 (i) (Notice No. 4167 of 8 December 2023) which means: (a) the outer edge of the 1 in 100-year flood line or delineated riparian habitat, whichever is the greatest distance, measured from the middle of the watercourse of a river, spring, natural channel, dams and lakes;</p>	<p><b>Noted. The EAP and relevant specialist are in contact with BOCMA to submit an application for General Authorisation. The process is underway.</b></p>



<p>(b) in the absence of a determined 1 in 100-year flood line or riparian area as contemplated in (a) above the area within 100m distance from the edge of a watercourse where the edge of a watercourse (excluding flood plains) is the first identifiable annual bank fill flood bench (subject to compliance to section 144 of the NWA);</p> <p>(c) in respect of a wetland: a 500m radius around the delineated boundary (extent) of any wetland (including pans)</p> <p>In light of the above, please advise your appointed EAP and / or the consultant responsible for the Water Use Authorisation ("WUA") process to liaise; and consult with the BOCMA regarding the need for water use authorisation for the proposed 11ha fields as well as the associated infrastructure.</p> <p>Please be advised that the EIA process and the Water Use Application process must be synchronised. You are reminded that if these processes are not properly aligned, the lack of synchronisation; omission of any reports/information; or delay as a result thereof, may prejudice the success of the application for environmental authorisation.</p>	
<p>Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983) ("CARA")</p> <p>Based on the information available to this Directorate it is understood that the proposal will require an application in terms of the Conservation of Agricultural Resources Act, Act No. 43 of 1983 ("CARA"), for the cultivation of virgin soil to the Western Cape Government: Department of Agriculture. Therefore, the Standard Operating Procedure between the Department of Agriculture and this Department must be followed and all information in respect of such application must be included in the Basic Assessment Report.</p>	<p><b>To be attached to Final BAR.</b></p>
<p>4. 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.</p> <p>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"> <li>• that additional information or documents will not be requested</li> <li>• of the outcome of the application.</li> </ul>	<p><b>Noted.</b></p>
<p>5. Please note that it is an offence in terms of Section 24F and 49A 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. A person convicted of an offence in terms of the above is liable to a fine not</p>	<p><b>Noted.</b></p>

exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.	
6. Kindly quote the above-mentioned reference number in any future correspondence in respect of this matter.	<b>Noted.</b>
7. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.	<b>Noted.</b>