

**ENVIRONMENTAL IMPACT ASSESSMENT PROCESS FOR THE PROPOSED CLEARANCE OF
INDIGENOUS VEGETATION FOR CULTIVATION ON PARTS OF PORTION 38 OF THE FARM
UITNOOD NO. 129, ROBERTSON, WESTERN CAPE PROVINCE**

DEA&DP EIA Reference: 16/3/3/6/7/2/B1/14/1127/21



Comments and Responses Report

Accompanying the Post-Application Draft Scoping Report

APRIL 2023

This Comments and Responses Report records the issues of concern, suggestions for enhanced benefits and other comments contributed by interested and/or affected parties (I&APs) during the Pre-application Scoping Phase of the proposed Uitnood Farm development. Comments and issues were raised in writing as listed below. This report also provides responses by the relevant project team members.

PUBLIC PARTICIPATION PROCESS FOLLOWED

During the Pre-application Scoping Phase of the project, the Environmental Assessment Practitioner (EAP) invited all potential I&APs to register as I&APs on the Scoping and Environmental Impact Assessment (EIA) Process for the proposed development on Uitnood Farm, Robertson.

The following steps were undertaken as part of the PP process:

A notice of the availability of the Pre-Application Draft Scoping Report (Pre-app. DSR) was advertised in the *Breederivier Gazette*, a local newspaper, on Tuesday, 10 August 2021. Site Notices of the proposed development were also displayed along the main road at the entrance to Uitnood Farm. The public had from **Tuesday, 10 August 2021 until Thursday, 9 September 2021** to register as I&APs in response to the notices displayed and the newspaper advert. A 30-day registration and commenting period was allowed for.

The comments received during the public participation process have been collated into a **Comments and Response Table** (this document), and responses to such comments have been provided by the project team.

The Pre-app. DSR has been updated into the Post-application Draft Scoping Report (Post-app. DSR), which is being distributed for another 30-day comment period from **Wednesday, 26 April 2023 until Monday, 29 May 2023**.

The Application for Environmental Authorisation (EA) has been submitted to the Department of Environmental Affairs and Development Planning (DEA&DP) together with the Post-app. DSR.

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Comments / Issues Raised		Commentator(s)	Reference	Responses (by EIA Project Team or Applicant, as relevant)
1 ENVIRONMENTAL (BIOPHYSICAL) COMMENTS / ISSUES				
1.1 Terrestrial and Aquatic Biodiversity				
1.1.1	The areas under investigation for cultivation are mainly classified as Other Natural according to the Western Cape Biodiversity Spatial Plan (WCBSP), apart from the Ecological Support Area (ESA) along drainage lines and very small patch of Critical Biodiversity Area (CBA) in the eastern corner. The vegetation occurring on the site mainly consists of Robertson Karoo (Least Concern according to 2011 NEM:BA and 2018 NBA), with a section of Breede Sand Fynbos (Vulnerable according to 2011 NEM:BA and 2018 NBA) and Muscadel Riviere (Critically Endangered according to 2011 NEM:BA and Endangered according to 2018 NBA) corresponding with the mapped CBA. There are no wetlands mapped for the site with several non-perennial/ephemeral drainage lines traversing the hillsides.	Mr Rhett Smart, For: Manager, Conservation Intelligence, CapeNature	Written comment on Pre-application Scoping Report , dated 9 September 2021	The Project Team agrees with this summary.
1.1.2	The ground-truthing for the terrestrial biodiversity assessment confirmed the presence of Robertson Karoo and Breede Sand Fynbos on the site, although the distribution of the latter is more patchy than the NBA mapping. The area mapped as Muscadel Riviere was however confirmed to contain Breede Sand Fynbos. The CBA mapping could therefore be further interrogated at this location due to the differing vegetation threat status. The vegetation is described as mainly in good condition, apart from historical mining along the northern boundary and edge effects adjacent to cultivated lands.	Mr Rhett Smart, For: Manager, Conservation Intelligence, CapeNature	Written comment on Pre-application Scoping Report , dated 9 September 2021	The Project Team agrees with this summary.
1.1.3	A total of five Plant Species of Conservation Concern (SCC) were encountered within the area under investigation, with substantial populations present in some cases. The locations of the threatened species have been included in a map in terrestrial biodiversity assessment report. The threatened species populations also correlated with the best condition habitat and steep slopes in certain parts and based on this an area was defined for exclusion from cultivation. Although these	Mr Rhett Smart, For: Manager, Conservation Intelligence, CapeNature	Written comment on Pre-application Scoping Report , dated 9 September 2021	Comment noted, thank you.

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	areas were classified as Other Natural in the WCBSP, there were previously no records of SCCs from the site, and this new information could have potentially changed the classification on the WCBSP. CapeNature is in agreement with the recommendations of the terrestrial biodiversity assessment with regards to the proposed cultivation areas and no-go areas.			
1.1.4	The freshwater constraints and opportunities report confirms that the drainage lines on site are episodic and would not be considered as watercourses or wetlands as they support terrestrial vegetation. They were accordingly rated as low ecological importance and sensitivity, however the potential for erosion if disturbed was mentioned. Only the larger drainage lines were identified as constraints along with a 15 m buffer.	Mr Rhett Smart, For: Manager, Conservation Intelligence, CapeNature	Written comment on Pre-application Scoping Report , dated 9 September 2021	The Project Team agrees with this summary.
1.1.5	A remnant floodplain wetland was also identified in the area mapped as Muscadel Riviere. The wetland and a 20 m buffer have been identified as a constraint. The preferred layout has taken into account some of the proposed freshwater constraints but not all of them. The current preferred layout should either be amended to exclude the areas identified in the freshwater constraints and opportunities report or a freshwater assessment addendum report must be compiled with relevant mitigation measures.	Mr Rhett Smart, For: Manager, Conservation Intelligence, CapeNature	Written comment on Pre-application Scoping Report , dated 9 September 2021	A full Freshwater Impact Assessment, containing all relevant mitigation measures, will be compiled as part of the EIA phase of the development.
1.1.6	In terms of irrigation water for the application, the existing on-site dams and associated water rights are proposed to be used for the additional cultivated lands. The application will therefore not impact any further on the water-stressed Keisers River catchment.	Mr Rhett Smart, For: Manager, Conservation Intelligence, CapeNature	Written comment on Pre-application Scoping Report , dated 9 September 2021	Comment noted, thank you.
1.1.7	The subject property was included in an application for a new dam along with several neighbouring properties (DEA&DP Reference: 16/3/3/2/B1/14/1054/18). CapeNature recommended that the remaining areas of natural vegetation should be conserved. We have not received an environmental authorisation for this application, however the associated mitigation measures must be taken into consideration for this application. As indicated, the application took into	Mr Rhett Smart, For: Manager, Conservation Intelligence, CapeNature	Written comment on Pre-application Scoping Report , dated 9 September 2021	<u>Comment provided by Rhett Smart of CapeNature:</u> We have since had a follow-up from Groenberg and they have clarified that a biodiversity agreement has been signed for this application for 5/129 and did not include any other properties. The reason why we were alerted to this was that 38/129 was included as part of the dam application. There are therefore no

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	consideration multiple properties.			outstanding offset/stewardship requirements for 38/129 in terms of this previous dam application.
1.1.8	In conclusion, CapeNature agrees with the proposed layout with regards to the terrestrial ecological constraints, however the freshwater constraints also need to be taken into account. Further confirmation must be provided regarding the conservation areas associated with the dam application.	Mr Rhett Smart, For: Manager, Conservation Intelligence, CapeNature	Written comment on Pre-application Scoping Report , dated 9 September 2021	All freshwater constraints, as far as possible, have been avoided with the Preferred layout. Where it could not be avoided, mitigation measures are in place to ensure least impact on these sensitive aquatic areas.
1.1.9	The report states that a few significant drainage lines have been buffered as part of the preferred alternative. However, the size of the buffers is not mentioned in the report as stipulated in the Freshwater Constraints Report dated May 2021. The in-process Scoping Report must be amended to include all the buffer specifications for all the sensitive areas on the proposed sites.	Loretta Osborne, for: DEA&DP, Development Management	Written comment on Pre-application Scoping Report , dated 9 September 2021	According to the Freshwater Report, only the significant aquatic features should be retained within the landscape and protected with a suitable buffer area of 15 m, and the wetland area with a 20 m buffer. The Post-application Scoping Report has been amended accordingly.
1.1.10	Portions of the areas marked 1a, 1b, 4 and 5, fall within an identified Core Spatial Planning Category in terms of the Langeberg Spatial Development Framework Plan, 2015:			

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1.1.11	Given the above comments, please be advised that the proposal as set out in the draft scoping report, dated August 2021, is supported from a land use planning point of view, subject to the following: Comment must be obtained from CapeNature, with specific reference to the impact on the connectivity of natural corridors.	Tracy Brunings, for: Langeberg Municipality, Town Planning Department	Written comment on Pre-application Scoping Report , dated 19 August 2021	Kindly noted, thank you. Comment from CapeNature has been obtained and is included in this C&RR. CapeNature agrees with the proposed layout with regards to the terrestrial ecological constraints, however feels the freshwater constraints need to be taken into account.
1.1.12	The recommendations of the Botanist and Freshwater Ecologist with regard to maintaining ecological processes and natural buffers to watercourses must be complied with.	Tracy Brunings, for: Langeberg Municipality, Town Planning Department	Written comment on Pre-application Scoping Report , dated 19 August 2021	All recommendations by the specialists have been taken into account and included in all relevant documentation.
1.2 Agriculture, Soil and Erosion				
1.2.1	The Koningsrivier branch of the Le Chasseur & Goree canal system runs from north to south, to the east of the road through the development. During the development of the existing vineyards to the west of the road, a number of smaller drainage lines have been channelled into a "contour furrow" that concentrate storm water flows at two points – one at the northern corner and one at the southern corner of the area. These concentrated flows create an unacceptable risk for the canal. If the proposed new areas are developed, a proper stormwater management plan needs to be included in the authorisation. This has to specifically address measures to prevent any concentrated flows from entering the canal.	Louis Bruwer, CEO of Central Breede River WUA	Written comment on Pre-application Scoping Report , dated 12 August 2021	A stormwater management plan will be compiled as part of the EIA process, and included in the relevant documentation. The Applicant is aware of the need to manage stormwater away from the Le Chasseur & Goree canal.
1.2.2	Good day, please note the Departmental comments already captured on the report dated 10 August 2021 with ref: 16/3/3/6/7/2/B1/14/1127/21. Please note there is no need for commenting at this moment unless there is additional/ amendments to the development proposed.	Ms Rahab Ramukhesa, for Department of Agriculture, Land Reform and Rural Development (DALRRD)	Written comment on Pre-application Scoping Report , dated 15 September 2021	Kindly noted, thank you. No additional development is proposed.

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1.2.3	This is a <u>summary</u> of the recommendations as set out in the Site Inspection Report. The full report is attached under Appendix F6 of the Scoping Report. No slopes more than 20% should be developed to protect the land from erosion. Especially in Area 1b, it is recommended that the upper proposed boundary be lowered.	Fadwa Mohammed for Western Cape Department of Agriculture: Sustainable Resource Management.	Site inspection / meeting on 7 September 2021, followed by report, dated 5 October 2021.	The Applicant has been made aware of this and all steep slopes, more than 20%, will be excluded from the development. This exclusion will be added as a mitigation measure in the EMPr.
	A complete soil analysis must be submitted to determine the characteristics of the soil and potential agricultural value. This will aid to address the need for a drainage design and to determine the quality of sub-surface drainage water.			A Soil Study, comprising a soil analysis, is included under Appendix E4 of the Scoping Report.
	It is the farmer/landowners responsibility to maintain a 10 m buffer from any watercourse or water resource to protect the natural ecosystems within such a watercourse.			The freshwater specialist identified all significant aquatic features to be avoided and buffered. The specialist concluded that only the significant aquatic features should be retained within the landscape and protected with a suitable buffer area of 15 m. It is also recommended that the wetland area be retained and that it be protected with a buffer of ± 20 m.
	No-till practice is recommended to minimize soil disturbance and to reduce the risk soil erosion. The Western Cape Department of Agriculture: Agricultural Producer Support and Development can be contacted for further assistance in this regard.			The Applicant has been made aware of this.
	Proof of the availability of water to irrigate should be provided. The landowner/farmer is required to submit an application to the Regional office of the Department of Water and Sanitation or the Catchment Management agency who will then process the application.			Application for water use is in process, and proof thereof will be included during the EIA phase of this project.
	It is the landowner's responsibility to maintain the dam infrastructure to prevent any degradation of the environment and agricultural land.			Even though this Application does not entail a dam, the Applicant is aware of his responsibilities towards the environment.
	If such a plan does not already exist, a River Maintenance management Plan should be in effect for all instream dams to protect both ecological and man-made infrastructure.			The dam, or maintenance thereof, does not form part of this application. The Applicant has been made aware of your comment.

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	A diverse variety of cover crops must be planted in between the crop rows to improve the water holding capacity of the soil minimizing surface water run-off. This will also improve the microclimate in the soil and promote healthy soil conditions for biodiversity. The Western Cape Department of Agriculture: Analytical Services can be contacted for assistance in this regard.			Kindly noted. This will be included as a mitigation measure in the EMPr.
2 COMMENTS REGARDING THE PROPOSED ACTIVITY AND INFRASTRUCTURE				
2.1	It is the Department's understanding that the proposal entails the cultivation of approximately 78 ha of indigenous vegetation on the abovementioned farm. Five potential sites namely Area 1a of approximately 34.6 ha, Area 1b of approximately 21.5 ha, Area 1c of approximately 2.1 ha, Area 2 of approximately 8.2 ha, Area 3 of approximately 1 ha, Area 4 of approximately 6.8 ha and Area 5 of approximately 3.7 ha will be cultivated. The required infrastructure to develop these parcels is already existing on the property. Irrigation water will be used from a previously approved dam on the farm. Irrigation pipes will also be installed as part of the cultivation areas. The existing farm roads will be formalised.	Loretta Osborne, for: DEA&DP, Development Management	Written comment on Pre-application Scoping Report , dated 9 September 2021	Please take note that some aspects of the project description have been amended. After considering the findings of the Soil Study, the proposed cultivation was further reduced to 72 ha. Irrigation will be taken directly from the Breede River, not from the existing irrigation dam. Existing farm roads will be used, and there is no need for "formalisation" thereof.
2.2	It is noted that Irrigation pipelines will be placed inside the already disturbed footprint of existing farm roads and cultivation areas. You are required to provide this Department with details on the pipelines to be installed for irrigation purposes i.e., capacity, length etc.	Loretta Osborne, for: DEA&DP, Development Management	Written comment on Pre-application Scoping Report , dated 9 September 2021	Irrigation pipelines (with a 250 mm diameter) will be constructed within the existing farm roads, with an estimated collective length of $\pm 2\ 250$ m.
2.3	It is also noted that existing farm roads, leading to the new areas to be cultivated, will be formalised. Clarity is required on what the formalisation of the roads will entail i.e., will these roads be cleared of vegetation and or will it only be brush cut, will the roads be made wider etc.	Loretta Osborne, for: DEA&DP, Development Management	Written comment on Pre-application Scoping Report , dated 9 September 2021	There will be no need to formalise these roads, as they are already being utilised on the farm. Some are two-spoor tracks and others are wider, scraped roads.
2.4	The application proposes the clearing of ± 78 ha. of natural vegetation for the cultivation of vineyards. No netting of the cleared areas is proposed.	Tracy Brunings, for: Langeberg Municipality, Town Planning Department	Written comment on Pre-application Scoping Report , dated 19 August 2021	Yes, the summary is correct, although the clearing of ± 72 ha is now proposed. No netting is proposed.

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2.5	Portion 38 of Uitnood 129 is zoned Agricultural Zone I, and accommodates cultivated agricultural land and natural vegetation, in accordance with the primary land use rights in the Agricultural Zone I. The proposed expansion of agricultural activities is consistent with the zoning.	Tracy Brunings, for: Langeberg Municipality, Town Planning Department	Written comment on Pre-application Scoping Report , dated 19 August 2021	Comment noted, thank you.
3 HERITAGE COMMENT / ISSUES				
3.1	Heritage Western Cape is in receipt of additional information for the above matter received. This matter was discussed at the Heritage Officers Meeting held on 10 May 2021. You are hereby notified that, since there is no reason to believe that the proposed clearance of vegetation of Ptn 38 of Farm 129 will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required. However, should any heritage resources, including evidence of graves and human burials, archaeological material and paleontological material be discovered during the execution of the activities above, all works must be stopped immediately, and Heritage Western Cape must be notified without delay. This letter does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.	Ayanda Mdludlu, for: Heritage Western Cape	Written comment on the NID, dated 1 June 2021	Comment noted, thank you. A Fossil Find Procedure will be included in the EMP for the project.
4 PROCEDURAL AND LEGAL COMMENTS / ISSUES				
4.1 Environmental Impact Assessment Process and Requirements				
4.1.1	Please be reminded that an updated signed and dated applicant declaration is required to be submitted with each relevant document (pre-app reports, formal application form, in-process draft report and final reports) to be submitted to this Department for decision-making. It is important to note that by signing this declaration, the applicant is confirming that they are aware and have taken cognisance of the contents of the report submitted for decision-making. Furthermore, through signing this declaration, the applicant is making a commitment that	Loretta Osborne, for: DEA&DP, Development Management	Written comment on Pre-application Scoping Report , dated 9 September 2021	Comment noted, thank you.

Comments / Issues Raised		Commentator(s)	Reference	Responses (by EIA Project Team or Applicant, as relevant)
	they are both willing and able to implement the necessary mitigation, management and monitoring measures recommended within the report with respect to this application.			
4.1.2	You are further reminded that the in-process Scoping Report must contain all the information outlined in Appendix 2 of EIA Regulations 2014 (as amended).	Loretta Osborne, for: DEA&DP, Development Management	Written comment on Pre-application Scoping Report , dated 9 September 2021	Comment noted, thank you.
4.1.3	Kindly quote the abovementioned reference number in any future correspondence in respect of the application. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.	Loretta Osborne, for: DEA&DP, Development Management	Written comment on Pre-application Scoping Report , dated 9 September 2021	Comment noted, thank you.
4.2 Other Legal Requirements				
4.2.1	It is noted that irrigation water will be obtained from an existing dam located on the farm. It is further noted that the applicant obtained a Water Use Licence for the storage of water in this dam. A copy of the Water Use Licence must be included in the in-process draft Scoping Report. You are also required to confirm whether the available water allows for irrigation of both the existing cultivated areas and the planned expansion of the new cultivated areas on the farm.	Loretta Osborne, for: DEA&DP, Development Management	Written comment on Pre-application Scoping Report , dated 9 September 2021	A copy of the Water Use Licence is included under Appendix G3 of the Draft Scoping Report.
4.2.2	Page 9 of the report states that an application to cultivate must be submitted by the applicant in terms of CARA. You are requested to include the CARA application in the draft Environmental Impact Assessment Report for reviewing purposes.	Loretta Osborne, for: DEA&DP, Development Management	Written comment on Pre-application Scoping Report , dated 9 September 2021	The Applicant will submit an application to cultivate in terms of CARA, after Environmental Authorisation has been obtained.

Comments / Issues Raised		Commentator(s)	Reference	Responses (by EIA Project Team or Applicant, as relevant)
5 COMMENTS ON THE SCOPING AND EIA REPORTS				
5.1	Correct 5.5.2 to refer to Breede River (not Bergrivier).	Tracy Brunings, for: Langeberg Municipality, Town Planning Department	Written comment on Pre-application Scoping Report , dated 19 August 2021	The Post-application Draft Scoping Report has been amended accordingly.
6 OTHER COMMENTS				
6.1	Goeie more Pieter, dankie hiervoor – epos asb. vir my die .kmz files van die areas wat ontwikkel wil word. Ons sal weldrae 'n besoek gaan aflê en ons insette gee. Vraag – die plaas het so paar jaar terug groot ontwikkelings goedkeuring gekry vir areas en die dam wat was die off-set agreements vir daardie goedkeurings gewees? (Ek Cc Cape Nature se beamptes in op die epos – reply all asb)	Rudolph Röscher, for: Western Cape Department of Agriculture, LandCare Manager: Cape Winelands District	Written comment on Pre-application Scoping Report , dated 10 August 2021	<u>Comment provided by Rhett Smart of CapeNature:</u> We have since had a follow-up from Groenberg and they have clarified that a biodiversity agreement has been signed for this application for 5/129 and did not include any other properties. The reason why we were alerted to this was that 38/129 was included as part of the dam application. There are therefore no outstanding offset/stewardship requirements for 38/129 in terms of this previous dam application.