

**COMMENT AND RESPONSES REPORT**  
**BYEVANGER DAM - 24G IMPACT REPORT**  
**DEA&DP EIA REF: 14/2/4/2/3/D3/8/0035/21**

**PUBLIC PARTICIPATION PROCESS**

A Draft 24G Impact Report was made available for public comment as part of the public participation for the unlawful construction / replacement of an earth dam on Portions 3 of 36 Buffelsfontein and 66 of 42 Voorbaat near Ladismith. The 24G Application was submitted to the provincial Department of Environmental Affairs & Development Planning (DEA&DP) as the competent authority for this application. A 60 day comment period extended from the **27 August to 26 October 2021**. This is to accommodate the public participation requirements for both the Water Use License Application and the NEMA 24G process. All comments received during this period have been collated and will be included in the Final 24G Impact Report to be submitted to the competent authority. The comments captured in this table are copied from the original submissions.

COMMENT / ISSUES	RESPONSES
<b>Jan Crafford Familietrust - Neighbour</b>	
Automatically registered as an I&AP.	Registered 4 August 2021
<b>Lofpoort Boerdery - Neighbour</b>	
Automatically registered as an I&AP.	Registered 4 August 2021
<b>Abrahams, Carlo - Breede Gouritz Catchment Management Agency (BGCMA)</b>	
Automatically registered as an I&AP.	Registered 22 July 2021
<b>Claassen, Leon - Private</b>	
Request registration as an I&AP.	Registered 8 October 2018
<b>Farao, Brendan - Private</b>	
Request registration as an I&AP.	Registered 28 September 2021
<b>Draft 24G Impact Report</b>	
03-Oct-21	<p>I would like to provide my comments on the Byevanger Dam 24G project. I would like to state that I am in support of the project, providing that the proposed outcomes of the objectives are adhered to. As the objectives made mention of in the project, in my opinion, should have a positive effect on the racial and gender imbalances which are being faced and will be addressed. And secondly one of the objectives which stood out for me was the fact that there will be an increase in employment opportunities which aids in food security, while job creation is seen as a key intervention in alleviating poverty. On top of this, another objective I am in support of is the fact that a proposed transfer of skills and facilitating the growth of a Black farming enterprise.</p> <p><b>Cape EAPrac:</b> Thank you for your consideration of the application and comments received. Your support of the project is duly noted</p>

COMMENT / ISSUES		RESPONSES
<b>Kleynhans, Retief - Gorrawater</b>		
	Automatically registered as an I&AP.	Registered 14 March 2019
<b>Layman, Brandon - Department of Agriculture</b>		
	Automatically registered as an I&AP.	Registered 22 July 2021
<b>Mbunquka, Zama - Breede Gouritz Catchment Management Agency (BGCMA)</b>		
	Registered on receipt of comment	Registered 2 November 2021
<b>Draft 24G Impact Report</b>		
<b>29-Oct-21</b>	With reference to the application received by the Breede-Gouritz Catchment Management Agency on 20 August 2021 and after having had the opportunity to assess the application, herewith the following:	
	It is noted on Page 6 of the aquatic impact assessment report that construction of the dam commenced in May 2018 and took place within the watercourse bed, banks and adjacent areas. The enlargement of the existing dam commenced without the necessary water use approval from this office, while the commenced activity is in contravention of section 32 of the National Water Act, 1998 (Act 36 of 1998). Section 21 (b) and (c)&(i) of the aforementioned act is triggered. This office will escalate this matter to the Compliance Monitoring and Enforcement unit section, for further investigation.	<b>Cape EAPrac:</b> Your response is noted. The CME has been involved with this application as part of the WULA process. They were part of the BGCMA meeting held on site on 30 October 2019. The meeting minutes have been included as Annexure M5 of the Final 24G EIR.
	The BGCMA reserves the right to revise initial comments and request further information based on any additional information that might be received.	
<b>McElwee, Linda - Private</b>		
	Request registration as an I&AP.	Registered 16 January 2021
<b>McElwee, Michael - Private</b>		
	Request registration as an I&AP.	Registered 16 January 2021
<b>Initial Comment</b>		
	We would like to be registered as an Interested and Affected Party relating to the construction of the farm dam at this location: Click here for Google Map link. This map shows the dam construction site relative to the boundaries of our farm - Portion 31 of Farm 42 Voorbaat, currently in the name of The Slugger Trust.	<b>Cape EAPrac:</b> Thank you for registering for the 24G Application process.

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<p>16-Jan-20</p>	<p>Our interest in this matter pertains to the fact that the dam has been constructed on a non-perennial waterway that dissects a number of farms (Voorbaat 2/42; Voorbaat 31/42; Voorbaat 32/42; Buffelsfontein 2/36; Byenvangerskloof RE/40; Voorbaat 66/42; Buffelsfontein 3/36) and not just the two farms on which the dam is located (Voorbaat 66/42; Buffelsfontein 3/36) and the dam will affect any water flow into the Groot River, which could influence a number of other farms downstream. We were not consulted prior to this dam's construction and we do not believe that there is a clear understanding of who has the right to access and use water along and this waterway</p>	<p><b>Cape EAPrac:</b>                      It is noted that the non-perennial watercourse crosses more than one cadastral unit, however the dam has only been constructed across the two, namely Voorbaat 66/42 and Buffelsfontein 3/36. The volume capacity of the dam, the hydrology of the system and the impacts on the aquatic environmental associated with the watercourse have been investigated by various specialists. You were provided access to these reports during the public participation period.</p> <p>The Nel Family Trust has an existing lawful use (ELU) established due to the location and establishment of the previous dam. This has been explained in the reports. The new dam has been allowed to store a similar volume of water until such time as the Water Use License Application process is completed, and only then if it is approved, may the applicants utilise the full volume applied for.</p> <p><b>Confluent Environmental:</b>                      The aquatic specialist study highlighted the need for a specialist hydrological study to address concerns about sustainable water flows in the Groot River. The hydrological study indicated that while the Ecological Water Requirements for the Groot River are not met, this is due to the presence of the Floriskraal Dam as opposed to the smaller, incremental catchments such as that for Byevanger Dam.</p>

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<p>We would like to understand what rights all of the affected parties have to:</p> <ul style="list-style-type: none"> <li>• To the water that may flow down this water way</li> <li>• To construction of boreholes along the waterway for access to underground water supplies.</li> <li>• To the construction of dams or water storage units along this water way</li> </ul>	<p><b>Cape EAPrac:</b> Water rights must be allocated by the BGCMA or Department of Water Affairs on application for such rights, or if the rights are part of the ELU, then it may be that they need to be verified by the department. Water rights are associated with land parcels.</p> <p>Boreholes must also be registered with the authority and must undergo hydrology tests to confirm if sufficient water is available. These must also be metered.</p> <p><b>Confluent Environmental:</b> The only lawful right that any landowner has to access surface or ground water is that confirmed through a Validation and Verification process as an Existing Lawful Use, or that obtained through a formal water use authorisation process such as a General Authorisation or Water Use License. Otherwise, lawful water use is restricted to Schedule 1 water use which is for household and domestic use.</p>	
<p>If there is an allocation of water, how is it allocated? If there is not an existing allocation of water, we would like to apply for one that considers all affected title deeds along and downstream from the waterway.</p>	<p>Applications for water allocations must be submitted to the BGCMA with the relevant studies being completed to support the application.</p>	
<b>McGown, Stephen &amp; Malcolm - Private</b>		
Request registration as an I&AP.	Registered 3 October 2018	
<b>Mellet, JJ - Neighbour</b>		
Automatically registered as an I&AP.	Registered 4 August 2021	
<b>Murray, Amy - Private</b>		
Request registration as an I&AP.	Registered 6 November 2018	
<b>Initial Comment</b>		
<p>I would like to be registered as an interested and affected party to the construction of structures upstream of the Klein Swart River from my property in the Kannaland Municipal Area.</p>	<p><b>Cape EAPrac:</b> Thank you for registering for the 24G Application process.</p>	

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05-Nov-18	I am the owner of Portion 97 of the Farm Buffels Drift. Ever since the construction of structures which divert the Klein Swart river flow upstream from us there has been zero flow in the river despite both rain and snowfall. This is detrimental to the health and use of our land	<p><b>Cape EAPrac:</b> The volume capacity of the dam, the hydrology of the system and the impacts on the aquatic environmental associated with the watercourse have been investigated by various specialists. The hydrology report in particular confirms that this watercourse is not a high yield catchment.</p> <p>The Nel Family Trust has an existing lawful use (ELU) established due to the location and establishment of the previous dam. This has been explained in the reports. The new dam has been allowed to store a similar volume of water until such time as the Water Use License Application process is completed, and only then if it is approved, may the applicants utilise the full volume applied for.</p>
	I request that further investigation be conducted into the structures and their effect on surrounding and downstream land. It is illegal and unfair for river flow to be diverted to the benefit of a single land-user.	<p><b>Cape EAPrac:</b> The non-perennial watercourse on which this dam has been constructed has not been diverted for a single land-user. The dam replaces a previously existing earth dam and is located across two properties, for which a servitude has been registered. This provides water to both entities.</p> <p><b>Confluent Environmental:</b> As stated by Cape EAPrac, the dam is currently not storing more than the allocated amount determined as the Existing Lawful Use. In other words, It has always stored this amount historically, except that at times the dam wall would leak and require repair. If there is no flow downstream, it is not related to the proposed enlargement of the dam, it is related to existing water storage in the system. As mentioned previously, the Floriskraal Dam has a significant impact on flows.</p>
<b>Murray, Niel &amp; Lisa - Private</b>		
	Request registration as an I&AP.	Registered 10 October 2018
<b>Nel, Fanie - Landowner</b>		
	Automatically registered as an I&AP.	Registered 9 May 2018
<b>Nielsen, Carl - Private</b>		
	Automatically registered as an I&AP.	Registered 6 November 2018
<b>Initial Comment</b>		

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05-Nov-18	I have been given your name by Lisa Murray who, with her husband Neil, owns a farm portion of Buffeldrift 103 in the Ladismith area. My wife and I own and live at Portion 15 of Buffeldrift. Our farm forms one of 18 properties included in the Buffeldrift Farm Owners Association, also known as the Buffeldrift Conservancy. I currently serve as the chairman of the FOA.	<b>Cape EAPrac:</b> Thank you for registering for the 24G Application process.
	The rivers in our conservancy are dry despite there having been some rain and snowfall in the winter months. This is, of course, related to the drought, but we also believe that various farmers upriver of us have built various dams and other water handling facilities in contravention of the National Environmental Management Act and the National Water Act.	<b>Cape EAPrac:</b> The volume capacity of the dam, the hydrology of the system and the impacts on the aquatic environmental associated with the watercourse have been investigated by various specialists. The hydrology report in particular confirms that this watercourse is not a high yield catchment.  The Nel Family Trust has an existing lawful use (ELU) established due to the location and establishment of the previous dam. This has been explained in the reports. The new dam has been allowed to store a similar volume of water until such time as the Water Use License Application process is completed, and only then if it is approved, may the applicants utilise the full volume applied for.
	Lisa informs me that you/your company are assisting Fanie Nel of Van Zyls Damme with a NEMA process. Please can our conservancy be registered as an Interested & Affected Party.	<b>Cape EAPrac:</b> You have been registered and will be provided with all documentation as the application progresses.
<b>Nisbet, Natalya - Private</b>		
	Request registration as an I&AP.	Registered 9 October 2018
<b>Initial Comment</b>		
09-Oct-18	We would like to register as an Interested and Affected party for Fanie Nel (van zylsdamme). The storing and illegal use of water has a direct negative impact on our farming practices, never mind the devastating ecological affect this man-made drought has caused to the eco-system and wild animals in the area.	<b>Cape EAPrac:</b> Thank you for registering for the 24G Application process. You were provided with the Draft 24G Impact Report which included all the specialist studies that were undertaken for the activity.  The Nel Family Trust has an existing lawful use (ELU) established due to the location and establishment of the previous dam. This has been explained in the reports. The impact of this dam has been deemed to be of a Low to Moderate significance.
<b>Qanda, Live - Student</b>		
	Request registration as an I&AP.	Registered 21 September 2021
<b>Simons, Megan - CapeNature</b>		

<b>COMMENT / ISSUES</b>	<b>RESPONSES</b>
Automatically registered as an I&AP.	Registered 22 July 2021