



**24G APPLICATION REF:** 14/2/4/2/2/B4/45/0016/18

**ENQUIRIES:** Shafeeq Mallick

Municipal Manager  
Stellenbosch Municipality  
P.O. Box 17  
STELLENBOSCH  
7600

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Email: Piet.Smit@stellenbosch.gov.za

**Attention: Mr Pieter Du Plessis Smit**

Dear Sir

**APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL DEVELOPMENT OF THE INFORMAL SETTLEMENT (ENKANINI), ON THE REMAINDER OF FARM 183, FARM 181, PORTION 5 OF FARM 175, THE REMAINDER OF PORTION 33 OF FARM 175 AND ERF 2175, STELLENBOSCH**

With reference to your application dated 20 January 2020, as signed by the applicant 22 August 2018, in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

**ENVIRONMENTAL AUTHORISATION**

**A. DECISION**

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with the preferred alternative as described in the application and environmental assessment dated 20 January 2020.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

**B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION**

Stellenbosch Municipality  
 C/o Mr Pieter Du Plessis Smit  
 P.O. Box 17  
 STELLENBOSCH  
 7600

Tel: (021) 808 8189  
 Fax: (021) 887 6167  
 Email: Piet.Smit@stellenbosch.gov.za

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as “the holder”.

**C. LIST OF ACTIVITIES AUTHORISED**

Listed Activities	Activity/Project Description
<p><i>Government Notice No. R386 of 2006 –</i>  <b>Activity Number: 1</b>  <i>Activity Description: “The construction of facilities or infrastructure, including associated structures or infrastructure, for</i>            –  <i>(a) the generation of electricity where the electricity output is more than 10 megawatts but less than 20 megawatts;</i></p>	<p>The informal settlement is developed within 32m of the banks of an unnamed streams with associated tributaries between 2008 and 2010.</p>

<p>(b) the above ground storage of 1 000 tons or more but less than 100 000 tons of ore;</p> <p>(c) the storage of 250 tons or more but less than 100 000 tons of coal;</p> <p>(d) resorts, lodges, hotels or other tourism and hospitality facilities in a protected area contemplated in the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003);....”</p>	
<p>Government Notice No. R386 of 2006 –</p> <p><b>Activity Number: 4</b></p> <p>Activity Description: “The dredging, excavation, infilling, removal or moving of soil, sand or rock exceeding 5 cubic metres from a river, tidal lagoon, tidal river, lake, in-stream dam, floodplain or wetland.”</p>	<p>The development of the watercourse entailed the removal or moving of soil/sand exceeding 5 cubic metres from a watercourse.</p>
<p>Government Notice No. R544 of 18 June 2010 –</p> <p><b>Activity Number: 11</b></p> <p>Activity Description: The construction of:</p> <p>(i) canals;</p> <p>(ii) channels;</p> <p>(iii) bridges;</p> <p>(iv) dams;</p> <p>(v) weirs;</p> <p>(vi) bulk storm water outlet structures;</p> <p>(vii) marinas;</p> <p>(viii) jetties exceeding 50 square metres in size;</p> <p>(ix) slipways exceeding 50 square metres in size;</p> <p>(x) buildings exceeding 50 square metres in size; or</p>	<p>The development of the informal settlement entailed the construction of structures covering 50 square metres or more, within 32m of a watercourse.</p>

<p>(xi) infrastructure or structures covering 50 square metres or more;</p> <p>where such construction occurs within a watercourse or within 32 metres of a watercourse, measured from the edge of a watercourse, excluding where such construction will occur behind the development setback line.</p>	
<p>Government Notice No. R544 of 18 June 2010 –</p> <p><b>Activity Number: 18</b></p> <p>Activity Description: <i>The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from:</i></p> <p>(i) a watercourse;</p> <p>(ii) the sea;</p> <p>(iii) the seashore;</p> <p>(iv) the littoral active zone, an estuary or a distance of 100 metres inland of the highwater mark of the sea or an estuary, whichever distance is the greater but excluding where such infilling, depositing, dredging, excavation, removal or moving</p> <p>(i) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or</p> <p>(ii) occurs behind the development setback line.</p>	<p>The development of the informal settlement entailed the removal/moving of sand/soil of more than 5 cubic metres from a watercourse.</p>
<p>Government Notice No. R544 of 18 June 2010 –</p> <p><b>Activity Number: 23</b></p>	<p>Vacant land was transformed to residential (informal settlement), outside an urban area, of more than 1ha but less</p>

<p>Activity Description: <i>The transformation of undeveloped, vacant or derelict land to</i></p> <p>–</p> <p>(i) <i>residential, retail, commercial, recreational, industrial or institutional use, inside an urban area, and where the total area to be transformed is 5 hectares or more, but less than 20 hectares, or</i></p> <p>(ii) <i>residential, retail, commercial, recreational, industrial or institutional use, outside an urban area and where the total area to be transformed is bigger than 1 hectare but less than 20 hectares;-</i></p> <p><i>except where such transformation takes place for-</i></p> <p>(i) <i>linear activities;</i></p> <p>(ii) <i>for purposes of agriculture or afforestation, in which case Activity 16 of Notice No. R. 545 applies.</i></p>	<p>than 20ha.</p>
<p>Government Notice No. R. 983 of 4 December 2014 - ("EIA Regulations, 2014")</p> <p><b>Activity Number:</b> 12</p> <p>Activity Description: <i>The development of—</i></p> <p>(i) <i>dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs—</i></p> <p>(a) <i>within a watercourse;</i></p> <p>(b) <i>in front of a development setback; or</i></p> <p>(c) <i>if no development setback exists, within 32 metres of a watercourse,</i></p>	<p>The informal settlement entailed the development of structures within 32m of a watercourse.</p>

<p><i>measured from the edge of a watercourse; —</i></p> <p><i>excluding—</i></p> <p><i>(aa) the development of infrastructure or structures within existing ports or harbours that will not harbour;</i></p> <p><i>(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</i></p> <p><i>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</i></p> <p><i>(dd) where such development occurs within an urban area;</i></p> <p><i>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</i></p> <p><i>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</i></p>	
<p><i>Government Notice No. 983 of 4 December 2014 -</i></p> <p><b>Activity Number: 19</b></p> <p><i>Activity Description: The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from a watercourse; but excluding where such</i></p>	<p>The informal settlement entailed the removal or moving of soil/sand of more than 10 cubic metres from a watercourse.</p>

<p><i>infilling, depositing, dredging, excavation, removal or moving—</i></p> <p><i>(a) will occur behind a development setback;</i></p> <p><i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></p> <p><i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i></p> <p><i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i></p> <p><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><i>Government Notice No. 984 of 4 December 2014 -</i></p> <p><b>Activity Number: 15</b></p> <p><i>Activity Description: The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—</i></p> <p><i>(i) the undertaking of a linear activity; or</i></p> <p><i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>	<p>The proposed formalisation of the informal settlement will entail the clearance of additional vegetation of approximately 10 ha. As a result, the development of the informal settlement, as well as, the formalisation of the informal settlement will entail the clearance of more than 20ha of vegetation.</p>
<p><i>Government Notice No. 985 of 4 December 2014 -</i></p> <p><b>Activity Number: 12</b></p> <p><i>Activity Description: The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation</i></p>	<p>The formalization of the informal settlement will entail the clearance of more than 300m<sup>2</sup> of indigenous vegetation, classified as critically endangered vegetation.</p>

<p><i>is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p><i>i. Western Cape</i></p> <p><i>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</i></p> <p><i>ii. Within critical biodiversity areas identified in bioregional plans;</i></p> <p><i>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;</i></p> <p><i>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or</i></p> <p><i>v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</i></p>	
<p><i>Government Notice No. 985 of 4 December 2014 -</i></p> <p><b>Activity Number: 15</b></p> <p><i>Activity Description: The transformation of land bigger than 1000 square metres in</i></p>	<p>The informal settlement included the transformation of an area zoned conservation, which is bigger than 1000 square metres in size, to residential, and is located outside of an urban area.</p>



<p>size, to residential, retail, commercial, industrial or institutional use, where, such land was zoned open space, conservation or had an equivalent zoning, on or after 02 August 2010.</p> <p>f. Western Cape</p> <p>i. Outside urban areas, or</p> <p>ii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use or equivalent zoning, on or after 02 August 2010;</p> <p>(bb) A protected area identified in terms of NEMPAA, excluding conservancies; or Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act as adopted by the competent authority.</p>	
<p>Government Notice No. 327 of 7 April 2017 -</p> <p><b>Activity Number: 19</b></p> <p>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></p> <p>(a) <i>will occur behind a development setback;</i></p> <p>(b) <i>is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></p>	<p>The informal settlement entailed the removal or moving of soil/sand of more than 10 cubic metres from a watercourse.</p>

<p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(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.</p>	
<p>Government Notice No. 324 of 7 April 2017 -</p> <p><b>Activity Number: 15</b></p> <p>Activity Description: <i>The transformation of land bigger than 1000 square metres in size, to residential, retail, commercial, industrial or institutional use, where, such land was zoned open space, conservation or had an equivalent zoning, on or after 02 August 2010.</i></p> <p>f. Western Cape</p> <p>i. Outside urban areas, or</p> <p>ii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use or equivalent zoning, on or after 02 August 2010;</p> <p>(bb) A protected area identified in terms of NEMPAA, excluding conservancies; or Sensitive areas as identified in an environmental management framework as contemplated in chapter 5 of the Act as adopted by the competent authority.</p>	<p>The informal settlement included the transformation of an area zoned conservation, which is bigger than 1000 square metres in size, to residential, and is located outside of an urban area.</p>
<p>As similarly listed in Government Notice No. R. 327 of 7 April 2017 -</p>	<p>The informal settlement entailed the development of structures within 32m of</p>

<p><b>Activity Number:</b> 12</p> <p>Activity Description: <i>The development of—</i></p> <p><i>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; where such development occurs—</i></p> <p><i>(a) within a watercourse;</i></p> <p><i>(b) in front of a development setback; or</i></p> <p><i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</i></p> <p><i>excluding—</i></p> <p><i>(aa) the development of infrastructure or structures within existing ports or harbours that will not harbour;</i></p> <p><i>(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</i></p> <p><i>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</i></p> <p><i>(dd) where such development occurs within an urban area;</i></p> <p><i>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</i></p> <p><i>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the</i></p>	<p>a watercourse.</p>
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commencement of development and where indigenous vegetation will not be cleared.	
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The abovementioned list is hereinafter referred to as “the listed activities”.

#### D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on the following farm portions:

- Remainder of farm 183
- Farm 181
- Portion 5 of farm 175
- Remainder of portion 33 of farm 175
- Erf 2175

The SG digit codes are: C06700000000018300000

C06700000000018100000

C06700000000017500033

C06700000000017500005

C06700250000217500000

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 55' 20.14" South	18° 50' 35.01" East
2	33° 55' 31.22" South	18° 50' 19.64" East
3	33° 55' 49.36" South	18° 50' 28.68" East
4	33° 55' 51.63" South	18° 50' 15.98" East
5	33° 56' 5.86" South	18° 50' 21.90" East
6	33° 56' 13.92" South	18° 50' 2.13" East
7	33° 56' 16.76" South	18° 50' 3.65" East

8	33° 56' 18.22" South	18° 49' 59.22" East
9	33° 56' 27.36" South	18° 50' 2.64" East
10	33° 56' 25.51" South	18° 50' 14.35" East
11	33° 56' 20.89" South	18° 50' 14.31" East
12	33° 56' 32.44" South	18° 50' 36.39" East
13	33° 56' 30.51" South	18° 50' 41.79" East
14	33° 56' 5.57" South	18° 50' 51.09" East
15	33° 56' 3.54" South	18° 51' 1.00" East
16	33° 55' 56.32" South	18° 51' 7.03" East
17	33° 55' 23.323" South	18° 50' 49.57" East
18	33° 55' 25.34" South	18° 50' 44.31" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 55' 19.01" South	18° 50' 36.89" East
2	33° 55' 21.25" South	18° 50' 42.14" East
3	33° 55' 24.96" South	18° 50' 45.93" East
4	33° 55' 23.30" South	18° 50' 50.06" East
5	33° 55' 25.88" South	18° 50' 51.06" East
6	33° 55' 25.95" South	18° 50' 52.84" East
7	33° 55' 27.57" South	18° 50' 50.88" East

8	33° 55' 31.97" South	18° 50' 55.85" East
9	33° 55' 35.28" South	18° 50' 40.04" East
10	33° 55' 33.93" South	18° 50' 36.86" East
11	33° 55' 40.01" South	18° 50' 24.58" East
12	33° 55' 31.28" South	18° 50' 20.31" East
13	33° 55' 28.78" South	18° 50' 23.63" East
14	33° 55' 30.15" South	18° 50' 24.08" East
15	33° 55' 29.72" South	18° 50' 27.12" East
16	33° 55' 26.37" South	18° 50' 26.83" East

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan.  
Herein-after referred to as "the site".

#### **E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")**

GroenbergEnviro (Pty) Ltd  
C/o Mr Pieter Badenhorst / Ms Mische Molife  
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7654

Cell: (079) 111 7378  
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Email: pbps@iafrica.com  
mische@groenbergenviro.co.za

## **F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN**

The unlawful development of the informal settlement (Enkanini), on the Remainder of Farm 183, Farm 181, Portion 5 of Farm 175, the Remainder of Portion 33 of Farm 175 and Erf 2175, Stellenbosch.

The informal settlement was developed on previously vacant land. Activities for the informal settlement commenced during 2006, 2008 and 2014. This resulted in the clearance of vegetation and the disturbance of watercourses on the site.

The applicant intends to develop a formal residential development on the site as a rectification measure. The development will entail the construction of dwellings, internal roads and the installation of services infrastructure, such as electricity, sewage, water and stormwater.

Due to the site being overpopulated and in order for the applicant to provide a safe and up to standard residential area, not all of the residents will be able to be accommodated on the site.

Further, during the construction phase of the formalisation of the development, some of the residents will be required to move to a roll-over site, in order for construction activities to take place on site (this will occur in sections).

## **G. CONDITIONS OF AUTHORISATION**

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

### **PART I**

#### **Scope of authorisation**

1. The holder is authorised to undertake the listed activity/ies specified in Section C above in accordance with and restricted to the prescribed alternative described in the application and assessment report dated 20 January 2020 on the site as described in Section D above.

2. The Environmental Authorisation is valid for a period of **ten years** from the date of the decision.
3. The development must be concluded within ten years from the date of continuation of the first listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
5. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

## **PART II**

### **Written notice to the competent authority**

6. Seven (7) calendar days' notice, in writing, must be given to the competent authority before commencement of construction activities.
  - 6.1 The notice must make clear reference to the site details and 24G Reference number given above.
  - 6.2 The notice must also include proof of compliance with condition 7 and 9.

## **PART III**

### **Notification and administration of an appeal**

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
  - 7.1 notify all registered Interested and Affected Parties ("I&APs") of –
    - 7.1.1 the outcome of the application;
    - 7.1.2 the reasons for the decision as included in Annexure 3;



- 7.1.3 the date of the decision; and
- 7.1.4 the date when the decision was issued.

7.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* detailed in Section I below.

7.3 draw the attention of all registered I&APs to the manner in which they may access the decision.

7.4 provide the registered I&APs with:

- 7.4.1 the name of the holder (entity) of this Environmental Authorisation;
- 7.4.2 name of the responsible person for this Environmental Authorisation;
- 7.4.3 postal address of the holder;
- 7.4.4 telephonic and fax details of the holder;
- 7.4.5 e-mail address, if any, of the holder; and
- 7.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.

8. The listed activities, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

#### **PART IV**

##### **Management of the activity/development**

9. The draft Environmental Management Programme ("EMPr") dated June 2019 compiled by Pieter Badenhorst Professional Services and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

10. The EMPr must be included in all contract documentation for all phases of implementation.

## **PART V**

### **Monitoring**

11. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") before commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request, including a publicly accessible website.
13. Access to the site referred to in Section D must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

## **PART VI**

### **Auditing**

14. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and submit Environmental Audit Reports to the competent authority bi-annually and upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

The holder must, within 7 (seven) days of the submission of the report to the competent authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

## **PART VII**

### **Activity/ Development Specific Conditions**

15. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered

or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

16. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.
17. All current pollution should be removed from all freshwater features falling within the development footprint.
18. No development, or activity of any sort associated with the site construction camp, is allowed below the 1:50 year flood line of any water system.
19. Proper storage facilities for the storage of oils, paints, grease, fuels, chemicals and any hazardous materials to be used must be avoided to prevent the mitigation of spillage into the ground and groundwater regime around the temporary storage areas.

## **H. GENERAL MATTERS**

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.

3. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application, but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.

(3) It is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the competent authority has not granted an environmental authorisation for the undertaking of the activity.

4. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:

Amendments to the EMPr must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

## I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –
  - 1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.
  
2. An appellant (if NOT the holder) must –
  - 2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.
  
3. The holder (if not the appellant), the decision-maker, I&APs and Organ of State must submit their responding statements, if any, to the Appeal Authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
  
4. This appeal and responding statement must be submitted to the address listed below:
  - By post:                   Attention: Jaap de Villiers  
                                  Western Cape Ministry of Local Government, Environmental Affairs &  
                                  Development Planning  
                                  Private Bag X9186, Cape Town, 8000; or
  - By facsimile:           (021) 483 4174; or
  - By hand:                 Attention: Mr Jaap de Villiers (Tel: 021-483 3721)  
                                  Room 809, 8th floor Utilitas Building  
                                  1 Dorp Street, Cape Town, 8000; or
  - By e-mail:               [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za)

**Note:** You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za).

5. A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority/ at: Tel. (021) 483 3721, E-mail [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp>.

## **J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS**

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

## **K. DISCLAIMER**

The Western Cape Government, the Municipality, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Yours faithfully

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**ADV. CHARMAINE MARÉ**  
**DIRECTOR: ENVIRONMENTAL GOVERNANCE**

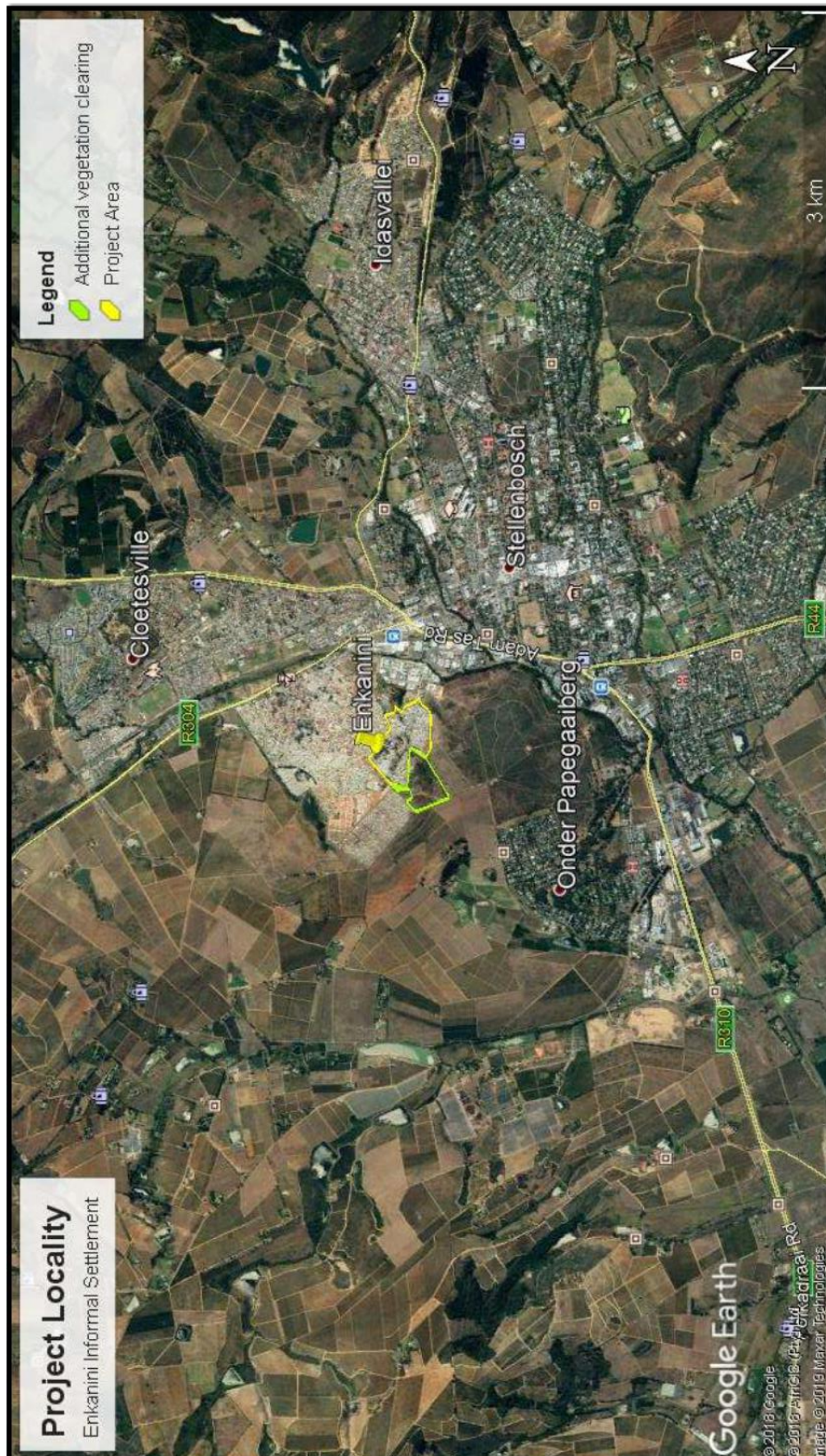
Copied to: (1) Ms. Mische Molife (EAP)

Fax: (086) 476 7139

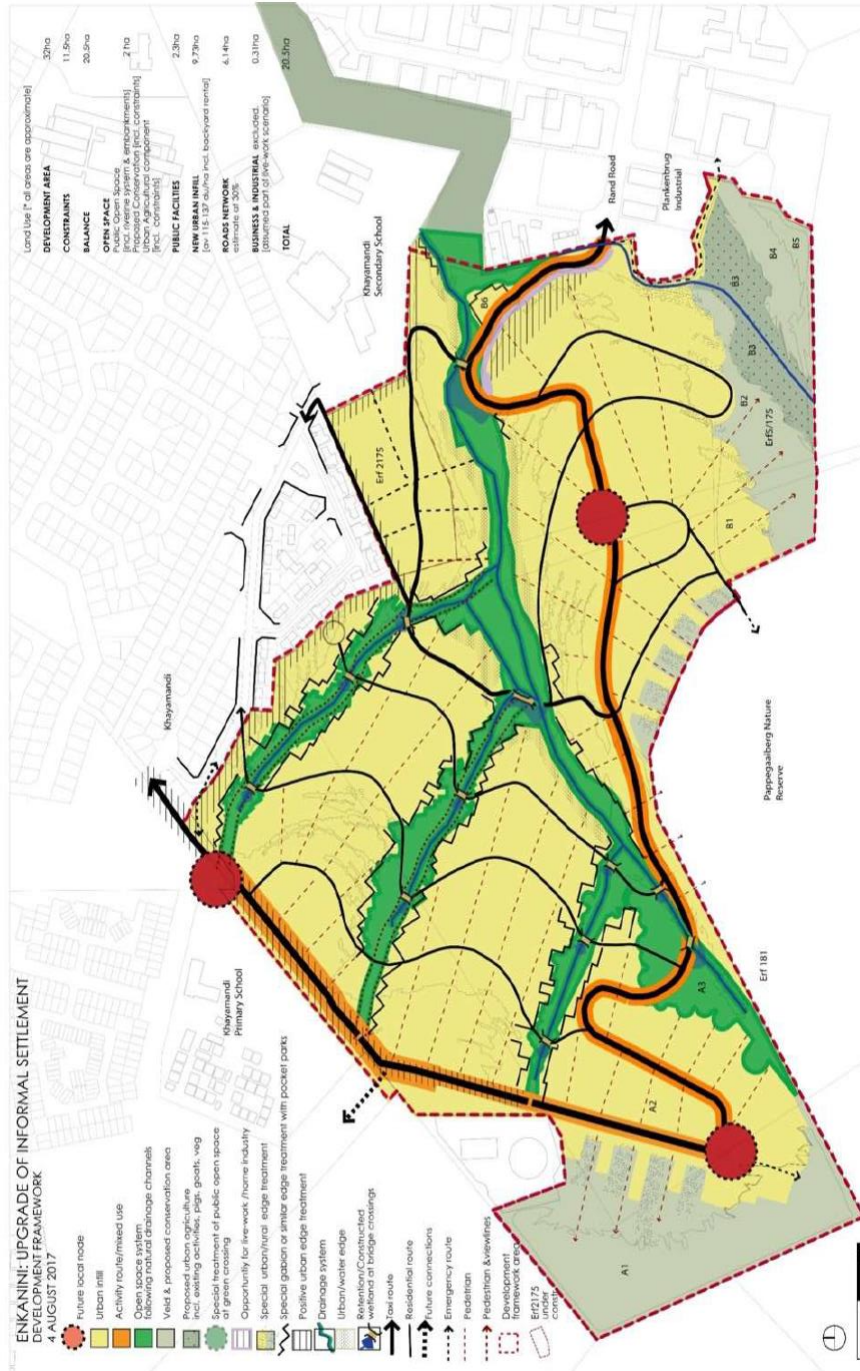
Email: [pbps@iafrica.com](mailto:pbps@iafrica.com)/[mische@pbps.co.za](mailto:mische@pbps.co.za)



# ANNEXURE 1: LOCALITY MAP



# ANNEXURE 2: SITE PLAN





**FOR OFFICIAL USE ONLY:**

**S24G REFERENCE:**

**14/2/4/2/2/B4/45/0016/18**

**APPEAL REFERENCE:**

**14/3/6/B4/45/0494/20**

**ANNEXURE 3: REASONS FOR THE DECISION**

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R25 000 (Twenty-five Thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form dated 20 January 2020 and received by the competent authority on 6 July 2020 and the Construction and Operational Environmental Management Programme (EMPr) dated June 2019 submitted together with the application form.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- f) The site visit conducted on 26 February 2020  
Attended by: Officials of this Directorate
- g) The appeal decision on the 24G administrative fine dated 15 March 2021.

All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

## 1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- identification of and engagement with I&APs.
- fixing a notice board at the site where the listed activities unlawfully commenced on 07 June 2019.
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities were undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 12 June 2019.
- the placing of a newspaper advertisement in the **Stellenbosch Gazette** on 27 March 2018.

### Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- Stellenbosch Municipality (SM)
- CapeNature (CN)
- This Department's Development Management directorate (DM)
- Department of Agriculture (DoA)
- Department of Water and Sanitation (DWS)
- Heritage Western Cape (HWC)
- Cape Winelands District Municipality (CWDM)

The following organs of state provided comment on the application:

- CapeNature (CN)
- This Department's Development Management Directorate (DM)

CapeNature indicated that, according to the Western Cape Biodiversity Spatial Plan, 2017 (WCBSPP) the majority of the application falls within a protected area, the Pappegaaiberg Nature Reserve (PNR). Included within the areas for the application are Ecological Support Areas (ESA) 2 along buffers of the watercourses and a patch

of Critical Biodiversity Area (CBA) 1 in the westernmost sections. The vegetation on site would have been Swartland Shale Renosterveld which is classified as a critically endangered vegetation type, and 5 tributaries of the Plankenbrug nature reserve originate on site.

The full extent of the PNR is not correctly reflected in the WCBSP. In this regard a section of the development proposal encroaches into the nature reserve which is occupied by informal settlement.

CapeNature highlighted the fact that the encroachment into the PNR needs to be addressed. A protected area management plan must be developed for the PNR, which is a requirement of the *National Environmental Management: Protected Areas Act, 2003 (Act 57 of 2003)* ("NEM:PAA").

Two options are available in this regard: Either exclude the reserve area from the development and rehabilitate or change the boundary of the nature reserve. An offset will be required should they amend the boundary of the nature reserve to accommodate the development.

The botanical statement indicated that the development footprint of the informal settlement was previously cultivated, and therefore there was no loss of vegetation caused by the informal settlement. Clarity relating to whether this includes the areas not currently occupied by informal dwellings. The EAP indicated that it was only for current occupied land, and the additional land will result in additional clearance, including the Critically endangered Swartland Shale Renosterveld.

The freshwater assessment indicates the tributaries on site are highly impacted on by the informal settlement. No buffer exists, and there is significant polluting of the streams. This will impact on the Plankenbrug River and further impact on the Eerste Rivier. CapeNature agrees with the specialist recommendations to mitigate this impact.

However, previously acquired ecological data, collected through the monitoring of the Plankenbrug River, should be used as the baseline data in addressing the ecological condition of the river and to monitor potential improvements. The freshwater specialist should engage with CapeNature with respect to this.

Concerns were raised regarding further encroachment into the PNR especially with regards to the proposed buffer surrounding the watercourses. A sturdy fence that cannot easily be damaged or dismantled must be constructed around the entire extent of the boundary of the nature reserve and measures need to be implemented to ensure that no structures are built within the buffer areas.

CapeNature supports the development if all mitigation measures proposed are implemented and an offset is agreed upon.

The directorate Development Management (DM) notes the 0.8ha of the application area within the PNR. The PNR was declared a nature reserve by the Minister for Local Government, Environmental Affairs and Development Planning. A process of de-proclamation of the affected area of the site will therefore need to be followed.

The site does not trigger a land development application in terms of S53 of LUPA as the site has not been irrigated and cultivated for some time.

The Enkanini site has been included in the approved Stellenbosch Spatial Development Framework (SDF) and therefore no application for amendment of the SDF urban edge is required. However, the approved SDF has not been submitted for provincial approval.

The DM directorate acknowledges the challenges of the topography of this site, specifically relating to the steep slope and drainage lines, as well as the scale and extent of the existing settlement on the site. The development proposal responds to the challenges and enables the transformation of the current settlement into serviced and formalized township.

## **2. Alternatives**

### **2.1 Location alternative**

No property/location alternatives have been considered as the applicant owns the properties. Since the site has already been transformed through the development of the informal settlement, no other property alternative was considered.

## 2.2 Design/ Layout alternatives

Three layout alternatives (including sub-divisional and rezoning plans) have been considered as rectification measure. As part of the investigation of alternatives, a geotechnical study was undertaken. The geotechnical aspects of the site, as well as design constraint, were considered in order to obtain the best design alternatives.

**Alternative 1** entails the development of a formal residential area which includes the following:

- Community facilities (approximately 1.1 ha);
- 60 flats (social housing);
- 72 subsidised erven (Erf 2175);
- 1084 subsidised erven; and
- Pedestrian walkways and formal roads.

- Total housing opportunities = 1216

This alternative is not considered preferred since it has the lowest number of housing opportunities.

**Alternative 2** entails the development of a formal residential area which includes the following:

- Community facilities (approximately 1.1 ha);
- 400 flats (social housing);
- 210 erven - re-blocking under separate contract (Erf 2175 );
- 943 subsidised erven; and
- Pedestrian walkways and formal roads.

- Total housing opportunities =1553

This alternative is not considered preferred, even-though it has the highest number of housing opportunities. This alternative has less social housing than alternative 3, which mainly caters for the low-income residents.

**Alternative 3 (preferred)** entails the development of a formal residential area which includes the following:

- Community facilities (approximately 1.1 ha);
- 417 flats (social housing);
- 210 erven - re-blocking under separate contract (Erf 2175 );
- 892 subsidised erven; and
- Pedestrian walkways and formal roads.

- Total housing opportunities = 1519

This alternative is considered preferred since it has the most social housing opportunities. Most of the residents have a very low income.

## 2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

The "no-go" alternative will entail clearing, removing the informal dwellers and rehabilitating the entire site.

Since the informal dwellers illegally cleared and occupied the site and have no other place to stay, the applicant proposed the formalisation of the informal settlement and the rehabilitation of the existing natural areas.

However, this alternative is seen as not viable as the informal dwellers will have no place to go, and the applicant would need to find an alternate site for housing. This will lead to financial loss to the Municipality, as the current site has already been transformed. Utilising the current site to provide formal housing for the dwellers would be beneficial for the applicant as is currently owns the site. Therefore, this alternative is not deemed preferred.

### **3. Environmental Impact Assessment (EIA) and Mitigation Measures**

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

### 3.1. Socio-economic Impact

The activity on site is an informal settlement and is a result of poverty, lack of skills and education, unemployment, overpopulation, and low income. The formalisation of the informal settlement will give rise to a high positive socio-economic impact.

### 3.2. Biodiversity Impacts

The watercourses on site are characterized as an Ecological Support Area that has been impacted on due to the development of the informal settlement, as well as dumping in watercourses and walking/driving through the watercourses. This has impacted negatively on surface and groundwater resources. However, the rectification measure of formalizing the settlement will ensure that this impact is lowered to a localized impact.

### 3.3. Heritage / Sense of Place

The activity currently on site (the informal settlement) is in keeping with the surrounding environment as it is located south of Khayamandi residential area.

### 3.4. Pollution Impact

The informal settlement does not have the necessary services in place and as such, dumping of household waste on site and in watercourses occur. This in turn results in pollution of the environment which could lead to the pollution of surface and groundwater resources. After formalisation of the settlement, it is foreseen that adequate services will be supplied to the area, which will limit the pollution.

## **4. NEMA Principles**

The National Environmental Management Principles (set out in section 2 of the NEMA), which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the competent authority is satisfied that the listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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