



**REFERENCE NUMBER:** 14/2/4/2/2/B4/18/0012/18

**ENQUIRIES:** Jamie-Lee van Zyl

**BY REGISTERED MAIL**

The Municipal Manager  
Stellenbosch Municipality  
PO Box 17  
STELLENBOSCH  
7600

Tel: (021) 808 8760  
Email: [Myra.Francis@stellenbosch.co.za](mailto:Myra.Francis@stellenbosch.co.za)

Attention: Ms Myra Francis

Dear Madam

**APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") FOR THE UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: THE UNLAWFUL EXCAVATION AND CONSTRUCTION OF A GABION WALL WITHIN A DRAINAGE LINE ON ERF 9445 IDAS VALLEY, STELLENBOSCH**

With reference to your application dated 25 January 2019 and the addendums to the application dated 15 March 2019 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") (GN No. R.326 of 7 April 2017), the competent authority herewith **grants environmental authorisation** to the applicant for the continuation, conducting or undertaking of the listed activities specified in Section C below in accordance with Alternative 1 as described in the application dated 25 January 2019.

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 Ms Myra Francis

PO Box 17

STELLENBOSCH

7600

Tel: (021) 808 8760

Email: [Myra.Francis@stellenbosch.co.za](mailto:Myra.Francis@stellenbosch.co.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
<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>	An incomplete gabion wall has been constructed within a tributary of the Krom River. It is the intention of the applicant to establish a residential development on Erf 9445, Idas Valley. The infilling and excavation activities has affected an area of 8309m <sup>2</sup> comprising of the gabion wall and the southern river crossing.

<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;</i></p> <p><i>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>Part of the development entails the construction of housing and roads within a delineated wetland area.</p> <p>Construction commenced in June 2017 and is incomplete.</p>
<p><i>Government Notice No. 324 of 7 April 2017 -</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 is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p><i>i. Western Cape</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"</i></p>	<p>The excavation and construction of the gabion wall resulted in the clearance of an area of more than 300 square metres of indigenous vegetation.</p>

<p>Government Notice No. 327 of 7 April 2017-</p> <p><b>Activity Number: 27</b></p> <p>Activity Description: <i>"The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for-(i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan."</i></p>	<p>The intended residential development will result in the clearance of additional indigenous vegetation. It is intended that 166 units be constructed, with associated infrastructure including:</p> <ul style="list-style-type: none"> <li>• 3 public open space erven</li> <li>• 2 local authority erven (roads and substation)</li> <li>• 600m<sup>2</sup> retention pond (proposed for the south of the development, alongside the river)</li> <li>• North river crossing: gabion mattress protection and two (2) 1500m x 1200m rectangular portal culverts.</li> </ul> <p>The total physical footprint of the development is approximately 5.2ha.</p>
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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 Erf 9445 Idas Valley, Stellenbosch.

The SG digit code is: C06700220000944500000

The co-ordinates for the site are:

Point	Latitude (S)	Longitude (E)
1	33° 55' 4.75" South	18° 53' 20" 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”)**

Eco Impact Legal Consulting (Pty) Ltd

c/o Ms Jessica Hansen

P.O. Box 45070

CLAREMONT

7735

Tel: (021) 671 1660

Fax: (021) 671 9976

Email: [admin@ecoimpact.co.za](mailto:admin@ecoimpact.co.za)

## **F. DETAILS OF THE ACTIVITIES UNDERTAKEN**

The application involves the establishment of a residential development and the construction of a gabion wall within a watercourse through the clearance of indigenous vegetation and construction activities within a watercourse.

The residential development is comprised of the following:

- 166 subsidy housing erven (single residential)
- 3 public open space erven
- 2 local authority erven (roads and substation)
- 600m<sup>2</sup> retention pond
- South river crossing: gabion mattress protection and two (2) 1500m x 1200m rectangular portal culverts
- North river crossing: gabion mattress protection and two (2) 1500m x 1200m rectangular portal culverts

The gabion wall will also be completed, involving further excavation activities within the affected watercourse and infilling with rock-filled geotextile. The physical size of the residential development and associated infrastructure will be approximately 5.2ha.

## **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 activities specified in Section C above in accordance with and restricted to Alternative 1 described in the application dated 25 January 2019 on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision to continue, conduct or undertake the listed activity or activities as specified in Section C above.
3. The holder shall be responsible for ensuring compliance with the conditions by any person acting on her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
4. 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 in order 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**

5. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of the listed activities.

5.1 The notice must make clear reference to the site details and 24G Reference number given above.

5.2 The notice must also include proof of compliance with conditions 6, 7 and 10.

### **PART III**

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

6. The holder must in writing, within 14 (fourteen) days of the date of this decision–
  - 6.1 notify all registered Interested and Affected Parties ("I&APs") of –
    - 6.1.1 the outcome of the application;
    - 6.1.2 the reasons for the decision as included in Annexure 3;
    - 6.1.3 the date of the decision; and
    - 6.1.4 the date when the decision was issued.
  - 6.2 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.
  - 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
  - 6.4 provide the registered I&APs with:
    - 6.4.1 the name of the holder (entity) of this Environmental Authorisation;
    - 6.4.2 name of the responsible person for this Environmental Authorisation;
    - 6.4.3 postal address of the holder;
    - 6.4.4 telephonic and fax details of the holder;
    - 6.4.5 e-mail address, if any, of the holder; and
    - 6.4.6 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*.
7. The listed activities, including site preparation, may not commence within 34 (thirty four) calendar days from the date 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**

8. The draft Environmental Management Programme ("EMPr") compiled by Eco Impact Environmental Health and Safety Legal Consulting of March 2019 and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.
  
9. The EMPr must be included in all contract documentation for all phases of implementation.

## **PART V**

### **Monitoring**

10. The holder must appoint a suitably experienced Environmental Control Officer, before continuation of commencement of any land clearing or construction activities to ensure compliance with the EMPr and the conditions contained herein.
  
11. 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 (if applicable).
  
12. 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**

13. 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 and the EMPr and submit Environmental Audit Reports to the competent authority 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*.



## **PART VII**

### **Activity/ Development specific conditions**

14. 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.

15. 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.
16. The rehabilitation measures and recommendations identified in the Freshwater Resource Rehabilitation and Implementation Plan of September 2018 compiled by Scientific Aquatic Services CC must be implemented.
17. The Maintenance Management Plan dated 30 July 2018 is hereby approved and must be implemented.
18. The Memorandum of Agreement regarding the wetland offset between the Department of Water and Sanitation and the Stellenbosch Municipality signed by the parties of 21 September 2018 and 28 September 2018, respectively, must be implemented.
19. The recommendations from the Transport Impact Assessment dated 8 January 2019 must be implemented.

## 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. Should an appeal be lodged with the appeal administrator against the Environmental Authorisation, you are hereby advised of the following:

1.1. An appellant (if the applicant) must –

1.1.1. submit an appeal in accordance with regulation 4 of the *National Appeal Regulations, 2014*, to the appeal administrator and a copy of the appeal to the decision maker, any registered I&APs and any organ of state with interest in the matter within 20 (twenty) days from the date that the notification of the decision was sent to the applicant by the competent authority.

1.2. An appellant (if NOT the applicant) must –

1.2.1 submit an appeal in accordance with regulation 4 of the *National Appeal Regulations, 2014*, to the appeal administrator, and a copy of the appeal to the applicant, 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 that the notification of the decision was sent to the registered interested and affected parties by the applicant.

2. The applicant (if not the appellant), the decision-maker, I&APs and organs of state must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) days from the date of receipt of the appeal submission.

3. This appeal and responding statement must be submitted to the address listed below:

By post: Attention: Attention: Marius Venter  
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 Marius Venter (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 [Jaap.DeVilliers@westerncape.gov.za](mailto:Jaap.DeVilliers@westerncape.gov.za).

4. 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**

DATE OF DECISION: 31 JANUARY 2020

Copied to:

(1) Nicolaas Hanekom (Enviro-EAP)

Email: [nicolaas@ecoimpact.co.za](mailto:nicolaas@ecoimpact.co.za)

(2) Jessica Hansen (Eco Impact Legal Consulting (Pty) Ltd)

Email: [jessica@ecoimpact.co.za](mailto:jessica@ecoimpact.co.za)

(3) Nithzaam Albertyn (DEA&DP- Dir: Environmental Law Enforcement- Region 2)

Email: [Nithzaam.Albertyn@westerncape.gov.za](mailto:Nithzaam.Albertyn@westerncape.gov.za)

**ANNEXURE 1: LOCALITY MAP**



**ANNEXURE 2: SITE PLAN (as attached)**





# Annexure 2: Site Plan



**FOR APPROVAL**

SCALE: 1:500 (A1)  
DATE: SEPTEMBER 2018  
PLAN NUMBER: D186/01  
AMENDMENT

**PLAN DESCRIPTION**  
OAK TREE VILLAGE:  
ROAD, CULVERT AND GABION LAYOUT

**PROJECT**  
ERF 8445  
IDAS VALLEY

**CLIENT**  
ASLA DEVOO  
P.O. BOX 118  
GORDONS BAY  
7151

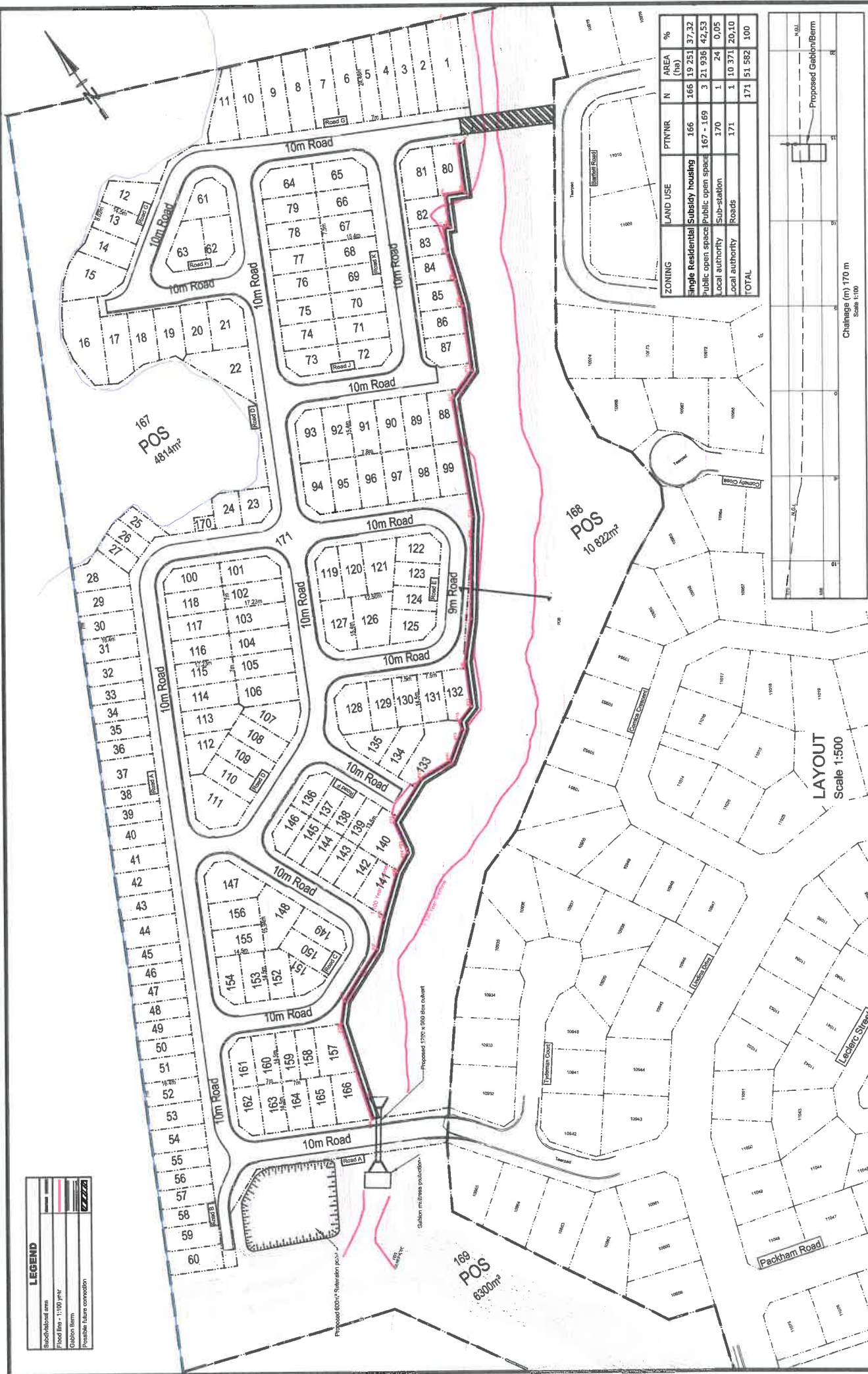
Drawn	Check	Rev	Proj	Proj	Proj

**ENGINEER**  
CONSULTING ENGINEERS  
P.O. Box 1775  
Pretoria Street  
Durban, 4001  
Tel: 031 221 2225  
Fax: 031 221 2226  
Email: info@pe.co.za  
Website: www.pe.co.za

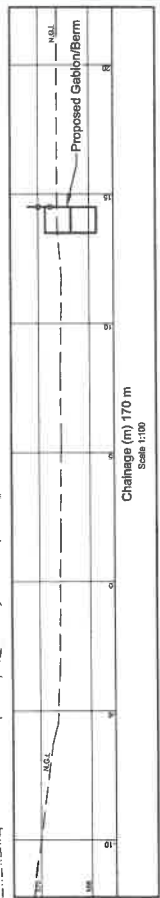
AMEND.	DATE	DESCRIPTION

**LEGEND**

Subdivisional area
Flood line - 1:100 year
Gasbon Barn
Possible future connection



ZONING	LAND USE	PT/NR	N	AREA (ha)	%
Single Residential	Subsidiary housing	166	166	19.251	37.32
	Public open space	167 - 169	3	21.936	42.53
	Local authority	170	1	24	0.05
	Local authority	171	1	10.371	20.10
<b>TOTAL</b>			<b>171</b>	<b>51.592</b>	<b>100</b>



**AS SHOWN**  
**FEBRUARY 2017**  
**ANNEXURE G**

**PORTION OF ERF 9445: PROPOSED UPGRADING OF STREAM**

**IDAS VALLEY**

**ASIA DEVOO**

Project - Project  
Client - Client  
Engineer - Engineer  
P. O. Box 118  
Gordons Bay  
7471

Author  
P. E.  
R. Basker  
Client - Client

Checked  
N. Basker  
Checked

Project No. 018 1275  
Revision 1/20  
Revision 2/20  
Revision 3/20  
Revision 4/20  
Revision 5/20  
Revision 6/20  
Revision 7/20  
Revision 8/20  
Revision 9/20  
Revision 10/20  
Revision 11/20  
Revision 12/20  
Revision 13/20  
Revision 14/20  
Revision 15/20  
Revision 16/20  
Revision 17/20  
Revision 18/20  
Revision 19/20  
Revision 20/20

Scale: 1:500  
LAYOUT

**FOR OFFICIAL USE ONLY:**

**S24G REFERENCE:** 14/2/4/2/2/B4/18/0012/18  
**ENFORCEMENT REFERENCE:** L 4/2/4/2/2/B4/L 8/0012/L 8

**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 R50 000 (Fifty 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 25 January 2019, the addendums to the application dated 15 March 2019 and the Environmental Management Programme of October 2018.
- b) 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 21 September 2018 attended by officials from this department.

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 26 September 2018.
- 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 13 June 2018 and 21 September 2018.
- the placing of a newspaper advertisement in the **Eikestadnuus** newspaper on 5 April 2018 and 27 September 2018.

The Ridge Community Forum questioned the suitability of the proposed site for housing "*due to the fact that piece of land is wetlands and be used for educational purposes*". To this the EAP advised that a wetland assessment has been undertaken to assess the impacts on the wetlands and that a Water Use License Application has been submitted to the Department of Water and Sanitation.

A few homeowners advised that they completely oppose the proposed establishment of a residential development on Erf 9445 Idas Valley. Below is a list of the issues raised and how they have been addressed:

- The adequacy of the PPP undertaken was questioned, to which the EAP provided proof of the posting of the letters to neighbours of the proposed site.
- The risk of a decrease in the property values of the affected community was highlighted. The risk related to this possible impact was acknowledged and assessed within the application (more detail in Section 2.1.1 below).
- Visual impacts associated with the change of views over what is currently vacant land adjacent to a residential dwelling. The visual impact has been assessed and is discussed in Section 2.1.3).
- The possibility of the proposed dwellings associated with the residential development resulting in the cracking of walls was noted. To this the EAP advised

that "The housing will comply with SANS 10400 XA and a structural engineer and geotechnical consultant are appointed. All housing will be registered with the NHBRC (National Home Builders Registration Council) who guarantees the houses against structural defects."

- Additional comments related to the wet clayey nature of the receiving soils during winter. The EAP's response was that "Civil engineers on the project will be using road and storm water design to drain drainage along the roads that will dry the area. The foundations are designed for S1 / H1 / P conditions, so there is steel reinforcement in all foundations. Houses are provided according to building regulations."
- I&APs also noted the possible impact the proposed development may have on the Cape Rain Frog. The EAP advised that no Species of Conservation Concern were identified in the assessment and that "43% of the site will consist of open space area and additionally the wetland next door will be rehabilitated. Impact on the frogs will therefore be temporary and the activities will not affect the conservation status of this frog species. It should however improve it with the rehabilitation of the wetlands and Freshwater Ecology of the area."
- Concerns were also raised regarding the safety and security of the surrounding community. This possible impact is discussed in Section 2.1.1 below.
- The increase in pressure on the municipal sewerage system was also highlighted. To this the EAP advised that the Stellenbosch Municipality has confirmed that they have capacity to provide services for the proposed development.
- The possible impacts on traffic were noted. As such a traffic impact assessment was included in the application and contains recommendations for upgrading traffic control measures in the affected community should the residential development be authorised.

#### Consultation with Organs of State in terms of section 24O of the NEMA

The following Organs of State provided comment on the application:

- CapeNature
- Department of Water and Sanitation (DWS)
- Department of Agriculture (DoA)
- This Department's Directorate: Waste Management
- This Department's Directorate: Pollution and Chemicals Management

CapeNature supports the proposed implementation plan for the wetland offset. There are however a few issues which were highlighted, including the zonation of the affected areas and appropriate security around the proposed wetland offset for its long-term viability and success. The EAP advised that before rehabilitation of the wetlands can commence, all necessary permits and authorisations will be required. The wetland will be fenced off and the Stellenbosch Municipality will maintain it as per the approved EMPr. CapeNature also highlighted alien vegetation clearance, which have since been listed in the mitigation measures included in the Maintenance Management Plan.

The DWS acknowledged the receipt of the Water Use Licence Application (WULA) from the applicant dated 22 March 2018 and advised that any activity undertaken prior to obtaining a water use authorisation must cease until the applicant has received the required authorisation from the DWS.

The DoA supports the application.

The Directorate: Waste Management advised that consideration must be given to the procurement of building materials with the following aspects:

- Goods with minimal packaging and/or packaging made from recycled or recyclable materials.
- Products which have minimal environmental impact during their use e.g. products that are durable, energy efficient and reusable.
- Goods that can be recycled or disposed of with minimal environmental damage.
- Excluding the use of environmentally damaging products (hazardous substances) where viable alternatives are available.
- Vegetation that has been cleared must be considered for composting.
- The Environmental Awareness Plan as included in the EMPr must also include training with respect to waste management on site.

The Directorate: Pollution and Chemicals Management raised concerns regarding the effective drainage, collection and disposal of storm water runoff, as the site consist of impermeable residual granites with permeable transported soils (as pointed out in the Geotechnical Site Investigation). They advised that measures should be put in place to ensure the sustainability of the two seep wetlands and that potable and non-potable water must be used sparingly. The EMPr addresses these issues.

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

## 2. Alternatives

### 2.1 Alternative 1 (herewith authorized)

This alternative entails the establishment of a residential development on Erf 9445, Idas Valley detailed in the application dated 25 January 2019 and consisting of the following (refer to the site plans included in Annexure 2):

Work conducted to date:

- Gabions completed between CH 350 and CH 118.3
- Between CH 118.3 and CH 108.8 the gabions are halfway and needs to be completed.
- Between CH 108.8 and CH 38 the excavation is about complete but will need to be cleaned and inspected before gabions are constructed as per design.
- South river crossing: gabion mattress protection and two (2) 1500m x 1200m rectangular portal culverts

Work to be conducted:

- Between CH 80 and CH 60 a stabilizing layer of rock fill wrapped in geotextile is to be placed before the construction of the gabions as per design.
- Silt removal within the watercourse still to be conducted. The middle section of the water course has a built up of silt that affect the flow of the river and the silt in this area must be removed to reinstate the river flow channel which is prominent upstream and downstream. Silt is to be used to naturalise and stabilise the gabions as per the request of Department of Water and Sanitation.

- Portion A of the river: Embankment re-sloping, Portion B of the river: extensive re-sloping works and vegetation clearing and Portion C of the river: limited rehabilitation requirements other than vegetation control.
- Rehabilitation of the river and wetland as per the Freshwater Resource Rehabilitation and Implementation Plan of September 2018.
- 166 subsidy housing erven (single residential)
- 3 public open space erven
- 2 local authority erven (roads and substation)
- 600m<sup>2</sup> retention pond
- North river crossing: gabion mattress protection and two (2) 1500m x 1200m rectangular portal culverts

## 2.2 Alternative 2

Alternative 2 as described in the application, involves the following:

- South river crossing: 1.2m x 0.9m box culvert.
- A gabion mattress protection is also proposed to the south of the vehicle bridge at Starking Road.
- Silt removal within the watercourse. The middle section of the water course has a built up of silt that affect the flow of the river and the silt in this area must be removed to reinstate the river flow channel which is prominent upstream and downstream.
- 217 residential units (subsidy housing) on 2.29ha
- 2 erven will be Public Open Space on 1.76ha
- Roads on 1.11ha
- 600m<sup>2</sup> retention pond

This is not the preferred option as the layout will significantly impact on the two seep wetlands and will not allow for effective flooding protection.

## 2.3 The "no-go" alternative

This alternative would mean the removal of the gabions and the rehabilitation of the area, resulting in the area to the north west of the site being prone to flooding. Furthermore, there would be a loss of 166 subsidy housing opportunities. The "no-go" option is therefore not deemed feasible.



### 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. Activity Need and Desirability

Stellenbosch Municipality’s Integrated Development Plan (“IDP”) identifies the need for housing. In 2012, this need in the municipality was estimated at over 20 000 units, comprising of:

- 6 000 informal dwellings,
- 9 000 backyard and overcrowded households, and
- rural households in need of accommodation.

Through the IDP and Spatial Development Framework process, the municipality earmarked the property for residential development. Following a flood-line study and storm water management plan, it was determined that the re-establishment of the river banks by way of gabions would be required to prevent flooding in the proposed residential establishment.

#### 3.2. Regional/ Planning Context

The rezoning from Agriculture to Sub-divisional Area for the 166 Single Residential Zone properties, 3 Public Open Space Zone properties and 1 Local Authority Zone property was approved in terms of Section 60 of the *Stellenbosch Municipal Land Use Planning By-Law, 2015*. The gabions are located on the boundary of the single residential erven, next to the Public Open Space erf.

#### 3.3. Services/ Bulk Infrastructure

Bulk services associated with a residential development, including infrastructure for water and sanitation services.

#### 3.4. Biodiversity Impacts

The main impact associated with the proposed development activity is the medium negative biodiversity impacts associated with the infilling of watercourses (the river and two seep wetlands) within an ecological support area. The property lies in an area that used to support Boland Granite Fynbos (classified as Vulnerable), with some indigenous riparian vegetation found in the river and indigenous wetland vegetation found within the wetland areas.

### *Botanical*

The property lies in the general area that used to support Boland Granite Fynbos. This vegetation type is listed as Vulnerable in terms of *National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004)*. The southern section of the site comprises mainly grasses. There is however a heavy presence of alien invasive vegetation on the site, including Port Jackson, Kikuyu Grass, Patterson's Curse, etc. The excavation and physical gabion structure resulted in the removal of alien species and some indigenous vegetation in the river. The assessment notes that the removal of vegetation has not affected the functioning of the Ecological Support Area ("ESA") as the majority of vegetation removed was alien. Further vegetation will be removed if the proposed development is approved. This impact has a significance rating of low negative.

### *Freshwater*

Two rivers are located on site. Both rivers are tributaries of the Krom River. The development infrastructure, although within 100m of the river, will be developed outside the flood line. It will therefore not affect the flow or ecological functioning of the river. The non-perennial river has been impacted on but its natural flow or meandering has not been modified. The gabions have been placed to re-establish the bank of the river required due to the stream disappearing in the middle sections of the site due to sedimentation. Therefore, flow modification is limited to absent. In some respects, the construction of the gabion wall and proposed excavation (removal of silt) in the river will after some time allow for a better functioning aquatic system.

The removal of silt during the operational phase (excavation as part of MMP within the watercourse) will result in the removal of aquatic vegetation and disturbance of the ESA habitat. After construction there will be a defined river channel flow, improved stormwater management and an improvement to the damp foundation conditions inside the houses on the eastern section of the watercourse.

The assessment concluded medium negative before mitigation and low negative impact.

Two Seep Wetlands are located on the site. The wetlands on site have not been affected to date as no clearing or construction has taken place inside the wetlands. The housing development will result in the loss of 0.88 hectares of seep wetland. The assessment notes that the hydrological functioning of the seep wetlands has been largely modified due to surrounding agricultural and anthropogenic activities, including various drains, likely excavated when the land was actively cultivated.

The geomorphology of the seep wetlands is considered moderately modified due to historical excavation works and deposition of materials observed. This has resulted in loss of organic matter and impacted on the dispersal of water. Furthermore, the vegetation composition of both seep wetlands has been critically modified through the removal of indigenous wetland species during the historical agricultural activities and through the proliferation of alien and invasive plant species. No endangered species were identified, but the system may provide suitable breeding habitat for various common avifaunal and amphibian species.

### 3.5. Visual / Sense of Place

The visual character of the open space has been slightly impacted on and will affect approximately 17 households which face directly onto the site. Seventeen households face directly onto the development area and will have a visual impact on these home owners.

Houses in Bartlett and Cornelly road area are of similar typologies as the houses proposed. The activity is thus in keeping with the surrounding environment. The Stellenbosch Municipality earmarked the property for residential development in its Integrated Development Framework and Spatial Development Framework. Erf 9445 Idas Valley has been rezoned from Agriculture to Sub-Divisional Area for the 166 Single Residential Zone properties, including 3 Public Open Space Zone properties and 1 Local Authority Zone. The gabions are located on the boundary of the single residential erven, next to the Public Open Space erf.

### 3.6. Traffic Impacts

It is expected that the new residential development will lead an increase in traffic congestion. Recommendations for traffic upgrades have been proposed

in the Transport Impact Assessment dated 8 January 2019 (the implementation of which is a condition of this environmental authorisation).

### 3.7. Noise Impacts

There is a risk to noise occurring from the residential development, causing a nuisance to adjacent residential areas. It is however not anticipated that the noise to be produced will be significant as it is not expected to be in excess of current residential noise produced by existing residential areas.

### 3.8. Socio-economic Impacts

The residential development will have a positive socio-economic impact in that it will be providing housing to those in need. The project is an initiative of Stellenbosch Municipality to provide affordable, high quality housing units to first time home owners.

## 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.

-----END-----



## **Nabeelah Khan**

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**From:** Microsoft Outlook  
**To:** nicolaas@enviro-eap.co.za  
**Sent:** Friday, January 31, 2020 11:23 AM  
**Subject:** Relayed: 14/2/4/2/2/B4/18/0012/18 - Acknowledgement of payment Erf 9445 Idas Valley Stellenbosch

**Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:**

[nicolaas@enviro-eap.co.za](mailto:nicolaas@enviro-eap.co.za) ([nicolaas@enviro-eap.co.za](mailto:nicolaas@enviro-eap.co.za))

**Subject:** 14/2/4/2/2/B4/18/0012/18 - Acknowledgement of payment Erf 9445 Idas Valley Stellenbosch





## Nabeelah Khan

---

**From:** Microsoft Outlook  
**To:** nicolaas@ecoimpact.co.za  
**Sent:** Friday, January 31, 2020 11:28 AM  
**Subject:** Undeliverable: 14/2/4/2/2/B4/18/0012/18 - Environmental Authorisation Erf 9445 Idas Valley Stellenbosch



Your message to [nicolaas@ecoimpact.co.za](mailto:nicolaas@ecoimpact.co.za) couldn't be delivered.

[nicolaas](mailto:nicolaas@ecoimpact.co.za) wasn't found at [ecoimpact.co.za](mailto:nicolaas@ecoimpact.co.za).

**Nabeelah.Khan**      **Office 365**      **nicolaas**  
**Action Required**      Recipient  
Unknown To address

### How to Fix It

The address might be misspelled or might not exist. Try one or more of the following:

- **Retype the recipient's address, then resend the message** - If you're using Outlook, open this non-delivery report message and click **Send Again** from the menu or ribbon. In Outlook on the web, select this message, and then click the "**To send this message again, click here.**" link located just above the message preview window. In the To or Cc line, delete and then retype the entire recipient's address (ignore any address suggestions). After typing the complete address, click **Send** to resend the message. If you're using an email program other than Outlook or Outlook on the web,

follow its standard way for resending a message. Just be sure to delete and retype the recipient's entire address before resending it.

- **Remove the recipient from the recipient Auto-Complete List, then resend the message** - If you're using Outlook or Outlook on the web, follow the steps in the "Remove the recipient from the recipient Auto-Complete List" section of [this article](#). Then resend the message. Be sure to delete and retype the recipient's entire address before clicking **Send**.
- **Contact the recipient by some other means**, (by phone, for example) to confirm you're using the right address. Ask them if they've set up an email forwarding rule that could be forwarding your message to an incorrect address.

If the problem continues, ask the recipient to tell their email admin about the problem, and give them the error (and the name of the server that reported it) shown below. It's likely that only the recipient's email admin can fix this problem.

*Was this helpful? [Send feedback to Microsoft](#).*

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## More Info for Email Admins

*Status code: 550 5.4.1*

This error occurred because a message was sent to an email address hosted by Office 365, but the address doesn't exist in the receiving organization's Office 365 directory. Directory Based Edge Blocking (DBEB) is enabled for ecoimpact.co.za, and DBEB rejects messages addressed to recipients who don't exist in the receiving organization's Office 365 directory. This error is reported by the recipient domain's email server, but most often it can be fixed by the person who sent the message. If the steps in the **How to Fix** section above don't fix the problem, and you're the email admin for the recipient, try one or more of the following:

**Nabeelah Khan**

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**From:** Microsoft Outlook  
**To:** Nithzaam Albertyn  
**Sent:** Friday, January 31, 2020 11:29 AM  
**Subject:** Delivered: 14/2/4/2/2/B4/18/0012/18 - Environmental Authorisation Erf 9445 Idas Valley Stellenbosch

**Your message has been delivered to the following recipients:**

[Nithzaam Albertyn \(Nithzaam.Albertyn@westerncape.gov.za\)](mailto:Nithzaam.Albertyn(Nithzaam.Albertyn@westerncape.gov.za))

Subject: 14/2/4/2/2/B4/18/0012/18 - Environmental Authorisation Erf 9445 Idas Valley Stellenbosch

