



REFERENCE: 16/3/3/5/B4/45/1001/23
NEAS REFERENCE: WCP/EIA/AMEND/0000706/2023
DATE OF ISSUE: 16 February 2023

The Trustees
Bergplaas Trust
P. O. Box 662
STELLENBOSCH
7599

Attention: M. Kempen

Cell: 082 535 9330
Email: inus@adept.co.za

Dear Sir

APPLICATION FOR THE PART 1 AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 31 JULY 2018 (REFERENCE NO.: 16/3/3/1/B4/18/1007/18) IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED DEVELOPMENT OF THE BERGPLAAS RESIDENTIAL ESTATE ON THE REMAINDER OF FARM NO. 168, PORTION 9 OF FARM NO. 119, THE REMAINDER OF PORTION 1 OF FARM NO. 167 AND ERF NO. 16739, STELLENBOSCH

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** an amendment of the Environmental Authorisation issued on issued on 31 July 2018 (Reference No.: 16/3/3/1/B4/18/1007/18), attached herewith, together with the reasons for the decision.
2. Your attention is drawn to Chapter 2 of the Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

Zaahir
Toefy

Digitally signed by
Zaahir Toefy
Date: 2023.02.16
09:05:24 +02'00'

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) K. Neethling (Legacy Environmental Management Consulting (Pty) Ltd.) Email: karin@legacyemc.co.za
(2) S. van der Merwe (Stellenbosch Municipality) Email: Schalk.VanderMerwe@stellenbosch.gov.za



REFERENCE: 16/3/3/5/B4/45/1001/23
NEAS REFERENCE: WCP/EIA/AMEND/0000706/2023
DATE OF ISSUE: 16 February 2023

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR THE PART 1 AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 31 JULY 2018 (REFERENCE NO.: 16/3/3/1/B4/18/1007/18) IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED DEVELOPMENT OF THE BERGPLAAS RESIDENTIAL ESTATE ON THE REMAINDER OF FARM NO. 168, PORTION 9 OF FARM NO. 119, THE REMAINDER OF PORTION 1 OF FARM NO. 167 AND ERF NO. 16739, STELLENBOSCH

With reference to your application for the abovementioned, find below the outcome with respect to this application.

A. DECISION

By virtue of the powers conferred on me by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), I herewith **grant** the amendment of the Environmental Authorisation ("EA") issued on 31 July 2018 (Reference No.: 16/3/3/1/B4/18/1007/18) in terms of Part 1 of the EIA Regulations, 2014 (as amended).

The EA is amended as set out below:

1. Section E: Conditions of authorisation

Condition 2:

The holder must commence with the listed activities on site within a period of five (5) years from the date of issue of this Environmental Authorisation.

is amended to read:

The holder must commence with the listed activities within the stipulated validity period for which this Environmental Authorisation is granted, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.

This Environmental Authorisation is granted for-

- (a) A period of ten (10) years, from 31 July 2018 (date of the original EA) until 31 July 2028, during which period the holder must commence with the authorised listed activities.

Condition 12

The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the EMPr, MMP and the conditions contained herein.

is amended to read:

The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the EMPr, MMP and the conditions contained herein.

The ECO must conduct monthly monitoring inspections during the construction phase. Monthly Environmental Compliance Reports must be compiled and must be submitted to the Competent Authority for the duration of the construction phase. The final Environmental Compliance Report must be submitted to the Competent Authority within one month of construction having been completed.

Condition 15:

In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), 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. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The ECO must conduct fortnightly site audits. Bi-monthly ECO Audit Reports must be submitted to the Competent Authority for the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority three months after construction is completed.

The holder must, within 7 days of the submission of each of the above-mentioned reports 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).

is amended to read:

In terms of Regulation 34 of the NEMA EIA Regulations, 2014, the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and the MMP. The Environmental Audit Report must be prepared by an independent person that is not the ECO referred to in Condition 10 or the EAP and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

Environmental Audit Reports must be submitted to the Competent Authority during the construction phase. The first Environmental Audit Report must be submitted three months after the commencement of construction activities and every three (3) months thereafter. A final Environmental Audit Report must be submitted within three months of the construction phase having been completed.

The holder must, within 7 days of the submission of an environmental audit report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report immediately available to anyone on request and on a publicly accessible website (where the holder has such a website).

B. REASONS FOR THE DECISION

In reaching its decision, the Department took, inter alia, the following into consideration:

1. The amendment applied for is in terms of Part 1 of the NEMA EIA Regulations, 2014 (as amended) and will not change the scope of the Environmental Authorisation issued on 31 July 2018.
2. The amendment does not trigger any new listed activities in terms of the NEMA EIA Regulations, 2014 (as amended) (Listing Notices 1, 2 and 3 in Government Gazette No. 40772 of 7 April 2017) promulgated in terms of the NEMA.
3. The amendment will not result in an increased level or nature of the impacts that were considered and assessed during the initial application for Environmental Authorisation.
4. The extension of the validity period of the original EA is required as the applicant could not commence with the proposed development due unfavourable market conditions, which has been compounded by the restrictions brought about by the Covid-19 pandemic.
5. The environment and the rights and interests of interested and affected parties ("I&APs") will not be adversely affected by the decision to amend the Environmental Authorisation.

C. CONDITIONS

1. All other conditions contained in the Environmental Authorisation issued on 31 July 2018 (Attached as Annexure A), remain unchanged and in force.

D. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs –
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the 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. The appeal and the responding statement must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
CAPE TOWN
8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021 483 2659)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 2659, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

E. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this EA 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.

Your interest in the future of our environment is appreciated.

Yours faithfully

Zaahir
Toefy

Digitally signed by
Zaahir Toefy
Date: 2023.02.16
09:06:08 +02'00'

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 16 FEBRUARY 2023

CC: (1) K. Neethling (Legacy Environmental Management Consulting (Pty) Ltd.) Email: karin@legacyemc.co.za
(2) S. van der Merwe (Stellenbosch Municipality) Email: Schalk.VanderMerwe@stellenbosch.gov.za

ANNEXURE A
ENVIRONMENTAL AUTHORISATION ISSUED ON 31 JULY 2018



EIA REFERENCE: 16/3/3/1/B4/18/1007/18
NEAS REFERENCE: WCP/EIA/0000382/2018
ENQUIRIES: D'mitri Matthews
DATE OF ISSUE: 2018 -07- 3 1

The Trustees
Bergplaas Trust
P. O. Box 662
STELLENBOSCH
7599

Attention: Mr M. Kempen

Tel.: (021) 886 4084
Fax: (021) 887 8561

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): DEVELOPMENT OF THE BERGPLAAS RESIDENTIAL ESTATE ON THE REMAINDER OF FARM NO. 168, PORTION 9 OF FARM NO. 119, THE REMAINDER OF PORTION 1 OF FARM NO. 167 AND ERF NO. 16739, STELLENBOSCH

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation and to **adopt** the Maintenance Management Plan, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014, (as amended), you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered Interested and Affected Parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Mr A. Withers (Withers Environmental Consultants)
(2) Mr S. van der Merwe (Stellenbosch Municipality)
(3) Mr R. Smart (CapeNature)

Fax: (021) 883 2952
Fax: (021) 886 6899
Fax: (086) 529 4992



EIA REFERENCE: 16/3/3/1/B4/18/1007/18
NEAS REFERENCE: WCP/EIA/0000382/2018
ENQUIRIES: D'mitri Matthews
DATE OF ISSUE: 2018 -07- 3 1

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): DEVELOPMENT OF THE BERGPLAAS RESIDENTIAL ESTATE ON THE REMAINDER OF FARM NO. 168, PORTION 9 OF FARM NO. 119, THE REMAINDER OF PORTION 1 OF FARM NO. 167 AND ERF NO. 16739, STELLENBOSCH

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activity specified in Section B below with respect to Layout Alternative 1, described in the Basic Assessment Report ("BAR"), dated April 2018.

In terms of the NEMA, viz, the EIA Regulations, 2014 (as amended) Listing Notices 1, 2 and 3 in Government Gazette No. 40772 of 7 April 2017 the Competent Authority hereby adopts the Maintenance Management Plan ("MMP") for the north-eastern drainage line that traverses the site, included in the BAR dated April 2018.

The applicant for this Environmental Authorisation is required to comply with the conditions set out in Section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Bergplaas Trust
% Mr M. Kempen
P. O. Box 662

STELLENBOSCH

2nd Floor, 1 Dorp Street, Cape Town, 8001
Tel: +27 21 483 8350 Fax: +27 21 483 3633
E-mail: D'mitri.Matthews@westerncape.gov.za

Private Bag X9086, Cape Town, 8000
www.westerncape.gov.za/eadp

7599

Tel.: (021) 886 4084

Fax: (021) 887 8561

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

B. LIST OF ACTIVITIES AUTHORISED

| Listed activities | Activity/Project Description |
|--|---|
| <p>EIA Regulations Listing Notice 1 of 2014 Activity Number: 12 The development of—</p> <p>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</p> <p>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</p> <p>where such development occurs—</p> <p>(a) within a watercourse;</p> <p>(b) in front of a development setback; or</p> <p>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</p> <p>excluding—</p> <p>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</p> <p>(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;</p> <p>(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;</p> <p>(dd) where such development occurs within an urban area;</p> <p>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</p> <p>(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.</p> | <p>Portions of the residential development that are located within 32m of the watercourse will exceed the 100m² threshold.</p> |
| <p>Activity Number 19: The infilling or depositing of any material of more</p> | <p>More than 10m³ of material will be removed or moved during the rehabilitation of the north-eastern</p> |

| | |
|--|---|
| <p>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;</p> <p>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <ul style="list-style-type: none"> (a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies; (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or <p>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>drainage line.</p> |
| <p>Activity Number 27:</p> <p>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—</p> <ul style="list-style-type: none"> (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan. | <p>More than 1ha of indigenous vegetation will be cleared during the implementation of the proposed residential development.</p> |
| <p>Activity Number 28:</p> <p>Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</p> <ul style="list-style-type: none"> (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare; <p>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p> | <p>The proposed residential development is located outside of the urban area, it will have a footprint larger than 1ha and will be located on land previously used for agriculture.</p> |
| <p>EIA Regulations Listing Notice 3: Activity Number 4: The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> | <p>Internal roads that form part of the proposed residential development will be wider than 4m within an area containing indigenous vegetation.</p> |

| | |
|--|--|
| <p>i. Western Cape</p> <p>i. Areas zoned for use as public open space or equivalent zoning;</p> <p>ii. Areas outside urban areas;</p> <p>(aa) Areas containing indigenous vegetation;</p> <p>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use; or</p> <p>(bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p> | |
|--|--|

The abovementioned list is hereinafter referred to as "**the listed activities**".

The holder is herein authorised to undertake the following alternative:

The proposal entails the development of 166 erven with a total area of approximately 16,6ha and will consist of:

- 152 group housing erven.
- Seven Open Space erven.
- Three authority zone erven
- One agricultural erf.
- Roads and service infrastructure.
- Rehabilitation of the Bergplaas Stream.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Portion 1 of Farm No. 167, Remainder of Farm No. 168, Portion 9 of Farm No. 119 and Erf No. 16739, Stellenbosch, at the following co-ordinates:

| Latitude (S) | Longitude (E) |
|----------------|----------------|
| 33° 55' 22.59" | 18° 54' 06.16" |

The SG digit codes are: C06700000000016800000
C06700000000016700001
C06700000000011900009
C06700000001673900000

Refer to Annexure 1: Locality Plan

The above is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Withers Environmental Consultants (Pty) Ltd
% Mr. A. Withers
P. O. Box 6118

Uniedal
STELLENBOSCH
7612

Tel.: (021) 887 4000

Fax: (021) 883 2953

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with, and restricted to, Layout Alternative 1, described in the BAR dated April 2018 at the site as described in Section C above.
2. The holder must commence with the listed activities on site within a period of **five (5) years** from the date of issue of this Environmental Authorisation.
3. The development must be concluded within **10 years** from the date of commencement of the listed activities.
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 B 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.

Written notice to the Competent Authority

6. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities. The notice must:
 - 6.1 make clear reference to the site details and EIA Reference number given above; and
 - 6.2 include proof of compliance with the following conditions described herein:

Conditions: 7 and 11

Notification and administration of 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 (as amended) detailed in Section G below;
- 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
- 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 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 2014 National Appeals Regulations (as amended).
8. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notifies the registered I&APs of this decision. 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 i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Management of activity

9. The draft Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
10. The MMP adopted as part of this Environmental Authorisation must be implemented.
11. The EMPr and MMP must be included in all contract documentation for all phases of implementation.

Monitoring

12. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activities to ensure compliance with the EMPr, MMP and the conditions contained herein.
13. A copy of the Environmental Authorisation, EMPr, MMP, audit reports and compliance monitoring reports must be kept at the site of the authorised activity, and must be made available to anyone on request, including on a publicly accessible website.
14. Access to the site referred to in Section C 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.

Auditing

15. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), 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. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The ECO must conduct fortnightly site audits. Bi-monthly ECO Audit Reports must be submitted to the Competent Authority for the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority three months after construction is completed.

The holder must, within 7 days of the submission of each of the above-mentioned reports 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).

Specific Conditions

16. 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.

17. A rehabilitation plan for the degraded areas that are to be conserved within the private open space systems of the proposed development must be submitted to the Department prior to the commencement of construction activities.
18. The development may only connect to the bulk sewage reticulation upon completion of the upgrade of the Plankenbrug outfall sewer by Stellenbosch Municipality, which is anticipated to be completed by September 2019.

F. 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 of this Environmental Authorisation, EMPr or MMP may render the holder liable to criminal prosecution.

3. If the holder does not commence with the listed activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activity, 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 in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
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 (as amended) 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 GN No. 326 of 7 April 2017 or any relevant legislation that may be applicable at the time.

Please note that to ensure the EMPr sufficiently provides for avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity, the Competent Authority may request amendments to the EMPr, as deemed necessary.

G. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date on which notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date on which the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organs of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.

3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organs 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. The appeal and the responding statement must be submitted to the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and
Development Planning
Private Bag X9186
CAPE TOWN
8000

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, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to Jaap.DeVilliers@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

The Western Cape Government, the Local Authority, 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.

Your interest in the future of our environment is appreciated.

Yours faithfully



MR. HENRI FORTUIN

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

DATE OF DECISION: 31-7-18

CC: (1) Mr A. Withers (Withers Environmental Consultants)
(2) Mr S. van der Merwe (Stellenbosch Municipality)
(3) Mr R. Smart (CapeNature)

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ANNEXURE 1: LOCALITY MAP



Figure 1: Locality map depicting the site for the Bergplaas residential development.

ANNEXURE 2: SITE PLAN

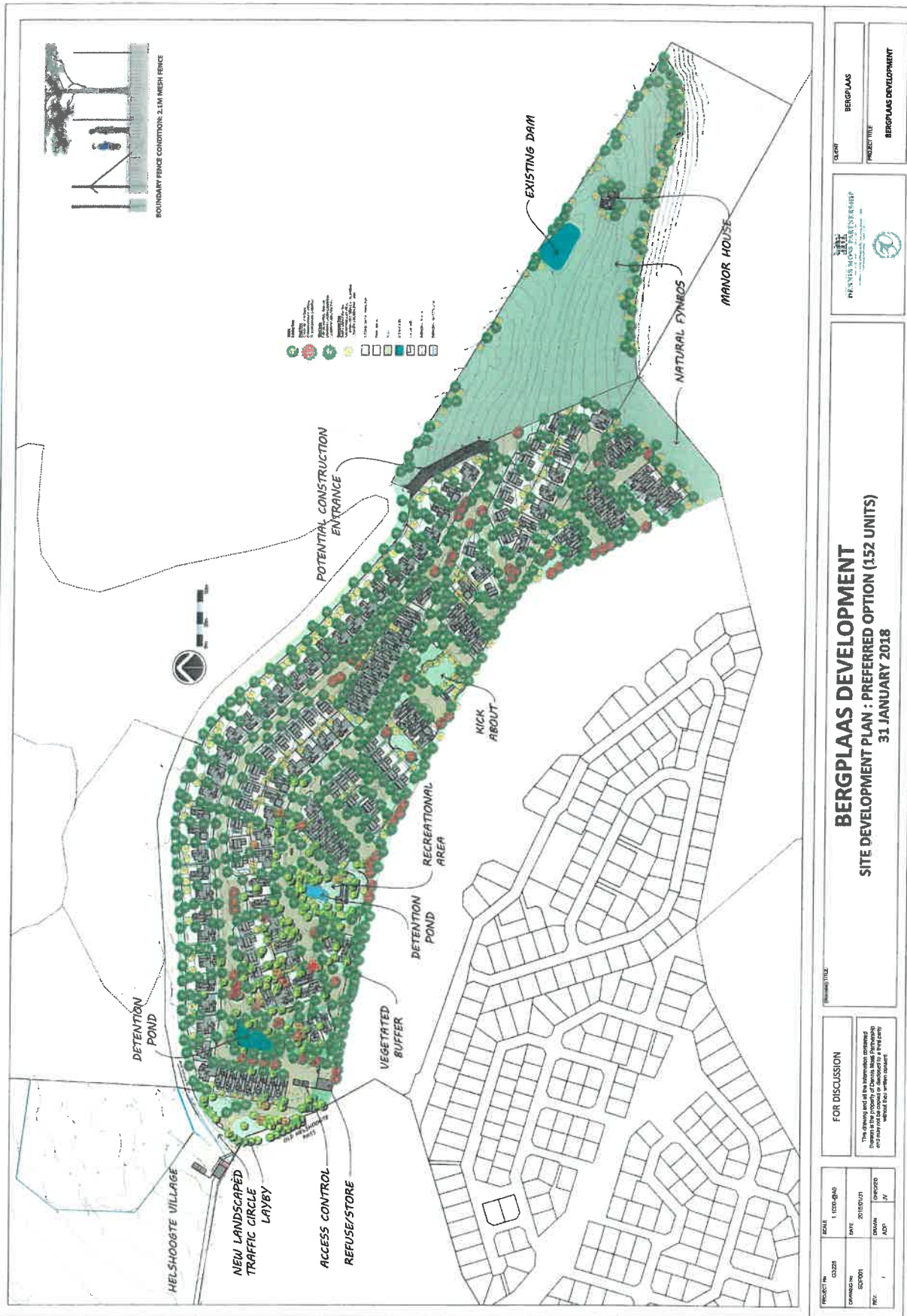


Figure 2: Site Layout Plan for the Bergplaas residential development.

ANNEXURE 2: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, amongst others, the following:

- a) The information contained in the Application Form dated 7 February 2018, the final BAR dated April 2018 and the EMPr and MMP submitted together with the final BAR;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of NEMA;
- d) The comments received from I&APs and responses to these, included in the BAR dated April 2018; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

No site visits were conducted. The Competent Authority had sufficient information before it to make an informed decision without conducting a site visit.

All information presented to the Competent Authority was taken into account during the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- fixing notice boards at the site where the listed activities is to be undertaken on 9 November 2017;
- the placing of a newspaper advertisement in the "Eikestad Nuus" on 9 November 2017;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities is to be undertaken, the municipality and ward councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities, on 14 November 2017; and
- making the pre-application and in-process BAR available to I&APs for public review from 14 November 2017 and 9 February 2018, respectively.

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

The Competent Authority notes the Environmental Assessment Practitioner's responses to the issues raised during the public participation process, and has included appropriate conditions in this Environmental Authorisation, in the EMPr.

2. Alternatives

Layout Alternative 1 (Herewith Authorised):

The proposal entails the development of 166 erven with a total area of approximately 16,6ha and will consist of:

- 152 group housing erven.

- Seven Open Space erven.
- Three authority zone erven
- One agricultural erf.
- Roads and service infrastructure.
- Rehabilitation of the Bergplaas Stream.

This alternative is preferred since it takes the recommendations of the specialists into account to create more space between the development and drainage line to reduce impacts on the drainage line.

Layout Alternative 2:

The proposal is similar to Layout Alternative 1, however, an additional 41 residential units are being proposed, with 15 being located on the eastern portion of the site.

This alternative is not preferred because it will reduce the ecological corridor within the eastern portion of the site and reduce the buffer between the development and the drainage line.

"No-Go" Alternative

The "no-go" option was considered and is not preferred because the opportunity to develop underutilised land that is earmarked for urban development will not materialise. The opportunity to provide middle income residential opportunities will be lost and both temporary and permanent employment opportunities will not be created.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

According to the Stellenbosch Municipal Spatial Development Framework (November 2012) ("SDF"), majority of the site is within the urban edge and a small portion of the site is located outside of the urban edge. An application to amend the urban edge to include the aforementioned portion within the urban edge is in process. The site has been earmarked for urban development and seeks to use underutilised land within the urban edge for residential purposes to provide middle income residential opportunities within the area. Furthermore, the proposed development will create employment opportunities in both the construction and operational phases.

3.2 Biodiversity Impacts

According to the Botanical Impact Assessment dated September 2017, compiled by Gregory Nicholson of Bergwind Botanical Surveys & Tours cc, the site originally comprised Cape Winelands Shale Fynbos, an ecosystem classified as vulnerable in terms of Section 52 of the National Environmental Management Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEMBA"). However, the vegetation condition varies from moderate to completely transformed, due to past agricultural, construction and commercial activities. The site development plan excludes the greater part of the best condition vegetation on the site. Furthermore, through the implementation of the recommendations of the specialist, Condition 17 and the EMPr (accepted in Condition 9), the impacts on sensitive indigenous vegetation is rated as being of low significance.

According to the Freshwater Impact Assessment dated October 2017, compiled by Antonia Belcher of Blue Science, the Bergplaas Stream in-stream habitat has been extensively modified and is considered to have a low/marginal ecological importance and sensitivity. The development does however include a buffer area around the stream which will further limit the impact of the

proposed development. Through the implementation of the recommendations of the specialist, the adoption of the MMP (Condition 10), which includes the rehabilitation of the stream and the EMPr (accepted in Condition 9), the impacts on the Bergplaas Stream is rated as being of low significance.

A MMP has been compiled for the rehabilitation of the Bergplaas Stream. The future maintenance and rehabilitation of the stream authorised in this Environmental Authorisation forms part of this MMP. It must be noted that the accepted maintenance activities only relate to the activities described in the MMP. Should any new activities and associated infrastructure, not included in the MMP, require maintenance and if any of the applicable listed activities are triggered, an Environmental Authorisation must be obtained prior to the undertaking of such activities. It remains the responsibility of the proponent to determine if any other listed activities are triggered and to ensure that the necessary Environmental Authorisation is obtained.

The fact that the MMP is adopted by the Competent Authority does not absolve the applicant from its general "duty of care" set out in Section 28(1) of the NEMA, which states that *"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."* (Note: When interpreting their "duty of care" responsibility, cognisance must be taken of the principles of sustainability contained in Section 2 of NEMA)

3.3 Visual Impacts

According to the Visual Impact Statement dated February 2018, compiled by Megan Anderson of Megan Anderson Landscape Architects, the development is appropriate to the site and context, which comprises the transition between the urban and rural landscape. Sensitive visual receptors to the south and east adjacent to the R310 have been identified. However, several measures to mitigate the potential visual impacts resulting from the proposed development have been proposed in the aforementioned Visual Impact Statement and are also included in the EMPr (accepted in Condition 9) which include screen planting, landscaped buffer areas and the choice of colours, which will be used to further reduce the moderate visual intrusion.

3.4 Traffic Impacts

According to the Transport Impact Assessment dated 20 December 2017, compiled by ICE (Pty) Ltd, the intersection at Helshoogte Road/Cluver Street/Sonnebloem Road experienced service levels of D (medium flow) and above during the AM peak hour and service levels of C (near free-flow) during the PM peak hour. At the intersection of Old Helshoogte Road/Rustenburg Road/Sonnebloem Road, during the peak hours, acceptable service levels of A (free-flow) were experienced on all movements, except the Sonnebloem Road approach, which experienced service level E (high capacity flow). The intersection at Helshoogte Road/Lelie Street will shortly be upgraded to a signalised intersection and will contribute to the redistribution of traffic within the road network of the area and alleviate some pressure experienced at the congested intersection. Furthermore, through the implementation of the recommendations of the specialist, and the EMPr (accepted in Condition 9), the increase in potential traffic impacts can be mitigated.

3.5 Services

In a comment dated 26 March 2018 from Stellenbosch Municipality, the following was highlighted:

Water Reticulation:

A link service will have to be installed by the Developer to connect the proposed development to the existing water reticulation system in the area.

Bulk Water Supply:

The existing Arbeidslus reservoir has sufficient spare capacity to accommodate the proposed development.

Sewer Reticulation:

The proposed development will connect to the existing sewer reticulation system in the direct vicinity. Currently the bulk sewer reticulation system does not have spare capacity, however, projects are underway that will create spare capacity by September 2019.

Waste Water Treatment:

The Stellenbosch Waste Water Treatment Works ("WWTW") was recently upgraded and has sufficient spare capacity to accommodate the proposed development.

Solid Waste:

Stellenbosch Municipality will handle all waste as per normal waste removal policy and that limited but sufficient capacity is available at the waste removal site.

The development will result in both negative and positive impacts.

Negative Impacts:

- The proposed development will have a visual impact.
- Impacts of low significance are anticipated for indigenous vegetation.
- There will be an increase in traffic.
- There will be an increase in noise and dust impacts during the construction phase, however, mitigation measures for these impacts are addressed in the EMPr.

Positive impacts:

- The proposal will utilise land earmarked for urban development.
- The Bergplaas Stream will be rehabilitated.
- The landscaping and rehabilitation of the stepped areas within the development will reduce the visual impact and contribute to the aesthetics and biodiversity on site.
- Additional medium income residential opportunities will be made available within the area.
- Temporary employment opportunities will be created during the construction phase.

4. National Environmental Management Act Principles

The NEMA 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.

5. Conclusion

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 proposed 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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