



REFERENCE: 16/3/3/1/B4/45/1076/22
NEAS REFERENCE: WCP/EIA/0001179/2022
ENQUIRIES: Bernadette Osborne
DATE OF ISSUE: **14 April 2023**

Ms Lehlohonolo Moreki
Stellenbosch Municipality
Ecclesia Building, 2nd Floor
71 Plein Street
STELLENBOSCH
7600

Tel: (021) 808 8203
E-mail: lehlohonolo.moreki@stellenbosch.gov.za

Dear Madam

APPLICATION FOR ENVIRONMENTAL AUTHORISATION AND THE ADOPTION OF A MAINTENANCE MANAGEMENT PLAN IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014: THE STORMWATER AND EMBANKMENT MAINTENANCE AND EROSION PROTECTION MEASURES ALONG BRANDWACHT STREAM, STELLENBOSCH.

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation ("EA") and **adopt** the Maintenance Management Plan, together with the reasons for the decision.
2. In terms of Regulation 4 of the EIA Regulations, 2014, 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 Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached EA.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

Cc: (1) Mr Ryan Jonas (JG Afrika (Pty) Ltd)
(2) Mr Schalk van der Merwe (Stellenbosch Municipality)

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ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION AND THE ADOPTION OF A MAINTENANCE MANAGEMENT PLAN IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: THE STORMWATER AND EMBANKMENT MAINTENANCE AND EROSION PROTECTION MEASURES ALONG BRANDWACHT STREAM, 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 activities specified in section B below with respect to the Preferred Alternative 1 described in the Basic Assessment Report ("BAR"), dated December 2022.

In terms of the NEMA, and the EIA Regulations, 2014 (as amended), the Competent Authority hereby **adopts the Maintenance Management Plan** for the Brandwacht River where it flows through the urban area of Stellenbosch.

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

Stellenbosch Municipality
c/o Ms Lehlohonolo Moreki
Ecclesia Building, 2nd Floor
71 Plein Street
STELLENBOSCH
7600

Tel: (021) 808 8203

E-mail: lehlohonolo.moreki@stellenbosch.gov.za

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

B. ACTIVITY AUTHORISED

Listed Activity	Project Description
<p>Listing Notice 1 – Activity Number: 19 <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 or more than 10 cubic metres from a watercourse;</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving-</i></p> <p>(a) <i>Will occur behind a development setback;</i></p> <p>(b) <i>Is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></p> <p>(c) <i>Falls within the ambit of activity 21 in this Notice, in which case that activity applies.</i></p> <p>(d) <i>Occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i></p> <p>(e) <i>Where such development is related to the development of a port or harbor, in which case activity 26 in Listing Notice 2 of 2014 applies.</i></p>	<p>The construction of erosion protection measures, as well as potential future maintenance activities, would involve the excavations and removing or moving of more than 10 cubic metres of soil/sand from the Brandwacht River.</p>

The abovementioned activities are hereinafter referred to as “**the listed activity**”.

The holder is herein authorised to undertake the following alternative that includes the listed activity:

The proposed development will entail the repair and extension of damaged infrastructure and sections of the eroded embankment along an approximate 200m stretch on the northern embankment of the Brandwacht River on Erven 5060, 16168 and 5105, Stellenbosch. The proposed development will include the following:

- Raising the existing gabion retaining structure, to the embankment's original natural ground elevation, as well as extend the gabion retaining structure up and downstream of the river, with a total length of approximately 130 m;
- The development of a drainage channel along the top of the embankment to prevent future surface erosion;
- The development of a flexible lining system within the channel with minor gabion boxes on the south embankment to provide scour protection;
- The replacement of the existing wooden retaining structures along the river in a "like for like" manner in future;
- The replacement of the existing half round corrugated metal channel with a 2.4m wide shallow hyson cell lined channel at Lourensz Road and Wege Road;
- The replacement of the existing pipe, which has been lost due to erosion and a slope slip and incorporating it into the proposed gabion protection at Robbertsz Road; and
- The development of a grid inlet in Bergh Road to manage blockages at the inlet.

C. SITE DESCRIPTION AND LOCATION

The listed activity will be undertaken on Erven 5060, 16168 and 5105, Stellenbosch and has the following co-ordinates:

	Latitude (S)	Longitude (E)
Co-ordinates of starting point:	33° 57' 15.61" South	18° 51' 36.52" East
Co-ordinates of end point:	33° 57' 19.40" South	18° 51' 50.34" East

The maintenance activities for the Brandwacht River where it flows through the urban area of Stellenbosch has the following co-ordinates:

	Latitude (S)	Longitude (E)
Co-ordinates of starting point:	33° 57' 15.87" South	18° 51' 2.23" East
Co-ordinates of end point:	33° 57' 34.65" South	18° 52' 29.90" East

The SG digit codes are: C06700220001616800000
C0670022000051050000
C06700220000506000000

Refer to Annexure 1: Locality Map and Annexure 2: Site Plan.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

JG Africa (Pty) Ltd
Mr Ryan Jonas
14 Central Square
PINELANDS
7430

Tel: (021) 530 1800
Email: jonasr@jgafrika.com

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 the Preferred Alternative 1 described in the BAR dated September 2022 on the site as described in Section C above.
2. The holder must commence with the listed activities on the site within a period of **five years** from the date issue of this Environmental Authorisation.
3. The development must be concluded within **ten 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.

- 6.1 The notice must make clear reference to the site details and EIA Reference number given above.
- 6.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 7, 8, 12 and 18

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 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;
 - 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,
 - 7.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations.
8. The listed activities, including site preparation, may not commence within 20 (twenty) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

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 Maintenance Management Plan ("MMP") adopted as part of this Environmental Authorisation must be implemented.
11. The EMPr 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 construction activities to ensure compliance with the provisions of the EMPr and the conditions contained herein. The ECO must conduct monthly site visits and must submit ECO reports on a monthly basis to the competent authority.
13. A copy of the Environmental Authorisation, EMPr, MMP audit reports and compliance monitoring reports which must be submitted quarterly to the Competent Authority during the construction phase must be kept at the site of the authorised activities, and must be made available to anyone on request, including a publicly accessible website.
14. Access to the site referred to in Section C above 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, 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 (other than the appointed Environmental Assessment Practitioner or Environmental Control Officer) and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014.

An Environmental Audit Report must be submitted within 2 (two) months of completion of the proposed development.

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 palaeontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts 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 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.
18. The development areas must be clearly demarcated prior to the commencement of construction activities. All areas outside the demarcated areas must be regarded as "no-go" areas.

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 or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with a listed activity 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 must be submitted.

CAPE TOWN
8000

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 e-mail to 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 3721, E-mail DEADP.Appeals@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

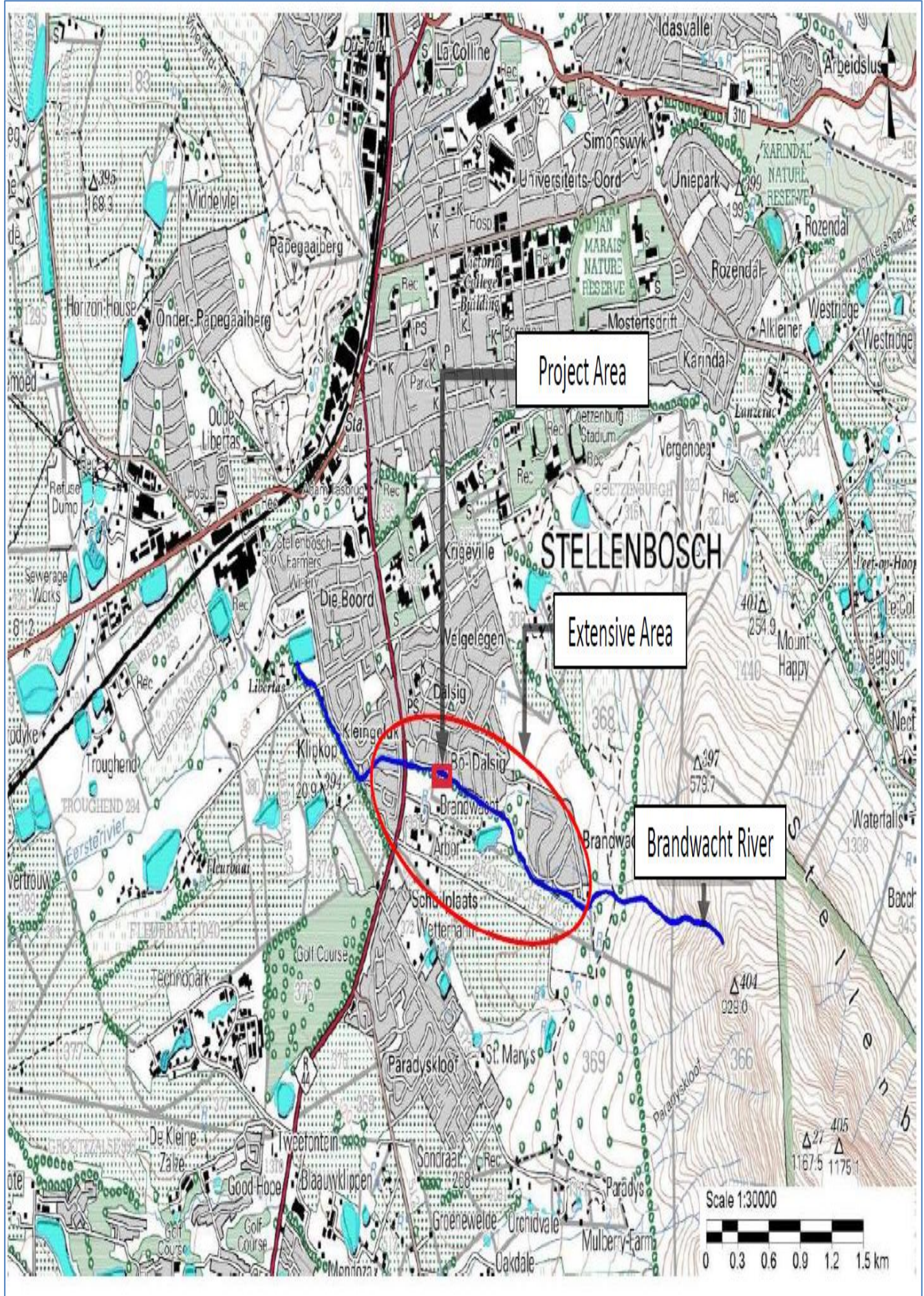
MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 14 APRIL 2023

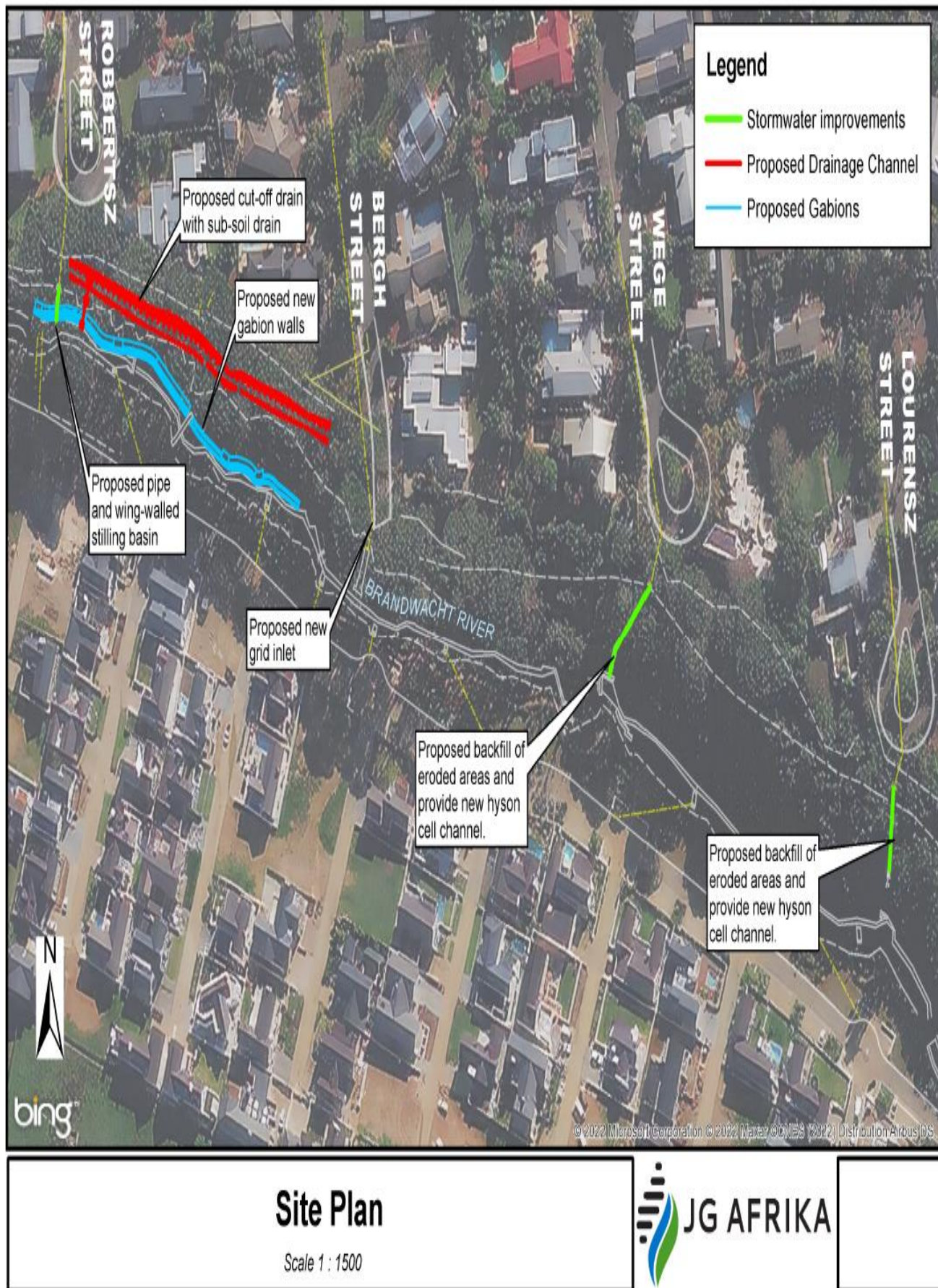
Cc: (1) Mr Ryan Jonas (JG Afrika (Pty) Ltd)
(2) Mr Schalk van der Merwe (Stellenbosch Municipality)

E-mail: jonasr@jgafrika.com
E-mail: schalk.vandermerwe@stellenbosch.gov.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, inter alia, the following:

- a) The information contained in the Application Form dated 17 October 2022, the EMPr and the MMP submitted together with the final BAR dated December 2022;
- 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 the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the BAR dated December 2022; 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 in 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;
- Site notices were placed along the Brandwacht River;
- the placing of a newspaper advertisement in the 'Eikestadnuus' on 23 June 2022;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are 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 24 June 2022;
- making the pre-application Draft BAR available for comment from 27 June 2022; and
- making the in-process Draft BAR available for comment from 14 October 2022.

The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements and the comments raised and responses thereto were included in the comments and response report.

Specific alternatives, management and mitigation measures have been considered in this Environmental Authorisation and EMPr to adequately address the concerns raised.

2. Alternatives

Initial Design Alternatives

This alternative entails the use of TerraForce blocks and the flattening of the northern embankment.

This alternative was not preferred since TerraForce blocks require a deep cut into the existing embankment to install the anchors, which would result in the area being further disturbed and potentially increasing the erosion potential of the area. It would also require additional construction works, thus increasing the total development footprint required. The flattening of the northern embankment was also not preferred due to a lack of available space between the river and the adjacent properties and infrastructure.

Preferred Design Alternative

This alternative entails the repair and extension of damaged infrastructure and sections of the eroded embankment along an approximate 200m stretch on the northern embankment of the Brandwacht River on Erven 5060, 16168 and 5105, Stellenbosch. This will include the following:

- Raising the existing gabion retaining structure, to the embankment's original natural ground elevation, as well as extend the gabion retaining structure up and downstream of the river, with a total length of approximately 130 m;
- The development of a drainage channel along the top of the embankment to prevent future surface erosion;
- The development of a flexible lining system within the channel with minor gabion boxes on the south embankment to provide scour protection;
- The replacement of the existing wooden retaining structures along the river in a "like for like" manner in future;
- The replacement of the existing half round corrugated metal channel with a 2.4m wide shallow hyson cell lined channel at Lourensz Road and Wege Road;
- The replacement of the existing pipe, which has been lost due to erosion and a slope slip and incorporating it into the proposed gabion protection at Robbertsz Road; and
- The development of a grid inlet in Bergh Road to manage blockages at the inlet.

This alternative was preferred as it will prevent further erosion of the northern embankment. The use of gabions was also preferred as it would blend in better aesthetically within the local environment. Gabions can be installed by hand and is also flexible and will accommodate differential settlement in the river.

"No-Go" Alternative

This alternative was not preferred as the embankment will continue to erode over time, degrading the aquatic habitat and resulting in erosion of the watercourse channel within the site and impacting on the downstream habitat. Existing infrastructure will continue to be put at risk of failing and if protection measures are not put in place, it will result in further damage and greater costs.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The erosion protection measures are required to ensure that the integrity of the river embankment is retained and improved. This will minimize erosion of the embankment along this section of the river and ensure that the local ecosystem is protected. Repairs to the existing stormwater infrastructure will ensure the long-term integrity of this infrastructure and prevent the need for more expensive repairs in the future.

3.2 Biophysical Impacts

According to CapeNature's comment (dated 28 June 2022), historically, the area surrounding the section of the Brandwacht River would have supported Swartland Shale Renosterveld, which is a Critically Endangered ecosystem. However, the site was previously cultivated and then urbanized. In light of this, no natural vegetation remains on the proposed site.

According to the Freshwater Impact Assessment (dated April 2022, compiled by BlueScience), the Brandwacht River is a small tributary in the middle reaches of the Eerste River. The river has had its riparian habitat largely to severely modified because of the surrounding agricultural and urban activities. The direct impact of the proposed erosion repair and bank stabilisation activities relates to a disturbance and modification of aquatic habitat. A short-term impedance of flow and some water quality impacts of a low significance would be expected during the construction phase. The impacts on the watercourse as a result of the proposed development have therefore been identified as being of low negative significance after mitigation. This mitigation measures were included in the EMP that is approved in Condition 9 of this Environmental Authorisation.

Negative Impacts:

The disturbance and modification of aquatic habitat during the construction phase.

Positive impacts:

- This development will ensure that the integrity of the river embankment is retained and improved;
- The proposed development will prevent further degradation of the aquatic habitat; and
- Repairs to the existing stormwater infrastructure will ensure the long-term integrity of this infrastructure and prevent the need for more expensive repairs in the future.

4. National Environmental Management Act 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.

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 National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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