



REFERENCE: 16/3/3/1/A2/30/1004/23
NEAS REFERENCE: WCP/EIA/0001215/2023
DATE: 18 AUGUST 2023

The Municipal Manager
City of Cape Town Municipality
Hardekraaltjie
Corner of Mike Pienaar Blvd and Voortrekker Road
BELLVILLE
7535

Attention: Mr Alroy Hoffmeister

Tel: 021427 5103
Email: Alroy.Hoffmeister@capetown.gov.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014: THE PROPOSED UPGRADING OF THE EXISTING COLLECTOR SEWER ACROSS VARIOUS ERVEN, FARM PORTIONS, AND ROAD RESERVES, PHILIPPI.

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 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

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Euonell Visagie (Guillaume Nel Environmental Consultants (GNEC)) Email: eg@gnec.co.za
(2) Andy Greenwood (City of Cape Town Municipality) Email: Andrew.Greenwood@capetown.gov.za

REFERENCE: 16/3/3/1/A2/30/1004/23
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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: THE PROPOSED UPGRADING OF THE EXISTING COLLECTOR SEWER ACROSS VARIOUS ERVEN, FARM PORTIONS, AND ROAD RESERVES, PHILIPPI.

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, the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activity specified in section B below with respect to the Route Alternative 1 as described in the Basic Assessment Report ("BAR"), dated June 2023.

In terms of the NEMA, viz, the EIA Regulations, 2014 (Listing Notices 1 and 3 of 2014 in Government Gazette No. 40772 of 7 April 2017) the Competent Authority hereby **adopts the Maintenance Management Plan** for the upgrading of the existing collector sewer on various erven and road reserves, Philippi, Western Cape, dated June 2023.

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

City of Cape Town Municipality
c/o Mr Alroy Hoffmeester
Hardekraaltjie
Corner of Mike Pienaar Blvd and Voortrekker Road
BELLVILLE
7535

Tel: 021 427 5103
Email: Alroy.Hoffmeester@capetown.gov.za

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activity	Project Description
<p>Listing Notice 1 – Activity Number: 19</p> <p><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;</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <p><i>(a) will occur behind a development setback;</i></p> <p><i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></p> <p><i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i></p> <p><i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i></p> <p><i>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</i></p>	<p>More than 10m³ of material will be removed from and/or deposited into the watercourses that the upgraded sewer pipeline will traverse.</p>

The abovementioned list is hereinafter referred to as “**the listed activity**”.

The holder is herein authorised to undertake the following alternative that includes the listed activity as it relates to the development:

The proposal entails the upgrading of the existing sewer pipeline across various erven, farm portions and road reserves in Philippi. This will include the replacement of some sections of the sewer pipeline, while other sections will require the construction of a new sewer pipeline parallel to the existing sewer, with the existing sewer to be decommissioned. Various construction methods and technology will be used at different sections along the sewer pipeline route, including micro-tunneling and shored trench excavation. The upgraded sewer pipeline will range from 400mm to 1600mm in diameter and will be approximately 10 km in length. A sandtrap will be constructed next to Jakes Gerwel Drive to remove silt in the sewer to protect the downstream sewer system.

The upgraded pipeline route starts from Ngqwangi Drive in Philippi and extends east within the road reserve of Sheffield Road. It then crosses the railway line and Jakes Gerwel Drive (M7) towards the west before following a northwesterly direction along Jakes Gerwel Drive. From here it changes direction towards the west extending along Old Lansdowne Road passing the Pick 'n Pay Distribution Centre. The pipeline alignment then continues along Ottery Road and Purdey Road where it will ultimately tie into the existing Cape Flats 3 Bulk Sewer.

C. SITE DESCRIPTION AND LOCATION

The authorised listed activity will be undertaken across various erven, farm portions and road reserves in Philippi, and the pipeline route has the following co-ordinates:

Pipeline Route Location:	Co-ordinates:	
	Latitude (S)	Longitude (E)
Starting point	34° 0' 19.85" South	18° 37' 28.6" East
Middle point	34° 0.37' 0.4" South	18° 33' 58.79" East
End point	34° 0.19' 49" South	18° 31' 36.83" East

Refer to Annexure A: Locality Map and Annexure B: Site Plan.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Guillaume Nel Environmental Consulting
c/o Euronell Visagie
P.O. Box 2632
PAARL
7620

Tel: (021) 870 1874
Email: eg@gnec.co.za

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activity specified in Section B above in accordance with and restricted to the Route Alternative 1 as described in the Basic Assessment Report ("BAR"), dated June 2023 on the site as described in Section C above.
2. The holder must commence with, and conclude, the listed activity within the stipulated validity period 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 **five years** from the date of issue, during which period the holder must commence with the authorised listed activity.
 - (b) A period of **ten (10) years**, from the date the holder commenced with the authorised listed activity, during which period the authorised listed activity must be concluded.
3. 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.

4. 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

5. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities.

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

Conditions: 6, 7, and 11

Notification and administration of appeal

6. The holder must in writing, within 14 (fourteen) calendar 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 G 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,
 - 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 2014 National Appeals Regulations.
7. The listed activity, 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

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

Monitoring

11. 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 provisions of the EMPr and the conditions contained herein.
12. The ECO must report on compliance with the EMPr in writing to this Department and the relevant authorities on a monthly basis during the construction phase.
13. A copy of the Environmental Authorisation, MMP, EMPr, 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 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 and the EMPr. 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.

The holder must undertake an environmental audit and submit an Environmental Audit Report to the Competent Authority annually during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within three months after the development 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 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.

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 activity.
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.

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 are 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.

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 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

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, 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: 18 AUGUST 2023

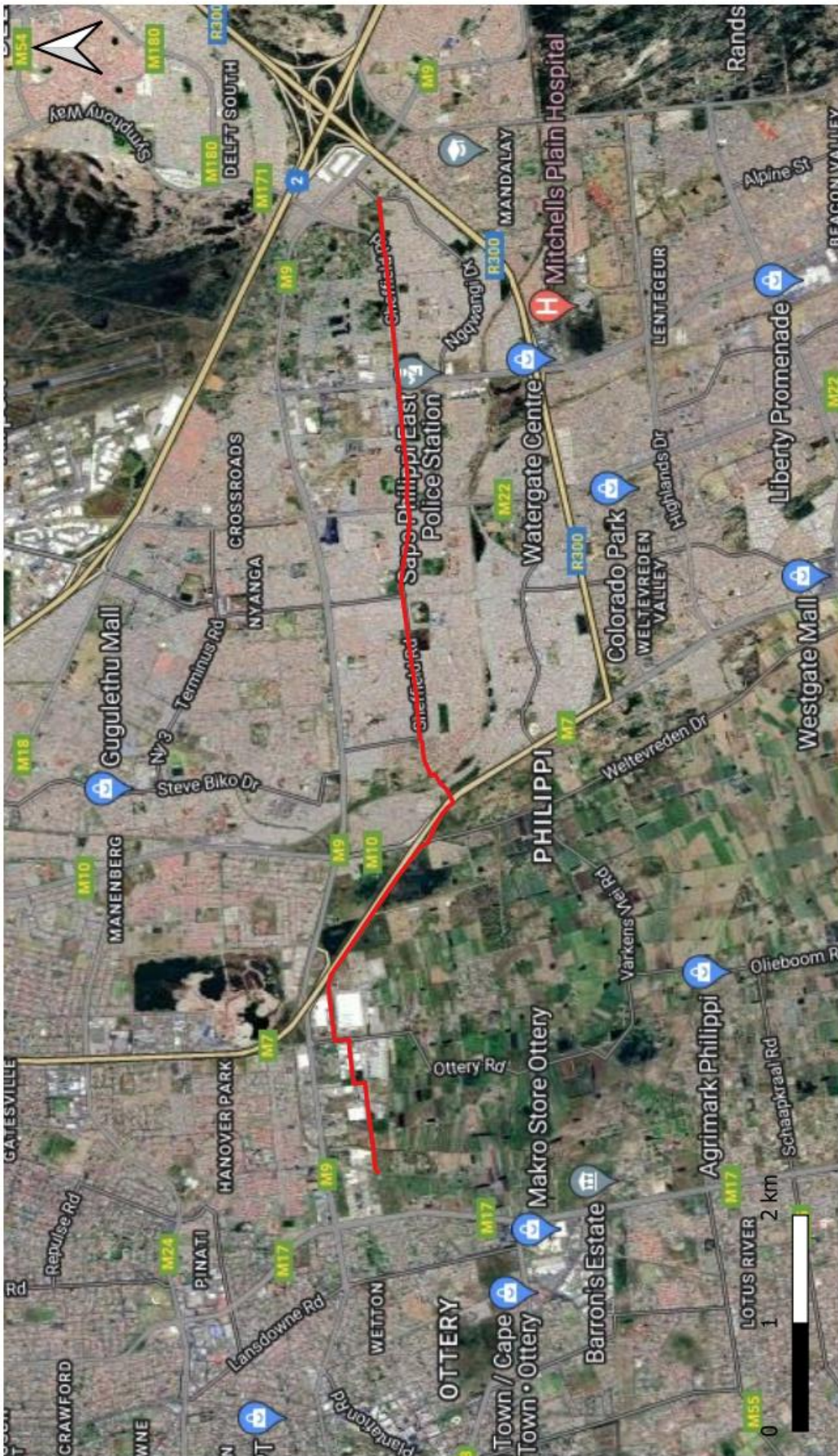
CC: (1) Euonell Visagie (Guillaume Nel Environmental Consultants (GNEC))

Email: eg@gnec.co.za

(2) Andy Greenwood (City of Cape Town Municipality)

Email: Andrew.Greenwood@capetown.gov.za

ANNEXURE 1: LOCALITY MAP



PROPOSED UPGRADING OF THE EXISTING COLLECTOR SEWER ON
VARIOUS ERVEN, PHILIPPI, WESTERN CAPE.

Locality Map

ANNEXURE 2: SITE PLAN



- NEMA 32m
- Freshwater Ecosystems
- Preferred Alternative

PROPOSED UPGRADING OF THE EXISTING COLLECTOR SEWER ON VARIOUS BRVEN AND ROAD RESERVES, PHILIPPI, WESTERN CAPE.

Preferred Layout

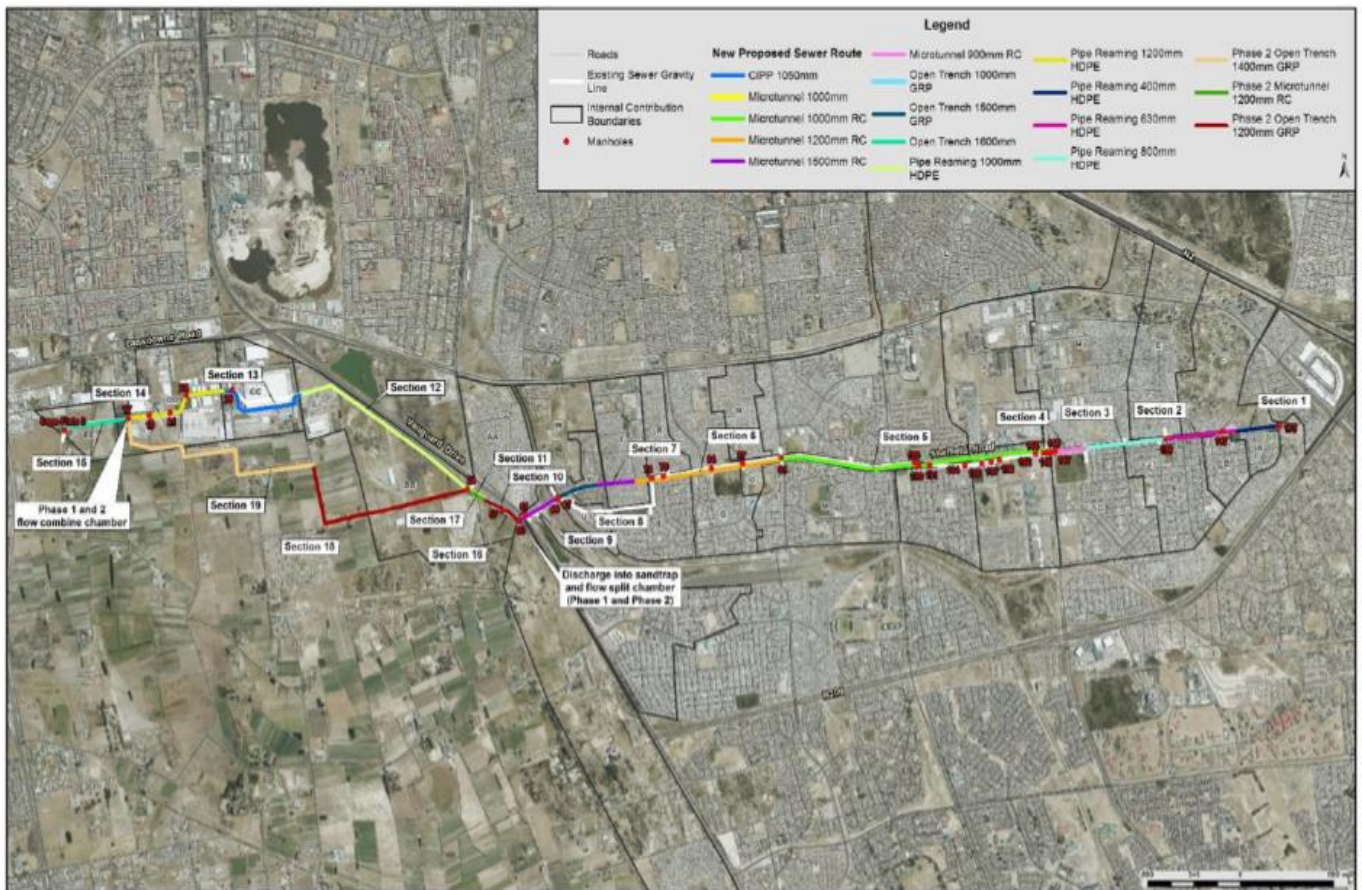


Figure 4: Map indicating the various technologies to be used (FEN Consulting, 2022).



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, and the EMPr submitted together with the final Basic Assessment Report dated June 2023 and received on 9 June 2023;
- 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 final Basic Assessment Report dated and received on 9 June 2023;
- 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 ("PPP") included:

- identification of and engagement with I&APs;
- placing of a newspaper advertisement in the City Vision (local newspaper) on 19 January 2023;
- placing notice boards at the site where the listed activity is to be undertaken on 20 January 2023;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activity is to be undertaken, the municipality and ward councilor, and the various organs of state having jurisdiction in respect of any aspect of the listed activity on 20 January 2023; and
- circulating the pre-application draft BAR from 20 January 2023 and the in-process draft BAR to I&APs from 21 April 2023.

The Department is satisfied that the PPP 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

Route Alternative 1 (Preferred Alternative herewith authorised):

This is the preferred alternative and entails the upgrading of the existing sewer pipeline across various erven, farm portions and road reserves in Philippi. This will include the replacement of some sections of the sewer pipeline, while other sections will require the construction of a new sewer pipeline parallel to the existing

sewer, with the existing sewer to be decommissioned. Various construction methods and technology will be used at different sections along the sewer pipeline route, including micro-tunneling and shored trench excavation. The upgraded sewer pipeline will range from 400mm to 1600mm in diameter and will be approximately 10 km in length. A sandtrap will be constructed next to Jakes Gerwel Drive to remove silt in the sewer to protect the downstream sewer system.

The upgraded pipeline route starts from Ngqwangi Drive in Philippi and extends east within the road reserve of Sheffield Road. It then crosses the railway line and Jakes Gerwel Drive (M7) towards the west before following a northwesterly direction along Jakes Gerwel Drive. From here it changes direction towards the west extending along Old Lansdowne Road passing the Pick 'n Pay Distribution Centre. The pipeline alignment then continues along Ottery Road and Purdey Road where it will ultimately tie into the existing Cape Flats 3 Bulk Sewer.

This is the preferred alternative since the route follows previously disturbed and transformed areas and will have lower freshwater impact compared to the alternatives route.

Route Alternative 2:

For this alternative, the upgrading of the Philippi collector sewer pipeline extends from Ngqwangi Drive in Philippi to the east within the road reserve of Sheffield Road, which then crosses the railway line and Jakes Gerwel Drive (M7) towards the west. The route will then traverse the Philippi agricultural area to the west along Papkuilsvlei Weg, Olieboom Road, and Ottery Road where it ultimately ties into the existing Cape Flats 3 Bulk Sewer. This alternative is not preferred since a section of the pipeline will be routed along previously undisturbed land and it will result in an increased freshwater impact as confirmed by the freshwater specialist.

No-go Option

The No-Go Option is not preferred since the required upgrade to the existing sewer will not be achieved. If the upgrades are not undertaken the sewer pipeline will remain under capacity and the frequent sewer overflows will continue, resulting in environmental pollution and degradation and increasing the risk of disease outbreaks. In addition, no job opportunities will be created during the construction phase.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The Philippi sewer has been identified for upgrades and rehabilitation since the existing Philippi collector sewer pipeline is approximately 30 years old, the current sewer infrastructure in the area is hydraulically under capacity to accommodate the existing and future sewage flows of the area, and it contains large volumes of sediment and debris. Frequent collapsing of pipe sections and cleaning of silt /debris is continuing on an ongoing basis through a bucket system. This poses an environmental pollution and degradation risk and could also result in the possible spread of pathogens and diseases in this area. The proposed sewer upgrades are therefore urgently required and will be in line with the Provincial Spatial Development Framework and Integrated Development Plan of the local municipality as it will contribute to better sewer infrastructure, and ultimately improve basic service delivery. The preferred alternative was informed by specialist and engineering input and comments received during the public participation period. It represents the best practicable environmental option and the sewer upgrade will also result in job creation during the construction phase.

3.2 Biophysical Impacts

The site of the existing sewer pipeline would have historically consisted of Cape Flats Sand Fynbos and Cape Flats Dune Strandveld vegetation, which are classified as Critically Endangered and Endangered vegetation types, respectively. The sewer pipeline route has however been disturbed and transformed by historical agricultural activities and urban development. Furthermore, the proposed upgrading largely follows the route of the existing sewer pipeline, which is predominantly located within road reserves. The proposed development is therefore considered acceptable from a botanical impact perspective.

Based on the specialist findings in the Freshwater Assessment dated November 2022, compiled by FEN Consulting, five wetland flats were identified to be traversed by the proposed sewer pipeline alternatives. These freshwater ecosystems have been significantly transformed as a result of land use changes in the surrounding landscape, predominantly urban and industrial development and associated disturbances including linear infrastructure crossings and increased stormwater input into these freshwater ecosystems. Consequently, a large change in ecosystem processes and loss of natural habitat has taken place. As such, the identified freshwater ecosystems are considered to be in a largely modified ecological condition and of moderate ecological importance and sensitivity.

It was determined that the proposed construction and operational activities associated with the proposed Option 1 sewer pipeline pose an overall low risk significance impact and is therefore deemed to be the preferred route alternative. This is due to the fact that Option 1 is located along the existing sewer pipeline route with the area previously disturbed and it allows for existing access chambers to be used for the micro-tunnelling and pipe reaming for the watercourse crossings during the construction phase. The trenchless techniques entail a very small project footprint thus limiting disturbance to the freshwater ecosystems. Based on the freshwater specialist findings (provided that Option 1 is installed via micro-tunnelling and pipe reaming underneath the wetland flats, and that the existing access chambers be used during the construction phase), the potential risk to the wetland flats is considered well mitigated and is further supported considering the benefits of improved sewer reticulation that will minimise the risk of leaks and pollution in the greater landscape. The recommended mitigation measures have been included in the EMPr approved as part of this environmental authorisation and will be implemented during the construction and operational phase of the development. The proposed activities are therefore acceptable from a freshwater impact perspective.

A Water Use Licence Application ("WULA") in terms of the National Water Act, 1998 (Act 38 of 1998) was also submitted to the Department of Water and Sanitation on 18 April 2023, which will further address the watercourse related impacts associated with the proposed development.

Furthermore, a MMP has also been compiled to address routine maintenance activities taking place in the affected stretch of the watercourses. The maintenance of the structures 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).

The development will result in both negative and positive impacts.

Negative Impacts:

- The proposed development will result in disturbance of the wetland flats. The impact significance has been reduced to an acceptable level with the implementation of the recommended mitigation measures, the preferred alternative, and adherence to the EMPr.
- Construction phase impacts associated with the development are likely to be present, including elevated noise, dust levels, and increased visual and traffic impacts. These nuisances will be of temporary duration and mitigation measures have been incorporated into the EMPr for implementation during the construction phase.

Positive impacts:

- The proposed sewer upgrades and repair works will prevent deposition and sediment in the sewer system which will prevent sewer overflows and environmental pollution and degradation.
- Job opportunities will be created during the construction phase.

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 activity 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 activity can be mitigated to acceptable levels.

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