



REFERENCE: 16/3/3/1/B4/18/1065/18

ENQUIRIES: BERNADETTE OSBORNE

DATE OF ISSUE: 2019-03-04

Ms Myra Francis
Stellenbosch Municipality
PO Box 17
STELLENBOSCH
7600

Cell: 079 453 5052

E-mail: Myra.Francis@stellenbosch.co.za

Dear Madam

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014: THE UPGRADE OF OLD HELSHOOGTE ROAD AND THE REPLACEMENT OF THE EXISTING CULVERT ON ERF NO. 11330, IDAS VALLEY.

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation and **adopt** the Maintenance Management Plan, attached herewith, 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 Environmental Authorisation.

Yours faithfully

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Cc: (1) admin@ecoimpact (Eco Impact Legal Consulting (Pty) Ltd.)

(2) Schalk.vanderMerwe@stellenbosch.co.za (Stellenbosch Municipality)



REFERENCE: 16/3/3/1/B4/18/1065/18
NEAS REFERENCE: WCP/EIA/0000479/2018
ENQUIRIES: Bernadette Osborne
DATE OF ISSUE:

2019 -03- 04

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 UPGRADE OF OLD HELSHOOGTE ROAD AND THE REPLACEMENT OF THE EXISTING CULVERT ON ERF NO. 11330, IDAS VALLEY.

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 activities specified in section B below with respect to Activity Alternative 1 and Layout Alternative 1 described in the Basic Assessment Report ("BAR"), dated 26 October 2018.

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 upgrade of Old Helshoogte Road and replacement of the existing culvert on Erf No. 11330, Idas Valley.

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 Myra Francis
P O Box 17
STELLENBOSCH
7600

Tel: (021) 808 8760
E-mail: Myra.Francis@stellenbosch.co.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 Activities	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><i>(a) Will occur behind a development setback;</i> <i>(b) Is for maintenance purposes undertaken in accordance with a maintenance management plan;</i> <i>(c) Falls within the ambit of activity 21 in this Notice, in which case that activity applies.</i> <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>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 development will be constructed within a watercourse.</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 replacement of the existing 600mm diameter pipe culverts with two 1.5m x 1.2m box culverts. A section of the Old Helshoogte road will also be upgraded through resurfacing, adding barrier kerbs in both directions and a 1.5m side walk on either side of the road to a total road width of 9m. The side walk on the eastern side will extend to the river crossing.

C. SITE DESCRIPTION AND LOCATION

The site where the authorised listed activity will be undertaken on Erf No. 11330, Idas Valley, and has the following co-ordinates:

	Latitude (S)	Longitude (E)
Coordinates	33° 55' 21.3" South	18° 53' 51.1" East

The SG digit code is: C06700220001133000000

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

EcolImpact Legal Consulting (Pty) Ltd.
c/o Jessica Hansen
PO Box 45070
CLAREMONT
7735

Tel: (021) 671 1660
Fax: (021) 671 9976

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 Activity Alternative 1 and Layout Alternative 1 described in the Basic Assessment Report ("BAR"), dated 26 October 2018 on the site as described in Section C above.

2. The Environmental Authorisation is valid for a period of **five years** from the date of issue within which commencement must occur.
3. The development must be concluded within **ten years** from the date of commencement of the listed activity.
4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
5. Any changes to, or deviations from the scope of the alternative described in section 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 and 12

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 F 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 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

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 any land clearing or construction activities to ensure compliance with the provisions of 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 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 MMP 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.

The holder must undertake an environmental audit quarterly for the duration of the construction phase and submit Environmental Audit Reports to the Competent Authority once every six months during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within six months after operation commenced.

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

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 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.

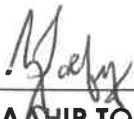
5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

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. ZAAHIR TOEFY

ACTING DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

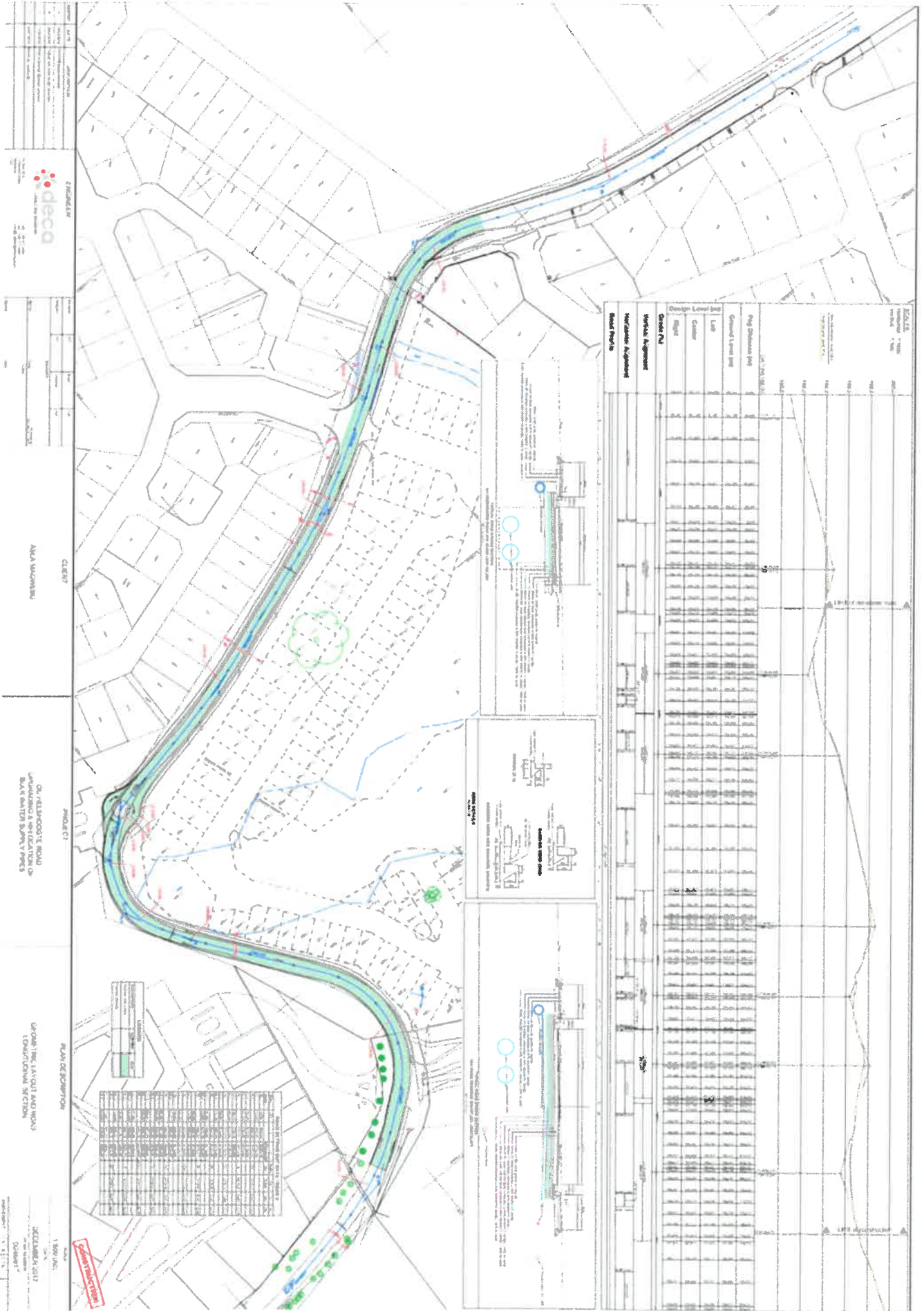
DATE OF DECISION: 04/03/2019

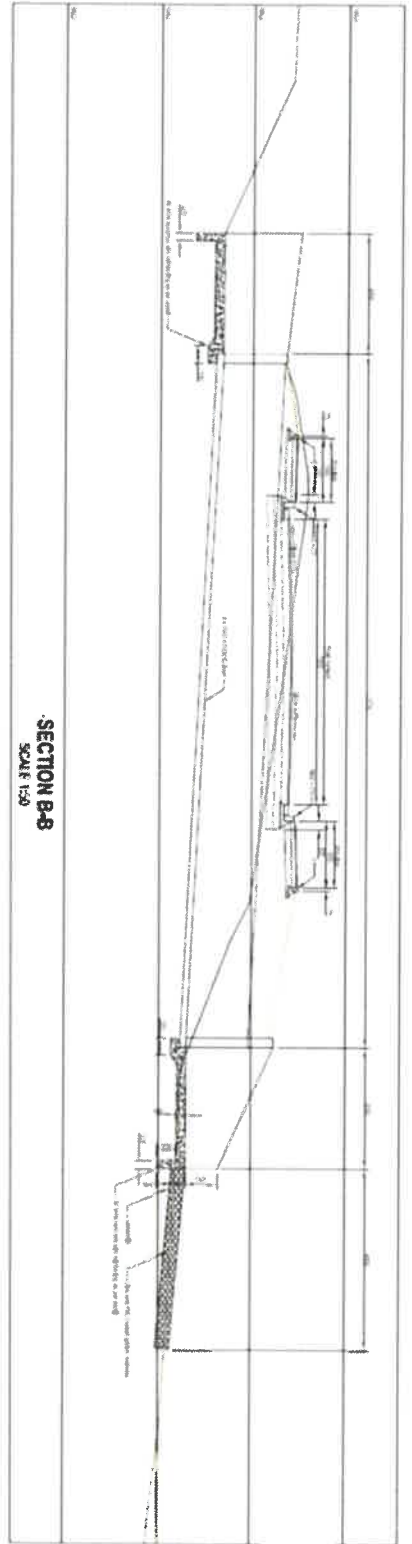
Cc: (1) admin@ecoimpact (Eco Impact Legal Consulting (Pty) Ltd)
(2) Schaik.vanderMerwe@stellenbosch.co.za (Stellenbosch Municipality)

ANNEXURE 1: LOCALITY MAP

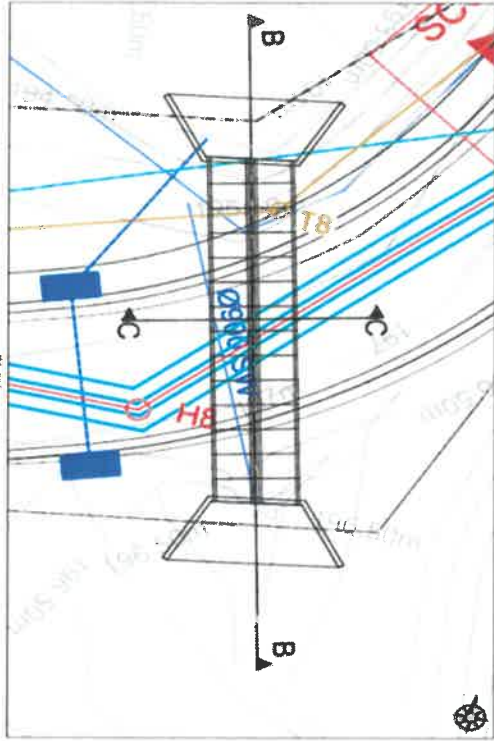
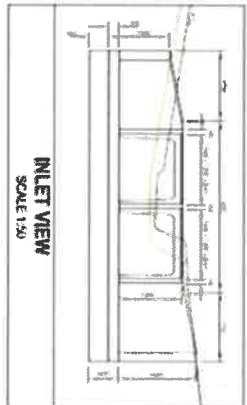
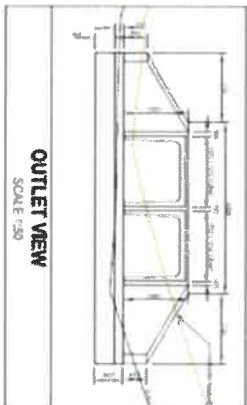


ANNEXURE 2: SITE PLAN



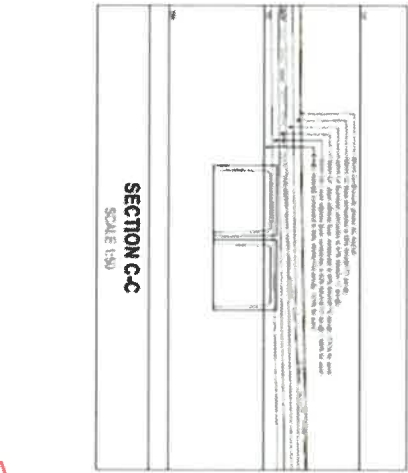


SECTION B-B
SCALE 1:50



PLAN
SCALE 1:300

Reference	Change (m)	Cover Level (m)	Invert Level (m)	Depth (m)	Gradient (%)	Pipe Detail



SECTION C-C
SCALE 1:50

CLIENT ASIA MANAGEMENT	PROJECT CONSTRUCTION OF THE ROAD AND SIDEWALKS OF THE PROJECT AT THE LOCATION OF ROAD IN THE SOUTH PARTS
DATE APRIL 2018	SCALE N-1-OUT 4 (CONVERT) DETAILS
APPROVED BY [Signature]	DATE [Date]

CONSTRUCTION

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 7 September 2018, and the EMPr submitted together with the final Basic Assessment Report on 26 October 2018;
- 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 received on 26 October 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 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;
- notice boards were placed at the site where the listed activity is to be undertaken on 10 July 2018;
- 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 13 July 2018;
- the placing of a newspaper advertisement in the '*BOLAND GAZETTE Stellenbosch and Paarl*' on 17 July 2018; and
- making the draft BAR available to I&APs for public review from 21 September 2018.

The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements and all 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 EMP to adequately address the concerns raised.

2. Alternatives

The following two Activity Alternatives were considered:

Activity Alternative 1 (preferred alternative herewith authorised)

This alternative entails the replacement of the 600mm diameter pipe culvert with two 1.5m x 1.2m box culverts. This alternative was preferred since it is a development along existing infrastructure that needs to be upgraded and will ensure continued safe access to road users.

Activity Alternative 2

This alternative entails the removal of the 600mm diameter pipe culvert, the road surface and associated infrastructure from the river and rehabilitation of the area and riverbanks.

Although this alternative is the more environmentally friendly option, it was ultimately not preferred for the following reasons:

- The residents of land north of the site (Bergplaas Resort and Lindani) would be unable to access certain transport routes. These residents would have to travel a significantly greater distance up Helshoogte Pass to access surrounding areas.
- The abovementioned residents have highlighted their apprehension towards the abovementioned closure due to the numerous safety risks using the alternative route poses.
- Decommissioning of this road section would also limit access to Bergplaas Resort, Lindani and the Old Helshoogte Pass in general.

The following two Layout Alternatives were considered

Layout Alternative 1 (preferred alternative herewith authorised)

This alternative entails the replacement of the existing 600mm diameter pipe culvert with two 1.5m x 1.2m box culverts. A section of the Old Helshoogte road will also be upgraded through resurfacing, adding barrier kerbs in both directions and a 1.5m side walk on either side of the road to a total road width of 9m. The side walk on the eastern side will extend to the river crossing.

This proposed layout is preferred since it offers the highest levels of biophysical and environmental benefit, as the hard surface, in conjunction with the upgraded stormwater infrastructure, will manage water movement most effectively. This in turn will minimise potential erosion and the consequent discharge of the eroded materials into the river and prevent possible flooding.

Layout Alternative 2

This alternative entails the replacement of the existing 600mm diameter pipe culvert with two 1.2m x 900mm box culverts. A section of the Old Helshoogte road will also be upgraded through resurfacing and adding barrier kerbs in both directions.

This alternative was not preferred for the following reasons:

- According to engineering designs and storm water calculations the box culverts are too small, which could result in flooding.
- This option does not include sidewalks, thereby not providing the same safe access for pedestrians.

The No-Go Alternative

This option will result in the road and culvert infrastructure remaining as it is presently. It was not preferred since it can result in flooding due to the current insufficient box culvert size, with negative environmental impacts on the hydrology of the river, as well as potential damage to infrastructure and posing a safety risk to surrounding residents.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The existing road and culvert infrastructure will be upgraded within existing land use rights. The upgrade is located within the urban area of Stellenbosch and will improve storm water management, hydrological functioning of the river and will prevent potential flooding.

3.2 Biophysical Impacts

According to the Western Cape Biodiversity Spatial Plan, there is a Critical Biodiversity Area 1 adjacent to the eastern section of the road upgrade. The watercourse riparian zone is classified as an Ecological Support Area 2. The road reserve is however classified as "No Natural remaining". The section of the Old Helshoogste Road that will be upgraded passes through an urban area and the road verges are primarily transformed. The road upgrade will not impact on natural habitat of biodiversity significance. This was confirmed by CapeNature in their comment dated 1 November 2018. The upgrade of the culverts to a bigger size will allow adequate passage of the water, improve storm water management and hydrological functioning of the river and will prevent potential flooding.

A MMP has also been compiled to address routine maintenance activities taking place in the affected stretch of the watercourse. 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:

- Impacts such as noise, dust and traffic delays during the construction phase of the development.

Positive impacts:

- The upgrade of the culverts to a bigger size will allow adequate passage of the water, will improve storm water management and hydrological functioning of the river and will prevent potential flooding.
- It provides improved public infrastructure for pedestrians and motor vehicle users.

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.

-----END-----