



**REFERENCE:** 16/3/3/1/B3/28/1058/19  
**NEAS REFERENCE:** WCP/EIA/0000660/2019  
**ENQUIRIES:** Ms. Saa-rah Adams  
2020-03-19

The Manager  
Paarl Golf Club (NPC)  
848 Boschenmeer Estate  
Wemmershoek Road  
PAARL  
7646

**Attention: Mr. W Pretorius**

Tel: 021 863 1140  
E-mail: manager@paarlgc.co.za

Dear Sir

**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 (AS AMENDED): THE EXPANSION OF TWO DAMS ON ERF NO. 26054 AND THE CONSTRUCTION OF A SEDIMENT CONTAINMENT SYSTEM WITHIN THE MALANS STREAM ON ERF NO. 26055, BOSCHENMEER GOLF ESTATE, PAARL**

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 Environmental Impact Assessment Regulations, 2014 (as amended), you are instructed to ensure, within 14 days of the date of the decision on the application, that all registered interested and affected parties ("I&APs") are provided with access to the decision 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 summarized in the attached Environmental Authorisation.

Yours faithfully

**MR ZAHIR JOFY**

**DIRECTOR: DEVELOPMENT MANAGEMENT – REGION 1**

DATE OF DECISION: 19.03.2020

CC: (1) D. Opperman (GNEC cc)  
(2) L. King (Drakenstein Municipality)  
(3) S. Ross (DWS)  
(4) P. Huntly (Cape Nature)

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**DATE OF ISSUE:** 2020 -03- 19

### ENVIRONMENTAL AUTHORISATION

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION AND THE ADOPTION OF A MAINTENANCE MANAGEMENT PLAN ("MMP") IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: THE EXPANSION OF TWO DAMS ON ERF NO. 26054 AND THE CONSTRUCTION OF A SEDIMENT CONTAINMENT SYSTEM WITHIN THE MALANS STREAM ON ERF NO. 26055, BOSCHENMEER GOLF ESTATE, PAARL**

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 Design Alternative 2 described in the Basic Assessment Report ("BAR"), dated 11 November 2019.

In terms of the NEMA, viz, the EIA Regulations, 2014 (as amended) and Listing Notice 1 of 2014 in Government Gazette No. 40772 of 7 April 2017, the Competent Authority hereby **adopts the Maintenance Management Plan ("MMP")** for the maintenance of the Malans Stream, the sediment containment system as well as all crossings over the Malans Stream included as part of the BAR, dated 11 November 2019 as an addendum to the River MMP ("RMMP"), referenced 16/3/3/6/3/B3/28/1090/19, adopted by this Department on 15 July 2019.

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

Paarl Golf Club (NPC)  
 % Willem Pretorius  
 848 Boschenmeer Estate  
 Wemmershoek Road  
 PAARL  
 7646

Tel: 021 863 1140

E-mail: manager@paarlgc.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 Activity	Project Description
<p><b>Listing Notice 1-</b>  <b>Activity Number: 19</b>  <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> <ul style="list-style-type: none"> <li><i>a) will occur behind a development setback;</i></li> <li><i>b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></li> <li><i>c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i></li> <li><i>d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i></li> <li><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> </li></ul>	<p>The development entails the infilling and depositing of more than 10 cubic metres of material within the Malans Stream.</p>
<p><b>Activity Number: 50</b>  <i>"The expansion of facilities or infrastructure for the off-stream storage of water, including dams</i></p>	<p>The development entails the expansion of the Wateruintjiesvlei storage capacity from 49 750m<sup>3</sup> to 112 760m<sup>3</sup>.</p>

and reservoirs, where the combined capacity will be increased by 50 000 cubic metres or more."

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

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

This alternative entails the construction of:

- 12 cobble weirs within the Malans Stream, from the culvert underneath the R301 up to the inflow into the irrigation storage dam. The dimensions for the cobble weirs will be a maximum of 700mm high and 3m wide.
- The installation of erosion control measures in the form of a catch net with wire mesh and droppers, downstream of each cobble weir, to ensure the cobbles do not wash away.
- The lining of the Malans Stream, from the culvert underneath the R301 up until the inflow into the instream irrigation storage dam, with loose cobbles. This section is approximately 200m long and 3m wide.
- The expansion of the irrigation storage dam and Wateruintjiesvlei as follows:

- Irrigation Storage Dam

- Removal of material from the dam basin to an approximate depth of 3m;
- Sloping of the banks to a 1:3 angle; and
- Increase the height of the overflow structure with 1.5 m.

This will allow for an increase in storage capacity from 14 100m<sup>3</sup> to 33 000m<sup>3</sup>.

- Wateruintjiesvlei

- Removal of basin material to an approximate depth of 5m; and
- Sloping of the banks to 1:3 angle.

This will allow for an increase in storage capacity from 49 750m<sup>3</sup> to 112 760m<sup>3</sup>.

### C. SITE DESCRIPTION AND LOCATION

The site where the authorised listed activities will be undertaken is located on Erf No. 26054 and Erf No. 26055, Paarl, and has the following co-ordinates:

Co-ordinates of the irrigation storage dam:

Latitude (S)	Longitude (E)
33° 46' 4.78" South	18° 58' 51.23" East

Co-ordinates of the Wateruintjiesvlei:

Latitude (S)	Longitude (E)
33° 45' 53.73" South	18° 58' 54.48" East

Co-ordinates of the cobbles weir:

	Latitude (S)	Longitude (E)
Starting point of the cobble weirs	33° 46' 13.32" South	18° 58' 58.08" East
End of the cobble weirs	33° 46' 7.58" South	18° 58' 55.34" East

The SG digit code is: C05500080002605400000  
C05500080002605500000

Refer to Annexure 1: Locality Map

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

#### **D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER**

Guillaume Nel Environmental Consultants  
% Divan Opperman  
PO Box 2632  
**PAARL**  
7620

Tel.: (021) 870 1874  
Fax: (021) 870 1873

#### **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 Design Alternative 2 described in the Basic Assessment Report ("BAR"), dated 11 November 2019 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 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 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 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 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") before commencement of any land clearing or construction activities to ensure compliance with the provisions of the EMPr and the conditions contained herein.
13. The ECO must conduct fortnightly compliance 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 three months after construction has been completed.
14. 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.
15. 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**

16. 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, 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 at the completion of the construction phase of the development and submit the Environmental Audit Report to the Competent Authority within three months after construction has been 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**

17. 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.

18. 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.
19. Material removed from the irrigation storage dam and Wateruintjiesvlei must only be transported from Boschenmeer Estate after a temporary roadworks statement has been submitted to and approved by the District Roads Engineer.

## **F. GENERAL MATTERS**

2. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
3. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
4. 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.
5. 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.



6. 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 Marius Venter (Tel: 021 483 3721)  
   Room 809  
   8<sup>th</sup> 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**

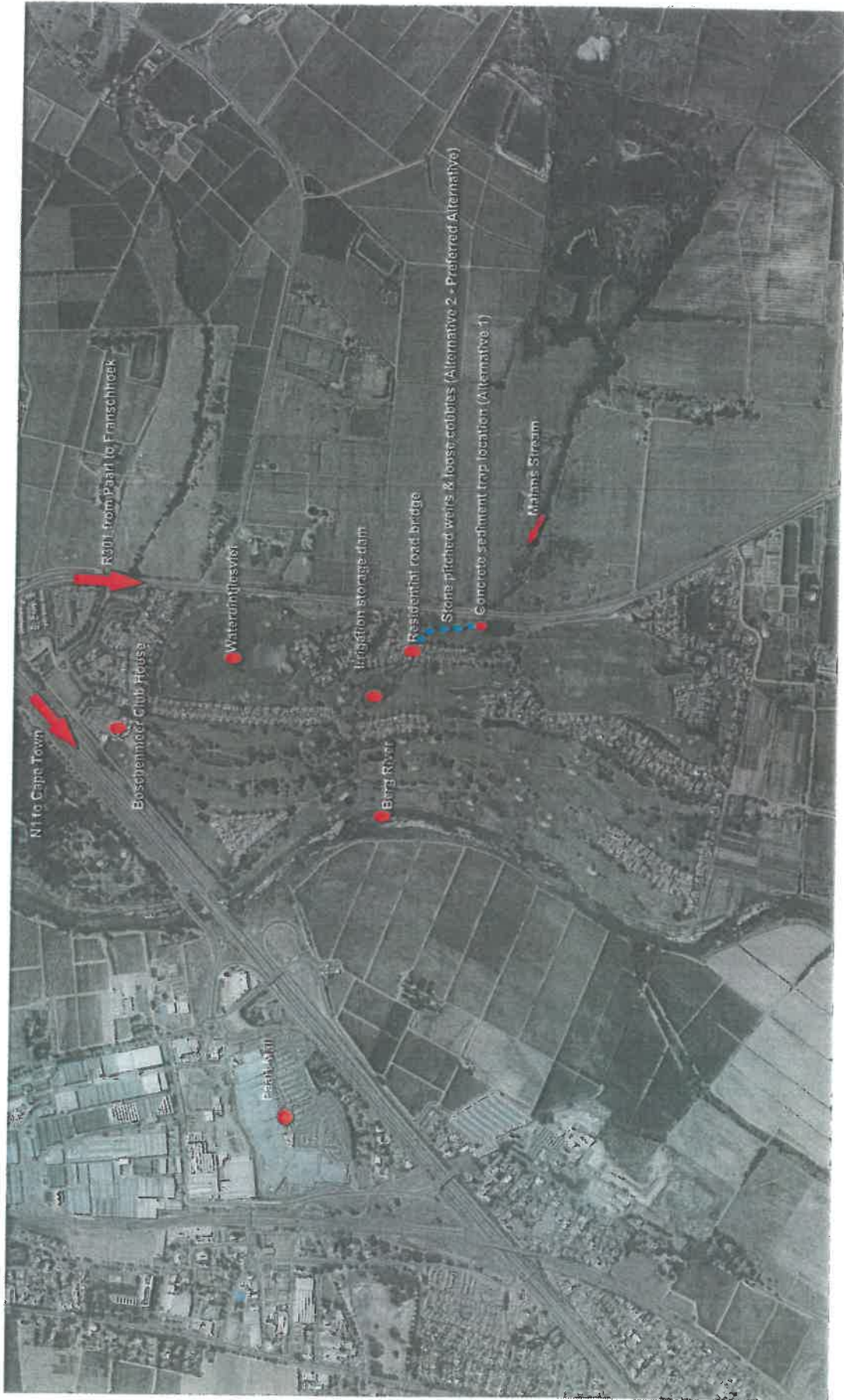
**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**

DATE OF DECISION: 19/03/2020

CC: (1) D. Opperman (GNEC cc)  
(2) L. King (Drakenstein Municipality)  
(3) S. Ross (DWS)  
(4) P. Huntly (Cape Nature)

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# ANNEXURE 1: LOCALITY MAP



## **ANNEXURE 2: 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 16 August 2019, the final BAR dated 11 November 2019 and the EMPr and the 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 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 November 2019; 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 placed where the listed activities are to be undertaken;
- the placing of a newspaper advertisement in the 'Paarl Post' on 7 March 2019;
- 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 councilor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 15 March 2019, 20 March 2019, 22 March 2019, 9 September 2019 and 10 September 2019;
- making the pre-application draft BAR available to I&APs for public review from 22 March 2019; and
- making the draft BAR available to I&APs for public review from 9 September 2019.

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, EMPr and MMP to adequately address the concerns raised.

## 2. Alternatives

The following three Design Alternatives were considered:

### Design Alternative 1

#### Sediment Trap

This alternative entails the construction of a concrete sediment trap immediately west of the culvert underneath the R301 and upstream of the residential road bridge and irrigation storage dam. The sediment trap will have a development footprint of 130m<sup>2</sup>. The concrete sediment trap will create a localised depression below the current watercourse bed level where sediment can settle. Stormwater velocities will also be slowed down in the basin, which encourages the settling of transported materials.

This alternative is not preferred for the following reasons:

- Finer size soil particles i.e. clay and fine silt require a longer time to settle and by allowing the suspended soil particles to settle only in the sediment trap will result in a lower settling rate compared to Design Alternative 2.
- It will require maintenance more often as accumulated sediment within the sediment trap could overtop and end up in the downstream channel which flows into the irrigation storage dam and the Wateruintjiesvlei.

### Design Alternative 2 (herewith authorised)

#### Cobble weirs with loose cobble lining in the Malans Stream

This alternative entails the construction of:

- 12 cobble weirs within the Malans Stream, from the culvert underneath the R301 up to the inflow into the irrigation storage dam. The dimensions for the cobble weirs will be a maximum of 700mm high and 3m wide.
- The installation of erosion control measures in the form of a catch net with wire mesh and droppers, downstream of each cobble weir, to ensure the cobbles do not wash away.
- The lining of the Malans Stream (approximately 200m in length and 3m in width) from the culvert underneath the R301 up until the inflow into the instream irrigation storage dam with loose cobbles.
- The expansion of the irrigation storage dam and Wateruintjiesvlei as follows:
  - Irrigation Storage Dam
    - Removal of material from the dam basin to an approximate depth of 3m;
    - Sloping of the banks to a 1:3 angle; and
    - Increase the height of the overflow structure with 1.5 m.This will allow for an increase in storage capacity from 14 100m<sup>3</sup> to 33 000m<sup>3</sup>.

- Wateruintjiesvlei

- Removal of basin material to an approximate depth of 5m; and
- Sloping of the banks to 1:3 angle.

This will allow for an increase in storage capacity from 49 750<sup>3</sup> to 112 760m<sup>3</sup>.

This alternative is preferred for the following reasons:

- Finer size soil particles i.e. clay and fine silt require a longer time to settle and by allowing the suspended soil particles to settle at any of the cobble weirs as well as between the loose cobbles will result in a higher settling rate.
- The above will further assist with the settlement of suspended soil particles before it reaches the irrigation storage dam and the Wateruintjiesvlei.

- The lining of Malans Stream with loose cobbles and the planting of indigenous vegetation in between the cobbles will act as erosion protection and will increase the ecological functioning of the stream.
- Removal of sediment from behind the cobble weirs will be easier compared to Design Alternative 1 and Design Alternative 3.
- Even though this Department adopted a River Maintenance Management Plan ("RMMP"), referenced 16/3/3/6/3/B3/28/1090/19, on 15 July 2019 for the removal of sediment from the irrigation storage dam and the Wateruintjiesvlei, removal of sediment from behind the cobble weirs will be simpler.
- It is supported by the Freshwater Specialist and CapeNature.

### **Design Alternative 3**

#### Sediment Basin

This alternative is similar to Design Alternative 1 in that the construction approach is the same. The sediment basin is however larger when compared to a sediment trap and usually will require more spillway protection because of their increased flows.

This alternative is not preferred for the following reasons:

- It will be near existing residential properties and infrastructure and failure of the structure may result in damage to homes or buildings, or interrupt the use of public roads or utilities.

#### **No-go Option**

This alternative was considered and is not preferred for the following reasons:

- Maintenance activities will need to be undertaken more frequently.
- Without proper maintenance of sedimentation within the stream, the irrigation storage dam and the Wateruintjiesvlei Boschenmeer Golf Estate will experience ongoing irrigation constraints.

## **3. Impact Assessment and Mitigation measures**

### **3.1 Activity need and desirability**

Currently Boschenmeer Golf Estate experiences flooding at a residential road bridge as well as irrigation capacity constraints due to sediment accumulation within the Malans Stream, the irrigation storage dam and the Wateruintjiesvlei. As a short-term solution this Department adopted River Maintenance Management Plan ("RMMP"), referenced 16/3/3/6/3/B3/28/1090/19, on 15 July 2019 to allow for the removal of silt from the irrigation storage dam and the Wateruintjiesvlei. The long-term solution is however to contain the sediment before it reaches the irrigation storage dam and the Wateruintjiesvlei. Hence, the necessity to develop a sediment containment system in the Malans Stream and the increase in the storage capacity of both the irrigation storage dam and the Wateruintjiesvlei.

### **3.2 Biophysical Impacts**

Historically the site would have comprised of Swartland Alluvium Fynbos and Boland Granite Fynbos, ecosystems classified as critically endangered and vulnerable in terms of Section 52 of the National Environmental Biodiversity Act, 2004 (Act 10 of 2004). However, the site is completely transformed from its natural condition due to the development of the Boschenmeer Golf Estate.

Based on the findings of the Watercourse Assessment, dated September 2019, compiled by Kim Marias from Scientific Aquatic Services, the Malans Stream, an ephemeral tributary of the Berg River, is severely modified and the development of a sediment containment system poses a low risk to the integrity of the freshwater resources on site. The potential impacts on the watercourses that may result from the proposed development will be mitigated by the implementation of the conditions of this Environmental Authorisation, the mitigation measures in the EMPr (accepted in Section E, Condition 9) and maintenance measures of the MMP, to be read as an addendum to the RMMP adopted by this Department on 15 July 2019.

CapeNature supports Design Alternative 2 as it complies with the principles of sustainable urban drainage systems, provide habitat and generally allow for more environmentally sustainable practices.

Furthermore, a Water Use Licence Application ("WULA") in terms of the National Water Act, 1998 (Act 38 of 1998) has been submitted to the Department of Water and Sanitation, for the proposed increase in storage capacity.

A MMP has been compiled to address future maintenance activities taking place in the affected watercourses and should be read as an addendum to the RMMP, referenced 16/3/3/6/3/B3/28/1090/19, adopted by this Department on 15 July 2019. 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:**

- During the construction phase noise and dust impacts can be expected, which will only be temporary and is expected to be negligible.

**Positive impacts:**

- The development will alleviate the risk of flooding on the property and the surrounding properties.

- The development of a sediment containment system will create uniform flow zones within the Malans Stream and will thereby discharge water at a controlled rate. This will result in an increase sedimentation rate of suspended soil particles.
- Temporary employment opportunities will be created during the construction phase.
- The availability of irrigation water during the summer months will increase.

#### **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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