

REFERENCE: 16/3/3/1/B3/28/1089/19
NEAS REFERENCE: WCP/EIA/0000716/2019
ENQUIRIES: Samornay Smidt
DATE OF ISSUE: 12 JUNE 2020

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): PROPOSED UPGRADING OF PROTEA ROAD, 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 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to the Preferred Alternative, as described in the Basic Assessment Report ("BAR"), dated March 2020.

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 Protea Road, Paarl.

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

The Head of Department
Department of Transport and Public Works
c/o Ms. Melanie Hofmeyr
Private Bag X9185
CAPE TOWN
8000

Tel: (021) 483 5713
Email: melanie.hofmeyr@westerncape.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	Activity/Project Description
<p>Listing Notice 1 of 2014-</p> <p>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 of more than 10 cubic metres from—</i></p> <p><i>(i) 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>Upgrading of the culverts require the infilling or depositing and excavation of more than 10m³ of material within a watercourse.</p>
<p>EIA Regulations Listing Notice 3 of 2014 –</p> <p>Activity Number: 12 <i>The clearance of an area of 300 square metres or more of indigenous vegetation except where such indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p><i>i. Western Cape</i></p> <p><i>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</i></p> <p><i>ii. Within critical biodiversity areas identified in bioregional plans;</i></p> <p><i>iii. Within the littoral active zone or 100 metres inland from the high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on even in urban areas;</i></p> <p><i>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was</i></p>	<p>Upgrading of Protea Road will result in the clearance of 300 square metres or more of indigenous vegetation within a critically endangered ecosystem listed in terms of section 52 of the NEMBA.</p>

<p><i>zoned open space, conservation or had an equivalent zoning; or</i></p> <p>v. <i>On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</i></p>	
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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:

The proposal entails the resurfacing of Protea Road from a gravel to a tar-surfaced road and the upgrading of associated stormwater infrastructure. This includes upgrades to four culverts that are located in a watercourse at the following locations:

1. Km 1.3112 culvert

- The existing in-situ culvert structure, located in the Klapmuts River, will be retained and cleared of all debris.
- An additional in-situ culvert will be placed adjacent to the existing structure to allow for additional flow capacity.
- The outlet structure will be connected to the existing lined open drain.

2. Km 2.312 culvert

- The existing culvert located in a channelled valley bottom wetland, will be replaced with four 1500mm x 900 mm box culverts.
- New inlet and outlet structures will be constructed and reno-mattresses (approximately 13m x 1.5m) will be installed for erosion protection.
- A drop inlet will be constructed to retain the existing water levels.

3. Km 4.326 culvert

- The existing 600mm diameter culvert, located in an unchannelled valley bottom wetland, will be replaced with a 1200mm x 900mm box culvert.
- New inlet and outlet structures will be constructed and reno-mattresses (approximately 7m x 1.5m) will be installed for erosion protection.

4. Km 5.102 culvert

- The existing 600mm diameter culvert, located in an unchannelled valley bottom wetland, will be replaced with a new 600mm diameter pipe culvert.
- New inlet and outlet structures will be constructed and reno-mattresses (approximately 6m x 1.5m) will be installed for erosion protection.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on the Protea Road, Paarl

The SG21 digit codes are: Street Parcels 1/763 – C05500000000076300001

Re/8/716 - C05500000000071600008

Properties Re/6/764 – C05500000000076400006
 Re/8/716 – C05500000000071600008
 14/716 – C05500000000071600014
 39/716 – C05500000000071600039
 21/716 – C05500000000071600021
 20/716 – C05500000000071600020
 19/716 – C05500000000071600019
 18/716 – C05500000000071600018
 Re/736 – C05500000000073600000
 Re/1/737 – C05500000000073700001
 2/737 – C05500000000073700002
 Re/1/738 – C05500000000073800001
 9/738 – C05500000000073800009
 29/32 – C06700000000003200029
 28/32 – C06700000000003200028
 Re/32 – C06700000000003200000
 9/721 – C05500000000072100009
 14/721 – C05500000000072100014
 Re/8/721 – C05500000000072100008
 Re/721 – C05500000000072100000
 Re/15/730 – C05500000000073000015

Co-ordinates of the boundary:

Latitude	Longitude
33° 47' 18.72"	18° 51' 34.27"
33° 47' 40.54"	18° 51' 00.13"
33° 48' 09.37"	18° 49' 50.23"
33° 48' 16.47"	18° 49' 20.74"

Linear activities:

	Latitude	Longitude
Starting point	33° 47' 37.61"	18° 52' 09.85"
Middle point	33° 48' 28.41"	18° 49' 15.62"
End point	33° 48' 58.29"	18° 47' 20.52"

Culvert co-ordinates:

	Latitude	Longitude
Km 1.3112 culvert	33° 47' 24.91"	18° 51' 33.90"
Km 2.312 culvert	33° 47' 40.73"	18° 50' 59.92"
Km 4.326 culvert	33° 48' 9.51"	18° 49' 49.74"
Km 5.102 culvert	33° 48' 15.68"	18° 49' 24.34"

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

Guillaume Nel Environmental Consultants (Pty) Ltd
c/o Ms C Becker
P.O. Box 2632
PAARL
7620

Tel: (021) 870 1874
Email: gn@gnec.co.za / carina@gnec.co.za

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the Preferred Alternative, as described in the BAR dated March 2020 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 activity.
 - 6.1 The notice must make clear reference to the site details and EIA Reference number given above.
 - 6.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 7, 8, 12 and 19.

Notification and administration of appeal

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 7.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 7.1.1 the outcome of the application;
 - 7.1.2 the reasons for the decision as included in Annexure 3;
 - 7.1.3 the date of the decision; and
 - 7.1.4 the date when the decision was issued.
 - 7.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulations, 2014 (as amended) detailed in Section G below;
 - 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 7.4 provide the registered I&APs with:
 - 7.4.1 the name of the holder (entity) of this Environmental Authorisation,
 - 7.4.2 name of the responsible person for this Environmental Authorisation,
 - 7.4.3 postal address of the holder,
 - 7.4.4 telephonic and fax details of the holder,
 - 7.4.5 e-mail address, if any, of the holder, and
 - 7.4.6 contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the 2014 National Appeals Regulations (as amended).
8. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Management of activity

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

Monitoring

12. The holder must appoint a suitably experienced environmental control officer ("ECO") before commencement of any land clearing or construction activity to ensure compliance with the EMPr 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 must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

15. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr, MMP, and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Report must be prepared by an **independent person** (not the ECO appointed in terms of condition 12 above) and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The holder must undertake an environmental audit every year for the duration of the construction phase and submit Environmental Audit Reports annually to the Competent Authority during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within three 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.
18. The relevant requirements with respect to occupational health and safety must be adhered to at all times.

19. A search and rescue exercise must be undertaken for the species identified in the spring survey, as recorded and outlined in the Botanical Statement dated 31 October 2019, compiled by Capensis, before commencement of construction activities.
20. The Rehabilitation Report for Protea Road dated April 2019, compiled by Guillaume Nel Environmental Consultants must be implemented once all construction activities are concluded. The results of the implementation of the rehabilitation measures must be included in the annual independent audits to be conducted in terms of condition 15 above.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with the listed activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse for that activities, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:

Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of the EIA Regulations 2014, (as amended) 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 on which notification of the decision was sent to the holder by the Competent Authority–
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.

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

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

By facsimile: (021) 483 4174; or

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

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

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

H. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental Authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully



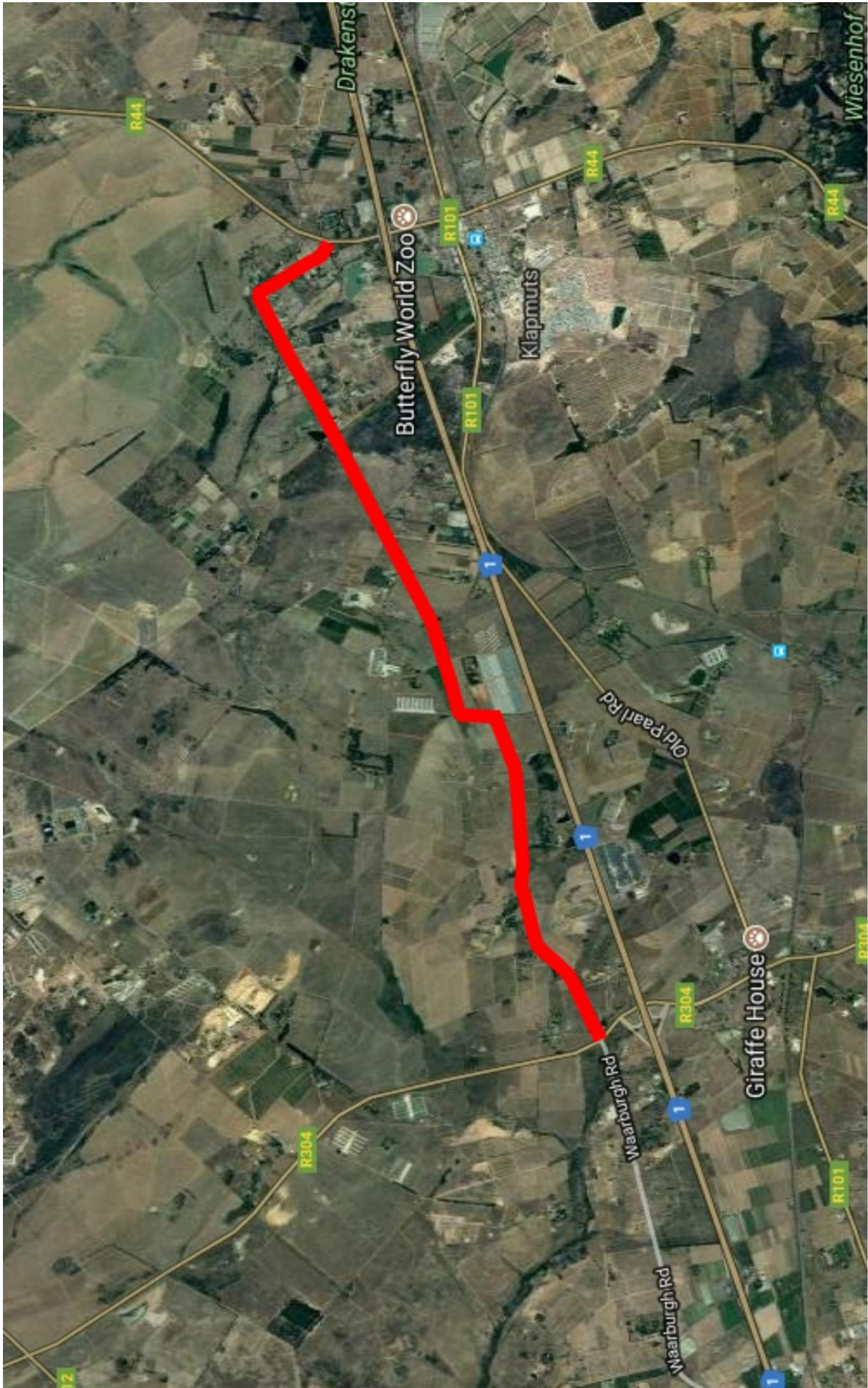
MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: **12/06/2020**

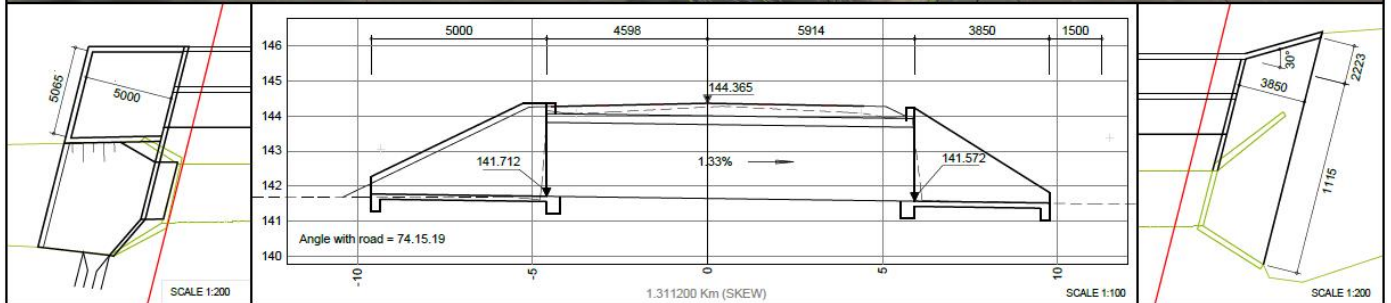
Cc: (1) C Becker (GNEC)
(2) C Winter (Drakenstein Municipality)
(3) S van der Merwe (Stellenbosch Municipality)
(4) P Huntly (CapeNature)
(5) W Dreyer (Department of Water and Sanitation)

Email: carina@gnec.co.za
Email: Cindy.Winter@drakenstein.gov.za
Email: @stellenbosch.gov.za
Email: phuntly@capenature.co.za
Email: DreyerW@dws.gov.za

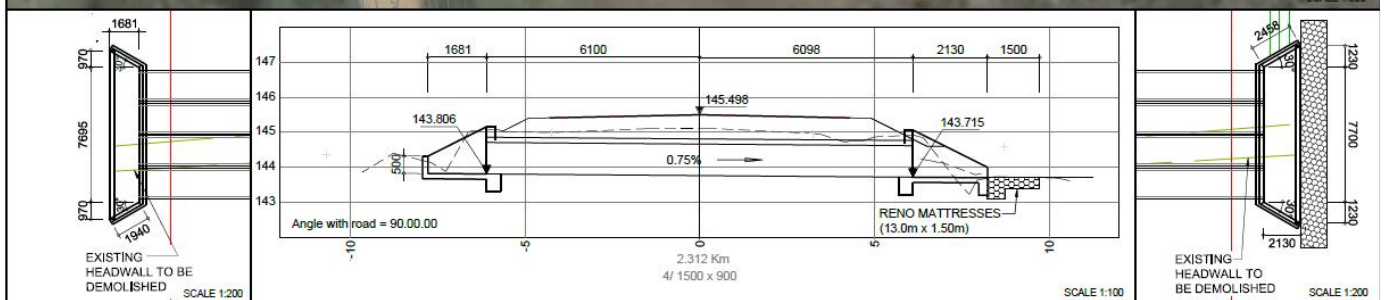
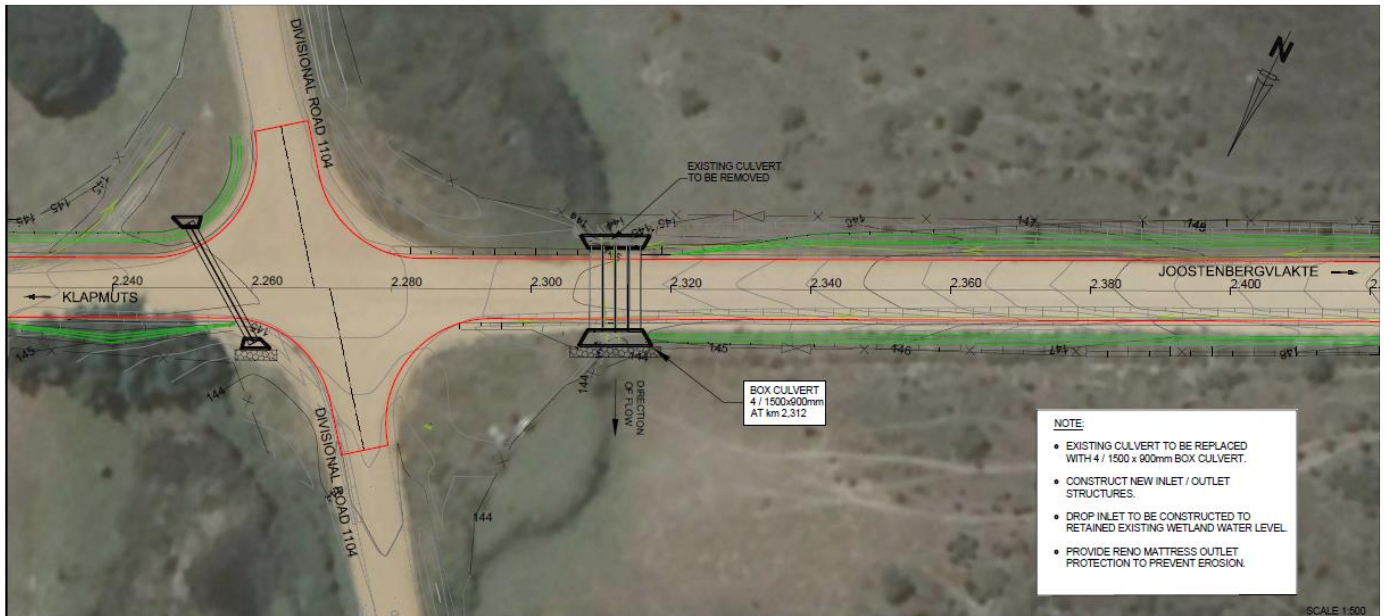
ANNEXURE 1: LOCALITY MAP



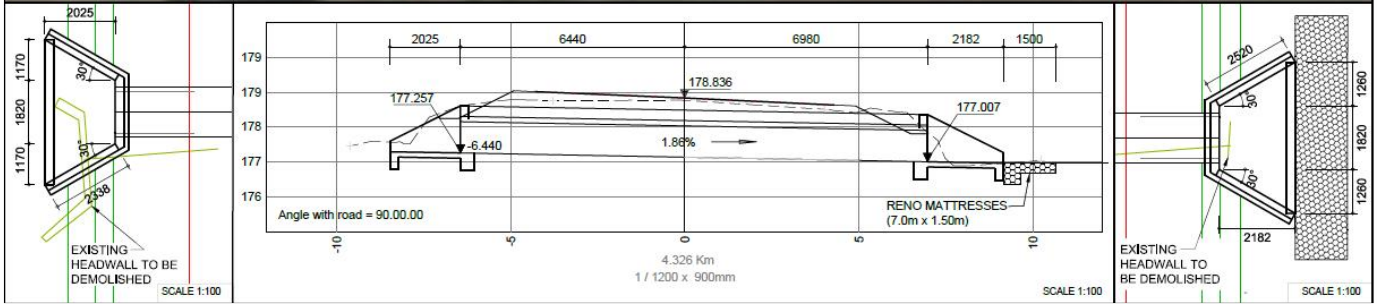
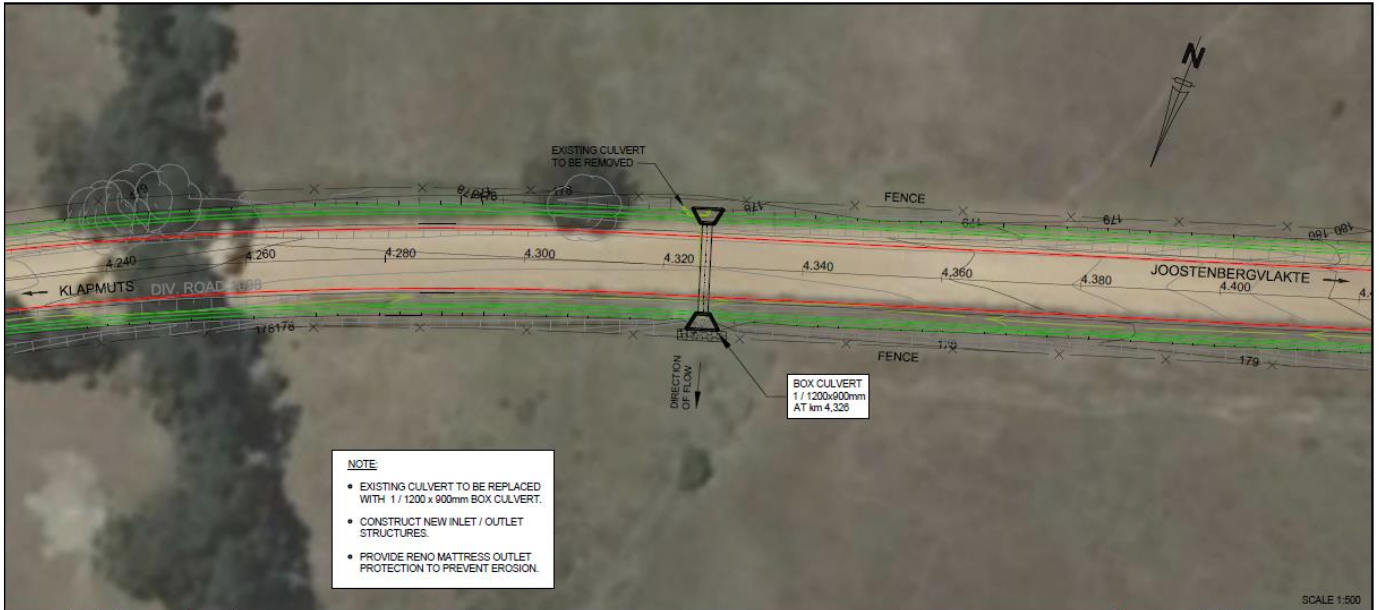
ANNEXURE 2: SITE PLAN



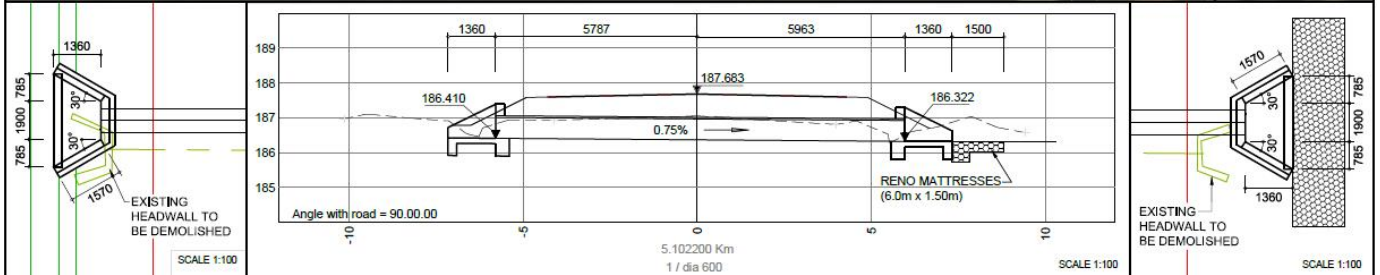
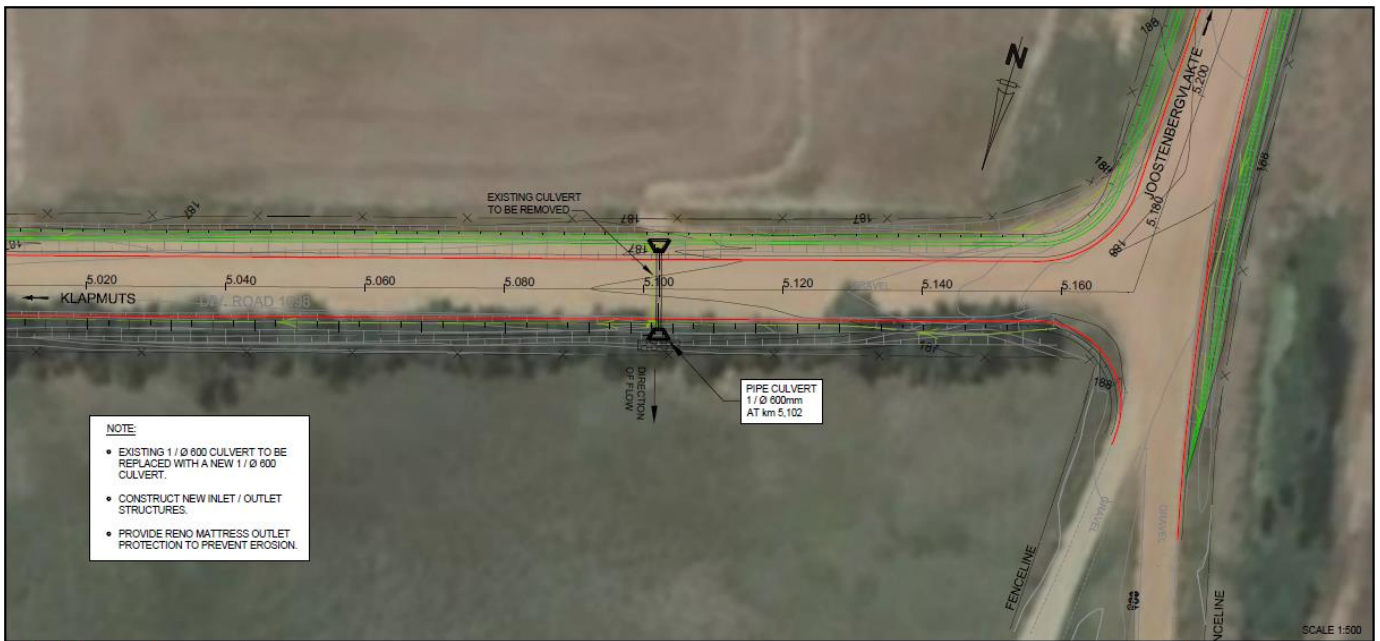
Km 1.3112 culvert



Km 2.312 culvert



Km 4.326 culvert



Km 5.102 culvert

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 28 November 2019, the final BAR submitted on 10 March 2020 and the EMPr and MMP dated 15 May 2020.
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the BAR dated 10 March 2020; 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;
- fixing notice boards at the site where the listed activities are to be undertaken on 25 April 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 councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities between 25 and 26 April 2019;
- the placing of a newspaper advertisement in the 'Paarl Post' on 25 April 2019;
- circulating the pre-application draft BAR to I&APs from 25 April 2019; and
- circulating the in-process draft BAR to I&APs from 20 January 2020.

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

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

2. Alternatives

A few design alternatives were considered for the road upgrade with respect to road alignments to improve the safety conditions of the existing road. Alternatives regarding the clearance of natural vegetation within the road reserve were also considered, but since clearance is unavoidable, rehabilitation of suitable areas was focused on instead. The following alternative incorporates the specialist input received and was therefore considered as the most viable option for implementation:

Preferred Alternative (Herewith authorised)

This alternative entails the upgrading of Protea Road, which will require resurfacing of the gravel road with tar and a number of culverts will be upgraded and replaced. This includes upgrades to four culverts that are located in a watercourse at the following locations along the road:

1. Km 1.3112 culvert

- The existing in-situ culvert structure located in the Klapmuts River, will be retained and cleared of all debris.
- An additional in-situ culvert will be placed adjacent to the existing structure to allow for additional flow capacity.
- The outlet structure will be connected to the existing lined open drain.

2. Km 2.312 culvert

- The existing culvert located in a channelled valley bottom wetland, will be replaced with four 1500mm x 900mm box culverts.
- New inlet and outlet structures will be constructed and reno-mattresses (approximately 13m x 1.5m) will be installed for erosion protection.
- A drop inlet will be constructed to retain the existing water levels.

3. Km 4.326 culvert

- The existing 600mm diameter culvert located in an unchannelled valley bottom wetland, will be replaced with a 1200mm x 900mm box culvert.
- New inlet and outlet structures will be constructed and reno-mattresses (approximately 7m x 1.5m) will be installed for erosion protection.

4. Km 5.102 culvert

- The existing 600mm diameter culvert located in an unchannelled valley bottom wetland, will be replaced with a new 600mm diameter pipe culvert.
- New inlet and outlet structures will be constructed and reno- (approximately 6m x 1.5m) will be installed for erosion protection.

"No-Go" Alternative

The no-go alternative was considered. However, it was not preferred since the road will remain in its current degraded state, will remain unsafe for people utilising the road and erosion and degradation of the stormwater infrastructure will continue.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

According to the applicable requirements, should the traffic volume on a road exceed approximately 300 vehicles per day, it is economically viable to surface the road. Protea Road is a gravel road located in the Klapmuts area that is currently experiencing high volumes of traffic (approximately 728 vehicles per day), including a high number of heavy vehicle traffic. As a result, the road is in a constant state of

disrepair, displaying severe corrugation on the road surface. Furthermore, based on visual assessment records, the road has very little gravel wearing course remaining and would therefore need to be re-gravelled. Due to the shortage of gravel in the area, resurfacing the road with tar was deemed a more viable option. The proposed upgrades are necessary to improve the local infrastructure and provide a safer road that can accommodate the traffic load currently being experienced. Upgrading of the culverts along the length of the road will also be undertaken. This will ensure effective stormwater conveyance and adequate dispersal of overflow, which will prevent potential flooding and further improve road safety conditions.

3.2 Biophysical Impacts

The proposed road upgrades along Protea Road, especially the re-surfacing of the road with tar, will result in the clearance of all the vegetation occurring within the road reserve. Based on the findings of the Botanical Assessment dated January 2019, compiled by Bergwind Botanical Surveys and Tours, the study area, owing to its linear form, traverses four vegetation types, namely Swartland Shale Renosterveld, Swartland Granite Renosterveld, Swartland Alluvium Fynbos and Swartland Silcrete Renosterveld. The vegetation types, associated landscape features and characteristic species are all classified as Critically Endangered. However, most of the original vegetation within the road reserve has either been transformed or is highly degraded. A few short sections of the road reserve harbours semi-intact and intact vegetation, whereas the culverts are highly degraded. Due to the fact that the clearance of the natural vegetation is unavoidable during the construction phase, focus will be placed on the rehabilitation of areas with intact vegetation and degraded areas with rehabilitation potential after the completion of the construction activities. A spring survey was also undertaken by the botanical specialist, as requested by CapeNature in their comment dated 30 May 2019, which identified a number of species that were not initially detected. It was therefore recommended that a search and rescue exercise be undertaken prior to the commencement of construction activities to collect and relocate the identified species to a suitable location. The recommendations have been included in the EMPr and as conditions of this Environmental Authorisation.

The areas at the inlet and outlet stormwater structures that will be upgraded have been previously disturbed due to road construction, road maintenance, road scraping and ongoing erosion activities. According to the findings of the Freshwater Resource Ecological Assessment dated October 2018, compiled by Scientific Aquatic Services CC, the Klapmuts River and channelled and unchannelled valley bottom wetlands within which the culverts occur, are in a largely modified state. The Klapmuts River is of moderate ecological importance and sensitivity, while the wetlands are of high ecological importance and sensitivity. Although the risks associated with the construction works are deemed to be of a medium significance, the impacts can be limited to an acceptable level with the implementation of the recommended mitigation measures. In addition, the upgrades to the proposed culverts are considered a positive maintenance measure with long-term benefits, such as reducing erosion and assisting in better conveyance of stormwater. Rehabilitating the areas of intact and degraded vegetation with rehabilitation potential will also positively contribute towards the ecological and biodiversity value of the existing degraded areas.

In addition, 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 road upgrade, who will further investigate the watercourse related impacts.

Furthermore, a MMP has also been compiled to address routine maintenance activities taking place in 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).

Negative Impacts:

- The proposed road upgrades will lead to the loss of all the roadside vegetation. This impact will however be mitigated to a satisfactory level with the implementation of the recommended mitigation measures (such as a search and rescue operation prior to commencement of construction and the implementation of the Rehabilitation Plan after the completion of construction) and adherence to the EMPr.

Positive impacts:

- The proposed upgrade and associated rehabilitation measures will improve the ecological and biodiversity value and functioning of the road reserve and related culverts.
- The proposed upgrades will provide the local community with safer roads and will result in job creation 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 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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