



Western Cape  
Government

Environmental Affairs and  
Development Planning

Directorate: Development Management  
(Region 1)

**REFERENCE:** 16/3/3/1/B4/39/1034/18  
**NEAS REFERENCE:** WCP/EIA/0000422/2018  
**ENQUIRIES:** Samornay Smidt  
**DATE OF ISSUE:** 2018 -11- 0 5

## 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 ESTABLISHMENT OF A RESIDENTIAL DEVELOPMENT ON PORTION 59 OF THE FARM JOHANNESDAL NO. 1202, PNIEL**

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 activity specified in section B below with respect to Alternative 1, as described in the Basic Assessment Report ("BAR"), dated July 2018.

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 Trustees  
Wingerstok Trust  
c/o Mr. Willem Adriaan Smit  
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Uniedal  
**STELLENBOSCH**  
7612

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Private Bag X9086, Cape Town, 8000  
[www.westerncape.gov.za/eadp](http://www.westerncape.gov.za/eadp)

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

**B. LIST OF ACTIVITY AUTHORISED**

Listed Activity	Activity/Project Description
<p>EIA Regulations Listing Notice 1 of 2014 -</p> <p><b>Activity Number: 28</b></p> <p><i>Residential mixed, retail, commercial, industrial or institutional development</i> where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</p> <p>(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or</p> <p>(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;</p> <p>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>The development is located outside of the urban area of Pniel on land previously used for agricultural purposes and is bigger than 1 hectare.</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:

This alternative entails the proposed development of 10 single residential erven with associated infrastructure on Portion 59 of Farm Johannesburg No. 1202 in Pniel. The sizes of the erven will vary between 500m<sup>2</sup> and 1500m<sup>2</sup>. The larger erven will be accessed by means of 5m wide pan-handles and the erven that do not have direct access to the municipal road reserve will gain access via a private right-of-way servitude.

**C. SITE DESCRIPTION AND LOCATION**

The listed activity will be undertaken on Portion 59 of Farm No. 1202, Pniel

The SG21 digit code is: C05500000000120200059

Co-ordinates:

	Latitude	Longitude
Corner 1	33° 54' 15.27"	18° 57' 05.08"
Corner 2	33° 54' 12.76"	18° 56' 54.81"
Corner 3	33° 54' 11.06"	19° 56' 52.67"
Corner 4	33° 54' 14.18"	18° 57' 05.48"
Middle	33° 54' 13.41"	18° 56' 59.59"

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

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

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

Environmental Assessment Practitioner:

Doug Jeffery Environmental Consultants (Pty) Ltd  
c/o Ms Adél Groenewald  
P.O. Box 44  
**KLAPMUTS**  
7625

Tel: (021) 875 5272

Fax: (086) 660 2635

#### **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 Alternative 1, as described in the BAR dated July 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 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, and 11.

#### **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 activity, 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 activity, including site preparation, must not commence until the appeal is decided.

#### **Management of activity**

9. The draft Environmental Management Programme ("EMPr") dated June 2018, submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
10. The EMPr must be included in all contract documentation for all phases of implementation.

## **Monitoring**

11. The holder must appoint a suitably experienced environmental control officer ("ECO"), or site agent where appropriate, before commencement of any land clearing or construction activity to ensure compliance with the EMPr and the conditions contained herein.
12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activity, and must be made available to anyone on request, including a publicly accessible website.
13. 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**

14. 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 and the EMPr and submit Environmental Audit Reports to the Competent Authority. The 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 (as amended).

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 (six months after operation commenced).

The holder must, within 7 days of the submission of the report 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**

15. 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.

16. 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.

17. The relevant requirements with respect to occupational health and safety must be adhered to at all times.
18. Services for sewage from the development may only connect to the existing municipal infrastructure once the Stellenbosch Municipality has confirmed that all future upgrades to the existing sewer reticulation networks have been completed. The upgraded Dwarsrivier Wastewater Treatment Works ("WWTW") is anticipated to be operational by July 2020.

## **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 the 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 (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 Jaap de Villiers (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 [Jaap.DeVilliers@westerncape.gov.za](mailto: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](mailto: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

  
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**MR. ZAAHIR TOEFY**

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

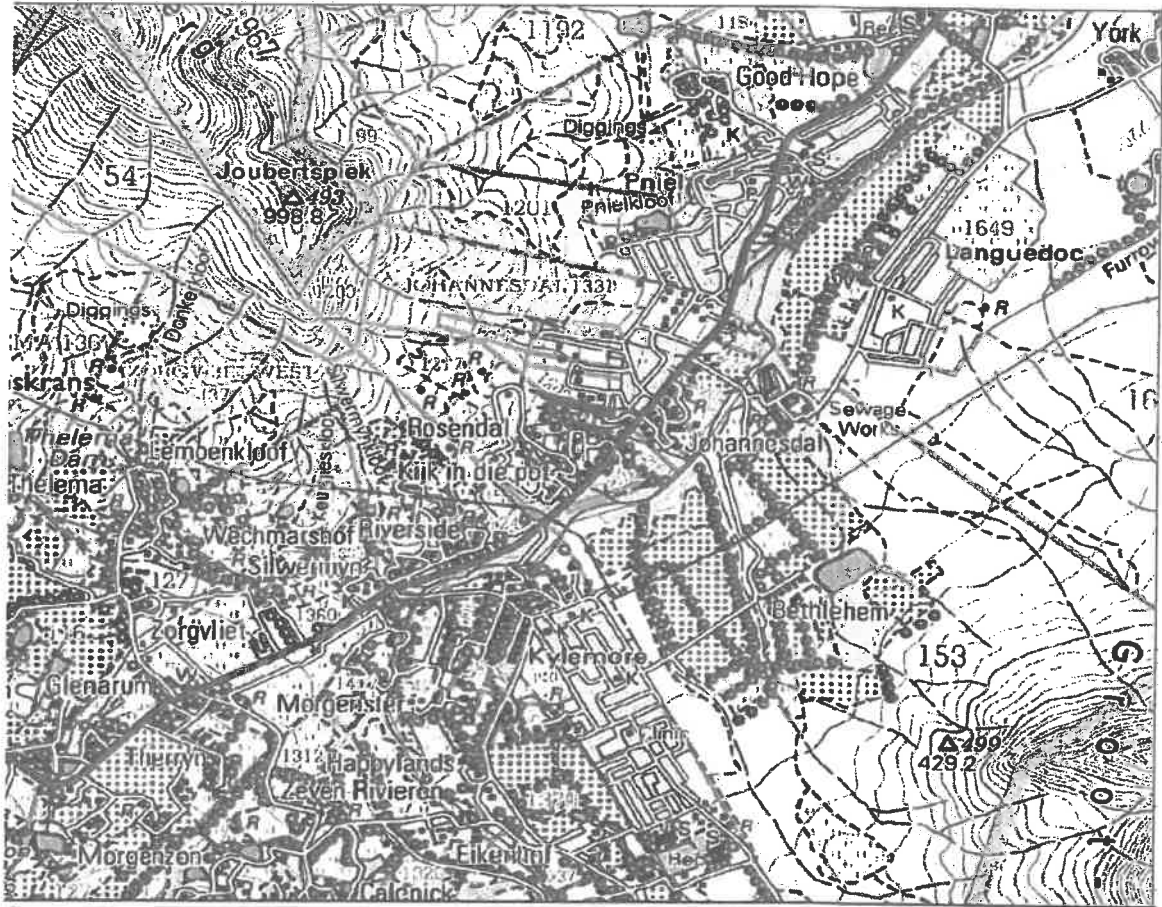
DATE OF DECISION: 05/11/2018

Cc: (1) A Groenewald (Doug Jeffery Environmental Consultants)  
(2) S van der Merwe (Stellenbosch Municipality)

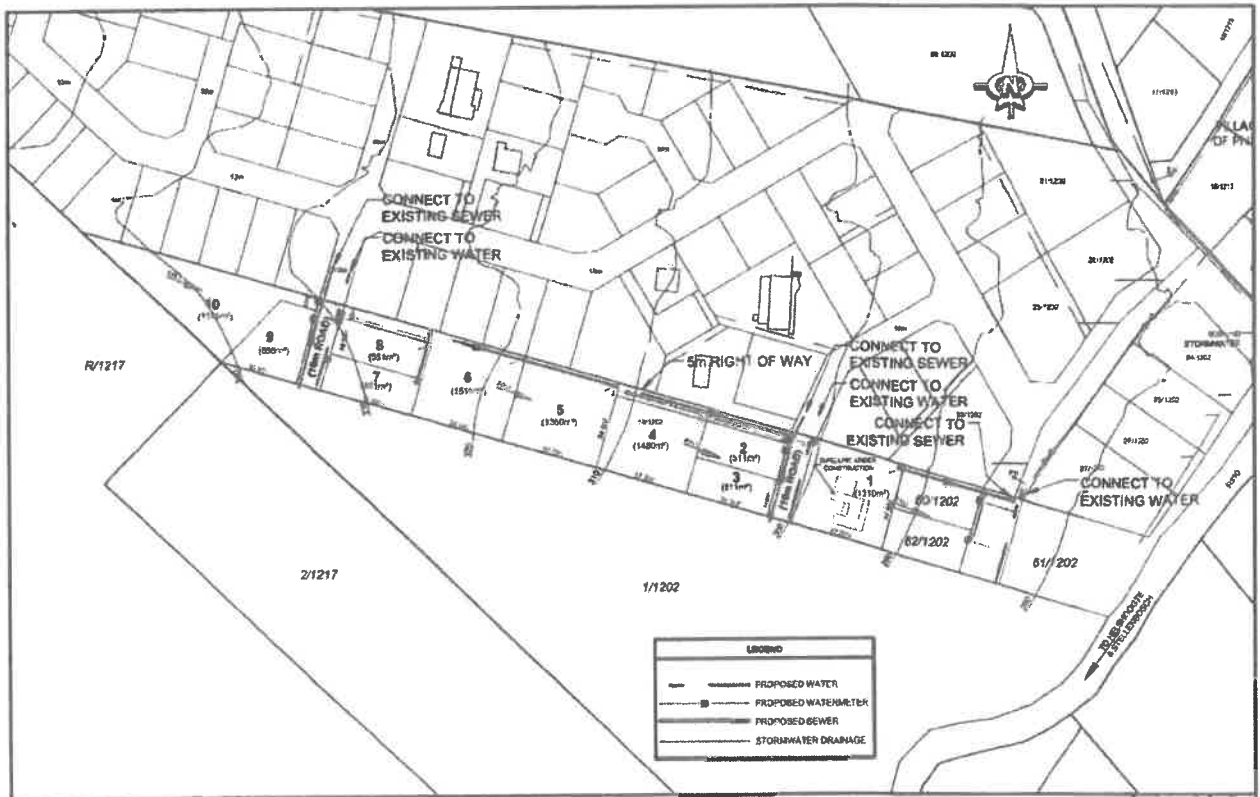
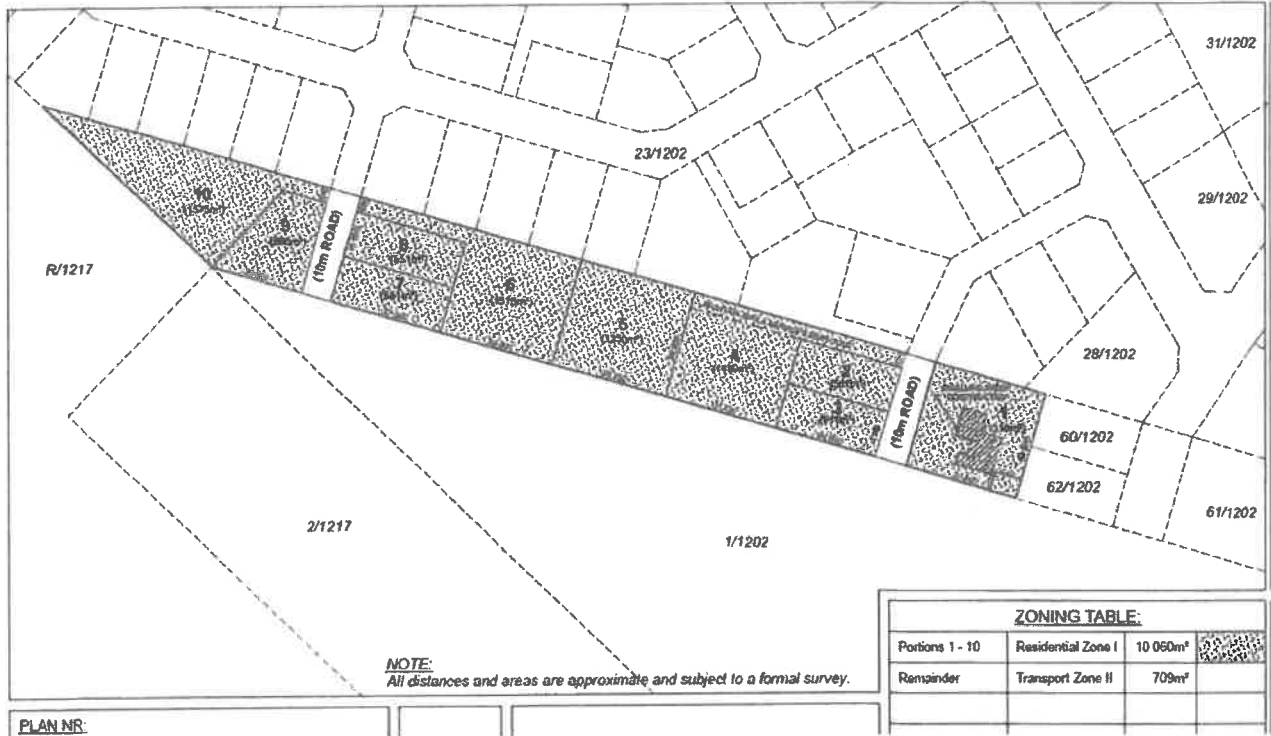
Fax: (086) 660 2635  
Fax: (021) 886 6899



ANNEXURE 1: LOCALITY MAP



**ANNEXURE 2: SITE PLAN**



### **ANNEXURE 3: REASONS FOR THE DECISION**

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

- a) The information contained in the Application Form dated 30 May 2018 and the BAR together with the EMPr dated July 2018 and submitted on 25 July 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 BAR dated July 2018; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

A site visit was not 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;
- 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 councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activity between 12 and 14 March 2018;
- fixing notice boards at the site where the listed activity is to be undertaken on 14 March 2018;
- the placing of a newspaper advertisement in the 'Eikestad' newspaper on 15 March 2018;
- circulating the pre-application draft BAR to I&APs from 15 March 2018;
- circulating the in-process draft BAR to registered I&APs from 13 June 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 EMPr to adequately address the concerns raised.

## 2. Alternatives

### Alternative 1 (Preferred Alternative herewith authorised):

This alternative entails the proposed development of 10 single residential erven with associated infrastructure on Portion 59 of Farm Johannesdal No. 1202 in Pniel. The sizes of the erven will vary between 500m<sup>2</sup> and 1500m<sup>2</sup>. The larger erven will be accessed by means of 5m wide pan-handles and the erven that do not have direct access to the municipal road reserve will gain access via a private right-of-way servitude. The narrow shape of the property, as well as the function and positioning of the overall road network plan had a significant effect on the subdivision layout. This alternative is preferred since the layout is in line with the surrounding developments and the road network compiled by the municipality.

### Alternative 2

This alternative entails the development of approximately five erven of various sizes. This alternative was not preferred, as it will not be in line with the road network plan compiled by the municipality, nor the upcoming surrounding developments. The site is also located within the urban edge and higher density development is preferred to make proper use of available space and ensure the viability of the development.

### "No-Go" Alternative

The "no-go" option was also investigated and was not preferred since the property is not a viable agricultural unit, is located inside the municipal urban edge and is designated for residential development in the municipal Spatial Development Framework ("SDF"). An opportunity to provide housing on a site demarcated for urban development in the municipal SDF will therefore be lost.

## 3. Impact Assessment and Mitigation measures

### 3.1 Activity need and desirability

The proposed development would contribute towards the current need for housing in Stellenbosch. It is located within an area demarcated for urban development. The SDF of the Stellenbosch Municipality encourages the proposed mixture of erf sizes and the proposal is therefore in line with the objectives of this forward planning document. Vacant land within the urban edge is becoming increasingly scarce. The optimal development of available land is thus crucial to prevent large scale development and extensions outside urban areas, resulting in urban sprawl. The proposed development is therefore also consistent with the planning policy and principles on a municipal and national level.

### 3.2 Biophysical Impacts

The property is located in Pniel at the foot of the Simonsberg mountain. The proposed development is bordered by the approved "Logie" development to the north, residential erven to the west and undeveloped land to the south. The Dwars River is located approximately 400m to the east of the site. Historically, the site would have contained endangered Boland Granite Fynbos and Kogelberg Sandstone Fynbos, which is classified as least threatened. The site has however been transformed by vineyards and the presence of alien vegetation with no natural vegetation remaining on the site. No significant impact on biodiversity is therefore expected. This has been confirmed by CapeNature in their comment dated 24 April 2018.

### 3.3 Visual Impacts

The proposed development is located in the Cape Winleands, where historic rural development has added to the spectacular natural mountain and riverine scenic resources. The site itself is on the foothills of the Simonsberg mountains on the east facing slopes. The site is predominantly disturbed with grasses and partially cleared alien invasive vegetation. A small vacant cottage and a partially constructed dwelling is found on the lower eastern portion of the site. The scenic resources of the surrounding area are described as rural and rated as high, but the site, however, is described as semirural/disturbed and is rated as moderate.

The inherent visual sensitivity of the site, as a result of topography, slope, landform, landuse and special features is moderate to high. The Visual Absorption Capacity of the site is moderate with partial screening by topography and vegetation. The Visual Intrusion of the proposed development will be moderate, partially fitting into the surroundings, but clearly noticeable. The visual impacts of the proposed development can however be minimised from medium-high to low-medium with the implementation of the recommended mitigation measures.

### 3.4 Services

The layout of the proposed erven was done in such a way that it aligns with the road network plan compiled by the municipality for the approved development north of this site ("Logie" development). The larger erven will be accessed by means of 5m wide pan-handles and the erven that do not have direct access to the municipal road reserve will gain access via private right-of-way servitudes.

The municipality confirmed that the bulkwater supply system has sufficient capacity to accommodate the proposed development, but no municipal reticulation exists near the site. The supply and distribution of water to the development will be via the future municipal reticulation system of the approved "Logie" development to the north. The municipality has indicated that should the developer wish to proceed with the development before the infrastructure is in place, it will be a requirement that portions of the reticulation infrastructure of the "Logie" development on Portion 23 of Farm No. 1202 be installed by the applicant, at his cost.

The proposed development falls within the catchment of the existing Dwarsrivier WWTW, which does not have sufficient capacity to accommodate new developments. Funds have however been made available to upgrade the WWTW and create additional capacity. Construction is planned to commence during 2018 and the estimated date when capacity will be available is July 2020. It was confirmed that the proposed upgrades do not require environmental authorisation. A condition has been included in this environmental authorisation to ensure that the proposed development only connect to the existing municipal infrastructure once the Stellenbosch Municipality has confirmed that all future upgrades to the existing sewer reticulation networks have been completed and capacity is available to accommodate the additional sewage load.

The Stellenbosch Municipality will provide the solid waste removal services to the proposed development. Solid waste will be disposed of at the Devon Valley landfill site.

**Negative Impacts:**

- The proposed activity works will result in elevated noise and dust levels and increased traffic volumes during the construction phase.
- The proposed development will have a potential visual impact.

**Positive Impacts:**

- The proposed development will provide housing and contribute to the local economy.
- The development will create employment opportunities 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 activity (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

**5. Conclusion**

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the proposed listed activity will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activity can be mitigated to acceptable levels.

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