



REFERENCE NUMBER: 16/3/3/1/A5/31/2048/21
NEAS REFERENCE NUMBER: WCP/EIA/0000982/2021
ENQUIRIES: Bernard Kgosana
DATE OF ISSUE: 11 April 2022

The Director
Dexter Estates (Pty) Ltd.
1st Floor, Waterfront Terraces, Block 2
3 Waterfront Road
Tyger Waterfront
Carl Cronje Drive
BELLVILLE
7530

Attention: Mr. P. van der Westhuysen

Tel.: (021) 914 1840

Email: pvdw@capitol.co.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED DEVELOPMENT OF A REGIONAL STORMWATER POND AND ASSOCIATED INFRASTRUCTURE ON UNREGISTERED ERF 2001 (PREVIOUSLY A PORTION OF PORTION 32 OF FARM NO. 168), ERF 1991 (PREVIOUSLY PORTION 33 OF FARM NO. 168) AND WITHIN A PORTION OF THE ROAD RESERVE OF DARWIN ROAD, FISANTEKRAAL.

1. With reference to the above application, this Department hereby notifies you of its decision to **grant** the Environmental Authorisation, 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 National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation below.

Yours faithfully

**Zaahir
Toefy**

Digitally signed by Zaahir Toefy
Date: 2022.04.11 13:09:42 +02'00'

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

Copied to: (1) Ms. K. Bedingfield (Legacy Environmental Management Consulting (Pty) Ltd) Email: Karin@legacyemc.co.za
(2) Mr. M. Theron (City of Cape Town: ERM) Email: Morne.Theron@capetown.gov.za



ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE FOR THE PROPOSED DEVELOPMENT OF A REGIONAL STORMWATER POND AND ASSOCIATED INFRASTRUCTURE ON UNREGISTERED ERF 2001 (PREVIOUSLY A PORTION OF PORTION 32 OF FARM NO. 168), ERF 1991 (PREVIOUSLY PORTION 33 OF FARM NO. 168) AND WITHIN A PORTION OF THE ROAD RESERVE OF DARWIN ROAD, FISANTEKRAAL.

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) 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 Preferred Alternative as described in the Final BAR dated December 2021.

The granting of this Environmental Authorisation is subject to compliance with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Director
Dexter Estates (Pty) Ltd.
c/o Mr. Pieter van der Westhuysen
1st Floor, Waterfront Terraces, Block 2
3 Waterfront Road
Tyger Waterfront
Carl Cronje Drive
BELLVILLE
7530

Tel: (021) 914 1840
Email: pvdw@capitol.co.za

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

B. ACTIVITY AUTHORISED

Listed Activity	Describe the portion of the proposed development to which the applicable listed activity relates.
Listing Notice 1 of the EIA Regulations, 2014, (as amended): Activity Number: 12 Activity Description: <i>The development of—</i> (i) <i>dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</i> (ii) <i>infrastructure or structures with a physical footprint of 100 square metres or more;</i> <i>where such development occurs—</i> (a) <i>within a watercourse;</i> (b) <i>in front of a development setback; or</i> (c) <i>if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</i> <i>excluding—</i> (aa) <i>the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</i> (bb) <i>where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</i> (cc) <i>activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</i> (dd) <i>where such development occurs within an urban area;</i> (ee) <i>where such development occurs within existing roads, road reserves or railway line reserves; or</i> (ff) <i>the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</i>	The proposed regional stormwater pond will have a physical footprint of more than 100m² and will extend into a wetland associated with the Mosselbank River. In addition, the proposed regional stormwater pond will be located within 32m of the Mosselbank River.

Activity Number: 19 Activity Description: <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> <i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i> <i>(a) will occur behind a development setback;</i> <i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i> <i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i> <i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i> <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>	The proposed development will result in the excavation, removal and moving of soil of more than 10m³ within a wetland.
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The abovementioned is hereinafter referred to as “the listed activities”.

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

The authorised development entails the development of a regional stormwater pond and associated infrastructure on unregistered Erf 2001 (previously a portion of Portion 32 of Farm No. 168), Erf 1991 (previously Portion 33 of Farm No. 168) and within a portion of the road reserve of Darwin Road, Fisantekraal.

The proposed development will entail the following:

- The enlargement of a channel (i.e. channel 1) located along the existing outlet channel of the temporary pond to convey peak unattenuated 1:100 year flow from the contributing catchments to a new box culvert. The new box culvert will allow the water to flow from channel 1 into channel 2. Channel 2 will discharge the water into the forebay of the regional pond.
- The regional stormwater pond will have a 2.9m deep permanent pool, which includes an aquatic bench, to attenuate runoff for 1:5 year to 1:50 year storm events. A 1.4m wide and 0.2m deep vegetated strip will be developed around the stormwater pond to form a perimeter and will provide some ecological services including pollutant removal, erosion control and conveyance and temporary storage of water. The total volume of the proposed stormwater pond will be approximately 4193.2m³.
- The stormwater pond will have an outlet structure of approximately 3.38m wide, approximately 3.33m long and approximately 1.99m high. The outlet structure will have a flap to prevent water from the river entering the stormwater pond.

- A box culvert, approximately 1.2m wide and approximately 1.2m high will be developed to allow water to be discharged into the gabion spillway/basin.
- The gabion stilling basin with a 10m wide overflow will be developed and will be provided at the 1:50 year flood level of the Mosselbank River. No formal works downstream of the stilling basin will occur;

The total footprint of the proposed development and associated infrastructure will be approximately 6500m² in extent.

C. PROPERTY DESCRIPTION AND LOCATION

The authorised listed activities will be undertaken on unregistered Erf 2001 (previously a portion of Portion 32 of Farm No. 168), Erf 1991 (previously Portion 33 of Farm No. 168) and within a portion of the road reserve of Darwin Road. The access to the property is through an existing gravel road that runs in a south-east direction off Klipheuwel Road.

The 21-digit Surveyor General Codes for the proposed site are:

Unregistered Erf 2001	C01600770000200100000
Erf 1991	C01600770000199100000
Road reserve of Darwin Road	
Street Parcel: 2000	C01600770000200000000
Street Parcel: 2005	C01600770000200500000
Street Parcel: 2008	C01600770000200800000

Site co-ordinates for the proposed site are as follows:

Latitude (S)	33°	47'	46.20" South
Longitude (E)	18°	42'	13.64" East

Refer to Annexure A: Locality Map and Annexure B: Proposed Site Development Plan ("SDP").

The said section of land is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Legacy Environmental Management Consulting (Pty) Ltd.
c/o Ms. Karin Bedingfield
PO Box 12410
Die Boord
STELLENBOSCH
7613

Tel: (021) 887 4000
Fax: (021) 205 1966
Email: Karin@legacyemc.co.za / info@legacyemc.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 described in the BAR dated December 2021 on the site described in Section C above.
2. The holder must commence with the listed activities on the site within a period of **five (5) years** from the date of issue of this Environmental Authorisation.

3. The development/construction activities must be concluded within **ten (10) years** from the date the 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 description set out in Section B must be 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. A minimum of 7 (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, 11 and 18.

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 Appeal 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. the name of the responsible person for this Environmental Authorisation;
 - 7.4.3. the postal address of the holder;
 - 7.4.4. the telephonic and fax details of the holder;
 - 7.4.5. the e-mail address if any, of the holder; and
 - 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 National Appeal Regulations, 2014 (as amended).

8. The listed activities, including site preparation, must not be commenced with within 20 (twenty) calendar days from the date the holder notifies 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 be commenced with until the appeal is decided.

Management of activity

9. The Environmental Management Programme (compiled by Legacy Management Consulting and dated December 2021) 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 activities 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 on 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 authorized 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 Environmental Audit Report must be prepared by an independent person, with the relevant environmental auditing expertise and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).
 - 14.1. The holder must undertake an environmental audit within three (3) months of the commencement of the development activities and submit the Environmental Audit Report to the Competent Authority one (1) month after the completion of the undertaking of the environmental audit.
 - 14.2. Thereafter, the holder must undertake an environmental audit every two (2) years during the construction period and submit the Environmental Audit Reports to the Competent Authority one (1) month after the completion of undertaking each of the environmental audits.
 - 14.3. A final Environmental Audit Report must be submitted to the Competent Authority one (1) month after the completion of the development/construction activities.
 - 14.4. The holder must, within seven (7) days of the submission of an Environmental Audit Report to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request.

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; 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.
 - 15.1. The Fossil Finds Procedure, as included in the EMPr, must be implemented during the construction phase.
16. An integrated waste management approach must be implemented that is based on waste minimisation and must incorporate avoidance, reduction, recycling, treat, reuse and disposal where appropriate. Uncontaminated rubble generated can be used as back-filling material on site. Ensure that no refuse or rubble generated on the premises is placed, dumped or deposited in the recreated wetland area.
17. Surface, storm or ground water must not be polluted due to any actions on the site. The applicable requirements with respect to relevant legislation pertaining to water must be met.
18. The proposed site must be clearly demarcated prior to the commencement of development activities. The site demarcation must remain visible for the duration of the development activities (where practical).
19. No vehicles, machinery or dangerous goods must be stored within 32m of a watercourse during the development phase.
20. The recommendations of the Aquatic Impact Assessment Report (compiled by Blue Science and dated September 2021), as included in the EMPr, must be implemented during all phases of the proposed development.
21. Employment opportunities must be afforded to the local community (as far as possible) during all phases of the proposed development.

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 specified in Condition 2, this Environmental Authorisation shall lapse for those 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. An application for amendment of the Environmental Authorisation must be submitted 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 must –
 - 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 form/s must be submitted by means of one of the following methods:

By post: Attention: Mr. M. Venter
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. M. Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001
5. The prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the 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 holder, 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 greatly appreciated.

Yours faithfully

**Zaahir
Toefy**

Digitally signed by Zaahir Toefy
Date: 2022.04.11 13:10:36 +02'00'

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

DATE OF DECISION: 11 APRIL 2022

Copied to: (1) Ms. K. Bedingfield (Legacy Environmental Management Consulting (Pty) Ltd) Email: Karin@legacyemc.co.za
(2) Mr. M. Theron (City of Cape Town: ERM) Email: Morne.Theron@capetown.gov.za

ANNEXURE A: LOCALITY MAP:



Figure 1: Locality map depicting the location of proposed regional stormwater pond.

FOR INFORMATION ONLY

GRAEME MCGILL CONSULTING
 1000 SHEPPARD AVENUE EAST
 SUITE 100
 AURORA, ONTARIO L4G 1V3
 TEL: 416-291-1111
 FAX: 416-291-1112
 WWW.GRAEMEMCGILL.COM

FISANTERKRAAL REGIONAL ATTENUATION POND

DAM AND CHANNELS

CLIENT: FISANTERKRAAL REGIONAL ATTENUATION POND

DATE: 2021-07-15

SCALE: 1:500

DRAWING NO: DAM-001

REVISION: A

REVISIONS:

NO.	DATE	DESCRIPTION
1	2021-07-15	ISSUED FOR CONSTRUCTION

LEGEND:

- EXISTING CHANNEL
- NEW CHANNEL
- NEW SIDE CHANNEL
- NEW FOREBAY

NOTES:

- REFER TO DETAIL 11 ON C200
- REFER TO DETAIL 12 ON C200
- REFER TO DETAIL 14 ON C200
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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 and received by the Competent Authority on 23 September 2021, the final BAR and the EMPr (dated December 2021) and submitted on 02 December 2021 and the additional information received by the Competent Authority on 11 April 2022;
- 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 NEMA;
- d) The comments received from I&APs and responses to these, included in the BAR dated December 2021; and
- e) The balancing of negative and positive impacts and proposed mitigation measures;
- f) 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 during the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

The public participation process ("PPP") was undertaken in accordance with a Public Participation Plan approved on 09 September 2021 and entailed the following:

- Identification of and engagement with Interested and Affected Parties ("I&APs");
- Fixing a notice board on the site where the listed activities are to be undertaken on 23 September 2021;
- 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 23 September 2021;
- The placing of a newspaper advertisement in the "Tygerburger" on 21 September 2021;
- Making the draft BAR available to I&APs for comment from 27 September 2021 to 28 October 2021;
- A hard copy of the draft BAR was available for commenting at the Durbanville Public Library;
- The draft BAR was made available electronically for 30 days commenting period (via a Google Drive link).

All of the concerns raised by I&APs were responded to and adequately addressed during the public participation process. This Department is satisfied that the PPP that was followed met the minimum legal requirements and all the comments and responses report thereto were included in the comments and responses report. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

2. Alternatives

No property alternatives were investigated as the proposed site is located within a registered servitude set aside for the development of a stormwater pond. In addition, the proposed site is in accordance with the Stormwater Master Plan prepared for the City of Cape Town in 2008. The following constraints were identified and applied during the design phase of the proposed development:

- The proposed site was set aside for the purposes of a regional stormwater pond;
- The potential impact on the flood level in the Mosselbank River;

- The peak unattenuated 1:100 year flow that would enter the proposed pond
- The objectives of the City of Cape Town's stormwater policies and bylaws; and
- Land availability and space constraints.

Technology alternatives with respect to wet and dry ponds were considered. A wet pond is preferred in this instance due to the fact that wet ponds provide retention and treatment of stormwater runoff, which improves the quality and quantity of stormwater entering the Mosselbank River. The preferred alternative and the "no-go" alternatives were therefore assessed as follows:

The Preferred Alternative - herewith authorised

The Preferred Alternative entails the development of a regional stormwater pond and associated infrastructure on unregistered Erf 2001 (previously a portion of Portion 32 of Farm No. 168), Erf 1991 (previously Portion 33 of Farm No. 168) and within a portion of the road reserve of Darwin Road, Fisantekraal.

The proposed development will entail the following:

- The enlargement of a channel (i.e. channel 1) located along the existing outlet channel of the temporary pond to convey peak unattenuated 1:100 year flow from the contributing catchments to a new box culvert. The new box culvert will allow the water to flow from channel 1 into channel 2. Channel 2 will discharge the water into the forebay of the regional pond.
- The regional stormwater pond will have a 2.9m deep permanent pool, which includes an aquatic bench, to attenuate runoff for 1:5 year to 1:50 year storm events. A 1.4m wide and 0.2m deep vegetated strip will be developed around the stormwater pond to form a perimeter and will provide some ecological services including pollutant removal, erosion control and conveyance and temporary storage of water. The total volume of the proposed stormwater pond will be approximately 4193.2m³.
- The stormwater pond will have an outlet structure of approximately 3.38m wide, approximately 3.33m long and approximately 1.99m high. The outlet structure will have a flap to prevent water from the river entering the stormwater pond.
- A box culvert, approximately 1.2m wide and approximately 1.2m high will be developed to allow water to be discharged into the gabion spillway/basin.
- The gabion stilling basin with a 10m wide overflow will be developed and will be provided at the 1:50 year flood level of the Mosselbank River. No formal works downstream of the stilling basin will occur;

The total footprint of the proposed development and associated infrastructure will be approximately 6500m² in extent.

The Preferred Alternative takes cognisance of the planning policies applicable to the area in terms of its design. In addition, the Preferred Alternative incorporates the recommendations of the freshwater specialist in this regard. The proposed development will allow the stormwater runoff entering the pond to be naturally treated and slowly released into the Mosselbank River to minimise the potential erosion impacts and to improve the quality of the water entering the Mosselbank River.

"No-Go" Alternative

The "no-go" alternative will result in the *status quo* being maintained. Since the proposed development will improve the quality of stormwater entering the Mosselbank River and will reduce the potential of erosion occurring, the "no-go" alternative was not preferred.

3. Impacts, assessment and mitigation measures

3.1. Activity Need and Desirability

The larger surrounding Durbanville Industrial Area is in the process of urban development. Urban development interferes with the natural release of stormwater over an area of land. Currently, a temporary stormwater pond has been developed on the adjacent Erf 1690, Fisantekraal until such time that a larger regional stormwater pond has been developed to assist in the increased surface water runoff due to development. The proposed regional stormwater pond will be developed to assist with the post-development runoff within the catchment area. It is required that post-development stormwater runoff does not exceed pre-development stormwater runoff, primarily to prevent flooding and minimise erosion. By developing stormwater management facilities, such as stormwater attenuation ponds, post-development peak flows can be reduced to pre-development peaks from a development site. The proposed site is zoned Utility and Transport 2 and a consent use application will be required in terms of the relevant planning legislation. In terms of the City of Cape Town's Municipal Spatial Development Framework, the proposed site is located within an area earmarked for 'new development areas' and biodiversity and open space network'. The proposed site is not mapped as a Critical Biodiversity Area or an Ecological Support Area. In addition, the proposed development is in line with the City of Cape Town's stormwater policies and bylaws.

3.2. Freshwater impacts

Since the proposed development will be located within the 1:50 and 1:100 year flood lines of the Mosselbank River and will result in the partial infilling of a wetland, an Aquatic Impact Assessment (conducted by BlueScience and dated September 2021) was therefore undertaken. The specialist indication that a non-perennial watercourse was mapped near the proposed pond. However, the mapped non-perennial watercourse is no longer visible in the landscape. A dug channel, that drains runoff into the temporary stormwater pond was noted by the specialist. A mapped channelled valley-bottom wetland was also noted by the specialist and was visible on the proposed site as the wetland is associated with the Mosselbank River. The Habitat Integrity Assessment of the Mosselbank River was assessed to be moderately to largely modified. The Present Ecological Status of the wetland areas were assessed to be largely to seriously modified ecological condition. The Mosselbank River and associated wetland areas were deemed to be of moderate ecological importance and sensitivity.

The specialist indicated that although the Mosselbank River and associated wetland has been significantly modified, the larger river system has changed from being seasonal to becoming more permanent flowing due to stormwater and other discharges into the river system. The potential impacts associated with the proposed development will result in localised low negative impacts. Mitigation measures have been recommended by the specialist and have been included in the EMPr. The Department of Water and Sanitation confirmed (in their correspondence dated 29 September 2021) that the requirements of the National Water Act, 1998 (Act No. 36 of 1998) must be met and no objection to the proposed development was noted. This Department's Directorate: Pollution and Chemicals Management indicated (in their comment dated 28 October 2021) that the recommendations of the specialist is supported.

3.3. Botanical Impacts

According to the Screening Report (generated from the Screening Tool developed by the National Department of Environmental Affairs and dated 25 May 2021) the proposed site was mapped to be located in a very high terrestrial biodiversity sensitivity area. A Botanical Screening (compiled by Capensis and dated 15 August 2021) was undertaken to determine the botanical sensitivity of the proposed site. The specialist indicated that the proposed site does not contain any remnant indigenous vegetation and no species of conservation concern would be impacted. In addition, the specialist confirmed that the proposed site does not fall within the City of Cape Town Biodiversity Network.

The specialist therefore concluded that the botanical sensitivity of the proposed site is very low. CapeNature indicated (in their comment dated 28 October 2021) that they have no objection to the proposed development.

3.4. Stormwater Master Plan review

A review of the Durbanville-Fisantekraal Bulk Stormwater Master Plan (compiled by Graeme McGill Consulting and dated 26 July 2021) was undertaken to ensure that the proposed development was designed in accordance with the relevant stormwater policies and by-laws applicable to the area and to determine whether the floodlines associated with the Mosselbank River would be impacted on as a result of the proposed development. The pre-development and post-development runoff were calculated by the specialist to determine the design requirements of the proposed pond. The specialist concluded that the Preferred Alternative will meet the requirements of the stormwater policies applicable to the area, will control the quantity of water entering the Mosselbank River and will improve the quality of the water entering the Mosselbank River. Further, the specialist confirmed that the proposed development will have no impact on the flood levels of the Mosselbank River.

3.5. Heritage Impacts

A Notice of Intent to Develop was submitted to Heritage Western Cape ("HWC"). HWC indicated (in their correspondence dated 21 September 2021) that since there is no reason to believe that the proposed development will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required. HWC have, however, recommended that the fossil finds procedure be included in the Environmental Authorisation. This recommendation has been included as a condition set in this Environmental Authorisation and in the EMPr.

3.6. Dust and noise quality Impacts

Potential dust and noise impacts are anticipated during the construction phase of the proposed development. However, the potential dust and noise impacts associated with the activities are anticipated to be to the construction phase and mitigation measures have been included in the EMPr.

The development will result in both negative and positive impacts.

Negative Impacts include:

- Potential noise and dust impacts during the construction phase; and
- The partial infilling of a wetland area associated with the Mosselbank River.

Positive impacts include:

- Some employment opportunities; and
- Optimal use of the land earmarked for the proposed development;
- Improved stormwater management for the catchment;

4. National Environmental Management Act Principles

The National Environmental Management Act 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.

You are reminded of the general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: *"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."*

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