



Directorate: Development Management
(Region 2)

REFERENCE: 16/3/3/1/B4/12/1041/16
NEAS REFERENCE: WCP/EIA/0000177/2016
ENQUIRIES: D'mitri Matthews
DATE OF ISSUE: 24.05.2017

The Board of Directors
 Leeu Estates
 P. O. Box 341
FRANSCHHOEK
 7690

Attention: Mr W. du Plessis

Cell: (079) 892 2350
 Fax: (086) 604 8335

Dear Sir

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 STABILISATION OF THE LEFT BANK OF THE FRANSCHHOEK RIVER ON FARM KLEIN DASSENBERG NO. 1551, FRANSCHHOEK

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014 (as amended), you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

ACTING DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Dr J. Neethling (Johan Neethling Environmental Services)
 (2) Mr S. van der Merwe (Stellenbosch Municipality)

Fax: (086) 544 4868
 Fax: (021) 886 6899



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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 STABILISATION OF THE LEFT BANK OF THE FRANSCHHOEK RIVER ON FARM KLEIN DASSENBERG NO. 1551, FRANSCHHOEK

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 Alternative 2, described in the Basic Assessment Report ("BAR"), dated January 2017.

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

Leeu Estates
% Mr W. du Plessis
P. O. Box 341
FRANSCHHOEK
7690

Cell: (079) 892 2350
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Tel: +27 21 483 8350 Fax: +27 21 483 3633
E-mail: D'mitri.Matthews@westerncape.gov.za

Private Bag X9086, Cape Town, 8000
www.westerncape.gov.za/eoadp

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
Government Notice No. R. 327 of 7 April 2017 – Activity Number 19 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) a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving— (a) will occur behind a development setback; (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies; (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or (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.	The 245m long, gabion revetments will be placed within the watercourse and will entail the movement of material of more than 10m³.
Activity Number 48 The expansion of— (i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or (ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more; where such expansion occurs— (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; excluding— (aa) the expansion of infrastructure or structures	The existing failed gabion wall will be replaced and expanded by more than 100m.

within existing ports or harbours that will not increase the development footprint of the port or harbour; (bb) where such expansion activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; (cc) 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; (dd) where such expansion occurs within an urban area; or (ee) where such expansion occurs within existing roads, road reserves or railway line reserves.	
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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:

Alternative 2:

The proposal entails the construction of a gabion revetment along the left bank of the Franschhoek River over a distance of approximately 245m. At the downstream end of the gabion revetment, a gabion erosion buffer wall of 4m long and 2m deep will be installed to ensure smooth and stable hydraulic transition. A further series of buried gabion erosion buffer walls will be constructed at strategic locations on either side of the existing walkway to reduce scour around this area.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on the Farm Klein Dassenberg No. 1551, Franschhoek, at the following co-ordinates:

Gabion revetment:

	Latitude (S)		Longitude (E)	
Start	33° 54'	21.45"	19° 06'	07.17"
Middle	33° 54'	18.21"	19° 06'	02.22"
End	33° 54'	14.16"	19° 06'	00.06"

The SG digit code is: C05500030000155100000

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

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Johan Neethling Environmental Services cc

% Dr. J. Neethling

P. O. Box 16594

VLAEBERG

6849

Tel.: (021) 461 4386

Fax: (086) 544 4868

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, Alternative 2 described in the BAR dated January 2017 at 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 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.
4. 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

5. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of construction activities. The notice must:
 - 5.1 make clear reference to the site details and EIA Reference number given above; and
 - 5.2 include proof of compliance with the following conditions described herein:

Conditions: 6, 7, 11 and 17

Notification and administration of appeal

6. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision:
 - 6.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 6.1.1 the outcome of the application;
 - 6.1.2 the reasons for the decision as included in Annexure 3;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date when the decision was issued.

- 6.2 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;
- 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
- 6.4 provide the registered I&APs with:
 - 6.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 6.4.2 name of the responsible person for this Environmental Authorisation;
 - 6.4.3 postal address of the holder;
 - 6.4.4 telephonic and fax details of the holder;
 - 6.4.5 e-mail address, if any, of the holder; and
 - 6.4.6 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).
7. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant 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 commence until the appeal is decided.

Management of activity

8. The Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented.
9. The Maintenance Management Plan ("MMP"), included as part of the EMPr, is herewith agreed to in terms of the NEMA EIA Regulations, 2014 (as amended) relating to Activity 19 of GN No. R. 327. The maintenance work specified in the MMP therefore does not require a separate Environmental Authorisation prior to the undertaking thereof.
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 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, the EMPr and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Report must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The holder must submit an Environmental Audit Report for the construction phase within 3 months of completion of construction to the Competent Authority and thereafter, every 3 months for a period of 1 year. The final Environmental Audit Report must be submitted to the Competent Authority three months after commencement of operations.

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

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 paleontological 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 construction site must be clearly demarcated prior to the commencement of construction activities and all areas outside of the demarcated construction site must be regarded as "no-go" areas.

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 activity, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.
4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 must be submitted.

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

5. The manner and frequency for updating the EMPr is as follows:
Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of GN No. R.326 of 7 April 2017 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
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

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

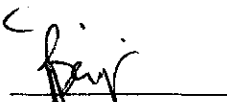
5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully



MR. JEREMY BENJAMIN

ACTING DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 2)

DATE OF DECISION: 24/05/2017

CC: (1) Dr J. Neethling (Johan Neethling Environmental Services)
(2) Mr S. van der Merwe (Stellenbosch Municipality)

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ANNEXURE 1: LOCALITY MAP

Figure 1: Locality map of the gabion revetments on Farm Klein Dassenberg No. 1551, Franschhoek.

ANNEXURE 2: SITE PLAN

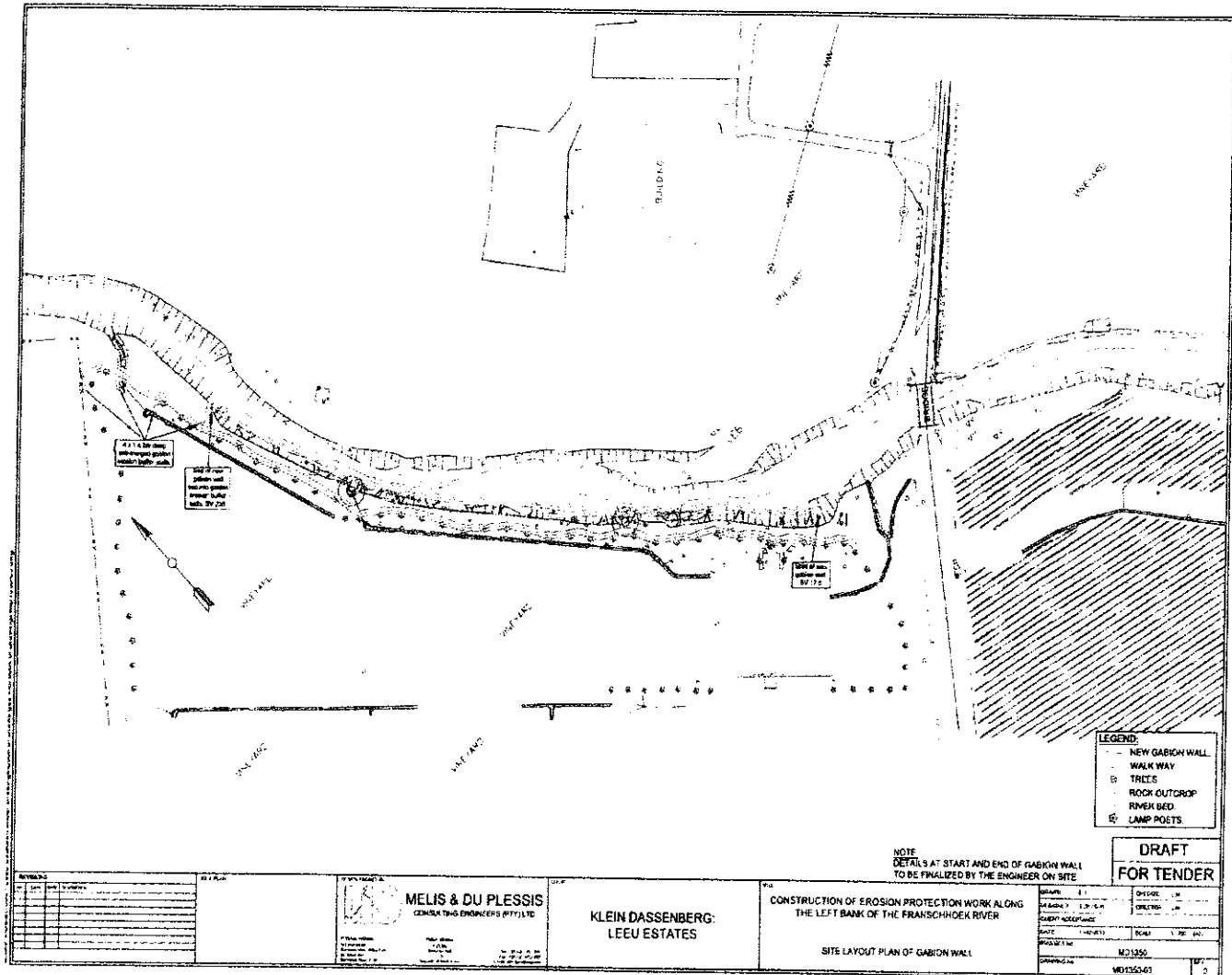


Figure 3: Site Plan for the proposed gabion revetments.

ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, amongst others, the following:

- a) The information contained in the Application Form dated 17 October 2016, the BAR dated January 2017, the EMPr submitted together with the BAR and the MMP included as part of the EMPr;
- 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 NEMA;
- d) The comments received from I&APs and responses to these, included in the BAR dated January 2017; 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.

This application was submitted in terms of the NEMA EIA Regulations, 2014. This decision takes into account the relevant amendments to the text of the said regulations promulgated on 7 April 2017.

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 included:

- identification of and engagement with I&APs;
- fixing notice boards at the sites where the listed activities is to be undertaken on 21 July 2016;
- the placing of a newspaper advertisement in the 'Paarl Post' on 21 July 2016;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities 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 activities, on 23, 25 and 26 July 2016, respectively; and
- making the pre-application BAR available to I&APs for public review from 26 July 2016 and the in-process BAR from 18 and 19 October 2016, respectively.

All the concerns raised by I&APs were responded to, and addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr, in order to address the concerns raised.

The Competent Authority notes the Environmental Assessment Practitioner's responses to the issues raised during the public participation process, and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

Alternative 1:

This alternative entails the construction of a gabion revetment to stabilise the left bank of the Franschhoek River over a distance of approximately 220m.

This alternative is not preferred because it will not afford good anchoring upstream of the gabion revetment and adequate protection at the downstream end of the works compared to Alternative 2, since the bank still presents an inward bend at these points.

Alternative 2 (Herewith Authorised):

This alternative entails the construction of a gabion revetment along the left bank of the Franschhoek River over a distance of approximately 245m. At the downstream end of the gabion revetment, a gabion erosion buffer wall of 4m long and 2m deep will be installed to ensure smooth and stable hydraulic transition. A further series of buried gabion erosion buffer walls will be constructed at strategic locations on either side of the existing walkway to reduce scour around this area.

This alternative is preferred since it allows for better anchoring upstream of the gabion revetment and more effective protection at the downstream end of the works.

"No-Go" Alternative

The "no-go" option to not construct the gabion revetment and a series of gabion erosion buffer walls was considered, however, this was not deemed feasible since the left bank of the Franschhoek River will continue to erode, resulting in loss of real estate and damage to infrastructure. In addition, continued erosion will result in an increase in silt load in the river, which negatively affects the ecological functioning of the river.

Impact Assessment and Mitigation measures

2.1 Activity need and desirability

The Franschhoek River has been impacted upstream by abstraction of water for irrigation purposes as well as urban development i.e. estates and other hard surfaces. This has resulted in an increase of runoff and due to the sandy soil and minimum natural vegetation associated with the river, the river adjacent to Farm Klein Dassenberg is continuously eroding along the left bank. Previously, gabions were installed over a distance of approximately 20m. However, these gabions collapsed, which resulted in continuous erosion over a much larger distance, than the 20m and increased the silt load within the river. As such, a gabion revetment along with additional gabion erosion buffer walls along the left bank of the Franschhoek River is proposed to minimise erosion, to protect the river bank, to decrease the silt load within the river and to improve the ecological functioning of the river.

2.2 Biodiversity and Biophysical Impacts

According to the Freshwater Assessment dated February 2016, compiled by Ms. K. Dalhuijsen of Scientific Aquatic Services cc, the Franschhoek River is not listed as a National Freshwater Ecosystem Priority Area. The Franschhoek River is in a largely modified condition with a moderate ecological importance and sensitivity. The proposed gabion revetments will have a low (negative) impact on aquatic and riparian habitat and ecology, on ecological provision and on hydrological function during the construction phase. Furthermore, through the implementation of

the EMPr (accepted in Section E, Condition 8) and MMP (agreed to in Condition 9), the impacts on the watercourse will be mitigated.

In addition, a MMP has also been compiled to address routine maintenance activities taking place in the affected stretch of the watercourse. The maintenance of the structures authorised in this Environmental Authorisation forms part of this MMP.

It must be noted that the accepted maintenance activities only relate to the activities described in the MMP. Should any new activities and associated infrastructure, not included in the MMP, require maintenance and if any of the applicable listed activities are triggered, an Environmental Authorisation must be obtained prior to the undertaking of such activities. It remains the responsibility of the proponent to determine if any other listed activities are triggered and to ensure that the necessary Environmental Authorisation is obtained.

The fact that the MMP is agreed to 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).

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 gabion revetments which will entail the alteration of the bed and banks within the Franschhoek River.

The development will result in both negative and positive impacts.

Negative Impacts:

- The proposed development will result in elevated noise and dust levels during the construction period.
- During construction, flow within the watercourse will be diverted temporarily, however, the natural flow will be reinstated after construction has ceased.

Positive impacts:

- The left bank will be stabilised and will be protected from erosion.
- The silt load within the Franschhoek River will decrease due to less erosion along the left bank.
- Temporary employment opportunities will be created during the construction phases.

3. National Environmental Management Act Principles

The NEMA 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.

4. 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 NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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