



**REFERENCE:** 16/3/3/1/B4/12/1068/21  
**NEAS REFERENCE:** WCP/EIA/0001008/2021  
**DATE:** 19 May 2022

The Board of Directors  
Boschendal (Pty) Ltd  
PO Box 35  
**PNIEL**  
7681

**Attention: Mr William George**

Cell: 082 559 9100  
Email: specialistproject1@boschendal.co.za

Dear Sir

**APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014: PROPOSED DEVELOPMENT OF A "NEW RETREAT" AND ASSOCIATED INFRASTRUCTURE ON A PORTION OF PORTION 11 OF FARM NO. 1674, PAARL**

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** Environmental Authorisation and **adopt** the Maintenance Management Plan, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the EIA Regulations, 2014, 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 Appeal Regulations, 2014, which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Cc: (1) C Muller/M Penwarden (Chand Environmental Consultants cc)

Email: claudette@chand.co.za

Email: marielle@chand.co.za

(2) S van der Merwe (Stellenbosch Municipality)

Email: Schalk.VanderMerwe@stellenbosch.gov.za





**REFERENCE:** 16/3/3/1/B4/12/1068/21  
**NEAS REFERENCE:** WCP/EIA/0001008/2021  
**ENQUIRIES:** Samornay Smidt  
**DATE OF ISSUE:** 19 May 2022

## 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 DEVELOPMENT OF A "NEW RETREAT" AND ASSOCIATED INFRASTRUCTURE ON A PORTION OF PORTION 11 OF FARM NO. 1674, 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 the Preferred Layout Alternative, as described in the Basic Assessment Report ("BAR"), dated 3 February 2022.

In terms of the NEMA, viz, the EIA Regulations, 2014 (Listing Notices 1 and 3 of 2014 in Government Gazette No. 40772 of 7 April 2017) the Competent Authority hereby **adopts the Maintenance Management Plan** for the proposed maintenance of the development of a New Retreat and associated infrastructure on a portion of portion 11 of Farm No. 1674, Franschhoek, dated November 2021.

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

Boschendal (Pty) Ltd  
c/o Mr William George  
PO Box 35

**PNIEL**  
7681

Cell: 082 559 9100

Email: specialistproject1@boschendal.co.za

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

## B. LIST OF ACTIVITIES AUTHORISED

Listed Activity	Activity/Project Description
<p>EIA Regulations Listing Notice 1 of 2014 -</p> <p><b>Activity Number: 12</b></p> <p><i>The development of—</i></p> <p>(i) <i>dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</i></p> <p>(ii) <i>infrastructure or structures with a physical footprint of 100 square metres or more;</i></p> <p><i>where such development occurs—</i></p> <p>(a) <i>within a watercourse;</i></p> <p>(b) <i>in front of a development setback; or</i></p> <p>(c) <i>if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —</i></p> <p><i>excluding—</i></p> <p>(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></p> <p>(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></p> <p>(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></p> <p>(dd) <i>where such development occurs within an urban area;</i></p> <p>(ee) <i>where such development occurs within existing roads, road reserves or railway lines; or</i></p> <p>(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></p>	<p>The development will be located within and within 32 m of the watercourses present on the site.</p>

<p>EIA Regulations Listing Notice 1 of 2014 -</p> <p><b>Activity Number: 19</b></p> <p><i>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse –</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <p><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></p>	<p>The development will result of the infilling and removal of more than 10m<sup>3</sup> of material from the watercourses present on the site.</p>
<p>EIA Regulations Listing Notice 1 of 2014 -</p> <p><b>Activity Number: 48</b></p> <p><i>The expansion of-</i></p> <p><i>(i) infrastructure or structures where the physical footprint is expanded by 100 square metres or more; or</i>  <i>(ii) dams or weirs, where the dam or weir, including infrastructure and water surface area, is expanded by 100 square metres or more;</i></p> <p><i>where such expansion occurs –</i></p> <p><i>(a) within a watercourse;</i>  <i>(b) in front of a development setback; or</i>  <i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</i></p> <p><i>Excluding</i></p> <p><i>aa. the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;</i>  <i>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;</i>  <i>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;</i></p>	<p>The development will result in the expansion of existing structures and infrastructure by more than 100m<sup>2</sup> within and within 32m of the watercourses present on the site.</p>

<p>dd. where such expansion occurs within an urban area; or ee. where such expansion occurs within existing roads, road reserves or railway line reserves.</p>	
<p>EIA Regulations Listing Notice 3 of 2014 -</p> <p><b>Activity Number: 6</b></p> <p><i>The development of resorts, lodges, hotels, and tourism or hospitality facilities that sleeps 15 people or more.</i></p> <p>i. Western Cape</p> <p>i. Inside a protected area identified in terms of NEMPAA;</p> <p>ii. Outside urban areas;</p> <p>aa. Critical biodiversity areas as identified in systematic biodiversity plans adopted by the competent authority or in bioregional plans; or</p> <p>bb. Within 5 km from national parks, world heritage sites, areas identified in terms of NEMPAA or from the core area of a biosphere reserve; -</p> <p><i>excluding the conversion of existing buildings where the development footprint will not be increased.</i></p>	<p>More than 15 people would be accommodated for tourism/ hospitality purposes.</p>
<p>EIA Regulations Listing Notice 3 of 2014 –</p> <p><b>Activity Number: 12</b></p> <p><i>The clearance of an area of 300 square metres or more of indigenous vegetation except where such indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i></p> <p>i. Western Cape</p> <p>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</p> <p>ii. Within critical biodiversity areas identified in bioregional plans;</p> <p>iii. Within the littoral active zone or 100 metres inland from the high-water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;</p> <p>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or</p>	<p>The development will require the clearance of 300m<sup>2</sup> or more of endangered indigenous vegetation.</p>

<p>v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</p>	
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The abovementioned list is hereinafter referred to as “**the listed activities**”.

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

The proposed development entails the development of a “New Retreat”, for the Bertha Foundation. Where possible, it will make use of the existing building footprints of the labourer cottages on the site, and will comprise the following:

- Tourist accommodation that can accommodate a maximum of 34 guests;
- A conference facility and a communal dining and lounge area;
- An administration building with a reception and waiting lounge / library;
- Meeting room(s) for community programmes and a communal library;
- A kitchen area, with space for staff dining, lockers, and ablution facilities; and
- Approximately 24 parking bays.
- Access will be gained from the existing Ou Wa-pad.
- A combination of hard and soft landscaping measures will be applied throughout the development, which includes footpaths and an Amphitheatre in proximity to and partially within the watercourses present on the site.
- The flood protection measures that will be implemented include converting the existing culvert crossing over Hoof Road to a low-level crossing to contain flow under and over the new culverts, flooding the existing in-stream head-cut and stabilizing the berms adjacent to the site and across the Ou Wa-pad.
- Rehabilitation of the stream north of the site (i.e. stream 10) will include bed and bank stabilisation, removal of invasive alien plant species and replanting of rehabilitated areas.

**C. SITE DESCRIPTION AND LOCATION**

The listed activities will be undertaken on a portion of Portion 11 of Farm No. 1674, Boschendal Estate.

The SG21 digit code is: C05500000000167400011

Co-ordinates:

**Permanent potable water supply line to Lanquedoc**

Starting Point:

Latitude	Longitude
33° 53' 19.40"	18° 58' 29.01"

Middle Point:

Latitude	Longitude
33° 53' 24.41"	18° 58' 16.65"

End Point:

Latitude	Longitude
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33° 53' 33.94"	18° 58' 4.64"
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**Interim (temporary) potable water supply line**

Starting Point:

Latitude	Longitude
33° 53' 19.55"	18° 58' 28.85"

Middle Point:

Latitude	Longitude
33° 53' 17.59"	18° 58' 32.62"

End Point:

Latitude	Longitude
33° 53' 13.40"	18° 58' 33.46"

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

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

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

Chand Environmental Consultants cc (Pty) Ltd  
 c/o C Muller/M Penwarden  
 PO Box 238  
**PLUMSTEAD**  
 7801

Tel: (021) 762 3050  
 Email: claudette@chand.co.za/marielle@chand.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 Layout Alternative, as described in the BAR dated 3 February 2022 on the site as described in Section C above.
2. The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.

This Environmental Authorisation is granted for–

- (a) A period of five (5) years, from the date of issue, during which period the holder must commence with the authorised listed activities.
- (b) A period of ten (10) years, from the date the holder commenced with the authorised listed activities, during which period the authorised listed activities, must be concluded.

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 activity.
  - 5.1 The notice must make clear reference to the site details and EIA Reference number given above.
  - 5.2 The notice must also include proof of compliance with the following conditions described herein:

Conditions: 6, 7 and 11.

#### **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;
  - 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 notified the registered I&APs of this decision. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

### **Management of activity**

8. The draft 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") adopted as part of this Environmental Authorisation 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") 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, MMP, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request, including a publicly accessible website.
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** (other than not the ECO appointed in terms of condition 11 above or the appointed Environmental Assessment Practitioner) and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).

The holder must undertake an environmental audit every year for the duration of the construction phase and submit Environmental Audit Reports annually to the Competent Authority during the construction phase. The final Environmental Audit Report must be submitted to the Competent Authority within three months after operation commenced.

The holder must, within 7 days of the submission of each of the above-mentioned reports to the Competent Authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and on a publicly accessible website (if applicable).

### **Specific Conditions**

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.

### **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 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. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 (as amended) must be submitted.

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

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

Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of the EIA Regulations 2014, (as amended) or any relevant legislation that may be applicable at the time.

## G. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (as amended).

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

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

By facsimile: (021) 483 4174; or

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

**Note:** For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any

supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za).

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

## H. DISCLAIMER

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

Your interest in the future of our environment is appreciated.

Yours faithfully

**MR. ZAAHIR TOEFY**

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

**DATE OF DECISION: 19 MAY 2022**

Cc: (1) C Muller/ M Penwarden (Chand Environmental Consultants cc)

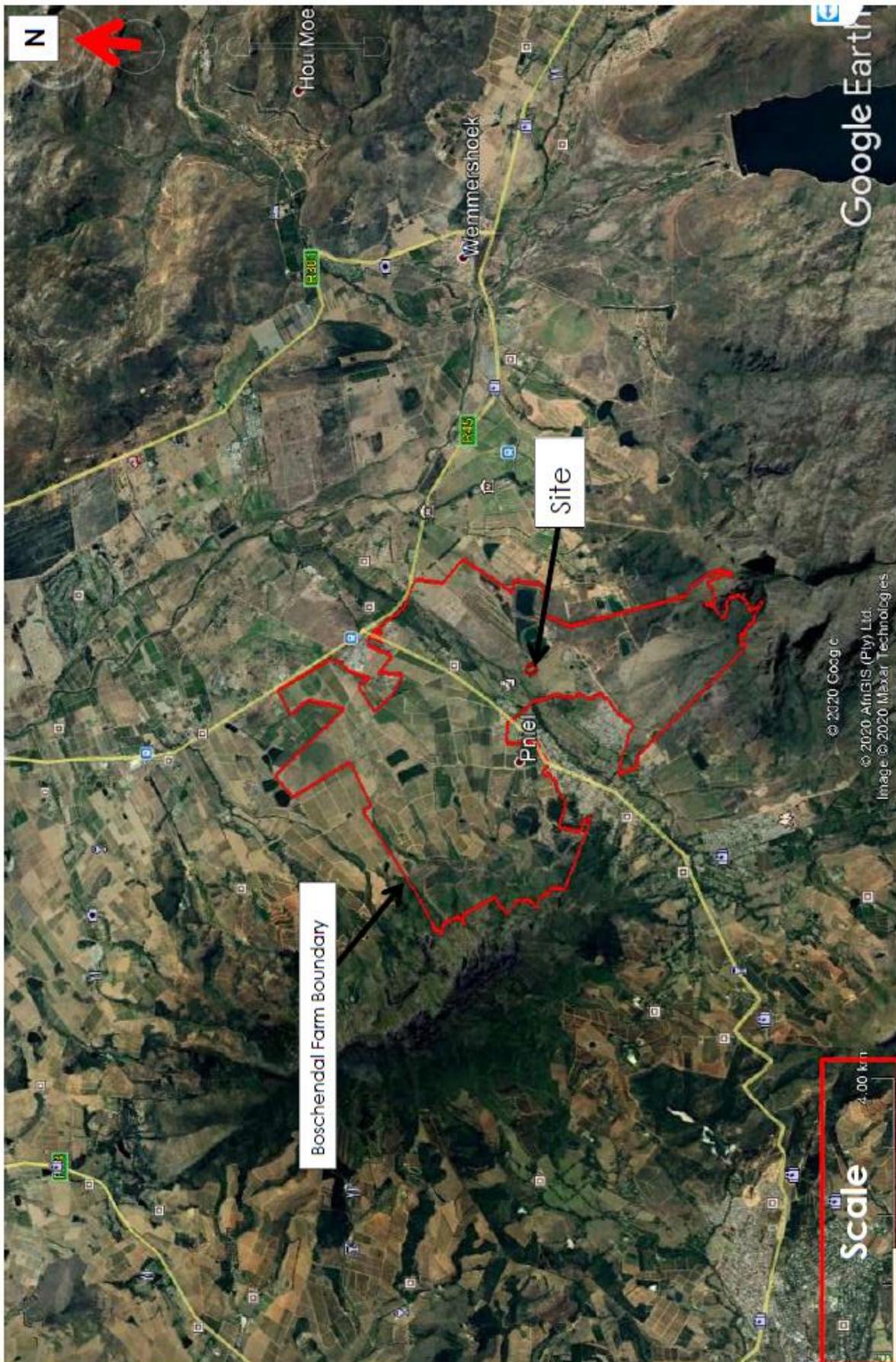
Email: [claudette@chand.co.za](mailto:claudette@chand.co.za)

Email: [marielle@chand.co.za](mailto:marielle@chand.co.za)

(2) S van der Merwe (Stellenbosch Municipality)

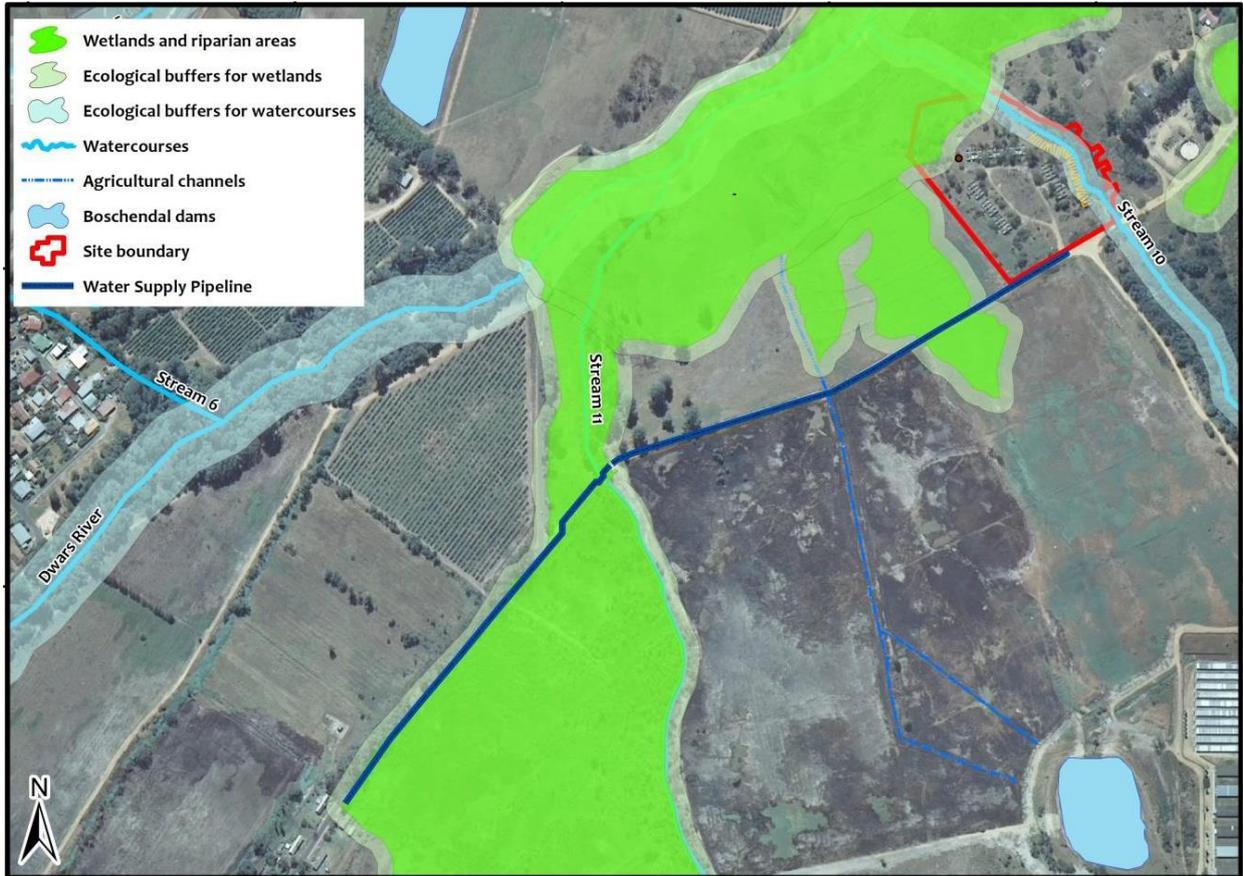
Email: [Schalk.VanderMerwe@stellenbosch.gov.za](mailto:Schalk.VanderMerwe@stellenbosch.gov.za)

# ANNEXURE 1: LOCALITY MAP





# PROPOSED ECOLOGICAL CORRIDORS AND LANDSCAPING



## **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 16 November 2021, the EMPr submitted together with final BAR on 3 February 2022 and the additional information received on 29 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 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 3 February 2021 and the additional information received on 29 April 2022; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

All information presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

### **1. Public Participation**

The public participation process included:

- identification of and engagement with I&APs;
- fixing notice boards at the site where the listed activities are to be undertaken and public areas on 22 November 2021;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councillor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities on 22 November 2021;
- the placing of a newspaper advertisement in the 'Eikestad Nuus' on 25 November 2021
- circulating the pre-application draft BAR to I&AP's from 6 November 2020;
- circulating the in-process draft BAR to I&APs from 23 November 2021.

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

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

### **2. Alternatives**

Three layout/service alternatives were considered for the proposed development. The three alternatives were the same with respect to the building layouts, use and landscaping of the site, as well as flood risk mitigation, stream rehabilitation and services for refuse and telecommunications. The alternatives differed with respect to sewer, stormwater, and potable water services. The following preferred alternative was considered as the most viable option for implementation from a biophysical, engineering and socio-economic perspective.

### **Preferred Development Alternative 3 (Herewith authorised)**

The proposed development entails the development of a "New Retreat", for the Bertha Foundation. Where possible, it will make use of the existing building footprints of the labourer cottages on the site, and will comprise the following:

- Tourist accommodation that can accommodate a maximum of 34 guests;
- A conference facility and a communal dining and lounge area;
- An administration building with a reception and waiting lounge / library;
- Meeting room(s) for community programmes and a communal library;
- A kitchen area, with space for staff dining, lockers, and ablution facilities; and
- Approximately 24 parking bays.
- Access will be gained from the existing Ou Wa-pad.
- A combination of hard and soft landscaping measures will be applied throughout the development, which includes footpaths and an Amphitheatre in proximity to and partially within the watercourses present on the site.
- The flood protection measures that will be implemented include converting the existing culvert crossing over Hoof Road to a low-level crossing to contain flow under and over the new culverts, flooding the existing in-stream head-cut and stabilizing the berms adjacent to the site and across the Ou Wa-pad.
- Rehabilitation of the stream north of the site (i.e. stream 10) will include bed and bank stabilisation, removal of invasive alien plant species and replanting of rehabilitated areas.

### **"No-Go" Alternative**

The no-go alternative was considered and was interpreted to mean "no development", with retention of the derelict old worker cottages, but with the possibility of farming activities on the site, in line with existing rights. However, it was not preferred since the proposed development will not result in any significant environmental impacts, but will create the opportunity to improve and use the existing derelict buildings on a transformed portion of the farm for socially beneficial uses. Should the no-go alternative be implemented, the expected social benefits of the project will not be realized.

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

### **3.1 Activity needs and desirability**

The site contains existing labourer cottages which are derelict and no longer in use. They are currently not generating any contribution to the farm or surrounding community. Refurbishing the cottages would improve the current derelict state thereof and the site. The proposal was developed in response to the needs of the New Retreat by accommodating guests attending the New Retreat, community training programmes, as well as support services needed for the New Retreat to function adequately. Using these buildings as tourist accommodation and tourist facilities can positively contribute to new economic opportunities on the farm and for the surrounding communities of Pniel, Lanquedoc and Kylemore. The use of the existing cottages would restrict development to a transformed area on the farm, thereby limiting its potential impacts on the receiving environment. There would also be job opportunities created as a result of the proposed development.

### **3.2 Biophysical Impacts**

Historically, the site contained Swartland Alluvium Fynbos vegetation, which is classified as critically endangered. The Terrestrial Biodiversity Compliance Statement conducted by Nick Helme Botanical Surveys (October 2021) concluded that other than a few patches, there is very little remaining indigenous vegetation on site. Furthermore, the patches of indigenous vegetation are highly degraded

and are dominated by a single species that does not have significant conservation value. The proposed development will therefore not have a significant botanical impact.

The proposed development will have an impact on three aquatic ecosystems located on and in proximity to the site. This includes a seasonal stream (Stream 10), which flows into the Dwars River, the Dwars River valley bottom wetland, and a small hillslope seep wetland located next to the site. Two ecological corridors traverse the development site, which have been delineated with buffer areas. Based on the findings of the Freshwater Impact Assessment dated October 2021, compiled by Freshwater Consulting, the significance of the potential freshwater impacts will be low negative, subject to implementation and adherence to the recommended mitigation measures. To mitigate against the negative impacts associated with proposed activities that are in, or close to (i.e. within ecological buffers of) the watercourses and wetlands identified on and around the site, the rehabilitation plan proposed by the freshwater specialist will be implemented. Rehabilitation activities are designed to mitigate against the impacts associated specifically with the proposed flood protection measures in Stream 10, and landscaping in and around the wetlands and Stream 10. The rehabilitation plan addresses bed (head-cut) stabilisation, bank (lateral) stabilisation, removal of invasive alien plants, and the re-planting of affected areas. The specialist recommendations have been incorporated into the preferred alternative and the EMP accepted for implementation in this environmental authorisation.

Furthermore, a MMP has also been compiled to address routine maintenance activities taking place in the affected stretch of the watercourses. The maintenance of the structures authorised in this Environmental Authorisation forms part of this MMP. It must be noted that the accepted maintenance activities only relate to the activities described in the MMP. Should any new activities and associated infrastructure, not included in the MMP, require maintenance and if any of the applicable listed activities are triggered, an Environmental Authorisation must be obtained prior to the undertaking of such activities. It remains the responsibility of the proponent to determine if any other listed activities are triggered and to ensure that the necessary Environmental Authorisation is obtained.

The fact that the MMP is adopted by the Competent Authority does not absolve the applicant from its general "duty of care" set out in Section 28(1) of the NEMA, which states that *"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."* (Note: When interpreting their "duty of care" responsibility, cognisance must be taken of the principles of sustainability contained in Section 2 of NEMA).

### 3.3 Services

While no existing sewage infrastructure exists, in order to service the proposed development, a conservancy tank of 30m<sup>3</sup> capacity would be utilised to temporarily hold/store the sewage and wash-water until off-site disposal can occur. The wastewater from this tank would be pumped out by a honeysucker as required for off-site disposal. The siting of the various components has been selected to pose the least risk possible on freshwater systems on and around the site. The siting of the proposed pumpstation, pipelines, and conservancy tank has been aimed at locating the conservancy tank further from the stream by placing it on the opposite side of the Ou Wa-pad, to the south-west of the site. Stellenbosch Municipality indicated that capacity would be available for sewage treatment once the infrastructure upgrades to the Pniel Wastewater Treatment Works are complete (anticipated for June 2022).

Potable water supply would in the long-term come from the Stellenbosch Municipality via a connection to their Lanquedoc pump station with a new, underground 160 mm diameter pipeline that will be installed within the road on Boschendal Estate and within the road reserve along Hoof Road. The routing of the western segment of the proposed water line would be determined on site but would be limited to the northern side of the roadway. In the interim, a temporary pipeline would be constructed to connect into the existing York Dam 300mm diameter irrigation supply line that currently feeds a part of the Boschendal Estate irrigation reticulation. There is an existing "take-off" for water supply to existing houses just off Hoof Road within the York Farm boundary (north-east of the site). The existing connection would be upgraded, and a new 160 mm diameter pipe would be laid to the New Retreat. The new pipeline route would extend 282 m and be installed within the road reserve on the northern side of Hoof Road. The pipe would cross a perennial stream where approximately 20m would be fastened to the existing culvert so as not to impact in on the stream. The pipeline will terminate at the entrance of the New Retreat.

**Negative Impacts:**

- The proposed development will have a negative impact during the construction phase in terms noise and dust nuisance. The impacts will however be mitigated to a satisfactory level with the implementation of and adherence to the EMPr.
- The potential impacts on the identified watercourses will be mitigated to an acceptable level subject to the implementation of the recommended mitigation measures.

**Positive impacts:**

- The proposed development would enhance the ecological status of this area.
- The proposed development will provide 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 activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

## 5. Conclusion

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

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