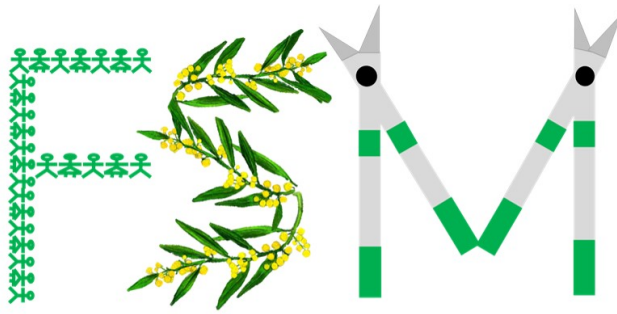


A FSM Cover Letter



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FRIENDS OF STELLENBOSCH MOUNTAIN

Request to issue a NEMBA Directive

BY HAND and BY EMAIL¹ to
BMbuli@environment.gov.za and CMarais@environment.gov.za

The Honourable Minister and
The Director: Natural Resource Management
Department of Environment, Forestry and Fisheries

18 March 2021

Honourable Minister Creecy, dear Dr Marais,

1 Introduction and overview

- 1.1 As chairperson of Friends of Stellenbosch Mountain (“FSM”) and mandated by the FSM Management Committee, I hereby request that the Department of Environment, Forestry and Fisheries (“DEFF”) issue a directive in terms of Section 73(3) of the National Environmental Management Act: Biodiversity Act of 2004 (“NEMBA”).
- 1.2 The completed request form as prescribed by the Alien and Invasive Species Regulations (the “Request”) is hereby submitted by FSM as per Section 74(1) of NEMBA. The present cover letter and the appendices below motivate the Request in detail.
- 1.3 The Request is that a NEMBA Section 73(3) directive be served on Stellenbosch Municipality (“SM”). The Request pertains not to one but to **many land units**, namely all nature areas owned and/or controlled by Stellenbosch Municipality. The relevant land units are set out in more detail in Paragraph 4 and Appendix B below. Land units controlled by national government, Cape Nature, private nature reserves, conservancies and any other private land units are not included in the Request.
- 1.4 Due to their cardinal roles in ecosystem health, we request that the directive include also those sections of **rivers** controlled by SM which are not already implicitly included in the land units listed in Appendix B.
- 1.5 In agreement with the 2019 NRM Grant award (see Paragraph 2), which included funds for **firebreaks and erosion control**, the directive should preferably encompass both alien clearing as well as erosion control and fire prevention and alleviation measures.

¹cc: Mr C. Liebenberg, DEFF Corporate Support, CELiebenberg@environment.gov.za
Mr Stiaan Kotze: DEFF Control Biodiversity Officer, SKotze@environment.gov.za

- 1.6 The list of affected land units contains several Protected Areas declared in terms of the Protected Areas Act. Section 77 of NEMBA requires that the management authority of a protected area *must at regular intervals prepare and submit to the Minister or the MEC for Environmental Affairs in the province a report on the status of any listed invasive species that occurs in that area*. FSM requests that DEFF take into account the compliance by SM with Section 77 and the contents and date of such reports. This may, of course, require communication also with Cape Nature.
- 1.7 DEFF will no doubt itself assess the situation on the ground before issuing a directive. Some pertinent comments are provided in Paragraph 4. We request that site visits be conducted with the presence of local volunteer input independent of the SM hierarchy of officials. A list of suggested persons knowledgeable about particular land units appears in Appendix B.

2 Background

- 2.1 This Request is clearly unusual in that it pertains to many rather than just one land unit and to an organ of state, Stellenbosch Municipality, rather than a private land owner. Some explanation and background is therefore needed.
- 2.2 Due to its long history, Stellenbosch Municipality (SM) is the owner of large tracts of land in more or less their natural state. The areas in question form critical parts of the Cape Winelands Biosphere Reserve and of the national five top priority quaternary catchments identified by DEFF. Significant parts of these areas are designated as Critical Biodiversity Areas. Control and eradication of alien invasive plants (“alien clearing”) in the Stellenbosch municipal area therefore is a cardinal priority both in terms of biodiversity and water supply.
- 2.3 In the years before 2019, many efforts had been made by SM towards control and eradication of listed invasive plants, and these efforts were paying off. FSM played an important role locally in this effort, including the early and effective involvement of Working for Water in control and eradication on the western slopes of Stellenbosch Mountain.
- 2.4 Until 2019, SM had also been on the forefront of development and approval of environmental policy. Following preparatory work by FSM in collaboration with the Department of Conservation Ecology at Stellenbosch University, SM approved in 2017 its *Alien Invasive Plants Management Plan* (“AIPMP”) as required by Section 76(2) of NEMBA. This was followed in 2019 by approval of the *Stellenbosch Environmental Management Framework*. In May 2019, Council approved a fully-fledged *Environmental Management Plan* for the Paradyskloof nature areas (Stellenbosch Farms 366, 368/2 and 369). Lastly, an *Integrated Fire Management Plan* was approved by Council, also in 2019. All four documents emphasise the dire need to fund and carry out alien clearing. A map and the Tables of Contents of the AIPMP and Paradyskloof EMP appearing in Appendices C and D show the level of detail to which Stellenbosch policy and plans had advanced in 2019.
- 2.5 The Department of Nature Conservation of SM (“DNC”), a division of the Department of Community and Protection Services of SM, had in February 2019 been awarded a DEFF NRM Grant, to be spent on control and eradication over three years. The Memorandum of Agreement (MoA) involved R10.426 million for alien clearing plus R4.0 million for a “drought response project” of firebreaks and erosion control; see Appendix E for the first and last page of the main MoA and Appendix F for the cost structure.
- 2.6 Based on the NRM Grant award, SM in early 2019 issued tender BSM 7/19 calling for bids by alien clearing service providers. Service agreements were signed with about ten contractors, and a promising start in mid-2019 was made in tackling the invasive infestations. Large numbers of EPWP workers were employed both by these contractors and by DNC itself.
- 2.7 Alien clearing work by these contractors was, however, abruptly and unilaterally halted by SM sometime between August and October 2019, and contractors and their workers were left

unpaid. No explanation or reason for these actions by SM was provided at that time to the contractors, and the Stellenbosch public was not informed. A written but still incomplete explanation for this step was provided to contractors only one year later in a letter dated 22 September 2020; see Appendix G for an example. To our knowledge, the matter of payment of the amounts due to these contractors in terms of the signed agreements between them and SM remains unresolved. No documentation on the details of the termination of Tender BSM 7/19 itself has been made available.

- 2.8 With respect to Tender BSM 7/19, a claim is made in the letter as per Appendix G that *It has been established that there were discrepancies with the applicable rates on this tender*. Is this true? Surely DEFF would not have allowed contractors to be paid at an incorrect rate within the 2019 NRM MoA and grant? The claims and the grounds thereto should be investigated.
- 2.9 Within the Stellenbosch 2020 IDP public participation process, FSM in early May 2020 submitted detailed comments and questions to SM regarding the cessation of alien clearing activities, the status of the NRM grant and the absence of funding for alien clearing and environmental work in the proposed municipal 2020/21 3-year budget (MTREF). The questions submitted went unanswered.
- 2.10 In August 2020, I as FSM chairperson submitted Promotion of Access to Information Act (PAIA) requests both to DEFF and to SM requesting details of the said MoA and related matters. No answer was received from SM, but DEFF in October 2020 provided a copy of the February 2019 NRM Memorandum of Agreement with SM plus the associated annexures and addenda and the redacted minutes of a meeting on 25 October 2019 discussing a letter of termination of the agreement written by SM on 8 October 2019: see Appendix H showing that crucial information on the reasons for termination was withheld.
- 2.11 While the fact that the 2019 NRM MoA had been terminated in October 2019 became clear in September and October 2020, the reasons and motivation for this step remain murky. As stated, multiple FSM requests for information have been met with silence.
- 2.12 Without the NRM grant, there was presumably no more money to fund the original municipal Tender BSM 7/19 or any alien clearing at all. Nevertheless, a new tender call BSM 102/20 entitled “Preparation and Maintenance of Firebreak and De-bushing of Invasive Species” was issued in mid-2020. The first version of this tender was withdrawn and re-advertised late in 2020, possibly because of conflicts with the earlier tender BSM 7/19.
- 2.13 The source of funding of this new Tender BSM 102/20 is therefore murky. No budget line items making explicit mention of alien clearing or “de-bushing” appear in the various versions of the municipal budgets in the 2020/2021 cycle. All that can be said with some degree of confidence is that any funds allocated to this must have been re-allocated from other approved budget items, at the expense of other projects, and that the available funds dedicated specifically to alien clearing (as distinguished from, for example, general parks, commonage, forestry and firebreak work) will amount to maximally one million Rand in the 2020/2021 financial year, but likely substantially less.
- 2.14 **In any case, whatever the exact amount and origin of present token alien clearing funds, the Rand amounts mentioned in municipal financial documents are far smaller than the R14.426 million of the 2019 NRM grant which had been ready and waiting to be used.**
- 2.15 The 2020/2021 3-year MTREF budget of SM also made no provision for the AIPMP or the Paradyskloof EMP, even though they were explicitly approved by Council. **It is therefore clear that SM is not serious about implementing its own approved environmental policy.**
- 2.16 On 13 November 2020, FSM submitted to the Stellenbosch Municipal Manager a Request for Reasons in terms of the *Promotion of Administrative Justice Act* (PAJA), asking for reasons

why the NRM MoA was terminated. The prescribed 90-day period to receive an answer to this request expired on 11 February 2021. No answer was received from SM.

- 2.17 Independently of the events set out above, DEFF in November 2020 issued a new call for tender bids. A private joint venture has submitted a tender bid within that E1590 call in January 2021. The tender proposal under the name of the *Stellenbosch NRM Project* (SNRMP) is to carry out alien clearing on a number of quaternaries which include many (but not all) nature areas owned by SM.

3 Motivation for issuing a directive

- 3.1 **There is a strong and urgent case to be made for DEFF to serve a Section 73(3) NEMBA directive on Stellenbosch Municipality as hereby requested.**
- 3.2 As set out in detail in the above Paragraph 2, SM had already compiled and approved the necessary policy and plans regarding alien clearing, and, thanks to the 2019 NRM Grant, there was sufficient funding available to implement the clearing programmes envisaged in these plans. The AIPMP even contains detailed maps and species lists for each of the municipal nature areas; see Appendix I for an example.
- 3.3 For seemingly irrational reasons, SM chose to terminate the 2019 NRM grant and forfeit the R14.4 million of DEFF grant funds which it could have used for their stated purpose. SM also remains liable for an unknown amount of money with respect to their contractual obligations towards the successful Tender BSM 7/19 contractors. No explanation or motivation for this seemingly irrational action has been provided, despite numerous requests for clarification. The decision cannot be explained away as a consequence of Covid either, because it was taken long before Covid arrived.
- 3.4 Since the termination of the 2019 NRM grant, very little to no alien clearing work has been carried out by SM. The resulting dire status of the municipal alien clearing efforts in its nature areas can be corroborated by DEFF by contacting the volunteers working in the relevant areas as listed in the last few columns of that table in Appendix B and by site visits.
- 3.5 No funding was requested or provided in the municipal budget dedicated to alien clearing or the AIPMP. The token amounts now available for Tender 102/20 could only have been provided by re-allocating approved budgets for e.g. Forestry and Parks, and they are insufficient to make significant inroads into the alien clearing task. The paltry amounts and token efforts of the last year do not bode well for any future voluntary financial commitment by SM.
- 3.6 The absence of serious alien clearing funding and efforts is already leading to a municipality-wide resurgence of alien invasives. Unless drastic action is taken, this presage a full-blown explosion of alien invasives in the Stellenbosch municipal area, with far larger costs and environmental damage. We need to act now and act decisively.
- 3.7 According to the DEFF's assessment, the Stellenbosch nature areas are among the most important water catchments in the entire country. The very high biodiversity of these areas is also well known. The ecological stakes are high.
- 3.8 By terminating the 2019 NRM Grant MoA and forfeiting grant funds, SM has officially signalled to DEFF and the world that it intends to carry the financial burden for its alien clearing obligations on its own and reaffirmed its sole fiduciary responsibility for alien clearing on its land. As a result of its own choices and actions, SM must now provide, from its own resources, the full amounts needed for alien clearing.
- 3.9 Notwithstanding its evident obligations and choices, the actions by SM in the past two years clearly imply that SM is neither willing nor able to comply with these obligations and specifically with its duty of care as stipulated in Section 73 of NEMBA and Section 24 of the SA Constitution.

3.10 In a nutshell, the contradictory positions of SM are that

Stellenbosch Municipality has well-developed environmental policy and good alien clearing plans but has taken no steps towards funding them and carrying them out;

and

Stellenbosch Municipality will claim that its budget is too constrained to carry out its NEMBA duty of care obligation of alien clearing, but on the other hand has actively worked towards forfeiting grant money awarded to it for that very purpose.

3.11 In this situation, the issuing of a directive by DEFF instructing SM to comply with Section 73 of NEMBA seems to be the only way to salvage the situation. All available alternative mechanisms appear to have been exhausted. **Stellenbosch Municipality must be made to comply with its legal obligations under NEMBA, its own Environmental Framework and its own Alien Invasive Plants Management Plan.**

3.12 By issuing a directive to SM, DEFF will significantly boost the chances that the necessary large-scale intensive alien clearing will indeed happen and thereby achieve the stated goals of the NRM programme.

On the other hand, not issuing a directive will likely result in an explosion of alien invasive plants in SM nature areas, with far higher financial and ecological costs in future to Stellenbosch, the environment and the country.

3.13 It remains to consider the relationship between the present request for a NEMBA directive and any possible NRM grant award under the E1590 bid call by the private joint venture *Stellenbosch NRM Project* (SNRMP). As mentioned in Paragraph 2, this private consortium has applied to carry out at least part of the alien clearing work in the Stellenbosch municipal area.

- a. Evidently, the liability and obligation to comply with Section 73 of NEMBA rests with Stellenbosch Municipality, independent of any success or failure of the E1590 tender bid by private service providers.
- b. If the SNRMP tender bid were to be successful, then a DEFF directive would help to ensure close and fruitful cooperation between SM and the SNRMP.
- c. If the SNRMP tender bid were unsuccessful, the directive would be all the more critical to ensure that SM fully complies with its NEMBA duty of care obligations on its own.
- d. In both eventualities, Section 73(4) can always be invoked by DEFF later if SM does not cooperate.
- e. Therefore, the imperative for DEFF to issue a directive is independent of the success or failure of the SNRMP tender bid.

4 Some technical details

4.1 Land units in detail

- a. A map taken from the AIPMP showing those areas covered by it can be found on the first page of Appendix J below.
- b. The land units which are to be subjects of the directive all comprise nature areas owned by or under the control of SM in the WC024 municipal area. "Nature areas" are defined as including not only those land units proclaimed in terms of the Protected Areas Act, but also Mountain Catchment Areas, such land units which host either degraded or nondegraded Critical Biodiversity Areas ("CBAs"), commercial plantations, parks, picnic areas, river and road embankments, and any fynbos or renosterveld remnants for which SM bears responsibility.

- c. A detailed list of most pertinent land units is provided in Appendix B. The list largely agrees with those listed in the Stellenbosch Municipality Alien Invasive Plants Management Plan (“AIPMP”).
- d. The list may, however, be incomplete. For example, the AIPMP excludes Portion 333/R (upper slopes of Botmaskop) which was clearly omitted in error as it is a municipal nature area. Also small land units such as the listed portions of Farm 502 near Raithby, parts of Louw’s Bos, some river banks such as Erf PN1 in Pniel as well as some road embankments were not included in the AIPMP but should be included in the directive.
- e. A number of land units in the Jonkershoek Valley are owned by SM, including unit 2/352, comprising both Jonkershoek picnic site and Jonkershoek village, and possibly others. Some units may be leased to the national government on a 99-year lease which began in about 1934 and are managed in part by CapeNature and in part by MTO Forestry (Safcol).

4.2 Update needed for species lists and distributions

- a. The degree of infestation of the various land units and the relevant species are mostly reproduced in the Stellenbosch Alien Invasive Plants Management Plan (“AIPMP”).
- b. However, the detailed data contained in the AIPMP was compiled in 2016 and is thereby almost five years out of date. The AIPMP therefore serves only as a first indication of the type and degree of infestation of the areas and must be updated as soon as possible.
- c. An area-unspecific list of invasive species appears in Section 8 of the AIPMP; the relevant pages are reproduced in Appendix J below.
- d. The AIPMP list is also incomplete and outdated with respect to the invasives species lists. Other species known to occur on at least one of the affected land units include those listed in Appendix K. That list is skewed towards the Paradyskloof nature area (Farms 366, 368/2 and 369) because that is the home ground of FSM and because a SANBI-validated and CREW-updated species list exists for these land units. With respect to all the listed land units, much detail and possibly a number of other species are probably still missing.
- e. There are volunteers and significant scientific capacity in Stellenbosch capable of assisting with the updating tasks.

4.3 Site visits

- a. While municipal officials responsible for nature conservation should of course be involved in the assessment of the current state of infestation, they cannot be relied on as the sole purveyors of information and viewpoints, given the history of this matter. We therefore suggest that every DEFF site visit include not only one of the responsible municipal officials as listed below, but also one or more Stellenbosch volunteers who have direct knowledge and experience with respect to a particular nature area. A list of names, telephone numbers and email addresses of suggested volunteers appears in the last columns of the table in Appendix B. All those listed have been contacted and are more than willing to assist.
- b. To our knowledge, the relevant contact persons in the Department of Nature Conservation of SM are:

Mr A. van der Merwe (Senior Manager)	Albert.vanderMerwe@ Stellenbosch.gov.za
Mr S. van der Merwe (Environmental Planner)	Schalk.VanderMerwe@ Stellenbosch.gov.za
Ms T. Leibrandt (Environmental Manager)	Tammy.Leibrandt@ Stellenbosch.gov.za
Mr L. Lourens (Superintendent: Conservation)	Leon.Lourens@ Stellenbosch.gov.za

Also helpful may be the presence of Ms W. Mhlauli, wendy.mhlauli@ Stellenbosch.gov.za as she was and is involved in the day-to-day management of the Stellenbosch municipal nature areas.

- c. A draft of this Request was sent for comment to the Municipal Manager, to Mr A. van der Merwe and to Ms T. Leibrandt. No comments were received by the time of submission of this Request to DEFF.

4.4 References to unabridged documents

- a. An earlier (2016) version of the AIPMP can be downloaded from stellenbosch.gov.za/download/iaps-management-plan-sept2016-reduced/ . The approved final 2017 is almost identical with the 2016 draft; we are happy to provide a PDF copy of the 2017 version on request.
- b. The complete Paradyskloof Nature Area Management Plan can be found at stellenbosch.gov.za/download/paradyskloof-na-emp-sept2018/
- c. The complete Stellenbosch Environmental Management Framework can be downloaded at stellenbosch.gov.za/download/semf_sept2018/

5 Selected legal considerations

- 5.1 By its actions and omissions, Stellenbosch Municipality is carrying out *restricted activities* as defined in NEMBA and resulting regulations. Detailed explanations appear in Appendix K.
- 5.2 The carrying out of restricted activities is generally prohibited. Not complying with any one of NEMBA Sections 65(1), 67(2) or 71(1) constitutes an offence in terms of NEMBA Sections 101 and 102. See Appendix K for details regarding offences and penalties.
- 5.3 The *duty of care* set out in NEMBA Section 73(2) is clear enough insofar as it prohibits SM to carry out such restricted activities and requires it to remedy these.
- 5.4 **Token efforts do not comply with the NEMBA duty of care.** Given that R14.426 million in dedicated funds were available, the practicability of large-scale control and (in some cases) eradication was not in question before the NRM MoA was terminated. The efficacy of current SM efforts is, however, in question since control would rely only on the small funding and token efforts now being touted in Tender 102/20.
- 5.5 Token funding and token efforts undertaken by SM towards controlling listed invasive species do not fulfil the *control and eradication* requirements of NEMBA Sections 1 and 75 since the *methods* are inappropriate for effective control and eradication (Section 75(1)) because insufficient funding and effort will *not* achieve the required goal.
- 5.6 Token funding and token efforts are also an inappropriate method to control future offspring, seed, regeneration and re-establishment because the quality and/or quantity of work will not suffice and therefore cannot possibly achieve that goal with too little funding. This contravenes Section 75(3) which states that *The methods employed to control and eradicate a listed invasive species must also be directed at the offspring, propagating material and re-growth of such invasive species in order to prevent such species from producing offspring, forming seed, regenerating or re-establishing itself.* See Appendix K for details.

Thank you for your attention. FSM asks DEFF please to step in to help us in a dire situation and to fulfil its own statutory obligations regarding the environment and good governance.

Yours respectfully,



Hans C Eggers
Chairperson: Friends of Stellenbosch Mountain

B List of land units and volunteer contact details

Land unit(s)	Name of nature area	Size (ha)	Comments	Volunteer contact details		
				Name	Phone	Email
Farm 23/R	Mt Rochelle Nature Reserve	1628	Protected Area			
Portion 1135/1	Purgatory Outspan	120	Protected Area			
Portion 1024/1	Wemmershoek	40	Protected Area			
Farms 175, 181, 183	Papegaalberg	140	Protected Area			
Erf 2149, 3350	Jan Marais Nature Reserve	23	Protected Area			
Farm 366	Stellenbosch Mtn (Upper)	313	Mountain Catchment			
Farm 369/0	Stellenbosch Mtn (Lower)	290	Renosterveld, plantation, wetlands, CBA			
Farm 368/2	Stellenbosch Mtn (Brandwacht)	91	Renosterveld, degraded			
Portion 352/2	Jonkershoek Picnic Site	8-11	unburnt in recent fire			
Portion 352/2	Jonkershoek Village	109?	parts rented out			
Portion 119/4	Idas Valley	5				
Portion 119/8	Idas Valley	9				
Portion 119/R	Botmaskop North	46	Recently burnt			
Erf 3363	Botmaskop (Uniepark)	81		—	—	—
Farm 333/R	Botmaskop West Upper	71	Recently burnt			
Portion 502AS	Raithby	26	Critical Biodiversity Area			
Portion 502AZ	Raithby	1	Critical Biodiversity Area			
Farm 502	Louw's Bos	47	Area south of De Zalze	—	—	—
Farm 029	Calcutta	40	future cemetery	—	—	—
relevant municipal land units	River embankments		if not included in the above			

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PARADYSKLOOF NATURE AREA

ENVIRONMENTAL MANAGEMENT PLAN

March 2019



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

E NRM Memorandum of Agreement Feb 2019: First and last page

Memorandum of Agreement between the Department of Environmental Affairs and the Stellenbosch Municipality

MEMORANDUM OF AGREEMENT

ENTERED INTO BETWEEN

**THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA IN ITS DEPARTMENT OF
ENVIRONMENTAL AFFAIRS**

(Hereinafter referred to as "**the Department**")

Herein represented by **Dr Christo Marais**

In his capacity as **Chief Director: Natural Resources Management Programmes**
duly authorised thereto

AND

STELLENBOSCH MUNICIPALITY
(Hereinafter referred to as "**the Service Provider**")

Herein represented by **Ms Geraldine Mettler**


In her capacity as **Municipal Manager**
and duly authorised thereto

FOR

STELLENBOSCH NRM PROJECT
(**"The Project"**)


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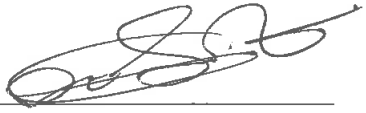
Signed at Cape Town on this 4th day of February 2019 in the presence of the undersigned witnesses.




FOR THE DEPARTMENT
DR CHRISTO MARAIS WHO BY HIS SIGNATURE HERETO WARRANTS THAT HE IS AUTHORISED TO SIGN ON BEHALF OF THE DEPARTMENT

AS WITNESSES:

1.  _____

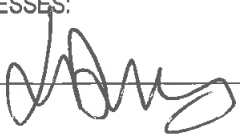
2.  _____


Signed at Stellenbosch on this 6th day of February 2019 in the presence of the undersigned witnesses.



FOR THE SERVICE PROVIDER
MS GERALDINE METTLER WHO BY HER SIGNATURE HERETO WARRANTS THAT SHE IS AUTHORISED TO SIGN ON BEHALF OF THE SERVICE PROVIDER

AS WITNESSES:

1.  _____

2.  _____

F NRM Memorandum of Agreement Feb 2019: Cost structure

Annexure A to the Memorandum of Agreement between the Department of Environmental Affairs and the Stellenbosch Municipality, 2018- 2021

ANNEXURE A

COST STRUCTURE

STELLENBOSCH MUNICIPALITY

Project Details:

1. **Name of Project:** Stellenbosch NRM Projects
2. **Project Description:**
 - 2.1. Clear all major rivers and tributaries in the jurisdiction of the Stellenbosch Region from Alien Invasive, affecting our people's critical water supplies.
 - 2.2. Rehabilitation and maintenance of critical areas already cleared, to maintain the vital ecosystem functions in our region.
 - 2.3. To create sustainable jobs and new SMME's.
 - 2.4. To provide expert training opportunities for our contractors in their various needs.
 - 2.5. To help with the prevention and removal of silt in the dams of towns and to maintain and extend water contour capture walls (Critical).
 - 2.6. Get value added industries off the ground, using private partnerships, like the fire starters project and the making of Charcoal, wood tiles, and firewood.
3. **Service Provider:** Stellenbosch Municipality
4. **Maximum cost for Project:** R 14 426 500.00 (Fourteen Million Four Hundred and Twenty Six Thousand And Five Hundred Rand only VAT inclusive of value added tax).
5. **The period allowed for the execution:** 1 December 2018 – 30 November 2021.
6. **Payments and Penalties**
 - 6.1 A maximum mobilization fee based on the costing of 4 (four) months or 33% (thirty-three percent) will be paid after the signing of the annual plan of operation deliverables for the first financial year (APO Deliverables). The payment will be made within 30 (thirty) days of the submission and approval of a request for payment, from the service provider, detailing an estimate of the deliverables and costs incurred in the execution of these deliverables. Thereafter, payment shall be made based on validated and verified performance as submitted in detailed invoices which will include management fees, wages, capital infrastructure (only when applicable, directly related or directly attributable costs), training (of EPWP workers), outsourced services, COIDA, UIF and revenue items (interest and other sources of revenue).
 - 6.2 Payments shall not be made unless the performance calculator, referred to in Annexure B, has been updated.

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- 6.3 The Department reserves the right to withhold payment in cases of non-compliance with regards to Performance and Financial Reporting requirements in terms of Annexure C; clauses 6.1 and 6.2 above; clauses 1.11 to 1.18 of Annexure B, and the Labour Relations Act, 1995 (Act No 66 of 1995).
- 6.4 The Department reserves the right to, in consultation, with the Service Provider increase, reduce or cancel the budget.

Table 1. Ecological infrastructure through alleviating the impact of alien and invasive plant species, erosion control and unwanted fires.

Table 1: Approved budget and employment indicators				
Year	Annual Budget	Estimated Person Days	Estimated Number of People employed	Proposed Cost per Person Day
Year 1	R 3 150 000	15 313	78	R 205,71
Year 2	R 3 465 000	16 042	85	R 216,00
Year 3	R 3 811 500	16 806	93	R 226,80
Total	R 10 426 500	48 160	85	R 216,50

Table 1.2: Approved budget and employment indicators for drought response project.				
Financial Year	Annual Budget	Estimated Person Days	Estimated Number of People employed	Proposed Cost per Person Day
Drought Response	R 4 000 000	19 445	165	R 205,71

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Table 2.1: Employment Costs Year 1				
<u>Invasive Alien Clearing Operations</u>	<u>Indicative budget per item (R-value)</u>	<u>Targets (% of contract value)</u>	<u>Cost Per Person day</u>	<u>Explanatory Notes</u>
Goods and Services	R1 259 653	40.0%	R 82.26	
Management Fees	R280 367	8.9%	R 18.31	
Accounting Fees		0.0%	R 0.00	
Advertising		0.0%	R 0.00	
Materials and Equipment	R346 500	11.0%	R 22.63	Hand Tools, Mechanical Tools and PPE
Minor Assets		0.0%	R 0.00	
Catering		0.0%	R 0.00	
Communication		0.0%	R 0.00	
Computer Services		0.0%	R 0.00	
Consultants: Business and advisory services	R44 100	1.4%	R 2.88	Medical Examinations
COIDA (1.85% of Basic Salaries + Wages)	R34 286	1.1%	R 2.24	
Laboratory services		0.0%	R 0.00	
Legal services		0.0%	R 0.00	
Contractors		0.0%	R 0.00	
Inventory		0.0%	R 0.00	
Consumables		0.0%	R 0.00	
Property payments		0.0%	R 0.00	
Rental and hiring		0.0%	R 0.00	
Transport	R239 400	7.6%	R 15.63	
Travel and subsistence		0.0%	R 0.00	
Training and development	R315 000	10.0%	R 20.57	
Community Facilitation		0.0%	R 0.00	
Other - Specify		0.0%	R 0.00	
Expenditure for capital assets		0.0%	R 0.00	
Compensation of employees	R1 890 347	60.0%	R 123.45	
Total Wages paid in terms of EPWP	R1 890 347	60.0%	R 123.45	
Basic Wages	R1 853 282	58.8%	R 121.03	
UIF (2% of basic wages)	R37 066	1.2%	R 2.42	
Non EPWP salaries	R0	0.0%	R 0.00	Project Management and Administration Staff
Basic Salaries		0.0%	R 0.00	
UIF (2% of basic wages)	R0	0.0%	R 0.00	
Total Budget	R3 150 000	100.0%	R205.71	
Approved Budget	R3 150 000	Approved Person Day Cost	R205.71	

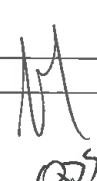

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Table 2.2: Employment Costs Year 2				
<u>Invasive Alien Clearing Operations</u>	<u>Indicative budget per item (R-value)</u>	<u>Targets (% of contract value)</u>	<u>Cost Per Person day</u>	<u>Explanatory Notes</u>
Goods and Services	R1 391 148	40.1%	R 86.72	
Management Fees	R314 034	9.1%	R 19.58	
Accounting Fees		0.0%	R 0.00	
Advertising		0.0%	R 0.00	
Materials and Equipment		11.0%	R 23.76	Hand Tools, Mechanical Tools and PPE
	R381 150			
Minor Assets		0.0%	R 0.00	
Catering		0.0%	R 0.00	
Communication		0.0%	R 0.00	
Computer Services		0.0%	R 0.00	
Consultants: Business and advisory services	R48 510	1.4%	R 3.02	Medical Examinations
COIDA (1.85% of Basic Salaries + Wages)	R37 614	1.1%	R 2.34	
Laboratory services		0.0%	R 0.00	
Legal services		0.0%	R 0.00	
Contractors		0.0%	R 0.00	
Inventory		0.0%	R 0.00	
Consumables		0.0%	R 0.00	
Property payments		0.0%	R 0.00	
Rental and hiring		0.0%	R 0.00	
Transport	R263 340	7.6%	R 16.42	
Travel and subsistence		0.0%	R 0.00	
Training and development	R346 500	10.0%	R 21.60	
Community Facilitation		0.0%	R 0.00	
Other - Specify		0.0%	R 0.00	
Expenditure for capital assets		0.0%	R 0.00	
Compensation of employees	R2 073 852	59.9%	R 129.28	
Total Wages paid in terms of EPWP	R2 073 852	59.9%	R 129.28	
Basic Wages	R2 033 188	58.7%	R 126.74	
UIF (2% of basic wages)	R40 664	1.2%	R 2.53	
Non EPWP salaries		0.0%	R 0.00	Project Management and Administration Staff
	R0			
Basic Salaries		0.0%	R 0.00	
UIF (2% of basic wages)	R0	0.0%	R 0.00	
Total Budget	R3 465 000	100.0%	R216.00	

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Approved Budget	R3 465 000	Approved Person Day Cost	R216.00	
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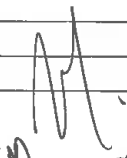
Table 2.3: Employment Costs Year 3				
<u>Invasive Clearing Operations</u>	<u>Indicative budget per item (R-value)</u>	<u>Targets (% of contract value)</u>	<u>Cost Per Person day</u>	<u>Explanatory Notes</u>
Goods and Services	R1 536 330	40.3%	R 91.42	
Management Fees	R351 615	9.2%	R 20.92	
Accounting Fees		0.0%	R 0.00	
Advertising		0.0%	R 0.00	
Materials and Equipment	R419 265	11.0%	R 24.95	Hand Tools, Mechanical Tools and PPE
Minor Assets		0.0%	R 0.00	
Catering		0.0%	R 0.00	
Communication		0.0%	R 0.00	
Computer Services		0.0%	R 0.00	
Consultants: Business and advisory services	R53 361	1.4%	R 3.18	Medical Examinations
COIDA (1.85% of Basic Salaries + Wages)	R41 265	1.1%	R 2.46	
Laboratory services		0.0%	R 0.00	
Legal services		0.0%	R 0.00	
Contractors		0.0%	R 0.00	
Inventory		0.0%	R 0.00	
Consumables		0.0%	R 0.00	
Property payments		0.0%	R 0.00	
Rental and hiring		0.0%	R 0.00	
Transport	R289 674	7.6%	R 17.24	
Travel and subsistence		0.0%	R 0.00	
Training and development	R381 150	10.0%	R 22.68	
Community Facilitation		0.0%	R 0.00	
Other - Specify		0.0%	R 0.00	
Expenditure for capital assets		0.0%	R 0.00	
Compensation of employees	R2 275 170	59.7%	R 135.38	
Total Wages paid in terms of EPWP	R2 275 170	59.7%	R 135.38	
Basic Wages	R2 230 559	58.5%	R 132.73	
UIF (2% of basic wages)	R44 611	1.2%	R 2.65	

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Non EPWP salaries	R0	0.0%	R 0.00	Project Management and Administration Staff
Basic Salaries		0.0%	R 0.00	
UIF (2% of basic wages)	R0	0.0%	R 0.00	
Total Budget	R3 811 500	100.0%	R226.80	
Approved Budget	R3 811 500	Approved Person Day Cost	R226.80	

Table 2.4: Employment Drought Response Project

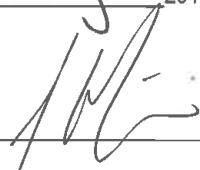
Drought Response Project	Indicative budget per item (R value)	Targets (% of contract value)	Cost Per Person day	Explanatory Notes
Goods and Services	R1 528 824	38.2%	R 78.62	
Management Fees	R194 840	4.9%	R 10.02	
Accounting Fees		0.0%	R 0.00	
Advertising		0.0%	R 0.00	
Materials and Equipment	R521 163	13.0%	R 26.80	Hand Tools, Mechanical Tools and PPE
Minor Assets		0.0%	R 0.00	
Catering		0.0%	R 0.00	
Communication		0.0%	R 0.00	
Computer Services		0.0%	R 0.00	
Consultants: Business and advisory services	R108 000	2.7%	R 5.55	Medical Examinations
COIDA (1.85% of Basic Salaries + Wages)	R44 820	1.1%	R 2.31	
Laboratory services		0.0%	R 0.00	
Legal services		0.0%	R 0.00	
Contractors		0.0%	R 0.00	
Inventory		0.0%	R 0.00	
Consumables		0.0%	R 0.00	
Property payments		0.0%	R 0.00	
Rental and hiring		0.0%	R 0.00	
Transport	R516 000	12.9%	R 26.54	
Travel and subsistence		0.0%	R 0.00	
Training and development	R144 000	3.6%	R 7.41	
Community Facilitation		0.0%	R 0.00	
Other - Specify		0.0%	R 0.00	
Expenditure for capital assets		0.0%	R 0.00	
Compensation of employees	R2 471 176	61.8%	R 127.09	


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Total Wages paid in terms of EPWP	R2 242 525	56.1%	R 115.33	
Basic Wages	R2 198 554	55.0%	R 113.07	
UIF (2% of basic wages)	R43 971	1.1%	R 2.26	
Non EPWP salaries				Project Management and Administration Staff
	R228 651	5.7%	R 11.76	
Basic Salaries	R224 168	5.6%	R 11.53	
UIF (2% of basic wages)	R4 483	0.1%	R 0.23	
Total Budget	R4 000 000	100.0%	R205.71	

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Signed at Cape Town on this 4th day of February 2019 in the presence
of the undersigned witnesses.




FOR THE DEPARTMENT
DR CHRISTO MARAIS WHO BY HIS
SIGNATURE HERETO WARRANTS THAT HE
IS AUTHORISED TO SIGN ON BEHALF OF
THE DEPARTMENT

AS WITNESSES:

1. 

2. 

Signed at Stellenbosch on this 6th day of February 2019 in the presence
of the undersigned witnesses.



FOR THE SERVICE PROVIDER
MS GERALDINE METTLER WHO BY HIS
SIGNATURE HERETO WARRANTS THAT SHE
IS AUTHORISED TO SIGN ON BEHALF OF
THE SERVICE PROVIDER

AS WITNESSES:

1. 

2. 

G Letter regarding alien clearing contract cancellation



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Administrative enquiries: D Jacobs

Tel: (021)-808 8137 e-mail: Daleel.jacobs@stellenbosch.gov.za

"Without Prejudice"

JOEZ ROSE PROJECTS
41 Riverside, Pniel
Stellenbosch
7681

22 September 2020

Dear Sir/Madam,

Re: BSM 07/19 – Alien Clearing Tender

The above refers.

It has been established that there were discrepancies with the applicable rates on this tender. Thereafter, Stellenbosch municipality further engaged with our funding stakeholders i.e. Department of Environmental Affairs (DEA) in trying to find common ground. However, that process was unsuccessful and that led to a decision to cancel the current tender.

The reason for the cancellation is based on the fact that the tender specifications was not aligned with the Natural Resource Management (NRM) Memorandum of Agreement (MOA) from DEA. This discrepancy led to the grant funding being withdrawn and the tender of Alien Clearing being invalid.

Stellenbosch municipality has advertised Rates tender BSM102/20, and all participants are allowed to submit their bid submission as budget allocation has been granted within the municipality budget processes.

Therefore, you are hereby formally advised that the tender BSM 07/19 Alien Clearing Tender has been cancelled with immediate effect.

Trust that you find the above in order.

GARY BOSHOFF
DIRECTOR: COMMUNITY AND PROTECTION SERVICES

H Minutes of meeting of 25 October 2019, redacted by DEFF



MINUTES OF NRM MEETING COMMUNITY SERVICES DEPARTMENT FRIDAY, 25 OCTOBER 2019

OFFICIAL	JOB TITLE
Mrs Geraldine Mettler	Municipal Manager
Mr Gary Boshoff	Director: Community and Protection Services
Mr Kevin Carolus	Director: Chief Financial Officer
Mrs Tammy Leibrandt	Superintendent: Urban Forestry
Mr Nceba Ngcobo	DEFF- Director
Mr Colin Sharp	DEFF- Project Manager
Mrs Aadiela Moerat	DEFF- Area Manager
Mr Wessel Wentzel	DEFF-NRM

	CONCERN/ISSUE	COMMENT/S FROM DEPARTMENT
1.	NRM Project Closure Discussion	<ul style="list-style-type: none"> Stellenbosch Municipality submitted a termination letter to cancel the NRM Project with immediate effect on the 8 October 2019. Department of Environmental Affairs (DEA) acknowledged receipt of the termination letter. It must be noted the Working for Water concept no longer exists but has been replaced by NRM
2.		



**MINUTES OF NRM MEETING
COMMUNITY SERVICES DEPARTMENT
FRIDAY, 25 OCTOBER 2019**

3.		
4.	Way forward	<ul style="list-style-type: none">Mr Ngocobo stated that he understands the reasons why the Stellenbosch Municipality terminated the NRM contract and accepts the termination letter. He also stated that the NRM Project is difficult to implement at



**MINUTES OF NRM MEETING
COMMUNITY SERVICES DEPARTMENT
FRIDAY, 25 OCTOBER 2019**

		<p>municipalities because all municipalities are governed by the MFMA that dictates who municipalities must function in terms of processes and procedures.</p> <ul style="list-style-type: none">• Aadlela mentioned that DEA is looking at a new NRM model that will be at aimed specifically at municipalities and aligned with the MFMA.
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Geraldine Mettler
Municipal Manager

01/11/2019
Date

I SM Alien Invasive Plants Management Plan: Example of 2017 distributions of alien invasives species

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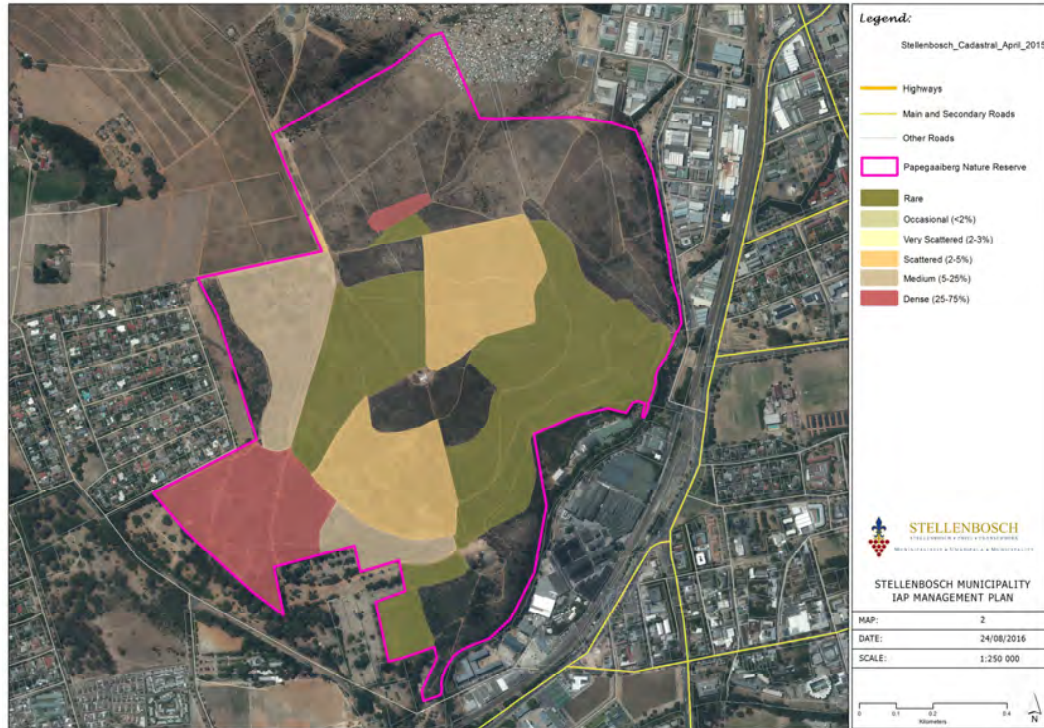


Figure 8: *Acacia saligna* density (%) on Papegaaiberg Nature Reserve.

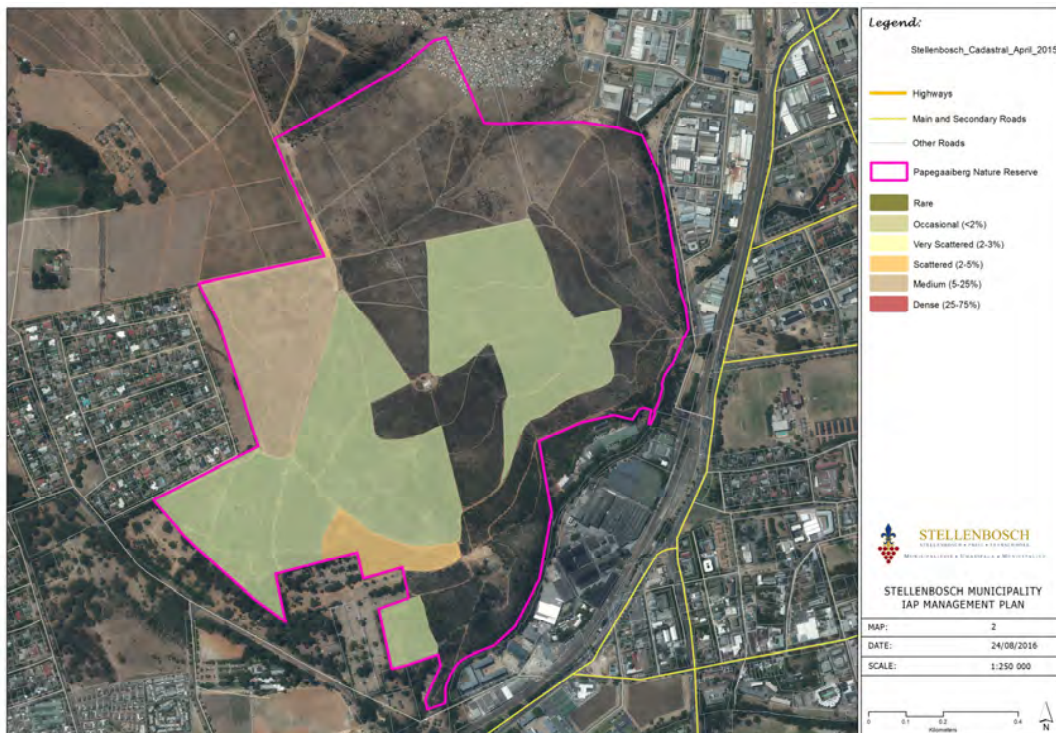


Figure 9: *Acacia mearnii* density (%) on Papegaaiberg Nature Reserve.

J SM Alien Invasive Plants Management Plan: Map and 2017 List of Invasive species

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Stellenbosch Municipality IAPs Management Plan

April 2017

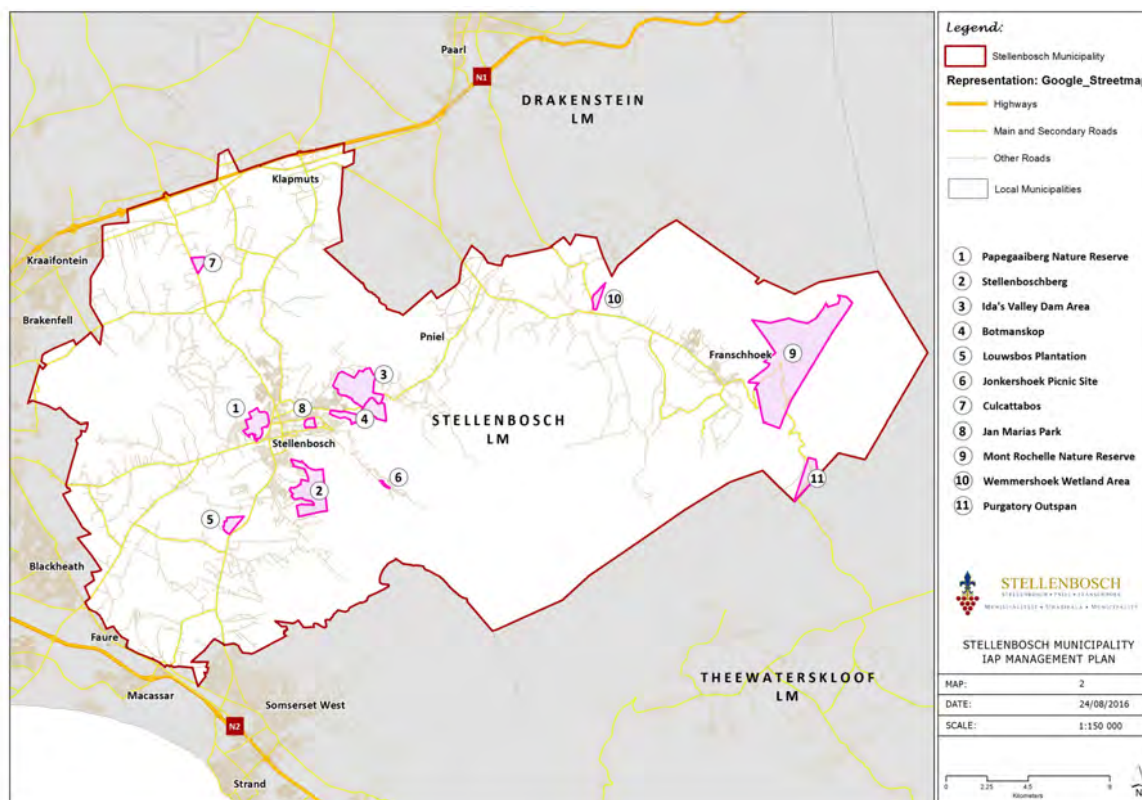


Figure 4: Stellenbosch Municipality properties that are the subject of this plan.

8. ALIEN INVASIVE PLANT SPECIES OF STELLENBOSCH MUNICIPALITY

There are several exotic plant species within the Stellenbosch region that has a negative effect on the indigenous fynbos biodiversity and ecosystems. The main invasive species are summarized in the table below. Each species has individual as well as collective negative environmental impact which effects the health and stability of the indigenous ecosystems in which they are found. If controlling methods of these invasive species are not implemented, continues invasive effects within indigenous areas may cause a severe loss of biodiversity with severe consequences on ecosystem health and ecosystem services.

Table 3: Description and impact of AIP occurring in Stellenbosch Municipality (Bromilow, 2010 / Striton, 1978)

Species Name	Category	Description	Environmental Impact
Scientific: <i>Acacia implexa</i> Common: Screw-pod wattle, lightwood,	CARA Cat 1 NEMBA Cat 1a	Erect tree to 15m tall, single-stemmed or divided near ground level into 2 or 3 main stems. Leaves dark green, narrowly elliptic and sickle shaped, 7-20 cm long and 6-25 mm wide, much narrowed at the base. Bi-pinnate leaves may persist on young plants. Bark rough and greyish. Flowers arranged in globular heads, creamy to pale yellow, flowering from December to March. Pods narrow, coiled	<ul style="list-style-type: none"> • Fast growing • Invades agricultural lands, planted forests and disturbed areas • Can become

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Species Name	Category	Description	Environmental Impact
Hickory wattle Family: Fabaceae		and twisted to 25 cm long, 4-7 mm wide. Seeds are dark brown, longitudinal, fleshy tissue growing from the point of attachment of a seed	highly invasive if not controlled
Scientific: <i>Acacia mearnsii</i> Common: Black Wattle Family: Fabaceae	CARA Cat 2 NEMBA Cat 2	An evergreen tree growing 5-10m high, black wattle has dark olive-green finely hairy leaves. Pale yellow or cream spherical flowers in large fragrant sprays blooming from August to September. Fruits are dark brown, finely haired pods. Black wattle has invaded grasslands, competing with and reducing indigenous species, and reducing grazing land for wild and domestic animals	<ul style="list-style-type: none"> Decreases diversity of ground living invertebrates. Decreases stream flow Destabilizations of stream banks Can increase erosion, but also used for land stabilization
Scientific: <i>Acacia melanoxylon</i> Common: Australian Blackwood Family: Fabaceae	CARA Cat 2	An erect, evergreen, unarmed tree from 10 to 35 m in height, with a clean bole and dense crown. The bark is rough, fibrous and usually light grey-brown. The slightly curved, 6-12 cm long phyllodes (flattened-leaf-stalk) have 3-7 prominent longitudinal veins. A few feathery compound leaves are often present at the apex of phyllodes. The flowers are creamy white occurring in rounded inflorescences and are produced at the ends of branches or in the axils of phyllodes. Flowering usually occurs from August to September. Seeds are small, black and surrounded by a dull reddish seed-stalk.	<ul style="list-style-type: none"> Fast growth rate Major invader of forests, fynbos shrubland and grasslands. Transform native communities by replacing native non-tree vegetation
Scientific: <i>Acacia pygmantha</i> Common: Golden Wattle Family: Fabaceae	CARA Cat 1 NEMBA Cat 1b	Slender, evergreen tree 4-8m high with drooping branches and dull green, leathery, distinctly curved leaves. Bright yellow, spherical flower heads in large sprays from August to September. Brown and almost straight pods.	<ul style="list-style-type: none"> Competes with and replaces indigenous species Invades coastal and mountain fynbos, rivers and roadsides
Scientific: <i>Acacia saligna</i> Common: Port Jackson Family: Fabaceae	CARA Cat 2 NEMBA Cat 1b	An evergreen tree, growing 3-7m high, with blue-green turning bright green leaves. Bright yellow, globe-shaped flowers bloom from August to November. Brown pods with hardened, whitish margins.	<ul style="list-style-type: none"> Increases the biomass Increases litter fall Changes nutrient chemistry in lowland fynbos. Changes seed dispersal dynamics Increases the

Species Name	Category	Description	Environmental Impact
			biomass <ul style="list-style-type: none"> • Changes size and distribution of fuel • Decreases moisture content resulting in change in fire regime • Attrition of seed banks of native plants in dense stands over time
Scientific: <i>Eucalyptus grandis</i> Common: Saligna gum Family: Myrtaceae	CARA Cat 2	A tall, evergreen tree with a shaft-like trunk 25-55m high with smooth bark except for the part of the trunk up to 4m from the ground. The bark peels in long, thin strips to expose a powdery, white, grey-white or blue-grey surface. Dark green leaves which are glossy above and paler below. Cream flowers appear from April to August. Brown fruit capsules with a bluish-grey powdery surface. This tree invades forest clearings, plantations, watercourses and roadsides.	<ul style="list-style-type: none"> • Reduces stream flow • Affects soil erosion to a variable degree • Competes with and replaces indigenous species
Scientific: <i>Paraserianthus lophantha</i> Common: Stink Bean Family: Fabaceae	CARA Cat 1 NEMBA Cat 1b	A fine bi-pinnate leaved evergreen shrub or tree growing 4-6m high, somewhat resembles the large-leaved black wattle (<i>Acacia mearnsii</i>). The dark green leaves are paler below, up to 300 mm or longer and golden-hairy. Cream-coloured flowers appear in dense, bottlebrush-like heads from June-August followed by brown compressed seedpods with raised edges. The seeds emit a nauseating odour when crushed and this tree is poisonous. It invades forest margins, riverbanks, moist slopes in fynbos and wooded kloofs.	<ul style="list-style-type: none"> • Competes with and replaces indigenous species • Reduce stream flow
Scientific: <i>Pinus pinea</i> Common: Umbrella Pine, Stone Pine Family: Pinaceae	NEMBA Cat 3	A coniferous tree 12-30m high, forming an umbrella-shaped crown with dense foliage at maturity. The trunk is straight, often forking with reddish-brown bark and deeply cracked into plates. Light green leaf needles in bundles of two. Nut-brown, woody cones 10-15cm long. It invades grasslands and mountain fynbos.	<ul style="list-style-type: none"> • Out-competes native trees • Dense stands limit options for fire management • Decreases stream flow
Scientific: <i>Pinus pinaster</i> Common: Cluster Pine Family: Pinaceae	CARA Cat 2 NEMBA Cat 2	A coniferous tree 8-15m high, conical when young, becoming cylindrical with a tall, bare trunk when older. Reddish-brown bark, which is deeply cracked into plates. Dull grey-green leaf needles in bundles of two. Cones initially purple, turning light brown 9-18cm long. This pine invades mountains and lowland fynbos.	<ul style="list-style-type: none"> • Out-competes and replaces indigenous trees • Dense stands limit options for fire management

Species Name	Category	Description	Environmental Impact
			<ul style="list-style-type: none"> Decreases stream flow Reduces grazing
Scientific: <i>Pittosprum undulatum</i> Common: Australian chesewood Family: Pittosporaceae	CARA Cat 1 NEMBA Cat 1b	Evergreen shrub or broadly conical tree up to 12m high. Dark green, shiny leavers tapering at both ends and usually wavy margins at the end of the branches. Fragrant white flowers in terminal clusters from August to September. Showy, orange turning brown capsules.	<ul style="list-style-type: none"> Competes with and replaces indigenous species Indigenous birds might neglect the dispersal of indigenous plants due to their preference for the fruits of this alien species.
Scientific: <i>Populus canescens</i> Common: Gray Poplar Family: Salicaceae	CARA Cat 2 NEMBA Cat 2	It is a medium-sized deciduous tree, growing to heights of up to 16-27 m (rarely more), with a trunk up to 2 m diameter and a broad rounded crown. The bark is smooth and greenish-white to greyish-white. The leaves are 4-15 cm long, five-lobed, with a thick covering of white scurfy down on both sides but thicker underneath. The flowers are catkins up to 8 cm long, produced in early spring. The female catkins lengthen to 8–10 cm after pollination, with several green seed capsules, maturing in late spring to early summer. It also propagates by means of root suckers growing from the lateral roots, often as far as 20-30 m from the trunk, to form extensive clonal colonies	<ul style="list-style-type: none"> Form dense and uniform stands along riverbanks and in vleis. Can spread into surrounding veld
Scientific: <i>Robinia pseudoacacia</i> Common: Black Locust Family: Fabaceae	CARA Cat 2 NEMBA Cat 1b	A deciduous tree up to 12m high, exceptionally 25m, with an oval or rounded crown and bark that is dark brown and deeply furrowed. It suckers freely and often forms thickets. Young stems and branchlets have short spines. Small, bright green leaves above and paler beneath which become yellow in autumn. White, fragrant flowers in drooping spray from September to November. Reddish-brown pods. The seeds, leaves and inner bark are poisonous seeds.	<ul style="list-style-type: none"> Competes with and replaces indigenous species Dense stands can cover vast areas Can reduce and restrict water access to animals Poisonous to human and domestic livestock

Species Name	Category	Description	Environmental Impact
Scientific: <i>Rubus fruticosus</i> Common: European Blackberry Family: Rosaceae	CARA Cat 2 NEMBA Cat 2	Thorny shrub to 2m high with strongly arching stems that root at the growing point of the shoot. Green leaves, sometimes grey-downy beneath. White or pink flowers with petals that is much longer than the sepals, appearing from September to January. The flowerheads are prickly. The edible fruits are red turning black.	<ul style="list-style-type: none"> Hybridizes with native <i>Rubus</i> species Competes with and replaces indigenous woody and grassland species Dense stands are impenetrable and restrict access to forestry plantations Restrict access to grazing and water by domestic and wild animals

Table 4: Summary of the invasive alien plant species within the relevant sites of Stellenbosch Municipality

Species	Louwsbos Plantation	Stellenbosch-berg	Jonkershoek Picnic Site	Papegaaiberg NR	Jan Marais * NR	Botmaskop	Ida's Valley Dam Area	Mont Rochelle NR	Culcattabos	Wemmersh.	Purgatory
<i>Acacia implexa</i>		X		X		X	X				
<i>Acacia mearnsii</i>		X	X			X	X	X	X		X
<i>Acacia melanoxylon</i>		X				X	X	X			
<i>Acacia pygmantha</i>		X				X	X				
<i>Acacia saligna</i>	X		X	X			X		X		X
<i>Eucalyptus globulus</i>		X		X		X	X	X			
<i>Paraserianthus lophantha</i>			X								
<i>Pinus pinea</i>	X	X	X	X		X	X	X		X	

<i>Pittosprum undulatum</i>			X								
<i>Populus canescens</i>			X								X
<i>Robinia pseudoacacia</i>			X								
<i>Rubus fruticosus</i>			X								

* There are no invasive alien plants within Jan Marais Nature Reserve, with exception of several old Eucalyptus and *Pinus pinaster* trees.

9. MANAGING ALIEN INVASIVE PLANT SPECIES IN STELLENBOSCH MUNICIPALITIE

There have been many attempts to control the spread of invasive alien plant species since the 1940's, though success has been diminutive due to the easily spreading nature of these species. More recently studies have been researching the spread and effects of invasive species, though up until 1985 little has been written on the controlling aspects¹⁰. During more recent years many studies have been focused on prioritizing invasive species for their control and management¹¹.

Many management plans are at fault due to their focus on reducing the density of invasive species rather than the causing disturbance that leads to their establishment¹². By only focussing on reducing the density of invasion species, and not the underlying causing disturbance, many of these plans lead to the control and management of one species, only to have another establish in the disturbed area¹³. Managing invasive species should thus firstly focus on managing for the ecosystem and the disturbance that caused their establishment in order to prevent further establishment of invasive species. Managing for the disturbance to ensure an increased ecologically and environmentally aware management plan should include ecosystem management, integrated environmental management and watershed management¹⁴. Though the general aim for invasive alien plant management is to clear and manage area by area, certain factors (such as the species present, terrain, availability of resources) may cause controlling efforts to be limiting and thus lead to an attempt for species controlling instead. An integrated controlling strategy is therefor required. An integrated controlling strategy involves the integration of control for management area ("block") in which more than one alien species may be encountered and the integration of mechanical, chemical and biological control of a given species.

¹⁰ Macdonals *et al.* 1985

¹¹ Van Wilgen *et al.* 2007; van Wilgen *et al.* 2012

¹² Edwards, 1998

¹³ Edward 1998; Allen and Starr, 1982; Allen and Hoekstra, 1992; Denny, 1992.

¹⁴ Edward 1998; Margerum and Born, 1995

K Some legal aspects and Stellenbosch-relevant invasive species

K1 Local invasive species as per Category

Among the listed invasive species which are documented to occur on nature areas controlled by Stellenbosch Municipality are the following. See Appendix J for the species list of the AIPMP.

K1.1 Category 1a

- *Acacia implexa* (screwpod wattle) is listed in AIPMP

K1.2 Category 1b

- *Acacia longifolia* (long-leaved wattle) is documented in Paradyskloof
- *Acacia saligna* (Port Jackson) is listed in AIPMP
- *Cortaderia selloana* (Pampas grass) documented in Paradyskloof
- *Hakea selicifolia* (hakea) documented in Paradyskloof
- *Hakea sericea* (hakea) occurs widely on mountain slopes
- *Opuntia ficus* (sweet prickly pear) is documented in Paradyskloof
- *Pasaserianthes lophantha* (Stinkweed) is listed in AIPMP
- *Pinus pinaster* (cluster pine) is listed in AIPMP
- *Pittosporum undulatum* (Australian cheesewood) is listed in AIPMP
- *Solanum mauritianum* (bugweed) occurs widely
- *Xanthium spinosum* (spiny cocklebur) is documented in Paradyskloof

K1.3 Category 2

- *Acacia mearnsii* (Black wattle) is listed in AIPMP
- *Acacia melanoxylon* (blackwood) is listed in AIPMP
- *Eucalyptus grandis* (saligna gum) is listed in AIPMP
- *Populus canescens* (gray poplar) is listed in AIPMP
- *Rubus fruticosus* (European blackberry) is listed in AIPMP

K1.4 Category 3

- *Pennisetum clandestinum* (kikuyu grass) is a notable virulent invasive occurring on many sites yet missing from all lists. Maybe we are too used to the stuff.
- *Acacia baileyana* (Bailey's wattle) is documented in Paradyskloof
- *Phytolacca dioica* (Belhambra) is documented in Paradyskloof

K2 Application of NEMBA sections

In the text below, NEMBA refers to the Biodiversity Act of 2004, as amended, GNR 598 refers to the corresponding NEMBA regulations of 2014, GNR 1003 refers to the *Alien and Invasives Species List* of 2020, Government Notice No. 1003.

K2.1 Restricted activities: The actions and omissions of SM with respect to its nature areas, the termination of the 2019 NRM MoA and the dismissal of the contractors constitute **restricted activities** in terms of the relevant definitions.

a. NEMBA Section 1 Definitions:

*A **restricted activity** ... (b) in relation to a specimen of an alien species or listed invasive species, means – (ii) having in possession or exercising physical control over any specimen of an alien or listed invasive species; (iii) growing, breeding or in any other way propagating any specimen of an alien or listed invasive species, or causing it to multiply;*

b. GNR 598 Section 6 **Restricted activities**

In addition to those activities defined in terms of section 1 of the Act as restricted activities, the following activities are hereby prescribed as restricted activities:

- (a) *spreading or allowing the spread of, any specimen of a listed invasive species;*
- (b) *releasing any specimen of a listed invasive species;*

c. The spreading of allowing the spread of any specimen of a listed invasive species is a *restricted activity* in terms of GNR 1003 Notice 1.

- d. **SM is therefore carrying out restricted activities** in the sense that it (i) exercises physical control over specimens of alien or listed invasive species, and (ii) is allowing the spread of specimens of listed invasive species.

K2.2 Definitions and requirements of Category 1a, 1b, 2 and 3 Listed Invasive species appear in Regulations 2 to 5 of GNR 598 in terms of NEMBA Section 70(1)(a).

- a. Category 1a species must be combatted or eradicated.
- b. Category 1b species must be controlled.
- c. Category 2 species require a permit to carry out a restricted activity within a specified area. No person may carry out a restricted activity on Category 2 species without a permit. A landowner must ensure that the specimens do not spread outside the permit area. Specimens falling outside permit areas are considered to be Category 1b.
- d. Category 3 species are invasive but subject to species-specific exemptions and prohibitions.

K2.3 To our knowledge, no permits or exemptions have been issued with respect to the SM land units listed in Appendix B for any of the Category 2 species listed below which occur on the SM nature areas.

K2.4 **Therefore, SM is carrying out prohibited restricted activities on a large scale for Categories 1a, 1b, 2 and 3 listed invasives.**

K2.5 **Duty of care:** Stellenbosch Municipality is required to take steps to control and eradicate listed invasives.

NEMBA Section 73(2):

*A person who is the owner of land on which a listed invasive species occurs **must** – (a) notify any relevant competent authority, in writing, of the listed invasive species occurring on that land; (b) **take steps to control and eradicate** the listed invasive species and to **prevent it from spreading**; and (c) take **all the required steps to prevent or minimise harm to biodiversity**.*

NEMBA Section 1 (Definitions):

*“control”, in relation to an alien or invasive species, means – (a) to combat or eradicate an alien or invasive species; or (b) where such eradication is not possible, to **prevent, as far as may be practicable**, the recurrence, re-establishment, re-growth, multiplication, propagation, regeneration or spreading of an alien or invasive species;*

K2.6 **Token efforts are not enough.** Given that R14.426 million in dedicated funds were available, the *practicability* of large-scale control and (in some cases) eradication was not in question before the NRM MoA was terminated. Practicability **is**, however, in question if control were to rely on the small token funds and efforts now being touted in Tender 102/20.

K2.7 **Token efforts also fail the test of appropriateness of methods** for the species, environment and preventing regeneration, since small-scale efforts will fail to prevent regeneration and spreading. NEMBA Sections 75(1), 75(2), 75(3):

*Control and eradication of a listed invasive species must be carried out by means of **methods that are appropriate** for the species concerned and the environment in which it occurs.*

Any action taken to control and eradicate a listed invasive species must be executed with caution and in a manner that may cause the least possible harm to biodiversity and damage to the environment.

The methods employed to control and eradicate a listed invasive species must also be directed at the offspring, propagating material and re-growth of such invasive species in order to prevent such species from producing offspring, forming seed, regenerating or re-establishing itself.

K2.8 **Issuing of a directive:** Since SM has failed to comply with NEMBA Section 73(2) and its omissions fall under the definition of *restricted activity* as set out above, **DEFF as the competent authority is authorised to issue a directive and to enforce it.** NEMBA Section 73(3):

A competent authority may, in writing, direct any person who has failed to comply with subsection (1) or (2), or who has contravened section 71(1), to take such steps — (a) as may be necessary to remedy any harm to biodiversity caused by — (i) the actions of that person; or (ii) the occurrence of the listed invasive species on land of which that person is the owner; and (b) as may be specified in the directive.

K2.9 DEFF is empowered to itself implement the provisions of any directive and to recover implementation costs from SM. NEMBA Section 73(4):

If that person fails to comply with a directive issued in terms of subsection (3), a competent authority may (a) implement the directive; and (b) recover all costs reasonably incurred by a competent authority in implementing the directive — (i) from that person; or (ii) proportionally from that person and any other person who benefited from implementation directive.

K2.10 The Request to issue a directive may be enforced in court by the Requester. NEMBA Section (74(3):

Should a competent authority fail to respond to the request within the stated period or refuses the request, the person who made the request may apply to a court for an order directing that competent authority to issue the directive.

K2.11 Measurable indicators of progress and success NEMBA Section 76(4)(f) requires that SM must provide *measurable indicators of progress and success, and indications of when the control plan is to be completed.* Section 5.4 of the Stellenbosch AIPMP as approved by Council makes clear that these indicators include follow-up work:

If follow-up clearing is not done, the progress made in the initial clearing exercise will be lost within a few years as the IAPs become re-established.

K2.12 Noncompliance with NEMBA Section 77: Stellenbosch Municipality has not submitted any invasive species status reports with respect to the protected areas listed in Appendix B. This is in contravention of NEMBA Section 77, which states inter alia that

The management authority of a protected area must at regular intervals prepare and submit to the Minister or the MEC for Environmental Affairs in the province a report on the status of any listed invasive species that occurs in that area.

K2.13 Offences and penalties

NEMBA Section 65(1):

A person may not carry out a restricted activity involving a specimen of an alien species without a permit issued in terms of Chapter 7.

NEMBA Section 67(2):

A person may not carry out any restricted activity involving a specimen of an alien species published in terms of subsection (1) [as a Category 1a species].

NEMBA Section 71(1):

A person may not carry out a restricted activity involving a specimen of a listed invasive species without a permit issued in terms of Chapter 7.

NEMBA Section 101(1):

A person is guilty of an offence if that person contravenes or fails to comply with a provision of —

- (a) *section ... 65(1), 67(2), 71(1) ...*
- (b) *a notice published in terms of section 57(2); or*
- (c) *a directive issued in terms of section 69(2) or 73(3).*

NEMBA Section 101(3):

A person is guilty of an offence if that person — ... (e) permits or allows any other person to do, or to omit to do, anything which is an offence in terms of subsection (1) or (2).

GNR598 35(2):

Any person who contravenes or fails to comply with a provision of these regulations is guilty of an offence and is liable, on conviction, to —

- (a) *a fine not exceeding five million rand, and in the case of a second or subsequent conviction, to a fine not exceeding R10 million; or*
- (b) *imprisonment for a period not exceeding 10 years; or*
- (c) *to both such fine and imprisonment.*