



REFERENCE: 14/2/4/2/1/A1/41/0007/20

ENQUIRIES: Ziyaad Allie

REGISTERED MAIL

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Attention: Helenus Willem Scholtz

Dear Sir

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: THE UNLAWFUL CLEARANCE OF VEGETATION ON REMAINDER 4 OF FARM 152, KLEIN VISSERSHOK

With reference to your application dated 17 July 2020 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

ENVIRONMENTAL AUTHORISATION

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below in accordance with the implemented Alternative as described in the application dated 17 July 2020 and the Comments and Responses report ("C&R") received by the Department on 27 August 2020.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Lincrest (Pty) Ltd.

c/o Helenus Willem Paul Scholtz

P.O Box 466

WESTCOAST VILLAGE

7433

Cell: 082 412 5168

Email: helenus@wilcrest.co.za

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

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R. 327 of 2014 – Activity Number: 27 Activity Description: <i>"The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for-</i> <i>(i) The undertaking of a linear activity; or</i> <i>(ii) Maintenance purposes undertaken in accordance with a maintenance</i></p>	<p>Approximately 1.34ha of indigenous vegetation was cleared for the development of a precast concrete manufacturing facility.</p>

<p><i>management plan."</i></p> <p>Government Notice No. R327 of 2014 – Activity Number: 28 Activity Description: <i>"Residential, mixed, retail, commercial, industrial or institutional development where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</i> <i>i. will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or</i> <i>ii. will occur outside an urban area, where the total land to be developed is bigger than 1 hectare.</i> <i>Excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</i></p>	<p>Approximately 1.34ha of indigenous vegetation was cleared for the development of a precast concrete manufacturing facility.</p> <p>The clearance for the development of the facility commenced on Remainder 4 of Farm 152, Klein Vissershok on the northern outskirts of Cape Town.</p> <p>Remainder 4 of Farm 152, Klein Vissershok is zoned agriculture.</p>
<p>Government Notice No. R324 of 2014 – Activity Number: 12 Activity Description: <i>The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i> <i>Western Cape</i> <i>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 2014;</i> <i>ii. within critically biodiversity areas identified in bioregional plans;</i></p>	<p>The applicant initially cleared 0.44 ha of indigenous vegetation (Cape Flats Sand Fynbos) which is classified as Critically Endangered.</p>

The abovementioned list is hereinafter referred to as "the listed activities".

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Remainder 4 of Farm 152, Klein Vissershok.

The SG digit code is: C01600000000015200004

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 47' 15.72" South	18° 32' 31.29" East
2	33° 47' 14.87" South	18° 32' 40.00" East
3	33° 47' 23.82" South	18° 32' 37.31" East
4	33° 47' 19.95" South	18° 32' 31.14" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33 ° 47' 19.78" South	18 ° 32' 31.28" East
2	33 ° 47' 18. 64" South	18 ° 32' 32.10" East
3	33 ° 47' 19.81" South	18 ° 32' 33.94" East
4	33 ° 47' 18.24" South	18 ° 32' 35.16" East

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

Herein-after referred to as "the site".

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")

Guillaume Nel Environmental Consultants (GNEC)

c/o Guillaume Nel

P. O. Box 2632

PAARL

7620

Cell: 072 157 1321
Email: guillaume@gnec.co.za

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The activities undertaken on the site entail the clearance of indigenous vegetation for the development of a pre-cast concrete production facility. The clearance of vegetation started in 2009 and has been on-going. The initial clearance resulted in the loss of 0.44ha of vegetation, with the areas gradually being cleared over the years, and this resulted in a total of 1.38ha of vegetation clearance (the site layout is attached as **ANNEXURE 2**). Remainder 4 of Farm 152, Klein Vissershok is located on the northern outskirts of Cape Town, approximately 5km north-east of Bloubergstrand and approximately 10km north of Durbanville. The site is set in a rural area that is sparsely populated. It is situated south of the Vissershok landfill site, to the west of the N7 Highway and north of Malibongwe Drive. The property is surrounded by open land on all sides and has been partially developed for industrial purposes.

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to the implemented described in the application and assessment report dated 17 July 2020 on the site as described in Section D above.
2. 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.
3. Any changes to, or deviations from the scope of the alternative described in Section F 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 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.

PART II

Written notice to the competent authority

4. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of construction activities.

4.1 The notice must make clear reference to the site details and 24G Reference number given above.

PART III

Notification and administration of an appeal

5. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–

5.1 notify all registered Interested and Affected Parties ("I&APs") of –

5.1.1 the outcome of the application;

5.1.2 the reasons for the decision as included in Annexure 3;

5.1.3 the date of the decision; and

5.1.4 the date when the decision was issued.

5.2 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* detailed in Section I below.

5.3 draw the attention of all registered I&APs to the manner in which they may access the decision.

5.4 provide the registered I&APs with:

5.4.1 the name of the holder (entity) of this Environmental Authorisation;

5.4.2 name of the responsible person for this Environmental Authorisation;

- 5.4.3 postal address of the holder;
- 5.4.4 telephonic and fax details of the holder;
- 5.4.5 e-mail address, if any, of the holder; and
- 5.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.

6. The listed activities, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. 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.

PART II

Management of the activity/development

7. The draft Environmental Management Programme (“EMPr”) dated 17 July 2020 compiled by Guillaume Nel Environmental Consultants and submitted as part of the application for environmental authorisation must be hereby approved and must be implemented.
8. Active protection and passive rehabilitation of the small remnant of natural vegetation in the south western corner of the property (downslope) that can act as a buffer between the operational plant and the Diep River. This must be implemented in accordance with the EMPr.
9. The EMPr must be included in all contract documentation for all phases of implementation.

PART IV

Monitoring

10. The holder must appoint a suitably experienced Environmental Control Officer (“ECO”) or site agent where appropriate, before continuation of commencement of any land clearing or rehabilitation activities to ensure compliance with the EMPr and the conditions contained herein.
11. A copy of the Environmental Authorisation and any independent assessments of financial provision for rehabilitation and environmental liability, 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 (if applicable).

12. Access to the site referred to in Section D 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.

PART V

Auditing

13. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, and the BA and submit Environmental Audit Reports to the competent authority upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

PART VI

Activity/ Development Specific Conditions

14. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

15. 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.

H. 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 or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

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

I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –
 - 1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.
2. An appellant (if NOT the holder) must –

- 2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.
3. The holder (if not the appellant), the decision-maker, I&APs and Organ of State must submit their responding statements, if any, to the Appeal Authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. This appeal and responding statement must be submitted to the address listed below -
- By post: Attention: Marius Venter
 Western Cape Ministry of Local Government, Environmental Affairs &
 Development Planning
 Private Bag X9186, Cape Town, 8000; or
- By facsimile: (021) 483 4174; or
- By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)
 Room 809, 8th floor Utilitas Building
 1 Dorp Street, Cape Town, 8000; or
- By e-mail: DEADP.Appeals@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

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

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, 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.

Yours faithfully

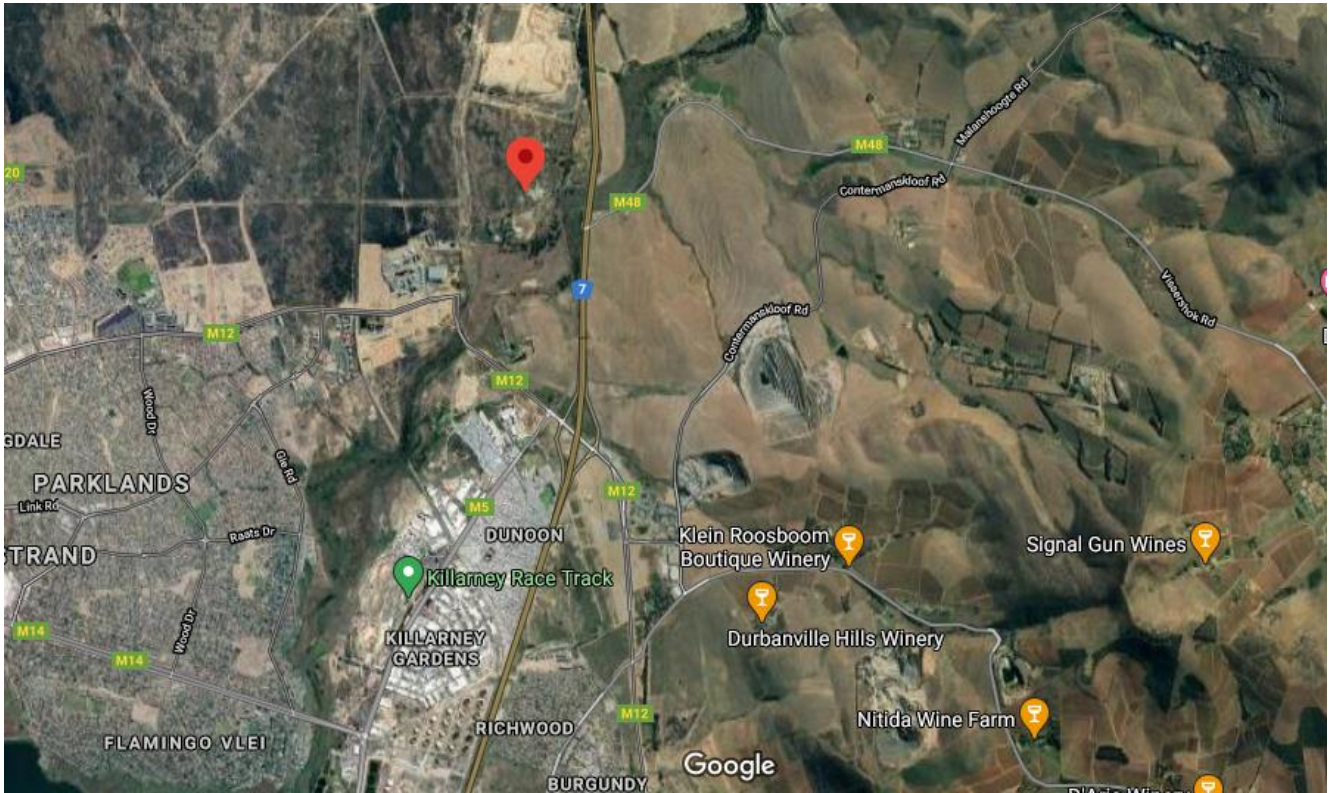
ADV. CHARMAINE MARÉ
DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: _____

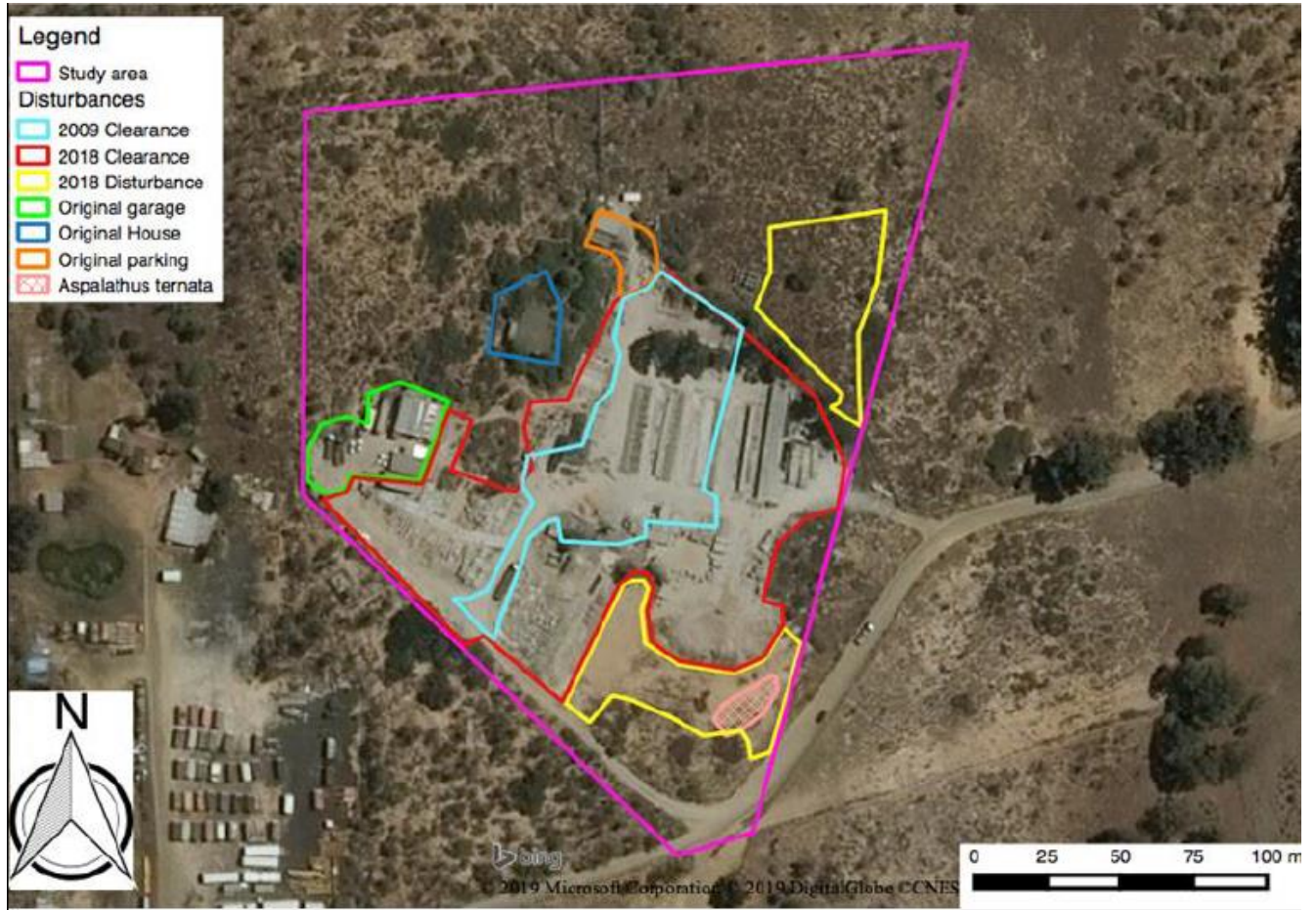
Cc: (1) Guillaume Nel (EAP)

Email: guillaume@gnec.co.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE LAYOUT



FOR OFFICIAL USE ONLY:

S24G REFERENCE: 14/2/4/2/1/A1/41/0007/20

ANNEXURE 3: REASONS FOR THE DECISION

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R250 000 (Two hundred and fifty thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application dated 17 July 2020 and the Environmental Management Programme submitted together with the application.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from Interested and Affected Parties ("I&APs") and organs of state and the responses provided thereto.
- e) The sense of balance of the 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 which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- An advertisement was placed in the **Tygerburger** newspaper on 04 December 2019;
- A site notice was erected; and
- Letters were sent to I&APs and the municipal ward councillor.
- I&APs were afforded the opportunity to provide comments on the application.

1.1 Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- CapeNature
- City of Cape Town

At the end of the public participation process, comments were received from CapeNature and the City of Cape Town.

The City of Cape Town indicated that a Storm Water Management Plan ("SWMMP") must be compiled in order to illustrate how the owner/operator will deal with surface water runoff from the stripped and hardened site.

A SWMP was subsequently compiled by Otto Consulting Engineers which concluded that in order prevent pollution or degradation of the proposed site the following measures are to be undertaken:

- That a settling/retention dam be constructed to accept stormwater from the catchment. The dam shall have a weir type overflow to cater for the 1:50 year RI storm.
- The construction of earth berms in order for surface water run-off to be contained and attenuated, via surface flow in the proposed settling/retention dam.

CapeNature supports the recommendation for the landowner to implement the Environmental Management Plan and to discontinue any further habitat transformation subject to approval. CapeNature stated that they do not consider any restoration or rectification measures as feasible; given the extent of transformation and long-term

outlook for this property. In conclusion, CapeNature highlighted the need for active protection and rehabilitation of the small remnant of the natural vegetation left towards the south-east corner of the property (downslope) that can act as a small natural buffer between the operational plant and the Diep River. The site should have a detailed storm water management plan to avoid any contaminated water from the concrete plant or storage area getting into the Diep River.

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

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation.

2. Alternatives

2.1 Location/Site/Activity Alternatives

Alternative 1 (Herewith authorised)

The clearance of indigenous vegetation for the development of a pre-cast concrete production facility. The clearance of vegetation started in 2009 and has been on-going. The initial clearance resulted in the loss of 0.44ha of vegetation, with the areas gradually being cleared over the years, and this resulted in a total of 1.38ha of vegetation clearance.

Alternative 2

The precast concrete manufacturing facility on Remainder 4 of Farm 152 has already been constructed, and therefore no site alternatives were considered. There were no layout alternatives considered as construction has been completed. The most recently cleared vegetation to the north east of the access road is left to naturally rehabilitate.

3. Environmental Impact Assessment (EIA) and Mitigation Measures

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

3.1. Activity Need and Desirability

The site is zoned agriculture and clearance of vegetation is associated with this type of zoning. Furthermore, similar land uses to the one found on site are located to the north and south of the concerned property.

3.2. Regional/ Planning Context

Remainder 4 of Farm 152, Klein Vissershok is zoned agriculture. However, the site is currently being utilised as a precast concrete manufacturing facility. According to the City of Cape Town Municipal Spatial Development Framework (SDF) (2018) the area is earmarked as an emerging medium-term potential business node. Furthermore, the area south of the precast concrete manufacturing plant is earmarked for industrial growth.

3.3. Biophysical and Biodiversity Impacts

The site consists of Cape Flats Sand Fynbos however, the site is likely to have been historically used for intensive agriculture. It is likely that the original vegetation was completely removed from site in the past. Currently, invasive and weedy species occur along with hardy pioneer indigenous species. The total vegetation cleared for development is approximately 1.38ha for production and the storage of concrete products.

The area recently cleared was undertaken in 2018 and has not been actively used for manufacturing. This area is now overgrown with grasses and exotic pioneers and is highly degraded. Surface water is of low concern as the nearest watercourse, the Diep River can be located approximately 200m to the south of the concerned property.

3.4. Sense of place

That the activities undertaken on the site is unlikely to result in negative impacts in terms of sense of place or heritage. A Notice of Intent to Develop (NID) was submitted to Heritage Western Cape (HWC) on the 12 December 2019 and a positive Record of Decision was received on 23rd of January 2020.

4. NEMA 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.

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 listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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