Department of Environmental Affairs and Development Planning

Ziyaad Allie

Rectification

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Western Cape Government

24G Application: 14/2/4/2/1/A5/55/0003/22

ENVIRONMENTAL AUTHORISATION

The Managing Director
Boschendal Founders Estate 5 (Pty) Ltd
The BIG Backpackers
18 Thornhill Road
GREEN POINT
8005

Attention: Amelia Kropman

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF LISTED ACTIVITIES: THE UNLAWFUL DEVELOPMENT OF A TENTED CAMP ON FOUNDERS ESTATE 5, FARM 1685/5, PAARL

With reference to your application dated 22 February 2022 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.

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 as described in the application and environmental assessment dated 22 February 2022.

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. In particular, the relevant planning approval must be obtained from the local municipality.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Boschendal Founders Estate 5 (Pty) Ltd

C/o Amelia Kropman

The BIG Backpackers

18 Thornhill Road

GREENPOINT

8005

Cell: 071 606 7102

Email: amy@campcanoe.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
Government Notice No. R. 327 of 2017 –	
Activity Number: 12	
Activity Description:	
The development of –	The development entails the
(ii) infrastructure or structures with a	establishment of tent structures within 32m
physical footprint of 100 square metres or	of a watercourse for overnight
more; where such development occurs;	accommodation purposes.
(a) within a watercourse;	The total footprint of the tent structures
(b) in front of a development setback; or	which encroach is 113m² which is above
(c) if no development setback exists,	the 100m² threshold.
within 32 metres of a watercourse,	
measured from the edge of a	
watercourse.	
Government Notice No. R324 of 2017 –	
Activity Number: 4	An informal ring road and access
Activity Description:	roadways were constructed to each tent

The development of a road wider than 4	which h
metres with a reserve less than 13.5	3.7m tc
metres.	road re
Western Cape	outside
All areas outside urban areas:	which
(aa) Areas containing indigenous	(Bolanc
vegetation;	

which has been developed ranges from 3.7m to approx. 5 m in width. There is no road reserve, and the site is located outside an urban area within an area which contains indigenous vegetation (Boland Granite Fynbos).

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

D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Potion 5 of Farm 1685, Paarl.

The SG digit code is: C0550000000168500005

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 52' 15.1" South	18 ° 56' 34.25" East
2	33° 52' 26.19" South	18° 56′ 18.86″ East
3	33° 52' 28.85" South	18° 56′ 22.24″ East
4	33° 52′ 30.31″ South	18° 56' 20.63" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 52' 20.89" South	18° 56' 26.20" East
2	33° 52' 26.19" South	18° 56′ 18.93″ East
3	33° 52' 28.88" South	18° 56′ 22.28″ East
4	33° 52' 29.49" South	18° 56′ 21.59″ 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")

Chand Environmental Consultants

C/o Serina Pillay

P.O. Box 238

PLUMSTEAD

7801

Tel:

(021) 762 3050

Email: serina@chand.co.za

F. DETAILS OF THE ACTIVITIES UNDERTAKEN

The development of a tented camp which compromises of the following:

Accommodation tents

Seven tents for accommodation of two people each serviced with their own bathrooms and limited self-catering facilities. The tents can accommodate a maximum of 14 people on the site in total. Tents are located on decks of approximately 83m² each.

Mess tent

A large mess tent where guests staying on site can congregate as a group if necessary. The tent deck is approximately 246 m² in extent.

Office and support tents

A guest support tent with a communal kitchen facility and toilets. The tent deck is approximately 125m² in extent. A staff office tent. This is necessary to ensure at least one staff member can be available onsite while guests are staying. It has space for an office and storage. The tent deck is approximately 43m² in extent.

Each tent structure comprises a wooden deck/platform which rests on a steel frame supported by steel legs that are individually cemented into the ground for support. There are no buried foundations. They foundations are pre-cast concrete blocks filled with concrete placed on top of the ground, onto which the light-weight top structures are fixed. The top structures comprise of compressed wood walling covered by canvas with a stretch "gazebo-type" roof which pin to the ground around the platform. The total area under deck is 988m².

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

- The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to the implemented Alternative described in the application and assessment report dated 22 February 2022 on the site as described in Section D above.
- 2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision.
- 3. The holder must ensure the dismantling of the development within **five years** of the date of this decision.
- 4. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
- 5. Any changes to, or deviations from the scope of the 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

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

- 5.1 The notice must make clear reference to the site details and 24G Reference number given above.
- 5.2 The notice must also include proof of compliance with the following condition 6.

PART III

Notification and administration of an appeal

- 7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision-
- 6.1 notify all registered Interested and Affected Parties ("I&APs") of
 - 6.1.1 the outcome of the application;
 - 6.1.2 the reasons for the decision as included in Annexure 3;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date when the decision was issued.
- 6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations*, 2014 detailed in Section I below.
- 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
- 6.4 provide the registered I&APs with:
 - 6.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 6.4.2 name of the responsible person for this Environmental Authorisation;
 - 6.4.3 postal address of the holder;
 - 6.4.4 telephonic and fax details of the holder;
 - 6.4.5 e-mail address, if any, of the holder; and
 - 6.4.6 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.
- 8. 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 IV

Management of the activity/development

- 9. The draft Environmental Management Programme ("EMPr") of February 2022 compiled by Chand Environmental Consultants and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.
- 10. The EMPr must be included in all contract documentation for all phases of implementation.

PART V

Monitoring

- 11. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, 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 VI

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 EMPr 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 VII

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.

16. The recommendations of the biodiversity specialists including the rehabilitation of the site must

be implemented.

17. Following dismantling of the structures, the immediate restoration of the impacted areas must

be undertaken.

18. The holder must ensure the implementation that no further structures are permitted in the

natural or near natural vegetation.

19. The holder must ensure the restriction of paths and access to the dam.

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. This

specifically relates to the Temporary Departure application which is currently with the

Stellenbosch Municipality.

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- 2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
- 3. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

- (1) In terms of regulation 28(1A) of the EIA Regulations, 2014 the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application but may consider an application for environmental authorisation for the same development.
- (2) In terms of regulation 28(1B) of the EIA Regulations, 2014 an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.
- (3) It is an offence in terms of section 49A(1)(a) of the NEMA for a person to commence with a listed activity if the competent authority has not granted an environmental authorisation for the undertaking of the activity.
- 4. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the EIA Regulations, 2014 must be submitted.
 - Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.
- 5. The manner and frequency for updating the EMPr is as follows:

 Amendments to the EMPr must be done in accordance with regulations 35 to 37 of the EIA

 Regulations, 2014 or any relevant legislation that may be applicable at the time.

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

office of the appeal authority/ at: Tel. (021) 483 3721, E-mail

<u>DEADP.Appeals@westerncape.gov.za</u> 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

Zaidah Toefy

Digitally signed by Zaidah Toefy Date: 2023.07.21 12:28:40 +02'00'

MRS Z TOEFY

ACTING DIRECTOR: ENVIRONMENTAL GOVERNANCE

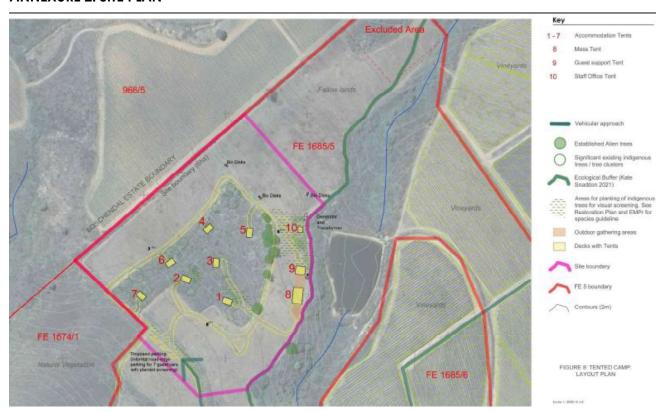
Copied to: (1) Claudette Muller (EAP)

Email: serina@chand.co.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



FOR OFFICIAL USE ONLY:

\$24G REFERENCE: 14/2/4/2/1/E4/5/0003/22

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 form dated 22 February 2022 and the

Comments and Responses Report received on 10 May 2023.

b) The Environmental Management Programme ("EMPr") of February 2022.

c) Relevant information contained in the Departmental information base, including, the

Guidelines on Public Participation and Alternatives.

d) The objectives and requirements of relevant legislation, policies and guidelines, including

section 2 of the NEMA.

e) The comments received from Interested and Affected Parties ("I&APs") and the responses

provided thereto.

f) The sense of balance of the negative and positive impacts and proposed mitigation

measures.

g) The site visit conducted on

Date/s: 30 March 2023

Attended by: Officials from the Directorate: Environmental Governance

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.

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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 Eikestad Nuus;
- A site notice was erected;
- Letters were sent to interested and affected parties ("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
- This Department's Directorate: Waste Management Licensing (D:WML)
- This Department's Directorate: Development Management Region 1 (D:DM 1)
- Cape Winelands District Municipality (CWDM)

A summary of the comments received follows below.

<u>CapeNature</u>

CapeNature stated that they would not have supported any structures or paths within the intact and semi-intact sections of the natural vegetation remnant. They however support the recommendations of the biodiversity specialists including the rehabilitation of the site following dismantling, the immediate restoration of impacted areas, the restriction of paths and access to the dam and that no further structures be permitted in the natural or near natural vegetation.

D: WML

DEA&DP:WML recommended a number of waste management measures which have been included in the EMPr. Furthermore, they requested clarity on sewage treatment on site which has been elaborated upon in the Environmental Impact Assessment Report.

D: DM 1

Clarified that the Boland Granite Fynbos, is listed as vulnerable in terms of Section 52 of the

National Environmental Management: Biodiversity Act, 2004 (Act 10 of 2004) (NEMBA).

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 and in the EMPr 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 and in the EMPr.

2. Alternatives

2.1 Activity Alternatives

<u>Alternative 1 (Herewith authorised)</u>

The development of a tented camp which compromises of the following:

Accommodation tents

Seven tents for accommodation of two people each serviced with their own bathrooms

and limited self-catering facilities. The tents can accommodate a maximum of 14 people

on the site in total. Tents are located on decks of approximately 83m² each.

Mess tent

A large mess tent where guests staying on site can congregate as a group if necessary.

The tent deck is approximately 246 m² in extent.

Office and support tents

A guest support tent with a communal kitchen facility and toilets. The tent deck is

approximately 125m² in extent. A staff office tent. This is necessary to ensure at least one

staff member can be available onsite while guests are staying. It has space for an office

and storage. The tent deck is approximately 43m² in extent.

Each tent structure comprises a wooden deck/ platform which rests on a steel frame

supported by steel legs that are individually cemented into the ground for support. There

are no buried foundations. They foundations are pre-cast concrete blocks filled with

concrete placed on top of the ground, onto which the light-weight top structures are fixed.

The top structures comprise of compressed wood walling covered by canvas with a stretch

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"gazebo-type" roof which pin to the ground around the platform. The total area under deck is 988m².

Alternative 2

Property alternatives were not considered by the applicant. The Tented Camp has been developed at this location so as to be distanced from main upmarket tourist accommodation nodes and to provide a less formal accommodation offering. The aim of the camp is to attract guests wanting to be closer to nature and wanting direct access to the mountain slopes for recreational and leisure purposes. The specific site was chosen for its scenic value and location next to the farm dam.

2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

The Tented Camp is a temporary facility which will be dismantled after five years of operation following which the site will be rehabilitated. To achieve the scenario which existed prior to the construction of the additional facilities, it would be necessary to demolish the structures and rehabilitate the site with immediate effect. In light of the mostly 'Low' negative impacts resulting from the development, the "premature" decommissioning of the camp is not considered reasonable, necessary or, from the applicant's perspective, financially viable. The independent ecologists have also not recommended the immediate removal of the camp, but have rather recommended the restoration of cleared areas, and eventual rehabilitation of the site once the Tented Camp is dismantled.

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

A land use application to permit a Tented Camp was never submitted and approved by the Stellenbosch Municipality. The tented camp is not permitted 'as of right' in respect of the primary and / or additional rights permitted in terms of the Stellenbosch Municipality Zoning Scheme By-law (ZSBL) of 2019 for a land portion zoned Agriculture and Rural Zone in terms of the SM ZSBL (2019). The 2005 conditions of approval applicable to Founders Estate have not been fulfilled in terms of the permissible development of one new farmstead within the defined development area of 8000m² Excluded Area. It must be noted that the Tented Camp is located outside of the 8000m² Excluded Area.

The town planning aspects are in process of being regularised through a Temporary Departure application to the Stellenbosch Municipality in terms of Chapter III, Section 15(2)(c) of the Stellenbosch Municipality Land Use Planning By-law of 2015 (SM LUPBL). The relevant land use approval must therefore be obtained in this regard.

3.2. Biophysical and Biodiversity Impacts

The activities undertaken on the site has resulted in the loss of indigenous vegetation of approximately 0.24ha. Furthermore, the footprint of the Tented Camp falls within an Ecological Support Area (ESA1) with a small portion along the eastern boundary falling within an ESA 2 along the stream and farm dam. The patch of fynbos affected is believed to have been near-intact transitioning to degraded with alien species present likely due to edge effects over several years. The loss of extent near-intact Boland Granite Fynbos and degraded Boland Granite Fynbos has been assessed as an impact of Moderate significance. It was concluded that although the diversity at the site can be improved based on the recommended mitigation measures, the loss of extent of this vegetation type is permanent and cannot be fully mitigated.

3.3. <u>Heritage / Archaeological / Built Environment Aspects</u>

The camp is a temporary facility. It has furthermore been established that the Heritage Impact Assessment ("HIA") that the camp has not resulted in irreversible adverse impacts and that all impacts identified can be mitigated to an acceptable level without the need to immediately remove the camp from its current location. The South African Heritage Resources Association (SAHRA) is in agreement with the findings of the HIA.

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.

FND
