

24G Application: 14/2/4/2/1/A1/2/0016/22

ENVIRONMENTAL AUTHORISATION

The Managing Director
LCOA (Pty) Ltd
10 Vineyard Road, Vineyard Centre, Office 301
CAPE TOWN
7708

Email: ryan@mazule.co.za

Attention: Mr Ryan Moss

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 AND ESTABLISHMENT OF PILOT WOOD CHIP BURN-OFF PLANT ON ERF 299, ATLANTIS

With reference to the initial application and assessment report dated 29 July 2022 and your revised application dated 13 April 2023 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 in accordance the preferred alternative as described in the application and environmental assessment dated 13 April 2023.

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

LCOA (Pty) Ltd
c/o Mr Ryan Moss
10 Vineyard Road, Vineyard Centre, Office 301
CAPE TOWN
7708

Tel: (021) 671 5188
Email: ryan@mazule.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 7 April 2017 –</p> <p>Activity Number: 27</p> <p>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></p> <p><i>(i) the undertaking of a linear activity; or</i></p> <p><i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>	<p>The entire extent of Erf 299 was cleared for the purposes of establishing the wood chip burn-off pilot plant. About 75% of the site falls within the Atlantis Sand Fynbos ecosystem (Endangered), and about 25% falls within the Cape Flats Dune Strandveld ecosystem (Endangered).</p>

<p>Government Notice No. R. 324 of 7 April 2017 –</p> <p>Activity Number: 12</p> <p>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></p> <p><i>i. Western Cape</i></p> <p><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 2004</i></p>	<p>The entire extent of Erf 299 was cleared for the purpose of establishing a waste management facility for the recycling of general waste. Initially the intention was a wood chip burn-off pilot plant. About 75% of the site falls within the Atlantis Sand Fynbos ecosystem (Endangered), and about 25% falls within the Cape Flats Dune Strandveld ecosystem (Endangered).</p>
<p>Government Notice No. 921 of 2014 – Category A –</p> <p>Activity Number: 3</p> <p>Activity Description: <i>The recycling of general waste at a facility that has an operational area in excess of 500m², excluding recycling that takes place as an integral part of an internal manufacturing process within the same premises.</i></p>	<p>Erf 299 was cleared for the establishment of a waste management facility for the recycling of general waste.</p> <p>The “wood chip” burn-off process yielded a raw material which was transported to third parties for further processing.</p>
<p>Government Notice No. 921 of 2014 – Category A –</p> <p>Activity Number: 12</p> <p>Activity Description: <i>The construction of a facility for a waste management activity listed in Category A of this Schedule.</i></p>	<p>Erf 299 entails the construction of a facility for a listed waste management activity.</p>

The abovementioned list is hereinafter referred to as “the listed and waste management activities”.

D. PROPERTY DESCRIPTION AND LOCATION

The listed/waste management activities commenced on Erf 299, Atlantis, also referred to the LCOA facility.

The SG digit code is: C016 0087 00000299 00000

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 36' 29.21" South	18° 28' 14.39" East
2	33° 36' 31.55" South	18° 28' 17.12" East
3	33° 36' 33.83" South	18° 29' 14.37" East
4	33° 36' 31.87" South	18° 28' 12.03" East
5	33° 36' 31.05" South	18° 28' 12.17" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 36' 31.55" South	18° 28' 14.44" East
2	33° 36' 32.66" South	18° 28' 15.83" East
3	33° 36' 33.83" South	18° 29' 14.37" East
4	33° 36' 32.72" South	18° 29' 13.05" 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")

The Environmental Practice

c/o Ms Colleen McCreadie

23 Dartmouth Road

MUIZENBERG

7945

Tel: (021) 788 9323
Email: colleen@enviroprac.co.za

F. DETAILS OF THE ACTIVITY/IES UNDERTAKEN

The entire extent of Erf 299 was cleared in February 2021 in furtherance of establishing a waste management facility for the recycling of general waste, initially a pilot plant for the wood-chip burn-off process. The area of the pilot plant, including all equipment, storage areas and portacabin- and shipping-container type structures (storage container, laboratory, office), is some 2552m² in extent.

“Wood chip” is a product sourced from ore mines. It’s composed mostly of ore fines that are lost during the mining process and is recovered from haulage drains. It is contaminated with wood, that present as fine splinters, that comes from the wood pack roof supports destroyed during blasting and related mining activities. The initial purpose of the LCOA facility was to burn off the wood content present in the “wood chip” feedstock and to screen and resize the resulting product. The product is then returned to the mine for metal recovery.

Subsequent to the initiation of the Section 24G application and the ceasing of operations at the pilot plant in July 2021, the applicant determined, based on analysis of the plant output, that the processing of the wood chip is not commercially viable. The site and pilot plant infrastructure will therefore be utilised for the processing of alternative waste and product streams.

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 activity/ies specified in Section C above in accordance with and restricted to the preferred alternative described in the application and assessment report dated 13 April 2023 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 shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
4. Any changes to, or deviations from the scope of the alternative described in Section 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

5. 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 conditions:
Condition 6 and 8

PART III

Notification and administration of an appeal

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

6.1.4 the date when the decision was issued.

6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* 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*.

7. 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

8. The draft Environmental Management Programme ("EMPr") of November 2022 compiled by The Environmental Practice and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

9. The EMPr must be included in all contract documentation for all phases of implementation.

PART V

Monitoring

10. The holder must appoint a suitably experienced Environmental Control Officer (“ECO”) or site agent where appropriate, before continuation of commencement of development activities to ensure compliance with the EMPr and the conditions contained herein.
11. A copy of the Environmental Authorisation, EMPr, 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.
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, the EMPr and submit Environmental Audit Reports to the competent authority annually and 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 output capacity of the Facility is limited to 5.04 tonnes/day based on the design capacity of the burner and kiln of 420 kg/hour, taking into consideration a 12-hour working day.
17. The infrastructure installed on site, as per the approved site layout plan, must be utilised for the processing of general waste only. Should the applicant pursue the establishment of a "new" waste and product processing facility with the intended purpose of processing hazardous waste, due process must be followed, and all required authorisations must be in place before the Facility can commence with the associated activities.

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. 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 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

MRS Z TOEFY

ACTING DIRECTOR: ENVIRONMENTAL GOVERNANCE

CC: (1) Colleen McCreadie (EAP)

Email: colleen@enviropac.co.za

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE PLAN



FOR OFFICIAL USE ONLY:

S24G REFERENCE:

14/2/4/2/1/A1/2/0016/22

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 R100 000 (One hundred 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 initial application and assessment report dated 29 July 2022 and the revised section 24G application dated 13 April 2023 with supporting environmental impact assessment and mitigation measures.
- b) The Environmental Management Programme ("EMPr") dated 04 November 2022 submitted together with s24G application.
- 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 27 October 2022
Attended by: Officials of 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.

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:

- identification An advertisement was placed in the regional **Cape Times** and local **Weskus Nuus** newspapers newspaper on 17/05/2022;
- A site notice was erected on 18/05/2022; and
- Letters were sent to interested and affected parties ("I&APs") and the municipal ward councillor on 24/05/2022.
- I&APs were afforded the opportunity to provide comments on the application.

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

The following organs of state provided comment on the application:

- This Department's Directorate: Development Management, Region 1 (D:DM)
- City of Cape Town (CoCT) – Spatial Planning (SP) & Environment Directorate: Environmental Management Department (EMD) & Environmental & Heritage Management Branch (EHM)
- CoCT Specialised Environmental Health Services (Air Quality Unit)
- CoCT Water & Waste Department: Solid Waste: Integrated Policy and Strategy Branch
- CoCT Water & Sanitation Department: Technical Services Branch
- The Department's Directorate: Waste Management Licensing
- This Department's Directorate: Pollution & Chemicals Management
- This Department's Directorate: Air Quality Management
- CapeNature

D:DM indicated that the Environmental Management Programme and all the conditions made by the various specialists must be implemented should the competent authority decide to authorise the development.

The Storm Water Management Plan must be approved by the CoCT before the commencement of activities, should the competent authority decide to authorise the development.

Confirmation of the availability of services, where applicable, must be confirmed by the CoCT. The EAP confirmed that there are available connections for water supply and sewerage reticulation for Erf 299. As required by City, a formal application for connection will be made to the Reticulation Regional Operations Manager.

The CoCT: EMD is of the opinion that the Competent Authority should deal consistently with this case compared to similar unlawful indigenous vegetation removal incidents in the Atlantis precinct in so far as some form of biodiversity off-set should be considered. The EAP did not concur with that statement, indicating that it is not deemed appropriate that a biodiversity offset should be used as a punitive measure specifically in the absence of a recommendation for such an offset from a suitably qualified botanist. The requirement for an offset is therefore not supported by the EAP.

The following comments are provided by the Co CT Specialised Environmental Health Services in relation to the Atmospheric Impact Report (AIR) submitted in support of the application:

- The AIR has been conducted in accordance with an approved regulatory air dispersion model, being AERMOD.
- A Level 2 assessment was conducted, in accordance with the requirements for the site activities, which is supported.

National Ambient Air Quality Standards are predicted to be exceeded at the fence line, for the following pollutants: - Nitrogen dioxide (NO₂); Particulate Matter (PM₁₀) & (PM_{2.5}).

These exceedances have been attributed to the use of onsite power Generators for the power supply to run the plant. In addition, the Kiln Baghouse stack is a significant contributor to the NO₂ emissions. Multiple source of fugitive dust emissions from the site and activities being undertaken also contribute to the PM exceedances and the steps to manage dust emissions from the site, as listed in the EMPr (Operational Phase) are also noted and supported.

The root causes for the ambient air quality standards being exceeded, will need to be addressed in order for the application to be positively considered from an Air Quality Management perspective. In this regard, an alternative source of electricity supply will need to be provided in order to avoid the emissions emitted by the Generator. The AIR should

model scenarios with the generator in operation; and an alternative scenario should be modelled showing the predicted ground level concentrations of pollutants, without the generator being operated and the facility running on grid supplied electricity.

In addition, alternative stack height scenarios should be modelled in order to establish an appropriate stack height for the Kiln Baghouse point of discharge to atmosphere that will result in no NO₂ exceedances occurring as a result of emissions from the Kiln Baghouse stack. It is however recommended that Dust Fall Monitoring be commenced to determine the effectiveness of the dust mitigation measures.

The implementation of the dust fallout monitoring programme must comply with the provisions and methods prescribed in the national *Dust Control Regulations* No. R 827 dated 1 November 2013. The dustfall monitoring reports must be submitted to the City's Air Quality Officer (AQO) on a monthly basis and prove compliance with the prescribed dust fall rates. The method to be used for measuring dustfall rate and the guideline for locating sampling points shall be ASTM D1739: 1970, or equivalent method approved by any internationally recognised body. Dust fall monitoring is to be incorporated into a dedicated Dust Management Plan (DMP) formulated for all phases of the project. The DMP must identify all sources of dust generation, including product stockpiles/storage areas, roadways and specific site operations that could generate dust. The appropriate dust mitigation measures for these sources must be documented in the plan, as well as identifying the responsible parties for implementing same; the schedules for the frequency of implementation these measures; and methods of monitoring implementation of the plan. Should the dustfall rates exceed the permissible dustfall standards, the dust management measures and the DMP must be amended accordingly to ensure that dust nuisances are not caused and that the dustfall rates are brought back into compliance. In this regard, the amended DMP must be submitted to the City's AQO for review and approval following its amendment. Further requirements regarding dustfall management may be incorporated into the AEL, once the application may be processed and the AEL can be issued.

Health Risk and Odour Impact Screening Findings:

It is concerning that the non-carcinogenic health risk ration (short term) for Cadmium/Thallium ratio was 1.5. at the plant boundary. This is a concern for any off-site receptors who may be exposed to the predicted levels of this heavy metal. The Specialist consultant is requested to identify an alternative Minimum Emission Standard (MES) for this pollutant, that can be applied to the facility, if authorised, in order to reduce the risk ratio of this pollutant, at the plant boundary. The concerns raised were addressed by Soundscape Consulting (Pty) Ltd, who indicated that Simulated concentrations at the plant boundary are

not in violation of screening criteria for cadmium and an alternative MES is therefore not required

The draft AEL application provided in support of the application is understood to contain limited technical information at this time and once the further information is available and the official application is submitted, further information regarding the application may be requested by the AEL competent authority.

In terms of Sub-category 8.1, the special arrangements associated with this category of atmospheric emission licence include the need to install continuous emissions monitoring systems.

Periodic emission monitoring is also required to validate the CEMS.

Requirements relating to the aforementioned emissions monitoring will be detailed in the AEL, once issued.

The applicant is to please note that the Public Participation Process for this application must comply with the provisions of all relevant legislation, including Section 38 (a) & (b) in terms of the *National Environmental Management Air Quality Act (Act No. 39 of 2004)*, as amended. In this regard, a draft copy of the AEL application must be made available to interested and affected parties.

Application must be made for the authorisation of the installation and operation of fuel burning equipment in terms of Section 11 of the City of Cape Town Air Quality Management By-Law, 2016, prior to installation on site. Approved building plans and or technical drawings indicating the proposed installation and stack parameters, may be required accompany said application. In this regard, the City's Planning and Building Development Management Department must be consulted.

The application is not in conflict with any Solid Waste departmental plan, strategy or policy. Waste generated as a result of the implementation of this project must be managed in accordance with the draft EMPr. This facility will not produce any sewer or require water. Hence, there will be no additional load on the City of Cape Town Water and Sanitation system.

D:WML indicated that, to ensure that the applicant remains under the 10 tonnes/day threshold, it is recommended that the environmental authorisation, if granted, includes a condition that limits the capacity of the Facility to 5.04 tonnes/day based on the design capacity of the burner and kiln of 420 kg/hour and working hours of 12 hours per day.

Kindly note that the management of waste under all circumstance must be done in accordance with section 16, the "general duty in respect of waste management" of the *National Environmental Management: Waste Act (NEM: WA), 2008 (Act No. 59 of 2008)*.

Section 16(1)(d) states: "A holder of waste must, within the holder's power, take all reasonable measures to manage waste in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts".

D:PCM highlighted that according to the Freshwater Risk Assessment the site lies approximately 300 metres away from a wetland depression but does not fall within the wetland area. No significant impacts were found other than potential groundwater contamination due to inadequate handling and storage of diesel on-site. A stormwater Management Plan has been developed for the site whereby dirty stormwater is proposed to be diverted by swales and berms to a lined detention basin.

The D: PCM is not opposed to the continuation of the activity given that diesel is adequately stored on a bunded surface, and an SOP is in place to timeously and effectively clean up (and dispose of) any spillages that may occur on-site. The stormwater management plan must also be put in place to prevent any contamination of water resources from this site.

D: AQM In terms of noise management, the facility must comply with the *Western Cape Noise Control Regulations* (P.N. 200/2013). 1.2.1) Mitigation measures be implemented strictly during all phases of the proposed development, as per EMPr.

All possible odours that may be emitted to the atmosphere from activities of the facility are recommended to be monitored and/or mitigated strictly. An emergency preparedness plan be developed for emergency incidents and included into the EMPr. The design and operation on the proposed facility must be such that it will comply with the Minimum Emission Standards (MES) as listed under Category 5, Sub-category 5.2; Category 4, Sub-category 4.21 and Category 8, Sub-category 8.1 of the Section 21 Listed Activities (Government Gazette No. 37054). The measurement of emissions as required in terms of Section 21(3)(a)(ii) of the NEM:AQA must be carried out in accordance with the sampling and analysis methods listed in "Annexure A" of the Regulation 893 of 22 November 2013.

It is noted that both point- and fugitive sources are present at the plant and these activities may cause air pollution.

The kiln baghouse is not fitted with a stack; therefore, pollutant dispersion at levels very close to ground level may impact on the air quality of the surrounding buildings.

Soundscape Consulting (Pty) Ltd in response indicated that the reader of the report should note that there are some uncertainties related to the source parameters of the rotary kiln baghouse. The baghouse does not vent emissions through a stack but rather from openings within the baghouse equipment, or ducting, or even the kiln itself. The rotary kiln baghouse was simulated as a "modified point source". The release height was assumed to be the height

of the baghouse (7 m above ground level). LCOA performed spot checks at the baghouse fan to determine the volumetric flow rate, velocity, and gas temperature. These were reported as 2 179 m³/hour, 3.1 m/s, and 45.8 °C and applied in dispersion simulations to the modified point source. Given the above approach, emissions from the rotary kiln were found to result in an annual average NO₂ concentration of 3.8 µg/m³, and 1-hour (99th percentile) concentration of 20.7 µg/m³, at the plant boundary. These are less than 10% of the annual and 1-hour National Ambient Air Quality Standards (NAAQS) of 40 µg/m³ and 200 µg/m³ respectively.

Best practice measures must be employed to minimise any noise or dust nuisance that may occur during any construction and operational phases at the facility. The EMPr make provision for air pollution mitigation measures for the air emissions associated with the wood chip burn-off plant; these are to be adhered to.

The applicant is reminded that should they wish to pursue the establishment of the “new” waste and product processing facility, due process must be followed, and all required authorisations must be in place before the Facility can commence with the associated activities. The D:AQM can be contacted to provide comments on any future developments at this Facility.

The CoCT: SP unit indicated that the amendments to the termination/release points of both the diesel generator and kiln stack must be reflected in the AEL application.

The facility must register for accreditation with the CoCT that will entitle them to perform specific waste related activities. The operator is therefore required in terms of the by-law to report monthly on the waste generated and diverted to the Solid Waste department.

The Solid Waste: Integrated Policy and Strategy Branch confirms sufficient capacity to accept and collect and dispose of all types of waste to a designated licence landfill site.

There is an existing 225mm diameter water main in Neil Hare road, and this water main and surrounding water network has sufficient capacity to supply the development with potable water. A formal application needs to be submitted for this connection. There is an existing 300mm diameter sewer main over Neil Hare road with sufficient capacity. Foul sewer from the site falls in the catchment of Stinkgat Pump Station.

No bulk water pipelines or infrastructure under the control of the City of Cape Town's Bulk Water Branch is directly affected by the property in mention. The site falls within catchment of Wesfleur Industrial Wastewater Treatment Works which has sufficient unallocated spare capacity. It is believed that the facility will not produce industrial waste, however in the event of the proposed development discharging any industrial type effluent into the municipal sewers, an application to discharge industrial effluent into municipal sewer system will be

required. The disposal of industrial waste will have to comply with Wastewater and Industrial Effluent bylaws. Depending on the type of activities the water will be used for, and the pollutants in the runoff, pre-treatment may be required before the runoff is disposed into the sewer network.

Once the proposed development requires connection to the municipal water and sewer systems, a formal application with water and sewer demands must be made to the Water and Sanitation directorate for capacity approval. In the event of the proposed development discharging any industrial type effluent into the municipal sewers, an application to discharge industrial effluent into municipal sewer system will be required.

The Electricity Generation and Distribution branch indicated that the authorised electricity supply capacity for this site is nil. Any alterations or deviations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost. Depending on the size of the required electricity supply, this would be LV, 11kV or 33kV, and either a substation site or a substation building would be required.

Electrical infrastructures may exist on the property or in its vicinity. A wayleave shall be obtained from the Electricity Generation and Distribution Department before any excavation work may commence. The property owner is required to include in the development measures to improve energy efficiency to reduce the consumption of electricity. Owners shall conform to any conservation and/or rationing programme or scheme introduced, adopted or implemented by a sphere of government or relevant regulating body by reducing their electricity consumption as required in terms of such programme or scheme. Installations with a new or upgraded authorised capacity of more than 100 kVA will have to meet certain energy efficiency requirements. A set of applicable requirements will be made available as part of the quotation process.

The below comment from the CoCT: SP relates to the amended final Section 24G rectification report (S24G Report), as compiled by The Environmental Practice under cover letter, dated 27 February 2023, pertaining to the illegal removal of indigenous vegetation and ex post facto approval of listed activities on Erf 299, Atlantis.

The EAP appears to imply that due to the establishment of the Atlantis Conservation Land Bank offset, as well as the gazetted generic Atlantis EMPr, the landowner should carry no cost burden for the loss of indigenous vegetation. The EAP furthermore appears to erroneously suggest the benefit of the generic Atlantis EMPr is available to the developer in mitigation to the unauthorized indigenous vegetation removal. Therefore, in addition to the S24G fine, the principle should remain that the proponent/developer ought to be held liable for some form of biodiversity-offset irrespective of the condition of the indigenous vegetation (and/or the

botanical specialist's mitigation recommendation). Note: The botanical specialist's recommendation should however be taken into consideration when determining an appropriate biodiversity-offset.

The EAP responded by highlighting the conclusions received from the botanist relating to this requirement on 21 July 2022:

"Low Negative Significance of loss of site vegetation = no offset requirement".

In summary, the EAP does not agree with the City that a biodiversity offset is necessary in this matter.

An undesirable precedent could be set in the event of the Competent Authority accepting the EAP's erroneous argument that both the Atlantis Conservation Land Bank offset and the generic Atlantis EMPr are available to S24G transgressors as mitigation measures in order to avoid a botanical-offset. The lack of an appropriate biodiversity-offset (penalty) could undermine the intended incentive value of the Atlantis Conservation Land Bank offset and the generic Atlantis EMPr, whereby transgressors might purposefully remove indigenous vegetation beforehand merely to seek condonation afterwards.

The EAP does not agree with the City's position that a negative precedent would be set in following the findings and recommendations of an independent botanical specialist, who is a recognized expert in the vegetation of the Western Cape area and in the concept of biodiversity offsetting.

CN highlighted their understanding that an EIA assessment process was underway for development of the site, but that the site has since been cleared of indigenous vegetation without EA having been issued, resulting in the current s24G process. Based on the botanical assessment provided the site contains Cape Flats Dune Strandveld and Atlantis Sand Fynbos. The site is mapped as ONA as per BioNET. Most of the site is highly disturbed due to alien invasive vegetation, however the botanical assessment has assessed the southern 25% portion of the site as medium botanical sensitivity. The development of the entire site as per the botanical assessment will nonetheless be low negative after mitigation. The freshwater assessment has confirmed that no wetlands or watercourses were present on site. 2) Regarding the comments on offset requirements indicated by the City of Cape, CapeNature is in agreement with the City of Cape Town. It must be noted that although the residual impact has been assessed as low negative - the impact is still on at least a endangered ecosystem, with low remaining extent which needs to be considered and loss of such ecosystem area compensated (at least for the medium sensitivity area), as mitigation and avoidance are not really possible. Such an offset would need to be considered separately from the s24G fine.

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

Alternative 1 (Herewith authorized)

The entire extent of Erf 299 was cleared in February 2021 in furtherance of establishing a waste management facility for the recycling of general waste, initially a pilot plant for the wood-chip burn-off process. The area of the pilot plant, including all equipment, storage areas and portacabin- and shipping-container type structures (storage container, laboratory, office), is some 2552m² in extent. With LCOA's determination that the wood chip recovery process is not commercially viable, these benefits can be considered as small-scale and short-term, associated only with the pilot plant operation for six months in 2021. However, it can be argued that the investigations that were made with the pilot plant, form part of the planning phase for LCOA's future, full-scale waste processing facility. And therefore, the pilot plant represents some benefit in terms of facilitating a future waste-to-value plant and investment in Atlantis; together with the associated benefits listed above.

For the purposes of this Section 24G application, which relates to the six-month operation of the wood chip plant in 2021, investigating other activities was not necessary. For LCOA's planned full-scale plant, a thorough investigation of activities has been undertaken. This included operating the pilot wood chip plant in order to determine commercial viability.

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

The No-Go Option is the alternative of returning Erf 299 to its pre-development condition: i.e. undeveloped, with natural vegetation and no freshwater features on or nearby the site, and no identified heritage, cultural, historical sensitivities.

The following are conclusions of the assessment as to why the No-go option is not a viable alternative:

- The indigenous vegetation in the Atlantis area is highly conservation worthy due to a few factors (such as the area where the floristic region occurs being small; the floristic region containing over half the plant species in the country; about 70% of the species in the floristic region not occurring anywhere else; about 67% of the species in the region being threatened; and the area being under extreme pressure from urbanisation and agriculture).
- Erf 299 itself is classified as falling within an "other natural area" on the City's fine scale biodiversity plan (i.e. not falling within a "critical biodiversity area"). The site visit has ground-truthed this classification.
- The indigenous vegetation that would have occurred originally in the area of the site is Endangered Atlantis Sand Fynbos and Endangered Cape Flats Dune Strandveld.
- The north-western corner of the site along the road verges had been heavily disturbed; no indigenous vegetation was noted in this area; and the area is of Low ecological sensitivity.
- The northern +-75% of the site had low indigenous plant diversity with alien invasive vegetation present. This portion is of Low ecological sensitivity.
- The southern +-25% of the site was less disturbed with low to moderate indigenous plant diversity. Alien invasive vegetation were present. This portion is of Medium ecological sensitivity.
- No species of conservation concern were found on the site.
- The City of Cape Town's April 2022, Generic Environmental Management Programme for Development Projects within the Atlantis Urban Area ("Atlantis EMPr"), demonstrates clearly the development goals of government for the Atlantis area; and that clearance of vegetation is by no means an unsupported activity in the Atlantis area.
- There are no wetlands or drainage lines on the site.
- The faunal component on site was likely to be a small subset of the typical fauna within Atlantis Sand Fynbos and is not likely to be a significant factor on site.
- Significance of the loss of a very small area of partly degraded habitat due to construction activities, and secondary, temporary disturbance of natural vegetation adjacent to the development, is Low negative before and after mitigation.
- On balance the likely operational phase impacts of the proposed development (habitat fragmentation; loss of ecological connectivity across the study area; spread of alien invasive vegetation) are Low negative before and after mitigation

- The indigenous vegetation that was on the site is not regionally significant, in that it was a very small site, partly degraded, representative of a type that is still fairly extensive in the region, adjacent to development and does not support any significant populations of plant or vertebrate Species of Conservation Concern. The overall cumulative ecological impact of the loss of all vegetation and faunal habitat in the study area is Very Low negative.
- On balance the No-Go Alternative [pre-development conditions] was likely to have a Neutral ecological impact. The No Go alternative would thus be the marginally preferred alternative from an ecological perspective when compared to the developed site, as no irreversible habitat loss is likely to take place in habitat on site.

Negative impacts associated with the No-Go Option:

- Impacts resulting from proceeding with the development proposal could have impacted negatively on ambient air quality. However, through effective mitigation, monitoring and management the effects are not significant enough to warrant not developing.
- Increased pressure on the mining industry for the continued mining of metal ores at the detriment of the environment and natural stocks.
- From the investigation of the need and desirability of the development that has been undertaken for the application, the no-go option did not support the regional planning imperatives for the Atlantis and greater Cape Town area in terms of investment in industrial enterprise and job creation.
- The no-go option did not represent any contribution to the circular (waste-to-value) economy and to diversion of woodchip from landfill.

Benefits associated with the No-Go Option:

- The additional air emissions and possible fugitive dust emissions associated with the proposed woodchip burn-off plant would not occur associated with the no-go option. The proposed development design, including appropriate process and abatement technology, as well as dust control measures, however, are expected to reduce emissions to within statutory and therefore acceptable limits. This benefit is not considered significant enough to warrant not developing the plant. The results of the Atmospheric Impact Report undertaken supports this finding.
- The waterbodies and vegetation situated in close proximity to Erf 299 would remain unharmed. According to the need and desirability assessment and site sensitivity

verification report that has been undertaken, however, the freshwater and vegetation sensitivity of most of the site is considered to be low.

- The identified health and safety risks associated with operating the woodchip burn-off plant would not occur. But these impacts can be readily avoided with standard, best-practice measures and adherence to statutory requirements contained in the Occupational Health and Safety Act. This benefit is therefore not considered significant enough to warrant not developing the facility.

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. Biophysical Impacts

The material that was processed by the pilot plant is considered to have posed limited to no threat of contamination. Additionally, the 'waste-to-value' type operation like the wood chip processing plant is aimed at the responsible management of waste. The usage of woodchip and /or other future waste product or by-product will minimise pollution by diverting waste from landfill sites.

3.2. Biodiversity Impacts

The activity resulted in the levelling and removal of approximately 0.25 ha medium sensitivity vegetation and faunal habitat; and loss of about 0.75 ha of low sensitivity vegetation and faunal habitat. All vegetation was of Endangered type. However, cognisance is taken of the botanical assessment conclusions, specifically that the indigenous vegetation on the site is not regionally significant, it is a very small site, partly degraded, representative of a type that is still fairly extensive in the region, adjacent to development and does not support any significant populations of plant or vertebrate Species of Conservation Concern. The overall cumulative ecological impact of the loss of all vegetation and faunal habitat in the study area is concluded to be Very Low negative. No special mitigation is therefore required as a result of the clearance.

3.3. Visual / Sense of Place

The activity commenced within the Atlantis Industria area and has other industrial land uses in close proximity to the facility. Additionally, no heritage impacts were identified as per the Heritage Western Cape's Record of Decision.

3.4. Socio-economic Impacts

The pilot plant was small-scale in nature, and only operated for a period of six months during 2021. As such, the socio-economic impacts were deemed to have a very limited impact and no future rated socio-economic impacts for continuing with the activities. Additionally, future plans for a full-scale processing plant on the site will be commercially viable and yield benefits in terms of job creation and income.

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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