



**EIA REFERENCE NUMBER:** 16/3/3/5/A1/18/3012/18  
**ENQUIRIES:** Mr. M. Lamour  
**DATE OF ISSUE:** 2018 -04- 17

The Director  
Improvon Developments (Pty) Ltd.  
Postnet Suite 120  
Private Bag X10010  
**EDENVALE**  
1610

**Attention: Mr. J. da Costa**

Tel & Fax: (021) 551 2005

Dear Sir

**AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ("EA") IN TERMS OF PART 1 OF THE NEMA EIA REGULATIONS, 2014 (AS AMENDED) FOR THE REDEVELOPMENT OF THE KYNOCH FACTORY SITE TO ESTABLISH THE MONTAGUE PARK DEVELOPMENT ON ERF 35270, MILNERTON.**

With reference to your application, find below the amended environmental authorisation in respect of this application.

**AMENDED ENVIRONMENTAL AUTHORISATION**

**A. DECISION**

By virtue of the powers conferred on it by of the National Environmental Management Act, 1998 (Act 107 of 1998) ("NEMA") Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Department hereby grants the amendment of the EA issued on 11 July 2008 (Reference Number: E12/2/3/2-A2/309-0206/07) as follows:

1. The following condition of Section G (conditions of authorisation) of the EA, which reads:

*Condition 8: "A height restriction of 17.5m above mean natural ground level of the buildings footprint on the portion of the erf to the eaves must not be exceeded".*

**Is herewith replaced with the following:**

*"A height restriction of 18.0m above mean natural ground level of the buildings footprint on the portion of the erf to the eaves must not be exceeded".*

## **B. REASONS FOR THE DECISION TO AMEND THE ENVIRONMENTAL AUTHORISATION:**

In reaching its decision, the Department took, *inter alia*, the following into consideration:

1. The information contained in the application for the amendment dated and received by this Department on 19 March 2018 and the additional information dated 09 April 2018 and received by this Department on 10 April 2018.
2. There is no change in the scope of the development.
3. The amendment will allow for the EA to be in line with latest by-law of the Local Authority pertaining to height restrictions.
4. The environment and the rights and interests of interested and affected parties are not likely to be adversely affected by this decision.
5. The proposed development is similarly listed in terms of the NEMA EIA Regulations, 2014 (as amended) as follows:

Listing Notice 1 of the NEMA EIA Regulations, 2014 (as amended)

Activity No. 19

Activity Description:

*The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;*

*but excluding where such infilling, depositing, dredging, excavation, removal or moving—*

- (a) will occur behind a development setback;*
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;*
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;*
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or*
- (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.*

6. The remainder of the conditions of the EA issued on 11 July 2008 will remain valid.

All information presented to the Department was taken into account in the Department's consideration of the application.

## C. CONDITIONS

1. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
  - 1.1 notify all registered interested and affected parties (“I&APs”) of –
    - 1.1.1 the outcome of the application;
    - 1.1.2 the reasons for the decision as included in Section B;
    - 1.1.3 the date of the decision; and
    - 1.1.4 the date when the decision was issued.
  - 1.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of National Appeals Regulations, 2014 (as amended) detailed in Section D below;
  - 1.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
  - 1.4 provide the registered I&APs with:
    - 1.4.1 the name of the holder (entity) of this Environmental Authorisation;
    - 1.4.2 name of the responsible person for this Environmental Authorisation;
    - 1.4.3 postal address of the holder;
    - 1.4.4 telephonic and fax details of the holder;
    - 1.4.5 e-mail address, if any, of the holder; and
    - 1.4.6 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 Appeals Regulations, 2014 (as amended).
2. All the remaining conditions contained in the EA issued on 11 July 2008 (Reference Number: E12/2/3/2-A2/309-0206/07) (herewith attached as Annexure A) remain applicable.

## D. APPEAL:

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

1. An appellant must –
  - 1.1. Submit an appeal in accordance with Regulation 4 to the appeal administrator, within 20 (twenty) calendar days from the date the applicant notified registered I&APs of this decision;
  - 1.2. If the appellant is the applicant, provide any registered I&AP, any Organ of State and the decision-maker with a copy of the appeal lodged with the appeal administrator; and
  - 1.3. If the appellant is a person other than the applicant, provide any registered I&AP, any Organ of State and the decision-maker with a copy of the appeal lodged with the appeal administrator.
2. The applicant (if not the appellant), the decision-maker, I&APs and Organ of State must submit their responding statement, if any, to the appeal authority and the appellant within 20 days from the date of receipt of the appeal submission.

3. The appeal form/s must be submitted by means of one of the following methods:

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

By facsimile: (021) 483 4174; or

By hand: Attention: Mr J. de Villiers (Tel: 021 483 3721)  
Room 809  
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

4. 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: Jaap.deVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za>.

#### **E. DISCLAIMER**

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

Your interest in the environment is greatly appreciated.

Yours faithfully

  
\_\_\_\_\_  
**ZAAHIR JOEY**  
**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)**

DATE OF DECISION: 17/04/2018

Copies to: (1) Ms. P. Titmuss (City of Cape Town)  
(2) Ms. M. Sham (Khula Environmental Consultants)  
(3) Mr. S. Meyer (Property Manager)

Fax: (021) 444 0605  
Fax: (021) 783 4565  
sarel.m@improvon.co.za

## **ANNEXURE A**

Copy of the Environmental Authorisation issued on 11 July 2008 (Ref. no. E12/2/3/2-A2/309-0206/07)



Verwysing  
Reference  
Isalathiso

E12/2/3/2-A2/309-0206/07



Navrae  
Enquiries  
Imibuzo

LIZA ENGEL

Datum  
Date of Issue  
Umhla

11 JUL 2008

Departement van Omgewingsake en Ontwikkelingsbeplanning  
Department of Environmental Affairs and Development Planning  
ISebe leMicimbi yeNdalo esiNgqongileyo noCwanciso loPhuhliso

The Director  
Improvon Developments (Pty) Ltd  
Postnet Suite 120  
Private Bag X10010  
EDENVALE 1610

**Attention: Mr. Jorge da Costa**

Tel : 021 551 2005

Fax: 021 551 2005

Dear Sir

**APPLICATION: THE PROPOSED REDEVELOPMENT OF THE KYNOCH FACTORY  
SITE ON ERF 35270, MILNERTON.**

With reference to your application, find below the environmental authorisation in respect of this application.

**ENVIRONMENTAL AUTHORISATION**

**A. DESCRIPTION OF ACTIVITY:**

The proposed development involves the redevelopment of the old Kynoch fertilizer factory site in order to establish a mixed retail, business and industrial park. Phase 1 consists of the establishment of industrial premises on a portion of the site approximately 20ha in size, while Phase 2 consists of the establishment of a mixture of retail, business and industrial premises on the remaining approximately 40ha.

The conceptual internal layout of the site consists of a simple grid layout, divided at its centre by a boulevard which has an access and egress point off Plattekloof Road and Koeberg Roads respectively. A secondary access road, with an access and egress point off Koeberg Road via a left-in/ left-out, will link through to the main boulevard. These roads divide the park into an Eastern, North Western and South Western Precinct.

The Eastern Precinct (approximately 35ha in size), located to the east of the central boulevard, will be rezoned from Industry General to Subdivisional Area to allow for the establishment of two Mixed Use Zone portions (approximately 1.3ha and 3.4ha in size respectively) comprising of commercial, retail, business, industry and office uses). The portion of this precinct within which the realigned Duikersvlei runs has been designated for Private Open Space, while the remainder of this precinct will remain Industry General.

Utilitasgebou, Dorpsstraat 1  
Privaatsak X9086 Kaapstad 8000

Utilitas Building, 1 Dorp Street  
Private Bag X9086 Cape Town 8000

Tel No.: 021-483 4247/2596  
Fax No.: 021-4834372  
E-mail: [lengel@qawc.gov.za](mailto:lengel@qawc.gov.za)

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The North Western Precinct (approximately 9ha in size), located to the west of the proposed central boulevard, will be rezoned from General Industry to Subdivisional Area to allow for the establishment of a Mixed Use Zone portion (comprising of commercial, retail, business, industry and office uses). The portion of this precinct that falls within the outer Chevron risk zone will, however, remain Industry General, while the portion abutting the intersection of Koeberg and Plattekloof Roads has been designated for Private Open Space.

The South Western Precinct (approximately 10ha in size), located to the west of the central boulevard and abutting Koeberg Road to the West, will be rezoned from Industry General to Subdivisional Area to establish a Mixed Use Zone portion (comprising of commercial, retail, business, industry and office uses), with the portion of this precinct within which the realigned Duikersvlei runs designated for Private Open Space.

No public use will be permitted on the portions of the North Western and South Western Precincts falling within the outer Chevron risk zone, and vulnerable developments (such as shopping malls) will be separated by a minimum distance of 50m from the centre of the Chevron products pipeline servitude. A comprehensive Emergency Response Plan that meets the requirements of the City of Cape Town as well as the Chevron Off-Site Emergency Plan will be implemented prior to commencement of the operational phase, and in this regard the mitigation measures recommended in the risk assessments that were undertaken will specifically be considered.

The associated infrastructure includes:

- industrial warehousing, office buildings and large retail units;
- a new access and egress point off Koeberg Road with a new signalised intersection;
- upgrading of the Koeberg Road and Plattekloof Road intersections;
- a new internal road network and upgrading of the central boulevard to produce two lanes in both directions;
- a new left in/ left out access and egress point off Koeberg Road including a new bridge over the Duikersvlei stream;
- a new weir in the Duikersvlei stream;
- parking facilities;
- a stormwater system;
- electrical supply infrastructure;
- water supply infrastructure; and
- sewerage infrastructure.

The existing stormwater infrastructure along the Plattekloof road boundary will be upgraded with an approximately 1.5m wide and 1m deep channel to be constructed along the northern boundary. An attenuation pond (with an approximate capacity of 250m<sup>3</sup>/ha) will also be constructed at the lower end of the site. The design of stormwater infrastructure will be such that stormwater discharges towards the adjoining roads, while the roads will be designed so that storm events of a magnitude of up to 1 in 5 year return will be drained entirely in a piped below-ground reticulation. All stormwater contained in the piped below-ground reticulation will be channelled to fall into the Duikersvlei. The roads will



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also be shaped and designed so that stormwater flows exceeding a 1 in 5 year return will be conveyed in the roads overland to the adjacent Duikersvlei stream. A Stormwater Management Plan, that meets the requirements of the City of Cape Town and the Department of Water Affairs and Forestry, will be implemented for the entire site.

The flushing galleries and some monitoring wells installed as part of the Remediation Programme of the site will also be relocated, but the Remediation Programme will not be compromised. Development will only take place on areas of the site that have been certified clean by the remediation specialist and accepted as such by the Department of Water Affairs and Forestry.

The municipality has confirmed the availability of water and water will be obtained by connecting to the existing 600mm diameter take off from the existing municipal main located along the southern boundary of the site, which will require crossing the newly realigned Duikersvlei channel. Water demand management and efficiency will also be specifically addressed during the construction and operation of the park.

The municipality has confirmed the availability of sewerage treatment capacity. A new sewer outfall will however be constructed to connect into the existing 990mm diameter trunk sewer outfall from Montague Gardens located on the western side of Koeberg road, which will require crossing the newly realigned Duikersvlei channel.

Electricity supply will be obtained via three 11kV cables from the adjacent Eskom Ascott sub-station which has recently been upgraded and has adequate capacity for the envisaged redevelopment of the site. Two new substations housing 11kV switchgear will also be constructed on site. Different stages of the park will only come into operation once Eskom has issued confirmation that they can supply the required electricity for the specific stage. Energy demand management and efficiency will also be specifically addressed during the construction and operation of the park.

The total footprint (including industrial premises, roads and service infrastructure) will be approximately 66 ha.

These are activities identified in Government Notice No. R. 386 and Government Notice No. R. 387 of 21 April 2006, being:

Government Notice No. R. 386:

Activity Number: 1(k)

Activity Description: *The construction of facilities or infrastructure, including associated structures or infrastructure, for –*

*The bulk transportation of sewage and water, including storm water, in pipelines with – (i) an internal diameter of 0.36 metres or more; or (ii) a peak throughput of 120 litres per second or more.*

Activity Number: 1(m)

Activity Description: *The construction of facilities or infrastructure, including associated structures or infrastructure, for –*

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Any purpose in the one in ten year flood line of a river or stream, or within 32 metres from the bank of a river or stream where the flood line is unknown, excluding purposes associated with existing residential use, but including –

- (i) canals;
- (ii) channels;
- (iii) bridges;
- (iv) dams; and
- (v) weirs.

Activity Number: 4

Activity Description: The dredging, excavation, infilling, removal or moving of soil, sand or rock exceeding five cubic metres from a river, tidal lagoon, tidal river, lake, in-stream dam, floodplain or wetland.

Activity Number: 15

Activity Description: The construction of a road that is wider than 4 metres or that has a reserve wider than 6 metres, excluding roads that fall within the ambit of another listed activity or which are access roads of less than 30 metres long.

Activity Number: 16

Activity Description: The transformation of undeveloped, vacant or derelict land to –  
(a) establish infill development covering an area of 5 hectares or more, but less than 20 hectares; or  
(b) residential, mixed, retail, commercial, industrial or institutional use where such development does not constitute infill and where the total area to be transformed is bigger than 1 hectare.

Activity Number: 18

Activity Description: The subdivision of portions of land 9 hectares or larger into portions of 5 hectares or less.

Government Notice No. R. 387:

Activity Number: 2

Activity Description: Any development activity, including associated structures and infrastructure, where the total area of the developed area is, or is intended to be, 20 hectares or more.

Activity Number: 5

Activity Description: The route determination of roads and design of associated physical infrastructure, including roads that have not yet been built for which routes have been determined before the publication of this notice and which has not been authorised by a competent authority in terms of the Environmental Impact Assessment Regulations, 2006 made under section 24(5) of the Act and published in Government Notice No. R.385 of 2006, where –

- (a) it is a national road as defined in section 40 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);
- (b) it is a road administered by a provincial authority;

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- (c) the road reserve is wider than 30 metres; or  
(d) the road will cater for more than one lane of traffic in both directions.

hereinafter referred to as "the activity".

**B. LOCATION:**

The proposed activity is to be located on the old Kynoch factory site on Erf 35270, situated adjacent to the Chevron Refinery in Milnerton,

co-ordinates:        33°   50'   56.7"        South  
                          18°   31'   33.06"        East

hereinafter referred to as "the site/property".

**C. APPLICANT:**

Improvon Developments (Pty) Ltd  
% Mr. Jorga da Costa  
Postnet Suite 120  
Private Bag X10010  
EDENVALE  
1610

Tel: (021) 551 2005  
Fax: (021) 551 2005

**D. ENVIRONMENTAL ASSESSMENT PRACTITIONER:**

DJ Environmental Consultants  
% Mr. Nick Steytler  
PO Box 24  
Sir Lowry's Pass  
7133

Tel: (021) 851 0900  
Fax: (021) 851 0933

**E. SITE VISIT(S):**

Date: 08 November 2007

Persons Present: Ms. Liza Engel (Department of Environmental Affairs and Development Planning ("DEA&DP"), Mr. Gerhard Gerber (DEA&DP) and Mr. Nick Steytler (DJ Environmental Consultants).

**F. DECISION:**

The Department is satisfied, on the basis of information available to it and subject to compliance with the conditions of this environmental authorisation that the applicant should be authorised to undertake the activity specified above.

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By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2006, the Department hereby **authorises** the activity.

The granting of this environmental authorisation is subject to the conditions set out below.

**G. CONDITIONS OF AUTHORISATION:**

1. This environmental authorisation herewith repeals and replaces the environmental authorisation (Reference number: E12/2/3/1-A2/309-0124/06) issued on 18 January 2008 for Phase I of the proposed development.
2. This environmental authorisation only authorises the activities specified in the description above in order to establish the mixed retail, business and industrial park. The granting of environmental authorisation must not be construed as an indication and/or guarantee that further activities will be authorised at a later stage. Further activities will be subjected to separate decision-making processes. If any future proposed activities within the industrial park (such as the above ground storage of a dangerous good, including petrol, diesel, liquid petroleum gas or paraffin, in containers with a combined capacity of more than 30 cubic metres but less than 1 000 cubic metres at any one location or site) constitute activities which require environmental authorisation in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), an application for the required environmental authorisation will have to be submitted and environmental authorisation obtained prior to commencement with the activities.
3. The activity, including site preparation, may not commence **within 20 (twenty) days** after having received this environmental authorisation. In the event that an appeal notice and subsequent appeal is lodged with the competent authority, the effect of this environmental authorisation will be suspended until such time as the appeal is decided.
4. One week's notice, in writing, must be given to the Directorate: Integrated Environmental Management (Region B), (hereinafter referred to as "this Directorate"), before commencement of construction activities.
  - 4.1. Such notice shall make clear reference to the site location details and reference number given above.
  - 4.2. The said notice must also include proof of compliance with the following conditions described herein:  
Conditions: 3, 6, 29 and 34.
5. An integrated waste management approach must be used that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 of the Environment Conservation Act, 1989 (Act No. 73 of 1989).
6. The relevant requirements of the National Water Act, 1998 (Act No. 36 of 1998) and the Department of Water Affairs and Forestry ("DWAF") must be complied with at all times. These include:

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- 6.1. The Remediation Programme may not be compromised in any way by the proposed redevelopment of the site.
- 6.2. Development may only take place on areas of the site that have been certified clean by the remediation specialist and accepted as such by DWAF. Areas earmarked for redevelopment where remediation is ongoing, must be clearly marked as such. Details of the redevelopment process must be submitted to DWAF showing that the remediation of the site will not be compromised.
- 6.3. No pollution of water resources, including surface water, stormwater and/or groundwater, may take place as a result of any activities on the site.
- 6.4. The Construction and Operational Phase Environmental Management Plans must be submitted for approval to DWAF, and must be implemented to minimise any environmental and water resource related impacts.
- 6.5. A pollution and water quality monitoring programme must be implemented together with the Stormwater Management Plan. The Stormwater Management Plan must be submitted for approval to DWAF and the City of Cape Town.
- 6.6. Any structure that may cause impeding or diverting of flow in a water course (such as infilling, construction of bridges or culverts etcetera) is subject to authorisation in terms of the National Water Act, 1998 (Act 36 of 1998) prior to commencement of such activity.
7. No public use must be permitted on the portions of the North Western and South Western Precincts falling within the outer Chevron risk zone (i.e. portions of the site falling within the  $3 \times 10^{-7}$  isopleth) and vulnerable developments (such as shopping malls) must be separated by a minimum distance of 50m from the centre of the Chevron products pipeline servitude.
8. A height restriction of 17.5m above mean natural ground level of the buildings footprint on the portion of the erf to the eaves must not be exceeded.
9. The overall utilisation of bulk for each portion must be limited in accordance with the bulk restriction defined in the Traffic Impact Assessment undertaken for the overall development.
10. Should any heritage remains be exposed during excavations, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)). Heritage remains uncovered or disturbed during earthworks must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape.
  - 10.1. If any archaeological remains (including but not limited to fossil bones and fossil shells, 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, rock art and rock engravings) are discovered during construction they must immediately be reported to Heritage Western Cape and must not be disturbed

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further until the necessary approval has been obtained from Heritage Western Cape.

- 10.2. If any graves or unmarked human burials are discovered, they must be treated with respect and SAHRA must be notified immediately and the burials must not be disturbed further until the necessary approval has been obtained from SAHRA. An archaeologist must be contracted to remove the remains at the expense of the developer.
11. The following areas must be identified as "no-go" areas before the commencement of the construction phase:
  - 11.1. Privately-owned areas beyond the boundary of the site;
  - 11.2. The Duikersvlei stream and its associated riparian area defined by a 30m setback from the stream;
  - 11.3. Areas where remediation infrastructure (e.g. groundwater monitoring boreholes; flushing gallery) is located; and
  - 11.4. Servitudes for electrical supply, water supply, stormwater management and sewerage.
12. The "no-go" areas must be clearly demarcated and fenced off from development activities.
13. All necessary rezoning approvals must be obtained prior to commencement of any construction activities on site.
14. The Construction Phase Environmental Management Plan ("CEMP") compiled by DJ Environmental Consultants and submitted together with the Environmental Impact Assessment Report must be implemented. This CEMP must, *inter alia*:
  - 14.1. be included in all contract documentation for the construction phase of the development;
  - 14.2. include environmental awareness and training programmes for all contractors, sub-contractors and labourers done by the Environmental Control Officer;
  - 14.3. be accompanied by architectural guidelines;
  - 14.4. provide for the landscaping of road verges and other public and undeveloped spaces;
  - 14.5. include environmental control and management measures and procedures to ensure that adequate environmental management is exercised, including, but not limited to:
    - 14.5.1. pollution control and water quality management measures;
    - 14.5.2. rehabilitation and stabilisation of disturbed areas;
    - 14.5.3. erosion and dust control measures;
    - 14.5.4. storage and management of hazardous materials and other construction materials such as, but not limited to, cement, detergents and paints;
    - 14.5.5. sedimentation control measures;
    - 14.5.6. visual impacts;

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- 14.5.7. traffic impact, including scheduling, as far as possible, construction vehicle operating hours outside normal commuter peak periods (between 09h00 and 16h00);
- 14.5.8. control of all alien plant species on the site during the construction phase of the development;
- 14.5.9. ensure that no kikuyu grass (*Pennisetum clandestinum*) or any other alien or invasive plant species are allowed within the development under any circumstances;
- 14.5.10. the management of social impacts such as, but not limited to, disturbance to neighbouring landowners and security risks;
- 14.5.11. safety and security measures and emergency procedures;
- 14.5.12. water, energy and resource demand management and efficiency, including, but not limited to, ensuring that all devices and fittings are energy and water efficient in nature, including the following:
  - all toilets must have interruptible flush mechanisms that allows for complete control over flushing by the user unless the cistern is supplied with a fitted weight (to interrupt the flow) or a hippo pack or any water replacement pack/device to reduce the amount of water lost in a single flush;
  - all toilet cisterns must have a capacity of less than 9 litres;
  - no automatic flush urinals are to be installed in any facilities;
  - all taps used must include an aerator that reduces the flow of water by at least 30% or to 6 liters/minute, unless used solely to fill receptacles such as basins or water troughs;
  - shower heads must be adjustable to reduce the water flow or have a built-in water restrictor/aerator that reduces the water flow to at least 10 litres/minute;
  - energy saving lightbulbs such as CFLs and LEDs must be installed instead of incandescent bulbs except where the quality of the light is not sufficient for high precision work and reading;
  - where applicable, all outdoor lighting must be fitted with timers, automatic shut-off devices or photo-sensitive mechanisms to switch off the lights during daylight hours;
  - where applicable, rain water harvesting from the roofs must be considered; and
  - the installation of solar water heaters and solar photovoltaic panels for the generation of some of the electricity must be considered;

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- 14.5.13. Ensure that adequate ablution facilities are provided on site during construction. The ratio of 15 people per ablution facility must not be exceeded.
- 14.6. Work hours must be restricted to the following times:
- 6h00 - 18h00 Mondays to Fridays;
  - 7h00 - 17h00 Saturdays; and
  - No operations on Sundays and Public Holidays.
15. The alien vegetation eradication and control programme that will be implemented must be done within one (1) month of the commencement of construction activities.
16. The use of generators on site must include the use of drip trays.
17. Temporary fuel storage tanks must be bunded (110% of the proposed tank's capacity) to contain any possible spills and to prevent any infiltration of fuel into the ground.
18. Temporary fuel tanks used for fuel storage must be designed and installed in accordance with relevant Oil Industry standards and SANS codes. The tanks must be constructed to conform to the requirements of the Atmospheric Pollution Prevention Act (Act No. 45 of 1965).
19. Gas and fuel must not be stored in the same storage.
20. All lighting, wherever practically possible, must be "down" lighting to minimise the visual impact of the facility at night. Lighting must be directed at the specific areas they are intended to illuminate. High mast lights must be tilted at an angle that ensures that they illuminate downwards. The minimum amount of night lighting must be used and all lights not specifically required must remain switched off.
21. Signage at night that utilises lighting for the illumination of retail advertisements must be switched off during night-time non-operational hours.
22. The following noise mitigation measures must be implemented:
- 22.1. All noise and sounds generated during all phases of the proposed development must comply with the relevant SANS codes and standards with noise levels to be limited to less than 70 dB (A) at the boundary of the site.
- 22.2. No pure tone sirens or sounds must be used unless in emergency situations, or when required with respect to relevant health and safety regulations.
23. The following mitigation measures regarding internal roads must be implemented:
- 23.1. All roads constructed must be based on appropriate professional engineering standards and must be approved by the municipality's road engineer, and comply with the requirements of the Department of Transport and Public Works where appropriate.
- 23.2. The speed limit on internal roads on the site must be clearly signed and all internal roads must include speed inhibiting mechanisms like speed humps and stop streets. These limitations on site must be actively managed and enforced.



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24. Any financial collections made as a consequence of the fining regime must be put towards the management of the Duikersvlei stream (including its riparian area) and other open spaces that may need rehabilitation and follow-up management.
25. The operational phase of the activity may only commence once the necessary upgrades of the Koeberg and Plattekloof roads have been completed.
26. Different stages of the park may only come into operation once Eskom has issued confirmation that they can supply the required electricity for the specific stage.
27. The Operation Phase Environmental Management Plan ("OEMP") compiled by DJ Environmental Consultants and submitted together with the Environmental Impact Assessment Report must be implemented. This OEMP must, *inter alia*:
  - 27.1. be accepted by DWAF and the City of Cape Town prior to commencement of the operation of the industrial park;
  - 27.2. provide for the ongoing remediation and clean up of the historic contamination on site;
  - 27.3. provide for a pollution and water quality monitoring programme and for remediation measures to be implemented when the results of the monitoring indicate that contamination may have arisen as a result of the redevelopment of the site;
  - 27.4. provide for the ongoing monitoring and maintenance with respect to the control of alien plants, control of excessive vegetation growth and solid waste management in so far as these affect the realigned Duikersvlei stream;
  - 27.5. define the code of conduct for all other parties operating on the site during the operational phase and include penalties for non-conformance;
  - 27.6. include environmental awareness and training programmes for all parties operating on the site during the operational phase;
  - 27.7. include environmental control and management measures and procedures to ensure that adequate environmental management is exercised, including, but not limited to:
    - 27.7.1. pollution control and water quality management measures;
    - 27.7.2. erosion and dust control measures;
    - 27.7.3. storage and management of hazardous materials;
    - 27.7.4. sedimentation control measures;
    - 27.7.5. ensure that no kikuyu grass (*Pennisetum clandestinum*) or any other alien or invasive plant species are allowed within the development under any circumstances;
    - 27.7.6. the management of social impacts such as, but not limited to, disturbance to neighbouring landowners (with noise levels to be limited to less than 70 dB (A) at the boundary of the site) and security risks;

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- 27.7.7. safety and security measures and emergency procedures, with a comprehensive Emergency Response Plan that meets the requirements of the City of Cape Town as well as the Chevron Off-Site Emergency Plan to be implemented prior to commencement of the operational phase, and in this regard the mitigation measures recommended in the risk assessments that were undertaken must specifically be considered; and
- 27.7.8. provide for water, energy and resource demand management and efficiency;
28. This Directorate must be notified in writing of any proposed changes to the CEMP and OEMP, and this Directorate must approve any proposed changes prior to implementation.
29. The holder of the authorisation must appoint a suitably experienced Environmental Control Officer ("ECO") for the construction phase of the development before commencement of any land clearing or construction activities, to ensure that the CEMP, OEMP and the mitigation measures and conditions of the authorisation are implemented and complied with.
30. The ECO must undertake at a minimum weekly site visits during the construction phase and monthly during the first year of the operational phase of the proposed development.
31. The ECO must notify this Directorate immediately of events or incidents that may cause significant environmental damage or breach the requirements of the CEMP or OEMP.
32. A Property Owner's Association with a constitution must be established for the property and must provide for all owners and lease holders to be responsible for the ongoing implementation of the CEMP and OEMP as well as auditing of environmental performance.
33. The applicant must submit an Environmental Audit Report, ("audit report") to this Directorate one (1) year after construction has been commenced with.
- 33.1. The audit report must detail compliance with this environmental authorisation and the CEMP.
- 33.2. If the audit report is not submitted, this Directorate may give 30 days written notice and may have such an audit undertaken at the expense of the applicant and may authorise any person to take such measures necessary for this purpose.
34. The applicant must, in writing, **within 10 (ten) calendar days** of being notified of the Department's decision to authorise the activity (the date of "being notified" is deemed to be the date the notice of the Department's decision was sent) notify all registered interested and affected parties of the outcome of the application and the reasons for the decision; and –
- 34.1. Specify the date on which the authorisation was issued.
- 34.2. Inform all registered interested and affected parties of the appeal procedure provided for in Chapter 7 of the regulations.
- 34.3. Advise all registered interested and affected parties that, should they wish to appeal that they must lodge a notice of intention to appeal with the Minister, within 10 days of being notified of the Department's

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- decision (the 10 day period available to registered interested and affected parties is deemed to only start 10 calendar days after the date of issue of the Department's decision) and must submit their appeal within 30 days of the lodging of their notice of intention to appeal.
- 34.4. Inform every interested and affected party that a prescribed Notice of Intention to Appeal form and Appeal form is obtainable from the Minister's office at tel (021) 483 3721, email [jedevill@pgwc.gov.za](mailto:jedevill@pgwc.gov.za) or URL <http://www.capegateway.gov.za/eadp>.
- 34.5. Inform all interested and affected parties that should they wish to appeal, the appellant must serve on the applicant, on the same day that the notice of intent is lodged with the Minister, a copy of the notice of intention to appeal form as well as a notice indicating that the appeal submission will be available for inspection for a period of 30 days, that must either start on or before the date the appeal is submitted to the Minister, and also indicate where the appeal submission will be available for inspection.
- 34.6. If the applicant should decide to appeal, the applicant must –
- 34.6.1. lodge a notice of intention to appeal with the Minister, within 10 days of being notified of this decision (the date of "being notified" deemed to be the date the notice of the Department's decision was sent);
- 34.6.2. submit the appeal within 30 days of the lodging of the notice of intention to appeal; and
- 34.6.3. serve a copy of the notice of intention to appeal, on the same day that the notice of intent is lodged with the Minister, on all registered interested and affected parties as well as a notice indicating that the appeal submission will be available for inspection for a period of 30 days, that must either start on or before the date the appeal is submitted to the Minister, and also indicate where the appeal submission will be available for inspection.
35. The holder of the authorisation shall be responsible for ensuring compliance with the conditions by any person acting on his behalf, including but not limited to, an agent, sub-contractor, employee or any person rendering a service to the holder of the authorisation.
36. Any changes to, or deviations from the project description set out in this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
37. The holder of the authorisation must notify this Directorate and any other relevant authority, in writing, within 24 hours thereof if any condition of this authorisation is not adhered to.
38. A copy of this authorisation must be kept at the property where the activity will be undertaken. The authorisation must be produced to any authorised official

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of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.

39. Where any of the holder of the authorisation's contact details change, including the name of the responsible person, the physical or postal address and/ or telephonic details, the applicant must notify the Department as soon as the new details become known to the holder of the authorisation.
40. Non-compliance with a condition of this authorisation may result in the withdrawal of the authorisation and may render the holder liable for criminal prosecution.
41. This Department must be notified, within 30 days thereof, of any change of ownership and/or project developer. Conditions imposed in this authorisation must be made known to the new owner and/or developer and are binding on the new owner and/or developer.
42. Departmental officials must be given access to the property referred to in B above for the purpose of assessing and/or monitoring compliance with the conditions contained in this environmental authorisation, at all reasonable times.
43. The activity which is authorised may only be carried out at the property indicated above.
44. Notwithstanding this authorisation, the holder of the authorisation must still comply with any other statutory requirements that may be applicable to the undertaking of the activity.
45. This activity must commence within a period of two years from the date of issue. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.

**H. REASONS FOR THE DECISION:**

In reaching its decision, the Department took, *inter alia*, the following into consideration:

- a) the information submitted by the applicant and Environmental Assessment Practitioner;
- b) the comments received from interested and affected parties;
- c) relevant information contained in the Departmental information base; and
- d) the objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA").

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below.

**Background and Socio-Economic**

The proposed site is located adjacent to the Chevron Refinery in Milnerton, Cape Town and is bordered by Koeberg Road, Platteklouf Road, the N7 and Montague Gardens to the west, north, east and south respectively. The site consists of the old Kynoch fertiliser factory site. The site is degraded and contaminated and a remediation programme has been put in place to clean up the site. There are no

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communities in close proximity to the site as surrounding land uses are primarily industrial. The nearest residential area is Bothasig which is situated 500m to the south east and Milnerton Ridge which is situated 1km to the south west. Conservation use is also an important land use in the greater surroundings with the Rietvlei Nature Area located approximately 1km to the west. With the Chevron Refinery and the Montague Gardens Industrial Park abutting the site, the redevelopment of the site to establish a mixed retail, business and industrial park is considered appropriate.

**Need and Desirability**

With the rapid economic growth in South Africa, there is a massive demand for industrial and retail land for development. Parallel to this trend is an increasing realisation of the importance of sustainable development and the need for integrated urban planning and design to ensure the maximum utilisation of valuable city resources. The redevelopment of this ~66ha inner-city industrial site seeks to maximise the optimal utilisation of well-located industrial land within the existing city. In so doing resources have been set aside to facilitate the remediation of the historically contaminated site and redevelopment strategy has been put in place to ensure the optimal utilisation of the property for a mixed retail, business and industrial park.

**Biophysical**

The site consists of the old Kynoch fertiliser factory site. As a result of the decommissioning of Kynoch's operations, demolition of buildings and associated infrastructure and AECI's ongoing remediation programme, the site comprises predominantly open, bare ground with limited infrastructure. The site has been subject to major earthworks involving the extraction of highly contaminated soils and sediments, realignment of the Duikersvlei stream and backfilling of the old channel, and establishment of suitable founding conditions.

The site has a long history of industrial activity and is degraded and contaminated. The redevelopment of the site to establish a mixed retail, business and industrial park will not compromise the ongoing remediation programme that has been put in place to clean up the site.

The Duikersvlei stream, which runs along the southern and western boundaries of the site, discharges into the Milnerton lagoon and is therefore considered a sensitive aquatic system. The entire Duikervlei stream, including a 30m development setback from the stream, will be demarcated as a "No Go" area prior to construction activities commencing. A pollution and water quality monitoring programme will also be implemented together with a stormwater management plan.

The only vegetated parts of the site include the banks of the realigned Duikersvlei stream and areas adjacent to the eastern boundary which have remained undeveloped since Kynoch's occupation. The banks of the Duikervlei have been subject to extensive landscaping and as a result indigenous trees and shrubs have been planted. In terms of buildings, roads and service infrastructure the following remains in place: AECI's old administrative buildings, an Eskom substation with power supply to the guard house on Platteklouf Road, access off Platteklouf Road and a minor internal road network, and a stormwater canal running adjacent to Platteklouf Road.

### **Visual and Noise**

As the site is being developed as a mixed retail, business and industrial park purposes it is likely that noise impacts, associated with normal industrial activity, will arise during the operational phase. The majority of the surrounding land uses are industrial (with a low sensitivity to noise and high ambient noise levels) and the anticipated noise impact is therefore considered to be of low significance.

Architectural guidelines, together with a building height restriction, and landscaping will also be implemented to minimise visual impacts. A construction phase and operational phase Environmental Management Plan will also be implemented to manage impacts to acceptable levels during the construction and operation phases of the development.

### **Heritage Resources**

A Notification of Intent to Develop was submitted to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)) who subsequently indicated that no further heritage study would be required. Should any heritage remains, however, be exposed during excavations, these will immediately be reported to the Heritage Western Cape.

### **Risk Zone – Chevron Refineries**

While there are various risks associated with the proximity of the site to the Chevron Refinery, the risk assessments, however, found the level of risk to be acceptable. No public use will, however, be permitted on the portions of the North Western and South Western Precincts falling within the outer Chevron risk zone, and vulnerable developments (such as shopping malls) will be separated by a minimum distance of 50m from the centre of the Chevron products pipeline servitude. A comprehensive Emergency Response Plan that meets the requirements of the City of Cape Town as well as the Chevron Off-Site Emergency Plan will also be implemented prior to commencement of the operational phase, and in this regard the mitigation measures recommended in the risk assessments that were undertaken will specifically be considered.

### **Services and Traffic**

The Traffic Impact Statement showed that the road network was already at capacity and that the road network therefore needed to be upgraded to accommodate the industrial park. The applicant therefore entered into a Joint Venture with the City of Cape Town, resulting in an application for the required upgrade to the road network being submitted to this Directorate. The required upgrades have since been authorised and the operational phase of the mixed retail, business and industrial park will only commence once the required upgrades of the Koeberg and Plattekloof roads have been completed.

While a number of infrastructure upgrades are required, the Municipality has confirmed the availability of capacity to serve the development in terms of stormwater management, water provision and sewerage treatment. Water demand management and efficiency will also be specifically addressed during the construction and operation of the park.

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Some electricity infrastructure upgrades are required and the different stages of the park will only come into operation once Eskom has issued confirmation that they can supply the required electricity for the specific stage. Energy demand management and efficiency will also be specifically addressed during the construction and operation of the park.

**Alternatives**

While the development of the entire site as an industrial park was one of the alternatives considered, the redevelopment of the site in order to establish a mixed retail, business and industrial park was, however, found to be a more appropriate alternative. The development of a mixed retail, business and industrial park entails the construction of approximately 21.5ha of land zoned for mixed use and 28.5ha of land zoned for industrial use. The remaining land will be taken up by the road reserves and other servitudes as well as private open space. The industrial buildings will be constructed in terms of the current zoning of the site (General Industrial) whereas the land for the business and retail building will be rezoned for this purpose. With no unacceptable environmental impacts associated with the mixed retail, business and industrial park, the "No Go" option, although specifically considered, was not warranted.

**National Environmental Management 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; and
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures.

**Public Participation**

The public participation for Phase I and Phase II of the process entailed:

- Identification of interested and affected parties;
- Fixing notice boards at the site where the activity is to be undertaken;
- Giving written notice to-
  - the owners and occupiers of land adjacent to the site where the activity is to be undertaken;
  - the owners and occupiers of land within 100 metres of the boundary of the site who may be directly affected by this activity;
  - the municipal councillor of the ward in which the site is situated and any organisation of ratepayers (including Woodbridge Island Rate Payers, Milnerton Ridge Rate Payers and Milnerton Residents Association) that represents the community in the area;
  - the municipality (City of Cape Town) which has jurisdiction in the area; and

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- the various organs of state having jurisdiction in respect of any aspect of the activity;
- Placing an advertisement in one local newspaper (*Table Talk*) and two provincial newspapers (*Cape Times* and *Die Burger*) on 15 November 2006 (Phase I);
- Placing an advertisement in one local newspaper (*Table Talk*) and one provincial newspaper (*Cape Times*) on 8 March 2007 and again in the *Table Talk* on 29 November 2007 (Phase II);
- Making a Background Information Document, the Basic Assessment Report and additional information available for comment (Phase I); and
- Making a Background Information Document, the Scoping Report, Environmental Impact Assessment Report and additional information available for comment (Phase II).

All the issues raised were responded to and adequately addressed during the process, and specific management and mitigation measures provided for in this environmental authorisation to adequately address the issues raised.

In view of the above, this Directorate is satisfied that, subject to compliance with the conditions contained in the environmental authorisation, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. The application is accordingly granted.

**I. APPEAL:**

Appeals must comply with the provisions as outlined in Chapter 7 of the regulations.

If the applicant should decide to appeal, the applicant must lodge a notice of intention to appeal with the Minister, within 10 days of being notified of this decision (the date of "being notified" deemed to be the date the notice of the Department's decision was sent, i.e. the date of issue), and serve a copy of the notice of intention to appeal, on the same day that the notice of intent is lodged with the Minister, on all registered interested and affected parties as well as a notice indicating that the appeal submission will be available for inspection for a period of 30 days, that must either start on or before the date the appeal is submitted to the Minister, and also indicate where the appeal submission will be available for inspection.

Should any other person decide to appeal, the person must lodge a notice of intention to appeal with the Minister, within 10 days of being notified of the Department's decision (the 10 day period is deemed to only start 10 days after the date of issue of the Department's decision), and serve a copy of the notice of intention to appeal, on the same day that the notice of intent is lodged with the Minister, on the applicant as well as a notice indicating that the appeal submission will be available for inspection for a period of 30 days, that must either start on or before the date the appeal is submitted to the Minister, and also indicate where the appeal submission will be available for inspection.



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All appeals must be submitted, within 30 days of the lodging of the notice of intention to appeal, by means of one of the following methods:

By post: Provincial Minister for Environment, Planning and Economic Development  
Private Bag X9186  
Cape Town  
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Jaap de Villiers  
3rd floor Leeusig Building (accessed via the Utilitas Building, 1 Dorp Street)  
4 Leeuwen Street  
Cape Town  
8001

A prescribed Notice of Intent to Appeal form and Appeal form is obtainable from the Minister's office at tel (021) 483 3721, email [jedevill@pgwc.gov.za](mailto:jedevill@pgwc.gov.za) or URL <http://www.capegateway.gov.za/eadp>.

Provincial Government, Local Authority or committees appointed in terms of the conditions of the application or any other public authority or organisation shall not be held responsible for any damages or losses suffered by the developer or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the developer with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully



**ANTHONY BARNES  
DIRECTOR: INTEGRATED ENVIRONMENTAL MANAGEMENT (REGION B)**

DATE OF DECISION: 11/7/2008

Copies to: (1) Nick Steytler (DJ Environmental Consultants) Fax: (021) 851 0933  
(2) Martin Scott & Pat Titmuss (City of Cape Town Municipality) Fax: (021) 550 7517  
(3) Wilna Kloppers (Department of Water Affairs and Forestry) Fax: (021) 950 7224

