



14/3/1/E1/3/0359/18

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Dear Mr Summs

**APPEAL LODGED IN TERMS OF SECTION 43(2) OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AGAINST THE SECTION 24G ENVIRONMENTAL AUTHORISATION ISSUED FOR THE UNLAWFUL UPGRADING AND REALIGNMENT OF AN EXISTING ROAD ON PORTIONS 4 AND 7 OF FARM 264, DOLLAS DOWN, ARNISTON**

The appeal lodged against the section 24G Environmental Authorisation issued by the Department of Environmental Affairs and Development Planning on 30 August 2018, refers.

After considering all relevant facts and supportive documents I wish to advise that, in terms of section 43(6) of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* ("NEMA") I have decided to dismiss the appeal and confirm the abovementioned decision of the delegated officer. The abovementioned EA which is confirmed in this appeal decision and the conditions under which the authorisation is granted must be complied with, however, Condition G7 and section I are excluded from this authorisation. Conditions G2 and G 6 are substituted to read as follows:-

**Condition 2**

This Environmental Authorisation is valid for a period of five (5) years of the date of this appeal decision.

**Condition 6**

"The holder of the authorisation must in writing, within 14 (fourteen) calendar days of the date

of the appeal decision notify all registered Interested and Affected Parties ("I&APs") of –

- 6.1 the outcome of the appeal;
- 6.2 the reasons for the appeal decision; and
- 6.3 the date of the decision."

**REASONS FOR THE DECISION:**

The reasons outlined in the original EA are applicable to the appeal decision and the following are additional reasons:

- i. The upgraded access road was considered to be the most preferred option as it largely follows the existing farm road with slight deviations in sections in terms of realignment. This was done in order to minimise any further impacts on the vegetation, dunes and possible archaeological remains. All comments and issues raised by the appellant was included in the submissions to the Department which formed part of the information that was considered during the adjudication of the section 24G administrative fine and the environmental authorisation ("EA"). The section 24G application included public consultation and I am satisfied that the public, and the appellant was consulted.
- ii. I am satisfied that the access road does not impede the appellant from enjoying his property. The access road provides vehicular access to the appellant and the neighbour's private residence only and is not available to the general public. Entry to the access road can only be done via a remote controlled gate.
- iii. The registration of a servitude is beyond the scope of the NEMA and the EIA regulations.
- iv. The alternative to construct a road around the appellants' property was not considered viable as it would result in significant environmental and heritage impacts as this area is characterised by mobile dunes, intact sensitive vegetation and potential archaeological areas. The upgrading and realignment of the access road caused disturbance to less than a 300m<sup>2</sup> portion of Overberg Dune Strandveld and De Hoop Limestone Fynbos vegetation which is rated as 'Least Threatened' during the construction phase.
- v. A review of historical photographs of the area confirm that a jeep track, which follows the alignment of the authorised access road, has been present pre 2003. The current access road largely follows the existing farm road with slight deviations in sections in

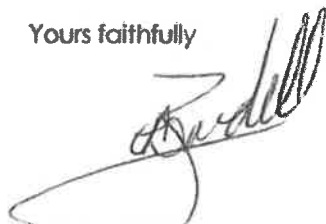
terms of realignment. I am satisfied that the approved alignment of the access road is the best environmental option.

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. In terms of the NEMA Principles, the effects of decisions on all aspects of the environment are to be taken into account. As such, the consideration, assessment and evaluation of the social, economic and ecological impacts of activities (disadvantages and benefits) must be undertaken, and decisions are to be appropriate in the light of such consideration and assessment.

In view of the above, the NEMA principles, compliance with the conditions stipulated in the EA, and compliance with the conditions of the EMP, the proposed development will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and any potentially detrimental environmental impacts resulting from the proposed development can be mitigated to acceptable levels.

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

Yours faithfully



**ANTON BREDELL**  
**PROVINCIAL MINISTER OF LOCAL GOVERNMENT,**  
**ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 14/7/2019

CC: (1) Ms. O Braaf  
(2) Ms Z Toefy  
(3) Adv C Maré

(Braaf Environmental Practitioners)  
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