



**REFERENCE:** 14/1/1/E1/5/3/3/0377/16

**ENQUIRIES:** Fundiswa Zingitwa-Lwana

Mr Vango Kolovos  
Zindro Properties (Pty) Ltd  
P. O. Box 3388  
TYGERPARK  
7536

**BY EMAIL**

Email: [vango@delphisure.com](mailto:vango@delphisure.com)

## COMPLIANCE NOTICE

Dear Sir

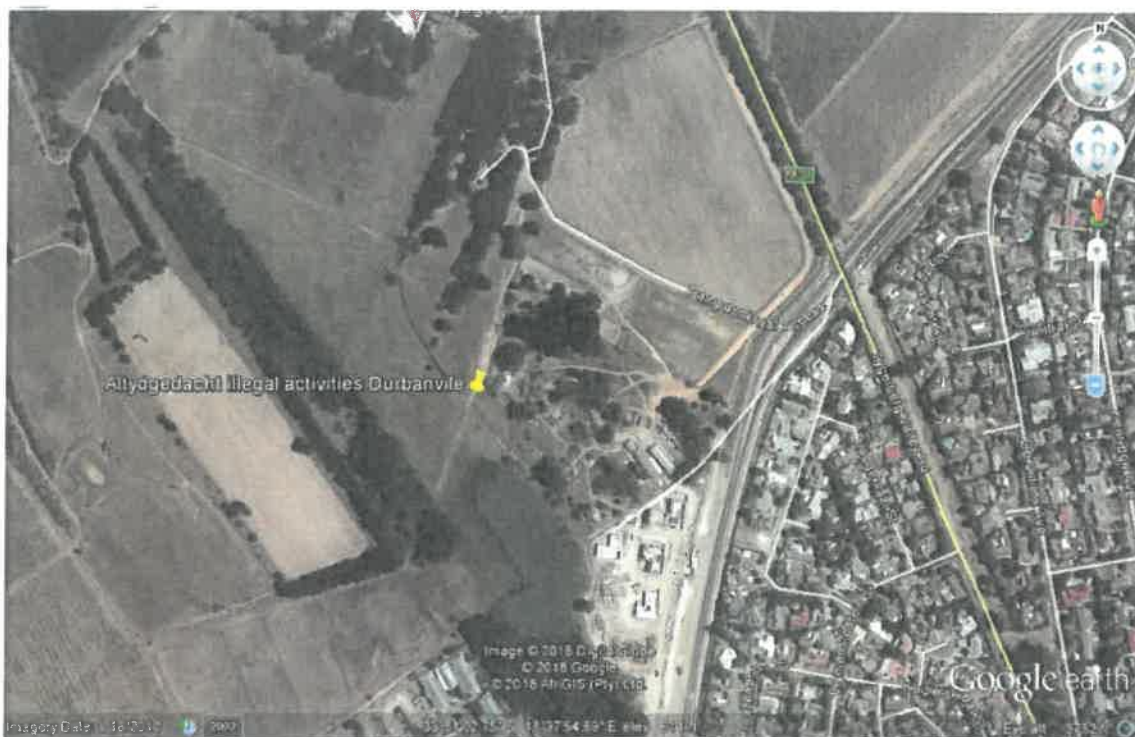
### COMPLIANCE NOTICE IN TERMS OF SECTION 31L OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 107 OF 1998

1. The Department's Pre-Compliance Notice dated 21 November 2016 and your representations dated 28 November 2016, 14 December 2018, and your recent correspondence dated 19 February 2018 and received on 8 October 2018 has reference.

2. Having considered your representations, I, Mr Achmad Bassier, in my capacity as an Environmental Management Inspector Grade 1, hereby issues Vango Kolovos representing Zindro Properties (Pty) Ltd with a Compliance Notice in terms of section 31L of the National Environmental Management Act, 1998 ("NEMA").
3. This Compliance Notice relates to non-compliance with the provisions of section 24F of the NEMA. No activity listed in the Environmental Impact Assessment ("EIA") Regulations Listing Notice 1 of 2014 may commence without environmental authorisation from the competent authority.

#### **Details of conduct constituting non-compliance**

4. During an investigation into allegations of the commencement of a listed activity in contravention of section 24F of the NEMA, a site inspection was conducted at Farm Altydgedacht 276 Portion 18, Durbanville by Environmental Management Inspectors from the Department's Directorate: Environmental Law Enforcement on 31 October 2016 and 8 February 2018 respectively and it was confirmed that you have commenced with the disposal of builders rubble material of more than 10 cubic metres into a watercourse, without the requisite environmental authorisation.



Aerial map: Location of alleged illegal activity.

5. On considering the evidence before me there are reasonable grounds to believe that at the time you initially commenced with the activity, it was listed in terms of Listing Notice 1 of 2014. The following listed activity was commenced without environmental authorisation:

EIA Regulations Listing Notice 1 of 2014

Activity no. 19:

*The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—*

- (i) a watercourse;**
- (ii) the seashore; or**

(iii) *the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater—*

*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; or*

(c) *falls within the ambit of activity 21 in this Notice, in which case that activity applies.*

6. The Department wishes to further advise that on 4 December 2014, the Minister of Environmental Affairs promulgated the 2014 EIA Regulations. These Regulations came into effect on 8 December 2014 and was amended on 07 April 2017. Accordingly, activities which commenced prior to 7 April 2017 and which are similarly listed in the 2014 Regulations require prior environmental authorisation. The abovementioned activity (i.e. Activity 19) was therefore amended as follows:

EIA Regulations Listing Notice 1 of 2014 (as amended)

Activity no.19:

*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*

*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.*



Photo 1: View of more than 5 cubic metres builder's rubble material of deposited into a wetland.



Photo 2: Close up view of more than 5 cubic metres builder's rubble material deposited into a wetland.

**7. You are hereby instructed to:**

- 7.1 Immediately cease the above listed activity;
- 7.2 Submit to the Department within **30 (thirty) working days** of receipt of this Compliance Notice a report compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:

- 7.2.1 assessment and evaluation of the impact on the environment; and
- 7.2.2 identification of proposed remedial and/or mitigation measures.

- 8. Approval of the report by the Department does not remedy the unlawful commencement of the above activity, which remain unlawful in terms of section 49A (1) (a) and/or (d) of the NEMA.

9. If the above report is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.

### **Varying this Compliance Notice**

10. If you would like me to vary this Compliance Notice or extend the period to which it relates, you may make representations to me, in writing, to do so.

### **Failure to comply with this Compliance Notice (section 31N of the NEMA) and related offences in terms of the NEMA**

11. In terms of section 49A(1)(a) of the NEMA it is an offence to commence a listed activity without environmental authorisation. A person convicted of such an offence is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.
12. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of such an offence is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 5 years, and in the case of a second or subsequent conviction to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, and in both instances to both such fine and such imprisonment.
13. Any non-compliance with the Compliance Notice must be reported to the Minister, who may:
  - 13.1 revoke any permit or authorisation to which this Compliance Notice relates; and/or

- 13.2 take any steps necessary to ensure compliance with the provisions of the law, permit or authorisation to which this Compliance Notice relates and recover from you the cost of doing so.

**Procedure for lodging an objection to this Compliance Notice (section 31L and 31M of the NEMA)**

14. If you wish to lodge an objection to this Compliance Notice, you may do so by making representations, in writing, to the Provincial Minister of Environmental Affairs and Development Planning ("the Minister") within 30 days of receipt of this Compliance Notice.
15. You may also make representations, in writing, to the Minister to suspend the operation of this Compliance Notice pending finalisation of the objection.
16. The objection must be in writing and forwarded to the Appeal Administrator, Mr Jaap de Villiers at the contact details below and must be accompanied by a statement detailing the grounds of the objection and supporting documentation, if any.

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

By facsimile: (021) 483 4174

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



By email: [Jaap.DeVilliers@westerncape.gov.za](mailto:Jaap.DeVilliers@westerncape.gov.za)

17. Irrespective of any representations you may make to me or to the Minister, you must comply with this Compliance Notice within the time period stated in the Compliance Notice, unless the Minister agrees to suspend the operation of this Compliance Notice.



**Achmad Bassier**

**Director: Environmental Law Enforcement**

**Grade 1 Environmental Management Inspector**

**Date:** 7/11/2018

CC: (1) Mr Linda Ndlela	(CoCT)	Email: <a href="mailto:Linda.Ndlela@capetown.gov.za">Linda.Ndlela@capetown.gov.za</a>
(2) Mr Bentley Engelbrecht	(DWS)	Email: <a href="mailto:EngelbrechtB@dws.gov.za">EngelbrechtB@dws.gov.za</a>
(3) Ms Shaddai Daniel-Harris	(DWS)	Email: <a href="mailto:DanielS@dws.gov.za">DanielS@dws.gov.za</a>
(4) Adv Mowzer Abraar	(DWS)	Email: <a href="mailto:MowzerA@dws.gov.za">MowzerA@dws.gov.za</a>
(5) Mr Alistair Lee	(CoCT)	Email: <a href="mailto:Alistair.Lee@capetown.gov.za">Alistair.Lee@capetown.gov.za</a>
(6) Ms Lesley Wolfensberger-Betts	(CoCT)	Email: <a href="mailto:Lesley.WolfensbergerBetts@capetown.gov.za">Lesley.WolfensbergerBetts@capetown.gov.za</a>

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