



EIA REFERENCE: 16/3/3/1/B4/45/1071/22
NEAS REFERENCE: WCP/EIA/0001172/2022
DATE OF ISSUE: 17 May 2023

The Owner
GLC Junior Transport cc.
P. O. Box 192
KUILSRIVER
7579

Attention: Mr. G. Conradie

Cell: 082 372 5914

E-mail: gerhard@glcgroup.co.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): THE PROPOSED DEVELOPMENT OF A COMPOST FACILITY, RESIDENTIAL DWELLINGS AND ASSOCIATED INFRASTRUCTURE ON PORTION 10 OF THE FARM WELGELEGEN NO. 211, STELLENBOSCH.

1. With reference to the above application, the Department hereby notifies you of its decision to **refuse Environmental Authorisation** ("EA"), attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014, (as amended), you are instructed to ensure, within 14 days of the date of the Environmental Authorisation, that all registered Interested and Affected Parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarized in the attached Environmental Authorisation.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

CC: (1) Ms. M. Sham (Monique Sham Environmental Consultants)
(2) Mr. S. Van der Merwe (Stellenbosch Municipality)

E-mail: Monique@ms-ec.co.za

E-mail: Schalk.VanderMerwe@stellenbosch.gov.za

EIA REFERENCE: 16/3/3/1/B4/45/1071/22
NEAS REFERENCE: WCP/EIA/0001172/2022
DATE OF ISSUE: 17 May 2023

REFUSAL OF ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): THE PROPOSED DEVELOPMENT OF A COMPOST FACILITY, RESIDENTIAL DWELLINGS AND ASSOCIATED INFRASTRUCTURE ON PORTION 10 OF THE FARM WELGELEGEN NO. 211, STELLENBOSCH.

With reference to your application for the abovementioned, find below the outcome with respect to this application.

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the Competent Authority herewith **refuses Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to the preferred alternative as described in the Basic Assessment Report ("BAR"), received on 24 January 2023.

The applicant for this Environmental Authorisation is required to comply with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Owner
GLC Junior Transport cc.
P. O. Box 192
KUILSRIVER
7579

Cell: 082 372 5914
E-mail: gerhard@glcgroup.co.za

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "**the holder**".

B. LISTED ACTIVITIES REFUSED

Listed Activities	Project Description
<p>EIA Regulations Listing Notice 1 of 2014: Activity Number: 12 <i>The development of—</i></p> <ul style="list-style-type: none"> <i>(i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or</i> <i>(ii) infrastructure or structures with a physical footprint of 100 square metres or more;</i> <p><i>where such development occurs—</i></p> <ul style="list-style-type: none"> <i>(a) within a watercourse;</i> <i>(b) in front of a development setback; or</i> <i>(c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse;</i> <p><i>excluding—</i></p> <ul style="list-style-type: none"> <i>(aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; —</i> <i>(bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;</i> <i>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or Activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</i> <i>(dd) where such development occurs within an urban area;</i> <i>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</i> <i>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared.</i> 	<p>The proposed development would have a development footprint of more than 100m² within 32m of a watercourse.</p>
<p>EIA Regulations Listing Notice 1 of 2014: Activity Number: 19 <i>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;</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <ul style="list-style-type: none"> <i>(a) will occur behind a development setback;</i> 	<p>The proposed development would result in the removal/excavation or moving of soil, sand, pebbles or rock of more than 10 cubic metres from a watercourse.</p>

<p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(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.</p>	
<p>Listing Notice 1 Activity Number: 27 The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</p> <p>(i) the undertaking of a linear activity; or</p> <p>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p>	<p>More than 1ha of indigenous vegetation would be cleared.</p>
<p>Listing Notice 1 Activity Number: 28 Residential, mixed, retail, commercial, industrial or institutional development where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</p> <p>(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or</p> <p>(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare.</p> <p>Excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>The compost facility would be developed on land previously used for agriculture and would have a footprint of more than 1ha.</p>
<p>EIA Regulations Listing Notice 3 of 2014: Activity Number: 4 The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p>i. Western Cape</p> <p>i. Areas zoned for use as public open space or equivalent zoning;</p> <p>ii. Areas outside urban areas;</p> <p>(aa) Areas containing indigenous vegetation;</p> <p>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</p> <p>iii. Inside urban areas:</p> <p>(aa) Areas zoned for conservation use; or</p> <p>(bb) Areas designated for conservation use in Spatial</p>	<p>The proposed road would be 5m wide and would be located within areas containing indigenous vegetation, outside an urban area.</p>

<i>Development Frameworks adopted by the competent authority.</i>	
<p>EIA Regulations Listing Notice 3 of 2014: Activity Number: 12 <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. Western Cape</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>ii. <i>Within critical biodiversity areas identified in bioregional plans;</i></p> <p>iii. <i>Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;</i></p> <p>iv. <i>On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or</i></p> <p>v. <i>On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</i></p>	<p>The proposed development would result in the clearance of more than 300 square metres of indigenous vegetation within a critically endangered and endangered ecosystem listed in terms of section 52 of the NEMBA.</p>

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

C. SITE DESCRIPTION AND LOCATION

The listed activities were proposed to be undertaken on Portion 10 of Farm Welgelegen 211, at the following co-ordinates:

Latitude (S)	33°	52'	30"
Longitude (E)	18°	46'	52"

The SG digit code: C06700000000021100010

Refer to Annexure 1: Locality Plan and Annexure 2: Site Plan

The above is hereinafter referred to as "**the site**".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Ms. Monique Sham
Monique Sham Environmental Consultants (MSEC)
Unit 1, 165 Main Road

MUIZENBERG

7945

Cell: 072 989 5118

Email: monique@ms-ec.co.za

E. LEGISLATIVE REQUIREMENTS

Administration of Appeal

1. In accordance with Regulation 46 of the EIA Regulations, 2014 (as amended), an applicant may not submit an application which is substantially similar to a previous application that has been refused, unless any appeals on such refusal have been finalised or the time period for the submission of such appeal has lapsed.
2. The holder must in writing, within fourteen (14) calendar days of the date of this decision–
 - 2.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 2.1.1. the decision reached on the application;
 - 2.1.2. the reasons for the decision as included in Annexure 2;
 - 2.1.3. the date of the decision; and
 - 2.1.4. the date when the decision was issued.
 - 2.2. 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 Appeal Regulations, 2014 (as amended) detailed in Section F below;
 - 2.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 2.4. provide the registered I&APs with the
 - 2.4.1. name of the holder (entity) of this Environmental Authorisation,
 - 2.4.2. name of the responsible person for this Environmental Authorisation,
 - 2.4.3. postal address of the holder,
 - 2.4.4. telephonic and fax details of the holder,
 - 2.4.5. e-mail address, if any, of the holder,
 - 2.4.6. 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).

F. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014.

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the 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. The appeal and the responding statement must be submitted to the address listed below:

By post: 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 Marius Venter (Tel: 021 483 3721)
Room 809, 8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority 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 Appeal Authority at: Tel. (021) 483 3721, e-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

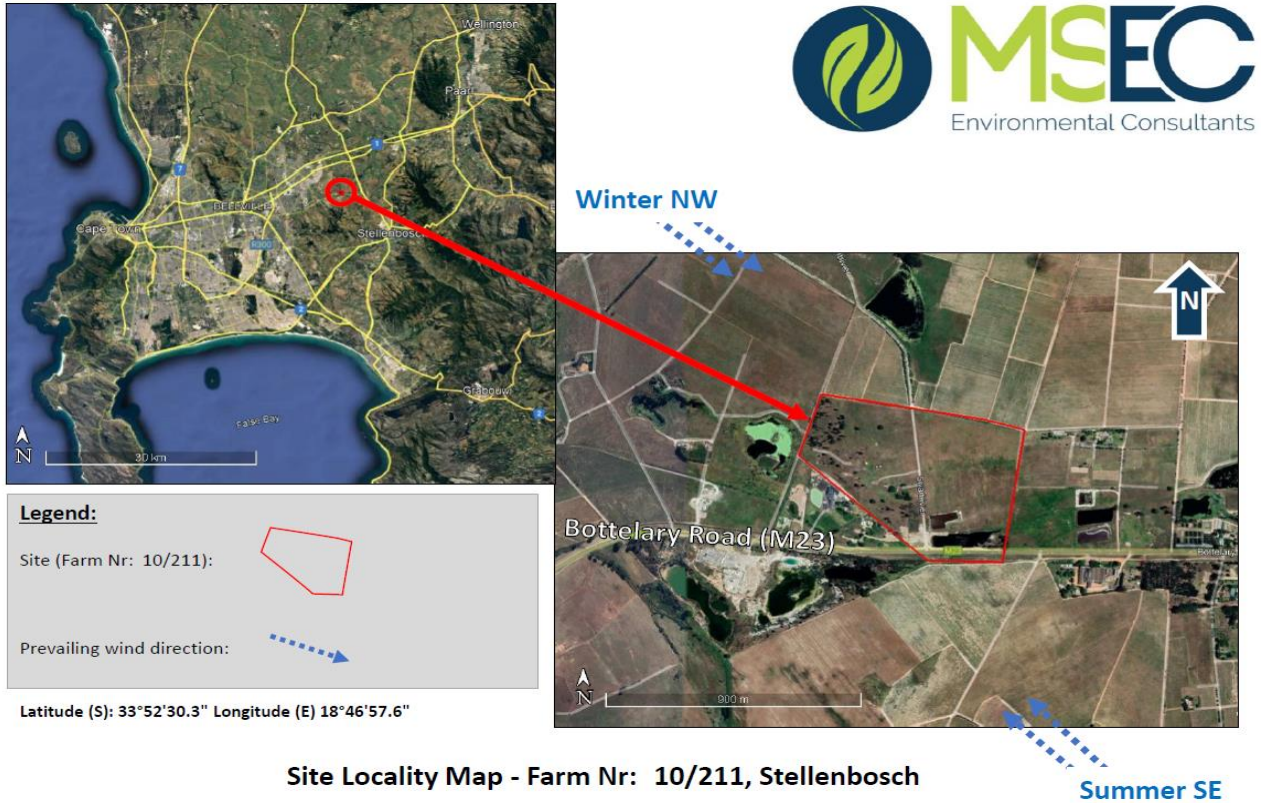
DATE OF DECISION: 17 MAY 2023

CC: (1) Ms. M. Sham (Monique Sham Environmental Consultants)
(2) Mr. S. Van der Merwe (Stellenbosch Municipality)

E-mail: Monique@ms-ec.co.za

E-mail: Schalk.VanderMerwe@stellenbosch.gov.za

ANNEXURE 1: LOCALITY MAP



Site Locality Map - Farm Nr: 10/211, Stellenbosch

Figure 1: Location of the proposed development

ANNEXURE 2: SITE PLAN

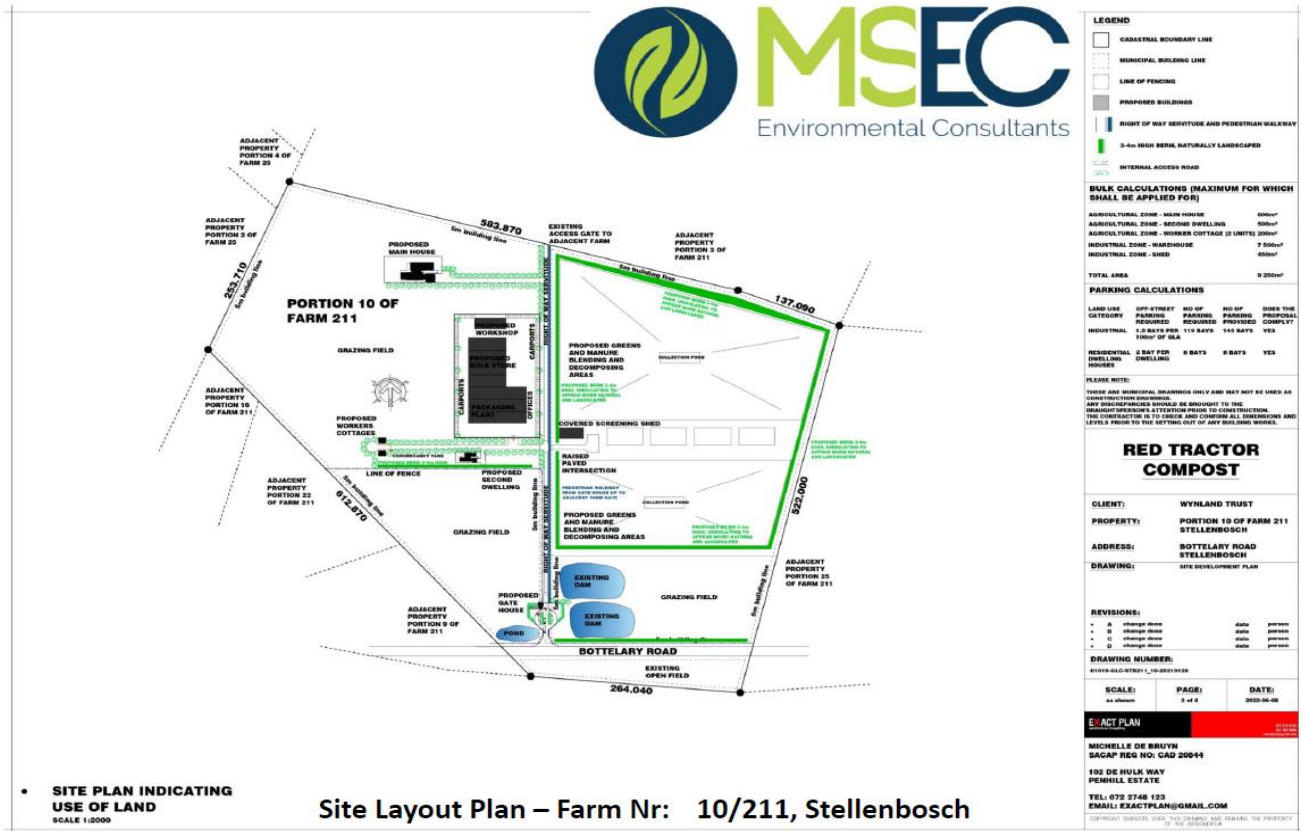


Figure 2: Proposed site plan

ANNEXURE 3: REASONS FOR THE DECISION

In reaching its decision, the Competent Authority considered, inter alia, the following:

- a) The information contained in the Application Form received by the Department on 4 October 2022 and the EMPr and MMP submitted together with the Basic Assessment Report on 24 January 2023.
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) 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);
- d) The comments received from I&APs and responses to these, included in the Basic Assessment Report received on 24 January 2023; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

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 that were considered to be the most significant for the decision is set out below.

1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- fixing a notice board at the site where the listed activities were to be undertaken on 24 February 2022;
- the placing of a newspaper advertisement in the "Eikestadnuus" on 24 February 2022;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities were to be undertaken, the municipality and ward councilor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activities on 24 February 2022;
- making the pre-application draft BAR available to I&APs for comment from 25 February 2022 to 28 March 2022; and
- making the post application draft BAR available to I&AP's for comment from October 2022 to 7 November 2022.

2. Alternatives

Preferred alternative (herewith refused)

This alternative entails the development of a compost facility, residential dwellings and associated infrastructure on Portion 10 of Farm Welgelegen 211, Stellenbosch. The compost facility was proposed to use green/organic waste (chipped vegetation and grape pulp) and kraal manure for composting purposes. The method of composting involves the formation of organic waste into rows of long piles (windrows) and aerating them by periodically mechanically turning the piles. The proposed windrows and compost heap would be irrigated in order to ensure adequate moisture levels in the heaps for the survival of micro organisms in the compost. The facility will process approximately 14 000m³ of compost per month.

The proposed development was proposed to include the following:

- A composting area that would include composting pads; blending and decomposing areas; a covered screening shed; four uncovered concrete screening platforms; stormwater collection ponds; and a landscaped earth berm with a footprint of approximately 126 470m².
- A workshop; a warehouse/storage area; packaging facility; offices; and parking areas with a footprint of approximately 21 000m²

- A main and second residential dwelling, as well as 2 workers cottages with a combined footprint of approximately 1 800m²;
- An internal access road of approximately 6m wide and 600m in length;
- A landscaped berm along Bottelary road and south of the residences; and
- Two diesel storage tanks with a combined storage capacity of approximately 30 000 litres.

The “No-Go” Alternative

The “No-Go” alternative of not proceeding with the proposed development was considered, but not preferred by the applicant.

3. Key factors affecting the decision:

In reaching its decision to refuse the proposed development, the Competent Authority took into account the information provided in the final BAR, as prescribed in terms of Appendix 1 of the EIA Regulations, 2014 (as amended).

In terms of Appendix 1 (3) (1) “A basic assessment report must contain the information that is necessary for the competent authority to consider and come to a decision on the application, and must include—
(t) any specific information that may be required by the competent authority”.

The final BAR that has been submitted is regarded as being incomplete, since it does not contain any confirmation regarding the availability of water for the proposed development. This specific information is required by the Competent Authority in consideration of the EIA application for the development of the proposed compost facility, residential dwellings and associated infrastructure. Since no confirmation to the availability of water was submitted with the final EIAR, the applicant failed to comply with Appendix 3(1) (t), i.e., the specific information requirements relevant to the EIA application for the proposed development. In light of the above, Environmental Authorisation is refused.

4. National Environmental Management Act 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.

-----END-----