



REFERENCE: 16/3/3/1/A4/4/3029/21
NEAS REFERENCE: WCP/EIA/0000941/2021
DATE: 07 February 2022

The Municipal Manager
City of Cape Town: Transport and Urban Development Authority
12 Hertzog Boulevard: Civic Centre
CAPE TOWN
8000

Attention: Mr. Mark Pinder

Tel.: (021) 400 4918
E-mail: mark.pinder@capetown.gov.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED BUTTSKOP NORTH LEVEL CROSSING ELIMINATION PROJECT - ZEVENWACHT LINK ROAD EXTENSION BETWEEN VAN RIEBEECK ROAD AND STELLENBOSCH ARTERIAL, BLACKHEATH.

1. With reference to the above application, this Department hereby notifies you of its decision to **grant** Environmental Authorisation, 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 Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarised in the attached Environmental Authorisation.

Yours faithfully

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

Copied to: (1) Ms. Natalie Ritsch (Lukhozi Consulting Engineers (Pty) Ltd.)

E-mail: n.ritsch@lukhozi.co.za

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, AS AMENDED: PROPOSED BUTTSKOP NORTH LEVEL CROSSING ELIMINATION PROJECT - ZEVENWACHT LINK ROAD EXTENSION BETWEEN VAN RIEBEECK ROAD AND STELLENBOSCH ARTERIAL, BLACKHEATH.

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 (as amended), the Competent Authority herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to the preferred Location/route alternative, described in the Final Basic Assessment Report ("BAR"), dated September 2021.

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

City of Cape Town
c/o Mr. Mark Pinder
City of Cape Town: Transport and Urban Development Authority
12 Hertzog Boulevard: Civic Centre
CAPE TOWN
8000

Tel.: (021) 400 4918
E-mail: mark.pinder@capetown.gov.za

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

B. LIST OF ACTIVITIES AUTHORISED

Listed Activity	Activity/Project Description
<p>Listing Notice 1 of the EIA Regulations, 2014 (as amended)– Activity Number: 19 Activity Description: <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> <i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i> <i>(a) will occur behind a development setback;</i> <i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i> <i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i> <i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i> <i>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”.</i></p>	<p>More than 10 cubic metres of material will be infilled into the seasonal wetland areas located along the route.</p>
<p>Listing Notice 3 of the EIA Regulations, 2014 (as amended)– Activity Number: 12 Activity Description: <i>“The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.</i> <i>i. Western Cape</i> <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> <i>ii. Within critical biodiversity areas identified in bioregional plans;</i> <i>iii. 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</i></p>	<p>More than 300 square metres of Critically Endangered Cape Flats Sand Fynbos will be cleared.</p>

<p>development setback line on erven in urban areas;</p> <p>iv. 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</p> <p>v. 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".</p>	
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The abovementioned list is hereinafter referred to as "the listed activities".

The holder is herein authorised to undertake the following alternative that includes the listed activities relating to the development proposal:

The proposed development aims to assist in the elimination of the Butskop rail level crossing in Blackheath.

The proposal includes the extension of Zevenwacht Link Road between Van Riebeeck Road and Stellenbosch Arterial. The proposed road and associated infrastructure will require the infilling of seasonal wetlands and clearance of more than 300m² Critically Endangered indigenous vegetation.

The proposed development includes *inter alia*, the following:

The proposed Zevenwacht Link Road between van Riebeeck Road and Stellenbosch Arterial will be approximately 2,06km in length. A dual carriageway with a median that varies in width between approximately 1,9m and 5,0m will be constructed. The cross-section comprises of two approximately 3,4m lanes, an approximate 2,4m surfaced shoulder and an approximate 0,45m kerb and channel combination on both the shoulder side and the median side per direction of travel. Turning lanes at intersections will be approximately 3.1m wide. The road width per direction (kerb to kerb) is approximately 9,8m and approximately 13.9m at intersections. The road reserves near van Riebeeck Road along the 425m horizontal curve and near the Stellenbosch Arterial intersection will be widened.

An approximate 3m wide sidewalk will be constructed on either side of the dual carriageway.

A new 7.4m wide concrete trapezoidal stormwater canal along the eastern side of the Zevenwacht Link Road will be constructed and the Zevenwacht Link Road extension will discharge stormwater into the canal.

The existing Jeripiko Road will be extended to link up with Zevenwacht Link Road to form a T-junction which will comprise:

- two approximately 3,4m wide lanes;
- kerb measuring approximately 0,45m;
- channel combination on both sides; and
- walkway on the southern side measuring approximately 1,5m in length.

The existing private access (extension of Jeripiko Road) towards the Blackheath Water Treatment Plant will be relocated to link up with the Zevenwacht Link. This will include an opening through the median island and a short right turning lane to allow for full access. The road will remain a private road with a security gate.

The new Zevenwacht Link Road / Jeripiko Road Intersection will be signalised.

Road lighting will be constructed along the road extensions, which will connect to existing services.

The abovementioned works will be undertaken in two phases as follows:

Phase 1 comprises:

- construction of a single carriageway road between Van Riebeeck Street and Stellenbosch Arterial/Polkadraai Road; and
- extension of Jeripiko Street further east to intersect with the new Zevenwacht Link Road extension.

Phase 2 comprises:

- completion of the dual carriageway; or
- extending the dualling to Albert Philander in line with the phased implementation of the Zevenwacht Link Road south of Van Riebeeck Road (PLEASE NOTE! This component is not included in the scope of this Environmental Authorisation.)

The total development footprint will amount to approximately 8.95ha.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken as the Zevenwacht link Road extension located between Van Riebeeck Road and Stellenbosch Arterial (M12), Blackheath.

The SG digit codes for the affected properties are as follows:

ID: ST410-22: C0670000000004100002200000
ID: ST410-24: C0670000000004100002400000
ID: ST410-29: C0670000000004100002900000
ID: ST410-30: C0670000000004100003000000
ID: ST410-31: C0670000000004100003100000
ID: ST410-32: C0670000000004100003200000
ID: ST410-33: C0670000000004100003300000
ID: ST410-9-RE: C06700000000041000009000RE
ID: ST419-83: C0670000000004190008300000
ID: ST419-84: C0670000000004190008400000
ID: ST419-112: C0670000000004190011200000
ID: ST419-74-RE: C06700000000041900074000RE

The starting point co-ordinates are:

33° 57' 01.50" South; 18° 42' 27.73 " East

The middle point co-ordinates are:

33° 57' 33.47" South; 18° 42' 25.48 " East

The end point co-ordinates are:

33° 58' 07.22" South; 18° 42' 24.72 " East

Refer to Annexure 1: Locality Plan.

Refer to Annexure 2: Layout Plans.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Lukhozi Consulting Engineers (Pty) Ltd
c/o Ms. Natalie Ritsch
Unit B17
1st Floor
Century Square
Heron Crescent
CENTURY CITY

Tel.: (021) 686 2550
E-mail: n.ritsch@lukhozi.co.za

E. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the preferred Location/route alternative described in the Final BAR, dated September 2021 on the site as described in Section C above.
2. Authorisation of the activities is subject to compliance with the conditions set out in this Environmental Authorisation. The holder must ensure compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
3. The holder must commence with, and conclude, the listed activities within the stipulated validity period which this Environmental Authorisation is granted for, or this Environmental Authorisation shall lapse and a new application for Environmental Authorisation must be submitted to the competent authority.

This Environmental Authorisation is granted for–

- (a) A period of ten (10) years, from the date of issue, during which period the holder must commence with the authorised listed activities.
 - (b) A period of ten (10) years, from the date the holder commenced with the authorised listed activities, during which period the authorised listed activities for the construction phase, must be concluded.
4. The activities that have been authorised may only be carried out at the site described in Section C above in terms of the approved “Environmental Management Programme” (“EMPr”).
 5. Any changes to, or deviations from the scope of the description set out in Section B and Condition 2 above must be accepted or approved in writing by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request such information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Notification of authorisation and right to appeal

6. The holder of the authorisation must in writing, within 14 (fourteen) calendar days of the date of this decision –
 - 6.1 notify all registered Interested and Affected Parties (“I&APs”) of –
 - 6.1.1 the outcome of the application;
 - 6.1.2 the reasons for the decision;
 - 6.1.3 the date of the decision; and
 - 6.1.4 the date of issue of the decision;
 - 6.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended);

- 6.3 draw the attention of all registered I&APs to the manner in which they may access the decision; and
- 6.4 provide the registered I&APs with:
 - 6.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 6.4.2 name of the responsible person for this Environmental Authorisation;
 - 6.4.3 postal address of the holder;
 - 6.4.4 telephonic and fax details of the holder;
 - 6.4.5 e-mail address, if any; and
 - 6.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the National Appeal Regulations, 2014 (as amended).

Commencement

- 7. The listed activities, including site preparation, must not commence within 20 (twenty) calendar days from the date the applicant notified the registered I&APs of this decision.
- 8. In the event that an appeal is lodged with the Appeal Administrator, the effect of this Environmental Authorisation is suspended until such time as the appeal is decided. In the instance where an appeal is lodged the holder may not commence with the activities, including site preparation, until such time as the appeal has been finalised and the holder is authorised to do so.

Written notice to the competent authority

- 9. A minimum of seven calendar days' notice, in writing, must be given to the competent authority before commencement of construction activities. Commencement for the purpose of this condition includes site preparation.
 - 9.1 The notice must make clear reference to the site details and EIA Reference number given above.
 - 9.2 The notice must also include proof of compliance with the following conditions described herein:
Conditions: 6, 7, 10.3, 14, 19, 20.1, 21.1 and 21.4.

Management of activity

- 10. The EMPr submitted, as dated September 2021 is hereby approved on condition that the following amendments are made and must be implemented.
 - 10.1 A Stormwater Management Plan must be compiled and submitted to the City of Cape Town: Water and Sanitation: Catchment, Stormwater and Management Branch for approval. A copy of the approved Stormwater Management Plan must be included in the amended EMPr;
 - 10.2 A Maintenance Management Plan ("MMP") must be compiled to ensure the buffer areas around the remaining wetland areas are managed accordingly. The MMP must therefore provide details on management of the buffer areas and minimisation of any further damage to the already modified state of the remaining wetlands; and
 - 10.3 A copy of the amended EMPr must be submitted to the Directorate, prior to the commencement of any construction activities.
- 11. An application for amendment of the EMPr must be submitted to the competent authority in terms of Chapter 5 of the EIA Regulations, 2014 (as amended), if any amendments are to be made to the outcomes of the EMPr and these may only be implemented once the amended EMPr has been authorised by the competent authority.

12. The approved EMPr must be included in all contract documentation for all phases of implementation.
13. A copy of the Environmental Authorisation and the approved EMPr must be kept at the site where the listed activities will be undertaken. Access to the site referred to in Section C above must be granted and the Environmental Authorisation and approved EMPr must be produced to any authorised official representing the competent authority who requests to see these for the purposes of assessing and/or monitoring compliance with the conditions contained herein. The Environmental Authorisation and EMPr must also be made available for inspection by any employee or agent of the applicant who works performs work at the site.

14.

Monitoring

14. The holder must appoint a suitably experienced Environment Control Officer ("ECO"), for the duration of the construction phase and site rehabilitation phases of implementation.

The ECO must–

- 14.1 be appointed prior to commencement of any land clearing or construction activities commencing;
- 14.2 ensure compliance with the EMPr and the conditions contained herein; and
- 14.3 keep record of all activities on site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO.

Environmental audit reports

15. The holder must, for the period during which the Environmental Authorisation and approved EMPr remain valid –
 - 15.1 ensure that compliance with the conditions of the Environmental Authorisation and the approved EMPr is audited;
 - 15.2 submit at least two environmental audit reports to the relevant competent authority during the construction phase. The holder must submit one audit report three (3) months after commencement of the construction phase and another audit report six (6) months after completion of the construction phase; and
 - 15.3 submit an environmental audit report every five (5) years while the Environmental Authorisation remains valid.
16. The environmental audit report must be prepared by an independent person with expertise and must address the objectives and contain all the information set out in Appendix 7 of the EIA Regulations, 2014 (as amended).

In addition to the above, the environmental audit report, must –

- 16.1 provide verifiable findings, in a structured and systematic manner, on–
 - (a) the level of compliance with the conditions of the Environmental Authorisation and the approved EMPr and whether this is sufficient or not; and
 - (b) the extent to which the avoidance, management and mitigation measures provided for in the approved EMPr achieve the objectives and outcomes of the approved EMPr and highlight whether this is sufficient or not;
- 16.2 identify and assess any new impacts and risks as a result of undertaking the activities;
- 16.3 evaluate the effectiveness of the approved EMPr;
- 16.4 identify shortcomings in the approved EMPr;
- 16.5 identify the need for any changes to the avoidance, management and mitigation measures provided for in the approved EMPr;
- 16.6 indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
- 16.7 include a photographic record of the site applicable to the audit; and
- 16.8 be informed by the ECO reports.

17. The holder must, within 7 days of the submission of the environmental audit report to the competent authority, notify all potential and registered I&APs of the submission and make the report available to anyone on request and, where the holder has such a facility, place on a publicly accessible website.

Specific conditions

18. The following measure adapted from the Final BAR dated September 2021 compiled by Ms. Natalie Ritsch of Lukhozi Consulting Engineers (Pty) Ltd must be implemented:

18.1 The site must only be accessed via planned and existing access roads, as far as possible.

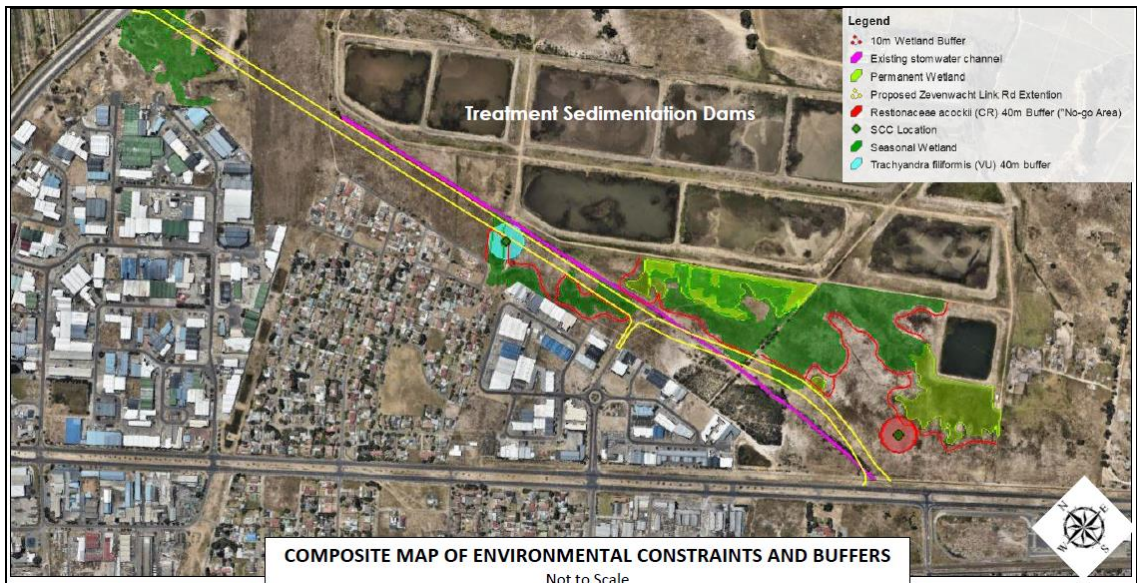
19. The following measure detailed in the correspondence from CapeNature dated 7 June 2021 must be implemented:

19.1 The site at which the *Acockii pillans* species occurs must be demarcated and managed as a no-go area.

20. The following measures recommended in the Freshwater Assessment dated March 2021 compiled by Ms. Jeanne Snyman of Everwater Freshwater Consultancy Services and as included in the EMPr, must be implemented:

20.1 All the wetland areas located beyond the buffer zones must be clearly demarcated and strictly treated as no-go areas during construction.

20.2 All identified wetland areas located outside of the development area as displayed in the image below must, as far as possible, be preserved with a 10m buffer for seasonal features and 15m for permanent features:



20.3 Contaminated runoff from the construction site must be prevented from directly entering bordering wetland features.

20.4 Erosion berms, silt traps, etc. must be in place for all areas where vegetation removal or excavation activities occur to ensure excess sedimentation does not enter the adjacent wetland areas.

20.5 Construction materials must be stored at least 30m away from the adjacent wetland areas and have suitable retention and bunding structures in place to prevent spills or runoff entering the wetlands.

21. The following measures recommended in the Botanical Impact Assessment dated 6 February 2021 as compiled by Mr. Jacques van Rensburg of Nature Works Environmental Consultancy and as included in the EMPr, must be implemented:

21.1 The boundary of proposed development footprint must be clearly demarcated before construction commences and construction activities (including the establishment of the

construction camp) must only be undertaken in the demarcated development footprint area.

- 21.2 The method(s) to demarcate the proposed development footprint must be approved by the appointed ECO.
- 21.3 The method(s) of vegetation removal and re-establishment footprint must be approved by the appointed ECO.
- 21.4 All plant species of conservation concern must be translocated to a suitable conservation area.
- 21.5 No construction-related disturbance must be allowed outside of the proposed development areas, including *inter alia*, dumping of fill, roads and all forms of temporary disturbance.
- 21.6 The site must be suitably rehabilitated after the construction period has ended. This must include measures to *inter alia*:
 - 22.6.1 improve the conditions of the site from its previous state;
 - 22.6.2 re-seeding the cleared areas with locally-sourced seed of suitable species;
 - 22.6.3 brush-packing with locally cleared indigenous vegetation;
 - 22.6.4 rectify(-cation) where erosion has occurred;
 - 22.6.5 reinstating areas to its natural topography of the area;
 - 22.6.6 reinstating drainage lines affected by construction to approximate their original profile, or where not feasible, as agreed to by the ECO and Principal Agent/Engineer; and
 - 22.6.7 using locally occurring indigenous plants as part of landscaping.

22. An integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a waste disposal facility licensed in terms of the applicable legislation
23. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains include: archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings and graves or unmarked human burials.

A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.

F. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.
3. If the holder does not commence with the listed activities within the period referred to in Condition 2, this Environmental Authorisation shall lapse for the listed activities, and a new application for Environmental Authorisation must be submitted to the Competent Authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment in this

regard must be made to the Competent Authority prior to the expiry date of the Environmental Authorisation.

4. The holder must submit an application for amendment of the Environmental Authorisation to the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the NEMA EIA Regulations, 2014 (as amended) must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the Competent Authority must only be notified of such changes.

5. The manner and frequency for updating the EMPr is as follows:

Amendments to the EMPr must be done in accordance with Regulations 35 to 37 of the NEMA EIA Regulations, 2014 (as amended) or any relevant legislation that may be applicable at the time.

G. APPEALS

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

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date 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 (as amended) to the Appeal Administrator; and
 - 1.2 Submit a copy of the appeal to any registered Interested and Affected Parties, 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 Interested and Affected Parties -
 - 2.1 Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014 (as amended) to the Appeal Administrator; and
 - 2.2 Submit a copy of the appeal to the holder of the decision, any registered Interested and Affected Party, 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 Interested and Affected Party 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: Attention: Marius Venter
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 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 the Appeal Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

H. 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 future of our environment is appreciated.

Yours faithfully

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

DATE OF DECISION: 07 FEBRUARY 2022

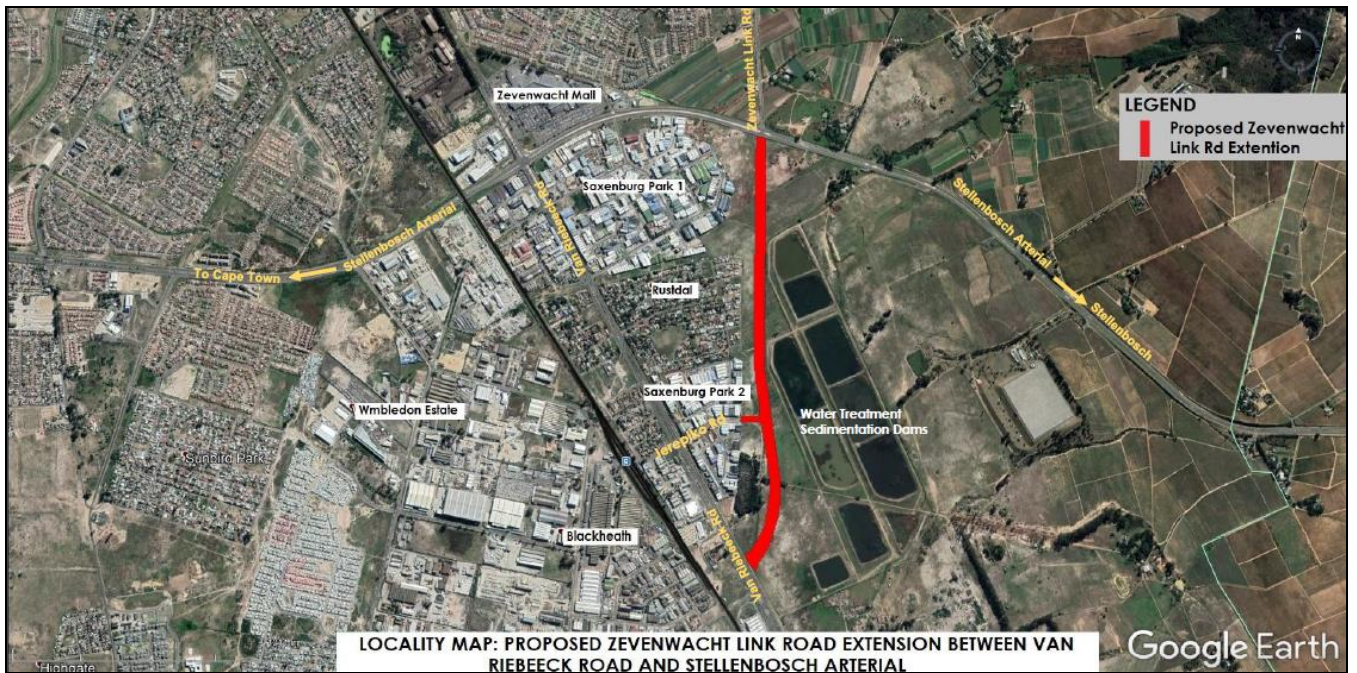
Copied to: (1) Ms. Natalie Ritsch (Lukhozi Consulting Engineers (Pty) Ltd.)

E-mail: n.ritsch@lukhozi.co.za

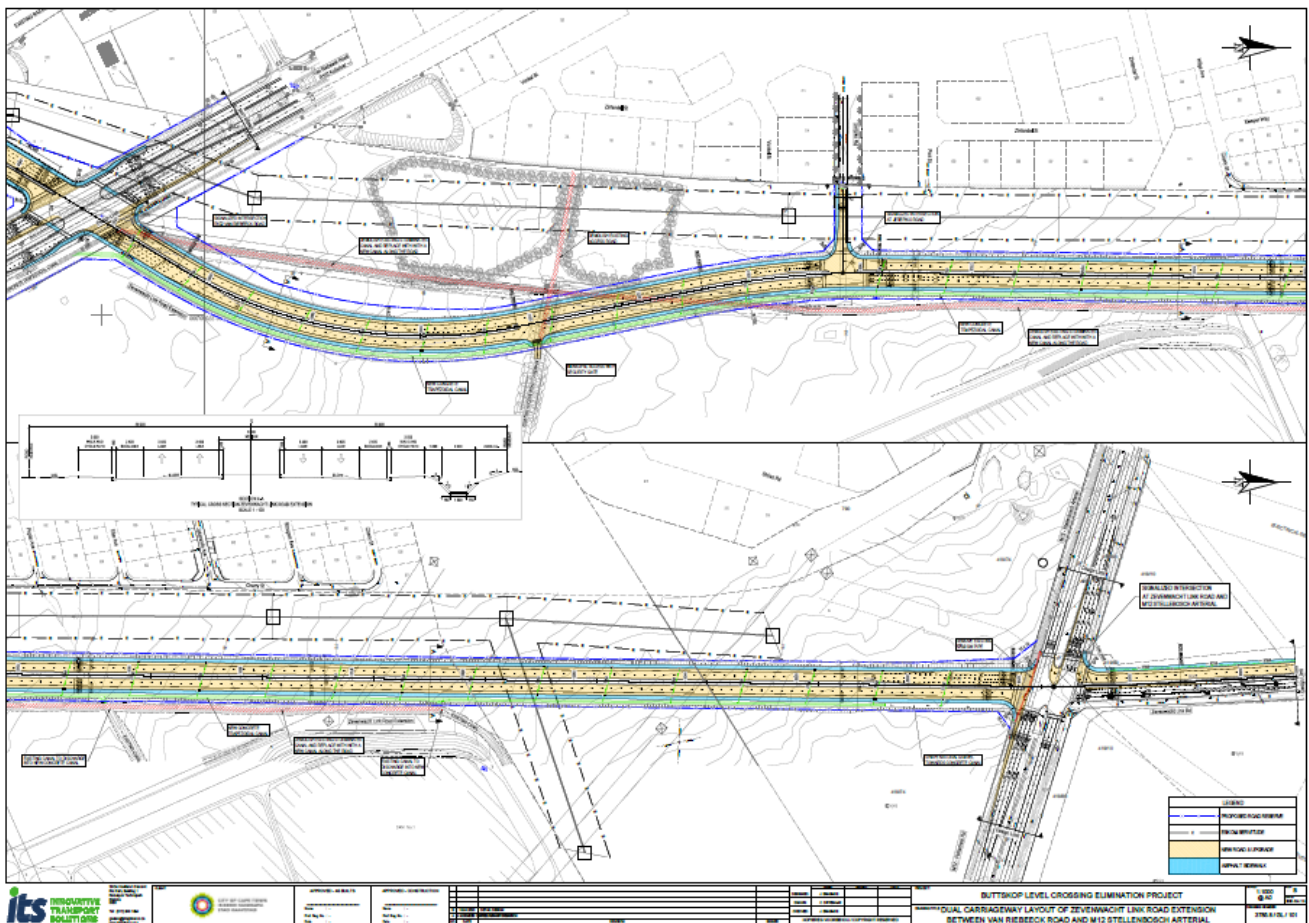
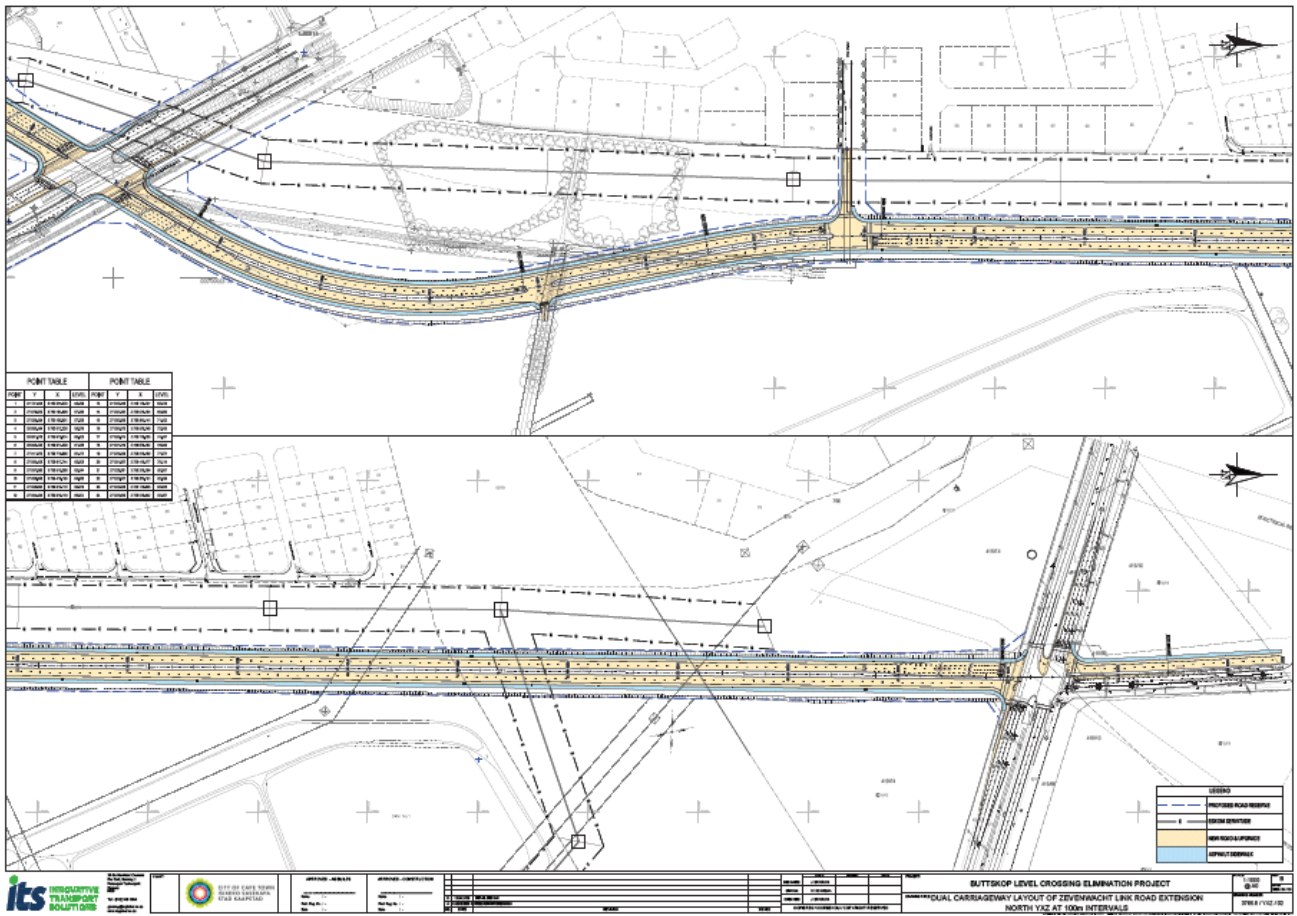
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ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: THE PREFERRED LAYOUT PLANS



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 dated 30 June 2021, the Final BAR dated September 2021 and the EMPr as dated September 2021;
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation, Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the NEMA; and
- d) The comments received from I&APs and responses to these, included in the Final BAR.

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:

- all registered I&APs on the stakeholder database were notified via email, letter and letter drops on 7 May 2021 and 14 July 2021 regarding the pre-application and application process;
- an advertisement was placed in the local Tygerburger newspaper on 5 May 2021;
- notices were placed on site as well as at strategic locations;
- electronic copies of the Pre-Application and Draft BAR were made available on the EAP's website (www.lukhozi.co.za) as well as distributed via WeTransfer and other accessible platforms on 7 May 2021 and 15 July 2021;
- the pre-application BAR with all the associated appendices was made available for a 30-day comment period from 7 May 2021 to 7 June 2021; and
- the Draft BAR with all the associated appendices was made available for a 30-day comment period from 15 July 2021 to 16 August 2021.

This Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements. All the comments and responses made were included in the Final BAR.

2. Alternatives

An investigation was undertaken by the City of Cape Town, which looked at various network options, with the main aim of eliminating the Buttskop level rail crossing. A number of alternatives were investigated, and one alternative was identified as the preferred alternative.

As such, the preferred location/route alternative and the no-go alternative were comparatively assessed.

This is the only and preferred location/route alternative as the road extension and associated upgrades are site specific and must be undertaken in the site location in order to link to the existing road infrastructure located in the surrounding area.

Further, the preferred location/route alternative is deemed as preferred due to the following:

- the improved linkage it provides to the broader areas;
- vacant and available land is available for road extension; and
- no significant biophysical impacts are expected, given the site's conditions.

Location/route alternative (preferred by the applicant):

The preferred location/route alternative is for the future elimination of the Buttskop rail level crossing in Blackheath. The proposal includes the extension of Zevenwacht Link Road between van Riebeeck Road and Stellenbosch Arterial. The proposed road and associated infrastructure will require the infilling of seasonal wetlands and clearance of more than 300m² Critically Endangered indigenous vegetation. The proposed development includes *inter alia*, the following:

The proposed Zevenwacht Link Road between van Riebeeck Road and Stellenbosch Arterial will be approximately 2,06km in length. A dual carriageway with a median that varies in width between approximately 1,9m and 5,0m will be constructed. The cross-section comprises of two approximately 3,4m lanes, an approximate 2,4m surfaced shoulder and an approximate 0,45m kerb and channel combination on both the shoulder side and the median side per direction of travel. Turning lanes at intersections will be approximately 3.1m wide. The road width per direction (kerb to kerb) is approximately 9,8m and approximately 13.9m at intersections. The road reserves near van Riebeeck Road along the 425m horizontal curve and near the Stellenbosch Arterial intersection will be widened.

An approximate 3m wide sidewalk will be constructed on either side of the dual carriageway.

A new 7.4m wide concrete trapezoidal stormwater canal along the eastern side of the Zevenwacht Link Road will be constructed and the Zevenwacht Link Road extension will discharge stormwater into the canal.

The existing Jeripiko Road will be extended to link up with Zevenwacht Link Road to form a T-junction which will comprise:

- two approximately 3,4m wide lanes;
- kerb measuring approximately 0,45m;
- channel combination on both sides; and
- walkway on the southern side measuring approximately 1,5m in length.

The existing private access (extension of Jeripiko Road) towards the Blackheath Water Treatment Plant will be relocated to link up with the Zevenwacht Link. This will include an opening through the median island and a short right turning lane to allow for full access. The road will remain a private road with a security gate.

The new Zevenwacht Link Road / Jeripiko Road Intersection will be signalised.

Road lighting will be constructed along the road extensions, which will connect to existing services.

The abovementioned works will be undertaken in two phases as follows:

Phase 1 comprises:

- construction of a single carriageway road between Van Riebeeck Street and Polkadraai Road; and
- extension of Jeripiko Street further east to intersect with the new Zevenwacht Link Road extension.

Phase 2 comprises:

- completion of the dual carriageway; or
- extending the dualling to Albert Philander in line with the phased implementation of the Zevenwacht Link Road south of Van Riebeeck Road (NB! This component is not included in the scope of this Environmental Authorisation.)

The total development footprint will amount to approximately 8.95ha.

No-go alternative (rejected by the applicant):

The no-go alternative entails maintaining the *status quo*, i.e. no construction of the road extension and associated components. The no-go alternative was rejected as it will mean that the municipality will not be able to realise its goal to improve the safety of all road users in the area. It will also mean that the safety concerns and aspects related to the Buttskop rail level crossing will continue to be a major problem for the area while traffic congestion will continue to be an unresolved issue.

3. Impact Assessment and Mitigation measures

3.1 Activity need and desirability

The proposed development is required due to the need for safety measures spurred on by a number of fatal crashes that have taken place at the Buttskop rail level crossing in Blackheath. In responding to various complaints relating to traffic safety and law enforcement concerns from the public, the City of Cape Town proposes to construct a new road, the Zevenwacht Link Road Extension between Van Riebeeck Road and Stellenbosch Arterial aimed at (and to eventually) completely eliminating the level crossing at Buttskop Road. The proposed development will also contribute towards assisting with mobility and urban efficiency by improving the traffic flow in the local area.

The proposed development is consistent with the relevant forward planning policies and frameworks applicable to the area.

3.2 Regional/Planning Context

The affected properties are zoned as follows:

ID: ST410-22: Agricultural
ID: ST410-24: Transport II
ID: ST410-29: Transport II
ID: ST410-30: Transport II
ID: ST410-31: Transport II
ID: ST410-32: Transport II
ID: ST410-33: Agricultural
ID: ST410-9-RE: Agricultural
ID: ST419-83: Agricultural
ID: ST419-84: Transport II
ID: ST419-112: Transport II
ID: ST419-74-RE: Agricultural

The relevant planning applications are required to permit the proposed development. The Transport II zoned erven are however zoned appropriately for use as public road. The Western Cape Department of Agriculture in their comment dated 21 October 2021 indicated they have no objection to the proposed development.

3.3 Botanical Impacts

The proposed site is a greenfield site, as it is undeveloped. The proposed extension will however largely take place within a road reserve but will result in the clearance of more than 300m² Critically Endangered indigenous vegetation beyond the road reserve.

According to the Botanical Impact Assessment dated 6 February 2021, 90% of the site is considered to be of low botanical sensitivity and no portions of the site are deemed to be of high or very high botanical sensitivity. Given the state of the site, the vegetation clearance will largely take place within a degraded habitat with no species of conservation concern. The botanical impacts will therefore be of low significance. Measures have also been made part of this Environmental Authorisation to further help mitigate the botanical impacts.

3.4 Freshwater Impacts

A Freshwater Impact Assessment Report was compiled by EverWater Freshwater Consulting Services to assess the potential freshwater impacts associated with the proposed development. According to the freshwater specialist, the freshwater features found on site include seasonal wetlands (southern portion of the site), permanent wetlands (southern portion of the site) and critically modified seasonal wetland flat areas (northern portion of the site).

The 'critically modified wetland flat' has completely lost its natural vegetation and wetland function and have very little rehabilitation potential. Loss of any part of this wetland area due to the proposed development will result in negligible negative impacts. The permanently wetland flat areas are currently artificially fed through release from existing retention dams and were found to be in a moderately to largely modified state. The seasonal wetland flat areas have very little biodiversity left, is covered mostly with kweek grass and were found to be in a generally moderately to largely modified state. The seasonal wetland flat areas south of M12 (Polkadraai

road) / Zevenwacht Link Rd intersection was also found to be in a critically modified state and having very little rehabilitation potential. As such, loss of any part of this wetland area would be considered negligible.

In view of the above, the on-site freshwater features have low Environmental Impact Sensitivity. Furthermore, any negative impacts on the abovementioned freshwater features will be limited to the southern portion of the site, since the northern portion comprises critically modified seasonal wetland flat areas which is of very little to no wetland function and conservational value. The impacts in this regard include loss of biodiversity, flow modification and water quality impacts. The impact on loss of biodiversity was determined to be of low significance due to the seriously modified state of the wetland flat areas, together with their limited function and low biodiversity.

The impact on flow modification would be negligible, as the majority of the wet areas will not directly be impacted on. This means that only a small level of fragmentation will occur in seasonal wetland area that is already in a moderate to largely modified state.

The impact on water quality impacts would be of a short-term and low negative significance, as it would be limited to the clearing of vegetation during the construction phase, which could pose the risk of erosion and sedimentation. During the operational phase, surface runoff following a rainfall event, particularly runoff from impervious surfaces, could cause pollutants to wash into the wetland areas. This impact would be short-term and low negative significance during the construction phase and of low negative significance during the operational phase. In order to mitigate potential negative impacts on the remaining wetland areas, the specialist has recommended the establishment of buffer areas around the remaining wetlands on either side of the proposed road. Effective stormwater management will further mitigate these impacts. A Stormwater Management Plan and a MMP will be compiled once detail designs have been finalised. The MMP will provide details on management of the buffer areas and minimisation of any further damage to the already modified state of the remaining wetlands. These measures have been included as part of this Environmental Authorisation as well as the provisions of the EMPr to further mitigate the freshwater impacts.

The required Water Use Licence Application ("WULA") process is being followed in terms of the manner as prescribed by the Competent Authority.

3.5 Visual/Sense of place

Given the nature of the proposed development no significant negative visual impacts are expected. During the construction phase, the visual impacts will be temporary and managed in accordance with the provisions of the EMPr.

3.6 Heritage

No impacts on heritage resources are anticipated. Heritage Western Cape in correspondence dated 19 January 2021, confirmed that there is no reason to believe that the development will impact on heritage resources and no further action under Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) is required.

3.7 Construction impacts

Construction activities (mainly site clearing and use of mechanical equipment) will generate noise and associated volumes of dust. The EMPr includes dust and noise control measures that will be implemented on site and at areas of high dust generation. With the effective implementation of these measures, the impacts are regarded as low negative.

3.8 Socio-economic

The proposed development will result in positive impacts such as improving the safety of all road users in the area and also enhancing road infrastructure available to pedestrians and cyclists. The proposed development will at the same time reduce traffic congestion and travelling times around the area. Employment opportunities will also be created during the construction phase.

The development will result in both negative and positive impacts.

Negative Impacts:

- Loss of some low sensitivity I indigenous vegetation;
- Flow modification and water quality impacts; and
- Construction phase impacts.

Positive impacts:

- Provision of employment opportunities during the construction phase;
- Improved safety and infrastructure for road users and pedestrians;
- Improved linkage to the broader area and road network; and
- Use of available undeveloped land for the road extension.

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 activity(s) (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.

5. Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the Competent Authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated 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 listed activities can be mitigated to acceptable levels.

You are reminded of your general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: “Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.”

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