

REFERENCE: 16/3/3/1/D6/21/0001/21
NEAS: WCP/EIA/0000895/2021
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: **08 November 2021**

The Municipal Manager
Mossel Bay Municipality
101 Marsh Street
MOSSSEL BAY
6506

Attention: Mr. E. Louw

Tel: (044) 606 5000
E-mail: elouw@mosselbay.gov.za

Dear Sir

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 ON 7 APRIL 2021: PROPOSED INSTALLATION OF A WATER PIPELINE FROM AN EXISTING BOREHOLE TO THE HERBERTSDALE RESERVOIR WITHIN THE R327 ROAD RESERVE AND THE REMAINDER OF ERF 24 HERBERTSDALE, MOSSSEL BAY MUNICIPALITY.

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 **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to **the Preferred Alternative**, described in the Final Basic Assessment Report ("FBAR"), dated 20 July 2021 as prepared and submitted by Engineering Advice & Services (Pty) Ltd, the appointed environmental assessment practitioner ("EAP").

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 Municipal Manager
 Mossel Bay Municipality
 % Mr. E. Louw
 101 Marsh Street
 Mossel Bay
 6506

Tel: 044 606 5000
 E-mail: elouw@mosselbay.gov.za

The abovementioned applicant is the holder of this Environmental Authorisation (hereinafter referred to as “**the Holder**”).

B. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
Environmental Impact Assessment Regulations Listing Notice 1 Government Notice No. 326 of 7 April 2017	
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>	More than 10 cubic metres of material will be removed and reinstated within the Langtouw River watercourse.

<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>	
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The abovementioned list is hereinafter referred to as “**the listed activity**”.

The Holder is herein authorised to undertake the following alternative that includes the listed activity as it relates to the development and development footprint area:

The project entails the installation of a water pipeline within the road reserve of the R327 to transport or pipe water from an existing borehole for approximately 9713 m before diverting east off the R327 and running/extending behind the town of Herbertsdale towards the Herbertsdale Reservoir. The pipeline diameter will be 110 mm HDPE (High Density Polyethylene) Pipes and will be located within 1 – 5 metres of the road (closest to the farm boundary fences where possible). The approximate measurements of trenches/excavations for the pipeline installation will be:

- 0.71 metre width
- 1.41 – 1.61 metre depth/height

The borehole is located alongside the road, north of Herbertsdale, and it is proposed to abstract 173m³ of groundwater per day. A water treatment works (WTW) is located in close proximity and will be used to treat the groundwater prior to it being piped to Herbertsdale. The amount of space for this infrastructure is limited and it will be in close proximity to a non-perennial mountain stream tributary to the Dwars River. The water treatment plant will discharge a small volume of the impurities in the form of wastewater towards the dry channel. The proposed pipeline will cross numerous watercourses including the Langtouw River. The project requires the removal and/or reinstatement of gabions within the Langtouw River at the bridge, which is located approximately 5.1 km NNE along the R327. The following works are planned to be conducted at the Langtouw River Bridge crossing:

- attaching the proposed water pipeline along the side of the bridge
- 1.1 m x 4.0 m gabion to be removed and reinstated
- 1.1 m x 3.5 m reinforced gabion to be removed and reinstated
- 1.1 m x 15 m scour rock removed and reinstated

The proposal also includes the Maintenance Management plan for on-going maintenance of the infrastructure to be constructed.

The existing bridge spanning the Langtouw River will also undergo upgrades.

A final design plan as well as specific maintenance method statements must be submitted to this Directorate as part of the EMPr.

C. SITE DESCRIPTION AND LOCATION

The water pipeline will be located within the road reserve of the R327 to transport or pipe water from an existing borehole for approximately 9713 m before diverting east off the R327 and leading behind the town of Herbertsdale towards the Herbertsdale Reservoir.

Coordinates of the pipeline

Position:	Latitude (South)	Longitude (East)
Starting point	33° 57' 11,26"	21° 47' 41,89"
Middle point	33° 58' 57,71"	21° 47' 2,80"
End point	34 ° 0' 46,52"	21° 46' 13,94"

Coordinates of the borehole:

Position:	Latitude (South)	Longitude (East)
	33° 57' 11.26"	21° 47' 41.89"

Coordinates of the Water treatment plant:

Position:	Latitude (South)	Longitude (East)
	33° 57' 11.52"	21° 47' 41.64"

SG digit code s:

Farm Number	Farm Name	SG 21 Digit Code
RE/86	OUDEBERG	CO510000000008600000
1/86	OUDEBERG	CO510000000008600001
RE/109	LANGFONTEIN	CO5100000000010900000
33/109	LANGFONTEIN	CO5100000000010900033
1/109	LANGFONTEIN	CO5100000000010900001
18/109	LANGFONTEIN	CO5100000000010900018
4/109	LANGFONTEIN	CO5100000000010900004
12/109	LANGFONTEIN	CO5100000000010900012
11/109	LANGFONTEIN	CO5100000000010900011
14/109	LANGFONTEIN	CO5100000000010900014
5/109	LANGFONTEIN	CO5100000000010900005
41/177	HEMELROOD	CO5100000000017700041
10/177	HEMELROOD	CO5100000000017700010
37/177	HEMELROOD	CO5100000000017700037
35/177	HEMELROOD	CO5100000000017700035
39/177	HEMELROOD	CO5100000000017700039
46/177	HEMELROOD	CO5100000000017700046

32/177	HEMELROOD	CO5100000000017700032
44/177	HEMELROOD	CO5100000000017700044
RE/65/177	HEMELROOD	CO5100000000017700065
RE/24	ERF HERBERTSDALE	CO5100050000002400000

Refer to Annexure 1: Locality Plan of this Environmental Authorisation.

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER (EAP)

Engineering Advice & Services (Pty) Ltd
 % Ms Lea Steyn
 73 Heugh Road
WALMER
 Port Elizabeth
 6013

Tel: (041) 581 2421

Email: lea@easpe.co.za

Website: www.easemp.co.za<<http://www.easemp.co.za>

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **11 November 2026**:
2. The non-operational component of the Environmental Authorisation is subject to the following:
 - 2.1 The holder must commence with the listed activity and conclude the development activity (construction phase) by **11 November 2023**. All rehabilitation must be completed by said date; and
 - 2.2 The holder must finalise the post construction rehabilitation and monitoring requirements within a period of 6-months from the date the development activity (construction phase) is concluded.

3. The post-construction and maintenance component (operational phase) of this Environmental Authorisation is granted until **11 November 2026** during which period all maintenance activities, monitoring requirements and reporting must be finalised.

Note: The maintenance monitoring requirements should be completed at least six (6) months, prior to expiry of the validity period of an environmental authorisation to ensure the Holder is able to comply with the environmental auditing requirements in time.

Failing which, this Environmental Authorisation shall lapse, unless the environmental authorisation is amended in accordance with the relevant process contemplated in the Environmental Impact Assessment Regulations promulgated under the National Environmental Management Act, 1998 (Act no. 107 of 1998).

4. The Holder is authorised to undertake the listed activities specified in Section B above in accordance with the Preferred Alternative described in the FBAR dated 20 July 2021 on the site as described in Section C above.

The Holder is herein authorised to undertake the following alternative that includes the listed activity as it relates to the development and development footprint area:

The project entails the installation of a water pipeline within the road reserve of the R327 to transport or pipe water from an existing borehole for approximately 9713 m, before turning east off the R327 and running behind the town of Herbertsdale towards the Herbertsdale Reservoir. The pipeline diameter will be 110 mm HDPE (High Density Polyethylene) Pipes and will be located within 1 – 5 metres of the road (closest to the farm boundary fences where possible). The approximate measurements of trenches/excavations for the pipeline installation will be:

- 0.71 metre width
- 1.41 – 1.61 metre depth/height

The borehole is located alongside the road, north of Herbertsdale and it is proposed to abstract 173m³ of groundwater per day. A water treatment works (WTW) is located in close proximity and will be used to treat the groundwater, prior to it being piped to Herbertsdale. The amount of space for this infrastructure is limited and it will be in close proximity to a non-perennial mountain stream tributary to the Dwars River. The water treatment plant will discharge a small volume of the impurities in wastewater towards the dry channel. The proposed pipeline will cross numerous watercourses including the Langtouw River. The project requires the removal and/or reinstatement of gabions within the Langtouw River at the bridge located approximately 5.1 km NNE along the R327. The following works are planned to be conducted at the Langtouw Bridge crossing:

- attaching the pipeline along the side of the bridge
- 1.1 m x 4.0 m gabion to be removed and reinstated
- 1.1 m x 3.5 m reinforced gabion to be removed and reinstated

- 1.1 m x 15 m scour rock removed and reinstated

The proposal also includes the Maintenance Management Plan for on-going maintenance of the infrastructure to be constructed.

The existing bridge spanning the Langtou River will also undergo upgrades.

A final design plan as well as specific maintenance method statements must be submitted to this Directorate within the EMPr.

5. This Environmental Authorisation may only be implemented in accordance with an approved Environmental Management Programme ("EMPr").
6. The Holder shall be responsible for ensuring 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.
7. Any changes to, or deviations from the scope of the alternative described in section B 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 information in order 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 and administration of appeal

8. The Holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 8.1. notify all registered Interested and Affected Parties ("I&APs") of –
 - 8.1.1. the decision reached on the application;
 - 8.1.2. the reasons for the decision as included in Annexure 3;
 - 8.1.3. the date of the decision; and
 - 8.1.4. the date when the decision was issued.
 - 8.2. 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 G below;
 - 8.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 8.4. provide the registered I&APs with the:
 - 8.4.1. name of the Holder (entity) of this Environmental Authorisation,
 - 8.4.2. name of the responsible person for this Environmental Authorisation,
 - 8.4.3. postal address of the Holder,
 - 8.4.4. telephonic and fax details of the Holder,

- 8.4.5. e-mail address, if any, of the Holder,
 - 8.4.6. 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 2014 National Appeals Regulations (as amended).
- 8.5. 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.
- 8.6. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided i.e. the listed activities, including site preparation, must not commence until the appeal is decided.

Written notice to the Competent Authority

9. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
- 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 no.: 8, 11, 13 and 22.**
 - 9.3. Seven calendar days' notice, in writing, must be given to the Competent Authority on the commencement of any maintenance activities to be undertaken during the period that the environmental authorisation is valid.
10. Seven calendar days' written notice must be given to the Competent Authority on completion of the construction activities.

Management of activity

11. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation is hereby **approved**, subject to the following requirements:
- 11.1. The EMPr must be amended to incorporate the following —
 - 11.1.1. All ECO monthly compliance monitoring reports **must** be submitted to this Directorate on a monthly basis.
 - 11.1.2. Incorporate all the conditions given in this Environmental Authorisation;
 - 11.1.3. Include the final design and specific maintenance method statements.
 - 11.2. The amended EMPr must be submitted to the Competent Authority prior to the construction activities commencing on site.
12. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

13. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), for the duration of the construction and rehabilitation phases of implementation contained herein.
14. The ECO must–
 - 14.1. be appointed prior to commencement of any works (i.e. removal and movement of soil);
 - 14.2. ensure compliance with the EMPr and the conditions contained herein;
 - 14.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;
 - 14.4. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.
15. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activities and be made available to anyone on request, and where the Holder has website, such documents must be made available on such publicly accessible website.
16. Access to the site referred to in Section C must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the Competent Authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Auditing

17. The Holder must, for the period during which the environmental authorisation; and EMPr remain valid ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited.
18. The frequency of auditing of compliance with the conditions of the environmental authorisation and of compliance with the EMPr, must adhere to the following programme:
 - 18.1. Auditing during the non-operational phase (construction activities):
 - 18.1.1. During the period which the activities have been commenced with on site until the construction of the major culvert and post construction rehabilitation and monitoring requirements have been completed, the Holder must ensure annual environmental audit(s) are undertaken and the Environmental Audit Report(s) submitted annually to the Competent Authority.
 - 18.1.2. A final Environmental Audit Report for the construction phase (non-operational component) must be submitted to the Competent Authority within **three (3)**

months of completion of the post construction rehabilitation and monitoring requirements.

18.2. Auditing during the operational phase (post construction and maintenance activities):

18.2.1. During the post-construction and maintenance phase, the Holder must ensure annual environmental audit(s) are undertaken for a period three (3) consecutive years following the completion of the construction phase and the Environmental Audit Report(s) submitted annually to the Competent Authority.

Note: The final auditing requirements should be completed and submitted at least three months prior to expiry of the validity period of the environmental authorisation to ensure the Holder is able to comply with all the environmental auditing and reporting requirements and for the competent authority to be able to process it timeously.

19. The Environmental Audit Report(s), must –

19.1. be prepared and submitted to the Competent Authority, by an independent person with the relevant environmental auditing expertise. Such person may not be the ECO or EAP who conducted the EIA process;

19.2. provide verifiable findings, in a structured and systematic manner, on–

19.2.1. the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and

19.2.2. the ability of the measures contained in the EMPr to sufficiently provide for the avoidance, management and mitigation of environmental impacts associated with the undertaking of the activity.

19.3. identify and assess any new impacts and risks as a result of undertaking the activity;

19.4. evaluate the effectiveness of the EMPr;

19.5. identify shortcomings in the EMPr;

19.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;

19.7. 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;

19.8. indicate the date on which the maintenance/ rehabilitation was commenced with and the progress of the rehabilitation;

19.9. include a photographic record of the site applicable to the audit; and

19.10. be informed by the ECO reports.

20. The Holder must, within 7 calendar days of the submission of the 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 on a publicly accessible website (if applicable).

Specific Conditions

21. The No-Go areas must be physically and clearly demarcated prior to any earthworks commencing. This area may not be used to store any materials. All construction related activities such as materials storage and site camp establishment must occur within an identified area approved by the ECO.
22. A final design plan of the structures and the specific method statements for the maintenance works must be submitted to the Competent Authority prior to the construction of the pipeline commencing. This final design plan and detailed method statements for maintenance must be included in the amended EMPr that must be submitted to the competent authority.
23. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. 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 may only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant Heritage Resources Authority.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); 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 with heritage significance; rock art and rock engravings; shipwrecks; and/or graves or unmarked human burials including grave goods and/or associated burial material.

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.

Amendment of Environmental Authorisation and EMPr

2. If the Holder does not start with all listed activities and exceed the threshold of each listed activity within the period referred to in Section G, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

Where a validity period has been specified for operational aspects, the onus is on the Holder to ensure the activities are always undertaken in terms of a valid environmental authorisation.

If the Holder wishes to extend a validity period specified in the Environmental Authorisation, an application for amendment in this regard must be made to the relevant Competent Authority prior to the expiry date of such a period.

Note:

- (a) Failure to lodge an application for amendment prior to the expiry of the validity period of the Environmental Authorisation will result in the lapsing of the Environmental Authorisation.
- (b) It is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity if the competent authority has not granted an Environmental Authorisation for the undertaking of the activity.

3. The Holder is required to notify the Competent Authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

In assessing whether to amend or correct the EA, the Competent Authority may request 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.

The onus is on the Holder to verify whether such changes to the environmental authorisation must be approved in writing by the relevant competent authority prior to the implementation thereof.

Note: An environmental authorisation may be amended or replaced without following a procedural requirement contained in the Regulations if the purpose is to correct an error and the correction does not change the rights and duties of any person materially

4. The manner and frequency for updating the EMPr is as follows:
 - (a) Any further amendments to the EMPr, other than those mentioned above, must be approved in writing by the relevant competent authority.
 - (b) An application for amendment to the EMPr must be submitted to the Competent Authority if any amendments are to be made to the impact management outcomes of the EMPr. Such amendment(s) may only be implemented once the amended EMPr has been approved by the competent authority.

The onus is however on the Holder to confirm the legislative process requirements for the above scenarios at that time.

5. Where an amendment to the impact management outcomes of an EMPr is required before an environmental audit is required in terms of the environmental authorisation, an EMPr may be amended on application by the Holder of the environmental authorisation.

Compliance with Environmental Authorisation and EMPr

6. Non-compliance with a condition of this environmental authorisation or EMPr is an offence in terms of Section 49A(1)(c) of the National Environmental Management Act, 1998 (Act no. 107 of 1998, as amended).
7. This Environmental Authorisation is granted for a set period from date of issue, during which period all the listed activities must be commenced with and concluded, including the post-construction rehabilitation; monitoring requirements and environmental auditing requirements which must be concluded.

The validity period and conditions of the environmental authorisation has been structured to promote the effective administration of the environmental authorisation and guidance has been provided to ensure the compliance thereof within the validity period, for example:

- ❖ Failure to complete the post construction rehabilitation and monitoring requirements at least six months prior to expiry of the validity period of an environmental authorisation may result in the Holder not being able to comply with the environmental auditing requirements in time.
 - ❖ Failure to complete the final auditing requirements at least three months prior to expiry of the validity period of the environmental authorisation may result in the Holder not being able to comply with all the environmental auditing and reporting requirements and may result in the competent authority not being able to process the audit timeously.
8. This Environmental Authorisation is subject to compliance with all the peremptory conditions (i.e. 6, 7, 9 and 11). Failure to comply with all the peremptory conditions prior to the physical implementation of the activities (including site preparation) will render the entire EA null and void. Such physical activities shall be regarded to fall outside the scope of the Environmental Authorisation and shall be viewed as an offence in terms of Section 49A(1)(a) of NEMA.
 9. In the event that the Environmental Authorisation should lapse, it is an offence in terms of Section 49A(1)(a) of NEMA for a person to commence with a listed activity, unless the competent authority has granted an Environmental Authorisation for the undertaking of the activity.
 10. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

G. APPEALS

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 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs including any Organ of State with interest in the matter; and
 - 1.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAAdmin.George@westerncape.gov.za
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 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision and any registered I&AP including any Organ of State with an interest in the matter; and
 - 2.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAAdmin.George@westerncape.gov.za
 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 Appeal Administrator at 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: Appeal Administrator
 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 the Appeal Administrator 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. GAVIN BENJAMIN
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION3)
WCG: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: **08 NOVEMBER 2021**

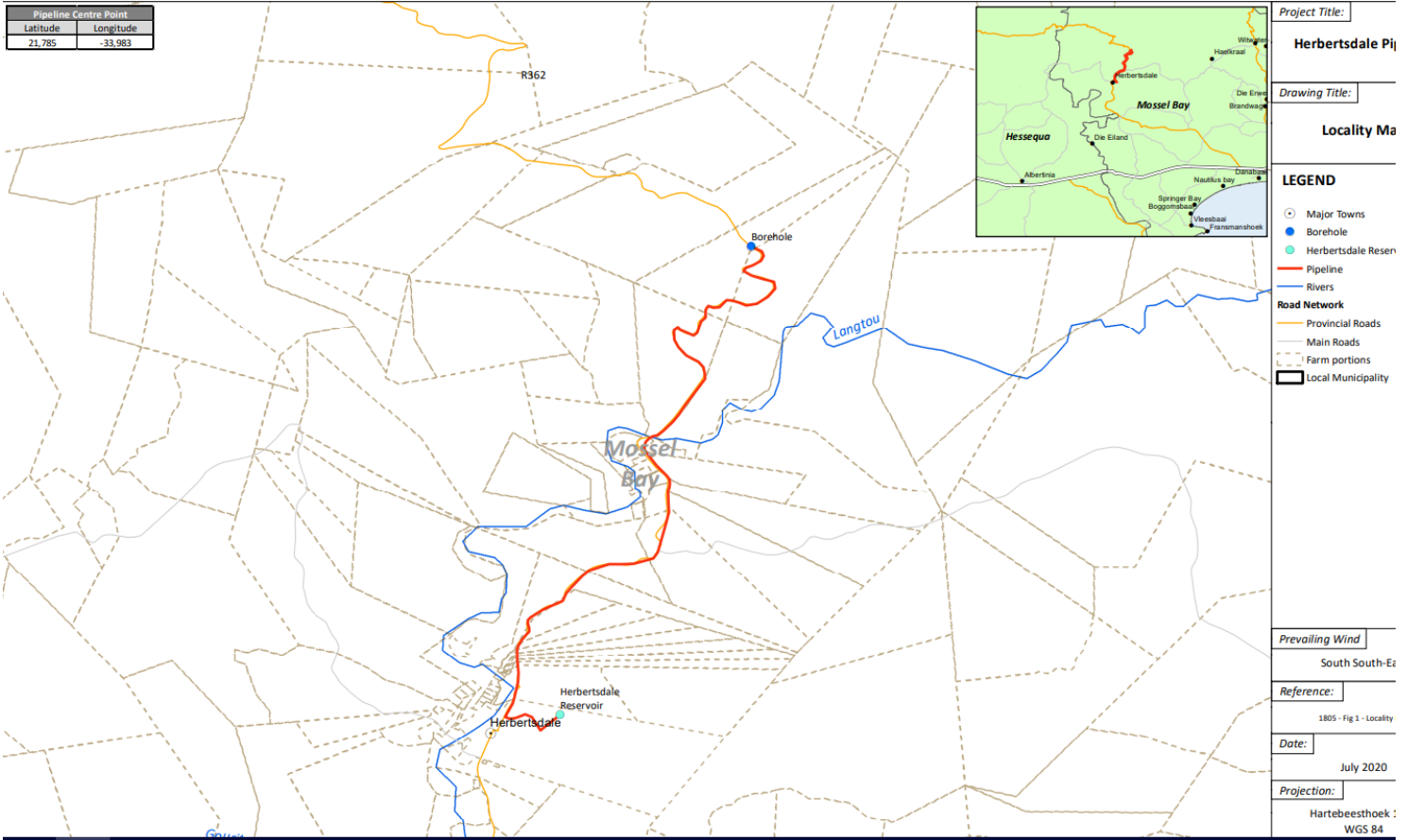
Copied to: Ms. L. Steyn Engineering Advice & Services (Pty) Ltd (EAP)

Email: lea@easpe.co.za

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/3/1/D6/21/0001/21
NEAS REFERENCE: WCP/EIA/0000895/2021

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: 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 on 20 April 2021, the Final Basic Assessment Report (FBAR) and EMPr submitted together with the FBAR on 20 July 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 National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the FBAR dated 20 July 2021;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) The Department had sufficient information at its disposal to understand the environmental and spatial context and the case officer is also familiar with the site and surrounding area.

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. Legislated Requirements

The majority of the pipeline will be within the proclaimed road reserve of the R327, with some sections falling outside of the road reserve, thus triggering Activity 19 of listing Notice. As part of this Authorisation, the Maintenance Management Plan that was included in the Basic Assessment Process is approved as part of the EMPr in this Environmental Authorisation.

2. Public Participation

A sufficient public participation process was undertaken, and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulation 2014 for public involvement. The public participation process included:

- identification of and engagement with interested and affected parties (I&APs) including organs of state which have jurisdiction in respect of the activity to which the application relates;
- fixing a notice board at the site and at the site since 19 February 2021;
- giving written notice to the owners and occupiers of land adjacent to the site and any alternative site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 22 February 2021;
- Redistribution of the Notification letter to I&AP's from whom read delivery notices were not received, requesting a read receipt or confirmation of receipt of email notification on 23 February 2021;
- Hard copies of the first Notification letter & BID were left at the Herbertsdale Public Library;

- A3 Notice Signs were also put up at the local Spaza shop as well as the Herbertsdale Agriland;
- the placing of a newspaper advertisement in the 'Mossel Bay Advertiser' on 19 February 2021; and
- making the draft Basic Assessment Report available to I&APs for public review from 8 June 2021 until 13 July 2021.

The following Organs of State provided comment on the proposal:

- ❖ *Heritage Western Cape;*
- ❖ *Department of Agriculture;*
- ❖ *Department of Transport and Public Works;*
- ❖ *DEADP: Pollution and Chemicals Management;*
- ❖ *Department of Water and Sanitation;*
- ❖ *Breede Gouritz Catchment Management Agency; and*
- ❖ *CapeNature*

All the comments and issues raised by the respective *Organs of State* that were captured in the Basic Assessment Report were responded to by the EAP. The general consensus was the support of the proposed pipeline. The Competent Authority is satisfied with the responses obtained from the EAP and the additional consultation with Organs of State.

3. Alternatives

Different alternatives were considered including location, layouts, technology, type of activities, operational aspects of the proposed activities as well as the no-go alternative.

Preferred site alternative

Treated water will be distributed from the product water storage tanks directly to the bulk supply main. The bulk supply main will be constructed from the water treatment works (WTW) along the gravel road until it reaches the town of Herbertsdale, with several proposed road crossings. The total estimated length of the pipeline from the WTW to the municipal reservoir will be approximately 10.7km, consisting of HDPE pipe that will be installed a minimum of 1m deep within the road reserve.

The preferred route was informed by comments from CapeNature and the findings of the Aquatic and Terrestrial Biodiversity Specialist Assessments. It has been determined that the most suitable route for the pipeline would be within the road reserve of the R327 for the largest part of the route, crossing the road to either side at certain localities which were influenced by aspects such as road safety, construction safety, slope, underlying material, etc.

Borehole Alternatives

Two drill targets and one drill zone were delineated for drilling of a water supply borehole. Borehole 1 was the preferred borehole as it yielded sufficient groundwater for extraction.

Water Treatment Works Alternative

Once the preferred borehole site was determined, the Water Treatment Works were also determined as the WTW should be located at the borehole abstraction site in order to treat the water before piping it to the Herbertsdale Reservoir.

Approved and preferred alternative:

This Alternative is a combination of the previous three alternatives pertaining to the location of the borehole and WTW and the routing of the proposed pipe.

The project entails the installation of a water pipeline within the road reserve of the R327 to transport or pipe water from an existing borehole for approximately 9713 m before turning east off the R327 and leading behind the town of Herbertsdale towards the Herbertsdale Reservoir. The pipeline diameter will be 110 mm HDPE (High Density Polyethylene) Pipes and will be located within 1 – 5 metres of the road (closest to the farm boundary fences where possible). The approximate measurements of trenches/excavations for the pipeline installation will be:

- 0.71 metre width
- 1.41 – 1.61 metre depth/height

The borehole is located alongside the road, north of Herbertsdale, and it is proposed to abstract 173m³ of groundwater per day. A water treatment works (WTW) is located in close proximity and will be used to treat the groundwater prior to it being piped to Herbertsdale. The amount of space for this infrastructure is limited and it will be in close proximity to a non-perennial mountain stream tributary to the Dwars River. The water treatment plant will discharge a small volume of the impurities in wastewater towards the dry channel. The proposed pipeline will cross numerous watercourses including the Langtouw River. The project requires the removal and/or reinstatement of gabions within the Langtouw River at the bridge located approximately 5.1 km NNE along the R327. The following works are planned to be conducted at the Langtouw Bridge crossing:

- attaching the pipeline along the side of the bridge
- 1.1 m x 4.0 m gabion to be removed and reinstated
- 1.1 m x 3.5 m reinforced gabion to be removed and reinstated
- 1.1 m x 15 m scour rock removed and reinstated

The proposal also includes the Maintenance Management plan for on-going maintenance of the infrastructure to be constructed.

The existing bridge spanning the Langtouw River will also undergo upgrades.

A final design plan as well as specific maintenance method statements must be submitted to this Directorate within the EMPr.

"No-Go" Alternative

This alternative entails no construction of a pipeline from the borehole to the Herbertsdale reservoir. The town of Herbertsdale is currently in a serious water drought crisis and Mossel Bay Municipality was forced to transport water from Mossel Bay to Herbertsdale to supply the town of water.

During the period of March 2019 and June 2019 a total of 8 722kl of water has been transported to Herbertsdale with 495 loads resulting to 48 510km of transport cost. Implementation of this project will provide a sustainable alternative water supply to the town of Herbertsdale. This will provide not only financial savings to the Mossel Bay Municipality, but also improve the towns water resilience and increase the availability of water. The No-go option is therefore not the applicant's preferred option.

4. Impact Assessment and Mitigation Measures

4.1 Activity need and desirability

The town of Herbertsdale is currently experiencing serious drought issues, so bad that Mossel Bay Municipality was forced to transport water from Mossel Bay to Herbertsdale to supply the town with water. Herbertsdale currently depends on 3 existing boreholes which are fed by the same aquifer. These boreholes' yields are inadequate to supply enough water to the town. There is therefore a dire need for the proposed development consisting of a borehole, water treatment works to treat the water and a pipeline to carry the water from the borehole to Herbertsdale reservoir.

Implementation of this project will provide a sustainable alternative water supply to the town of Herbertsdale. This will provide not only financial savings to the Mossel Bay Municipality, but also improve the towns water resilience and increase the availability of water.

4.2 Integrated Development Plan (IDP)

The draft Integrated Development Plan has indicated budget allocations towards new boreholes as well as water reticulation in Herbertsdale. The Mossel Bay Water Supply Scheme (WSS) indicates System 4: Herbertsdale as a borehole water supply area. The IDP refers to boreholes as Herbertsdales' main supply of water. The Mossel Bay Municipality Disaster Management Strategic Risk Assessment (2015) identified Herbertsdale as a medium to high-risk area regarding waterworks, water shortages and management, and linked the Herbertsdale Water Supply System Water Safety Plan as an activity to address risk.

4.3 Spatial Development Framework (SDF)

The SDF mentions that the IDP identified the upgrade of the Herbertsdale Water Reticulation and new boreholes as development needs. Alternative sustainable bulk water supply to Herbertsdale and Buisplaas were identified as a priority water infrastructure development project for the Mossel Bay Municipality over the next five years (2017 – 2022). The Herbertsdale and Ruitersbos Water Supply System Water Safety Plan should address the risk of waterworks, water shortage and management.

4.4 Biophysical Impacts

Aquatic environment:

According to the BAR and the Western Cape Biodiversity Spatial Plan the proposed pipeline will cross Critical Biodiversity Areas (CBA 1: Terrestrial, Aquatic, and Wetlands; CBA 2: Terrestrial), Ecological Support Areas (ESA 1: Terrestrial, Aquatic; ESA 2: Restore), The Langtouw River and numerous drainage lines flows along and across the proposed

pipeline. These watercourses are National Freshwater Ecosystem Priority Areas (FEPAs)². Careful consideration should be taken near watercourses as the National FEPA rivers/wetlands are important in achieving biodiversity targets for riverine ecosystems.

The aquatic specialist study of the proposed project identified, delineated, investigated infield, screened and rated all watercourses within the 500m radius study area in accordance to their risk of being impacted upon. The ecological state and importance of these identified freshwater systems was assessed and it was recommended that no further degradation be allowed to occur due to the project.

The direct and indirect impacts associated with the project were identified and grouped into four encapsulating impact categories. The impacts identified are:

- The disturbance or loss of aquatic vegetation and habitat
- Sedimentation and erosion
- Water pollution
- Flow modification

The aquatic specialist assessment concluded that the proposed pipeline will likely have a low impact upon aquatic habitat after mitigation is implemented. The impacts can be mitigated with the proposed measures detailed within this report. From an aquatic perspective, there are no fatal flaws associated with the project, provided that the recommendations of the aquatic specialist report are adhered to.

□ *Terrestrial Biodiversity*

CapeNature stated in their comment dated 14 April 2021 that the proposed pipeline will cross Endangered Mossel Bay Shale Renosterveld as listed in the 2011 NEM:BA threatened ecosystems gazette. Mossel Bay Shale Renosterveld will be listed as Critically Endangered in the updated NBA (NBA, 2018). This is one of seven high risk critically endangered vegetation types in South Africa.

The terrestrial specialist report found that, because the proposal entails a linear activity, which is proposed almost entirely within a disturbed road reserve. This can be done within acceptable terrestrial biodiversity and species impact limits. CapeNature further recommends that all vegetation that will not require direct clearing for the pipeline to be constructed should be retained as far as possible, and disturbance must be kept to a minimum.

According to the BAR all impacts on the terrestrial biodiversity will have a moderate high reversibility in the thicket, renosterveld and fynbos and a high reversibility within the transformed and disturbed areas. Furthermore, the mitigation measures that will be taken to address the environmental impacts resulting from the undertaking of activity are regarded adequate. These mitigation measures have been included in the EMPr.

4.5 Heritage / Archaeological Aspects

A Notification of Intent to Develop (NID) was submitted to Heritage Western Cape (HWC), outlining the project, as well as the history of the area. HWC confirmed that a Heritage Impact Assessment (HIA) is not required.

In considering the above, the view is held that the applicant has adequately considered the heritage and archaeological aspects and that the proposed development will not result in significant negative impact on the on these. The competent authority is satisfied that the evaluation fulfils the requirements of the relevant heritage resources authority in terms of the National Heritage Resources Act, 1999 and the comments and recommendations of the relevant heritage resources authority with regard to the proposed development have been taken into account.

4.6 Other Impacts

No other impacts of significance are anticipated.

5. **Scope and Validity Period of authorisation**

This environmental authorisation defines specific operational aspects. The applicant has indicated that the construction activities (non-operational aspects) should be completed within 15 months from the date of commencement and the post-construction maintenance activities should be completed during a three-year period thereafter. The environmental authorisation's validity period has been granted for a period of approximately five and a half (5) years, during which period the construction activities must commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit. In light of the proposed implementation programme, the monitoring and post-construction rehabilitation can be adequately incorporated in the construction phase. The Holder is required to substantially implement the proposal and maintenance to structures within watercourses within a period of approximately 2.5-years after the environmental authorisation is issued. Where the activity has been commenced with, the EIA Regulations, 2014 allow that (upon application) the period for which the environmental authorisation is granted may be extended for a further period of 5-years.

6. **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.

7. Conclusion

After consideration of the information and factors listed above, the Department made the following findings:

- (a) The identification and assessment of impacts which are detailed in the FBAR dated 20 July 2021 is regarded to be a sufficient assessment of the key identified issues and impacts.
- (b) The procedure followed for the impact assessment is adequate for the decision-making process.
- (c) The proposed mitigation of impacts identified and assessed, curtails the identified negative impacts.
- (d) The proposed mitigation measures in the EMPr for the pre-construction, construction and rehabilitation phases of the development and included in the FBAR is deemed sufficient.

The Holder must also take due consideration of the duty of care principle as described in Section 28 of NEMA:

“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”.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with an approved 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.

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