

REFERENCE: 16/3/3/1/D5/12/0015/20
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 13 July 2021

Director: Technical Services
Hessequa Municipality
PO Box 29
RIVERSDALE
6670

Attention: Mr. R Manho

Tel: (028) 713 7831
E-mail: rhuschan@hessequa.gov.za

Dear Sir

ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION (EA) IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014: PROPOSED EXPANSION OF THE MELKHOUTFONTEIN CEMETERY ON ERF RE/566 AND PORTION 141 OF THE FARM MELKHOUTE FONTEIN NR. 480, STILL BAY, HESSEQUA LOCAL 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 Basic Assessment Report ("BAR") received by this Department on 23 March 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

The Municipal Manager
Hessequa Municipality
% Mr. R. Manho
PO Box 29
RIVERSDALE
6670

Tel: (028) 713 7831
E-mail: rhuschan@hessequa.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 Activities	Activity/Project Description
<p>Listing Notice 1</p> <p><i>Activity Number: 44</i> <i>Activity Description</i> The expansion of cemeteries by 2 500 square metres or more.</p> <p>Listing Notice 3</p> <p><i>Activity Number: 4</i> <i>Activity Description</i></p> <p>The development of a road wider than 4 metres with a reserve less than 13,5 metres.</p> <p>i. Western Cape i. Areas zoned for use as public open space or equivalent zoning; ii. Areas outside urban areas; (aa) Areas containing indigenous vegetation; (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or iii. Inside urban areas: (aa) Areas zoned for conservation use; or (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p>	<p>The existing Melkhoutfontein cemetery will be expanded by approximately 8,339m²</p> <p>The proposed development entails the extension of the existing gravel access road, wider than 4 meters, outside of an urban area.</p>

<p><i>Activity Number 12</i> <i>Activity Description:</i></p> <p>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.</p> <p>a. Western Cape</p> <ul style="list-style-type: none"> 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; ii. Within critical biodiversity areas identified in bioregional plans; 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 development setback line on even in urban areas; 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 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>The proposed development will require the clearance of approximately 0,23 hectares of degraded fynbos vegetation.</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 activity as it relates to the development and the development footprint area:

The proposed development entails the expansion of the existing cemetery to the east and south on a vacant part of Portion 141/480 and to the south on a part of Erf 566 with a total area of 8,339.00m². The proposed expansion will include the following:

- The demolition of a boundary wall on the eastern and southern side of the site;
- The clearance of approximately 8 339m² of Erf 566 and Erf141/480;
- The extension of the existing access road, with gravel/asphalt finish;
- The implementation of a stormwater management design (a combination of surfaced roadways, v-channels and cut-off drains, limited inlet structures and concrete stormwater pipes where needed) specific to site;
- The extension of the existing water pipeline, and the placement of new taps, within the new extended area;
- The construction of ablution facilities; and
- The rehabilitation of the site with indigenous vegetation and rescued bulbs/cuttings from the vegetation previously cleared from the site.

This EA will be implemented in accordance with the Site Development Plan attached to this EA as Annexure 2.

C. SITE DESCRIPTION AND LOCATION

The listed activities will be undertaken on Erf 566 and Portion 141/480, Hessequa Local Municipality. The proposed site is situated eastbound in the town of Melkhoutfontein, that is located in the Hessequa Municipal area. The cemetery can be accessed via an existing tarred road, Rooipitjie Road turn-off from the Melkhoutfontein access road, turning off the R305 road, approximately 5 kilometres from Still Bay. The entire expansion site represents a Critical Biodiversity Area (CBA), which consists of degraded fynbos vegetation.

Coordinates:

Description / Point	Latitude (S)	Longitude (E)
Centre point	34° 19' 30.65" South	21° 25' 33.32" East

The SG digit codes
C06400000000480000141
C06400050000566000000

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

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

The Director
 Sharples Environmental Services cc
 Ms. Ameesha Sanker
 PO Box 4423
MILNERTON
 7435

E. CONDITIONS OF AUTHORISATION

Scope and Validity Period of authorisation

1. This Environmental Authorisation is granted for the period from date of issue until **13 July 2026**, the date on which all the listed activities, including post construction rehabilitation and monitoring requirements, will be deemed to be concluded at the site.

Further to the above, the Environmental Authorisation is subject to the following:

- 1.1. The Holder must start with the physical implementation and exceed the threshold of all the authorised listed activities on the site by 13 July 2026.
- 1.2. The post construction rehabilitation and monitoring requirements must be finalised at the site within a period of 6-months from the date the construction activities (construction phase) are concluded; but by no later than 13 January 2026.

Note: The post-construction rehabilitation and 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).

2. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the preferred Alternative (Alternative 2) described in the BAR received by this Department on 23 March 2021 on the site as described in Section C above.

The proposed development entails the expansion of the existing cemetery to the east and south on a vacant part of Portion 141/480 and to the south on a part of Erf 566 with a total area of 8,339.00m². The proposed expansion will include the following:

- The demolition of a boundary wall on the eastern and southern side of the site,
- The clearance of approximately 8 339m² of Erf 566 and Erf141/480;
- The extension of the existing access road, with gravel/asphalt finish;
- The implementation of a stormwater management design (a combination of surfaced roadways, v-channels and cut-off drains, limited inlet structures and concrete stormwater pipes where needed) specific to site;
- The extension of the existing water pipeline, and the placement of new taps, within the new extended area;
- The construction of ablution facilities; and

- The rehabilitation of the site with indigenous vegetation and rescued bulbs/cuttings from the vegetation previously cleared from the site.

This will require the clearance of indigenous vegetation for the expansion of an existing cemetery and the upgrade of an existing road and associated infrastructure. The above will be implemented in accordance with the Site Development Plan attached to this EA as Annexure 2.

3. The proposed activities must be implemented in accordance with an approved Environmental Management Programme ("EMPr").
4. 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.
5. 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

6. The Holder 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 –
 - (a) the decision reached on the application;
 - (b) the reasons for the decision as included in Annexure 3;
 - (c) the date of the decision; and
 - (d) the date when the decision was issued.
 - 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) detailed in Section G below;
 - 6.3. draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 6.4. provide the registered I&APs with the:
 - (a) name of the Holder (entity) of this Environmental Authorisation,
 - (b) name of the responsible person for this Environmental Authorisation,
 - (c) postal address of the Holder,
 - (d) telephonic and fax details of the Holder,
 - (e) e-mail address, if any, of the Holder,
 - (f) 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).

- 6.5. 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.
- 6.6. 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

7. Seven calendar days' notice, in writing, must be given to the Competent Authority before commencement of any activities.
- 7.1. The notice must make clear reference to the site details and EIA Reference number given above.
- 7.2. The notice must also include proof of compliance with the following conditions described herein: **Conditions: 9.2, 11, 19, 20, 22, 23,25 and 26.**
8. Seven calendar days' notice, in writing, must be given to the Competent Authority on completion of the construction activities of the following:
- 8.1. The clearance of the area for additional graves,
- 8.2. The installation of supporting infrastructure for the expanded cemetery.

Management of activity

9. The draft or Environmental Management Programme ("EMPr") submitted as part of the application for Environmental Authorisation must be amended and submitted for approval, subject to the following requirements:
- 9.1. The EMPr must be amended to incorporate the following —
- (a) Environmental Control Officer compliance reports must be submitted monthly to this Department's Regional Office for attention the Directorate Development Management (Region 3).
- (b) all the conditions contained in this Environmental Authorisation; The section dealing with the management and demarcation of the No-Go area's (including the open space areas) must clearly state how the areas will be demarcated prior to any earthworks / commencement of construction;
- (c) an alien invasive vegetation clearing plan. The alien management plan must outline the following:
- delineate the locations of invasive alien plants in relation to the development areas and illustrate this on a map;
 - stipulate a timeframe and strategy for alien plan removal (which are potentially the best months of the year to destabilise and remove the alien plants, based on weather conditions/patterns);
 - list potential methods of clearing (i.e. herbicides or cutting); and
 - list the relevant indigenous plants species used for the rehabilitation (with accompanying photographs).

(d) the mitigation measures and best practice procedures stipulated in Tables 11-123 of the hydrogeological and geotechnical assessment

9.2. The amended EMPr must be submitted to the Competent Authority and be approved, prior to the construction activities commencing on site.

Note: The revised EMPr should be submitted to the Competent Authority at least 90-days prior to the construction activities commencing on site to ensure the competent authority is able to process / review the revised EMPr, prior to the intended date of commencement.

10. The EMPr must be included in all contract documentation for all phases of implementation.

Monitoring

11. The Holder must appoint a suitably experienced Environmental Control Officer ("ECO"), for the duration pre-construction, the construction and rehabilitation phases. The ECO must be present during the clearing of alien invasive plant species and vegetation to ensure the implementation of the proposed mitigation measures.

12. The ECO must–

12.1. be appointed prior to commencement of any works (i.e. site clearance; removal and movement of soil and / or rubble or construction activities commencing);

12.2. ensure compliance with the EMPr and the conditions contained herein;

12.3. keep record of all activities on the site; problems identified; transgressions noted and a task schedule of tasks undertaken by the ECO;

12.4. report any non-compliance with conditions of authorisation immediately to the competent authority;

12.5. ensure compliance with the EMPr;

12.6. remain employed until all development activities are concluded, and the post construction rehabilitation and monitoring requirements are finalised.

13. 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 a website, such documents must be made available on such platform where it is publicly accessible.

14. 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

15. The Holder must, for the period during which the environmental authorisation and EMPr remain valid ensure compliance with the conditions of the environmental authorisation and the EMPr, is audited;
16. 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:
 - 16.1. During the period which the activities have been commenced with on site until the the expansion of the cemetery and the roads and other infrastructure is completed, the holder must undertake annual environmental audit(s) and submit the Environmental Audit Report(s) to the Competent Authority.
 - 16.2. The final auditing requirements should be completed at least three months prior to the expiry of the validity period of the environmental authorisation (i.e. by no later than 13 April 2026 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.
17. The Environmental Audit Report(s), must –
 - 17.1. 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 the EAP who conducted the EIA process;
 - 17.2. provide verifiable findings, in a structured and systematic manner, on–
 - (a) the level of compliance with the conditions of the environmental authorisation and the EMPr and whether this is sufficient or not; and
 - (b) 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.
 - 17.3. identify and assess any new impacts and risks as a result of undertaking the activity;
 - 17.4. evaluate the effectiveness of the EMPr;
 - 17.5. identify shortcomings in the EMPr;
 - 17.6. identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 17.7. 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;
 - 17.8. include a photographic record of the site applicable to the audit; and
 - 17.9. be informed by the ECO reports.
18. 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

19. A search and rescue of suitable species (e.g. bulbs and cuttings of succulent) by a qualified botanical specialist must be undertaken, prior to the commencement of construction activities. The Species of Conservation Concern and local endemics rescued must be translocated to a suitable habitat.
20. The holder must appoint an appropriately qualified Lepidopterist to establish the presence of the remaining butterfly species of concern. As part of the assessment, a site inspection must be undertaken early November during butterfly flight period. Should it be considered necessary, the specialist must recommend a buffer zone prior to commencement of construction activities.
21. No Milkwood trees may be disturbed or damaged without permit from the Department of Forestry, Fisheries and the Environment (DEFF).
22. The wetland which is located approximately 200m to the south of the proposed site must be demarcated as a no-go area and this 200-meter buffer area must be maintained at all times.
23. A Groundwater Monitoring Action Plan which includes the measures on page 143 of the final BAR, must be developed and strictly implemented for the proposed development. The aforementioned plan must be developed in accordance with guidelines set out in the publication by DWAF (1998) and submitted to this Department for record-keeping purposes, prior to commencement of construction activities.
24. The mitigation measures and best practice procedures stipulated in the EMP must be strictly implemented and adhered to in order to minimize contamination of the subsurface.
25. A detailed stormwater management plan for the pre-construction and construction phases must be developed. This must include general and site-specific measures to address any potential erosion, sedimentation or pollution events.
26. An exemption in terms of the National Health Act, 2003 (Act no.61 of 2003), Regulations Relating to Management of Human Remains (GN. R363 of 22 May 2013) must be obtained from the Department of Health, prior to commencement of construction activities.
27. 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 and conclude all listed activities herewith authorised,, this Environmental Authorisation shall lapse for that activity, and a new application for Environmental Authorisation must be submitted to the relevant Competent Authority.

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 submit the revised EMPr to the Competent Authority at least 90-days prior to the construction activities commencing on site, may result in the competent authority not being able to process / review the revised EMPr prior to the intended date of commencement.
 - ❖ 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 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 (9.2, 11, 19, 20, 22, 23 and 25). 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, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision, any registered I&AP, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the 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 (REGION 3)

DATE OF DECISION: **13 JULY 2021**

Copies:

Ms. A. Sanker

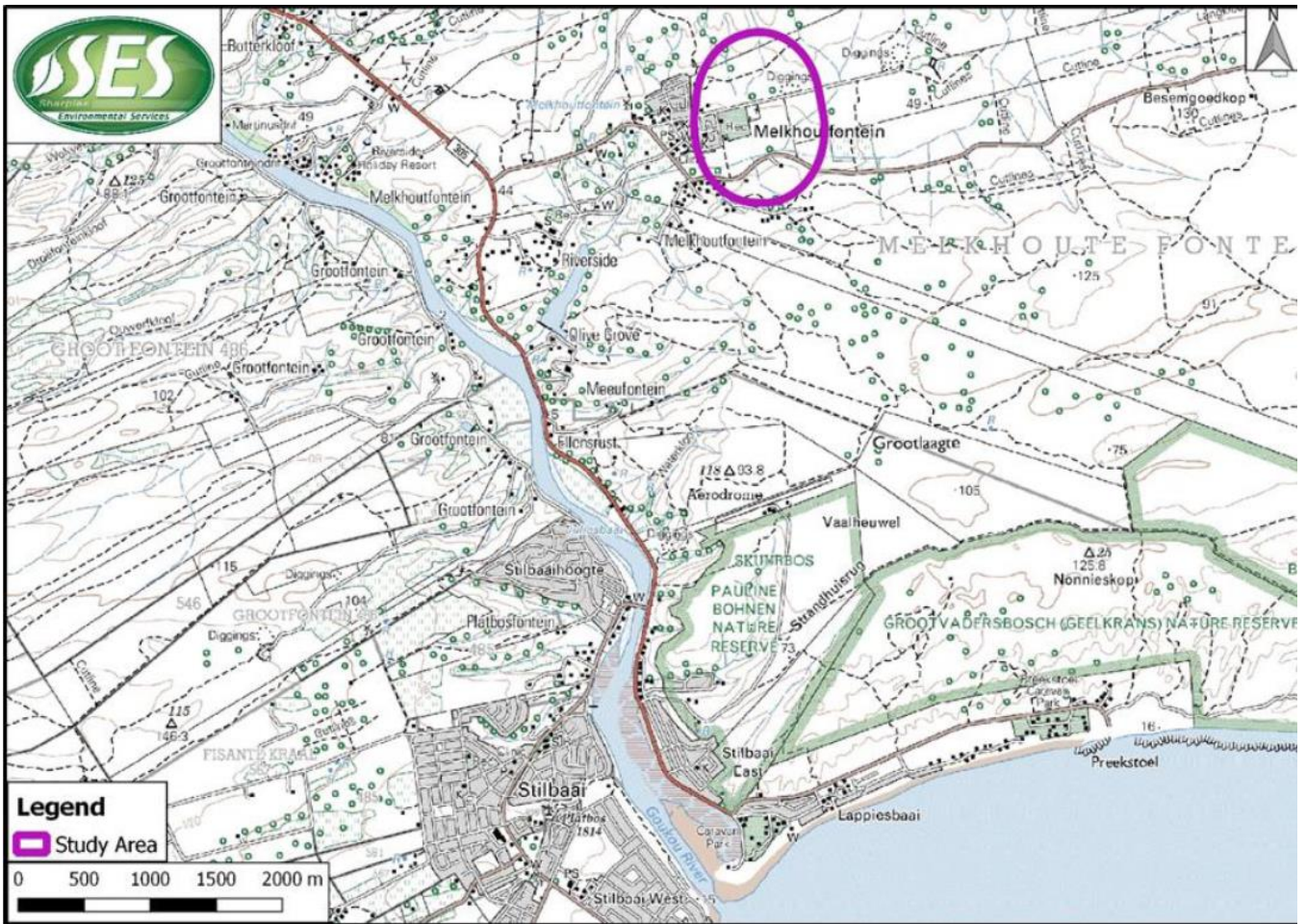
Sharples Environmental Services cc

E-mail: ameesha@sescc.net
info@sescc.net

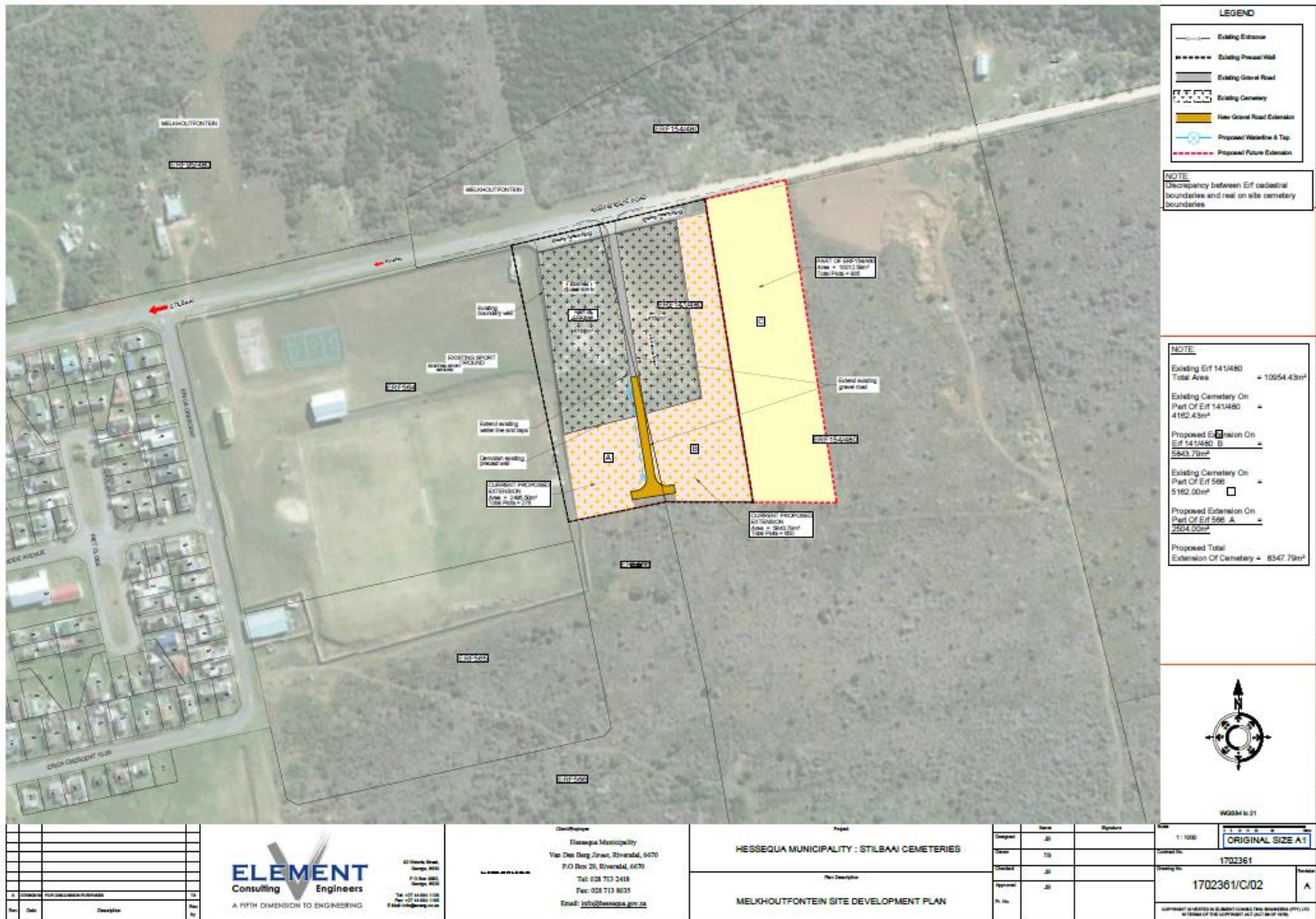
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EIA REFERENCE NUMBER: 16/3/3/1/D5/12/0015/20
NEAS REFERENCE: WCP/EIA/0000841/2020

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE DEVELOPMENT PLAN



ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form received on 9 June 2020, the Final Basic Assessment Report (FBAR) and EMPr submitted on 23 March 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 received by this Department on 23 March 2021;
- e) The balancing of negative and positive impacts and proposed mitigation measures; and
- f) All relevant information that was made available in the report to understand the environmental and spatial context and the case officer is familiar with the 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. 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:

- An A2 notice board was positioned at the boundary of the existing cemetery on 22 October 2020;
- 2 x A3 notice boards were fixed at the corner of Rooipitjie Road and Erica Crescent (next to the sports field and on the public notice board) on 23 October 2020;
- An extensive I&AP database has been compiled, which identifies affected adjacent landowners, authorities, organs of state and other affected parties;
- Notification was issued to the various I&AP's on 23 October 2020 done via: email notification, direct telephonic calls, Whatsapp Broadcasts, site notices and advertisement, depending on existing contact details available. Letter-drops was delivered to adjacent landowners on 23 October 2020;
- An advertisement was placed in the Suid Kaap Forum in Afrikaans on the 23 October 2020;
- Arrangements were also made, if a request is received from any I&AP who does not have access to email, to be notified of the process via an SMS or Whatsapp medium if appropriate;
- Information containing all relevant facts in respect of the application or proposed application has been made available on the SES company website under the public documents tab.
- The Pre-application Basic Assessment Report was made available for 30 days from 26 October 2020 – 24 November 2020.
- The draft BAR was made available for 30 days from 10 February 2021 – 11 March 2021.

The following Organs of State provided comment on the proposal:

❖ Directorate: Pollution & Chemical Management (DEADP)

www.westerncape.gov.za

Department of Environmental Affairs and Development Planning

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- ❖ *Wildlife and Environment Society of South Africa (WESSA)*
- ❖ *Breede Gouritz Catchment Management Agency (BGCMA);*
- ❖ *CapeNature;*
- ❖ *Garden Route District Municipality (Environmental management, District Roads Engineer, Planning and Economic Development)*
- ❖ *Heritage Western Cape (HWC)*
- ❖ *Hessequa Municipality (Technical Services, Municipal Manager and Development Planning)*
- ❖ *South African Civil Aviation Authority*
- ❖ *Western Cape Department of Agriculture*
- ❖ *Western Cape Department of Health*
- ❖ *Department of Agriculture, Fisheries and Forestry*

BGCMA granted a General Authorisation (GA) for the proposed development and raised no major concerns. CapeNature also did not raise any major concerns and suggested mitigation measures that has to be implemented. These were incorporated in this decision and the EMPr. Furthermore, HWC also indicated that there is no reason to believe that the proposed expansion of the existing cemetery will impact negatively on any heritage resources and that no further studies are required. The Department of Health raised issues regarding the proximity to water sources and possible contamination. The Department of Health also highlighted that an exemption in terms of the National Health Act, 2003 (Act no.61 of 2003), Regulations Relating to Management of Human Remains (GN. R363 of 22 May 2013) must be obtained, prior to commencement of construction activities. This was incorporated in this authorisation as a condition of approval. Pollution and Chemical Management also made recommendations which were incorporated into this authorisation. Transport and Public Works, as well as the Civil Aviation Authority indicated that they have no objection to the development proposal.

It is evident from the comments raised by I&APs that there are no objections against the proposed expansion of the cemetery. This Department is further satisfied that all the comments and issues raised by I&APs and respective *Organs of State* were adequately captured in the Basic Assessment Report and responded to by the EAP. *Organs of State* were further consulted where clarity was required on some of the inputs received.

2. Alternatives

No site alternatives were considered; however, a number of operational alternatives were considered, being; cremation, vertical burial and a combination of vertical and horizontal burial. Due to lack of availability of technology and information combined with the negative air quality aspects associated with crematoriums, this was not the applicant's preferred alternative.

Preferred Alternative (Herewith Approved):

The proposed development entails the expansion of the existing cemetery to the east and south on a vacant part of Portion 141/480 and to the south on a part of Erf 566 with a total area of 8,339.00m². The operation of the cemetery will be the continuation of horizontal burial. The proposed expansion will include the following:

- The demolition of a boundary wall on the eastern and southern side of the site;
- The clearance of approximately 8 339m² of Erf 566 and Erf141/480;

- The extension of the existing access road with gravel/asphalt finish;
- The implementation of a stormwater management design (a combination of surfaced roadways, v-channels and cut-off drains, limited inlet structures and concrete stormwater pipes where needed) specific to site;
- The extension of the existing water pipeline, and the placement of new taps, within the new extended area;
- Ablution facilities; and
- The rehabilitation of the site with indigenous vegetation and rescued bulbs/cuttings from the vegetation previously cleared from the site.

This EA will be implemented in accordance with the Site Development Plan attached to this EA as Annexure 2.

"No-Go" Alternative

This alternative entails no expansion of the existing cemetery and maintaining the status quo of leaving the site undeveloped. This is not the applicant's preferred alternative, but there is currently a need for more burial sites, as the current cemetery only has very limited space left for burial.

3. Impact Assessment and Mitigation Measures

3.1 Activity Need and Desirability

A current need for extra burial ground exists in the Melkhoutfontein area as the burial capacity of the existing cemetery is quickly running out. This is evident from the determination that has been made by the appointed engineers that the existing cemetery has approximately 45 vacant burial plots available, which should allow for an estimated 18 months of cemetery life, at more or less 25 funerals per year. The preferred alternative will allow for the accommodation of approximately 928 additional burial plots, that will be sufficient for the next 5 years.

The need is exacerbated by the current covid-19 pandemic and the fact that the country is currently experiencing a third wave, which has proven to be worse than the first and second waves at the same stage.

According to the BAR, the proposed expansion site on Erf 566 is located inside of the urban edge and the zoning is undetermined, while Portion 141/480 is zoned as Agricultural I, and is located outside of the urban edge. However, based on the fact that it is located next to the existing cemetery makes this non-alignment more acceptable. The SDF places emphasis on the need to preserve the areas heritage by stating that the future vision for the town or settlement is based on a synthesis of various aspects, which include the heritage character, landscape character and environmental sensitivity. The proposed expansion of the Melkhoutfontein Cemetery will allow local residents to bury their loved ones with their ancestors and within the town from which they were born.

Furthermore, the Hessequa integrated Development Plan (IDP) highlights the management and expansion of historic and current cemeteries, related to the inclusion of cemeteries in the Urban Edge for management by Municipality as a challenge. The Capital Expenditure Framework also includes the expansion of cemeteries by the

Hessequa Municipality, between 2020 – 2021 and therefore the proposed development is in line with the Hessequa IDP.

The proposed development will provide a community service that is essential to every member of the community, as the loss of life can be unpredictable and difficult to plan for. This Department therefor supports the application as it will help to effectively respond to the broader need and interest of the public.

3.2 The site

According to the BAR, the site has been characterized by the presence of fynbos species, such as *Leucospermum praecox* and *Thamnochortus erectus*. Furthermore, the entire site is mapped as a terrestrial critical biodiversity area (CBA), which forms part of an extensive CBA corridor that runs in a west-east direction from the Duiwenhoksrivier to the Gourits River (across the Goukou, linking several nature reserves along the way. Apart from providing a backbone to the local biodiversity network, the corridor serves as an important passage along which fauna can migrate across the lowlands. Reasons for the inclusion of the site and its surrounding area in the CBA network include the presence of threatened vegetation types, a Freshwater Ecological Priority Area (FEPA) river corridor and a climate adaption corridor. The non-perennial watercourse and associated wetlands to the south of the site have been mapped as an aquatic (river and wetland) CBA. The latter connects again with the Goukou River and its floodplain.

The BAR submits that due to the degraded state of the site and its position next to an existing cemetery and residential area, the impact on the biodiversity (CBA) network is of a lesser concern. The aquatic CBA located 200m away, will also not be directly affected. The extensive CBA network around the site extending eastwards should also remain unaffected

Two Species of Conservation Concern were recorded here, namely *Aspalathus sanguinea* (two patches) and *Leucospermum praecox* (a single shrub just outside the footprint area). Due to the affected vegetation still being reasonably well represented in the region, the impact on vegetation type *per se* is of a low to moderate concern. It is therefore recommended from a biodiversity perspective that the project be allowed to proceed, provided that mitigation focusses on the protection of veld adjacent to the construction areas and the rehabilitation of the disturbed areas afterwards. This Department is satisfied that this impact can be mitigated to an acceptable level.

3.3 Terrestrial Biodiversity

The terrestrial biodiversity compliance statement found that the impact of the proposed development on the terrestrial biodiversity is "Medium", because of the possibility of the occurrence of six butterfly species of conservation concern (SCC). This investigation has revealed that three of these SCCs could not possibly occur on the site. However, it also stated that there is a low possibility that one or more of the other three SCCs species could occur on or near the site. It recommended that another site visit be undertaken during the butterfly's flight periods in early November to eliminate this possibility. Furthermore, if these species are found, an appropriate buffer around the proposed development will be maintained for these species. This is contained as a condition of approval and therefore this Department is of the opinion that this issue has been adequately addressed.

3.4 Freshwater

According to Cape Farm Mapper, the site is not affected by any watercourses and does remain more than 32 metres from any watercourse, but a fairly large NFEPA wetland system (channelled valley-bottom wetland) has been mapped about 200 m to the south of the site, which extends westwards towards the Goukou River. The freshwater specialist report found that the wetland downslope of the site could potentially be impacted upon. The possible impacts identified were the disturbance of aquatic vegetation, sedimentation and erosion, water pollution and flow modification. However, all of these impacts were assessed as being of Low significance without mitigation and very low impact significance with the implementation of effective mitigation measures. The freshwater specialist further indicated that all impacts are easily mitigated provided the mitigation measures and monitoring plan within the freshwater report are implemented and adhered to during the construction and operational phase of the project. This was included as a condition of approval and therefore this Department is satisfied that the impact on the freshwater habitat would be of very low significance.

3.5 Groundwater Management

The hydrogeological and geotechnical studies indicated that the groundwater vulnerability classification is "high" and the contamination risk is considered to be "Medium-High". It further elaborates that, given the relatively shallow-water table and presence of down-gradient drainage channel and spring will require strict mitigation measures and a groundwater monitoring plan should be implemented. This measure has been incorporated into this EA as a condition of approval and therefore this Department is of the opinion that this issue has been adequately addressed.

3.6 Stormwater

The proposal includes the implementation of a stormwater management design (a combination of surfaced roadways, v-channels and cut-off drains, limited inlet structures and concrete stormwater pipes where needed) specific to site. This approval also includes a condition pertaining to the development of a detailed stormwater management plan for the pre-construction, construction and operational phases. This stormwater management plan will include general and site-specific measures to address any erosion, sedimentation or pollution events. Considering this, this Department is satisfied that this issue will be adequately addressed before construction activities commence.

3.7 Heritage

The heritage practitioner addressed the following heritage resources being palaeontological resources, graves and burial grounds and archaeological resources. The impacts on heritage resources was found to be low and this was confirmed by Heritage Western Cape indicated in their comment that no further action will be required in terms of heritage related aspects.

3.8 Services

The proposed development will allow for the improvement of the existing infrastructure on site, through the proposed extension of the access road, extension of the water pipeline and standpipe, additional parking area and extension of the fence line to incorporate the new area.

3.9 Biophysical Impacts

The main impacts associated with the proposed development is the loss of fynbos vegetation, impact on CBA as well as the possible contamination of groundwater. To a lesser extent there are possible stormwater management issues (sedimentation, erosion), dust pollution and the possible impact on butterfly species of conservation concern.

However, the risks and impacts associated with the construction can be mitigated to acceptable levels through the implementation of the compliance with the conditions of this authorisation, adherence to the EMP and the implementation of the mitigation measures proposed by the specialists.

4. Scope and Validity Period of authorisation

This environmental authorisation does not define specific operational aspects. The validity period for this environmental authorisation is five years (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. The Holder is required to substantially implement the proposal within a period of 5-years from the date 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.

5. 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.

6. Conclusion

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

- (a) The identification and assessment of impacts are detailed in the FBAR dated 23 March 2021 and sufficient assessment of the key identified issues and impacts have been completed.
- (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 EMPr proposed mitigation measures for the pre-construction, construction and rehabilitation phases of the development and were included in the FBAR. The mitigation measures will be implemented to manage the identified environmental impact during the construction phase.

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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