



REFERENCE: 16/3/3/1/D7/5/0021/19
ENQUIRIES: Shireen Pullen
DATE OF ISSUE:

18 NOV 2019

The Director
Human Settlements
Oudtshoorn Municipality
PO Box 255
OUTDSHOORN
6620

Attention: Ms. S. Sims

Tel: (044) 203 3004
Fax: (044) 203 3042

Dear Madam

**ACKNOWLEDGMENT OF THE FINAL BASIC ASSESSMENT REPORT FOR THE PROPOSED
DYSELSDORP HOUSING PROJECT ON RE/1, OUTDSHOORN**

1. The abovementioned document received by this Department on 7 November 2019 refers.
2. This letter serves as an acknowledgment of receipt of the abovementioned document by this Department.
3. Please note that the information is currently under review and this Department will respond to you in due course.
4. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.
5. The Department reserves the right to revise initial comments and request further information from you based on any new or revised information received.

Yours faithfully

**HEAD OF DEPARTMENT: ENVIRONMENTAL: IMPACT MANAGEMENT SERVICES
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copy
Ms. J. Pienaar

Eco Impact

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Western Cape
Government

Department of Environmental Affairs and Development Planning
Development Management (Region 3)
Shireen.Pullen@westerncape.gov.za
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Private Bag X6509, George, 6530
4th Floor, York Park Building, 93 York Street, George, 6529

REFERENCE: 16/3/3/1/D7/5/0021/19
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 28 JAN 2020

The Director
Human Settlements
Oudtshoorn Municipality
PO Box 255
OUTDSHOORN
6620

Attention: Ms. S. Sims

Tel: (044) 203 3004
Fax: (044) 203 3042

Dear Madam

NOTICE OF DECISION: 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): PROPOSED DYSELSDORP HOUSING PROJECT ON REMAINDER 1, OUTDSHOORN

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

Yours faithfully

MR. GAVIN BENJAMIN
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Copied to:

Mr André Oosthuizen
Ms. J. Pienaar

DEA&DP: DDF
Eco Impact

E-mail: André.Oosthuizen@westerncape.gov.za
Fax: (021) 671 9976
Email: johmandie@ecoimpact.co.za



REFERENCE: 16/3/3/1/D7/5/0021/19
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Human Settlements
Oudtshoorn Municipality
PO Box 255
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Attention: Ms. S. Sims

Tel: (044) 203 3004
Fax: (044) 203 3042

Dear Madam

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): PROPOSED DYSELSDORP HOUSING PROJECT ON REMAINDER 1, OUTDSHOORN

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

ENVIRONMENTAL AUTHORISATION

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 Department herewith **grants Environmental Authorisation** to the applicant to undertake the listed activities specified in section B below with respect to the alternative), described in condition 1 of this authorisation.

The Maintenance Management Programme (MMP) Final BAR submitted on 7 November 2019 is also approved for river maintenance that will be required in terms of the following activities that will be triggered in Listing Notice 1, Activities 19 and 27 and Listing Notice 3, Activity 12.

The granting of this Environmental Authorisation is subject to compliance with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Director
 Human Settlements
 Oudtshoorn Municipality
 % Ms. S. Sims
 PO Box 255
OUTSHOORN
 6620

Tel: (044) 203 3004
 Fax: (044) 203 3042

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

B. LIST OF ACTIVITIES AUTHORISED

The applicant is herein authorised to undertake the following listed activities with respect to the preferred alternative:

Government Notice No. R. 983 of 4 December 2014 (as amended) –

| Listed Activities | Activity/Project Description |
|--|--|
| <p><i>Activity Number 12</i> <i>Activity Description</i> The development of—</p> <ul style="list-style-type: none"> (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or (ii) infrastructure or structures with a physical footprint of 100 square metres or more; <p>where such development occurs—</p> <ul style="list-style-type: none"> (a) within a watercourse; (b) in front of a development setback; or (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; — <p>excluding—</p> <ul style="list-style-type: none"> (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies; | <p>The proposed development includes the construction of a culvert and other infrastructure resulting in a physical footprint of more than 100m² within 32 meters of a watercourse.</p> |

| | |
|--|---|
| <p>(cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;</p> <p>(dd) where such development occurs within an urban area;</p> <p>(ee) where such development occurs within existing roads, road reserves or railway line reserves; or</p> <p>(ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared</p> | |
| <p><u>Activity Number 19</u> <u>Activity Description</u> The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse; but excluding where such infilling, depositing, dredging, excavation, removal or moving—</p> <p>(a) will occur behind a development setback;</p> <p>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</p> <p>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</p> <p>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</p> | <p>The construction of the culvert and other infrastructure will result in the infilling of an adjacent watercourse</p> |
| <p><u>Activity Number 24</u> <u>Activity Description</u> The development of a road—</p> <p>(i) for which an environmental authorisation was obtained for the route determination in terms of activity 5 in Government Notice 387 of 2006 or activity 18 in Government Notice 545 of 2010; or</p> <p>(ii) with a reserve wider than 13,5 meters, or where no reserve exists where the road is wider than 8 metres;</p> <p>but excluding a road—</p> <p>(a) which is identified and included in activity 27 in Listing Notice 2 of 2014;</p> | <p>The roads proposed as part of the development will have a reserve of more than 13,5 metres or where no reserve exists will be wider than 8 meters.</p> |

| | |
|---|---|
| <p>(b) where the entire road falls within an urban area; or which is 1 kilometre or shorter.</p> | |
| <p><u>Activity Number 27</u> <u>Activity Description</u> The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for— (i) the undertaking of a linear activity; or (ii) maintenance purposes undertaken in accordance with a maintenance management plan.</p> | <p>The proposed development will result in the removal of more than 1 hectare of indigenous vegetation.</p> |
| <p><u>Activity Number 28</u> <u>Activity Description</u> Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development: (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare; excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p> | <p>The proposed development is located outside the current urban edge and entails the development of more than 1 hectare of land.</p> |

Government Notice No. R. 985 of 4 December 2014 (as amended)

| | |
|---|--|
| <p><u>Activity 4</u> <u>Activity Description</u> The development of a road wider than 4 metres with a reserve less than 13,5 metres. 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 roads proposed as part of the development will exceed 4 meters and is located in an area outside the urban area containing indigenous vegetation.</p> |
|---|--|

| | |
|---|--|
| <p><u>Activity 12</u> <u>Activity Description</u> Clearance of 300m² 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>(i) Within any Critically Endangered or Endangered ecosystem listed in terms of section 52 of NEM:BA...</p> <p>(ii) Within Critical Biodiversity Areas identified in bioregional plans;</p> <p>(iii) Within the littoral active zone or 100m of the high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas.</p> | <p>The proposed development will result in the removal of more than 300m² of endangered and critically endangered vegetation.</p> |
| <p><u>Activity 18</u> <u>Activity Description</u> The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.</p> <p>i. Western Cape</p> <p>i. Areas zoned for use as public open space or equivalent zoning;</p> <p>ii. All areas outside urban areas:</p> <p>(aa) Areas containing indigenous vegetation;</p> <p>(bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or</p> <p>(cc) Inside urban areas:</p> <p>(dd) Areas zoned for conservation use; or</p> <p>(ee) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.</p> | <p>Existing roads will be widened by more than 4 metres.</p> |

C. SITE DESCRIPTION AND LOCATION

The development is proposed on three portions of land in the small town of Dysselsdorp, on Remainder Erf 1, which is located southeast of Aster Street in Dysselsdorp and can be accessed via Aster Street and Bokkraal Road. The three sites are located on an open, semi-arid, flat-lying terrain south of an existing built-up area. The Kleinrivier, a northwest-flowing tributary stream of the Olifantsrivier, runs in an incised valley just to the northeast of the study area. The site is also traversed by a non-perennial watercourse which feeds into the Kleinrivier.

Area A, which is approximately 0.7ha in extent is an undeveloped portion of land that includes the smaller non-perennial drainage line and some indigenous vegetation area, which have been significantly impacted upon and transformed due to illegal waste dumping, informal vehicle and footpaths and general human impacts associated with the adjacent residential areas.

Area B, which is approximately 0.1ha in extent is an area which contains informal settlement structures.

Area C is the largest of the 3 land parcels and is an undeveloped area of approximately 3.4ha. This site contains indigenous vegetation that is still in a moderate to good condition.

The area in-between Area C and the current residential areas of Dysselsdorp to the north is not yet developed, but is going to be developed as low cost housing even within the next year, the proposed developments are to connect with and link into this development and its associated infrastructure.

The listed activities will be undertaken at the following co-ordinates:

| Site | Latitude | Longitude |
|--------|----------------|----------------|
| Area A | 33° 34' 50.66" | 22° 26' 44.73" |
| Area B | 33° 34' 58.33" | 22° 26' 30.49" |
| Area C | 33° 35' 00.83" | 22° 26' 42.51" |

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

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Eco impact Legal Consulting (Pty) Ltd
% Mrs J. Pienaar
PO Box 45070
CLAREMONT
7735

Tel: 021 671 3092
Email: admin@ecoimpact.co.za

D. CONDITIONS OF AUTHORISATION

Scope of authorisation

1. The holder is authorised to undertake the listed activities specified in Section B above in accordance with and restricted to the following preferred alternative as described in Section B above:

The establishment of the following to add on to the already approved low cost housing approved as part of a 24G process:

- 138 low cost residential housing erven and associated services infrastructure with
- Internal road network and access roads of 10-13m wide and a total length of approximately 1.11km.
- 2 church erven of approximately 2553m² and two business erven of approximately 401m².

In addition, the proposal also includes infrastructure within and crossing the non-perennial drainage line, namely: 110mm UPVC water pipelines; 160mm UPVC sewer pipeline; box culvert road crossing which will have a development footprint of $\pm 150\text{m}^2$; and erosion protection gabions with a development footprint of $\pm 80\text{m}^2$.

2. The Maintenance Management Plan (MMP) for river maintenance is restricted to activities triggered in Listing Notice 1, being Activities 19 and 27 and Listing Notice 3, Activity 12.
3. The Environmental Authorisation is subject to the following:
 - 3.1 The holder must commence with all the listed activities and conclude the development activities (construction phase) within a period of **five (5) years** from the date of issue of this Environmental Authorisation.
4. The MMP subject to the following:
 - 4.1 The MMP is valid for a period of **ten (10) years** from the issue of this EA.
 - 4.2 The holder must give written notice to the Directorate: Development Management (Region 3), prior to the start of the maintenance activities. Such notice must-
 - 4.2.1 provide the date of commencement of the activities on site;
 - 4.2.2 make clear reference to the site location details and reference number given above;
 - 4.2.3 be submitted for any follow-up maintenance activities, should it be required, while this MMP remains valid.
5. The holder is 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
6. Any changes to, or deviations from the scope of the description set out in section B above must be accepted or approved, in writing, by the Department before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the Department may request such information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

Written notice to the Department

7. Seven calendar days' notice, in writing, must be given to the Department before commencement of construction 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: 7, 8, 9 and 10

Notification of authorisation and right to 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 4;
 - 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, prior to obtaining approval for the amendment of the Section 24G authorisation (Ref: 14/2/1/D7/9/Portion Erf 1, Oudtshoorn (issued on 2 July 2014) in order to align the two decisions.
- 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.

Management of activity

9. The EMPr submitted as part of the application for Environmental Authorisation must be amended to address the following aspects, and must then be re-submitted to the Department for approval, prior to commencement of construction activities:
 - 9.1 The inclusion of the final designs for the culvert and gabions;
 - 9.2 The inclusion of a demarcation map indicating the no-go areas and the construction areas;
 - 9.3 The inclusion of a detailed Stormwater Management Plan compiled by an engineer, which is based on the final approved development layout;
 - 9.4 The Stormwater Management Plan must specifically address the discharge and distribution of stormwater and ensure that suitable mitigation measures are put in place to protect the integrity of flow paths and drainage systems to prevent the effects of scouring and erosion and subsequent loss of surface soil; and
 - 9.5 The EMPr must also address the prevention of pollution or siltation of watercourses that occur within close proximity of the site to avoid or minimise potential negative impacts on these aquatic systems.

An application for amendment to the EMPr must be submitted to the Department if any further amendments to the EMPr are proposed, other than those mentioned above, and this may only be implemented once the amended EMPr has been authorised by the Department.

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

Monitoring

10. The holder must appoint a suitably experienced environmental control officer ("ECO") for the Pre- Construction and Construction Phase (for the duration of the installation of services) to monitor compliance with the conditions and provisions of the EA and EMPr. Such appointment must take place prior to commencement of any land clearing or construction activities to ensure compliance with the provisions of the EMPr and conditions contained in the EA.
11. The ECO must compile monthly Environmental Monitoring Reports which should be recorded and made available to this Department upon request. The ECO should report non-compliance to this Department for investigation.
12. A copy of the Environmental Authorisation, EMPr, audit reports and compliance monitoring reports must be kept at the site of the authorised activities, and must be made available to anyone on request.
13. Access to the site referred to in section C must be granted and the environmental reports mentioned in 10 above must be produced to any authorised official representing the Department who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

Environmental Audit Reports

14. The Holder must, for the period during which the environmental authorisation and EMPr remain valid—
 - 14.1 ensure the compliance with the conditions of the environmental authorisation and the EMPr, is audited;
 - 14.2 undertake annual environmental audit(s) during the construction phase, and the Holder must submit these Environmental Audit Report(s) to the Competent Authority.
 - 14.3 the final construction phase Environmental Audit Report(s) must be submitted to the Competent Authority within three (3) months of completion of construction activities.
15. The Environmental Audit Report, must –
 - 15.1 be prepared and submitted to the Competent Authority, by an independent person, **not the ECO or EAP**, with the relevant environmental auditing expertise;
 - 15.2 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.
 - 15.3 evaluate the effectiveness of the EMPr;
 - 15.4 identify shortcomings in the EMPr;
 - 15.5 identify the need for any changes to the avoidance, management and mitigation measures provided for in the EMPr;
 - 15.6 indicate the date on which the construction work was commenced with and completed or in the case where the development is incomplete, the progress of the development and rehabilitation;
 - 15.7 indicate the date on which the operational phase was commenced with and the progress of the rehabilitation;
 - 15.8 include a photographic record of the site applicable to the audit; and
 - 15.9 be informed by the ECO reports.
16. 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).

Commencement

17. The listed activities, including site preparation, must not commence prior to the applicant having notified the registered I&APs of this decision. 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.

Specific Conditions

18. The construction area and all proposed no-go areas must be demarcated before construction activities commence and remain demarcated throughout the construction phase.
19. 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 include: archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings; shipwrecks; and graves or unmarked human burials.

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

General

1. No surface or groundwater may be polluted as a consequence of any actions on the site.

2. The requirements of legislation that applies to occupational health and safety must be adhered to during the construction phase.
3. The holder must notify the Department in writing, within 24 hours, if any condition herein stipulated is not being complied with.
4. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
5. The holder of the EA must submit an application for amendment of the Environmental Authorisation to the Department where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated.

E. APPEALS

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

1. An appellant (if the Holder of the decision) must, within 20 (twenty) calendar days from the date 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 as well as the decision-maker (i.e. the Competent Authority that issued the decision, namely the Director: Development Management (Region3). -
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&APs, any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision, namely the Director: Development Management (Region3).
3. The Holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&APs and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the address listed below:

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

By facsimile: (021) 483 4174; or

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

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to Marius.Venter@westerncape.gov.za

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Authority at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

F. 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: 28/01/2020

Mr André Oosthuizen
Ms. J. Pienaar

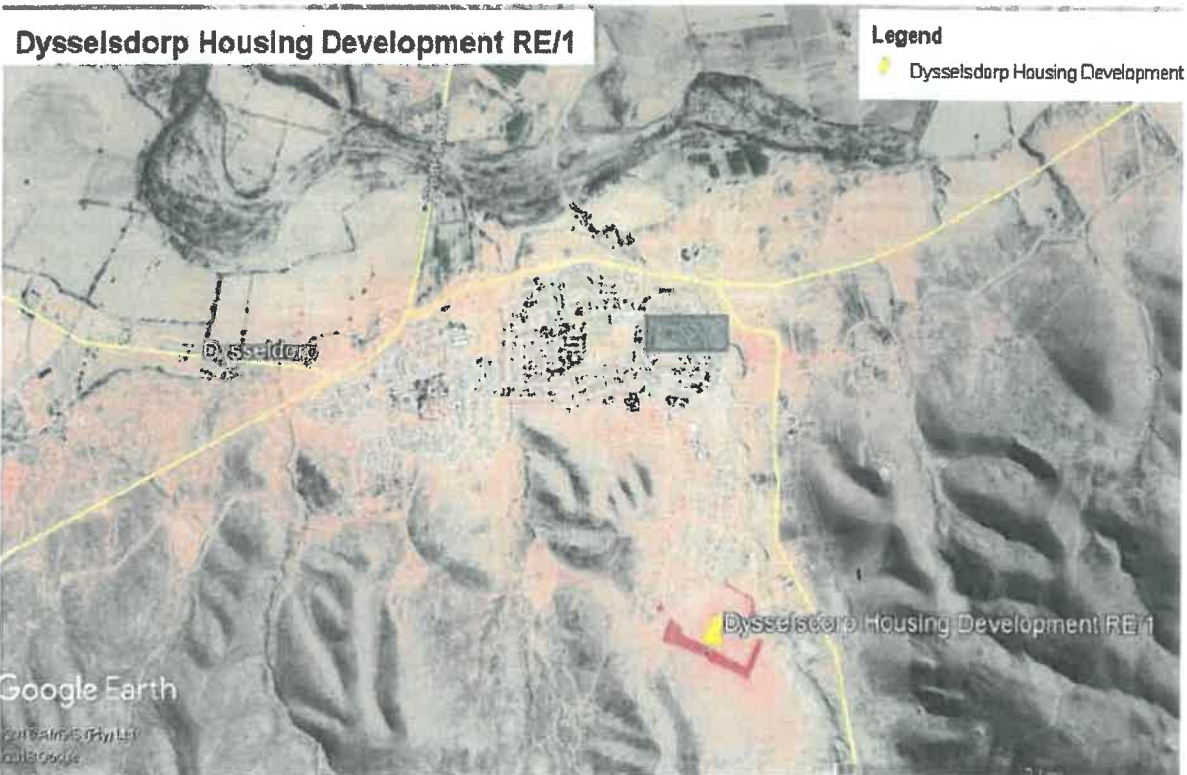
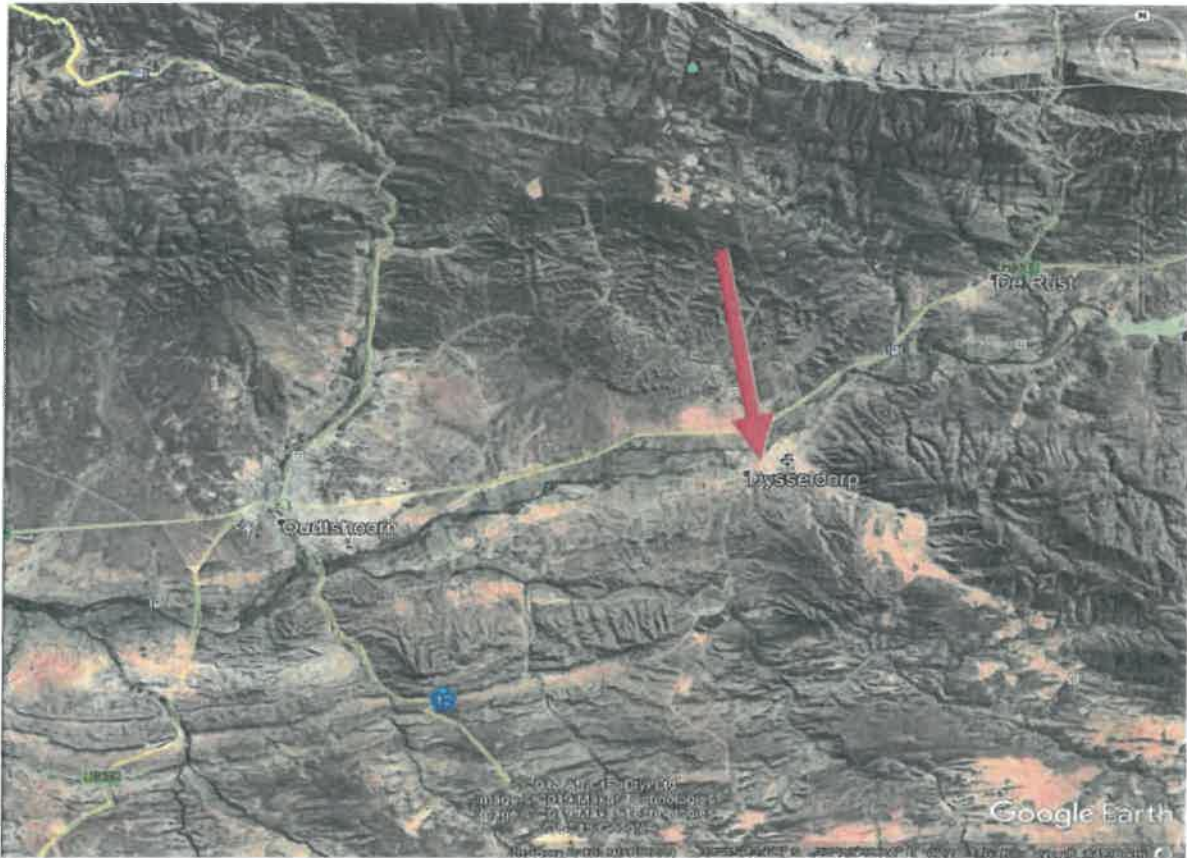
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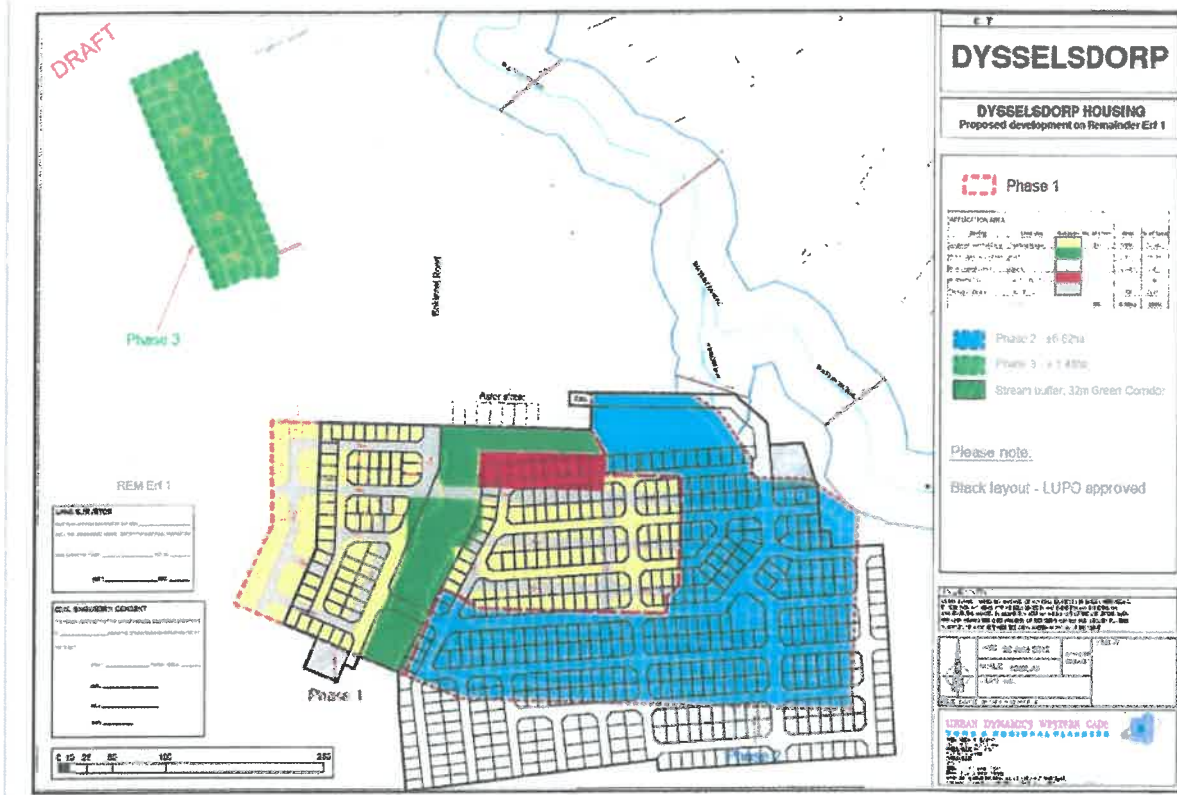
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EIA REFERENCE NUMBER: 16/3/3/1/D7/5/0021/19
NEAS EIA REFERENCE NUMBER: WCP/EIA/0000662/2019

ANNEXURE 1: LOCALITY MAP



ANNEXURE 2: SITE DEVELOPMENT PLAN



ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form dated 27 August 2019, the final BAR and the EMPr dated 7 November 2019;
- 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 final BAR dated 7 November 2019; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.

No site visits were conducted. The competent authority had sufficient information before it to make an informed decision without conducting a site visit.

All information submitted to the Department was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- fixing a notice board on 29 July 2019 at the proposed site and any alternative site where the listed activities are to be undertaken;
- Notice was sent via registered mail on 2 August 2019 to owners and occupiers of land adjacent to the site where the activity is to be undertaken;
- The Oudtshoorn Municipality and the various organs of state having jurisdiction in respect of any aspect of the listed activities were notified on 10 September 2019;
- Placing of a newspaper advertisement in the 'die Hoorn' on 1 October 2019;
- A pre-application meeting with DEA&DP: Development Management (George) and CapeNature on 15 August 2019 at the DEA&DP George offices.
- A 30-day Public & Authority Consultation on the Draft BAR (10 September 2019-10 October 2019).

The following Organs of State were notified:

- ❖ WCG: Department of Human Settlements
- ❖ CapeNature
- ❖ SANRAL
- ❖ WCG: Department of Health
- ❖ Garden Route District Municipality
- ❖ WCG: Department of Agriculture
- ❖ Breede Gouritz Catchment Management Agency
- ❖ Oudtshoorn Municipality

❖ *Heritage Western Cape*

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been imposed in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

This Department concurs with the Environmental Assessment Practitioner's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

2. Alternatives

The proposal is for an additional area consisting of 138 low cost housing erven to expand on the area approved through the 24G process. According to the BAR no other reasonable or feasible alternatives were found for the proposed alternative, considering the location of existing housing developments to be linked to this one as it is part of an already approved low income housing development. Furthermore, the BAR submits that Municipal owned land is limited and no land acquisitions for potential alternative sites are currently under negotiations.

Preferred Alternative

This alternative entails the establishment of 138 low cost residential housing erven and associated services infrastructure with an internal road network and access roads of 10-13m wide and approximately 1.11km long. The proposal also includes the establishment of 2 church erven of approximately 2553m² and two business erven of approximately 401m².

In addition, the proposal also includes the proposed infrastructure within and crossing the non-perennial drainage line, which includes 110mm UPVC water pipelines; 160mm UPVC sewer pipeline; box culvert road crossing, which will have a development footprint of ± 150m²; and erosion protection gabions with a development footprint of ± 80m².

The No-Go Alternative

This alternative entails maintaining the status quo, which will result in no development of housing on the proposed site. In light of the severe pressure on Oudtshoorn Municipality to provide housing to the Dysseisdorp community and the challenge around the availability of suitable land elsewhere to respond to this need, the no-go option is not the applicant's preferred alternative.

3. Impact Assessment and Mitigation measures

3.1 Activity Need and Desirability

According to the BAR the site has been earmarked for residential development by the municipality and is therefore ideally situated to alleviate some of the housing needs that exist in the area. If the proposed housing development does not proceed, the current formal housing shortage in Dysseisdorp will continue.

The proposed development will contribute positively towards the socio – economic upliftment of the community in the existing informal settlement, through the process of relocation of the informal settlement into the new township. The development will improve

safety and welfare of the community, provide improved access to services, streets and open space areas.

3.2 Planning context

The proposal constitutes a residential development on an area already approved by the Municipal Planning Tribunal, and although the site is partially located outside of the current designated urban edge in terms of the Dysselsdorp SDF, the SDF has not yet been aligned according to latest Municipal Planning Tribunal approvals and cadastral boundaries. The BAR submits that the proposed development is consistent with the PSDF as the application area is vacant and underutilised municipal land, ideally situated adjacent to already planned low income housing residential areas. The proposed development responds positively to the urban form of the surrounding urban environments and is regarded as the most logical extension of Dysselsdorp with the least negative impact on environmental resources.

3.3 Services/ bulk infrastructure

According to the BAR bulk services (water and sewerage) will be provided by the Oudtshoorn Municipality and has available capacity for 522 erven, which includes the 138 erven and 2 churches in Oudtshoorn Municipality in the letter dated 19 August 2019. The confirmation indicated that the water provision will be from the existing Klein Karoo Rural Water Scheme as the beneficiaries to these houses are existing users that already resides in Dysselsdorp (backyard dwellers mostly). The water users will in no way be dependent on the Blossoms Wellfield currently being undertaken by the Municipality.

3.4 Biodiversity and biophysical impact

The BAR submits that according to the Western Cape Biodiversity Spatial Plan 2017, there are no terrestrial Critical Biodiversity Areas on the site. However, portions of areas A and C falls within mapped Ecological Support Areas 2, but are not essential for meeting biodiversity targets although it plays an important role in supporting the hydrological functioning of the watercourses that occur on and adjacent to the site.

According to the BAR the terrestrial biophysical environment of the proposed site is not significantly sensitive to any form of disturbance from a biodiversity and biophysical perspective. Although there is a degree of indigenous vegetation loss expected by the proposed development, due to the surrounding planned housing development for the proposed site, it is ideal for the purposes proposed. It is not foreseen that the loss in vegetation would cause fragmentation or severe loss of biodiversity, due to its location in the landscape.

As custodian of Biodiversity, CapeNature indicated that they have no objection to the proposal and in conclusion therefore this Department is satisfied that the proposal will not result in significant negative impacts on biodiversity.

3.5 Freshwater Impact

There are two non-perennial rivers close to the site, of which only one (a non-perennial unnamed tributary which feeds into the Kleinriver tributary) will be affected by the proposed development. Furthermore, there are no significant wetland habitats within the study area and a risk matrix and the Breede Gouritz Catchment Management Agency (BGCMA) has confirmed that only a General Authorisation is applicable to the proposal and not a Water Use License.

The BAR further states that the proposed development will cross a man-made earth channel, which was constructed to divert the non-perennial river on the southern edge of

Dysselsdorp. According to the BAR the rest of the development will not negatively impact on any Freshwater Ecology features. This Department concurs with this statement, subject to strict implementation and compliance with the provisions in the EMPr and conditions of this authorisation. The residential erven are proposed outside of the 1 in 100-year flood line area with a 32m wide buffer area within which the unnamed non-perennial tributary is accommodated.

According to the BAR the service infrastructure will impact on small areas identified as an ESA area. The infrastructure within the identified ESA will however not impact on ecological processes and ecological functioning, especially soil and water-related services will continue as is.

The BAR submits that the man-made earth channel (diverted non-perennial river) where the road crossing is proposed, consists of an area that has already been impacted upon by the existing residential activities that resulted in the degradation of the non-perennial rivers (Present Ecological State) PES. The PES for this section of the non-perennial river was assessed to have no PES status. The riparian system falls into the category F. According to the BAR modifications have reached a critical level and the biotic system has been modified completely with almost complete loss of natural habitat and biota. Basic ecosystem functions have been destroyed and changes are irreversible. This Department concurs with the aforementioned findings and is of the opinion that the proposal will not contribute to further degradation the natural habitat and biota.

3.6 Visual

3.7 According to the BAR the visual character of the land will change from degraded natural land to residential, which will be mitigated by designing the proposed development in accordance with the existing aesthetic characteristics of Dysseysdorp to blend in with the adjacent urban developed areas. The proposed development will therefore blend in with the surroundings. This Department concurs with the aforementioned statements in the BAR and is of the opinion that the proposal will not deviate or negatively impact on the visual characteristics of the surrounding natural environment and transformed landscape. Traffic The Traffic Impact Assessment found that that the proposed Dysseysdorp residential development will have a low impact on traffic in the area and those passing through Dysseysdorp. It was also found that all roads and intersections that will be affected by the proposed development currently operate at acceptable service levels and will continue to do so with the addition of the development trips during both the construction and operational phase. This Department concurs with these findings and is of the opinion that the proposal will not impact negatively on traffic in the area.

3.8 Heritage / archaeological / built environment

The BAR submits that Heritage Western Cape has confirmed that there is no reason to believe that the proposed development will impact negatively on any heritage resources and no further action is required in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No 25 of 1999). However, should any human remains be disturbed, exposed or uncovered during excavations and earthworks for the proposed project, all work must cease and immediately be reported to HWC, as per condition XX of this authorisation.

3.9 Stormwater Management

The BAR submits that stormwater will be managed by directing it from the roads and distributing it to the existing flow paths by means of gravel side drains. For the steeper sections where scouring of earth channels will pose a risk, the storm water channels will be either concrete or stone pitched or piped. Energy dissipating structures will be installed at the outlet points to manage the risk of possible adverse effects on the downstream water

courses and to assist in reducing post-development runoff to the same magnitude as pre-development runoff. This Department does not fully support the proposed measures for the distribution of stormwater runoff by means existing pathways and gravel side drains, taking into consideration the potential for scouring and erosion of these pathways and gravel drains. As such, the EMPr must address this particular issue to avoid any effects of erosion or scouring and subsequent loss of surface soil, which may further result in sedimentation of the identified drainage lines, which occur on the subject property. Condition 9.4 of this authorisation requires amendment of the EMPr and inclusion of a stormwater management plan to ensure that stormwater runoff is managed appropriately and that suitable mitigation measures are put in place to prevent any negative impacts on the receiving environment.

4. The development will result in both negative and positive impacts.

4.1 Negative Impacts

a) Impact on Vegetation

Although the loss of medium sensitivity terrestrial indigenous vegetation is possible, area A have been significantly impacted upon and transformed due to illegal waste dumping, informal vehicle and footpaths and general human impacts associated with the adjacent residential areas. Area B is occupied by informal housing units and Area C contains vegetation in a moderate condition. According to the specialist report, no vegetation that is conservation worthy was found on the site where the proposed development will be located. Cumulatively, the proposed development may also lead to habitat loss and fragmentation. However, with the implementation of the EMPr and the conditions of approval, these impacts can be considered insignificant.

b) Erosion

The hardening of services, especially close the watercourse may lead to significant stormwater runoff and possible erosion. However, the strict implementation of the stormwater management plan to address site specific surface runoff and the sound distribution of stormwater will prevent any erosion from occurring on the development footprint area and adjacent drainage areas to avoid any potential negative impacts.

c) Impact on terrestrial fauna and avifauna

According to the BAR it is unlikely that the proposed development will result in significant negative impacts on indigenous fauna or avifauna species, as none were recorded during the botanical survey and it is not expected that any indigenous fauna or avifauna of conservation significance inhabits this site and may only occasionally visit the site for short periods of time. However, by limiting the construction activities within the development area this possible impact can be entirely eliminated.

d) Impact on ESA

Part of the development site is an ESA with the objective to restore and/or manage to minimise impact on ecological processes and ecological functioning, especially soil and water-related services, and allow for faunal movement. According to the BAR the development is planned and will be executed in such a way that the hydrological functioning of the watercourses is maintained. Strict implementation of the EMPr will mitigate the possible negative impact.

e) *Visual Impact*

It is proposed to change the landscape character of the site from its current character. However, this is not out of character as the proposed development is merely an extension of the existing housing suburb.

4.2 Positive impacts

a) *Socio - economic Impact*

According to the BAR, the proposed development will assist to address the housing backlog in the area, by providing informal dwellers and backyard dwellers with housing opportunities. This will represent a significant social benefit for the households in the local municipal area that currently live in informal areas.

Considering both positive and negative impacts, as well as the mitigation measures contained in the EMPr, the positive impacts of the development proposal largely outweigh the biophysical, visual and traffic impacts identified in an area which is already largely transformed.

4 National Environmental Management Act Principles

The National Environmental Management Principles (set out in section 2 of the NEMA, which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

5 Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, this Department 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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