



REFERENCE NUMBER: 16/3/3/2/A8/15/3059/22
NEAS REFERENCE NUMBER: WCP/EIA/0001197/2022
DATE: 09 October 2023

The Director
Agrico (Pty) Ltd
P.O. Box 364
BELLVILLE
7535

Attention: Mr. G. Enderstein

Tel: (082) 061 6379
Email: gustav.enderstein@agrigo.co.za

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): THE PROPOSED CONSTRUCTION AND COMMISSIONING OF A GALVANISING PLANT ON A PORTION OF ERF 39839, BELLVILLE.

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

Yours faithfully

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

Copies to: (1) Mr. A. Karam (JBenviroservices (Pty) Ltd)
(2) Ms. M. Stewart (City of Cape Town: ERM)
(3) Mr. I. Gildenhuys (City of Cape Town: Air Quality)
(4) Mr. E. Roux (DEA&DP: Air Quality)

Email: info@jbenviroservices.co.za
Email: Maurietta.Stewart@capetown.gov.za
Email: Ian.Gildenhuys@capetown.gov.za
Email: Etienne.Roux@westerncape.gov.za

EIA REFERENCE: 16/3/3/2/A8/15/3059/22

REFUSAL OF ENVIRONMENTAL AUTHORISATION

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014, (AS AMENDED): THE PROPOSED CONSTRUCTION AND COMMISSIONING OF A GALVANISING PLANT ON A PORTION OF ERF 39839, BELLVILLE.

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

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), the Competent Authority herewith **refuses Environmental Authorisation** to the applicant to undertake the listed activity specified in section B below with respect to the Preferred Alternative as described in the Environmental Impact Assessment ("EIA") Report, received on 22 June 2023.

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

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

The Director
Mr. G. Enderstein
Agrico (Pty) Ltd
P.O. Box 364
BELLVILLE
7535

Tel: (082) 061 6379
Email: gustav.enderstein@agrigo.co.za

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

B. LISTED ACTIVITIES REFUSED

Listed Activities	Project Description
<p>Listing Notice 2 of the EIA Regulations, 2014 (as amended):</p> <p>Activity Number: 6 Activity Description:</p> <p><i>The development of facilities or infrastructure for any process or activity which requires a permit or licence or an amended permit or licence in terms of national or provincial legislation governing the generation or release of emissions, pollution or effluent, excluding –</i></p> <p><i>(i) activities which are identified and included in Listing Notice 1 of 2014;</i></p> <p><i>(ii) activities which are included in the list of waste management activities published in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) in which case the National Environmental Management: Waste Act, 2008 applies;</i></p> <p><i>(iii) the development of facilities or infrastructure for the treatment of effluent, polluted water, wastewater or sewage where such facilities have a daily throughput capacity of 2 000 cubic metres or less; or</i></p> <p><i>(iv) where the development is directly related to aquaculture facilities or infrastructure where the wastewater discharge capacity will not exceed 50 cubic metres per day.</i></p>	<p>The proposed galvanising plant would have resulted in the need for a licence in terms of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004).</p>

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

C. SITE DESCRIPTION AND LOCATION

The listed activity was proposed to be undertaken on a portion of Erf 39839, Bellville at the following co-ordinate:

Middle (Point) of facility	33° 53' 22.57" South	18° 40' 29.85" East
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The 21-digit Surveyor General code is:

Erf 39839, Bellville	C01600020003983900000
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Refer to **Annexure 1**: Locality Plan and **Annexure 2**: Site Plan

The above is hereinafter referred to as “**the site**”.

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

JBenviroservices (Pty) Ltd.
c/o Mr. Andrew Karam / Mr. J. Bodenstein
Unit 25, Benvista Office Park,
8 Edgar Road
BOKSBURG
1459

Tel.: 076 321 1815
E-mail: info@jbenviroservices.co.za

E. LEGISLATIVE REQUIREMENTS

Administration of Appeal

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

F. APPEALS

Appeals must comply with the provisions contained in the National Appeal Regulations 2014 (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 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 address listed below:

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

By facsimile: (021) 483 4174; or

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

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

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

Your interest in the future of our environment is appreciated.

Yours faithfully

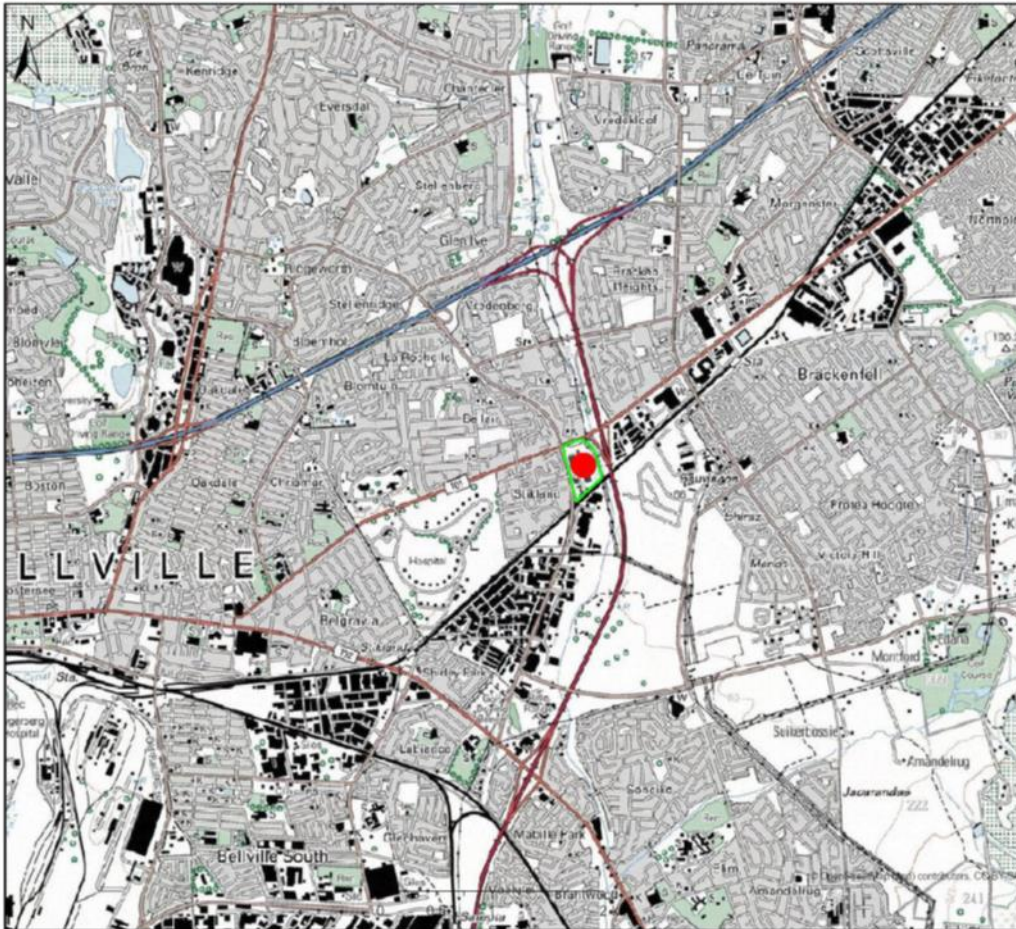
MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 09 OCTOBER 2023

Copies to: (1) Mr. A. Karam (JBenviroservices (Pty) Ltd)
(2) Ms. M. Stewart (City of Cape Town: ERM)
(3) Mr. I. Gildenhuys (City of Cape Town: Air Quality)
(4) Mr. E. Roux (DEA&DP: Air Quality)

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Email: Etienne.Roux@westerncape.gov.za

ANNEXURE 1: LOCALITY MAP



Legend

- Agrico (Pty) Ltd
- Erf 39839 in Bellville

1: 50 000 Topo Sheet

Map Center: Lon: 18°40'1.6"E
Lat: 33°53'22.6"S

Scale: 1:50 000

Date created: November 14, 2022



**Western Cape
Government**
FOR YOU

Agriculture

ANNEXURE 2: SITE PLAN



ANNEXURE 3: REASONS FOR THE DECISION

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

- a) The information contained in the Application Form dated and received by this Department on 11 November 2022, the additional information received by this Department on 21 November 2022, the final Scoping Report dated January 2023 and received by this Department on 17 January 2023, the additional information received on 23 January 2023, the acceptance of the Scoping Report (dated January 2023) by the Competent Authority on 01 March 2023 and the final EIA Report and Environmental Management Programme dated June 2023 and received by the Competent Authority on 22 June 2023.
- b) Relevant information contained in the Departmental information base, including the Guidelines on Public Participation and Alternatives (dated March 2013);
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- d) The comments received from I&APs and responses to these, included in the EIA Report received on 22 June 2023; and
- e) The balancing of negative and positive impacts and proposed mitigation measures.
- f) 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 presented to the Competent Authority was taken into account in the consideration of the application for Environmental Authorisation. A summary of the issues that were considered to be the most significant for the decision is set out below.

1. Public Participation

The public participation process included:

- identification of and engagement with I&APs;
- fixing a notice board at the site where the listed activity was to be undertaken on 11 November 2022 and 14 April 2023;
- the placing of a newspaper advertisement in the 'Cape Times' Newspaper on 11 November 2022;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activity was to be undertaken, the municipality and ward councilor, and the various Organs of State having jurisdiction in respect of any aspect of the listed activity on 11 November 2022 and 14 April 2023;
- Making the draft Scoping Report available to I&APs for public review from 11 November 2022 to 11 December 2022;
- Making the draft EIA Report available to I&APs for public review from 14 April 2023 to 17 May 2023.

2. Alternatives

Preferred alternative (herewith refused)

The Preferred Alternative entailed the development and commissioning of a hot-dip galvanising plant on a portion of Erf 39839, Bellville.

The new plant will be housed in a new building that will measure approximately 4 000m² in extent and was proposed to consist of the following:

- A receiving area for un-galvanised steel products;
- A jiggging area for the attachment of parts to be galvanised on jigs;

- A chemical pre-processing area where parts are to be de-greased, pickled and fluxed in preparation for galvanising. Pickling will involve the use of up to five (5) hydrochloric acid (HCl) tanks / baths, each with a capacity of 22.4 m³. The HCl used in the pickling process will, however, not exceed a concentration of 5%. A total of 142 m³ of HCl is planned for storage and use at the proposed galvanising plant. This will also include a total of 15 m³ of fresh HCl, as well as a total of 15 m³ of spent HCl;
- A transfer passage where fluxed parts are dried while being transferred to the area which houses the zinc kettle;
- A zinc kettle, sized 14 m long x 1 m wide x 2.5 m deep, allowing for the processing of up to 2 500 tonnes of steel per month, with longitudinal material transport into and out of a fixed hood, to enable proper capture of the generated fumes;
- A passivation bath to prevent white rust from forming on the newly galvanised product;
- A de-jigging and fettling area for the processing of material after galvanising;
- A loading area to allow goods to be despatched after processing;
- Bunded chemical storage tanks for new and spent HCl;
- A filtering plant to remove iron oxide (Fe₂O₃) from the fluxing solution;
- A wet scrubber air abatement system to treat the fumes emanating from the galvanising kettle; and
- A storage area for zinc ingots, degreasing and fluxing chemicals.

The “No-Go” Alternative

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

3. Key factors affecting the decision:

In reaching its decision to refuse the proposed development, the Competent Authority took into account the information provided in the final EIA Report, as prescribed in terms of Appendix 3 of the EIA Regulations, 2014 (as amended).

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

In terms of Regulation 43(1) “A registered interested and affected party is entitled to comment, in writing, on all reports or plans submitted to such party during the public participation process contemplated in these Regulations and to bring to the attention of the proponent or applicant any issues which that party believes may be of significance to the consideration of the application, provided that the interested and affected party discloses any direct business, financial, personal or other interest which that party may have in the approval or refusal of the application.”

The final EIA Report that has been submitted is regarded as being incomplete since significant changes to the Air Quality Impact Assessment Report (compiled by JBenviroservices (Pty) Ltd and dated April 2023) was made in response to the City of Cape Town’s comment on the draft EIA Report (dated 16 May 2023) (specifically the Community Services and Health: Air Quality Directorate). The aforementioned City of Cape Town Directorate (who is also the licensing authority for the Atmospheric Emissions Licence required in terms of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004)) rejected the Air Quality Impact Assessment Report (compiled by JBenviroservices (Pty) Ltd and dated April 2023) and required a resubmission of the aforementioned specialist study. Although the specialist study was amended in response to the City of Cape Town’s comment (dated 16 May 2023), the Amended Air Quality Impact Assessment Report (compiled by JBenviroservices (Pty) Ltd and dated May 2023) was not subjected to another public participation process of at least 30 days. Registered I&APs have therefore not been afforded an opportunity to provide comment on the Amended Air Quality Impact Assessment Report (compiled by JBenviroservices (Pty) Ltd and dated May 2023).

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.

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