



**Western Cape
Government**
Environmental Affairs and
Development Planning

**DIRECTORATE: ENVIRONMENTAL GOVERNANCE
SUB-DIRECTORATE: RECTIFICATION**

REFERENCE: 14/2/1/1/A5/20/0007/16

ENQUIRIES: Ziyaad Allie

The Managing Director
Arun Properties (Pty) Ltd
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REGISTERED MAIL

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Attention: Mr Johan Albert Laubscher

APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL COMMENCEMENT OF A LISTED ACTIVITY: THE UNLAWFUL INFILLING OR DEPOSITING OF ANY MATERIAL OF MORE THAN 5 CUBIC METRES WITHIN A WATERCOURSE ON PORTION 18 OF CAPE FARM 159, HOOGGELEGEN ROAD, DURBANVILLE

With reference to your application dated 09 May 2016 in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

ENVIRONMENTAL AUTHORISATION

A. DECISION

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations; 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below as described in the Environmental Impact Report ("EIR") dated 22 January 2018.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Arun Properties
C/o Mr Johan Albert Laubscher
P.O Box 43
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Tel: (021) 850 9680
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Email: john@arun.co.za

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

C. LIST OF ACTIVITIES AUTHORISED

Listed Activities	Activity/Project Description
<p>Government Notice No. R. 983 of 4 December 2014</p> <p>Activity Number: 19</p> <p>Activity Description:</p> <p><i>"The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or</i></p>	<p>The activity entailed the infilling of approximately 2ha of material (soil) on the subject property. The subsequent infilling resulted in the infilling of more</p>

<p>rock of more than 5 cubic metres from-</p> <p>(i) a watercourse;</p> <p>(ii) the seashore; or</p> <p>(iii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water-mark of the sea or an estuary, whichever distance is the greater 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; or</p> <p>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies."</p>	<p>than 5 cubic metres onto an area considered to be a watercourse. This was done in order to create a level paddock space for horses on the property. The infilling resulted in removal of vegetation and modification of the drainage patterns on the site.</p>
<p>As similarly listed in -</p> <p>Government Notice No. R. 327 of April 2017</p> <p>Activity number: 19</p> <p>Activity description:</p> <p>"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;</p> <p>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</p>	<p>The activity entailed the infilling of approximately 2ha of material (soil) on the subject property. The subsequent infilling resulted in the infilling of more than 5 cubic metres onto an area considered to be a watercourse. This was done in order to create a level paddock space for horses on the property. The infilling resulted in removal of vegetation and modification of the drainage patterns on the site.</p>

<p><i>maintenance management plan;</i></p> <p><i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i></p> <p><i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i></p> <p><i>(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."</i></p>	
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The abovementioned list is hereinafter referred to as "the listed activity".

D. PROPERTY DESCRIPTION AND LOCATION

The listed activity commenced on Cape Farm 159/18, Hooggelegen Road, Durbanville.

The SG digit code is: C01600000000015918

The co-ordinates for the property boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 48' 52.45" South	18° 37' 19.86" East

The co-ordinates for the site boundary are:

Point	Latitude (S)	Longitude (E)
1	33° 48' 52.45" South	18° 37' 19.86" East

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

Herein-after referred to as "the site".

E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")

Johan Neethling Environmental Services cc

C/o Mr Johan Neethling

P.O. Box 16594

VLAEBERG

8018

Tel: (021) 461 4386

Fax: (086) 449 3920

Email: info@jnes.co.za

F. DETAILS OF THE ACTIVITY UNDERTAKEN

The activity undertaken involves the infilling of approximately 2ha of material onto a previously disturbed area. This was done in order to create a level paddock space for horses on the property. The infilling resulted in removal of vegetation and modification of the drainage patterns on the site. Two channels leading from an artificial freshwater impoundment further upstream bisect the neighbouring property. One of the channels has been excavated and shows signs of pollution from surrounding households. The other channel has been formalised and concreted, with various outlet pipes from the surrounding households leading into the channel, both channels are culverted before entering the site, where they diverge into one system.

The proposed remediation and continued works which is to be undertaken in accordance with the preferred alternative which includes three distinct zones entails the following:

- Upper Wetland area. This zone will consist of a permanently wet area, with between 0.5m and 1.5m depth of water in the pond. This area will serve as a collection point for flows entering from three points. It is envisaged that the wetland will be vegetated and will serve both as a peak flow attenuation buffer and as a water quality improvement area.
- Middle Rock-lined swale. Due to the gradient being approximately 2% in this reach, it will be necessary to provide a rock lining to prevent erosion. A trapezoidal cross

section is envisaged, with a base width of 4m and sides at 1:3 slope. The maximum depth of flow will be less than 1m during a 100-year flood event.

- Lower: Rock lined swale/Stepped Gabion Channel. Three Gabion weirs, each of approximately 1.2m high are envisaged. These are required to cater for the drop in elevation on this reach. Each weir will be provided with a stilling basin on the downstream side to dissipate the energy.

The volume of water held in channel storage within the property during a 100-year flood event, after the proposed remediation, will be over 1000m³, i.e. at least as much as would have existed prior to the infilling activity.

G. CONDITIONS OF AUTHORISATION

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

PART I

Scope of authorisation

1. The holder is authorised to undertake the listed activity specified in Section C above in accordance with and restricted to Alternative 1 described in the EIR as Option A on the site as described in Section D above.
2. The Environmental Authorisation is valid for a period of **five years** from the date of the decision.
3. The development must be concluded within **five years** from the date of continuation of the listed activity.
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 F 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.

PART II

Written notice to the competent authority

6. Seven (7) calendar days' notice, in writing, must be given to the competent authority before continuation of commencement of the listed activity.
 - 6.1 The notice must make clear reference to the site details and 24G Reference number given above.
 - 6.2 The notice must also include proof of compliance with condition 7.

PART III

Notification and administration of an appeal

7. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision—
 - 7.1 notify all registered Interested and Affected Parties ("I&APs") of –
 - 7.1.1 the outcome of the application;
 - 7.1.2 the reasons for the decision as included in Annexure 3;
 - 7.1.3 the date of the decision; and
 - 7.1.4 the date when the decision was issued.
 - 7.2 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 Appeals Regulations, 2014* detailed in Section I below.
 - 7.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
 - 7.4 provide the registered I&APs with:
 - 7.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 7.4.2 name of the responsible person for this Environmental Authorisation;
 - 7.4.3 postal address of the holder;
 - 7.4.4 telephonic and fax details of the holder;
 - 7.4.5 e-mail address, if any, of the holder; and

7.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.

8. The listed activity, including site preparation, may not continue to commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. 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.

PART IV

Management of the activity/development

9. The Final Environmental Remediation and Management Plan ("ERMP") of January 2018 compiled by Johan Neethling and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.

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

PART V

Monitoring

11. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") or site agent where appropriate, before continuation of commencement of any land clearing or construction activities to ensure compliance with the ERMP and the conditions contained herein.

12. A copy of the Environmental Authorisation, ERMP, 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 activity, and must be made available to anyone on request, including a publicly accessible website (if applicable).

13. Access to the site referred to in Section D 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.

PART VI

Auditing

14. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the ERMP and the closure plan (where applicable) and submit Environmental Audit Reports to the competent authority upon receiving such request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

PART VII

Activity/ Development Specific Conditions

15. The Rehabilitation Measures as outlined in the Freshwater Assessment of February 2016 compiled by Scientific Aquatic Services CC must be adhered to and implemented.
16. The Surface Water Rehabilitation and Management Plan of August 2017 compiled by Water Use Licence Associates (Pty) Ltd must be adhered to and implemented.

H. GENERAL MATTERS

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activity. Of particular relevance is the requirements of the *National Water Act, 1998 (Act 36 of 1998)*.
2. Non-compliance with a condition or term of this Environmental Authorisation may render the holder liable to criminal prosecution.
3. If the holder does not continue, conduct or undertake listed activities within the period referred to in Condition 2 of Section G, this Environmental Authorisation shall lapse for that activity or activities, and a new application for Environmental Authorisation must be submitted to the competent authority. If the holder wishes to extend the validity period of the Environmental Authorisation, an application for amendment must be made on condition that the environmental authorisation is valid on the date of receipt of such amendment application.

Note that:

(1) In terms of regulation 28(1A) of the *EIA Regulations, 2014* the competent authority shall not accept or process an application for amendment of an environmental authorisation if such environmental authorisation is not valid on the day of receipt of such amendment application, but may consider an application for environmental authorisation for the same development.

(2) In terms of regulation 28(1B) of the *EIA Regulations, 2014* an environmental authorisation which is the subject of an amendment application remains valid pending the finalisation of the amendment application.

(3) It is an offence in terms of section 49A(1)(a) of the 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.

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

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

I. APPEALS

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –

- 1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –
 - 2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.
3. The holder (if not the appellant), the decision-maker, I&APs and 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. This appeal and responding statement must be submitted to the address listed below:

By post: Attention: Jaap de Villiers
Western Cape Ministry of Local Government, Environmental Affairs &
Development Planning
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Jaap de Villiers (Tel: 021-483 3721)
Room 809, 8th floor Utilitas Building
1 Dorp Street, Cape Town, 8000; or

By e-mail: Jaap.DeVilliers@westerncape.gov.za

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to Jaap.DeVilliers@westerncape.gov.za.

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

J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS

Non-compliance with a condition or term of this Environmental Authorisation may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

K. DISCLAIMER

The Western Cape Government, the Municipality, 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.

Yours faithfully



ADV. CHARMAINE MARÉ

DIRECTOR: ENVIRONMENTAL GOVERNANCE

DATE OF DECISION: 5 November 2018

Copied to: (1) Johan Neethling (EAP)

(2) Johann Terblanche (CoCT)

(3) Clarissa Fransman (CoCT: EHRM)

(4) Rhett Smart (CapeNature)

(5) Warren Dreyer (DWS)

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