



**REFERENCE:** 19/2/5/4/F5/21/WL0093/19

The Municipal Manager  
Swartland Local Municipality  
Private Bag X52

**MALMESBURY**  
7299

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**For attention:** Mrs Esmari Steenkamp

**SURRENDER OF THE WASTE MANAGEMENT LICENCE ISSUED IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT, 2008 (ACT NO. 59 OF 2008) FOR THE DECOMMISSIONING OF THE RIEBEEK WEST DISPOSAL FACILITY, REMAINDER OF ERVEN 326 AND 327, RIEBEEK WEST**

**A. DECISION**

I, Eddie Hanekom, in my capacity as the Director: Waste Management of the Department of Environmental Affairs and Development Planning (hereinafter referred to as "the Department"), in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) (NEM:WA), as amended, read with the Environmental Impact Assessment (EIA) Regulations promulgated in terms of Government Notice (GN) No. R. 982 of 4 December 2014, hereby allows the surrender of the existing Waste Management Licence (Licence No. 19/2/5/1/F5/21/WL0018/14) of the Swartland Local Municipality (hereinafter referred to as 'the Municipality') for the Riebeeck West Waste Disposal Facility (WDF), remainder of Erven 326 and 327, Riebeeck West (hereinafter referred to as 'the Facility').

**B. SURRENDER CONDITIONS**

**REFERENCE NUMBER:** 19/2/5/4/F5/21/WL0093/19

**WASTE APPLICATION:** SURRENDER OF THE RIEBEEK WEST WDF

**LOCATION:** REMAINDER OF ERVEN 326 AND 327

**LICENCE HOLDER:** SWARTLAND LOCAL MUNICIPALITY

**CONTACT PERSON:** MUNICIPAL MANAGER AND/OR DESIGNATED WASTE MANAGER

**ADDRESS:** PRIVATE BAG X52, MALMESBURY, 7299

1. The surrender of the WML shall not be construed as exempting the Swartland Local Municipality from compliance with the provisions of the National Health Act, 2003 (Act No. 61 of 2003), the National Water Act, 1998 (Act No. 36 of 1998) or any applicable act, ordinance, regulation or by-law.
2. The surrender of a waste management licence does not relieve the Licence Holder of any liability that the Licence Holder may have incurred whilst he or she was the holder of that Licence.
3. The Swartland Local Municipality must note and adhere to Section 28 (1) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended (NEMA), which sets out your responsibility to prevent pollution and degradation of the environment, and undertake specific measures to investigate and rectify pollution and degradation within specified timeframes and written as follows:

*"(1) Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."*

**C. APPEAL OF DECISION**

- 1.1 Appeals must comply with the provisions contained in the National Appeal Regulations, 2014 (GN No. 993 of 2014), as amended.
- 1.2 An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date that the notification of the decision was sent to the holder by the Competent Authority:
  - 1.2.1 Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014 (as amended) to the Appeal Administrator; and
  - 1.2.2 Submit a copy of the appeal to any registered Interested and Affected Persons (I&APs), any Organ of State with interest in the matter and the decision-maker i.e. the Competent Authority that issued the decision.
- 1.3 An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date that the notification of the decision was sent to the registered I&APs by the holder:
  - 1.3.1 Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations, 2014, as amended to the Appeal Administrator; and
  - 1.3.2 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.
- 1.4 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.
- 1.5 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

By Email: [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za)

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.

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

**D. DISCLAIMER**

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of the Licence 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 greatly appreciated.

Yours faithfully



**EDDIE HANEKOM**

**DIRECTOR: WASTE MANAGEMENT**

**DATE OF DECISION:** 26-11-2018

CC: (1) Mrs Kim Pontac (Legacy EMC)

Email: [kim@legacyemc.co.za](mailto:kim@legacyemc.co.za)

## **ANNEXURE I**

### **A. REASONS FOR THE DECISION (APPEALABLE)**

The reasons for this decision, as well as the factors affecting the broader development that were considered in the NEMA EIA application to ensure the effective implementation of this decision, are explained below. All the following information that was available to the Department was taken into account in the Department's consideration of the application:

- (a) Swartland Municipality has ceased operation at the Riebeek West WDF by November 2017 and the process to remove the waste body commenced in February 2018 and lasted until October 2018.
- (b) The subsidized housing initiative has been approved on remainder of Erf 327, adjacent to the Riebeek West WDF, for which an Environmental Authorisation (EA) was issued. A condition of the EA was the rehabilitation of the neighbouring Riebeek West WDF. The rehabilitation process, which is already completed, entailed, amongst other activities, the excavation and removal of the waste body and contaminated soil and disposed thereof to the Highlands Waste Disposal Facility (HWDF) in Abbotsdale, Malmesbury.
- (c) As per the final Variation Report submitted by Legacy Environmental Consultants, dated 18 September 2019, ASLA was the appointed contractor together with supervising engineering consultants SKCM and JPCE. As per the contractors' method statements, excavations, screening of all waste body material and stockpiling of the soil re-used as fill, continued from February to October 2018. Material below ground level that were too moist to sieve effectively, was stockpiled and allowed to dry before sieving. Once the bottom of the waste body was reached, 4 test pits were manually advanced to a depth (1.5 m to 2 m) where natural ground material was found. Samples were taken and sent to Exova Jones for analysis. The laboratory analytical results of the soil samples recovered were well below their respective SSV1s protective of human health and water resources.
- (d) The information contained in the Application for Transfer, Variation or Renewal of a Waste Management Licence received by this Department on 18 June 2019, compiled by Legacy Environmental Consultants.
- (e) The final Variation Report dated 18 September 2019, compiled by Legacy Environmental Consultants.
- (f) Comments raised by I&APs throughout the Public Participation Process, and the Applicant and the Environmental Assessment Practitioner's responses thereto.
- (g) Facility inspections undertaken by Hadjira Peck from this Department on 18 January 2019 and 5 November 2019.
- (h) All relevant information contained in the Specialist Reports i.e. Riebeek West WDF Contamination Assessment: Environmental Site Assessment Report and the Risk Assessment Report.

- (i) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the NEMA.

A summary of the issues, which, in the Department's view were of the most significance, are set out below:

- i. The operations were ceased at the Facility by November 2017 and the removal of the waste body occurred from February 2018 to October 2018.
  - ii. The Riebeek West WDF has been removed and no contaminated soil remains on site, as per the Contaminated Soil Assessment. In addition, the Drop-off Facility will remain as per status quo and continue to operate as per the Norms & Standards of the NEM:WA.
  - iii. By surrendering the waste licence, the Municipality were able to redevelop part of the property on Erf 327 for housing.
- (j) Comments received from the Directorate: Pollution and Chemicals Management regarding the Phase 1 Site Assessment Report, which stated that the site is not significantly contaminated and as such is not required to be subjected to the requirements of Part 8 of Chapter 4 of the NEM:WA.

#### **B. REASONS FOR THE ORIGINAL DECISION (NOT APPEALABLE)**

The reasons for the Licence decision, as well as factors affecting the broader development that were considered to ensure the effective implementation of this Licence, are explained below.

- (a) The information contained in the Application Form for a Waste Management Licence dated 9 January 2014.
- (b) The Basic Assessment Report (BAR) dated 1 April 2014, compiled by AECOM SA (Pty) Ltd., including the Waste Management Licence Application Additional Information Annexure.
- (c) Comments raised by I&AP's throughout the Public Participation Process (PPP), the Applicant and the Environmental Assessment Practitioner's responses thereto.
- (d) Relevant information contained in the Departmental information base; and
- (e) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the NEMA, 1998 (Act No. 107 of 1998).

A summary of the issues, which, in the Department's view, were of the most significance, are set out below.

## **Environment**

The Facility is being used for the disposal of garden and building waste. The Site falls under the Malmesbury Shale Group and the Table Mountain Group and it is probable that the underlying rock is a mixture of shale and sandstone. The soil here is of restrictive depth, high edibility, excessive drainage and low natural fertility. The surrounding land uses are predominantly agriculture and municipal land. An existing transfer station is situated to the north of the Site, while the areas to the south, east and west compromise of wetland.

### **Application for permission to switch between a Basic Assessment and Scoping and Environmental Impact Reporting ("S&EIR) process.**

The applicant requested the application be switched from an S&EIR to a Basic Assessment Report in terms of sub-regulation 20 (4) of Government Notice No. R543 of the EIA regulations.

The permission was granted because of the following:

- (a) The waste disposal facility is existing;
- (b) The Facility is classified as a communal with lesser impact than a larger waste disposal facility;
- (c) The Facility is existing and no site selection processes were done which typically occur and are assessed as part of the S&EIR process; and
- (d) The volumes of waste being disposed are low and classified as general

## **Alternatives**

No alternatives were investigated as the application is for the continued operation of an existing operational waste disposal facility.

### **Public Participation Process (PPP)**

The PPP comprised of the following:-

- (a) 40-day I&AP Registration and public review and comment period on draft BAR (17 February 2014 to 28 March 2014)
- (b) Engagements were held with several stakeholders between 20 February 2014 and 7 March 2014;
- (c) Advertisements were placed in the "Swartland Gazette" on 28 January 2014, in "Die Burger" and "Cape Argus" on 24 January 2014 and 26 February 2014 and other local newspapers on 12 to 18 January 2014 and 17 February 2014, respectively;
- (d) Fixing of notice board at the Riebeek West Waste Disposal Facility and at the Swartland Municipality: Riebeek West Office on 24 January 2014;
- (e) Notification sent to registered I&AP's via sms and email on 17 February 2014 and copy made available at the Riebeek West public library if final BAR from 1 April 2014 for review for 21 days; and
- (f) Submission of the final BAR to the Department on 1 April 2014.



## **Authorities Consultation**

- (a) Cape Nature
- (b) Heritage Western Cape
- (c) Department of Water and Sanitation (DWS)

Comments and recommendations provided by the relevant authorities have been considered in the evaluation of this application. No authorities objected to the commencement of the activity. Where possible and relevant, the conditions imposed by Cape Nature and DWS have been included in the Waste Management Licence.

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End