



Western Cape  
Government  
Environmental Affairs and  
Development Planning

BETTER TOGETHER.

DIRECTORATE: WASTE MANAGEMENT

Etienne Roux

Etienne.Roux@westerncape.gov.za

**REFERENCE:** 19/2/5/4/E2/29/WL0021/19

The Municipal Manager  
Overstrand Municipality  
PO Box 20  
**HERMANUS**  
7200

Tel: (028) 313 5045

Email: [cmitchell@overstrand.gov.za](mailto:cmitchell@overstrand.gov.za)

**For attention:** Mr Craig Mitchell

Dear Sir,

**VARIATION OF THE WASTE MANAGEMENT LICENCE FOR THE DECOMMISSIONING OF THE PEARLY BEACH WASTE DISPOSAL FACILITY (WDF), PORTION 4 OF FARM KLEYN HAGEL KRAAL NO. 321, PEARLY BEACH**

**WASTE MANAGEMENT LICENCE**

**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), as amended (NEM:WA), hereby vary and replace the existing Waste Management Licence (Licence No. 19/2/5/1/E2/29/WL0048/14) and issue this amended Waste Management Licence to the Overstrand Municipality (hereinafter referred to as 'the Municipality') for the decommissioning of the Pearly Beach WDF on Portion 4 of Farm Kleyn Hagel Kraal No. 321 (hereinafter referred to as "the Facility").

**B. DESCRIPTION OF THE ACTIVITY:**

The activities for this G:C:B+/Class B Facility, as per the Second Edition of the "Minimum Requirements for Waste Disposal by Landfill" (referred to as "Minimum Requirements") of the Department of Water Affairs and Forestry (DWAf, 1998) (now Department of Water and Sanitation (DWS)) and for any new waste cells that will be developed, as per the NEM:WA "National Norms and Standards for Disposal of Waste to Landfill", contained in Government Notice (GN) No. R. 636 of 23 August 2013, will entail but not be limited to the following:

- (a) Remedial design to address identified problem areas;
- (b) Final shaping, landscaping and re-vegetation;
- (c) Final landfill cover or capping design;
- (d) Construct the capping layer to minimum quality and thickness;
- (e) Permanent storm water diversion measures, run-off control and anti-erosion measures; and
- (f) Any infrastructure relating to the End-use Plan.

The following activity listed in the NEM:WA "List of waste management activities that have, or are likely to have a detrimental effect on the environment", GN No. 921 of 29 November 2013, is hereby authorised:

Category A

- 3 (14) The decommissioning of a facility for a waste management activity listed in Category A or B of this Schedule.

The granting of this Waste Management Licence is subject to compliance with the conditions set out in Section C.

In this Licence, "Director" means the Director: Waste Management of the Western Cape Department of Environmental Affairs and Development Planning, who may be contacted at the address below:

Director: Waste Management  
Department of Environmental Affairs and Development Planning  
Private Bag X 9086

**CAPE TOWN**

8000

In this Licence, "Director: RPW" means the Director: Resource Protection and Waste of the Department of Water Affairs and Sanitation (DWS): Western Cape Provincial Operations, who may be contacted at the address below:

Director: Resource Protection and Waste  
Western Cape Provincial Operations  
Department of Water and Sanitation  
Private Bag X16

**SANLAMHOF**

7532

**C. LICENCE CONDITIONS**

**LICENCE NUMBER:** 19/2/5/4/E2/29/WL0021/19  
**WASTE APPLICATION:** DECOMMISSIONING OF THE PEARLY BEACH WDF (G:C:B+)  
**LOCATION:** PORTION 4 OF THE FARM KLEYN HAGEL KRAAL NO. 321  
**LICENCE HOLDER:** OVERSTRAND LOCAL MUNICIPALITY  
**CONTACT PERSON:** MUNICIPAL MANAGER OR THE DESIGNATED WASTE MANAGER/OFFICER  
**ADDRESS:** PORTION 4 OF THE FARM KLEYN HAGEL KRAAL NO. 321  
**POSTAL ADDRESS:** PO BOX 20, HERMANUS, 7200

**1. LOCATION**

- 1.1 This Licence authorises the Overstrand Local Municipality to decommission the Facility on Portion 4 of Farm Kleyn Hagel Kraal No. 321.
- 1.2 The location of the entrance to the property on which the Facility is situated, is as follows:

**Location of entrance of Facility:**

Latitude (S)	Longitude (E)
34°39'01.58"	19°29'33.05"

- 1.3 The footprint of the Facility must be according to co-ordinates indicated on the Waste Management Licence Application Form, dated 17 January 2014, and Waste Management Licence Application Additional Information Annexure, dated 1 April 2014, submitted by the Licence Holder, which is defined as follows:

**Footprint of the Facility:**

Number of corners	Latitude (S)	Longitude (E)
1	34°38'59.19"	19°29'32.54"
2	34°38'59.82"	19°29'35.42"
3	34°38'01.43"	19°29'35.65"
4	34°38'05.33"	19°29'34.91"
5	34°38'05.28"	19°29'34.26"
6	34°38'04.29"	19°29'34.31"
7	34°38'02.35"	19°29'32.05"
8	34°38'02.99"	19°29'30.81"
9	34°38'02.03"	19°29'28.84"
10	34°38'02.04"	19°29'27.75"
11	34°38'00.23"	19°29'27.50"
12	34°38'59.73"	19°29'31.98"

- 1.4 The footprint of the Facility and its associated infrastructure is 20130 m<sup>2</sup>.
- 1.5 The Surveyor General 21 digit code of the Facility is: C01100060000059900000

## **2. APPOINTMENT OF WASTE MANAGEMENT CONTROL OFFICER/ENVIRONMENTAL CONTROL OFFICER**

- 2.1 The waste management activities that are authorised by this Licence, must be managed by fit and proper persons who are competent in respect of the responsibilities to be undertaken by them.
- 2.2 A Waste Management Control Officer (WMCO)/Environmental Control Officer (ECO) must be appointed, who will monitor and ensure compliance and correct implementation of all mitigation measures and provisions as stipulated in the Licence and Environmental Management Programme (EMPr), dated 1 April 2014, prior to any construction activities being undertaken at the Facility. The WMCO/ECO must:
- 2.2.1 report any non-compliance with any Licence conditions or requirements or provisions of the NEM:WA to the Director through the means reasonably available; and
- 2.2.2 monitor the closure activities and ensure that the closure plans are in accordance with the engineering designs.

## **3. MANAGEMENT**

- 3.1 The draft EMPr for the closure of the Facility, dated 1 April 2014, submitted as part of the final Basic Assessment Report (BAR), is hereby approved and must be implemented together with all the conditions of this Licence.
- 3.2 An application for an amendment to the EMPr must be submitted to the Licensing Authority if any further amendments are to be made to the EMPr and this may only be implemented once the amended EMPr has been authorised by the Licensing Authority.
- 3.3 Any persons having duties that are or may be affected by the matters set out in this Licence must have convenient access to a copy of it.
- 3.4 A copy of this Licence and the EMPr must be kept at or near the Facility where the waste listed activity will be undertaken. The Licence and EMPr must be produced to any authorised official of the Department who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein, and must be made available for inspection by any employee or agent of the Licence Holder who works or undertakes work at the Facility.
- 3.5 The Licence Holder shall remain responsible for the Facility, and/or any of its impacts arising from the operations on the environment.

## **4. DECOMMISSIONING PHASE**

- 4.1 The Licence Holder must submit a Closure Report, which includes the Closure Design, Closure Requirements and End Use Plan to the Licence Authority for approval 90 (ninety) days prior to construction for decommissioning of the Facility.
- 4.2 The Facility must be decommissioned in accordance with the closure report for the Facility in the EMPr, the final BAR prepared by AECOM dated 1 April 2014 and in accordance with conditions of this Licence.
- 4.3 An alien invasive plant management programme must be established at the Facility.
- 4.4 The closure of the Facility must be constructed in accordance with recognised civil engineering practice, with special consideration to stability.
- 4.5 The Facility, or any portion thereof must be covered and the Facility must be maintained in such a way that:
- 4.5.1 the formation of pools due to rain is prevented;
- 4.5.2 free surface runoff of rain-water is ensured;
- 4.5.3 contamination of storm water is prevented;

- 4.5.4 no objects or material which may hamper the rehabilitation of the Facility are present; and
- 4.5.5 little or no erosion occurs.
- 4.6 The leachate collection tank, which must contain all leachate from the Facility, must be installed and monitored for 18 (eighteen) months, as indicated in the EMPr.
- 4.7 Sporadic leachate from the Facility may only be discharged into any convenient sewer, if available, if accepted by the authority responsible for that sewer.
- 4.8 Any development which occurs within the 1:100 year flood line and/or within 500m from the boundary of a wetland would require a Water Use Licence in terms of section 21 of the National Water Act, 1998 (Act No. 36 of 1998) (NWA).
- 4.9 Works constructed in compliance with Condition 4 must be of such a capacity as to maintain a freeboard of half a metre and to accommodate:
  - 4.9.1 all stormwater runoff, which could be expected as a result of the estimated maximum precipitation during a period of 24 (twenty four) hours with an average frequency of once in the fifty years; and
  - 4.9.2 all expected leachate.
- 4.10 Works constructed in compliance with Condition 4.9 must, on a continuous basis, be properly maintained.
- 4.11 All runoff water (storm water) arising as a result of precipitation on land adjacent to the Facility must be prevented from entering the Facility and must be diverted and drained from the Facility, by means of works constructed by the Licence Holder in accordance with Condition 4.
- 4.12 Stormwater leaving the Facility shall in no way be contaminated by any substance, whether such substance is a solid, liquid, vapour or gas or a combination thereof, which is produced, used, stored, dumped or spilled at the Facility.
- 4.13 Uncontaminated runoff water must under no circumstances be used to dilute leachate emanating from the Facility but must be diverted to and discharged into the nearest storm water channel.
- 4.14 The Licence Holder shall retain the responsibility for the Facility, and ensure that its monitoring after decommissioning of the facility is according to the Minimum Requirements and any relevant Norms and Standards that may replace the Minimum Requirements.
- 4.15 The licence Holder shall also ensure that:
  - 4.15.1 the presence of any nuisances such as flies, exposed waste, and bad odours be monitored and the monitoring results kept in terms of Condition 11; and
  - 4.15.2 any complaints from the public must be attended to by the Licence Holder, who must take all reasonable and practical steps to alleviate the cause of the complaint within a reasonable timeframe to the satisfaction of the Director and/or Director: RPW and record it in terms of Conditions 11 and 12.

## **5. FACILITY SECURITY AND ACCESS CONTROL**

- 5.1 The Licence Holder must prevent unauthorised access to the Facility, by having the Facility enclosed with a fence and a gate.
- 5.2 Weatherproof, durable and legible notices must be displayed at each entrance to the Facility in at least three (3) official languages applicable to the area. These notices must prohibit unauthorised entry and must contain the name, address and telephone number of the Licence Holder and the person responsible for the operation of the Facility.
- 5.3 The Licence Holder must ensure that there is no illegal access to the closed and rehabilitated Facility and that no illegal dumping occurs on the Facility.

## **6. ENVIRONMENTAL POLLUTION INVESTIGATIONS**

- 6.1 If, in the opinion of the Director, any environmental pollution, nuisances or health risks may be or is occurring on the Facility, the Licence Holder must investigate the cause of the problem and take reasonable steps to alleviate the problem in consultation with the Director.
- 6.2 Should the investigation carried out as per Condition 6.1 above reveal any unacceptable levels of pollution, the Licence Holder must submit a report with mitigation measures to the satisfaction of the Director.

## **7. MONITORING METHODS AND PARAMETERS**

- 7.1 The Licence Holder shall carry out all tests in accordance with methods prescribed by and obtainable from the South African Bureau of Standards (SABS), referred to in the Standards Act, 2008 (Act No. 8 of 2008), to analyse the samples taken under the monitoring programmes specified in Condition 8.
- 7.2 The Licence Holder may only use another method of analysis if written proof that the method is at least equivalent to the SABS method, is submitted to the Director and the Director: RPW.
- 7.3 A monitoring report done by a geohydrologist should be compiled at the end of the 18 (eighteen) months, using monitoring data collected. This report will then be evaluated to determine whether future monitoring may be needed.
- 7.4 In the event of contamination/pollution being found, the DWS should be notified as soon as possible and a remediation plan be provided for approval. Potential receptors are to be identified immediately and action taken to ensure that there is no health risk.

## **8. MONITORING**

### **8.1 WATER QUALITY MONITORING**

- 8.1.1 The Licence Holder must establish and maintain a ground water monitoring borehole network with at least one upstream and one downstream borehole, so that unobstructed sampling, as required in terms of this Licence, can be undertaken.
- 8.1.2 Monitoring boreholes must be equipped with lockable caps. The Director and Director: RPW reserve the right to take water samples at any reasonable time and to analyse these samples or have them analysed.
- 8.1.3 The details of the boreholes should be provided to the DWS. This should include the depth, diameter, coordinates, lithological logs (geology), water strikes, groundwater level, construction details, field Electrical conductivity, pH, etc.
- 8.1.4 The area of the landfill site should be capped in such a way that it would limit the formation of leachate, and control the flow of storm water in such a way that it would minimise the possibility of contamination to groundwater.
- 8.1.5 The groundwater monitoring programme should include both water quality and water level monitoring.
- 8.1.6 Water levels should be measured at least monthly and the readings recorded against time and date.

### **8.2 BACKGROUND MONITORING**

- 8.2.1 Samples from the borehole as required above, where the groundwater in the borehole is at an expected higher hydraulic pressure level than the hydraulic pressure level of the groundwater under the Facility, shall be considered as background monitoring. Background groundwater monitoring shall be conducted during each monitoring occasion in terms of Conditions 8.3, 8.4 or 8.5 for the water quality variables as agreed by the Director and the Director: RPW.

### 8.3 **DETECTION MONITORING**

8.3.1 Monitoring shall be conducted on a biannual (twice per year) basis during late summer and late winter to capture seasonal variation, for the water quality variables as agreed by the Director and the Director: RPW.

### 8.4 **INVESTIGATIVE MONITORING**

8.4.1 If, in the opinion of the Director, a water quality variable listed under the detection monitoring programme, as referred to in Condition 8.2, shows an increasing trend, the Licence Holder shall initiate a monthly monitoring programme.

### 8.5 **POST-CLOSURE MONITORING**

8.5.1 Groundwater monitoring by the Licence Holder, in accordance with Condition 8.3 or 8.4, shall commence immediately upon closure of the Facility and be maintained for a period of 18 months, or such a period as may be determined by the Director and Director: RPW.

### 8.6 **FURTHER INVESTIGATION**

8.6.1 If, in the opinion of the Director, groundwater and/or surface water pollution have occurred or may possibly occur, the Licence Holder must conduct and/or appoint specialists to conduct the necessary investigations and implement monitoring and rehabilitation measures to the satisfaction of the Director.

## 9. **AUDITING**

### 9.1 **INTERNAL AUDIT**

9.1.1 Internal audits must be conducted bi-annually by the Licence Holder and on each audit occasion an official report must be compiled by the relevant auditor to report the findings of the audits, which must be made available and submitted to the Director and the Director: RPW.

### 9.2 **EXTERNAL AUDITS**

9.2.1 The Licence Holder must appoint an independent external auditor to audit the Facility annually (once per year) and this auditor must compile an audit report documenting the findings of the audit, which must be submitted by the Licence Holder to the Director.

9.2.2 The audit report must:

9.2.2.1 specifically state whether conditions of this licence are adhered to;

9.2.2.2 include an interpretation of all available data and test results regarding the operation of the Facility and all its impacts on the environment;

9.2.2.3 specify target dates for the implementation of the recommendations to achieve compliance; and

9.2.2.4 specify whether corrective action which was taken for the previous audits non-conformities was adequate.

9.2.3 The external audit report must be submitted to the Environmental Monitoring Committee (hereinafter referred to as the "Monitoring Committee"), provided in Condition 10, within 3 (three) months from the date on which the external auditor finalised the report.

9.2.4 Each external audit must be submitted to the Director within 30 (thirty) days, from the date on which the external auditor finalised the report.

9.2.5 Both the internal and external audit reports must be in accordance with the format as prescribed by the Director.

### 9.3 **DEPARTMENTAL AUDITS AND INSPECTIONS**

- 9.3.1 The Director and Director: RPW reserves the right to audit or inspect the Facility without prior notification at any time and frequency as may be determined by the Director.
- 9.3.2 The Licence Holder must make any records or documentation available to the Director and Director: RPW upon request, as well as any other information the Director may require.
- 9.3.3 The findings of these audits or inspections shall be made available to the Licence Holder within 60 (sixty) days of the end of the audit or inspection and shall not be treated as confidential.

### 10. **MONITORING COMMITTEE**

- 10.1 The Licence Holder must take the necessary steps to establish, maintain and ensure the continued functioning of a Monitoring Committee for the normal operative lifetime of the Facility and for a period of at least 18 months after the closure of the Facility, or such longer period as may be determined by the Director.
- 10.2 The Monitoring Committee shall be representative of relevant interested and affected persons (I&APs) and may consist of at least 3 (three) of the following representatives:
  - 10.2.1 Licence Holder and/or his/her appointed consultant(s) or advisor(s);
  - 10.2.2 representative(s) of the Health, Environment and/or Waste Departments of the relevant local authority;
  - 10.2.3 representative(s) of this Department; and
  - 10.2.4 at least 3 (three) persons/parties, their representatives elected by the local residents, or proof of notification of the invitation to attend the Monitoring Committee to I&APs of each meeting.
- 10.3 The Monitoring Committee shall meet annually (once a year) and no later than 3 (three) months after the finalisation of the external audit report was conducted in terms of Condition 9.2.1, and submitted in terms of Condition 9.2.3.
- 10.4 The Licence Holder must keep minutes of all meetings of the Monitoring Committee and distribute these minutes to all members of the Monitoring Committee within 30 (thirty) days after the meeting.

### 11. **RECORD KEEPING**

- 11.1 The Licence Holder must keep records of all monitoring results, nuisances and complaints at the Facility.
- 11.2 All records required or resulting from activities required by this Licence must:
  - 11.2.1 be legible;
  - 11.2.2 be made available and should form part of the external audit report;
  - 11.2.3 if amended, be amended in such a way that the original and any subsequent amendments remain legible and are easily retrievable;
  - 11.2.4 be retained in accordance with documented procedures which are approved by the Department; and
  - 11.2.5 be made available upon the request of the Director and/or Director: RPW.
- 11.3 The Licence Holder shall record all borehole data and chemical analysis in a format agreed upon in writing between the Director and the Director: RPW, the Licence Holder, and a relevant specialist if so required.

### 12. **REPORTING**

- 12.1 The Licence Holder must, within 24 (twenty four) hours, notify the Director of the occurrence or detection of any incident on the Facility which has the potential to cause, or has caused any pollution.



- 12.2 The Licence Holder must, within 14 (fourteen) days, or as specified by the Director from the occurrence or detection of any incident referred to in Condition 12.1, submit an action plan, which must include a detailed time schedule, and resource allocation signed off by management, to the satisfaction of the Director of measures taken to:
- 12.2.1 correct the impact resulting from the incident;
  - 12.2.2 prevent the incident from causing any further impact; and
  - 12.2.3 prevent a recurrence of a similar incident.
- 12.3 In the event that measures have not been implemented within 21 (twenty one) days of the incident to address impacts caused by the incident referred to in Condition 12.1, or measures which have been implemented are inadequate, the Director may implement the necessary measures at the cost and responsibility of the Licence Holder.
- 12.4 The Licence Holder or duly appointed person must keep an incident report and complaints register, which must be made available to both external and Departmental auditors for the purpose of their audits.
- 12.5 The Department must be notified within 7 (seven) days of any changes to the management of the Facility, including the name of the incoming person, together with evidence that such person has the required technical competence.
- 12.6 The Department must be notified within 14 (fourteen) days of the following changes:
- 12.6.1 Licence Holder's trading name, registered name or registered office address;
  - 12.6.2 particulars of the Licence Holder's ultimate holding company (including details of an ultimate holding where a Licence Holder has become a subsidiary); and
  - 12.6.3 steps taken with a view to the Licence Holder going into bankruptcy, entering into composition or arrangement with creditors.
- 12.7 The Department must be notified without delay in the case of the following:
- 12.7.1 any malfunction, breakdown of failure of equipment or techniques, accident or fugitive emission which has caused, is causing or may cause significant pollution;
  - 12.7.2 the breach of conditions of this licence; and
  - 12.7.3 any significant adverse environmental and health effects.

### **13. LEASING AND ALIENATION OF THE FACILITY**

- 13.1 Should the Licence Holder want to alienate or lease the Facility, he/she shall notify the Director in writing of such an intention at least 120 (one-hundred and twenty) days prior to the said transaction.

### **14. TRANSFER OF LICENCE**

- 14.1 Should the Licence Holder want to transfer holdership of this Licence, he/she must apply in terms of section 52 of the NEM:WA.
- 14.2 Any subsequent Licence Holder shall be bound by the conditions of this Licence.

### **15. COMMENCEMENT**

- 15.1 The construction and rehabilitation activities of the licensed activity may not commence within 20 (twenty) days of the date of signature of the Licence.
- 15.2 Should the Licence Holder be notified by the Licensing Authority of a suspension of the Licence pending any appeals decision on the authorised activities, he/she may not commence with the activities until authorised by the Director in writing.
- 15.3 After the 20 (twenty) day appeal period has expired and no good cause to extend the appeal period has been submitted, a written notice must be given to the Department that the activity will commence.

- 15.4 This decommissioning phase must commence before 29 September 2024. If commencement of the activity does not occur within that period, the validity of this Licence lapses and a new application for Licence must be made in order for the activity to be undertaken.
- 15.5 If the proponent anticipates that commencement of the activity would not occur before 29 September 2024, he/ she must apply and show good cause for an extension of the commencement date in this Licence 6 (six) months prior to its expiry date.

**16. GENERAL**

- 16.1 This Licence shall not be transferable unless such transfer is subject to Condition 14 above.
- 16.2 This Licence shall not be construed as exempting the Licence Holder from compliance with the provisions of any National and Provincial Legislation and relevant Ordinance, Regulation, By-laws and relevant National Norms and Standards.
- 16.3 Transgression of any condition of this Licence could result in the suspension of the Licence by this Department.
- 16.4 This Licence is valid until 29 September 2029. The licence may be reviewed every 3 (three) years after commencement. Based on the results of the review, especially compliance to Licence conditions or recommendations from the audit reports and/or changing legislation, the Licence can be amended or withdrawn or the validity thereof extended.
- 16.5 Should the Licence Holder want to conduct the waste management activity beyond 29 September 2029, the Licence Holder must apply for a review 1 (one) year before the expiry date.
- 16.6 Transgression of any condition of this Licence could result in the suspension of the Licence by the Licensing Authority and may render the Licence Holder liable for criminal prosecution or other actions provided for in section 67(1) of the NEM:WA.
- 16.7 In terms of section 28 and 30 of the National Environmental Management Act (Act No. 107 of 1998) (NEMA), and section 19 and 20 of the NWA, any costs incurred to remedy environmental damage must be borne by the person responsible for the damage. It is therefore imperative that the Licence Holder reads through and understands the legislative requirements pertaining to the project. It is the Licence Holder's responsibility to take reasonable measures which include informing and educating contractors and employees about environmental risks of their work and training them to operate in an environmental acceptable manner.

**D. APPEAL OF LICENCE**

- 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 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&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.
- 2. This appeal and 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 J. de Villiers  
Room 809  
8th Floor Utilitas Building  
1 Dorp Street  
**CAPE TOWN**  
8001

**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](mailto:Jaap.DeVilliers@westerncape.gov.za).

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

**E. 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:** 16-05-2019

Cc: (1) Mr Malise Noe (DWS: Resource Protection and Waste)  
(2) Ms Wilna Moolman (DWS: Resource Protection and Waste)

Email: [NoeM@dws.gov.za](mailto:NoeM@dws.gov.za)

Email: [MoolmanW@dws.gov.za](mailto:MoolmanW@dws.gov.za)

## **ANNEXURE I**

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. REASONS FOR THE DECISION (APPEALABLE)**

1. The Department received a non-substantive variation application on 14 February 2019 to apply for a postponement of the commencement date to a maximum of 10 years, citing that due to other waste management activities and the current activities requiring funding, the rehabilitation of the Pearly Beach Waste Disposal Facility cannot commence before the required commencement date. The remaining months before the original commencement period (i.e. 29 September 2019) was therefore insufficient for the activity to commence on time. The Department has extended the commencement date of this WML to 29 November 2024 (5 year extension).
2. Additionally, the Department conducted a review of this WML as per section 53(1) of the NEM:WA, as amended, which states that: "A licensing authority must review a waste management licence at intervals specified in the licence, or when circumstances demand that a review is necessary". The proposed variation was in line with section 54(1)(a) and (d) of the NEM:WA, which states that: "(1) A licensing authority may, by written notice to the holder of a waste management licence, vary the licence-  
(a) if it is necessary or desirable to prevent pollution; (and)  
(d) to make a non-substantive amendment".
3. The review and subsequent non-substantive amendments were conducted in order to align the Pearly Beach WDF WML conditions with current waste legislation and replace the existing licence (Ref: 19/2/5/1/E2/29/WL0048/14), issued by the Department and issue this Licence.

### **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 17 January 2014;
- (b) The Basic Assessment Report (BAR) dated 1 April 2014, compiled by SRK Consulting (Pty) Ltd, including the Waste Management Licence Application Additional Information Annexure;
- (c) Comments raised by I&AP's throughout the Public Participation Process, the Applicant and the Environmental Assessment Practitioner's responses thereto;
- (d) A site visit undertaken by Tanya Faber from this Department on 3 September 2014;
- (e) Relevant information contained in the Departmental information base; and
- (f) 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.

#### **Environment**

The Facility is located approximately 1 km north from the town of Pearly Beach within the Overstrand Local Municipality and is situated in North Road, Pearly Beach. The property is 14.2 ha in size with the actual WDF is approximately 0.5 ha in extent. The Pearly Beach WDF is located within an Ecological Support Area and the Overberg Critical Biodiversity Area is located directly north of the WDF.

## **Deviation**

The applicant requested permission for the deviation from Regulation 54(2) (a) to (d) of GN No. R. 543 of 18 June 2010, namely the requirement to fix notice boards and place site notice on alternative sites which is hereby granted permission for such deviation, as the facility is an existing waste disposal facility

## **ALTERNATIVES**

The following alternatives were considered:-

### **Site Alternatives**

No site alternatives have been assessed as the Application is for the closure of the existing Facility.

### **Activity Alternatives**

There are no direct activity alternatives as the process will involve the closure of the current Facility.

### **Design Alternatives**

The project will entail the closure of an existing dumping site.

## **PUBLIC PARTICIPATION PROCESS (PPP)**

The PPP comprised of the following:

- (a) Copies of the draft BAR were sent to CapeNature, the Department of Water Affairs (DWA) and Heritage Western Cape for comment on 17 February 2014 and a copy of the draft BAR was sent to the Gansbaai Public Library on 17 February 2014 to be made available for public comment;
- (b) Newspaper advertisements announcing the project and the availability of the draft BAR for public review appeared in two local newspapers, namely "Cape Argus" and "Die Burger", on 24 January and 26 February 2014;
- (c) A site notice board announcing the project and the BA process was placed on the boundaries of the site on 24 January 2014;
- (d) A 40-day comment period (17 February 2014 to 28 March 2014) was provided to all IAPs to review the draft BAR and submit comments. The comment period closed on 28 March 2014. All comments received are recorded and responded to in a Comments and Responses Report;
- (e) All IAPs responding to the newspaper advertisements and site notice boards were registered on the database of IAPs.
- (f) The final BAR was revised following the IAP comment period and released for a second, 21-day public comment period;
- (g) All registered IAPs were notified of the availability of the final BAR for review and was forwarded a copy of the Executive Summary; and
- (h) Copies of all correspondence, newspaper advertisements, site notices, the IAP database and the written submissions received from IAPs were enclosed with this Comments and Responses Report as Appendix F of the final BAR.

Authorities Consultation:

- (a) Cape Nature; and
- (b) Department of Water Affairs (DWA) regional office, Western Cape.

Comments and recommendations provided by the other 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 DWA have been included in the Waste Management Licence.

\_\_\_\_\_  
END