



Reference: 19/2/5/4/E2/8/WL0070/23

**For attention:** Mr. Craig Mitchell

The Municipal Manager  
Overstrand Municipality  
P.O. Box 20  
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7200

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## VARIATION OF THE WASTE MANAGEMENT LICENCE FOR THE DECOMMISSIONING OF THE FISHERHAVEN WASTE DISPOSAL FACILITY ON ERVEN 749 AND 779, FISHERHAVEN

### WASTE MANAGEMENT LICENCE

#### A. DECISION

I, Lance McBain-Charles, in my capacity as the Acting Director: Waste Management of the Department of Environmental Affairs and Development Planning (hereafter "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 (WML) (Licence No.: 19/2/5/4/E2/8/WL10166/18), issued by the Department, and issue this WML (hereafter "the Licence") to the Overstrand Municipality (hereinafter referred to as "the Municipality") for the decommissioning of the Fisherhaven Waste Disposal Facility (WDF) (hereafter "the Facility") on Erven 749 and 779, Fisherhaven, Overstrand Municipality.

#### B. DESCRIPTION OF THE ACTIVITY

The activities for the decommissioning for this Facility, as per the Second Edition of the "*Minimum Requirements for Waste Disposal by Landfill*" of the Department of Water Affairs and Forestry (DWAF, 1998) (now Department of Water and Sanitation (DWS)) (referred to as "Minimum Requirements"), 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.
- f) Any infrastructure relating to the End-use Plan.

The following activity identified in the NEM:WA "*List of waste management activities, that have, or are likely to have, a detrimental effect on the environment*", published as Government Notice (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 storage of waste at a facility that has the capacity to store in excess of 100m<sup>3</sup> of general waste and/or 80m<sup>3</sup> of hazardous waste at any one time, excluding the storage of waste in lagoons or temporary storage of such waste, would require the applicant to comply with the NEM:WA "*National Norms and Standards for Storage of Waste*", published as GN No. 926 on 29 November 2013. Similarly, the storage of waste tyres in an area exceeding 500m<sup>2</sup>, must comply GN No. 926. These activities no longer require a waste management licence. This information can be accessed in Category C of GN 921.

The sorting, shredding, grinding, crushing, screening, chipping or bailing of general waste at a facility which has an operational area of more than 1000m<sup>2</sup>, must comply with the NEM:WA "*National Norms and Standards for the Sorting, Shredding, Grinding, Crushing, Screening, Chipping or Bailing of General Waste*", published as GN No. 1093 on 11 October 2017. This activity no longer requires a waste management licence. This information can be accessed in Category C of GN 921.

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 and Sanitation: Western Cape Provincial Operations, who may be contacted at the address below:

Director: RPW: Western Cape Provincial Operations  
Department of Water and Sanitation  
Private Bag X16

**SANLAMHOF**  
7532

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

## C. LICENCE CONDITIONS

**LICENCE NUMBER:** 19/2/5/4/E2/8/WL0070/23  
**WASTE APPLICATION:** DECOMMISSIONING OF THE FISHERHAVEN WASTE DISPOSAL FACILITY  
**LOCATION:** ERVEN NO. 749 AND 779, FARM ROAD, FISHERHAVEN  
**LICENCE HOLDER:** OVERSTRAND MUNICIPALITY  
**CONTACT PERSON:** MUNICIPAL MANAGER OR THE DESIGNATED WASTE MANAGER/OFFICER  
**POSTAL ADDRESS:** P.O. BOX 20, HERMANUS, 7200  
Tel: (028) 316 3724  
Fax: (028) 316 3721

### 1. LOCATION

- 1.1. This Licence authorises the Overstrand Municipality to decommission the Facility on Erven No. 749 and 779, Fisherhaven.
- 1.2. The location of the entrance to the Facility must be according to co-ordinates indicated on the Waste Management Licence Application Form dated 16 January 2014 and Waste Management Licence Application Additional Information Annexure dated 15 May 2014, submitted by the Licence Holder, which is defined as follows:

Latitude (S)	Longitude (E)
34°21'58.39"	19°07'30.65"

- 1.3. The footprint of the Facility must be according to co-ordinates indicated on the Waste Management Licence Application Form, dated 16 January 2014, and Waste Management Licence Application Additional Information Annexure, dated 15 May 2014, submitted by the Licence Holder, which is defined as follows:

Footprint of the Facility

Number of corners	Latitude (S)	Longitude (E)
1	34°21'56.22"	19°07'33.16"
2	34°21'56.85"	19°07'28.22"
3	34°22'0.15"	19°07'29.19"
4	34°22'2.48"	19°07'32.83"
5	34°22'1.05"	19°07'34.68"
6	34°21'58.78"	19°07'31.52"

- 1.4. The footprint of the Facility and its associated infrastructure is 16 130m<sup>2</sup>.
- 1.5. The Surveyor General 21 Digit Code of the Facility is: C01300060000074900000.

### 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 May 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 NEM:WA to the Licensing Authority through the means reasonably available;
  - 2.2.2 monitor the closure activities and ensure that the closure plans are in accordance with the approved engineering designs; and
  - 2.2.3 submit a declaration to the Director upon completion of the construction works that all possible mitigation measures have been put in place and highlight likely deficiencies before commencement of the listed activities.

### **3. GENERAL MANAGEMENT**

- 3.1 The EMPr for the closure of the Facility, dated May 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 the 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 approved by the Licensing Authority.
- 3.3 The closure and rehabilitation of the Facility must be managed by a fit and proper person who is competent in respect of the responsibilities to be undertaken by them in connection with the commencement of the decommissioning activity.
- 3.4 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.
- 3.5 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.
- 3.6 The Licence Holder must ensure that the intended after-use of the Facility is properly implemented and that the landscaping of the Facility, the drainage system and vegetation form part of the development to ensure the successful implementation of the intended after-use.
- 3.7 The Licence Holder shall remain responsible for the Facility, and/or any of its impacts arising from the operations on the environment.
- 3.8 Organic waste must be handled in accordance with an Organic Waste Diversion Plan, targets and procedures, developed by the Municipality, in order to comply with the associated targets set in 2013 of 50% diversion by the year 2022 and 100% diversion by the year 2027.

### **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 SRK Consulting (Pty) Ltd, dated 15 May 2014, and accordance with the 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 rainwater 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 The slope of the sides of the Facility must be constructed and maintained in such a manner that the occurrence of erosion is prevented.
- 4.8 Sporadic leachate from the Facility may only be discharged into any convenient sewer, if available, and if accepted by the authority responsible for that sewer.
- 4.9 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).
- 4.10 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:
- 4.10.1 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
  - 4.10.2 all expected leachate.
- 4.11 Works constructed in compliance with Condition 4.10 must, on a continuous basis, be properly maintained.
- 4.12 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.
- 4.13 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.
- 4.14 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.

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

- 5.1 Weatherproof, durable and legible notices must be displayed at each entrance to the Facility in at least 3 (three) 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.
- 5.2 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.
- 5.3 The Licence Holder must prevent unauthorised access to the Facility, by having the Facility enclosed with a fence of 1.8m and a gate with the same height.
- 5.4 The Licence Holder shall ensure effective access control.

## **6. IMPACT MANAGEMENT**

- 6.1 The Licence Holder shall retain the responsibility for the Facility, and ensure its monitoring after decommissioning of the Facility is according to the Minimum Requirements and any relevant National Norms and Standards that may replace the Minimum Requirements.
- 6.2 The presence of any nuisances such as flies, exposed waste, and bad odours must be prevented and monitored and the monitoring results kept in terms of Condition 12.
- 6.3 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 Department and record it in terms of Conditions 12 and 13.

## **7. ENVIRONMENTAL POLLUTION INVESTIGATIONS**

- 7.1 If, in the opinion of the Director and/or the Director: RPW, 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.
- 7.2 Should the investigation carried out as per Condition 7.1 above reveal any unacceptable levels of pollution, the Licence Holder must submit a report with mitigation measures to the satisfaction of the Director.

## **8. MONITORING METHODS AND PARAMETERS**

- 8.1 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 9.
- 8.2 The Licence Holder may only use another method of analysis if written proof is submitted to and accepted by the Director and Director: RPW, specifying that the method to be used is at least equivalent to the SABS method.
- 8.3 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.
- 8.4 In the event of contamination/pollution being found, the Director and the Director: RPW 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.

## **9. MONITORING**

### **9.1. WATER QUALITY MONITORING**

- 9.1.1 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.
- 9.1.2 Monitoring boreholes must be equipped with lockable caps. The Department and Department of Water and Sanitation reserve the right to take water samples at any reasonable time and to analyse these samples or have them analysed.
- 9.1.3 The details of the boreholes should be provided to the Department of Water and Sanitation. This should include the depth, diameter, coordinates, lithological logs (geology), water strikes, groundwater level, construction details, field electrical conductivity, pH, etc.
- 9.1.4 The Facility 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.
- 9.1.5 The groundwater monitoring programme should include both water quality and water level monitoring.
- 9.1.6 Water levels should be measured at least monthly and the readings recorded against time and date.

9.1.7 Surface water monitoring must be performed in all storm water drain outlets that discharges to the natural environment and adjacent to the Facility at locations selected in conjunction with and at such frequency as prescribed by the Water Quality Monitoring Protocol, approved by the Director: RPW through the Department.

## 9.2. **BACKGROUND MONITORING**

9.2.1 Samples from the borehole, as required above, where the groundwater in the borehole is at an expected higher hydraulic pressure level as 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 9.3, 9.4 or 9.5 for the water quality variables as agreed by the Department and the Director: RPW.

## 9.3. **DETECTION MONITORING**

9.3.1. 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 Department and the Director: RPW.

## 9.4. **INVESTIGATIVE MONITORING**

9.4.1 If, in the opinion of the Director and/or the Director: RPW, a water quality variable listed under the detection monitoring programme, as referred to in Condition 9.3, shows an increasing trend, the Licence Holder shall initiate a monthly monitoring programme.

## 9.5. **POST CLOSURE MONITORING**

9.5.1 Groundwater monitoring by the Licence Holder, in accordance with Condition 9.3 or 9.4, shall commence immediately upon closure of the Facility and be maintained for a period of 30 (thirty) years, or such lesser period as may be determined by the Director and the Director: RPW.

## 9.6. **FURTHER INVESTIGATION**

9.6.1 If, in the opinion of the Director and/or the Director: RPW, 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 and/or the Director: RPW.

## 10. **AUDITING**

### 10.1. **INTERNAL AUDITS**

10.1.1. Internal audits must be conducted quarterly (four times per year) 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 to the external auditor specified in Condition 10.2.1, and the Director, within 30 (thirty) days of the date the audit was conducted.

### 10.2. **EXTERNAL AUDITS**

10.2.1. The Licence Holder must appoint an independent external auditor after the decommissioning phase has been concluded, to audit the Facility annually. This auditor must compile an audit report documenting the findings of the audit, which must be submitted by the Licence Holder to the Director.

10.2.2. The audit report must:

10.2.2.1. specifically state whether conditions of this Licence are adhered to;

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

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

10.2.2.4. specify whether corrective actions which was taken for the previous audits' non-compliances was adequate.

- 10.2.3. The external audit report must be submitted to the Environmental Monitoring Committee (hereinafter referred to as the "Monitoring Committee"), provided in Condition 11 below, within 3 (three) months from the date on which the external auditor finalised the report.
- 10.2.4. Each external audit must be submitted to the Director within 30 (thirty) days from the date on which the external auditor finalised the report.
- 10.2.5. Both the internal and external audit reports must be in accordance with the format as prescribed by the Department.

### **10.3. DEPARTMENTAL AUDITS AND INSPECTIONS**

- 10.3.1. The Department and the Director: RPW reserves the right to audit and/or inspect the Facility at any time and at such a frequency as the Director and Director: RPW may decide, or to have the Facility audited or inspected.
- 10.3.2. The Licence Holder must make any records or documentation available to the Director and the Director: RPW upon request, as well as any other information the Director and the Director: RPW may require.
- 10.3.3. 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.

## **11. MONITORING COMMITTEE**

- 11.1. 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 2 (two) years after the closure of the Facility, or such longer period as may be determined by the Director.
- 11.2. The Monitoring Committee shall be representative of relevant interested and affected parties (I&APs) and may consist of at least 3 (three) of the following representatives:
  - 11.2.1. Licence Holder and/or his/her appointed consultant(s) or advisor(s);
  - 11.2.2. representative(s) of the Health, Environment and/or Waste Departments of the relevant local authority;
  - 11.2.3. representative(s) of this Department; and
- 11.3. 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.
- 11.4. 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 10.2.1, and submitted in terms of Condition 10.2.3.
- 11.5. 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.

## **12. RECORD KEEPING**

- 12.1. The Licence Holder must keep records of all monitoring results, nuisances and complaints at the Facility.
- 12.2. All records required or resulting from activities required by this Licence must:
  - 12.2.1. be legible;
  - 12.2.2. be made available and should form part of the external audit report;
  - 12.2.3. if amended, be amended in such a way that the original and any subsequent amendments remain legible and are easily retrievable;
  - 12.2.4. be retained in accordance with documented procedures which are approved by the Department; and
  - 12.2.5. be made available to the Department upon the request of the Director.



- 12.3. The Licence Holder shall record all borehole data and chemical analysis in a format agreed upon in writing between the Director, the Director: RPW, the Licence Holder, and a relevant specialist if so required.
- 12.4. The Licence Holder must register and report all waste volumes or masses received, recovered, disposed of or stored to the Department's Integrated Pollutant and Waste Information System (IPWIS), which can be accessed on the URL: <http://ipwis.pgwc.gov.za/ipwis3/public>, as required by the Department.

### **13. REPORTING**

- 13.1. 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.
- 13.2. 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 13.1, 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:
  - 13.2.1. correct the impact resulting from the incident;
  - 13.2.2. prevent the incident from causing any further impact; and
  - 13.2.3. prevent a recurrence of a similar incident.
- 13.3. 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 13.1, or measures which have been implemented are inadequate, the Director may implement the necessary measures at the cost and responsibility of the Licence Holder.
- 13.4. The Licence Holder or duly appointed person must keep and maintain an incident and complaints register, which must be available at the request of the Director.
- 13.5. 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.
- 13.6. The Department must be notified within 14 (fourteen) days of the following changes:
  - 13.6.1. Licence Holder's trading name, registered name or registered office address;
  - 13.6.2. particulars of the Licence Holder's ultimate holding company (including details of an ultimate holding where a Licence Holder has become a subsidiary); and
  - 13.6.3. Steps taken with a view to the Licence Holder going into bankruptcy, entering into composition or arrangement with creditors.
- 13.7. The Department must be notified without delay in the case of the following:
  - 13.7.1. any malfunction, breakdown of failure of equipment or techniques, accident or fugitive emission which has caused, is causing or may cause significant pollution;
  - 13.7.2. the breach of conditions of this licence; and
  - 13.7.3. any significant adverse environmental and health effects.
- 13.8. Prior written notification must be given to the Director of the following events and within the specified timeframes:
  - 13.8.1. As soon as practicable prior to the permanent cessation of any operational activities;
  - 13.8.2. Full or partial cessation of the operational activities for a period likely to exceed 3 (three) months; and
  - 13.8.3. Full or partial resumption of the operation of all or part of the activities after a cessation notified under 13.8.2 above.

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

- 14.1. Should the Licence Holder want to alienate or lease the Facility, he/she must notify the Director in writing of such an intention at least 120 (one hundred and twenty) days prior to the said transaction. Should the approval be granted, the subsequent Licence Holder shall remain liable to compliance with all Licence conditions.

#### **15. TRANSFER OF WASTE MANAGEMENT LICENCE**

- 15.1. Should the Licence Holder want to transfer holdership of this Licence, he/she must apply in terms of Section 52 of the NEM:WA.
- 15.2. Any subsequent Licence Holder shall be bound by the conditions of this Licence.
- 15.3. The rights granted by this Licence are personal rights (i.e. not attached to a property, but granted to a natural or juristic person). As such, only the Licence Holder may undertake the activities authorised by the Licensing Authority. Permission to transfer the rights and obligations contained herein must be applied for in the following manner:
- 15.3.1. The applicant must submit an originally signed and dated application for an amendment of the Licence to the Licensing Authority stating that he/she wishes the rights and obligations contained herein to be transferred, and including:
- 15.3.2. confirmation that the Licence is still in force (i.e. that the validity period has not yet expired or the listed activities were lawfully commenced with);
- 15.3.3. the contact details of the person who will be the new Licence Holder;
- 15.3.4. the reasons for the transfer; and
- 15.3.5. an originally signed letter from the proposed new Licence Holder acknowledging the rights and obligations contained in the Licence and indicating that he/she has the ability to implement the mitigation and management measures and comply with the stipulated conditions.
- 15.3.6. The Licensing Authority will issue an amendment to the new Licence Holder either by way of a new Licence or an addendum to the existing Licence if the transfer is found to be appropriate.

#### **16. COMMENCEMENT**

- 16.1. The construction and rehabilitation activities of the licensed activity may not commence within 20 (twenty) days of the date of signature of the Licence.
- 16.2. 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.
- 16.3. 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.
- 16.4. This decommissioning phase must commence within a period of 5 (five) years from the date of issue of this Licence. 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.
- 16.5. If the proponent anticipates that commencement of the activity would not occur within 5 (five) year period, 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.

## **17. GENERAL**

- 17.1. This Licence shall not be transferable unless such transfer is subject to Condition 15 above.
- 17.2. 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.
- 17.3. Transgression of any condition of this Licence could result in the suspension of the Licence by this Department.
- 17.4. This Licence is valid for a period of 10 (ten) years from the date of issue of this Licence. 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.
- 17.5. Should the Licence Holder want to conduct the waste management activity beyond 10 (ten) years, the Licence Holder must apply for a review 1 (one) year before the expiry date.
- 17.6. 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.
- 17.7. In terms of section 28 and 30 of the National Environmental Management Act, 1998 (Act No. 107 of 1998), as amended (NEMA), and section 19 and 20 of the National Water Act, 1998 (Act No. 36 of 1998), 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 understand 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.
- 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: 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 [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@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](mailto:Marius.Venter@westerncape.gov.za) or URL <http://www.westerncape.gov.za/eadp> .

**E. DISCLAIMER**

Provincial Government, Local Authority or committees appointed in terms of the conditions of the application or any other public authority or organisation shall not be held responsible for any damages or losses suffered by the developer or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the developer with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Your interest in the future of our environment is greatly appreciated.

**Lance McBain-Charles**  
**Acting Director: Waste Management**

**Date: 2023/05/12**

## **ANNEXURE I**

### **REASONS FOR THE DECISION (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:

The Department received a variation application from the Overstrand Municipality on 20 April 2023 for the existing Fisherhaven WDF waste management licence (WML) (Ref: 19/2/5/4/E2/8/WL10166/18). The Department has reviewed the application and extended the commencement of decommissioning date, as contained in the WML, with 5 years to 19 May 2028, and the validity of the WML for a further 10 years from the signature of this WML.

In accordance with the Licence Condition 17.4, the Department has also reviewed and updated the Licence.

### **REASONS FOR THE 2018 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:

The Department received a non-substantive variation application on 28 September 2018 to apply for a postponement of the commencement for five to ten years, citing that due to other waste management projects and current activities requiring funds, the rehabilitation of the Fisherhaven WDF could not be commenced with before the original commencement period (i.e. 10 December 2019) was reached.

In accordance with Licence Condition 17.4, the Department has also reviewed and updated the validity period of this Licence.

### **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.

- The information contained in the Application Form for a Waste Management Licence dated 16 January 2014;
- The BAR dated 15 May 2014, compiled by SRK Consulting (Pty) Ltd, including the Waste Management Licence Application Additional Information Annexure;
- Comments raised by I&AP's throughout the Public Participation Process (PPP), the Applicant and the Environmental Assessment Practitioner's responses thereto;
- A Facility visit undertaken by Tanya Faber from this Department on 3 September 2014;
- Relevant information contained in the Departmental information base; and
- 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 located across two properties (Erven 749 and 779) in Fisherhaven. Farm Road, the southern edge of Fisherhaven, provides access to the Facility. The closest residences are within 40 m of the Facility and the Facility is not visible from Farm Road. The Facility is covered, revegetated and earth berms constructed around the perimeter of the disposal areas to discourage public dumping. The Facility is not fenced and is easily accessible by foot or by car.

## **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 Facility notices on alternative facilities, permission with is hereby granted for such deviation, as the Facility is an existing WDF.

## **Alternatives**

The following alternatives were considered:

### **Facility Alternatives**

No facility 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 facility.

## **Public Participation Process**

The PPP comprised of the following:

- Copies of the draft BAR were sent to CapeNature, the Breede Overberg Catchment Management Agency (BOCMA) for comment on 25 March 2014 and 28 March 2014 respectively and a copy of the draft BAR was sent to the Hermanus Public Library on 26 March 2014 to be made available for public comment;
- Newspaper advertisements announcing the project and the availability of the draft BAR for public review appeared in two local newspapers, namely "Hermanus Times" and "Die Burger", on 27 March 2014;
- A Facility notice board announcing the project and the Basic Assessment process was placed on the boundaries of the Facility on 22 March 2014;
- A 40-day comment period was provided to all IAPs to review the draft BAR and submit comments. The comment period closed on 12 May 2014. All comments received are recorded and responded to in a Comments and Responses Report;
- All IAPs responding to the newspaper advertisements and Facility notice boards were registered on the database of IAPs;
- The final BAR was revised following the IAP comment period and released for a second, 21-day public comment period;
- All registered IAPs were notified of the availability of the final BAR for review and was forwarded a copy of the Executive Summary; and
- Copies of all correspondence, newspaper advertisements, Facility notices, the IAP database and the written submissions received from IAPs were enclosed with the Comments and Responses Report as Appendix F of the final BAR.

**Authorities Consultation**

- Cape Nature; and
- Breede Overberg Catchment Management Agency (BOCMA).

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 DWS have been included in the Waste Management Licence.

\_\_\_\_\_End\_\_\_\_\_