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Department:
Economic Development, Environment, Conservation and Tourism
North West Provincial Government
REPUBLIC OF SOUTH AFRICA



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Ref: NWP/EIA/35/2020

Attention: Jannie Heydenrych
Fuller Developments (Pty) Ltd
P.O. Box 507
POTCHEFSTROOM
2520

Tel No.: (018) 290 9868
Cell No.: 082 775 8448
Fax No.: (018) 290 8572
Email: jannie@fullercivils.co.za

PER EMAIL AND POST

Dear Sir/Madam

ENVIRONMENTAL AUTHORISATION FOR THE ESTABLISHMENT OF A MIXED USE DEVELOPMENT WITH ASSOCIATED SERVICES (BAILLIE PARK EXTENSION 61 AND 62) ON PORTION 51 OF THE FARM VYFHOK 428 IQ, POTCHEFSTROOM, LISTED ACTIVITIES 27 AND 28(i) IN GN R. 327, JB MARKS LOCAL MUNICIPALITY, NORTH-WEST PROVINCE

Your application for Environmental Authorisation, in terms of Section 24(2)-(a) of the National Environmental Management Act, 1998 as amended (Act No. 107 of 1998) in respect of -

Government Notice No. R. 327 of the EIA Regulations of 04 December 2014 as amended for:

- 1) *The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation (Listed activity 27).*
- 2) *Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development will occur inside an urban area, where the total land to be developed is bigger than 5 hectares [Listed activity 28(i)].*

In terms of the Regulations of Chapter 5 of NEMA, 1998 refer.



Together we move North West forward.



This Department has evaluated the Basic Assessment Report received on 24 February 2021, for the establishment of a mixed use development with associated services (Baillie Park Extension 61 and 62) on Portion 51 of the farm Vyfhoek 428 IQ, Potchefstroom, JB Marks Local Municipality, North-West Province, to verify whether this activity will have significant negative impact on the environment.

Enclosed please find the Environmental Authorisation and the conditions under which your application is authorised.

Formal appeals regarding the Environmental Authorisation can be directed to the Appeal Administrator for Department of Economic Development, Environment, Conservation and Tourism, North-West Province. Such an appeal must be lodged in terms of the National Appeal Regulations of 08 December 2014.

Yours Faithfully



Ms. Portia Krisjan

Director: Environmental Quality Management

Department of Economic Development, Environment, Conservation and Tourism

Date: 19/03/2021

Cc: **AB Enviro Consult cc**
Contact Person: Mrs. Hannie du Plooy
Tel No.: (018) 294 5005
Cell No.: 071 202 4027
Fax No.: (018) 293 0671
Email: hannieduplooy@abenviro.co.za



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A. DEFINITIONS

“activity” means an activity identified in any notice published by the Minister or MEC in terms of Section 24D(1)(a) of the Act as a listed activity or specified activity.

“commence” means the start of any physical activity, including site preparation and any other activity on the site in furtherance of a listed activity or specified activity, but does not include any activity required for purposes of an investigation or feasibility study as long as such investigation or feasibility study does not constitute a listed activity or specified activity

“development” means the building, erection, construction or establishment of a facility, structure or infrastructure, including associated earthworks or borrow pits, that is necessary for the undertaking of a listed or specified activity, including any associated post development monitoring, but excludes any modification, alteration or expansion of such a facility, structure or infrastructure, including associated earthworks or borrow pits, and excluding the redevelopment of the same facility in the same location, with the same capacity and footprint.

“expansion” means the modification, extension, alteration or upgrading of a facility, structure or infrastructure at which an activity takes place in such a manner that the capacity of the facility or the footprint of the activity is increased.

“independent”, in relation to an EAP, a specialist or the personal or the person responsible for the preparation of an environmental audit report, means

- a) that such EAP, specialist or person has no business, financial, personal or other interest in the activity or application in respect of which that EAP, specialist or person is appointed in terms of these Regulations; or
- b) that there are no circumstances that may compromise the objectivity of that EAP, specialist or person in performing such work excluding –
 - (i) normal remuneration for a specialist permanently employed by the EAP; or
 - (ii) fair remuneration for work performed in connection with that activity, application or environmental audit.


“public participation process” means a process in which potential interested and affected parties are given an opportunity to comment on, or raise issues relevant to, specific matters.

“registered interested and affected party”, in relation to an application, means an interested and affected party whose name is recorded in the register opened for that application in terms of Regulation 42.

“the Act” means the National Environmental Management Act, 1998 (Act No. 107 of 1998) .

“the Department” means the Department of Economic Development, Environment, Conservation and Tourism

“state Department” means any Department or administration in the national or provincial sphere of government exercising functions that involve the management of the environment.

 **“the Regulations”** means the Environmental Impact Assessment Regulations of 04 December 2014 as amended.



B. Environmental Authorisation

Authorisation register number: NWP/EIA/35/2020
Holder of Environmental Authorisation: Fuller Developments (Pty) Ltd
Location of activity: Portion 51 of the farm Vyfhoek 428 IQ, Potchefstroom, JB Marks Local Municipality, North-West Province

1. Decision

The Department is satisfied on the basis of information available to it and subject to compliance with the conditions of this Environmental Authorisation, that the applicant should be authorised to undertake the activity specified below:

2. Activity authorised

By virtue of the powers delegated by the MEC in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended and the Environmental Impact Assessment Regulations of 04 December 2014 as amended, the Director: Environmental Quality Management of the Department of Economic Development, Environment, Conservation and Tourism, authorises:-

Fuller Developments (Pty) Ltd
P.O. Box 507
POTCHEFSTROOM
2520

Tel No.: (018) 290 9868
Cell No.: 082 775 8448
Fax No.: (018) 290 8572
Email: jannie@fullercivils.co.za

to undertake the following activity:

The establishment of a mixed use development (Baillie Park Extension 61 and 62) with a total extent of 8.4232 hectares. The development will be undertaken in phases and will be comprised of the following:

(Phase 1) - Baillie Park Extension 61

- Residential 1, 2 and 3 erven
- 1 "Private Open Space" erven
- 1 "Special" erven
- 1 "Private and Public Roads

 **The total extent of Baillie Park Extension 61 (Phase 1) is 4.0742 hectares.**

(Phase 2) - Baillie Park Extension 62

- Residential 1 and 2 erven
- Institutional erven
- 2 "Private Open Space" erven
- Private Roads and Public Road erven

The total extent of Baillie Park Extension 62 (Phase 2) is 4.4201 hectares.

Details regarding the basis on which the Department reached this decision are set out in Annexure 1.

Site Location:

Alternative Site	Latitude	Longitude
Portion 51 of the farm Vyfhoek 428 IQ, (residential development site)	26° 43' 11.26" S	27° 07' 34.97" E

The proposed development site is situated on the south-eastern side of Baillie Park Township, at the end of Wynne Street, on Portion 51 of the farm Vyfhoek 428 IQ, which falls within the jurisdiction of JB Marks Local Municipality, North-West Province, hereafter referred to as "the property"

3. Conditions

3.1 Scope of Environmental Authorisation

- 3.1.1 The preferred Alternative Site (S1) is approved.
- 3.1.2 Authorisation of the activity is subject to the conditions contained in this Environmental Authorisation, which form part of the Environmental Authorisation and are binding on the holder of the Environmental Authorisation.
- 3.1.3 The holder of the Environmental Authorisation must be responsible for ensuring compliance with the conditions contained in this Environmental Authorisation. This includes any person acting on the holder's behalf, including but not limited to, an agent, servant, contractor, sub-contractor, employee, consultant or person rendering a service to the holder of the Environmental Authorisation.
- 3.1.4 The activity authorised may only be carried out at the property as described in Point 2 under site location.
- 3.1.5 This Environmental Authorisation does not negate the holder of the Environmental Authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.
- 3.1.6 Relevant legislation that must be complied with by the holder of this Environmental Authorisation includes, *inter alia*:
- a) All provisions of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).
 - b) All provision of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983).
 - c) All provision of the National Environment Management: Biodiversity Act, 2004 (Act No. 10 of 2004).

- d) All provisions of the National Water Act, 1998 (Act No. 36 of 1998).
 - e) All provisions of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) as amended.
 - f) All provisions of the Spatial Planning and Land Use Management Act, 2013 (Act No.16 of 2013).
 - g) All provisions of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)
 - h) The development must adhere to the municipal by-laws.
- 3.1.7 The holder of an Environmental Authorisation has the responsibility to apply for Environmental Authorisation amendment to the competent authority for any alienation or deviation from project description / ownership.

4. Appeal of Environmental Authorisation

- 4.1 The holder of the Environmental Authorisation must notify every **registered** interested and affected party, in writing and within **14 days** of receiving an Environmental Authorisation from the Department.
- 4.2 The notification referred to in 4.1 must –
 - 4.2.1 Inform interested and affected parties of the decision, reason for decision and where the decision can be accessed.
 - 4.2.2 Advise the interested and affected parties that a copy of the Environmental Authorisation and reasons for the decision will be furnished on request.
 - 4.2.3 Specify the date on which the Environmental Authorisation was issued.
 - 4.2.4 Inform the registered interested and affected parties of the appeal procedure provided for in Chapter 2 of the National Appeal Regulations (see Annexure 2).
- 4.3 An appeal against the decision must be lodged in terms of Chapter 2 of the National Appeal Regulations with:

The Appeal Administrator: Ms. Carene Nieuwoudt
Department of Economic Development, Environment, Conservation and Tourism:
Room E30, Agricentre Building
Cnr. Dr. James Moroka & Stadium Road
MMABATHO

Tel No.: (018) 389 5986

Cell No.: 083 385 9486

Fax No.: 086 581 7858

E-Mail: CNieuwoudt@nwpg.gov.za



4.4 Such appeal must be lodged in writing by completing Appeal form obtainable from the Appeal Administrator.

4.5 An appeal made against this Environmental Authorisation will result in it being suspended; therefore the activity must not commence pending the lapse of 20 days after all Interested and Affected parties have been informed of this decision.

4.6 Should an appeal be lodged within 20 days after notification to all Interested and Affected parties of this decision, the activity may only commence once the decision by the MEC, as Appeal Authority, have been made.

5. Management of the activity

5.1 The draft Environmental Management Programme (EMPr) for the project submitted as part of application for Environmental Authorisation is **hereby approved**.

5.2 The recommendations and mitigation measures outlined in the Basic Assessment Report compiled by AB Enviro Consult cc, and received by the Department on 24 February 2021, must be adhered to.

5.3 Any proposed amendments to the EMPr (as a result of this Environmental Authorisation or otherwise) must be submitted in writing to Director: Environmental Quality Management for approval prior to the amendment being implemented. The proposed amendments will be decided upon by the Department within a period of **30 days** of receiving the submission.

5.4 The provisions of the EMPr are an extension of the conditions of the Environmental Authorisation and therefore non-compliance with the EMPr would constitute non-compliance with the Environmental Authorisation.


5.5 The EMPr must form part of the contractor's tender documentation for all contractors working on the project and must be made available on the site.

6. Monitoring

6.1 The holder of Environmental Authorisation has the responsibility to ensure that the mitigation/ rehabilitation measures and recommendations referred to in the Basic Assessment Report are implemented, and to ensure compliance with the provisions of the EMPr.

6.2 The holder of Environmental Authorisation must ensure communications with key stakeholders in respect to monitoring of compliance with conditions of Environmental Authorisation and the EMPr, and also liaise with the Environmental Compliance and Enforcement Section of this Department. [Potchefstroom District Office contact details: Tel No. (018) 299 6686, Email: RMolusi@nwpg.gov.za].

6.3 It is the responsibility of the holder of this Environmental Authorisation to ensure that an ongoing management and monitoring of the impacts of the activities on the environment throughout the life cycle of the activities is put into practice.



7. Validity Period of the activities authorised

- 7.1 This Environmental Authorisation is valid for a period of **10 years** (i.e. this activity must be concluded within **10 years** from the date of issue of this Environmental Authorisation).
- 7.2 If the holder of the Environmental Authorisation anticipates that the conclusion of the activity would not occur within a **10 year** period, he/she must prior to the lapse of **10 years**, apply for an amendment of the Environmental Authorisation and show good cause and give reasons why an extension of the Environmental Authorisation should be granted.
- 7.3 Should the Environmental Authorisation expire, the said authorisation will be null and void, and a new application for an Environmental Authorisation must be made in order for the activity to be undertaken.

8. Recording and reporting to the Department/ Environmental Audit Report

- 8.1 **14 days** written notice must be given to the Departments' Environmental Compliance and Enforcement Section that the activity will commence at CNieuwoudt@nwpg.gov.za and EMulibana@nwpg.gov.za.
- 8.2 All incidents of major hazardous substance spill must be reported to the Environmental Compliance and Enforcement Section within **48 hours** and action taken to remedy the situation must be outlined.
- 8.3 Records relating to monitoring and auditing must be kept on site and made available for inspection to any relevant and competent authority in respect of this development.

9. Specific Conditions

- 9.1 The applicant must adhere to the proposed mitigation measures and recommendations contained in the Basic Assessment Report compiled by AB Enviro Consult cc and received by the Department on 24 February 2021.
- 9.2 The development must be restricted to the establishment of a mixed use development with a total extent of 8.4232 hectares on Portion 51 of the farm Vyfhoek 428 IQ, JB Marks Local Municipality, North-West Province.
- 9.3 The proposed development site must be demarcated prior to the commencement of the development, and the development must be restricted to the demarcated area to minimise damage to the vegetation and exposure of the ground to erosion.
- 9.4 All plant species of conservation importance (if any) must be removed from the demarcated area prior to construction commencing and must either be relocated outside of the construction area or donated to the South African National Biodiversity Institute in consultation with Biodiversity Management Directorate of this Department.
- 9.5 Appropriate signage must be placed to Caution the employee, contractors and public not to attempt to enter certain structures without being authorised and regular safety inspections must be conducted in order to ensure that participants are equipped with necessary safety equipments.



- 9.6 Topsoil must be removed and stockpiled aside for rehabilitation purposes, and it must be ensured that topsoil stockpiles are located outside of any drainage lines and areas susceptible to erosion.
- 9.7 Dust suppression measures must be implemented at all times during construction to prevent the spreading of nuisance dust.
- 9.8 Stormwater from the development must be channeled through internal roads into the stormwater infrastructure located at the south-eastern side of the property. The stormwater must be dissipated before it is discharged into the natural environment or watercourse.
- 9.9 The Department of Water and Sanitation (DWS) must be informed of incidents that could lead to water pollution, and they must be involved in mitigation/corrective measures undertaken as a result of such incidents.
- 9.10 All recommendations of the Traffic Impact Assessment Study (report dated September 2020) undertaken by EDL Consulting Engineers, that road accesses and upgrades will be done must be adhered to.
- 9.11 The proposed removal of the old sluice gate located at the corner of Wynne Street and the gravel access road leading to the proposed development site must be done in consultation with the Department of Water and Sanitation.
- 9.12 All recommendations of the Geotechnical Investigation Study (report dated October 2019) undertaken by Viljoen & Associates, that development should be planned to take place above 1:100 year floodline must be adhered to.
- 9.13 Should any archaeological artefacts or palaeontological materials be exposed during earth moving activities, construction in the vicinity of the finding must be stopped and the South African Heritage Resource Agency must be notified immediately (**within 48 hours**). Under no circumstances shall any artefacts be destroyed. Such an archaeological site must be marked and fenced off.
- 9.14 All recommendations of the Heritage Impact Assessment (report dated July 2020) undertaken by Apelser Archaeological Consulting, must be adhered to.
- 9.15 Recommendation of the Palaeontological Impact Assessment (report dated 12 November 2020) undertaken by Dr. H Fourie (Palaeontologist), must be adhered to.
- 9.16 Ablution facilities must be provided to the workers during the construction phase. They must be serviced regularly to ensure proper operation, and they must be emptied at the municipal sewage treatment works to prevent any possible pollution.
- 9.17 All solid waste produced by the development during construction must be removed once a week to a licensed landfill site.
- 9.18 The holder of Environmental Authorisation is responsible for compliance with the provisions for duty of care and remediation of environmental damage in accordance with Section 28 of National Environmental Management Act, 1998 (Act No. 107 of 1998).



- 9.19 The contractor must ensure that drip trays are always available to collect any fluid that may result from accidental spillage, overflow and/or servicing. All equipment that leak must be repaired immediately and/or removed from the site when necessary.
- 9.20 Notwithstanding the preceding conditions, the holder shall adhere to, and ensure adherence by all contractors, sub-contractors and workers for this project, to all conditions listed herein, and all obligations, commitments, monitoring and proposed mitigation measures as outlined in the EMPr.

10. General

- 10.1 A copy of this Environmental Authorisation must be kept at the property where the activity will be undertaken. The Environmental Authorisation must be produced to any authorised official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the Environmental Authorisation who works or undertakes work at the property.
- 10.2 The holder of the Environmental Authorisation must notify the Department, in writing and within **48 hours**, if any condition of this Environmental Authorisation cannot be or is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance. Non-compliance with a condition of this Environmental Authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Regulations.
- 10.3 National government, provincial government, local authorities or committees appointed in terms of the conditions of this Environmental Authorisation or any other public authority shall not be held responsible for any damages or losses suffered by the applicant 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 applicant with the conditions of this Environmental Authorisation as set out in this document or any other subsequent document emanating from these conditions of this Environmental Authorisation.

Environmental Authorisation Approved By:



Ms. Portia Krisjan

Director: Environmental Quality Management

Department of Economic Development, Environment, Conservation and Tourism

Date:

19/03/2021



ANNEXURE 1: REASONS FOR AUTHORISATION

1. Background

The Applicant, **Fuller Developments (Pty) Ltd** applied for Environmental Authorisation to carry out the following activity:

The establishment of a mixed use development (Baillie Park Extension 61 and 62) with a total extent of 8.4232 hectares

The applicant appointed **AB Enviro Consult cc** to undertake Environmental Impact Assessment process as required by Regulation 12 of the EIA Regulations of 2014 as amended.

2. Information considered in making the decision

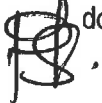
In reaching its decision, the Department took, *inter alia*, the following into consideration -

- a) The information contained in the Basic Assessment Report compiled by AB Enviro Consult cc and received by the Department on 24 February 2021.
- b) All mitigation measures and recommendations as proposed in the Basic Assessment Report and the Environmental Management Programme received by the Department on 24 February 2021.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including Section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended.
- d) The findings of a site visit undertaken by the Department official Mr. Robert Nemanashi with Mrs. Hannie du Plooy of AB Enviro Consult cc on 05 November 2020.

3. Key factors considered in making the decision

All information presented to the Department was taken into account in the Department's consideration of the application. A summary of the issues which, in the Department's view, were of the most significance is set out below:

- a) A sufficient public participation process was undertaken and the applicant has satisfied the minimum requirements as prescribed in the EIA Regulations of 2014 as amended for public involvement. The proposed development was advertised in the "Potchefstroom Herald" newspaper dated 15 October 2020 as part of the public participation process.
- b) The legal and procedural requirements have been complied with and the information contained in the document is to the satisfaction of this Department.

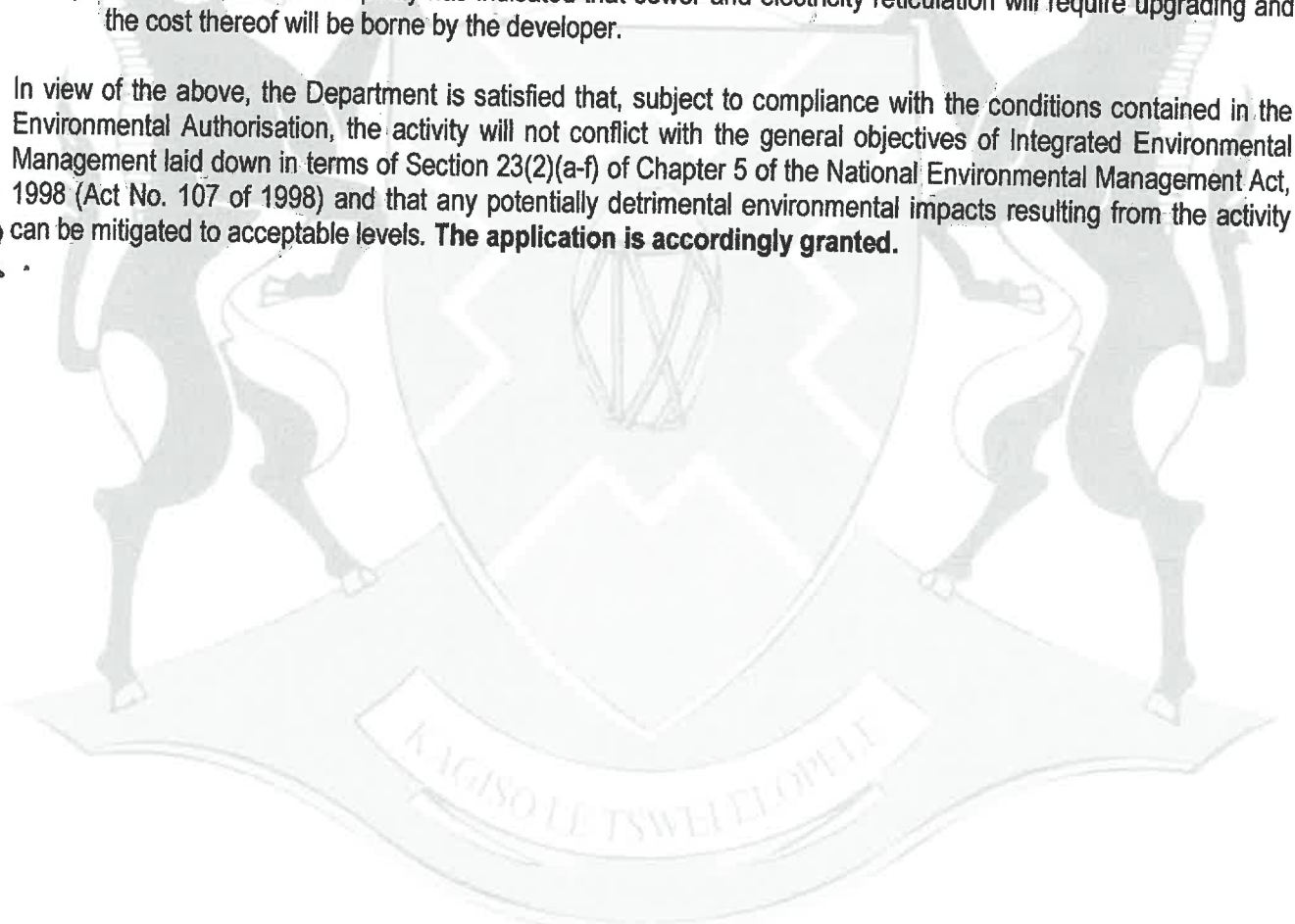


4. Findings

After consideration of the information and factors listed above, the Department made the following findings -

- a) The proposed mixed use development can be considered as infill development as it is proposed adjacent to existing township of Baillie Park.
- b) The proposed development will contribute to the reduction of housing shortages within JB Marks Local Municipality.
- c) The Engineering Services Report compiled by Moedi Consulting Engineers (report dated August 2020) has concluded that the development can be connected to existing bulk service infrastructure (water supply, electricity supply and sewer reticulation) available in close proximity to the proposed development site.
- d) JB Marks Local Municipality has indicated that sewer and electricity reticulation will require upgrading and the cost thereof will be borne by the developer.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the Environmental Authorisation, the activity will not conflict with the general objectives of Integrated Environmental Management laid down in terms of Section 23(2)(a-f) of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the activity can be mitigated to acceptable levels. **The application is accordingly granted.**



ANNEXURE 2: ADMINISTRATION AND PROCESSING OF APPEALS

ADMINISTRATION AND PROCESSING OF APPEALS IN TERMS OF CHAPTER 2 OF THE NATIONAL APPEAL REGULATIONS, 2014 TO BE FOLLOWED BY THE APPLICANT, AND INTERESTED AND AFFECTED PARTIES UPON RECEIPT OF NOTIFICATION OF AN ENVIRONMENTAL AUTHORISATION

Appeal submission

4. (1) An appellant must submit the appeal to the appeal administrator, and a copy of the appeal to the applicant, any registered interested and affected party and any organ of state with interest in the matter **within 20 days** from:
 - (a) the date that the notification of the decision for an application for an environmental authorisation was sent to the registered interested and affected parties by the applicant; or
 - (b) the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority, in the case of decisions other than those referred to in paragraph (a).
- (2) An appeal submission must be-
 - (a) submitted in writing in the form obtainable from the appeal administrator; and
 - (b) accompanied by-
 - (i) a statement setting out the grounds of appeal;
 - (ii) supporting documentation which is referred to in the appeal submission; and a statement, including supporting documentation, by the appellant to confirm compliance with regulation 4(1) of these Regulations.

Responding statement

5. The applicant, the decision-maker, interested and affected parties and organ of state must submit their responding statement, if any, to the appeal authority and the appellant within 20 days from the date of receipt of the appeal submission.

Appeal panel

6. (1) If the appeal authority reasonably believes that expert advice must be sought or that an appeal panel must be appointed, the appeal administrator must source an independent expert or constitute an independent appeal panel, or both, within 10 days from the date of receipt of an instruction from the appeal authority,
- (2) The appeal panel contemplated in subregulation (1) may consist of such number of independent experts and with such expertise as the Appeal Authority may deem necessary under the circumstances;
- (3) The expert or appeal panel must provide advice to the appeal administrator within 10 days from the receipt of an instruction from the appeal administrator.



Recommendations and decisions on appeals

7. (1) The appeal administrator must make a recommendation on the appeal to the appeal authority within 30 days of receipt of the responding statement referred to in regulation 5 of these Regulations, in the event that an independent expert has not been sourced or an independent appeal panel has not been constituted.
- (2) The appeal administrator must make a recommendation on the appeal to the appeal authority within 10 days of receipt of the advice referred to in regulation 6(2) of these Regulations, in the event that an independent expert has been sourced or an independent appeal panel has been constituted.
- (3) The appeal authority must reach a decision on an appeal, and notify the appellant, applicant, and any registered interested and affected party, within 20 days of the recommendation on the appeal by the appeal administrator.
- (4) The decision contemplated in subregulation (3) must contain written reasons for the decision.

Communication

8. (1) A person may deliver documents in terms of these regulations by using one of the delivery methods referred to in section 47D of the Act, which are:
 - (i) by faxing a copy of the notice or other document to the person, if the person has a fax number;
 - (ii) by e-mailing a copy of the notice or other document to the person if the person has an e-mail address; or
 - (iii) by posting a copy of the notice or other document to the person by ordinary mail, if the person has a postal address;
- (2) In order to meet the time periods determined in these regulations, the person referred to in subregulation (1) must also email, fax or hand deliver the document to the recipient, if the document is delivered by ordinary mail or registered mail.

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