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Department:
Environment & Nature Conservation
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

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Enquiries :
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Navrae :
Imibuzo :

Mr. SG Mbanjwa

Date : 03rd August 2011
Letlha:
Datum:
Umhla:

Reference :
Tshupelo :
Verwysing :
Isalathiso :

NNO 25/19
NC/BA/NAM/KHA/POF2/2011

Mr. PJ Baker

Khai – Ma Local Municipality

P.O. Box 108

Poffader

8890

Fax: 054 - 933 0252

Dear Sir/ Madam

THE ENVIRONMENTAL AUTHORISATION FOR: GN. R 386: ACTIVITIES: 12,16(a) and 18 : THE RESIDENTIAL DEVELOPMENT OF 150 SUB – ECONOMICAL ERVEN AT ERF 1 SOUTH OF THE N14 AND WEST OF BUITEKANT STREET, POFFADER, KHAI MA LOCAL MUNICIPALITY, NAMAKWA DISTRICT MUNICIPALITY, NORTHERN CAPE PROVINCE.

By virtue of the powers conferred to me by the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Regulations, 2006, the Department hereby grants authorisation **THE ENVIRONMENTAL AUTHORISATION FOR THE GN. R 386: ACTIVITIES: 12,16(a) and 18 : THE RESIDENTIAL DEVELOPMENT OF 150 SUB – ECONOMICAL ERVEN AT ERF 1 SOUTH OF THE N14 AND WEST OF BUITEKANT STREET, POFFADER, KHAI MA LOCAL MUNICIPALITY, NAMAKWA DISTRICT MUNICIPALITY, NORTHERN CAPE PROVINCE.** A detailed description of the activity is given in the **Basic Assessment Report and EMP Dated May 2011**, subject to the conditions listed in the environmental authorisation. The environmental authorisation and reasons for the decision are attached herewith.

Permit 32/2011

In terms of regulation 10(2) of the Environmental Impact Assessment Regulations, 2006, you are instructed to notify all registered interested and affected parties, in writing and within seven (7) calendar days of receiving of this letter, of the Department's decision in respect of your application as well as the provisions regarding the making of appeals that are provided for in the regulations.

Your attention is drawn to Chapter 7 of the Regulations which regulates appeal procedures. Should you / any person affected by this decision wish to appeal any aspect of the decision, you or a person affected by this decision must, *inter alia*, lodge a notice of intention to appeal, as prescribed in regulation 62 of Environmental Impact Assessment Regulations, 2006, with the **Member of the Executive Council, Ministry of Environment and Nature Conservation within 10 days of receiving this letter, by means of one of the following methods:**

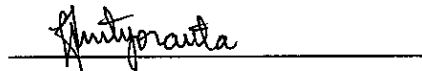
By facsimile: (053) 832 1026;

By post: Private Bag x 6102, Kimberley, 8300 or

By hand: T-Floor, Metlife Towers, Kimberley, 8300.

Should you decide to appeal, you must serve a copy of your notice of intention to appeal on all registered interested and affected parties as well as a notice indicating where, and for what period, the appeal submission will be available for inspection.

Yours faithfully



Mr J.J. Mutyorauta

DIRECTOR: ENVIRONMENTAL MANAGEMENT

DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION

DATE OF DECISIONS: 04th August 2011

Cc: Van Zyl Environmental Consultants

086 624 0306

Permit 32/2011

Northern Cape Province
DEPARTMENT OF
ENVIRONMENT & NATURE
CONSERVATION



Porofensi Ya Kapa Bokone
LEFAPHA LA, TIKOLOGO
LE TSHOMARELO
YA TLHAGO

ENVIRONMENTAL AUTHORISATION

in terms of National Environmental Management Act, 1998 (Act No. 107 of 1998) and the
Environmental Impact Assessment Regulations, 2006

Authorisation Register
Number:

Permit 32/2011

Reference Number:

NC/BA/NAM/KHA/POF2/2011

Last Amended:

N/A

Holder of Authorisation:

KHAI-MA MUNICIPALITY

Location of activity:

ERF 1, SOUTH OF THE N14 AND WEST OF
BUITEKANT STREET, POFADDER

DEFINITIONS

'Activity' means an activity identified in Government Notice No. R. 386 and No. R. 387 of 2006 as a listed activity.

'Applicant' means a person who submitted an application.

'Application' means an application for an environmental authorization in terms of chapter 3 of these regulations

'Basic Assessment' means a process contemplated in regulation 22

'Basic Assessment Report' means a report contemplated in regulation 23

'EAP' means an environmental assessment practitioner as defined in section 1 of the Act

'Environmental management plan' means an environmental management plan in relation to identified or specified activities envisaged in chapter 5 of the Act and described in regulation 34

'Interested and affected parties' means a interested and affected party contemplated in section 24(4)(d) of the Act, and which in terms of that section includes

- Any person, group of persons or organisation interested in or affected by an activity, and
- Any organ or state that may have jurisdiction over any aspect of the activity
-

'Public participation process' means a process in which potential interested and affected parties are given an opportunity to comment on, or rare issues relevant to, specific matters

'The Act' means the National Environmental Management Act, 1998 (Act No. 107 of 1998)

DECISION

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

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

ACTIVITIES AUTHORISED

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) and the Environmental Impact Assessment Regulations, 2006 the Department hereby authorises –

Khai – Ma Local Municipality

with the following contact details –

Mr. P.J. Baker
P. O. Box 108
Pofadder
8890
Tel: 054 933 0066
Fax: 054 933 0252

to undertake the following activity (hereafter referred to as "the activity") –

Residential development of 150 sub-economical erven, Pofadder

(GN.R 386, Activity 12, 16(a) and 18 of 21 April 2006)

at Erf 1, south of the N14 and west of Buitekant Street, Pofadder which falls within the jurisdiction of Khai- Ma Local Municipality of the Namaqua District Municipality hereafter referred to as "the property".

Exemptions

Further, the Department hereby exempts-

Van Zyl Environmental Consultants

Acting on behalf of the Applicant from complying with Regulation 51 (1) of GN R. 385 of 21 April 2006 to provide as applied for in the BAR dated May 2011.

The granting of this environmental authorisation is subject to the conditions set out below.

CONDITIONS

Scope of authorisation:

1. Authorisation of the activity is subject to the conditions contained in this authorisation, which conditions form part of the environmental authorisation and are binding on the holder of the authorisation.
2. The holder of the authorisation shall be responsible for ensuring compliance with the conditions by any person acting on his or her behalf, including but not limited to, an agent, sub-contractor, employee or person rendering a service to the holder of the authorisation.
3. The activity(s) which is authorised may only be carried out at the property indicated above.
4. Any changes to, or deviations from, the project description set out in this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder of the authorisation to apply for further authorisation in terms of the regulations.
5. This authorisation does not negate the holder of the authorisation's responsibility to comply with any other statutory requirements that may be applicable to the undertaking of the activity.

General conditions:

6. A copy of this authorisation must be kept at the property where the activity will be undertaken. The 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 authorisation who works or undertakes work at the property.
7. Where any of the applicant's contact details change, including the name of the responsible person, the physical or postal address and/ or telephonic details, the applicant must notify the Department as soon as the new details become known to the applicant.
8. In all other cases, the holder of the authorisation must notify the Department, in writing, within seven days if a condition of this authorisation is not adhered to. Any notification in terms of this condition must be accompanied by reasons for the non-compliance.
9. Non-compliance with a condition of this authorisation may result in criminal prosecution or other actions provided for in the National Environmental Management Act, 1998 and the regulations.
10. This authorization is subject to the approval by the relevant local authorities i.e. in terms of any relevant legislation administered by those local authorities.
11. The activity may not commence without the necessary permits/licenses/approvals and/or service agreements, where it is relevant, from or with the relevant regulatory authorities whether national, provincial or local (these include but are not limited to National Department of Water and Environmental Affairs, National Department of Agriculture, Forestry and Fisheries, Department of Cooperative Governance and Human settlement, Department of Water Affairs, Department of Minerals and Resources, Department of Energy, Department of Roads & Public Works, Department of Transport, Department Arts & Culture, Department of Sports and Recreation, South African Heritage Resources Agency, South African Civil Aviation Authority).

12. The activity, including site preparation, may not commence before the thirty (30) day appeal period expires or until such time as the Department has considered any appeals that have been lodged.
 - a. One week's written notice must be given to the Department before commencement with the activity.
 - b. Such notice shall make clear reference to the site location details and the reference number given above.
 - c. The said notice must also include proof of compliance with the following conditions described herein:
 - i. Conditions:23
13. The applicable conditions of this authorization must form part of all contractors' and sub-contractors' conditions of contract. A performance-based requirement with regard to environmental impact management must be included in all contracts related to any aspect of this authorization.
14. The applicant must carry out regular environmental audits to establish compliance with the conditions of this authorization and contracts.
15. Records relating to the compliance/non-compliance with the conditions of the authorization and contracts must be kept in good order. Such records must be made available to the Department within 7 (seven) days of receipt of a written request by the Department for such records.
16. Any complaints regarding the said development must be brought to the attention of the Department within 24 hours after receiving the complaint. A complaints register must be kept up to date for inspection by the Department.
17. Officials in the employ of the Department shall be given access to the property as described above (see detailed description of the activity) for the purposes of assessing and/or monitoring compliance with the conditions contained in this Record of Decision. Where the activity is located on a third party's property the applicant shall be responsible to arrange access for departmental officials.
18. This Department may add to, change and/or amend any of the conditions in this authorization if, in the opinion of the Department, the addition, change of amendment is environmentally justified. In event that such impacts exceed its significance as predicted in the independent consultant's environmental scoping report and supporting documentation, the authorization may be withdrawn after proper procedures were followed.
19. In the event of any dispute concerning the significance of a particular impact, the opinion of this department in respect of its significance will prevail.
20. This Department and any national department, provincial department, local authorities or committees appointed in terms of the conditions of this application or any other public authority or organization shall not be held responsible for any damage 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 approval as set out in this document or any other subsequent document emanating from these conditions of approval.
21. The applicant shall be responsible for all costs necessary to comply with the above conditions unless otherwise specified.
22. The applicant must apply the principle of best practicable environmental option for all technologies used/ implemented during construction.

Appeal of authorisation:

23. The holder of the authorisation must notify every registered interested and affected party, in writing and within 7 (SEVEN) calendar days, of receiving notice of the Department's decision to authorise the activity.
24. The notification referred to in must –
 - specify the date on which the authorisation was issued;
 - inform the interested and affected party of the appeal procedure provided for in Chapter 8 of the regulations; and
 - Advise the interested and affected party that a copy of the authorisation and reasons for the decision will be furnished on request.
25. If the applicant should appeal against this record of decision, he/she must inform all interested and affected persons that such an appeal is being lodged with the MEC and if requested, the applicant/appellant must provide those persons with reasonable access to a full copy of the appeal within a reasonable time before expiry of the thirty day appeal period.

Management of activity:

26. The Environmental Management Programme ("EMP") submitted as part of the application for environmental authorization must be implemented.
27. Storm water management must be completed before the operation commences.

Monitoring:

28. Officials in the employ of the Department shall be given access to the property as described above (see detailed description of the activity) for the purposes of assessing and/or monitoring compliance with the conditions contained in this Record of Decision. Where the activity is located on a third party's property the applicant shall be responsible to arrange access for departmental officials.
29. The applicant must appoint a suitably experienced Environmental Control Officer (ECO) for the construction phase of the development that will have the responsibility to ensure that the mitigation / rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the EMP.

Recording and Reporting to the Department:

30. Records relating to compliance or non-compliance with any condition of this authorization must be kept in good order. Such records must be made available for Compliance and Enforcement section of this Department within 7 (seven) days of written request by the officer.

Commissioning of the activity:

31. The authorised activities shall not commence within thirty (30) days of the date of signature of the authorisation.
32. This authorization is subject to the approval of the permit by SANRAL for the service crossing and access to the road N14 in Pofadder.
33. Should you be notified by the Minister/ MEC of a suspension of the authorisation pending appeal procedures, you shall not commence with the activities unless authorised by the Minister/ MEC in writing.

34. All health and safety measures must be taken into account and be implemented to ensure the safety of all personnel on site.
35. Proper measures must be taken to suppress dust.
36. Movement of construction vehicles must be avoided in sensitive areas.
37. Appropriate signage must be placed to caution employees and contractors not to attempt to enter certain structures without being authorized.
38. Storm water drainage must be designed in a way that soil erosion is minimized.
39. Erosion, during construction, operation and decommissioning phases, resulting from the activity must be avoided.
40. General waste must be removed and disposed off at a registered landfill site
41. All recommendations and mitigation measures as laid down in the Basic Assessment Report as well as the EMP (Environmental Management Programme) are binding and must be implemented.
42. Any complaint from the public during construction of this project must be attended to by the holder of this authorization as soon as possible to the satisfaction of parties concern.
43. Toilet and ablution facilities must be made available for the workers on site.
44. Adequate provision must be made for storm water drainage.
45. The indication of Department of Water Affairs in the BAR dated May 2011 states that an area of 32 meters from the bank of the rivulet should be kept open and the request that the 100 year maximum flow rate of this rivulet be indicated on plans must be adhered to.
46. Should protected trees be destructed, relocated and/or disturbed, permits must be obtained from the Department of Environment and Conservation (DENC), Directorate: Conservation.
47. Should any archaeological artifacts be found on site, the operation must be suspended and only continue after the applicant has consulted with South African Heritage Resource Agency (SAHRA).
48. The following recommendations as laid down by Dr. Helga van der Merwe contained in Appendix D: Specialist Reports of the BAR with ref nr: 3/2010 Proposed Sub-economical Residential Development of 150 Erven at Erf 1, Pofadder requires that:
 - During the site visit, Mr. Myburgh of BVI Consulting Engineers stated that the trees already growing at the site will preferably not be removed. Thus my recommendation is that the *Boscia albitrunca* individual located at 29° 07' 40.6" S and 19° 23' 13.3" E, not be harmed or removed and that this individual be incorporated into the plans of the developer.
 - Permits are to be obtained for the removal of the 14 species listed as specifically protected species in the Northern Cape Conservation Act. Since many of the species of conservation significance are not threatened in natural environment but fall, for example, within the *Aizoaceae* and *Mesembryanthemaceae* families, protected by the Northern Cape Nature Conservation Act, it is suggested that the individuals are removed and, where possible, transplanted.
 - The applicant is to enquire at the Karoo National Botanical Gardens (Worcester), the Kirstenbosch National Botanical Gardens (Cape Town) and the Hantam

National Botanical Gardens (Nieuwoudtville) if they require any of the plants for educational, display, research or gardening purposes.

- The necessary permits for the removal and/ or transplanting or disposal of protected species that are to be removed for the development must be obtained from the Northern Cape Nature Conservation. Additionally, if any individuals are to be exported out of the Northern Cape Province, the necessary export permits must also be acquired from the Northern Cape Nature Conservation.

Operation of the activity:

49. All forms of pollution must be prevented, or where it cannot, should be minimized or remedied.
50. All mitigation measures and recommendations as laid down in the Basic Assessment Report and EMP are binding and must be implemented.
51. On-going consultation between the SAPS, Municipality and Community should be undertaken to ensure that these organizations are aware of the perceived risks of the proposed development and that additional security measures and community upliftment programmes are implemented with regards to safety, security and decency of the neighbourhood.
52. All access roads must be well maintained at all times.
53. All waste must be removed from the site and disposed off in a registered landfill site.
54. The developer must ensure that the sewerage services do not disrupt the services of the neighbouring places.
55. Adequate provision must be made for storm water drainage.

Site Decommissioning:

56. Should the activity ever cease or become redundant, the applicant shall undertake the required actions as prescribed by legislation at the time and comply with all relevant legal requirements administered by any relevant and competent authority at that time.
57. No alien or invasive species must be introduced on the site.

DURATION AND PERIOD OF VALIDITY

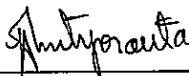
This activity(s) must commence within a period of three (3) years from the date of issue. If commencement of the activity does not occur within that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activity to be undertaken.

APPEAL

In terms of Chapter 7 of Environmental Impact Assessment Regulations, 2006, if the applicant or a person affected by this Decision wishes to appeal this decision, a notice of intention to appeal must be lodged within ten (10) days of being notified of the decision, and an appeal must **be lodged within thirty (30) days** of lodging of the notice to appeal to:

**The Member of the Executive Council
Ministry of Environment & Nature Conservation
Private Bag X6102
Kimberley
8300
Fax: (053) 8321026**

Appeals must comply with the provisions of Chapter 7 of Environmental Impact Assessment Regulations, 2006 Government Notice No. R. 385 of 21 April 2006.



**MR. J.J. MUTYORAUTA
DIRECTOR: ENVIRONMENTAL QUALITY MANAGEMENT
DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION**

DATE OF ENVIRONMENTAL AUTHORISATION: 04th August 2011

ANNEXURE 1: REASONS FOR DECISION

1. Background

The applicant, Khai- Ma Municipality applied for authorization to carry on the following activity –
Residential development of 150 sub-economical erven, Pofadder

(GN.R 386, Activity 12, 16(a) and 18 of 21 April 2006)

The applicant appointed Van Zyl Environmental Consultants to undertake a screening process.

The basic Assessment process was followed due to the fact that the residential development of 150 sub-economical erven falls under Basic Assessment in terms of the EIA Regulations of 2006. The EAP on behalf of the applicant submitted the application for authorization and applied for exemption from complying with the assessment of alternatives. The competent Authority received, acknowledged and requested the EAP to submit the Basic Assessment report.

Site visit conducted by the case officer on the 02nd June 2010. The Environmental Authorization is therefore issued.

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 and EMP dated May 2011.
- b) The comments received from interested and affected parties as included in the screening.
- c) Relevant information contained in the Departmental information base including -
 - Public Participation guideline, 2006
 - EIA Regulations, 2006
- d) 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) and
- e) The findings of the site visit undertaken by Lucille Karsten on the 02nd June 2010.

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) The legal and procedural requirements have been complied with and the information contained in the Basic Assessment report and Appendixes is to the satisfaction of this Department.
- b) The Basis Assessment report's findings and EMP findings, given the nature of the project and the site conclude that the potential impacts associated with the proposed activity are of a nature and extent that can be reduced by the introduction of appropriate mitigation measures.

4. Findings

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

- a) All mitigation measures and recommendations as laid down in the Basic Assessment Report and EMP are binding and must be implemented, unless stated differently in this Environmental Authorization.
- b) The commencement of the authorized activity will not affect the right of other parties adversely.
- c) The legal and procedural requirements have been complied with and the information contained in the Basic Assessment report and Appendixes is to the satisfaction of this Department.
- d) The environmental impacts associated with the proposed activity can be reduced to acceptable levels if properly managed.

In view of the above, the Department is satisfied that, subject to compliance with the conditions contained in the environmental authorization, the proposed activity will not conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 and that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable level. The application is accordingly granted.