



Environmental Authorisation

Authorisation register number: 24G/27,12/19/03

Holder of authorisation: *Nala Local Municipality*

Location of activity: *Vergenoeg Informal Settlement at Farm Herman 236 in Monyakeng, Wesselsbron.*

Decision

The Department of Economic, Small Business Development, Tourism and Environmental Affairs (DESTEA) "the Department" is satisfied, on the basis of information provided to it that, subject to compliance with the conditions of this Environmental Authorisation (EA), the Applicant should be authorised to undertake the activities specified below.

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

Activities Transgressed and to be Rectified

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) and Government Notice Regulation 543 passed pursuant thereto, the Department hereby authorises –

Nala Local Municipality

With the following contact details –

P.O. Box 12

Bothaville

9660

Contact person: **Mr. Boitumelo Chris Mokomela**

Tel: 051 853 1111

Fax: 051 853 1332

To rectify the following activities –

NEMA GNR 983 (327): Listing Notice 1

Activity 27: The clearance of an area of 1 hectare or more, but less than 20 hectares of indigenous vegetation except where such clearance of indigenous vegetation is required for;

(i) the undertaking of a linear activity; or

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(ii) maintenance purposes undertaken in accordance with a maintenance management plan.

NEMA GNR 985 (324): Listing Notice 3

Activity 12(b): The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan (iv) within 100 metres from the edge of a watercourse or wetland

The activity to be rectified entails the following:

Establishment of an informal settlement. The area has been transformed from an undeveloped and vacant land. For instances, houses are sub-standard, proper ones will be built once the formalization is completed and then it will be a formalized residential area. The land use will be compatible with the adjacent Monyakeng area. The activity transgressed is situated in Vergenoeg Informal Settlement at Farm Herman 236 in Monyakeng, Wesselsbron

Co-ordinates of the site are as follows:

Latitude:	Longitude:
27°48' 57.99." (S)	26°22' 15.03" (E)

The granting of this Environmental Authorisation is subject to the conditions set out below.

Conditions

Scope of authorisation

1.1 The rectification application for the unlawful commencement of the proposed Vergenoeg, Wesselsbron at Nala Local Municipality, Free State Province is approved.

- 1.2 Authorisation of the activity is subject to the conditions contained in this document, these conditions form part of the Environmental Authorisation and are binding on the holder of the Authorisation.
- 1.3 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.
- 1.4 The Authorised activity may only be carried out at the remainder of the farm Herman 236, in Monyakeng, Wesselsbron, Free State as indicated above at the exact site co-ordinates.
- 1.5 Any changes to, or deviations from, the project description set out in this Authorisation must be submitted to the Department within thirty (30) days and approved, in writing, by the Department before such changes or deviations may be effected.
- 1.6 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.
- 1.7 This Environmental Authorisation is valid for a period of 3 (three) 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 an Environmental Authorisation (EA) must be made.
- 1.8 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.
- 1.9 Vegetation clearing must be kept to an absolute minimum. Mitigation measures must be implemented to reduce the risk of erosion and the invasion of alien species.

- 1.10 Construction must include appropriate design measures that allow surface and subsurface movement of water.
- 1.11 Any waste produced during construction must be handled per specifications of the NEM: Waste Act.
- 1.12 The holder of an Environmental Authorisation has the responsibility to notify the competent authority within 30 days, of any alienation, transfer and change of ownership rights in the property on which the activity is to take place.

Appeal of authorisation

- 1.13 The holder of the Authorisation must notify every registered interested and affected party, in writing and within 12 (twelve) calendar days of the date of this Environmental Authorisation, of its decision to authorise the activity.
 - 1.14 The notification referred must –
 - 1.14.1 specify the date on which the Authorisation was issued;
 - 1.14.2 inform the interested and affected party of the appeal procedure provided for in Chapter 7 of the Regulations;
 - 1.14.3 advise the interested and affected party that a copy of the Authorisation will be furnished on request; and
 - 1.14.4 give the reasons for the decision.
 - 1.15 The holder of the Authorisation must publish a notice –
 - 1.15.1 informing interested and affected parties of the decision;
 - 1.15.2 informing interested and affected parties where the decision can be accessed; and
 - 1.15.3 drawing the attention of interested and affected parties to the fact that an appeal may be lodged against this decision in the newspaper contemplated and used in terms of regulation 54(2) (c) and (d) and which newspaper was used for the placing of advertisements as part of the public participation process.

1.16 A person affected by the decision who wishes to appeal against the decision must lodge a notice of intention to appeal with the MEC of the Department of Economic, Small Business Development, Tourism and Environmental Affairs within 20 days after being notified of the decision.

The notice of intent to appeal should be directed to:

MEC Office (DESTEA)

Attention: Ms. Palesa Maureen Modise

Private Bag X 20801

Bloemfontein

9300

By facsimile: (051) 400 4810

By hand: Attention: Ms Palesa Maureen Modise

Room 1, 3rd Floor 113 Building, St Andrews Street

E-mail: modisepm@destea.gov.za

- The applicant shall not commence with the proposed activity once an appeal has been lodged with the office of the MEC.
- Appeal notices not submitted to the above mentioned address will not be regarded as valid.

Management of the activity

1.17 The Environmental Management Programme (EMPr) submitted as part of Application for EA is hereby approved.

1.18 The recommendations and mitigation measures in the Environmental Impact Assessment Report (EIAR) dated August 2019 by NSVT (Environmental Assessment Practitioner) must be adhered to and incorporated as part of the EMPr where applicable.

1.19 Any updates or amendments to the EMPr must be submitted to the Department of Economic, Small Business Development, Tourism and Environmental Affairs and must be decided upon within a period of 30 days of the submission.

Monitoring

1.20 The applicant must appoint a suitably experienced Environmental Control Officer (ECO) for the construction, operational and decommissioning 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 EMPr.

1.21 The ECO shall be appointed before commencement of any land clearing or construction activities.

1.22 The ECO shall keep record of all activities on site, problems identified, transgressions noted and a task schedule of tasks undertaken by the ECO.

1.23 The ECO shall remain employed until all rehabilitation measures, as required for implementation due to construction damage, are completed and the site is ready for operation.

1.24 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.

Recording and reporting to the Department

1.25 The holder of the Authorisation must submit an environmental audit report to the Department within fourteen (14) days upon completion of the construction and rehabilitation activities. The environmental audit report must –

1.25.1 Indicate the date of the audit, the name of the auditor and the outcome of the audit in terms of compliance with the Environmental Authorisation conditions as well as corrective action plan and implementation programme.

1.25.2 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.

Commencement of the activity

1.26 The Authorised activity shall not commence within twenty (20) days of the date of signature of the Authorisation.

1.27 Should you be notified by the MEC of a suspension of the Authorisation pending appeal procedures, you shall not commence with the activity unless authorised by the MEC in writing.

Notification to authorities

1.28 Fourteen (14) days prior written notice must be given to the Department that the activity will commence. Commencement for the purposes of this condition includes site preparation. The notice must include a date on which it is anticipated that the activity will commence. This notification period may coincide with the period contemplated in 1.26 above.

Operation of the activity

1.29 Fourteen (14) days written notice must be given to the Department that the activity Operational phase will commence.

Site closure and decommissioning

1.30 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.

1.31 Before decommissioning of the development becomes evident a rehabilitation plan must be compiled and should be approved by this Department.

Specific conditions

- 1.32 Construction footprint must be kept to a minimum by construction boundaries and demarcated areas thus reducing the area infringement of the development on the natural habitat.
- 1.33 Construction and operational waste must be disposed of at the nearest registered local municipal waste disposal site in the area.
- 1.34 Any water that is used which does not emanate from Municipality supplies must be registered and authorised by the Department of Water and Sanitation prior to usage commencement.
- 1.35 Vehicular movement over the site must be at slow speeds in order to keep dust generation to a minimum during construction.
- 1.36 The management of stormwater on site during construction and operation must be implemented.
- 1.37 Oil leakages from vehicles, equipment etc, can contribute to soil and groundwater contamination. To prevent the contamination, machinery, vehicles and materials must only be stored at demarcated areas. Vehicles and equipment must only be parked in designated areas.
- 1.38 All hazardous materials must be placed in special containers. From there it must be collected by a hazardous waste handling company, or taken to a hazardous waste disposal site.
- 1.39 Efforts must be made to ensure that preventative actions are taken to ensure that any water bodies present on and around the site will not be negatively impacted by the commencement of the activity.
- 1.40 No construction camps within 50m of a drainage line or a standing water source.
- 1.41 Wastewater Special Limit values applicable to the discharge of wastewater into a

water resource, General Authorisation No, 399, 2004 must be adhered. Detailed plans for the sewage treatment works must be submitted to DWS.

- 1.42 No water must be abstracted from the pans without a Water Use License
- 1.43 The formal and informal cemetery must be fenced-in with a designated buffer zone, including a gate for access.
- 1.44 The municipality must submit a plan within 30 days (thirty) upon receipt of this EA on how the amount equivalent of the fine amount will be used for business enterprise development in the said settlement.
- 1.45 Construction activities must be limited to the hours between 07H30 am-17H00 pm.
- 1.46 Should the chemical toilets be used for employees during the construction, a disposal method must be provided to DWS that the proposed treatment plant has sufficient capacity to treat the effluent released from the site.
- 1.47 DWS must be notified in the event of any pollution of the water resources. Proper management measures must be employed towards the appropriate clean-up of the leaking oil or spilled substances and its disposal is an acceptable as required by section 19 of NWA 1998.
- 1.48 Proper storm water management measures must be put in place during construction, through operation and decommissioning. Department's best practice guidelines for storm water management must be adhered to. Water containing waste must not be discharged into the natural environment. Measures to contain waste and safely dispose of it must be implemented.
- 1.49 The protection of the smaller informal graveyard located some distance away from the study area needs to be considered should future expansions in residential

settlement in the area are proposed to take place. Fencing-in the site must be done to provide it protection from indirect impacts such as vandalism

- 1.50 Should any human remains be unearthed during construction, construction must stop immediately and South African Heritage Resources Agency (SAHRA) be notified.
- 1.51 All residential development must be outside the 1:100 year flood line, away from drainage lines and seasonal streams.
- 1.52 The site for development must be clearly demarcated and access to the public prohibited. Construction workers must adhere to on-site health and safety guidelines.
- 1.53 Care must be taken to rehabilitate disturbed areas after construction.
- 1.54 Construction must only take place if the Applicant can provide portable water for the development.
- 1.55 In areas where infrastructure such as electricity cables and pipes have to cross drainage lines, the DESTEA's guidelines to trench through drainage lines will have to be followed by the Developer.
- 1.56 Care must be taken to limit the destruction of natural vegetation unnecessarily.
- 1.57 A search and rescue exercise must be conducted to remove any protected plants that will be destroyed by construction activities and translocate them to similar habitats nearby.
- 1.58 Permits must be obtained from the DESTEA for the removal of protected plants and to translocate them.

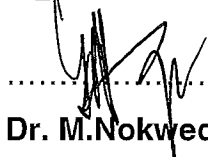
- 1.59 All human movement and activities must be contained within the designated construction areas in order to prevent peripheral impacts on surrounding natural habitat.
- 1.60 No fire-wood must be collected in the veld.
- 1.61 An alien plant control and monitoring programme must be developed starting during the construction phase and to be carried over into the operational phase.
- 1.62 Species, especially grasses, trees and shrubs occurring in the region must be used to rehabilitate disturbed areas.
- 1.63 Appropriate traffic control measures must be put in place in order to ensure that pedestrian are not affected


General

- 1.64 A copy of the Environmental Authorisation (EA) must be kept at the property where the activity will be carried on. The EA 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.
- 1.65 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.
- 1.66 The applicant is responsible for compliance with the provisions for Duty-of-Care and remediation of damage contained in Section 28 and Emergency Incidents contained in Section 30 of the National Environmental Management Act, (Act no 107) of 1998.

- 1.67 The holder of the EA must notify the Department, in writing and within 48 (forty eight) hours, if any condition of the EA cannot be or is not adhered to. Any notification in terms of this condition must be accompanied by reasons and mitigation plan for non-compliance. Non-compliance with a condition of the EA may result in criminal prosecution and/or other actions provided for in the National Environmental Management Act, 1998 and the Regulations.
- 1.68 National government, provincial government, local authorities or committees appointed in terms of the conditions of this particular EA or any other public authority shall not be held responsible for any damages or losses suffered by the proponent 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 proponent with the conditions of Authorisation as set out in this document or any other subsequent document emanating from these conditions of the EA.

Approved / Not Approved:


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Dr. M. Nokwequ
HOD: DESTEA


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Date

Annexure 1: Reasons for Decision

1. Background

The Applicant, Nala Local Municipality applied for Authorisation to carry on the following NEMA GNR 983 (327): Listing Notice 1 described as:

Activity 27

The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation.

NEMA GNR 985 (324): Listing Notice 3

Activity 12(b): The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan (iv) within 100 metres from the edge of a watercourse or wetland.

For undertaking unlawful activities associated with the proposed formalization of the Vergenoeg Informal settlement in Wesselsbron as stated on the Environmental Impact Assessment Report (EIAR) dated August 2019 by NSVT. The applicant appointed NSVT Consultants to undertake EIA process for the activities as required by Regulation 16 of the EIA Regulations, 2010.

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 final Impact Assessment Report (EIR) dated August 2019 by NSVT.
- b) The comments received from the Interested and Affected Parties as included in the EIR compiled by NSVT.
- c) Mitigation measures as proposed in the EIR and the EMPr.

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- d) The objectives and requirements of relevant legislation, policies and guidelines and section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998).
- e) The proposed development is therefore subject to approval based on the findings of the site visits undertaken by Mr. F Mathibe from the Department of Economic, Small Business Development, Tourism and Environmental Affairs.

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) Details provided of the qualifications of the EAP indicated that the EAP is competent to carry out the Environmental Impact Assessment procedures.
- b) Recommendations made by the EAP in the EIR. Feasible and reasonable alternative options including the no-go option were investigated as part of the assessment process.
- c) The EIR identified all legislation and guidelines that have been considered in the preparation of the EIR.
- d) A sufficient public participation process was undertaken and the Consultant has satisfied the minimum requirements as prescribed in the EIA Regulations, 2010 for public involvement.
- e) No significant environmental degradation will result directly from the activities applied for and authorised in this Authorisation, if the Environmental Management Programme (EMPr) and proposed mitigation measures in the Environmental Impact Assessment Report which form part of this Authorisation are implemented.

4. Findings

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

- The need for the development has been identified.
- All legal and procedural requirements have been met.
- The disturbance of the natural soil structure will be prevented and excavations planned carefully. The moving of heavy machinery into areas unnecessarily will be avoided.
- All hazardous substances and stocks such as diesel, oils and detergents must be stored per requirements of the NEM: Waste Act and the National Water Act.
- Noise for the project relates mainly to construction noise associated with the increase in construction vehicles. Noise impacts will however be of short duration and occur throughout the construction period. The noise levels are to be managed in accordance with the provisions of the Occupational Health and Safety Act.
- According to the independent EAP, the information contained in the EIA Report is deemed accurate and reliable.
- EMPr measures for the pre-construction, construction and operational phases of the development were proposed and included in the EIR and will be implemented to manage the identified environmental impacts during the construction process.
- The principles of NEMA can largely be upheld.
- Adequate process in line with law and legislation for public participation process was undertaken and the EAP has met the minimum requirements as prescribed in the EIA regulations, 2010.
- No significant environmental degradation will result directly from the activities applied for and authorised activities in this EA if the Environmental Management Programme (EMPr) and proposed mitigation measures in the Environmental Impact Assessment report which form part of this EA are implemented and monitored accordingly.
- The proponent has the ability to implement the conditions of the EA and the requirements of the EMPr and budget thereof.

In view of this, the Department is satisfied that, subject to compliance with the conditions contained in the Environmental Authorisation, the proposed activities will not

conflict with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act No. 107 of 1998 and that any potentially detrimental environmental impacts resulting from the proposed activities can be mitigated to acceptable levels. The Environmental Authorisation is hereby accordingly granted by the Department.