



**REFERENCE:** 14/2/4/2/1/F4/23/0024/19

**ENQUIRIES:** Ziyaad Allie

The Managing Director  
Saldanha Dry Bulk Terminal BK  
Private Bag X2  
VREDENBURG  
7380

**REGISTERED MAIL**

Tel: (022) 125 0065

Fax: (086) 600 5030

Email: [hugo@aldes.co.za](mailto:hugo@aldes.co.za)

Attention: Mr Hugo Tallie

**APPLICATION IN TERMS OF SECTION 24G OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA"): UNLAWFUL CLEARANCE OF INDIGENOUS VEGETATION ON PORTION 3 OF FARM 188, VREDENBURG**

With reference to your application received by the Department on 13 November 2019 and the additional information received on 10 June 2020, in terms of section 24G of the NEMA for the consequences of unlawful commencement of listed activities identified in terms of the NEMA, find below the decision in respect of your application.

**ENVIRONMENTAL AUTHORISATION**

**A. DECISION**

By virtue of the powers conferred by section 24G of the NEMA and the *Environmental Impact Assessment Regulations, 2014* ("EIA Regulations, 2014") (as amended), the competent authority herewith **grants environmental authorisation** to the applicant to continue with the listed activities specified in Section C below as described in the application and environmental assessment received by the Department on 13 November 2019.

The granting of this Environmental Authorisation is for the continuation, conducting or undertaking of the listed activities as described in Section C below and is subject to compliance with the conditions set out in Section G. This Environmental Authorisation shall only take effect from the date on which it has been issued.

The Environmental Authorisation does not exempt the holder thereof from compliance with any other applicable legislation.

## B. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Saldanha Dry Bulk Terminal BK  
 C/o Mr Hugo Tallie  
 Private Bag X2  
 VREDENBURG  
 7380

Tel: (022) 125 0065  
 Fax: (086) 600 5030  
 Email: [hugo@aldes.co.za](mailto:hugo@aldes.co.za)

The abovementioned applicant is the holder of this Environmental Authorisation and is hereinafter referred to as "the holder".

## C. LIST OF ACTIVITIES AUTHORISED

| Listed Activities  | Activity/Project Description   |
|--|--|
| <p><i>Government Notice No. R. 327 of December 2014</i></p> <p><b>Activity Number: 27</b></p> <p><i>Activity Description: The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i></p> <p><i>(i) the undertaking of a linear activity;</i></p> <p><i>or</i></p> <p><i>(ii) maintenance purposes</i></p> | <p>The development entailed the clearance of approximately 3.3ha of indigenous vegetation.</p> <p>The vegetation was cleared for the open storage of minerals.</p> |

|  |  |
|--|--|
| <p><i>undertaken in accordance with a maintenance management plan.</i></p>   |  |
| <p><i>Government Notice No. 324 of December 2014</i></p> <p><b>Activity Number: 12</b></p> <p><i>Activity Description: 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.</i></p> <p><i>Western Cape</i></p> <p><i>i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;</i></p> <p><i>ii. Within critical biodiversity areas identified in bioregional plans;</i></p> <p><i>iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;</i></p> <p><i>iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or</i></p> <p><i>v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.</i></p> | <p>The development entailed the clearance of approximately 3.3ha of indigenous vegetation, classified as endangered ecosystem.</p> <p>The vegetation was cleared for the open storage of minerals.</p> |

The abovementioned list is hereinafter referred to as "the listed activities."

#### D. PROPERTY DESCRIPTION AND LOCATION

The listed activities commenced on Portion 3 of Farm 188, Vredenburg

The SG digit code is: C04600000000018800003

The co-ordinates for the property boundary are:

| Point | Latitude (S)         | Longitude (E)      |
|-------|----------------------|--------------------|
| 1     | 32° 56' 45.70" South | 18° 3' 50.06" East |
| 2     | 32° 56' 45.70" South | 18° 3' 57.00" East |
| 3     | 32° 56' 52.80" South | 18° 4' 3.33" East  |
| 4     | 32° 56' 45.53" South | 18° 3' 52.40" East |

The co-ordinates for the site boundary are:

| Point | Latitude (S)         | Longitude (E)      |
|-------|----------------------|--------------------|
| 1     | 32° 56' 51.02" South | 18° 3' 53.47" East |
| 2     | 32° 56' 56.42" South | 18° 3' 57.00" East |
| 3     | 32° 56' 52.80" South | 18° 4' 3.33" East  |
| 4     | 32° 56' 48.30" South | 18° 3' 56.43" East |

Refer to Annexure 1: Locality Plan

Herein-after referred to as "the site".

#### E. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER ("EAP")

GroenbergEnviro (Pty) Ltd

c/o Ms Mische Molife

P.O. Box 1058

WELLINGTON

Tel: (081) 371 9289

Email: [mische@groenbergenviro.co.za](mailto:mische@groenbergenviro.co.za)

## **F. DETAILS OF THE ACTIVITIES UNDERTAKEN**

The development entailed the clearance of approximately 3.3ha of indigenous vegetation, namely Saldanha Flats Strandveld for the open storage of minerals on Portion 3 of Farm 188, Vredenburg. The development (as specified in the application) does not include any buildings and only entails the open storage of minerals. The clearance activities commenced in September 2017 and was completed by November 2017.

## **G. CONDITIONS OF AUTHORISATION**

The following are conditions of authorisation that are set and must be implemented for this Environmental Authorisation.

### **PART I**

#### **Scope of authorisation**

1. The holder is authorised to undertake the listed activities specified in Section C above in accordance with and restricted to the implemented Alternative described in the application and assessment report received by the Department on 13 November 2019 on the site as described in Section D above.
2. The holder shall be responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
3. Any changes to, or deviations from the scope of the alternative described in Section F above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request information to evaluate the significance and impacts of such changes or deviations, and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.

## **PART II**

### **Notification and administration of an appeal**

4. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
  - 4.1 notify all registered Interested and Affected Parties (“I&APs”) of –
    - 4.1.1 the outcome of the application;
    - 4.1.2 the reasons for the decision as included in Annexure 3;
    - 4.1.3 the date of the decision; and
    - 4.1.4 the date when the decision was issued.
  - 4.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the *National Appeals Regulations, 2014* detailed in Section I below.
  - 4.3 draw the attention of all registered I&APs to the manner in which they may access the decision.
  - 4.4 provide the registered I&APs with:
    - 4.4.1 the name of the holder (entity) of this Environmental Authorisation;
    - 4.4.2 name of the responsible person for this Environmental Authorisation;
    - 4.4.3 postal address of the holder;
    - 4.4.4 telephonic and fax details of the holder;
    - 4.4.5 e-mail address, if any, of the holder; and
    - 4.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered I&APs in the event that an appeal is lodged in terms of the *National Appeal Regulations, 2014*.
5. The listed activities, including site preparation, may not commence within 34 (thirty-four) calendar days from the date of issue of this Environmental Authorisation. In the event that an appeal is lodged with the Appeal Authority, the effect of this Environmental Authorisation is suspended until the appeal is decided.

### **PART III**

#### **Management of the activity/development**

6. The draft Operational Environmental Management Programme ("OEMPr") of September 2019 compiled by GroenbergEnviro (Pty) Ltd and submitted as part of the application for environmental authorisation is hereby approved and must be implemented.
7. The EMPr must be included in all contract documentation for all phases of implementation.

### **PART IV**

#### **Monitoring**

8. The holder must appoint a suitably experienced Environmental Control Officer ("ECO") or site agent where appropriate, to ensure compliance with the EMPr and the conditions contained herein.
9. A copy of the Environmental Authorisation, EMPr, any independent assessments of financial provision for rehabilitation and environmental liability, closure plans, audit reports and compliance monitoring reports must be kept at the site of the authorised activity/ies, and must be made available to anyone on request, including a publicly accessible website (if applicable).
10. Access to the site referred to in Section D must be granted, and the environmental reports mentioned above must be produced, to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein.

### **PART V**

#### **Auditing**

11. In terms of regulation 34 of the *EIA Regulations, 2014* the holder must conduct environmental audits to determine compliance with the conditions of the Environmental Authorisation, the EMPr and the closure plan (where applicable) and submit Environmental Audit Reports to the competent authority upon receiving such

request in writing from the competent authority. The Audit Report must be prepared by an independent person and must consider all the information required in Appendix 7 of the *EIA Regulations, 2014*.

## **PART VI**

### **Activity/ Development Specific Conditions**

12. Should any heritage remains be exposed during excavations or any other actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape. Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape.

Heritage remains include: meteorites, archaeological and/or paleontological remains (including fossil shells and trace fossils); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artefacts and bone remains; structures and other built features with heritage significance; rock art and rock engravings; and/or graves or unmarked human burials including grave goods and/or associated burial material.

13. A qualified archaeologist and/or palaeontologist must be contracted where necessary (at the expense of the holder) to remove any heritage remains. Heritage remains can only be disturbed by a suitably qualified heritage specialist working under a directive from the relevant heritage resources authority.

## **H. GENERAL MATTERS**

1. Notwithstanding this Environmental Authorisation, the holder must comply with any other statutory requirements that may be applicable when undertaking the listed activities.
2. Non-compliance with a condition or term of this Environmental Authorisation or EMPr may render the holder liable to criminal prosecution.

3. The holder must submit an application for amendment of the Environmental Authorisation to the competent authority where any detail with respect to the Environmental Authorisation must be amended, added, substituted, corrected, removed or updated. If a new holder is proposed, an application for Amendment in terms of Part 1 of the *EIA Regulations, 2014* must be submitted.

Please note that an amendment is not required if there is a change in the contact details of the holder. In this case, the competent authority must only be notified of such changes.

4. The manner and frequency for updating the EMPr is as follows:

Amendments to the EMPr must be done in accordance with regulations 35 to 37 of the *EIA Regulations, 2014* or any relevant legislation that may be applicable at the time.

## **I. APPEALS**

Appeals must comply with the provisions contained in the *National Appeal Regulations, 2014*.

1. An appellant (if the holder) must –

1.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator and a copy of the appeal to any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder was notified by the competent authority of this decision.

2. An appellant (if NOT the holder) must –

2.1 submit an appeal in accordance with regulation 4 *National Appeal Regulations, 2014* to the Appeal Administrator, and a copy of the appeal to the holder, any registered I&APs, any Organ of State with interest in the matter and the decision maker within 20 (twenty) calendar days from the date the holder notified the registered I&APs of this decision.

3. The holder (if not the appellant), the decision-maker, I&APs and 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.
4. This appeal and responding statement must be submitted to the address listed below:
  - By post: Attention: Marius Venter  
Western Cape Ministry of Local Government, Environmental Affairs & Development Planning  
Private Bag X9186, Cape Town, 8000; or
  - By facsimile: (021) 483 4174; or
  - By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)  
Room 809, 8th floor Utilitas Building  
1 Dorp Street, Cape Town, 8000; or
  - By e-mail: [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za)

**Note:** You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za).

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

## **J. CONSEQUENCES OF NON-COMPLIANCE WITH CONDITIONS**

Non-compliance with a condition or term of this Environmental Authorisation or EMPr may result in suspension or withdrawal of this Environmental Authorisation and may render the holder liable for criminal prosecution.

## **K. DISCLAIMER**

The Western Cape Government, the Municipality, committees or any other public authority or organisation appointed in terms of the conditions of this Environmental

Authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Yours faithfully



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**ADV. CHARMAINE MARÉ**

**DIRECTOR: ENVIRONMENTAL GOVERNANCE**

DATE OF DECISION: 14 SEPT 2020

Copied to: (1) Mische Molife (EAP)  
(2) Nazeema Duarte (SBM)

Email: [mische@pbps.co.za](mailto:mische@pbps.co.za)

Email: [Nazeema.Duarte@sbm.gov.za](mailto:Nazeema.Duarte@sbm.gov.za)

# ANNEXURE 1: LOCALITY MAP



## **ANNEXURE 2: REASONS FOR THE DECISION**

This Environmental Authorisation is in respect of the consequences of commencement of the afore-mentioned illegal activities. An Environmental Assessment Practitioner ("EAP") was appointed to submit a section 24G Environmental Impact Assessment ("EIA") to the Department to obtain this Environmental Authorisation. The EIA was considered adequate for informed decision-making. In addition, the holder paid an administrative fine of R250 000 (Two hundred and fifty thousand Rand) to meet the requirements of section 24G of the *National Environmental Management Act, 1998* ("NEMA").

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) The information contained in the application form received by the competent authority on 13 November 2019, the EMPr submitted together with the application, and the additional information received by the competent authority on 10 June 2020.
- b) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation and Alternatives.
- c) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the NEMA.
- d) The comments received from Interested and Affected Parties ("I&APs") and the responses provided thereto.
- e) The sense of balance of the negative and positive impacts and proposed mitigation measures.
- f) The site visit conducted on 03 April 2019 and 19 February 2020 attended by officials from this Department.

All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

## 1. Public Participation Process

In terms of section 24G(1)(vii)(dd) of the NEMA, "...a description of the public participation process followed during the course of compiling the report, including all comments received from interested and affected parties and an indication of how the issues raised have been addressed ...", is required.

The public participation process conducted by the EAP comprised of the following:

- An advertisement was placed in the **Weslander** newspaper on 15 November 2018;
- A site notice was erected; and
- Letters were sent to interested and affected parties and the municipal ward councillor.
- I&APs were afforded the opportunity to provide comments on the application.

### 1.1 Consultation with organs of state in terms of section 24O of the NEMA

The following organs of state provided comment on the application:

- CapeNature
- Saldanha Bay Municipality

At the end of the public participation process, comments were received from CapeNature and the Saldanha Bay Municipality. A summary of their comments follows below.

#### CapeNature

CapeNature stated that the site is not within the Saldanha Industrial Development Zone ("IDZ") but rather in the proposed industrial expansion corridor. CapeNature also raised concerns relating to mitigation of dust and stockpiling of minerals. The EAP responded by stating that dust suppression measures in relation to roads and vehicle movement has been addressed in the OEMPr.

#### Saldanha Bay Municipality

Saldanha Bay Municipality ("SBM") stated that storage of iron ore is not a listed activity, it does however contribute to the overall emissions of the Saldanha Bay area. Applicant should look to improve on dust management methods. SBM further stated that the property is part of the Besaansklip industrial expansion area and not part of the Industrial Development Zone.

## 1.2 The following I&AP provided comment on the application

- West Coast Bird Club (“WCBC”)

The WCBC stated that the indigenous vegetation which was removed is classified as endangered and that there is no mention of offset in the application. The EAP responded by stating that the site is located in an area that does not require a biodiversity offset. The WCBC then raised concerns relating to the open storage of minerals on the site and that an undercover building would be preferable. The EAP responded by stating that dust mitigation measures have been proposed in the OEMPr.

All the concerns raised by I&APs were responded to and adequately addressed during the public participation process. Specific management and mitigation measures have been considered in this Environmental Authorisation and in the EMPr to adequately address the concerns raised.

The competent authority concurs with the EAP's responses to the issues raised during the public participation process and has included appropriate conditions in this Environmental Authorisation and in the EMPr.

## 2. **Alternatives**

### 2.1 Site/location Alternatives

#### Implemented Alternative (Herewith authorised)

The development entails the clearance of approximately 3.3ha of indigenous vegetation, namely Saldanha Flats Strandveld for the open storage of minerals on Portion 3 of Farm 188, Vredenburg. The development does not include any buildings and only entails the open storage of minerals. This site was chosen as the preferred alternative due to the following:

- This location is located closer to the port than Alternative 2, thereby resulting in more economical transport costs.
- The site is surrounded by industrial land uses, thereby in keeping with surrounding land uses.
- The use of the land for an industrial project will ensure that the industrial corridor is established.
- The storage of minerals on the site will add value to the surrounding industrial businesses.

- The site location is of very low agricultural potential and will be better suited for industrial use.

#### Alternative 2

This entails the clearance of vegetation on Portion 1 of Farm 1043. This alternative was not considered due to the following:

- The site is located too far from the port, which would have resulted in greater transport costs.
- The site is located adjacent to the Green Village.
- The site is located adjacent to the R45 road.
- The site is larger than the Implemented Alternative, which would have resulted in a larger amount of vegetation clearance.

#### 2.2 The option of not implementing or continuing with the activity ("No-Go" Alternative)

The "no-go" alternative entails the clearing of the minerals on the site and follow up rehabilitation of the site. This alternative was not considered as a viable option for the following reasons:

- The site falls within the greater industrial corridor that is earmarked for industrial purposes.
- The clearing and rehabilitation of the site will lead to financial loss for the applicant since the site is already transformed.
- Utilising the current site will be beneficial for the applicant as he currently owns the site.

### **3. Environmental Impact Assessment (EIA) and Mitigation Measures**

In reaching its decision, the competent authority, considered the following in respect of the EIA and mitigation measures:

#### 3.1. Activity Need and Desirability

An application for consent use was submitted to the municipality in 2014 and was approved in 2015. The development site falls within the greater industrial corridor and is in line with the Provincial Spatial Development Framework objectives for the area.

### 3.2. Regional/ Planning Context

The development site is located outside of the urban edge and the activities undertaken on the site is in line with the municipal Integrated Development Plan as well as the Provincial Spatial Development Framework. The site is surrounded by industrial land uses and the establishment of the site will benefit the planned industrial corridor for the area.

### 3.3. Biophysical and Biodiversity Impacts

The development of the storage area has resulted in the loss of some indigenous vegetation, which is classified as endangered. However, taking the Botanical Assessment into consideration in which the Botanical Specialist stated the following "*Although there was complete clearing required for the bulk storage facility in 2017, and no doubt some Saldanha Flats Strandveld was removed, from the evidence available I believe that this vegetation was in a highly degraded condition.*" The cumulative negative biophysical and biodiversity impacts which have occurred on the site as a result of the unlawful commencement of clearing activities can be considered to be low.

### 3.4. Health Issues

The storage of minerals will result in increased amounts of dust during the operational phase. A dust fall out monitoring assessment was undertaken, and the results thereof provided evidence that the dust fall out numbers are all below the 1200mg/m<sup>2</sup>/day and are not of significant concern.

## 4. **NEMA Principles**

The National Environmental Management Principles (set out in section 2 of the NEMA), which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;

- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, the competent authority is satisfied that the listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the NEMA and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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