

# Appendix L

## DRAFT COMMENTS AND RESPONSES REPORT

V 2.0

### Basic Assessment Process for the Application for a Waste Management License to Decommission the Everite Asbestos Site, Brackenfell

DFFE WML App reference:  
12/9/11/L220615145611/9/N/Everite Asbests WDS  
Decommissioning  
DEA&DP EA App reference: 16/3/3/1/A5/11/2033/22

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## TABLE OF CONTENTS

<b>1</b>	<b>INTRODUCTION.....</b>	<b>3</b>
1.1	POTENTIAL I&AP DATABASE COMPILATION.....	3
<b>2</b>	<b>PREVIOUS BASIC ASSESSMENT PROCESS IN 2013.....</b>	<b>5</b>
<b>3</b>	<b>NOTIFICATION METHODOLOGY .....</b>	<b>7</b>
3.1	FIRST VERSION OF DRAFT BAR.....	7
3.2	UPDATED DRAFT BAR.....	8
3.3	DECISION.....	9
3.4	ENGAGEMENT WITH STATE DEPARTMENTS .....	9
3.5	ENGAGEMENT WITH I&APS .....	9
<b>4</b>	<b>COMMENTS AND RESPONSES .....</b>	<b>9</b>
<b>5</b>	<b>CONCLUSION .....</b>	<b>11</b>

## ANNEXURE LIST

<b>ANNEXURE 1:</b>	<b><u>Updated Database of Interested and Affected Parties</u></b>
<b>ANNEXURE 2:</b>	<b><u>Notification letter of availability of Draft BAR</u></b>
<b>ANNEXURE 3:</b>	<b><u>Evidence of distribution of notification letter</u></b>
<b>ANNEXURE 4:</b>	<b><u>Evidence of site notice placement</u></b>
<b>ANNEXURE 5:</b>	<b><u>Evidence of uploading the draft BAR and Executive Summary to Chand's website</u></b>
<b>ANNEXURE 6:</b>	<b><u>Proof of 'Knock 'n Drop' to adjacent businesses</u></b>
<b>ANNEXURE 7:</b>	<b><u>Comments &amp; Responses Table</u></b>
<b>ANNEXURE 8:</b>	<b><u>Placement of adverts in Die Burger and Die Tygerburger</u></b>

# 1 INTRODUCTION

This document is the draft Comments and Response Report v 2.0, appended to the draft Basic Assessment Report (BAR), for the proposed capping and re-development of the Everite Asbestos Site, Erf 18354, Brackenfell. The draft BAR is currently being subjected to a second round of public review for a 30-day period and, by virtue of being appended to the BAR, this report is also under the 30-day review period. The Interested & Affected Parties (I&AP) database exclusive of the contact information is included in **Annexure 1**. Note that the database will include I&AP contact information once the final BAR is submitted to the Department of Forestry, Fisheries and Environment (DFFE) and the Department of Environmental Affairs and Development Planning (DEA&DP).

It should be noted that a previous BAR and a previous version of this report underwent public review from 27 January 2022 to 25 February 2022 under a previous environmental application and Waste Management Licence (WML) Application for the same project. These applications have since been re-submitted to the relevant Competent Authority.

All public participation undertaken in terms of the previous process will constitute 'pre-application public participation activities' in support of the current WML and application for Environmental Authorisation which was submitted to the DFFE and DEA&DP on 14<sup>th</sup> June and 17<sup>th</sup> June, respectively. All comments received during this time have been captured in this report and responses provided.

This report describes the process used to identify and notify potential Interested and Affected Parties (I&APs) of the proposal, BAR and associated public review and comment periods.

The report has been updated following the public review period of the previous draft BAR and incorporates the following:

- Evidence of distribution of notification letters/ emails of the Draft BAR to potential I&APs;
- Evidence of site notice placement including a map of the location of notices for the draft BAR;
- Evidence of uploading the draft BAR and Executive Summary to Chand's website for the duration of the public review period;
- Updated I&AP Database (following registration of I&APs);
- Comments received from I&APs on the draft BAR;
- Responses to the comments received from I&APs on the draft BAR; and

Changes to this report since the last distribution have been underlined for ease of reference.

All comments raised in relation to this updated draft BAR will also be considered, and where appropriate, changes will be incorporated into the final BAR for submission to the competent authority for final decision-making. Proof of the public participation activities undertaken for the second round of public review will also be included in the final Comments & Responses Report.

## 1.1 Potential I&AP Database Compilation

Chand conducted research in the area and used the I&AP database for a previous Basic Assessment process that was undertaken for the same site and closure of the asbestos dump site thereon in 2013, with an update on representative details. Additional research was also undertaken through a site visit which the EAP also noted surrounding business names, as well

as some research thereon online for updated contact information of local businesses as well as ward councillors and other state departments and relevant contact officials/representatives. As a result, the following parties as required in Regulation 41 (2) (b) of the EIA Regulations, 2014 (as amended) are included in the I&AP database:

- Owners and Occupiers of the site where the activity is to be undertaken (noting that the Applicant is the landowner and that there are no occupiers of the site as it must be secured and access-controlled given the presence of asbestos);
- Owners and Occupiers of the land adjacent to the site where the activity is to be undertaken;
- The Municipal Ward Councillor and Sub-Council Manager (the latest contact information has been obtained from the City of Cape Town's website, the Ward Councillor would also serve as the point of contact with the local community, particularly those who may not have access to internet/documents for download);
- Organs of the State having jurisdiction in respect of any aspect of the activity (these include City of Cape Town Municipality, Department of Environmental Affairs and Development Planning (DEA&DP)- Waste Management and Contaminated Land branches, Department of Water and Sanitation-DWS, HWC, CapeNature, and CapeNature);
- Local Ratepayers' Association;
- Local groups which could facilitate community engagement (i.e. Brackenfell Community Policing Forum, Protea Heights South Neighbourhood Watch, Protea Heights North Neighbourhood Watch, Bellville South Community Police Forum, Brackenfell Forum) (in order to reach I&APs who may not have access to email)
- Note that no specific environmental or civic associations other than those mentioned above have come to light yet, but these may emerge through the process.

The I&AP database is included in **Annexure 1**. The database was updated following the first round of public review and will remain updated throughout the process. Note that, to protect privacy, the contact information of these parties has not been made publically available. However, the full database, which would contain contact details, will be included in the final submission to the DFFE & DEA&DP.

## **2 Previous Basic Assessment Process in 2013**

It should be noted that there was a previous Basic Assessment process for the same site and closure thereof in 2013, but the application lapsed, hence the need to re-initiate it through a new process (i.e. this Basic Assessment process). This report also addresses comments from Interested and Affected Parties (which include local residents, state departments, civic interest groups, etc.) received as part of the aforementioned process undertaken in 2013.

The following local authorities were informed of the proposal and Basic Assessment process in 2013:

- National Department of Environmental Affairs (now DFFE)
- DEA&DP
- National Department of Labour
- National Department of Water Affairs (now the Department of Water and Sanitation-DWS)
- Western Cape Department of Economic Development and Tourism
- Western Cape Department of Community Safety
- City of Cape Town: Environmental and Heritage management
- City of Cape Town: Waste Disposal
- City of Cape Town: Planning and Built Development Management

The following local authorities responded with comments in the Basic Assessment process in 2013:

- National Department of Water Affairs
- Department of Economic Development and Tourism
- City of Cape Town (various departments)
- D:EA&DP: Waste Management Directorate
- Cape Nature

The following aspects and issues were raised by I&APs during the Basic Assessment process in 2013:

- Queries around the possibility of purchasing portions of the rehabilitated land.
- Support for the development.
- Concerns relating to risk and safety with regards to the removal of asbestos waste.
- Recommendations for the handling and disposal of asbestos waste and asbestos-contaminated land during the construction/decommissioning phase.
- Traffic and the need for a traffic impact assessment.
- Recommendations/options for conservation of natural vegetation remnants.
- Recommendations in terms of alien clearing and rehabilitation.
- Stormwater management.
- Recommendations with regard to waste, pollution and dust management.
- Process-related issues (regarding the Basic Assessment process being followed).
- Confirmation from the DWA indicating that the stormwater retention pond is not considered a "watercourse" in terms of the National Water Act (No. 36 of 1998).
- Comments received by I&APs mistaking the proposal for another proposed development in the area by the same developer (The Brackenfell Development Framework).

The way that the above issues have been addressed in the post-application draft BAR are indicated in Table 1.

**Table 1 Issues raised in 2013 Basic Assessment Process and how they have been dealt with now**

<b>No.</b>	<b>Issue</b>	<b>How the issue has been dealt with</b>
<b>1</b>	Queries around the possibility of purchasing portions of the rehabilitated land.	Given the history of the site as a hazardous waste disposal facility, there are restrictions in place which prevents the sale of individual plots. The developer (Durobrick "(Pty) Ltd) is required to continue to manage the property as a whole. Individual erven would likely be rented to prospective tenants.
<b>2</b>	Support for the development.	This is merely noted and does not require further response.
<b>3</b>	Concerns relating to risk and safety with regards to the removal of asbestos waste.	It should be noted that the full body of asbestos would not be removed, and a site capping exercise would secure the site into the future. The proposed capping layerworks and re-development has been devised in such a way as to limit the amount of excavation required. Note, however, that in certain cases the removal of asbestos would be required and under those circumstances, a method statement will be drawn up for the handling and disposal of asbestos related waste would need to be compiled by the Contractor. This is specified in the EMP. Furthermore, the EMP has included mitigation measures from an Accredited Asbestos Inspection Authority.
<b>4</b>	Recommendations for the handling and disposal of asbestos waste and asbestos-contaminated land during the construction/decommissioning phase.	Recommendations have been included in the EMP and provided by an Accredited Asbestos Inspection Authority.
<b>5</b>	Traffic and the need for a traffic impact assessment.	An updated Traffic Impact Assessment was done for this Basic Assessment process. It is included in the draft BAR.
<b>6</b>	Recommendations/options for conservation of natural vegetation remnants.	Retention of the vegetation on the site is not possible, given the need to secure the site from existing mole activity bringing asbestos to the surface. The capping technique proposed is not compatible with the retaining of this portion of vegetation. Should development be approved, <i>Lampranthus explanatus</i> plants would be relocated to the nearby Bracken Nature Reserve and also be provided to specialists to create an ex-situ population, to provide the best option in terms of the likelihood of long-term survival of these species and the population strain found on the site. This is explained as a requirement in the BAR and is also included in the EMP.
<b>7</b>	Recommendations in terms of alien clearing and rehabilitation.	The EMP includes measures for alien clearing and rehabilitation, particularly in terms of the landscape plan.

<b>8</b>	Stormwater management.	The proposed stormwater management is described in the project description and a draft stormwater management plan is appended to the Draft BAR.
<b>9</b>	Recommendations with regard to waste, pollution and dust management.	The EMPr includes measures to control waste, pollution and dust.
<b>10</b>	Process-related issues (regarding the Basic Assessment process being followed when there is hazardous waste).	The waste licence application is for the decommissioning of an existing waste site. The listed activities triggered and the need for a Basic Assessment process is explained in the draft BAR.
<b>11</b>	Confirmation from the DHSWS indicating that the stormwater retention pond is not considered a "watercourse" in terms of the National Water Act (No. 36 of 1998).	This has been noted in the Draft BAR. No further response is required.
<b>12</b>	Heritage: HWC confirmed that the NHRA does not apply as there is no reason to believe that the proposed development would impact on heritage resources.	This has been noted in the Draft BAR. No further response is required.
<b>13</b>	Comments received by I&APs mistaking the proposal for another proposed development in the area by the same developer (The Brackenfell Development Framework).	This is merely noted as a previous issue but does not pertain to this process, so no further response is necessary.

There are also text boxes throughout the draft Basic Assessment Report which refer to how these previous issues have been addressed. The text boxes look like this:

I&AP Comment Addressed from Previous Process: [note on comment/issue]

## 3 NOTIFICATION METHODOLOGY

### 3.1 First version of Draft BAR

The following public participation activities were undertaken in support of the 30-day public review period (27 January 2022 to 25 February 2022) of the previous version of the draft BAR:

- Maintenance of the I&AP database which is included as **Annexure 1**;
- Circulation of notification letters to notify I&APs of project and draft BAR via email and regular post (to those I&APs who do not have email addresses) to the preliminary I&AP database. Refer to **Annexure 2** for the notification letter and **Annexure 3** for proof of distribution;
- Notification of the availability of the Draft BAR was provided to the following state departments:

- Department: Forest, Fisheries and Environment: Chemicals & Waste Management: Chief Directorate;
- Department of Labour;
- City of Cape Town Municipality: Environment and Heritage Management;
- City of Cape Town: Northern Suburbs Environmental Health;
- Department of Community Safety;
- DFFE: Rectification;
- CapeNature;
- Department of Human Settlements, Water & Sanitation;
- Heritage Western Cape;
- Western Cape Department of Economic Development and Tourism;
- Department of Environmental Affairs and Development Planning: Planning;
- Department of Environmental Affairs and Development Planning: Pollution and Chemicals Management;
- Department of Environmental Affairs and Development Planning: Waste Management;
- Department of Environmental Affairs and Development Planning: Biodiversity;
- Department of Environmental Affairs and Development Planning: Air Quality;
- National Department of Forestry, Fisheries and Environment (DFFE): Biodiversity and Conservation;
- CapeNature;
- National Department of Transport and Public Works; and
- Department of Agriculture, Land Reform and Rural Development.
- A knock-and-drop exercise was undertaken to deliver notification letters to adjacent businesses (refer to **Annexure 6** for proof of this exercise);
- Uploading of the draft BAR and executive summary to the Chand website for the duration of the public comment period (refer to **Annexure 5**);
- Placement of a Site Notice in English and Afrikaans at the entrance to the site (refer to **Annexure 4**); and
- Placement of adverts in two newspapers, notably Die Burger (a regional newspaper) and Die Tygerburger (a local newspaper), one of which was in English and the other in Afrikaans (refer to **Annexure 8**).

### **3.2 Updated Draft BAR**

The following public participation activities are being undertaken in support of the 30-day public review period currently underway for the updated draft BAR under a new WML and environmental application:

- Circulation of notification letters to notify I&APs of the availability of the updated draft BAR via email and regular post (to those I&APs who do not have email addresses) to the I&AP database.
- Notification of the availability of the Draft BAR was provided to State Departments on the I&AP database:
- A knock-and-drop exercise was undertaken to deliver notification letters to adjacent businesses;
- Uploading of the draft BAR and executive summary to the Chand website for the duration of the public comment period;
- Placement of a Site Notice at the entrance to the site; and
- Placement of an advert in Die Tygerburger newspaper.

Proof of the above PPP activities will be included in the next iteration of this report.

### **3.3 Decision**

Following the public review of the updated draft BAR, comments received by I&APs during the 30-day public comment period will be considered and the BAR will be revised appropriately.

Comments received by I&APs will be captured in this Comments and Response Report, which will be appended to the final BAR submitted to the DFFE and DEA&DP for decision-making.

Notification of the authorities' decision on the application for a WML and Environmental Authorisation, as well as information on the manner in which the decision may be appealed, will be distributed to all registered I&APs.

### **3.4 Engagement with State Departments**

As discussed in Section 1.1, State Departments were notified of the availability of the Draft BAR for comment. To-date, comment has been received from the following state departments:

- Western Cape Department of Transport and Public Works
- City of Cape Town (various line departments)
- City of Cape Town: Environmental Management Department
- City of Cape Town: Recreation and Parks
- Department of Environmental Affairs and Development Planning: Development Management

Relevant state departments have again been invited to comment on the updated draft BAR (currently out for a second round of public review) and any comments received will be incorporated into the next iteration of this report and the necessary changes made to the Draft BAR, if applicable.

### **3.5 Engagement with I&APs**

Comments on the pre-application BAR were received from the following I&APs:

- Deon Perold & Associates Incorporated on behalf of Snyman 4x4 (adjacent landowner)
- Unitrans (adjacent landowner)
- Deon Serfontein (adjacent landowner)
- Mr Johan Lourens (adjacent landowner)
- Mr Paul Henry

All I&APs registered on the I&AP database have again been notified of the availability of the updated Draft BAR and this Comments & Responses Report for review and comment.

## **4 COMMENTS AND RESPONSES**

Comments received from State Departments and I&APs and responses thereto are captured in the Comments and Responses Table in **Annexure 7**. Comments have been captured verbatim. To protect contact information privacy, original comments will only be included in the final report for submission to the authorities.

The issues and concerns raised during the consultation process have been addressed in the Basic Assessment Report and this can be summarised in Table 2.

**Table 2: Issues raised during public participation process so far, and how they have been addressed**

No.	Issue	How the issue has been dealt with
1	<u>Concern around disturbance of the site, and asbestos becoming air-borne once construction and excavation activities commence and the mitigation measures to be implemented to prevent the health risk presented by the works.</u>	<u>The Capping Strategy (refer to Appendix B1 of the BAR) elaborates in detail on the varying degrees of excavation across the site and how this would be implemented. For the majority of the site, the earthworks would not entail any excavation works or digging into the existing surface areas on the site. In sections where excavation is required, this would be limited in terms of depth and extent. The EMPr (refer to Appendix M of the BAR) furthermore contains measures for executing the works in a way that disturbs as little asbestos at any one time and includes measures such as clearing of the vegetation for specific areas of works at a time such that the entire site does not remain clear all in one go, use of an asbestos-certified contractor, limiting access during the site, monitoring for airborne asbestos, external monitoring and reporting against conditions of approval throughout construction, etc. The EMPr also includes the need for an Asbestos Plan be compiled and submitted to the Dept. of Employment and Labour. The site will also be managed by an AAIA (Asbestos approved Inspection authority) and all site activities during the site excavations up to final capping and foundations works being completed will be carried out by a registered asbestos contractor.</u>
2	<u>The need for the site to re-surveyed by a botanical specialist seeing that the report is outdated, and the survey was not done in the correct season</u>	<u>The site was re-surveyed in May 2022 and an updated Botanical Impact Assessment included in the BAR (refer to Appendix J1 of the BAR). The botanist advised that a non-Spring survey is considered acceptable as there weren't any threatened bulb species recorded during the 2012 survey or during the latest survey (Ross Turner, pers. comms 25/04/2022).</u>
3	<u>Clarity on existing Eucalyptus trees on site and the opportunity for further tree planting.</u>	<u>The botanical specialist investigated remaining trees on site and confirmed that mature Eucalyptus trees have been removed and only stumps remain. The Landscape Architect has confirmed that the capping of the site will not allow for tree planting due the shallow soil depth.</u>
4	<u>Objection to the proposal due to traffic and access concerns.</u>	<u>A Traffic Impact Assessment has been completed for the proposed development (refer to Appendix J6 of the BAR). Based on the capacity analyses, all the study intersections will operate at acceptable capacity levels. Traffic issues at the site entrance are not anticipated</u>
5	<u>Objection to the proposal due to health concerns.</u>	<u>The EMPr contains measures for executing the works in a way that disturbs as little asbestos at any one time and includes measures such as clearing of the vegetation for specific areas of works at a time such that the entire site does not remain clear all in one go, use of an asbestos-certified contractor, limiting access during the site, monitoring for airborne asbestos, external monitoring and reporting against conditions of approval throughout construction, etc. The site will also be managed by an AAIA (Asbestos approved Inspection authority) and all site activities during the site excavations up to final capping and foundations works being completed will be carried out by a registered asbestos contractor. An Asbestos Plan will be drawn up and must indicate how the asbestos contaminated site activities must be carried out to prevent any</u>

## Draft Comments and Response Report V 2.0

		<u>health risks in compliance with the Asbestos Abatement Regulations 2020.</u>
6	<u>The retention of the stormwater pond and the 15 m recommended buffer must be made a condition of approval in the environmental authorisation.</u>	<u>This has been included as a condition of approval.</u>
7	<u>The need for a Stormwater Management Plan for the site</u>	<u>A Stormwater Management Plan has been drafted and included in the current BAR for comment (previously erroneously omitted)</u>
8	<u>The need for a suitably qualified asbestos specialist to compile an asbestos report similar to the report compiled by OHMS.</u>	<u>OHMS are asbestos specialists and are accredited to carry out asbestos assessments according to the Asbestos Regulations, 2001 and Occupational Health &amp; Safety Act, Act 85 of 1993). They are an Approved Inspection Authority (refer to Accreditation included in their report) and have been monitoring the site since August 2020.</u>
9	<u>Clarity on the methods to be employed during capping.</u>	<u>Refer to the Capping Strategy included in Appendix B1 of the BAR. Methods have also been included in the EMPr.</u>
10	<u>Support for the need for an Asbestos Plan.</u>	<u>This is noted.</u>
11	<u>The need for dust control and compliance to Dust Control/Air Quality legislation.</u>	<u>Dust control measures are included in the EMPr. Relevant legislation has also been considered and listed.</u>
12	<u>Importance of adherence to the EMPr</u>	<u>Noted. Implementation of the EMPr is included as a condition of approval.</u>
13	<u>Recommendations with regard to waste, pollution and dust management.</u>	<u>The EMPr (refer to Appendix M) includes measures to control waste, pollution and dust.</u>

Further issues and concerns raised during the current consultation process of the updated Draft BAR will also be included in the final BAR as well as the final version of this report which will be appended thereto.

## **5 CONCLUSION**

The public participation process for this Basic Assessment process so far has been carried out in accordance with the requirements of Regulation 41 of the EIA Regulations, 2014 (as amended).

The draft BAR was distributed for a 30-day commenting period under a previous application, and all public participation undertaken during this time will constitute 'pre-application public participation activities' in support of the current WML and EA application.

Evidence of PPP activities undertaken for the previous public review period, comments made by I&APs so far, as well as the responses to those comments have been included in the updated version of this report that will accompany the draft BAR currently out for a second round of public review (for a further 30 days).

Comments so far have mostly been around concern of the disturbance of the site, the potential of asbestos becoming air-borne once construction and excavation activities commence and the health risk presented by the proposed works. Traffic and access concerns were also raised. These issues have been responded to.

## Draft Comments and Response Report V 2.0

Comments raised during the Basic Assessment process for the capping and redevelopment of the site undertaken in 2013 have also been responded to in draft BAR. During the 2013 BA process, HWC confirmed that no heritage sensitivities exist on site and that no further assessment in that regard is necessary and DWS confirmed that the stormwater pond on site is a stormwater pond and not a “wetland”.

Engagement with State Departments and other I&APs will continue through their review and comment of the updated draft BAR.

Following the current public review period, the BAR and Comments & Responses Report will incorporate any further comments, and then finalised for submission to the competent authority for decision-making.

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## **ANNEXURES**

- ANNEXURE 1:** Updated Database of Potential Interested and Affected Parties
- ANNEXURE 2:** Notification letter of availability of Draft BAR
- ANNEXURE 3:** Evidence of distribution of notification letter
- ANNEXURE 4:** Evidence of site notice placement
- ANNEXURE 5:** Evidence of uploading the draft BAR and Executive Summary to Chand's website
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