



REFERENCE: 14/1/1/E1/4/6/4/0971/26
ENQUIRIES: Fundiswa Zingitwa-Lwana

BY EMAIL:

The Director

Cprocter@communicare.org.za

Communicare (Pty) Ltd.

P.O. Box 259

CAPE TOWN

8000

For Attention: Ms. C. Procter

PRE-COMPLIANCE NOTICE

Dear Madam

**INTENTION TO ISSUE A COMPLIANCE NOTICE IN TERMS OF SECTION 31L
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998**

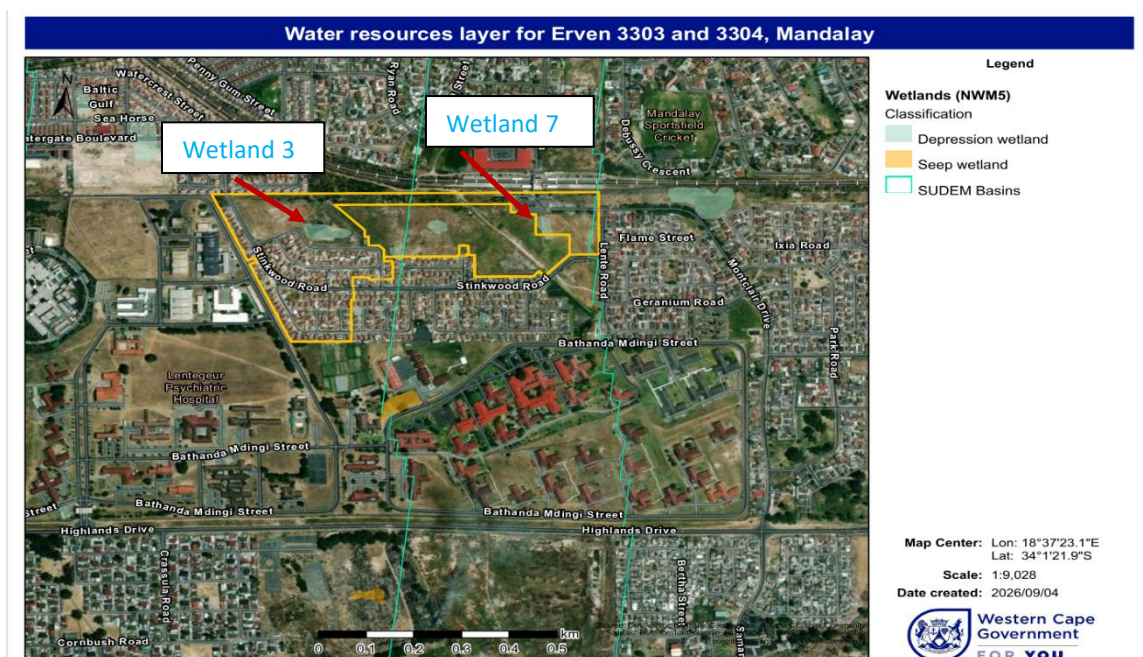
1. During an investigation into allegations of non-compliance with an Environmental Authorisation ("EA") (E12/2/4/2-A1/297-3018/11) and amended EA (Reference No.: 16/3/3/5/A4/41/3009/22 A) conditions, a site inspection was conducted at Erven 3303 and 3304, Mandalay, by an Environmental Management Inspector from the Department's Directorate: Environmental Law Enforcement on 07 April 2026 and it

was confirmed that you have not complied with conditions of your EA and amended EA.

CO-ORDINATES: 34°01'14.87"S, 18°37'17.13"E



Aerial map 1: Location of alleged illegal activity.



Map 2: Water resources layer for Erven 3303 and 3304, Mandalay showing encroachment and transforming of Wetlands 3 and 7 which was part of the "no-go" area in the EA.

2. On considering the evidence before me there are reasonable grounds to believe that you have not complied with Condition 8 of the Original EA which requires that a maintenance management plan be implemented regarding the wetlands on site prior to commencement of any construction.

- 2.1 Condition (8): *The following conditions, inter alia, regarding the wetlands on site must be implemented in accordance with a "Maintenance Management Plan":*
- Condition (8.1): *The Maintenance Management Plan must:*
- Condition (8.1.1) *be approved by this Department prior to the commencement of any construction activities;*
- Condition (8.1.2) *be drawn up with input from a suitably qualified and experienced wetland specialist;*
- Condition (8.1.3) *define "Wetland 3" as part of the proposed private Open Space;*
- Condition (8.1.4) *define the partially piped "Wetland 7" as part of the private Open Space; and*
- Condition (8.1.5) *define a riparian buffer zone of approximately 30m for the wetlands to be conserved.*
- 2.2 Condition (8.2): *Wetland 3 and the partially piped Wetland 7, including the buffer areas, must be identified as "No-Go "areas before the commencement of construction activities:*
- Condition (8.2.1): *No development must occur in the "No-Go" areas*
- Condition (8.2.2) *The "No-Go "areas must be zoned and used as private Open Space;*
- Condition (8.2.3) *The "No-Go" areas must be clearly demarcated before commencement of construction activities;*
- Condition (8.2.4): *No construction activities must be allowed in the "No-Go "areas; etc.*



Photo 1: An open space within Wetland 7 where piping (as confirmed by independent environmental audit) occurred.



Photo 2: Wetland 7 with extensive invasion by alien vegetation. While partial piping was approved, an independent environmental audit confirmed that the wetland was piped beyond the approved scope.



Photo 3: Wetland 7 with extensive invasion by alien vegetation.



Photo 4: Wetland 3 delineated in the Freshwater Specialist Report. Wetland 3 was observed to be largely intact based on wetland vegetation present, although historical imagery from an independent environmental audit confirmed encroachment into the recommended 30 m buffer by roads and housing developments.

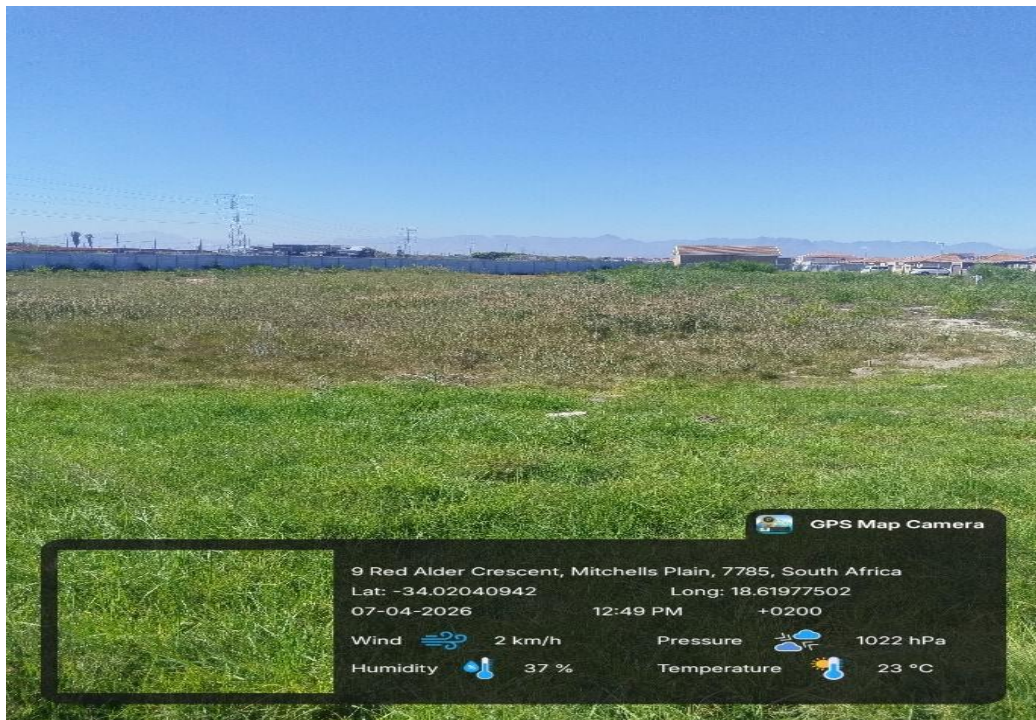


Photo 5: Wetland 3 was observed to be largely intact based on wetland vegetation present, although historical imagery from an independent environmental audit confirmed encroachment into the recommended 30 m buffer by roads and housing developments.



Photo 6: Wetland 3 was observed to be largely intact based on wetland vegetation present, although historical imagery from an independent environmental audit confirmed encroachment into the recommended 30 m buffer by roads and housing developments.

3. In terms of section 49A(1)(c) of the NEMA it is an offence to fail to comply with or contravene a condition of an environmental authorisation granted for a listed activity or specified activity. A person convicted of such an offence is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.
4. As such, you are hereby given notice of the Department's intention to issue you with a Compliance Notice in terms of section 31L of the NEMA, which will instruct you to comply with the conditions of the above EA.
5. Furthermore, failure to comply with a Compliance Notice is an offence in terms of section 49A(1)(k). A person convicted of failing to comply with a Compliance Notice is liable to a maximum fine of R5 million or 5 years imprisonment or both such fine and such imprisonment.
6. You are afforded a period of **7 (seven) calendar days** from the date of receipt of this Pre-Compliance Notice to make written representations to the Department as to why a Compliance Notice should not be issued.
7. If you inform the Department, in respect of paragraph 6 above that you intend to rectify the non-compliance, you must:
 - 7.1 Submit to the Department for approval, within **30 (thirty) calendar days** of receipt of this Pre-Compliance Notice, a report and rehabilitation plan, compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:
 - 7.1.1 assessment and evaluation of the non-compliance of EA conditions and the extent of the damage done to the wetland;
 - 7.1.2 identification of proposed remedial and/or mitigation measures and
 - 7.1.3 appoint a suitable, qualified independent Environmental Control Officer (ECO) to oversee the implementation of the rehabilitation plan.
 - 7.2 Appoint a Freshwater Ecologist to compile an assessment report, within **30 (thirty) calendar days**, that must include revised statements from the relevant specialists, namely the Freshwater Ecological Assessment conducted in 2018

by Braaf Environmental Practitioners; and the Wetland Offset Report prepared in 2015 by Blue Science.

- 7.3 Submit a Maintenance Management Plan, in accordance with Conditions 8.1 and 8.1.1 of the referenced Environmental Authorisation (EA) (E12/2/4/2-A1/297-3018/11) and the amended EA (Reference No.: 16/3/3/5/A4/41/3009/22 A), to the Department's Directorate: Development Management for approval within **sixty (60) calendar days**.

8. If the above report and rehabilitation plan is approved by the Department, you will be obliged to take the necessary remedial / mitigation measures at your own cost.



Digitally signed by Achmad
Bassier (54103321)
Date: 2026.04.29 09:54:18
+02'00'

Director: Environmental Law Enforcement

Grade 1 Environmental Management Inspector

Cc: (1) Mr Graham Kusano	IHS	Email: gkusano@ihsinvestments.co.za
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