



DEA&DP Ref - 14/1/1/E1/4/6/4/0971/26

2026-06-25

Department of Environmental Affairs and Development Planning

Directorate: Environmental Law Enforcement

Attention: Fundiswa Zingitwa-Lwana via Email: Fundiswa.Zingitwa-Lwana@westerncape.gov.za

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SUBMISSION OF MAINTENANCE MANAGEMENT PLAN AND FRESHWATER OPINION LETTER IN RESPONSE TO PRE-COMPLIANCE NOTICE – ERVEN 3303 AND 3304; MANDALAY

To whom it may concern,

We refer to the Pre-Compliance Notice dated 29 April 2026 (14/1/1/E1/4/6/4/0971/26) and our response submitted on behalf of Communicare NPC and IHS Social Housing Company SA (Pty) Ltd through its subsidiary Mandalay Social Housing Company (Pty) Ltd dated 26 May 2026.

In support of the Department's consideration of the matters raised in the Pre-Compliance Notice, we hereby submit the following documents:

1. Maintenance Management Plan (MMP); and
2. Freshwater Opinion Letter.

The MMP has been prepared to fulfil the requirements of Condition 8 of the EA and to provide a framework for the long-term management, maintenance and monitoring of the relevant wetland areas.

The Freshwater Opinion Letter has been prepared by a suitably qualified freshwater specialist to provide an updated assessment of the current freshwater environment and to assist the Department in considering an appropriate way forward in respect of the historical deviations from the Environmental Authorisation. The specialist findings provide context regarding the current ecological and engineering realities of the site and the feasibility of potential rehabilitation measures.

In particular FEN stated that *“A site assessment facilitated by FEN Consulting on the 10th of June 2026 confirmed that the concerned portions of “Wetland 7”, that were unlawfully piped, between 2017 and 2018, displays no hydromorphy with no hydromorphic soil characteristics and/or no hydrophytes (indicative of wetland conditions) identified within these areas. This area thus most likely was never a true watercourse but the stormwater channel functioned as a waterway and thus a water resource. A water resource does enjoy protection in terms of the National Water Act, 1998 (Act No. 36 of 1998) as amended, but not the same extent as a watercourse. Similarly, the system does not enjoy protection as a watercourse in terms of NEMA”*

In this case the piping of Wetland 7 did not trigger a NEMA listed activity and should not be deemed unlawful. This strengthens the argument that rehabilitation is not rational, and that rectification is not required either. We would argue that an amendment process to NEMA should be allowed to proceed.

We respectfully request that the Department consider the enclosed documents together with our previous representation when determining the appropriate regulatory pathway for addressing the matters identified in the Pre-Compliance Notice.

Should any additional information be required, please do not hesitate to contact the undersigned.

Yours truly



PAUL SLABBERT