



**REFERENCE:** 14/1/1/E1/1/5/1/0601/19

**ENQUIRIES:** Fundiswa Zingitwa-Lwana

**BY EMAIL**

Acting Executive Director: Informal Settlements,

Water & Waste Services

City of Cape Town

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CAPE TOWN

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Email: [Michael.Webster@capetown.gov.za](mailto:Michael.Webster@capetown.gov.za)

Attention: Michael John Webster

**PRE-DIRECTIVE**

Dear Sir

**INTENTION TO ISSUE A DIRECTIVE IN TERMS OF SECTION 28(4)  
OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998**

1. During an investigation into allegations of pollution and/or degradation of the environment a site inspection was conducted at Erven 38264,29700 and 23682, Dunoon Township by an Environmental Management Inspector from the Department's Directorate: Environmental Law Enforcement on 02 September 2019, and it was confirmed that you have failed to adequately address the appalling unhygienic conditions in Dunoon Township, which is affecting the



health and wellbeing of the residents and causing significant pollution and/or degradation of the environment.

GPS coordinates: 33°49'07.6"S 18°32'31.9"E and 33°49'03.6"S 18°32'19.3"E.



Aerial map: Erven 38264, 29700 and 23682, Dunoon Township

2. Section 28(1) of the National Environmental Management Act, 1998 ("NEMA") provides that every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.
3. On considering the evidence before me there are reasonable grounds to believe that you are causing and have caused significant pollution or



degradation of the environment and that you have not taken reasonable measures to prevent such pollution and/or degradation from occurring, continuing and recurring.



Photo 1: A blocked toilet overflowing with faeces on top and around toilet seats at Ethembeni Informal Settlement (Erf 29700)





Photo 2: Sewage water and general waste at blocked public toilets (Erf 29700)



Photo 3: A manhole cover spilling out raw sewage at Ethembeni Informal Settlement



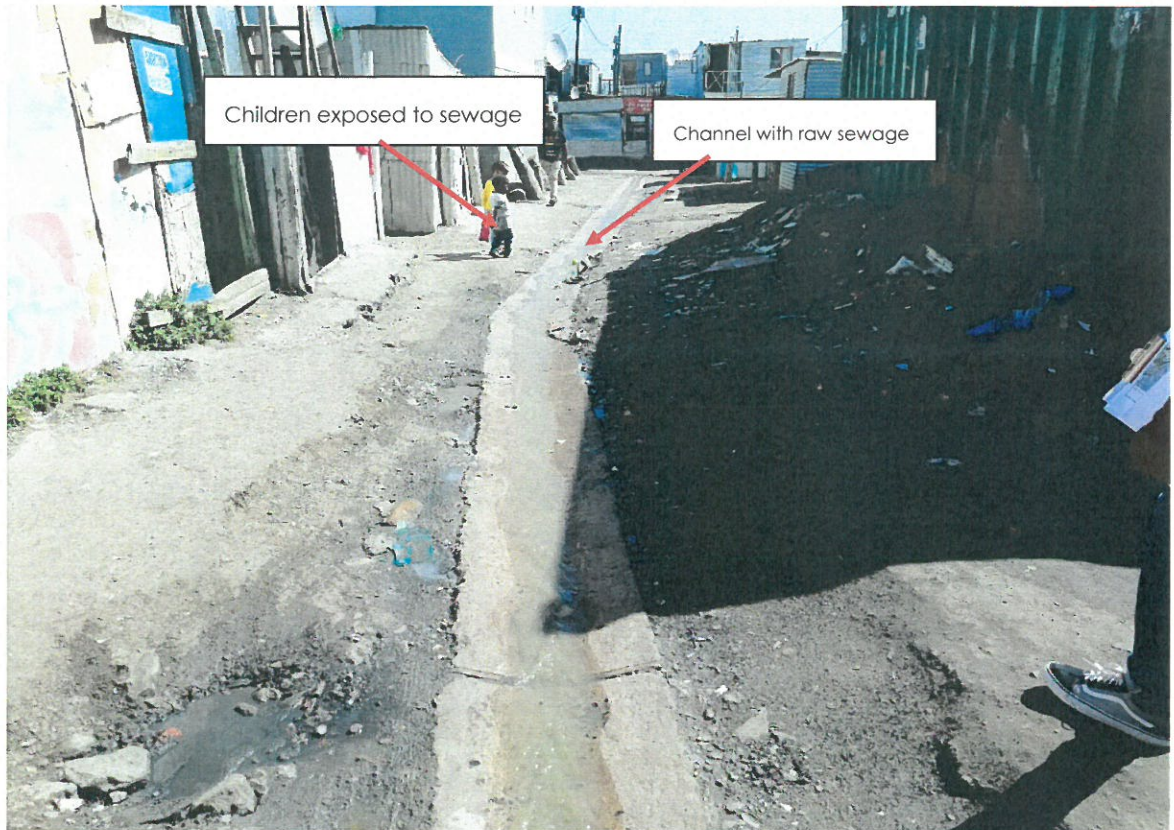


Photo 4: Children playing near the raw sewage water in the channel at Ethembeni Informal Settlement

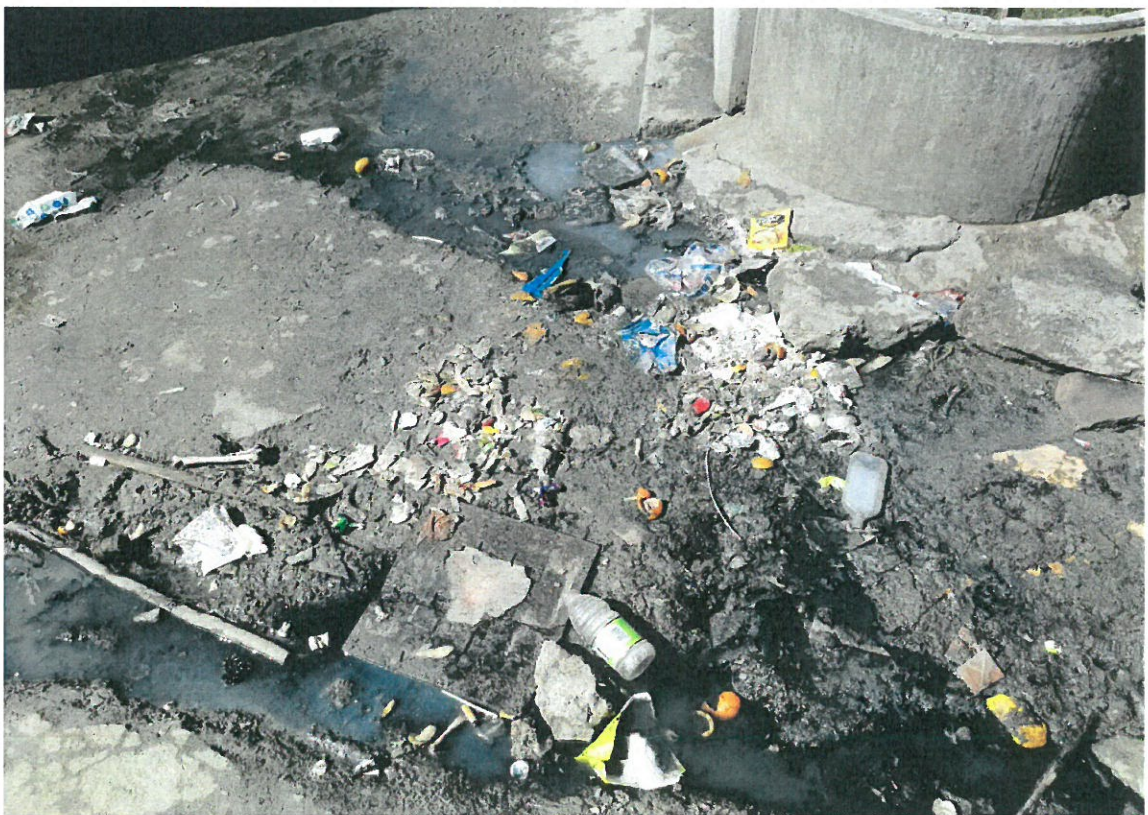


Photo 5: Sewage water and general waste at Ethembeni Informal Settlement





Photo 6: A blocked sewage drain at Ethembeni Informal Settlement



Photo 7: A dam located at Erf 38264, adjacent to N7 road with a substantial amount of waste present on-site





Photo 8: A collapsed public toilet constructed on Erf 23682 Dunoon by residents at Ekupholeni Informal Settlement,

4. The NEMA makes provision for the criminal prosecution of officials of an organ of state, such as national or provincial government departments, municipalities or public entities.
5. In terms of section 49A(1)(e) or (f) of the NEMA it is an offence to unlawfully and intentionally or negligently commit any act or omission which causes significant pollution or degradation of the environment or is likely to cause significant pollution or degradation of the environment.
6. As such, you are hereby given notice of the Department's intention to issue you with a Directive in terms of section 28(4) of the NEMA, which will direct you to:
  - 6.1 Immediately repair all the blocked toilets in the area, by replacing faulty infrastructure, fixing blockages and leakages, especially the area demarcated in purple (Erf 29700) on above aerial map.

- 6.2 Provide toilets to accommodate all the inhabitants in the area, especially the area demarcated in blue (Erf 23682) on above aerial map.
- 6.3 Provide a operational plan to deal with the waste management issues in and around the Doon Township, such as the ad hoc illegal dumping sites. The operation plan must include proactive measures such as recycling and clean-up projects;
- 6.4 Submit to this Department for approval, within **7 (seven) calendar** days of receipt of this Pre-Directive, a schedule with timeframes for the respective clean-up operations, inspections and maintenance of the storm-water canals, toilets, standpipes and solid waste removal services in the area demarcated in red (Erf 38264) on above aerial map. The schedule must indicate the times and days when each of the aforementioned services will be conducted.
- 6.5 Submit to the Department proof of services rendered in terms of Paragraphs 6.1 and 6.2 above, within **30 (thirty) calendar days** of receipt of this Pre-Directive.
7. In terms of section section 49A(1)(g) of the NEMA failure to comply with a Directive is an offence.
8. A person convicted of the above offences 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.
9. You are afforded a period of **7 (seven) working days** from the date of receipt of this Pre-Directive to make written representations to the Department as to why a Directive should not be issued.
10. Should you inform the Department, in respect of paragraph 9 above that you intend to remedy the pollution and/or degradation you must cease the activity causing the pollution and/or degradation and submit to the Department for



approval, **within 30 (thirty) working days** of receipt of this Pre-Directive, a report and/or a plan compiled by a suitably qualified and experienced independent environmental assessment practitioner, which must include the following:

- 10.1 assessment and evaluation of the impact on the environment; and
- 10.2 identification of proposed remedial and/or mitigation measures taking into consideration paragraphs 6.1., 6.2., 6.3., 6.4. and 6.5. above.

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



**Mr Achmad Bassier**

**Director: Environmental Law Enforcement**

**Date: 28/10/2019**

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