

12 October 2021

Attention: The National Department of Human Settlements,
Water and Sanitation

The Honourable Mr Senzo Mchunu

Per E-Mail: Sibongile.Hlongwane@dpsa.gov.za

And to: Acting Director-General: Department of Human Settlements,
Water and Sanitation

Ms Deborah Mochotlhi

Per E-mail: MdakaneP@dws.gov.za

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Good day Sir/s,

POLLUTION AND DEGRADATION OF THE DIEP RIVER CATCHMENT AND THE MILNERTON LAGOON

1. The Organisation Undoing Tax Abuse (“OUTA”) is a proudly South African non-profit civil action organisation, comprising of and supported by people who are passionate about improving the prosperity of our nation.
2. OUTA envisions a prosperous country with an organised, engaged and empowered civil society that ensures responsible use of tax revenues at all levels of Government.
3. OUTA is further geared towards the harmonious cooperation with government on various levels and seeks to assist government wherever necessary in carrying out its mandate in the interests of the citizens of South Africa.

4. OUTA herewith acknowledges receipt of the department's letter (reference: 21/22/10/2/2 Diep River (D31785)) dated 2 September 2021.
5. OUTA wishes to record that it is disappointed by the department's perceived relaxed and dilatory responses to the ongoing non-compliance by the City of Cape Town ("the City") with the water use license ("WUL") conditions in respect of the Potsdam Wastewater Treatment Works ("WWTW").
6. Whichever steps the department might have taken (steps which to date has not been communicated to OUTA or the affected residents) to enforce compliance with the conditions of the WUL have clearly not been effective as pollution of the river system and Milnerton Lagoon has escalated.
7. Furthermore, the recent water quality test results, the discolouration of the lagoon and the lingering foul odour emanating from it and the findings contained in the preliminary audit report (as presented to the City for a response to the provincial Department of Environmental Affairs and Development Planning ("DEADP")), illustrates that the City's default defence that there are various sources of pollution, is no longer sustainable. The City's default defence has consistently been used to divert attention away from the City's contravention of its WUL in respect of the WWTW.
8. OUTA attached hereto for your ease of reference, a copy of a complaint submitted to the department, the City and the DEADP on 3 October 2021. We will not repeat the contents of the complaint (as substantiated by photographic evidence). We trust you have read and actioned it. We would just like to add that it confirms that there is clear evidence of unlawful discharges and other unlawful activity at the WWTW that resulted in escalating and significant water contamination.
9. OUTA therefore calls on the department as the regulatory authority to fulfil its obligations and enforce the conditions of the City's WUL in a transparent and accountable manner. Kindly provide OUTA with the following information:

- 9.1 Whether an investigation into the complaint dated 3 October 2021 has been initiated or not, and if not, why not?
- 9.2 When we may expect to receive the outcome of the investigation?
- 9.3 Whether any annual internal and external audits have been conducted on City's compliance with the WUL conditions (as stipulated in the WUL) since it was issued to the City or not, and if not, why not?
- 9.4 If the audits mentioned in 9.3 *supra* were conducted, a list of all the incidents of non-compliance with the WUL conditions in each relevant calendar year as well as the action taken by the department to remedy such incidents and to enforce compliance.
- 9.5 Copies of water quality test reports that have been submitted to the Task Team to which the department referred in the letter under reply.
- 9.6 What "administrative enforcement action" has the department taken against the City?
- 9.7 OUTA seek clarity on the "administrative" and other steps that the department has taken to enforce compliance with the WUL conditions. The steps include but are not limited to the outcome of investigations into complaints that were submitted and incidents reported in the past.
- 9.8 OUTA has subsequently been informed that an "agreement" has been concluded between the City and the department and/or that a "temporary approval" has been granted to the City (presumably for a departure from one or more conditions of the WUL) and we kindly request that the department provide clarity hereon.
- 9.9 Finally, OUTA requests that the department indicate the number of pre-directives issued against the city (for non-compliance of the Potsdam

WWTW's WUL) and the reasons why a final directive has never been issued?

10. We would appreciate receiving the above-mentioned information as soon as possible, but in any event by no later than Monday, 25 October 2021.
11. Should you have any queries, kindly contact OUTA's Senior Legal Project Manager, Ms. Andrea Korff, on andrea.korff@outa.co.za.
12. We trust that you find the above in order.

Yours Sincerely,



Andrea Korff

Senior Legal Project Manager

OUTA – Organisation Undoing Tax Abuse

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