

REFERENCE: 16/3/3/5/D6/28/0008/21
NEAS REF: WCP/EIA/AMEND/0000573/2021
DATE OF ISSUE: 02 MARCH 2022

ADDENDUM TO ENVIRONMENTAL AUTHORISATION

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND PART 1 OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 8 FEBRUARY 2017: THE PROPOSED UPGRADE OF LOUIS FOURIE ROAD IN MOSSEL BAY

With reference to your application for the abovementioned, find below the outcome with respect to this application.

A. DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") and the Environmental Impact Assessment ("EIA") Regulations, 2014, the competent authority in terms of Part 1 of Chapter 5 of the Environmental Impact Assessment Regulations, 2014 **grants** the amendment of the Environmental Authorisation issued on 8 February 2017 (DEA&DP Ref. No. 16/3/3/1/D6/28/0008/16).

The Environmental Authorisation issued on 8 February 2017 is amended as set out below:

1. In Section E of the Environmental Authorisation, the substitution of Condition 2, with the following:

*"This Environmental Authorisation is granted for the period from date of issue until **30 November 2027**, the date on which the listed activities, including post construction rehabilitation, maintenance, monitoring and auditing requirements, will be deemed to be concluded at the site."*

2. In Section E of the Environmental Authorisation, the substitution of Condition 3, with the following:

*"The holder must commence with the listed activities and conclude the development activities (construction activities) including the post construction rehabilitation and monitoring requirements on the site by **30 June 2027** (or sooner)."*

Note:

The Holder must comply with all the environmental auditing and associated reporting requirements prior to expiry of the validity period of the environmental authorisation. The final auditing requirements must be completed and submitted at least two to three months prior to expiry of the validity period of the environmental authorisation to ensure the Holder is able to comply with all the

environmental auditing and reporting requirements and for the competent authority to be able to process the audit report timeously."

3. All the remaining conditions contained in the Environmental Authorisation, issued on 8 February 2017 (Reference Number 16/3/3/1/D6/28/0008/16) remain unchanged and in force.

B. REASONS FOR THE DECISION

In reaching its decision, the Department took, *inter alia*, the following into consideration:

1. The environment and the rights and interests of other parties are not likely to be adversely affected by this decision to amend the Environmental Authorisation.
2. The initial environmental authorisation's validity period was granted for a period of five (5) years (namely until 8 February 2022), during which period the construction activities and maintenance activities had to commence and be concluded, including the post-construction rehabilitation and monitoring and submission of the final environmental audit reports for the non-operational (construction) phase and operational phase, respectively.
3. The applicant/holder has motivated that the validity period be extended due to delays experienced in commissioning the project. The upgrading of Louis Fourie Road should be undertaken in 5 Phases of which the first Phase is planned to commence with at the end of March 2022 and is expected to take approximately 36 months (3 years) to complete. The subsequent Phases will be undertaken when funding is available and the EAP has estimated that it could take up to ten (10) years to complete all 5 phases. It is important to stress that the Environmental Authorisation is only for three sections within the overall project. It is recommended that these first be completed.
4. In light of the nature of the delays, the validity period has been extended to provide the Holder with a period of 5-years to implement the development programme pertaining to the authorised listed activities, the monitoring and post-construction rehabilitation (construction phase). A period of 5-months has been included in the validity period to allow the Holder to conclude the post construction auditing and reporting requirements.
5. Where an activity has been commenced with, the EIA Regulations, 2014 allow that upon application, the period for which the environmental authorisation is granted may be extended for a further period of 5-years.
6. All information presented to the Department was taken into account by the Competent Authority in considering the application.

C. CONDITIONS

1. The applicant must in writing, within **14 (fourteen) calendar days** of the date of this decision (refer to Government Notice R.993 of 8 December 2014) –
 - 1.1. notify all registered interested and affected parties of –
 - 1.1.1. the outcome of the application;
 - 1.1.2. the reasons for the decision as included in Annexure 1;
 - 1.1.3. the date of the decision; and
 - 1.1.4. the date of issue of the decision.
 - 1.2. draw the attention of all registered interested and affected parties to the fact that an appeal may be lodged against the decision in terms of the National Appeals Regulation, 2014 detailed in Section D below.

2. The holder of the environmental authorisation must provide the Competent Authority with **seven (7) calendar days' notice** before commencement of construction activities. This notice must include proof of compliance with Condition 1 described in Section C of this Addendum to the Environmental Authorisation.

D. APPEALS

1. An appellant (if the holder of the decision) must, within 20 (twenty) calendar days from the date the notification of the decision was sent to the holder by the Competent Authority –
 - 1.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 1.2. Submit a copy of the appeal to any registered I&APs including any Organ of State with interest in the matter; and
 - 1.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAadmin.George@westerncape.gov.za
2. An appellant (if NOT the holder of the decision) must, within 20 (twenty) calendar days from the date the holder of the decision sent notification of the decision to the registered I&APs–
 - 2.1. Submit an appeal in accordance with Regulation 4 of the National Appeal Regulations 2014 (as amended) to the Appeal Administrator; and
 - 2.2. Submit a copy of the appeal to the holder of the decision and any registered I&AP including any Organ of State with an interest in the matter; and
 - 2.3. Submit a copy of the appeal to the decision-maker (i.e. the Competent Authority that issued the decision) at:
Gavin.Benjamin@westerncape.gov.za and copied to
DEADPEIAadmin.George@westerncape.gov.za
3. The holder of the decision (if not the appellant), the decision-maker that issued the decision, the registered I&AP and the Organ of State must submit their responding statements, if any, to the appeal authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal and the responding statement must be submitted to the Appeal Administrator at the address listed below:

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Appeal Administrator
Attention: Mr Marius Venter (Tel: 021 483 3721)
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are also requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any

supporting documents to the Appeal Authority to the address listed above and/ or via e-mail to DEADP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from the Appeal Administrator at: Tel. (021) 483 3721, E-mail DEADP.Appeals@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

E. DISCLAIMER

The Western Cape Government, the Local Authority, committees or any other public authority or organisation appointed in terms of the conditions of this Addendum to the Environmental Authorisation shall not be responsible for any damages or losses suffered by the holder, developer or his/her successor in any instance where construction or operation subsequent to construction is temporarily or permanently stopped for reasons of non-compliance with the conditions as set out herein or any other subsequent document or legal action emanating from this decision.

Your interest in the future of our environment is appreciated.

Yours faithfully

MR. GAVIN BENJAMIN
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 3)

DATE OF DECISION: **02 MARCH 2022**

FOR OFFICIAL USE ONLY:

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