



REFERENCE: 16/3/3/5/A3/53/2058/22
NEAS REFERENCE: WCP/EIA/AMEND/0000692/2022
DATE OF ISSUE: 31 January 2023

The Municipal Manager
City of Cape Town
Roads Infrastructure and Management
Corner of Victoria & Andries Pretorius Road
SOMERSET WEST
7129

Attention: Mr. Heuppschenne Lekay

E-mail: Heuppschenne.Lekay@capetown.gov.za

Dear Sir

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PART 1 AMENDMENT TO THE ENVIRONMENTAL AUTHORISATION ISSUED ON 27 MARCH 2012 (REFERENCE NO.: E12/2/3/2-A3/193-0240/07), THE APPEAL ENVIRONMENTAL AUTHORISATION ISSUED ON 18 DECEMBER 2012 (REFERENCE NO.: M3/6/5) AND THE AMENDED APPEAL ENVIRONMENTAL AUTHORISATION DATED 21 JANUARY 2018 (REFERENCE NO.: 14/3/1/1/A3/53/0299/17): PROPOSED BLOUBOS AND GUSTROW ROAD INFRASTRUCTURE FOR THE GORDON'S BAY AND SIR LOWRY'S PASS DEVELOPMENT AREAS.

1. With reference to the above application, the competent authority hereby notifies you of its decision to **grant** the amended Environmental Authorisation, attached herewith, together with the reasons for the decision.
2. In terms of Regulation 4 of the Environmental Impact Assessment Regulations, 2014 (as amended), you are instructed to ensure, within 14 days of the date of the amended Environmental Authorisation, that all registered interested and affected parties ("I&APs") are provided with access to and reasons for the decision, and that all registered I&APs are notified of their right to appeal.
3. Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarised in the attached amended Environmental Authorisation.

Yours faithfully

MR. ZAAHIR TOEFY

DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: (1) Ms. Carmen du Toit (The Environmental Partnership)
(2) Ms. Azanne van Wyk (City of Cape Town)

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REFERENCE: 16/3/3/5/A3/53/2058/22
NEAS REFERENCE: WCP/EIA/AMEND/0000692/2022
DATE OF ISSUE: 31 JANUARY 2023

AMENDED ENVIRONMENTAL AUTHORISATION

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 27 MARCH 2012 (REFERENCE NO.: E12/2/3/2-A3/193-0240/07), THE APPEAL ENVIRONMENTAL AUTHORISATION ISSUED ON 18 DECEMBER 2012 (REFERENCE NO.: M3/6/5) AND THE AMENDED APPEAL ENVIRONMENTAL AUTHORISATION DATED 21 JANUARY 2018 (REFERENCE NO.: 14/3/1/1/A3/53/0299/17): PROPOSED BLOUBOS AND GUSTROW ROAD INFRASTRUCTURE FOR THE GORDON'S BAY AND SIR LOWRY'S PASS DEVELOPMENT AREAS.

With reference to your application for the abovementioned, find below the amendment to the Environmental Authorisation (hereinafter referred to as an "Environmental Authorisation") with respect to this application.

ADDENDUM TO ENVIRONMENTAL AUTHORISATION

A. DECISION

By virtue of the powers conferred on it by the NEMA and the EIA Regulations, 2014 (as amended), the competent authority herewith grants the amendment of the Environmental Authorisation issued on 27 March 2012 (Reference No.: E12/2/3/2-A3/193-0240/07), the Appeal Environmental Authorisation issued on 18 December 2012 (Reference No.: M3/6/5) and the amended Appeal Environmental Authorisation dated 21 January 2018 (Reference No.: 14/3/1/1/A3/53/0299/17).

1. **Condition E1 of the amended Appeal Environmental dated 18 December 2012, reads as follows:**

"The activities must commence within a period of five (5) years from the lapsing date (i.e. 18 December 2017) of the Appeal decision which was issued on 18 December 2012 with a validity period of five (5) years. If commencement of the activities does not occur with that period, the authorisation lapses and a new application for environmental authorisation must be made in order for the activities to be undertaken."

This is herewith replaced with the following:

The holder must commence with the listed activities on site by 18 December 2027 or the Environmental Authorisation shall lapse. A new application for Environmental

Authorisation must be made for the activities to be undertaken if the holder of the Environmental Authorisation does not commence by the aforementioned date.

2. **The details of the holder that are provided in the amended Appeal Environmental Authorisation dated 21 January 2018 reads as follows:**

*"The Municipal Manager
c/o Mr. Dennis de Villiers
City of Cape Town
P.O. Box 19
SOMERSET WEST
7129*

*Tel.: (021) 850 4000
Fax: (021) 850 4500"*

This is herewith replaced with the following:

City of Cape Town
Roads Infrastructure and Management
c/o Mr. Heuppschenne Lekay
Corner of Victoria & Andries Pretorius Road
SOMERSET WEST
7129

Tel.: (021) 444 3252
E-mail: Heuppschenne.Lekay@capetown.gov.za

3. **Condition 26.6 of the Environmental Authorisation issued on 27 March 2012 reads as follows:**

"The bridge structures must not entail infilling below the 1:100 year flood line and should extend across the entire high flow channel. Alternatively, and subject to input by a fluvial geomorphologist, multiple wide culverts must be placed beneath the high flow channel of the bridge".

This is herewith replaced with the following:

The bridge structures must not entail infilling below the 1:100 year flood line and must extend across the entire high flow channel. Alternatively, multiple wide culverts must be placed beneath the high flow channel of the bridges.

4. **Condition 29 of the Environmental Authorisation issued on 27 March 2012 reads as follows:**

"The general and specific mitigation measures for Alternative A2, B1 and revised C2 listed on pages 7-13 to 7-16 of the final EIR dated June 2011 must be implemented".

This is herewith replaced with the following:

The general and specific mitigation measures for Alternative A2, B1 and revised C2 listed on pages 7-13 to 7-16 of the final EIR dated June 2011 must be implemented, along with any approved amendments related to that section.

5. **Condition 26.5 of the Environmental Authorisation issued on 27 March 2012 is herewith removed.**

B. REASONS FOR THE DECISION:

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

- (a) The information contained in the application form received by the competent authority via electronic mail correspondence on 30 November 2022.
- (b) The application is for a non-substantive amendment to the Environmental Authorisation and will not change the scope of the Environmental Authorisation issued on 27 March 2012, the Appeal Environmental Authorisation issued on 18 December 2012 and the amended Appeal Environmental Authorisation dated 21 January 2018.
- (c) The extension of the validity period of the amended Appeal Environmental Authorisation is required, as the holder has been unable to commence with all the listed activities within the validity period.
- (d) No additional impacts are anticipated due to the proposed amendment. This can be justified as follows:

- i. The proposed amendment will not result in a change in the nature of the impacts nor an increase in the nature of the impacts.

- ii. Removal of Condition 26.5:

The freshwater specialist (Dr. L. Day of Liz Day Consulting), who compiled the freshwater assessment as part of the original EIA, confirmed in an email dated 10 December 2020 that there is no requirement for the appointment of a fluvial geomorphologist for Section C of the river. The requirement is for the proposed downstream bridges in the planned realigned section of the river.

The requirement for a fluvial geomorphologist is based on the planned river profile (T2 to WWTW) which has been subject to intensive modelling by Gerrit Basson, and it is important that any bridges affecting flows in the channel should meet the design requirements, as laid out by Gerrit Basson. There is no reason for a fluvial geomorphologist to assess bridge design at the upstream (northern) river crossing.

- iii. Amendment of Condition 29:

A geomorphological specialist is not required to conduct an assessment for the bridge portion in the upper reaches above T2.

According to the Freshwater Impact Assessment Report by Liz Day (2010), the placement of piers within the low flow portion of the channel (*i.e.*, the section below the 1:10 year flood line) should be subject to approval by a fluvial geomorphologist, and not the bridge portion as well.

However, the freshwater specialist confirmed that the conditions are only applicable to Section B (Alternative B1) of Bloubos Road and indicated that the wording may not have been clear in her specialist report.

The City of Cape Town intends to only construct a portion of Section C (Revised Alternative C2) of Bloubos Road, and this area is not within the low flow portion of the channel. Therefore, a geomorphological specialist is not required.

Furthermore, section 6.2 of the Specialist Wetland Assessment indicates that input from a fluvial geomorphologist is required only for Section B of Bloubos Road. The requirement for a fluvial geomorphologist is, however, not mentioned in any other sections of the Specialist Wetland Assessment.

The inclusion of the mitigation measures as general conditions of authorisation for the entire project (instead of for only Section B) was an error on the part of the Environmental Assessment Practitioner who undertook the EIA. The requirement for appointing a fluvial geomorphologist is only applicable to Section B of the road.

- (e) The amendment is administrative in nature and no impacts are associated with the application for amendment.
- (f) The environment and the rights and interests of interested and affected parties ("I&APs") are not likely to be affected.
- (g) The remaining conditions contained in the Environmental Authorisation issued on 27 March 2012, the Appeal Environmental Authorisation issued on 18 December 2012 and the amended Appeal Environmental Authorisation dated 21 January 2018 still remain unchanged and in force.

C. CONDITION:

1. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 1.1 notify all registered I&APs of –
 - 1.1.1 the outcome of the application;
 - 1.1.2 the reasons for the decision as included in Section B;
 - 1.1.3 the date of the decision; and
 - 1.1.4 the date when the decision was issued.
 - 1.2 draw the attention of all registered I&APs to the fact that an appeal may be lodged against the decision in terms of the National Appeal Regulations, 2014 (as amended) detailed in Section D below;
 - 1.3 draw the attention of all registered I&APs to the manner in which they may access the decision;
 - 1.4 provide the registered I&APs with:
 - 1.4.1 the name of the holder (entity) of this Environmental Authorisation;
 - 1.4.2 name of the responsible person for this Environmental Authorisation;
 - 1.4.3 postal address of the holder;
 - 1.4.4 telephonic and fax details of the holder;
 - 1.4.5 e-mail address, if any, of the holder; and
 - 1.4.6 the contact details (postal and/or physical address, contact number, facsimile and e-mail address) of the decision-maker and all registered

I&APs in the event that an appeal is lodged in terms of the National Appeal Regulations, 2014 (as amended).

D. APPEALS:

1. Appeals must comply with the provisions contained in the National Appeal Regulations, 2014 (as amended).

An appellant must –

- 1.1 Submit an appeal in accordance with Regulation 4 to the appeal administrator, within 20 (twenty) calendar days from the date the applicant notified registered I&APs of this decision.
- 1.2 If the appellant is the applicant, provide any registered I&AP, any Organ of State and the decision-maker with a copy of the appeal lodged with the appeal administrator.
- 1.3 If the appellant is a person other than the applicant, provide the applicant, any registered I&AP, any Organ of State and the decision-maker with a copy of the appeal lodged with the appeal administrator.
- 1.4 The applicant (if not the appellant), the decision-maker, I&APs and Organs of State must submit their responding statement, if any, to the appeal authority and the appellant within 20 days from the date of receipt of the appeal submission.
- 1.5 The appeal form/s must be submitted by means of one of the following methods:
By post: Attention: Mr. Marius Venter
 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: Attention: Mr. Marius Venter (Tel: 021 483 3721), Room 809
 8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

By e-mail: DEADP.Appeals@westerncape.gov.za
- 1.6 An electronic copy (word document format) of the appeal and supporting documents must also be submitted.
- 1.7 A prescribed appeal form, as well as assistance regarding the appeal processes is obtainable from the office of the appeal authority 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 Amended 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 greatly appreciated.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

DATE OF DECISION: 31 JANUARY 2023

CC: (1) Ms. Carmen du Toit (The Environmental Partnership)
(2) Ms. Azanne van Wyk (City of Cape Town)

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