

REFERENCE: 16/3/3/5/D2/29/0011/22
NEAS REF.: WCP/EIA/AMEND/0000704/2023
DATE OF ISSUE: 06 March 2023

ADDENDUM TO ENVIRONMENTAL AUTHORISATION

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 7 APRIL 2021 (DEA&DP REF NO. 16/3/3/1/D2/29/0008/20) FOR THE PROPOSED DEVELOPMENT OF HEROLD'S BAY COUNTRY ESTATE ON A PORTION OF PORTION 7 OF THE FARM BUFFELSFONTEIN NO. 204, HEROLD'S BAY, GEORGE

With reference to your application for the abovementioned, find below the decision with respect to the application (submitted 11 November 2022) for the amendment to the Environmental Authorisation issued on 7 April 2021 under DEA&DP Ref. No. 16/3/3/1/D2/29/0008/20 (hereinafter referred to as an "Environmental Authorisation").

A. DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998, as amended) and the Environmental Impact Assessment Regulations, 2010, ("NEMA EIA Regulations") the competent authority herewith **grants** the amendment of the Environmental Authorisation issued on 7 April 2021.

The Environmental Authorisation is amended as set out below:

1. Condition 10.1.6 in Section E is substituted with the following:

"Incorporate an Operational Phase Environmental Management Plan that will deal with the operational aspects including the filling station and must include:

- (a) Include the implementation plan with clear management outcomes.*
- (b) An indication of the persons who will be responsible for the implementation of the impact management actions.*
- (c) Include all the mitigation measures as described in the Geotechnical Impact Assessment that deals with the filling station and the design measures that were recommended.*
- (d) Include the requirements on the comments provided by the WCG: Department of Environmental Affairs and Development Planning – Pollution and Chemicals Management*
- (e) Include emergency procedures and actions to be undertaken for emergency spills or malfunctioning of tanks.*
- (f) Detail the environmental auditing programme.*

B. REASONS FOR THE DECISION

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

1. Consultation with the Fuel Retailers Association (FRA) was conducted in order to obtain their input on the groundwater monitoring during the operational phase of the filling station. The FRA however stated that they only give their requirements once membership (which is entirely voluntary) takes place. The FRA did not lodge an objection to the removal of condition 10.1.6 (c) of the EA issued on 7 April 2021.
2. 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.

C. CONDITIONS

1. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 1.1 notify all registered I&APs¹ 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 National Appeals Regulations, 2014 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 2014 National Appeals Regulations.
2. One week's notice must be given to the Directorate: Development Management (Region 3) before commencement of construction activities. The said notice must also include proof of compliance with Condition 1 described in Section C of this Addendum to the Environmental Authorisation.
3. The conditions contained in the Environmental Authorisation issued on 7 April 2021 under DEA&DP Ref. No. 16/3/3/1/D2/29/0008/20, remain in force.

¹ This includes I&APs registered for the application for Environmental Authorisation as issued on 7 April 2021 under DEA&DP Ref. No. 16/3/3/1/D2/29/0008/20.

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:
Zaahir.Toefy@westerncape.gov.za and copied to
DEADPEIAadmin.George@westerncape.gov.za
Gavin.Benjamin@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:
Zaahir.Toefy@westerncape.gov.za and copied to
DEADPEIAadmin.George@westerncape.gov.za
Gavin.Benjamin@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

**DIRECTOR: DEVELOPMENT MANAGEMENT
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING
WESTERN CAPE GOVERNMENT**

DATE OF DECISION: 06 MARCH 2023

FOR OFFICIAL USE ONLY:

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