



AMENDMENT REFERENCE: 16/3/3/5/A6/45/2041/22
NEAS REFERENCE: WCP/EIA/AMEND/0000644/2022
DATE OF ISSUE: 19 August 2022

The Board of Directors
Banjospex (Pty) Ltd.
Postnet Suite 1
Private Bag X40106
WALMER
6065

For Attention: Mr. Kevin McLoughlin

Tel.: (021) 783 1704
E-mail: kevin@wgproperties.co.za

Dear Sir

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND PART 1 OF THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE AMENDMENT TO THE ENVIRONMENTAL AUTHORISATION ("EA") ISSUED ON 30 OCTOBER 2014 (REFERENCED: E12/2/4/1-A5/268-2052/10), READ TOGETHER WITH THE APPEAL DECISION ISSUED ON 7 AUGUST 2017 (REFERENCED: 14/3/1/A6/45/0076/15), AND SUBSEQUENT AMENDMENTS OF THE APPEAL EA ISSUED ON 29 JULY 2019 (REFERENCED: 14/3/1/1/A6/45/0407/19) AND ON 23 NOVEMBER 2020 (REFERENCED: 14/3/1/1/A6/45/0475/20): THE AUTHORISED ESTABLISHMENT OF A MIXED-USE DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE COVERING VARIOUS ERVEN SITUATED ALONGSIDE KOMMETJIE MAIN ROAD

1. With reference to the above application, this Department hereby notifies you of its Decision to **grant** the amendment to the amended EA, attached herewith, together with the reasons for the Decision.
2. In terms of Regulation 4 of the EIA Regulations, 2014 (as amended), you are instructed to ensure, within 14 days of the date of the amended EA, 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 Appeal Regulations, 2014 (as amended), which prescribes the appeal procedure to be followed. This procedure is summarised in the attached amended EA.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT – REGION 1

Copied to: (1) Ms. Michelle Lee (Chand Environmental Consultants) E-mail: Michelle@chand.co.za
(2) Mr. Andrew Greenwood (City of Cape Town) E-mail: Andrew.Greenwood@capetown.gov.za
(3) Mr. Gerhard J. van der Horst (The Kommetjie Estates (Pty) Ltd) E-mail: vanderhorstgerhard@gmail.com

www.westerncape.gov.za



AMENDMENT REFERENCE: 16/3/3/5/A6/45/2041/22
NEAS REFERENCE: WCP/EIA/AMEND/0000644/2022
DATE OF ISSUE: 19 August 2022

AMENDMENT TO THE AMENDED ENVIRONMENTAL AUTHORISATION

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND PART 1 OF THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED) FOR THE AMENDMENT TO THE ENVIRONMENTAL AUTHORISATION ("EA") ISSUED ON 30 OCTOBER 2014 (REFERENCED: E12/2/4/1-A5/268-2052/10), READ TOGETHER WITH THE APPEAL DECISION ISSUED ON 7 AUGUST 2017 (REFERENCED: 14/3/1/A6/45/0076/15), AND SUBSEQUENT AMENDMENTS OF THE APPEAL EA ISSUED ON 29 JULY 2019 (REFERENCED: 14/3/1/1/A6/45/0407/19) AND ON 23 NOVEMBER 2020 (REFERENCED: 14/3/1/1/A6/45/0475/20): THE AUTHORISED ESTABLISHMENT OF A MIXED-USE DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE COVERING VARIOUS ERVEN SITUATED ALONGSIDE KOMMETJIE MAIN ROAD

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 NEMA and the EIA Regulations, 2014 (as amended), this Department herewith **grants** the amendment of the EA issued 30 October 2014 (Referenced: E12/2/4/1-A5/268-2052/10), read together with the Appeal decision issued on 7 August 2017 (Referenced: 14/3/1/A6/45/0076/15), and subsequent amendments to the Appeal decision issued on 29 July 2019 (Referenced: 14/3/1/1/A6/45/0407/19) and on 23 November 2020 (Referenced: 14/3/1/1/A6/45/0475/20).

The original EA, read together with the Appeal decision and subsequent amended EAs, is amended as set out below:

The amended Condition E1 contained in the Appeal decision issued on 7 August 2017, reads as follows:

"The environmental authorisation is valid for a period of five years from the date of this Appeal decision. The holder must commence with all the listed activities within the said period of this environmental authorisation lapses and a new application for environmental authorisation must be submitted to the Competent Authority, unless the holder has lodged a valid application for amendment of the validity period of this Appeal Decision, before the expiry of this environmental authorisation. In such instances, the validity period will be automatically extended ("the period of administrative extension") from the day before this environmental authorisation would otherwise have lapsed, until the amendment application for the extension of the validity period is decided. The listed activities, including site preparation, must not be commenced with during the period of administrative extension."

The amended Condition E1 contained in the Appeal decision issued on 7 August 2017, is hereby amended to read in the following manner:

“Condition 1: This amended Environmental Authorisation is granted for–

- 1.1. A period of approximately five (5) years, ending 6 August 2027, during which period the holder must commence with the authorised Listed Activities; and*
- 1.2. A period of ten (10) years, from the date the holder commenced with the authorised Listed Activities, during which period the authorised Listed Activities for the development phase, must be concluded.”*

B. REASONS FOR THE DECISION

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

1. The amendment applied for is in terms of Part 1 of the EIA Regulations, 2014 (as amended) and will not change the scope of the EA issued 30 October 2014 (Referenced: E12/2/4/1-A5/268-2052/10), read together with the Appeal decision issued on 7 August 2017 (Referenced: 14/3/1/A6/45/0076/15), and subsequent amendments to the Appeal decision issued on 29 July 2019 (Referenced: 14/3/1/1/A6/45/0407/19) and on 23 November 2020 (Referenced: 14/3/1/1/A6/45/0475/20), nor trigger any additional Listed Activities in terms of the EIA Regulations, 2014 (as amended).
2. According to the information provided in the application form for a Part 1 amendment (dated 25 July 2022), the amendment is for the extension of the validity period of the abovementioned EA issued 30 October 2014, read together with the Appeal decision issued on 7 August 2017, and subsequent amendments to the Appeal decision issued on 29 July 2019 and on 23 November 2020.
3. The abovementioned amendment is required, as the required building plans for the authorised retail component have yet to be approved by the Local Authority. Commencement of the authorised development was furthermore delayed by the impacts of the Covid-19 pandemic.
4. The environment and the rights and interests of registered Interested and Affected Parties (“I&APs”) will not be adversely affected by this decision to amend the EA issued 30 October 2014 (Referenced: E12/2/4/1-A5/268-2052/10), read together with the Appeal decision issued on 7 August 2017 (Referenced: 14/3/1/A6/45/0076/15), and subsequent amendments to the Appeal decision issued on 29 July 2019 (Referenced: 14/3/1/1/A6/45/0407/19) and on 23 November 2020 (Referenced: 14/3/1/1/A6/45/0475/20).

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&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 Interested and Affected Parties 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).

- 1.5. The remaining conditions contained in the EA issued 30 October 2014 (Referenced: E12/2/4/1-A5/268-2052/10), read together with the Appeal decision issued on 7 August 2017 (Referenced: 14/3/1/A6/45/0076/15), and subsequent amendments to the Appeal decision issued on 29 July 2019 (Referenced: 14/3/1/1/A6/45/0407/19) and on 23 November 2020 (Referenced: 14/3/1/1/A6/45/0475/20), remain unchanged and in force.

D. APPEALS

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

1. An appellant (if the holder of the decision) must, within twenty (20) 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, any Organ of State with interest in the matter and the decision-maker, *i.e.*, the Competent Authority that issued the decision.

2. An appellant (if **NOT** the holder of the decision) must, within twenty (20) 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, any registered I&AP, any Organ of State with interest in the matter and the decision-maker, *i.e.*, the Competent Authority that issued the decision.

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 Administrator and the appellant within twenty (20) calendar days from the date of receipt of the appeal submission.

4. The appeal and the responding statement must be submitted to 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:	Attention: Mr. Marius Venter Room 809

8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

Note: For purposes of electronic database management, you are requested to submit electronic copies (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Administrator to the address listed above and/ or via e-mail to DEA&DP.Appeals@westerncape.gov.za.

5. A prescribed appeal form as well as assistance regarding the appeal processes is obtainable from Appeal Administrator at: Tel.: (021) 483 3721, E-mail: DEA&DP.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 EA 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

DATE OF DECISION: 19 AUGUST 2022

Copied to: (1) Ms. Michelle Lee (Chand Environmental Consultants)
(2) Mr. Andrew Greenwood (City of Cape Town)
(3) Mr. Gerhard J. van der Horst (The Kommetjie Estates (Pty) Ltd)

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