



REFERENCE NUMBER: 16/3/3/5/A5/31/2034/23
NEAS REFERENCE NUMBER: WCP/EIA/AMEND/0000768/2023
DATE OF ISSUE: 20 March 2024

The Director
Dexter Estate (Pty) Ltd
1st Floor, Waterfront Terraces, Block 2
3 Waterfront Road
Tyger Waterfront
Carl Cronje Drive
BELLVILLE
7530

For Attention: Mr. P. van der Westhuysen

Tel: (021) 914 1840
Email: pvdw@propertysite.co.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 2 AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED BY THIS DIRECTORATE ON 11 APRIL 2022 (REF. NO. 16/3/3/1/A5/31/2048/21) FOR THE PROPOSED DEVELOPMENT OF A REGIONAL STORMWATER POND AND ASSOCIATED INFRASTRUCTURE ON UNREGISTERED ERF 2001 (PREVIOUSLY A PORTION OF PORTION 32 OF FARM NO. 168), ERF 1991 (PREVIOUSLY PORTION 33 OF FARM NO. 168) AND WITHIN A PORTION OF THE ROAD RESERVE OF DARWIN ROAD, FISANTEKRAAL.

1. With reference to the above application, the Department hereby notifies you of its decision to **grant** an amendment of the 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 decision on the application, that all registered interested and affected parties ("I&APs") are provided with access to the decision 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 amended Environmental Authorisation below.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

Copies to: (1) Mr. C. Dippenaar (Guillaume Nel Environmental Consultants (Pty) Ltd) Email: christoff@gnec.co.za
(2) Ms. C. Becker (Guillaume Nel Environmental Consultants (Pty) Ltd) Email: carina@gnec.co.za
(3) Ms. S. Warnich-Stemmet (City of Cape Town: ERM) Email: Sonia.warnichstemmet@capetown.gov.za



REFERENCE NUMBER: 16/3/3/5/A5/31/2034/23

AMENDED ENVIRONMENTAL AUTHORISATION

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 2 AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED BY THIS DEPARTMENT ON 11 APRIL 2022 (REF. NO. 16/3/3/1/A5/31/2048/21) FOR THE PROPOSED DEVELOPMENT OF A REGIONAL STORMWATER POND AND ASSOCIATED INFRASTRUCTURE ON UNREGISTERED ERF 2001 (PREVIOUSLY A PORTION OF PORTION 32 OF FARM NO. 168), ERF 1991 (PREVIOUSLY PORTION 33 OF FARM NO. 168) AND WITHIN A PORTION OF THE ROAD RESERVE OF DARWIN ROAD, FISANTEKRAAL.

With reference to your application, find below the amendment to the Environmental Authorisation in respect of 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 Regulations, 2014 (as amended), the Department hereby **grants** the amendment to the Environmental Authorisation ("EA") issued by this Department on 11 April 2022 (Ref. No. 16/3/3/1/A5/31/2048/21) in terms of Part 2 of the EIA Regulations, 2014 (as amended). The EA (Ref. No. 16/3/3/1/A5/31/2048/21) (attached as Annexure A) is amended as set out below:

1. Section B and Annexure 3: Section 2 (i.e. the Preferred Alternative) of the EA (Ref. No. 16/3/3/1/A5/31/2048/21) reads as follows:

"The authorised development entails the development of a regional stormwater pond and associated infrastructure on unregistered Erf 2001 (previously a portion of Portion 32 of Farm No. 168), Erf 1991 (previously Portion 33 of Farm No. 168) and within a portion of the road reserve of Darwin Road, Fisantekraal.

The proposed development will entail the following:

- The enlargement of a channel (i.e. channel 1) located along the existing outlet channel of the temporary pond to convey peak unattenuated 1:100 year flow from the contributing catchments to a new box culvert. The new box culvert will allow the water to flow from channel 1 into channel 2. Channel 2 will discharge the water into the forebay of the regional pond.
- The regional stormwater pond will have a 2.9m deep permanent pool, which includes an aquatic bench, to attenuate runoff for 1:5 year to 1:50 year storm events. A 1.4m wide and 0.2m deep vegetated strip will be developed around the stormwater pond to form a perimeter and will provide some ecological services including pollutant removal, erosion control and conveyance and temporary storage of water. The total volume of the proposed stormwater pond will be approximately 4193.2m³.

- The stormwater pond will have an outlet structure of approximately 3.38m wide, approximately 3.33m long and approximately 1.99m high. The outlet structure will have a flap to prevent water from the river entering the stormwater pond.
- A box culvert, approximately 1.2m wide and approximately 1.2m high will be developed to allow water to be discharged into the gabion spillway/basin.
- The gabion stilling basin with a 10m wide overflow will be developed and will be provided at the 1:50 year flood level of the Mosselbank River. No formal works downstream of the stilling basin will occur;

The total footprint of the proposed development and associated infrastructure will be approximately 6500m² in extent."

is hereby amended to read as follows:

"The authorised development entails the construction of a new dry stormwater pond on unregistered Erf 2001 (previously a portion of Portion 32 of Farm No. 168), Erf 1991 (previously Portion 33 of Farm No. 168) and within a portion of the road reserve of Darwin Road, Fisantekraal.

The proposed development will entail the following:

- The enlargement of a channel (i.e. channel 1) located along the existing outlet channel of the temporary pond to convey peak unattenuated 1:100 year flow from the contributing catchments to a new box culvert. The new box culvert will allow the water to flow from channel 1 into channel 2. Channel 2 will discharge the water into the forebay of the regional pond.
- A box culvert, approximately 2.1m wide and approximately 1.2m high will be developed to allow water to be discharged into the gabion spillway/basin.
- The gabion stilling basin with a 10m wide overflow will be developed and will be provided at the 1:50 year flood level of the Mosselbank River. No formal works downstream of the stilling basin will occur.

The construction and expansion of roadside channels within the road reserve of Darwin Road. Approximately 50m of gravel farm road will be rerouted within the road reserve of Darwin Road. A palisade fence will be installed along the boundary line of the services servitude. Temporary laydown and stockpile areas will be demarcated during the construction phase.

The total footprint of the proposed development and associated infrastructure will be approximately 6500m² in extent."

2. Condition 9 of Section E (CONDITIONS OF AUTHORISATION) in the EA (Ref. No. 16/3/3/1/A5/31/2048/21), reads as follows:

"The Environmental Management Programme (compiled by Legacy Management Consulting and dated December 2021) submitted as part of the application for Environmental Authorisation is hereby approved and must be implemented."

is hereby replaced with:

"The Environmental Management Programme (compiled by Guillaume Nel Environmental Consultants and dated 02 November 2023) submitted as part of the application for amendment is hereby approved and must be implemented."

3. The Site Development Plan contained in Annexure B of the EA (Ref. No. 16/3/3/1/A5/31/2048/21)

Is hereby replaced with:

The Site Development Plan contained in Annexure B of this amended EA.

B. REASONS FOR THE DECISION:

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

1. The information contained in the application for the amendment dated and received by this Directorate on 31 August 2023 and the information contained in the final Amendment Report and Environmental Management Programme dated 02 November 2023 and received by this Directorate on 08 November 2023.
2. Since the potential impacts associated with the development of a dry stormwater pond was not assessed as part of the initial application for EA and were unknown prior to the undertaking of the detailed assessment, the proposed amendment was deemed to result in a change to the scope of the EA (Ref. No. 16/3/3/1/A5/31/2048/21) in that the proposed amendment will result in an increased level or change in the nature of impact where such level or change in nature of impact was not assessed and included in the initial application for EA. The proposed amendment was therefore considered a Part 2 Amendment in terms of the NEMA EIA Regulations, 2014 (as amended).
3. A public participation process was undertaken, which entailed the following:
 - 3.1. The placing of a newspaper advertisement in the "Tygerburger" on 23 August 2023.
 - 3.2. Six (6) site notices (in English and Afrikaans) were placed on the site and in close proximity to the site on 31 August 2023.
 - 3.3. A notification was circulated to registered Interested and Affected Parties ("I&AP's") via email on 31 August 2023 informing them that an electronic copy of the draft Amendment Report was made available on the EAP's website for a period of 30 days (i.e. from 30 August 2023 to 03 October 2023).
 - 3.4. An electronic copy of the Screening Tool Report and SSVR (both dated 05 September 2023) were circulated to I&AP's via email on 11 September 2023 for a period of 30 days (i.e. from 11 September 2023 to 11 October 2023) and made available on the EAP's website.
 - 3.5. No objections to the proposed amendment were received from registered I&AP's.
 - 3.6. All the concerns raised by I&AP's were responded to and adequately addressed during the public participation process. The Department is satisfied that the PPP that was followed met the minimum legal requirements and all the comments raised and responses thereto were included in the comments and response report. Specific management and mitigation measures have been considered in this amended Environmental Authorisation and in the EMP (dated November 2023) to adequately address significant concerns raised.
4. Specialist assessments
 - 4.1. Aquatic impacts

An Aquatic Assessment (compiled by Bluescience and dated August 2023), was undertaken to inform the amendment process with regard to the potential impacts of the proposed pond on the aquatic ecosystems in the area. The Mosselbank Tributary and its associated valley bottom wetland are considered to be in a moderately to seriously modified state and of a moderate ecological importance and sensitivity. The specialist identified that the potential impacts of the proposed activity are likely to be of low negative significance if mitigated.

The specialist further identified that a Water Use License would be required in terms of the National Water Act, 1998 (Act No. 36 of 1998) and advised that the Department of Water and Sanitation should be approached for comment on the requirements pertaining to the water use aspects of the proposed activities. The Department of Water and Sanitation indicated (in their correspondence dated 23 October 2023) that the potential impacts of the proposed amendment in relation to the water resources on the proposed site has been assessed in terms of Section 39 of the National Water Act, 1998 (Act No. 36 of 1998). All the requirements of the National Water Act, 1998 (Act No. 36 of 1998) regarding water use and pollution management must be adhered to at all times.

The City of Cape Town: Environmental & Heritage Management branch indicated (in their correspondence dated 27 September 2023) that they concur with the conclusions and recommendations of the Aquatic Specialist Report (dated August 2023). The City of Cape Town: Water and Sanitation Branch confirmed (in their correspondence dated 27 September 2023) that the Stormwater Management Plan compiled by Graeme McGill Consulting Engineers was approved by the Catchment, Stormwater and River Management Branch on 04 September 2023. The Stormwater Management Plan will meet the requirements of the stormwater policies applicable to the area.

5. The environment and the rights and interests of interested and affected parties are not likely to be adversely affected by this decision.
6. All other provisions contained in the EA (Ref. No. 16/3/3/1/A5/31/2048/21) remain unchanged and in force.

C. CONDITIONS

1. The holder must in writing, within 14 (fourteen) calendar days of the date of this decision–
 - 1.1. Notify all registered interested and affected parties ("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 National Appeal Regulations, 2014 (as amended) detailed in Section E below;
 - 1.3. Draw the attention of all registered I&APs to the manner in which they may access the decision; and
 - 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).
2. Proof of compliance with Condition 1 of this amended EA must be submitted along with the notification of commencement of construction activities.

3. All other conditions contained in the EA issued on 11 April 2022 (Ref. No. 16/3/3/1/A5/31/2048/21) 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 must –
 - 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 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, 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 authority and the appellant within 20 (twenty) calendar days from the date of receipt of the appeal submission.
4. The appeal form/s must be submitted by means of one of the following methods:

By post: Attention: 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. M. Venter (Tel: 021 483 3721)
 Room 809
 8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001
5. The 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 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 environment is greatly appreciated.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

DATE OF DECISION: 20 March 2024

Copies to: (1) Mr. C. Dippenaar (Guillaume Nel Environmental Consultants (Pty) Ltd) Email: christoff@gnec.co.za
(2) Ms. C. Becker (Guillaume Nel Environmental Consultants (Pty) Ltd) Email: carina@gnec.co.za
(3) Ms. S. Warnich-Stemmet (City of Cape Town: ERM) Email: Sonja.warnichstemmet@capetown.gov.za

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ANNEXURE A

A copy of the Environmental Authorisation issued by this Department on 11 April 2022 (Ref. No. 16/3/3/1/A5/31/2048/21).

ANNEXURE B

A copy of the Site Development Plan compiled by Ekcon Engineers & Project Managers dated 17 March 2023 (Drawing Ref. No. P2916-C-003 Sheet 1 of 2 and Sheet 2 of 2).