



**Western Cape
Government**
Environmental Affairs and
Development Planning

**DIRECTORATE: DEVELOPMENT MANAGEMENT
REGION 1**

EIA REFERENCE NUMBER: 16/3/3/5/A2/30/3033/18
NEAS REFERENCE NUMBER: WCP/EIA/AMEND/0000306/2018
ENQUIRIES: Mr. M. Lamour
DATE OF ISSUE: 2018 -11- 23

The Board of Directors
Gondotrim (Pty) Ltd.
P.O. Box 3791
SOMERSET WEST
7129

For attention: Mr. J. Loffie-Eaton

Tel: (021) 855 9000
Fax: (021) 855 9066

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PART 1 AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 15 JUNE 2015 (REF. NO. 16/3/1/2/A2/30/3050/12): ESTABLISHMENT OF AN INDUSTRIAL/RETAIL PARK AND ASSOCIATED INFRASTRUCTURE ON PORTION 1, 33 AND 45 OF CAPE FARM NO. 609, PORTION 1 OF CAPE FARM NO. 699 AND PORTION 2 OF CAPE FARM NO. 701, PHILIPPI.

1. With reference to the above application, the Department hereby notifies you of its decision to **refuse** the 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 refusal of the amendment of the 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 refusal of the amendment of the Environmental Authorisation.

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

Yours faithfully

**DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copies to: (1) Mr. R. Samaai (City of Cape Town: ERM)
(2) Mr. D. Jeffery (Doug Jeffery Environmental Consultants)
(3) Mr. R. Meinesz (Forthwith Properties)

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**Western Cape
Government**

Environmental Affairs and
Development Planning

Directorate: Development Management
(Region 1)

EIA REFERENCE NUMBER: 16/3/3/5/A2/30/3033/18
NEAS REFERENCE NUMBER: WCP/EIA/AMEND/0000306/2018
ENQUIRIES: Mr. M. Lamour
DATE OF ISSUE:

The Board of Directors
Gondotrim (Pty) Ltd.
P.O. Box 3791
SOMERSET WEST
7129

For attention: Mr. J. Loffie-Eaton

Tel: (021) 855 9000
Fax: (021) 855 9066

REFUSAL OF ENVIRONMENTAL AUTHORISATION

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PART 1 AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 15 JUNE 2015 (REF. NO. 16/3/1/2/A2/30/3050/12): ESTABLISHMENT OF AN INDUSTRIAL/RETAIL PARK AND ASSOCIATED INFRASTRUCTURE ON PORTION 1, 33 AND 45 OF CAPE FARM NO. 609, PORTION 1 OF CAPE FARM NO. 699 AND PORTION 2 OF CAPE FARM NO. 701, PHILIPPI.

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 (as amended), the Department herewith **refuses** the amendment of the Environmental Authorisation issued on 15 June 2015 (DEA&DP Ref.: 16/3/1/2/A2/30/3050/12) (Attached as Appendix A).

B. BACKGROUND

1. An application for Environmental Authorisation for the proposed establishment of an Industrial/Retail Park and associated infrastructure on Portion 1, 33 and 45 of Cape Farm No. 609, Portion 1 of Cape Farm 699 No. and Portion 2 Cape Farm No. 701, Philippi was submitted to this Department on 21 June 2012. A Scoping & Environmental Impact Reporting process was followed in this regard. An Environmental Authorisation was issued to Forthwith Properties (Pty) Ltd. (trading as Classico) on 15 June 2015 (Ref. no. 16/3/1/2/A2/30/3050/12).
2. The landowner (Gondotrim (Pty) Ltd.) has applied to transfer the rights and obligations from Forthwith Properties (Pty) Ltd. ("the holder") to Gondotrim (Pty) Ltd.

C. REASONS FOR THE DECISION

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

1. The information contained in the Amendment Application form dated 11 September 2018 and received by this Department on 18 September 2018, the holder's comments dated and received by this Department on 04 October 2018, your correspondence 06 November 2018 and received by this Directorate on 07 November 2018, the electronic mail correspondences received by this Directorate from Helen Dagut Environmental Law Consultant (representing Forthwith Properties) on 14 November 2018 and 15 November 2018, respectively and the electronic mail correspondences received from the Environmental Assessment Practitioner on 19 November 2018 and the applicant's response to the comments provided by the holder on 22 November 2018;
2. A 30-day commenting period was afforded to the holder of the Environmental Authorisation to provide comment on the amendment application;
3. The holder of the Environmental Authorisation has objected to the application for the amendment of the Environmental Authorisation and does not agree to the proposed transfer of rights and obligations; and
4. The rights and interests of the holder of the Environmental Authorisation will be adversely affected by this decision to transfer the rights and obligations of the afore-mentioned Environmental Authorisation.

D. LEGISLATIVE REQUIREMENTS

1. The applicant 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 Appeals 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 refusal for amendment.
 - 1.4.2 name of the responsible person for this refusal for amendment.

- 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,
- 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 Appeals Regulations, 2014 (as amended).

E. 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 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, 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 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 Jaap de Villiers (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 Jaap.DeVilliers@westerncape.gov.za.

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

Your interest in the future of our environment is appreciated.

Yours faithfully



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

DATE OF DECISION: 23/11/2018

Copies to: (1) Mr. R. Samdai (City of Cape Town: ERM)
(2) Mr. D. Jeffery (Doug Jeffery Environmental Consultants)
(3) Mr. R. Meinesz (Forthwith Properties (Pty) Ltd.)

Fax: (021) 444 3802
Fax: (086) 660 2635
Fax: (086) 724 6137

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APPENDIX A (ENVIRONMENTAL AUTHORISATION ISSUED ON 15 JUNE 2015 REF. NO. 16/3/1/2/A2/30/3050/12)



**Western Cape
Government**

Environmental Affairs and
Development Planning

**DIRECTORATE: DEVELOPMENT MANAGEMENT
REGION 1**

EIA REFERENCE NUMBER: 16/3/1/2/A2/30/3050/12
ENQUIRIES: Mr. M. Lamour
DATE OF ISSUE: 15 JUN 2015

The Director
Forthwith Properties (Pty) Ltd.
Suite 86
Private Bag X16
CONSTANTIA
2123

For attention: Mr. R. Meinesz

Tel: (021) 683 9616

Fax: (086) 724 6137

Dear Sir

APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) AND THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2010: THE PROPOSED ESTABLISHMENT OF AN INDUSTRIAL/RETAIL PARK AND ASSOCIATED INFRASTRUCTURE ON PORTION 1, 33 AND 45 OF CAPE FARM 609, PORTION 1 OF CAPE FARM 699 AND PORTION 2 OF CAPE FARM 701, PHILIPPI.

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

ENVIRONMENTAL AUTHORISATION

DECISION

By virtue of the powers conferred on it by the National Environmental Management Act, 1998 (Act No. 107 of 1998), the Environmental Impact Assessment Regulations, 2010 and the Environmental Impact Assessment Regulations, 2014 ("NEMA EIA Regulations") the competent authority herewith **grants environmental authorisation** to the applicant to undertake the list of activities specified in section B below with respect to Alternative 1 described in the Final Environmental Impact Assessment Report ("EIAR") dated 21 January 2015.

The granting of this environmental authorisation is subject to compliance with the conditions set out in section E below.

A. DETAILS OF THE APPLICANT FOR THIS ENVIRONMENTAL AUTHORISATION

Forthwith Properties (Pty) Ltd.
 c/o Mr. R. Meinesz
 Suite 86
 Private Bag X16
CONSTANTIA
 2123

Tel: (021) 683 9616
 Fax: (086) 724 6137

The abovementioned company is the holder of this environmental authorisation and is hereinafter referred to as "the applicant".

B. LIST OF ACTIVITIES AUTHORISED

Government Notice No. R544 of 18 June 2010 –

Activity Number: 18
 Activity Description:

The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from:

- (i) a watercourse;
- (ii) the sea;
- (iii) the seashore;
- (iv) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater-

but excluding where such infilling, depositing, dredging, excavation, removal or moving;

- (a) *is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or*
- (b) *occurs behind the development setback line.*

On 04 December 2014, the Minister of Environmental Affairs promulgated regulations in terms of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), viz. the Environmental Impact Assessment ("EIA") Regulations 2014 (Government Notice No. R. 982, R. 983, R. 984 and R. 985 in Government Gazette No. 38282 of 04 December 2014). Please note that these regulations came into effect on 08 December 2014. The activities listed below are the similarly listed activity in terms of the NEMA EIA Regulations, 2014.

Government Notice No. R983 of 04 December 2014

Activity Number: 19
 Activity Description:

The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from-

- (i) a watercourse;
- (ii) the seashore; or
- (iii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water

mark of the sea or an estuary, whichever distance is the greater-

but excluding where such infilling, depositing, dredging, excavation, removal or moving-

- (a) will occur behind a development setback;
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan; or
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies.

The abovementioned list is hereinafter referred to as "the listed activities".

The applicant is herein authorised to undertake the following alternative related to the listed activities:

The proposed development entails the establishment of an industrial/ retail park and associated infrastructure on Portion 1, 33 and 45 of Cape Farm No. 609, Portion 1 of Cape Farm No. 699 and Portion 2 of Cape Farm No. 701, Philippi, which will require the infilling of wetlands located on the proposed site.

The proposed development will include the following:

- 5 business erven approximately 77 910 m² in extent;
- 24 industrial erven approximately 209 047m² in extent;
- Provision for 3 Electrical substation sites;
- An area of approximately 43 495 m², will be made available for attenuation ponds and a landscaped edge along Weltevreden Road; and
- Approximately 83 903m² of land will be set aside for internal roads, road reserve and the future extension of Sheffield Road and Oliver Tambo Drive.

The proposed development will further entail the establishment of a stormwater system.

All services (i.e. water provision, electricity provision, sewage disposal and solid waste disposal) will be connected to municipal infrastructure.

Access to proposed development will be obtained from Weltevreden Road via three entrances.

The proposed development footprint will be approximately 40 ha in extent.

C. PROPERTY DESCRIPTION AND LOCATION

The listed activities will take place on Portions 1, 33 and 45 of Cape Farm No. 609, Portion 1 of Cape Farm No. 699 and Portion 2 of Cape Farm No. 701, Philippi. The site is bordered by Vanguard Drive freeway (M7) on the east and Weltevreden Road on the west.

The SG 21 digit codes are: C01600500000060900001 (Portion 1 of Cape Farm 609)
 C01600500000060900033 (Portion 33 of Cape Farm 609)
 C01600500000060900045 (Portion 45 of Cape Farm 609)
 C01600500000069900001 (Portion 1 of Cape Farm 699)
 C01600500000070200002 (Portion 2 of Cape Farm 701)

Co-ordinates: 34° 00' 57" South
 18° 33' 55" East

hereinafter referred to as "the site".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Khula Environmental Consultants
c/o Mr. N. Steytler
P. O. Box 22761
SCARBOROUGH
7974

Tel: (082) 322 4074

Fax: (086) 694 6901

E. CONDITIONS OF AUTHORISATION

1. This environmental authorisation is valid for a period of **five years** from the date of issue. The holder must commence with all the listed activities within the said period or 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 the amendment of the validity period of this environmental authorisation, 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, may not commence during the period of administrative extension.
2. The listed activities, including site preparation, may not commence within 20 (twenty) calendar days of the date of issue of this environmental authorisation. In the event that an appeal notice and subsequent appeal is lodged with the competent authority, the effect of this environmental authorisation is suspended until such time as the appeal is decided.
3. The applicant must in writing, within 12 (twelve) calendar days of the date of this decision and in accordance with Regulation 10(2)–
 - 3.1 Notify all registered interested and affected parties of –
 - 3.1.1 the outcome of the application;
 - 3.1.2 the reasons for the decision as included in Annexure 1;
 - 3.1.3 the date of the decision;
 - 3.1.4 the date of issue of the decision;
 - 3.2 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 Chapter 7 of the NEMA EIA Regulations, 2010 detailed in section F below;
 - 3.3 Draw the attention of all registered interested and affected parties to the manner in which they may access the decision;
 - 3.4 Publish a notice in the newspapers contemplated in Regulation 54(2)(c) and (d), and which newspaper was used for the placing of advertisements as part of the Public Participation Process, that –
 - 3.4.1 informs all interested and affected parties of the decision;
 - 3.4.2 informs all interested and affected parties where the decision can be accessed;
 - 3.4.3 informs all interested and affected parties that an appeal may be lodged against the decision in terms of Chapter 7 of the NEMA EIA, Regulations, 2010; and

- 3.5 Provide the registered Interested and Affected Parties with :-
- 3.5.1 the name of the holder (entity) of this environmental authorisation;
 - 3.5.2 the name of the responsible person for this environmental authorisation;
 - 3.5.3 the postal address of the holder; and
 - 3.5.4 the telephonic and fax details of the holder and e-mail address if any.
4. A minimum of seven calendar days notice, in writing, must be given to the competent authority before commencement of construction activities.
- 4.1. The notice must make clear reference to the site details and EIA Reference number given above.
 - 4.2. The notice must also include proof of compliance with the following conditions described herein:

Conditions: 2, 3 and 12.
5. The holder is responsible for ensuring compliance with the conditions by any person acting on his/her behalf, including an agent, sub-contractor, employee or any person rendering a service to the holder.
6. Any changes to, or deviations from the scope of the description set out in section B above must be accepted or approved, in writing, by the competent authority before such changes or deviations may be implemented. In assessing whether to grant such acceptance/approval or not, the competent authority may request such information as it deems necessary to evaluate the significance and impacts of such changes or deviations and it may be necessary for the holder to apply for further authorisation in terms of the applicable legislation.
7. The applicant must notify the competent authority in writing, within 24 hours thereof if any condition herein stipulated is not being complied with.
8. The draft Environmental Management Programme ("EMP") submitted as part of the application for environmental authorisation is hereby approved on condition that the following amendments are made to the EMP and must be implemented.
- 8.1 A stormwater management plan must be included in the EMP.
 - 8.2 Detail on how connectivity between the two distinct wetland areas in the north and south of the site will be retained must be included in the EMP.
 - 8.3 The EMP must include measures to ensure ongoing maintenance of the wetland areas during the operational phase.
 - 8.4 The EMP must provide clear rehabilitation measures to ensure that the remaining wetlands on the proposed site are rehabilitated.
 - 8.5 An application for amendment to the EMP must be submitted to the competent authority if any amendments are to be made to the EMP other than those stipulated above and this may only be implemented once the amended EMP has been authorised by the competent authority.
 - 8.6 The EMP must be included in all contract documentation for all phases of implementation.

9. A copy of the environmental authorisation and the EMP must be kept at the site where the listed activities will be undertaken during construction activities whereafter it must be kept at the office of the applicant. Access to the site referred to in section C above must be granted and, the environmental authorisation and EMP must be produced to any authorised official representing the competent authority who requests to see it for the purposes of assessing and/or monitoring compliance with the conditions contained herein. The environmental authorisation and EMP must also be made available for inspection by any employee or agent of the applicant who works or undertakes work at the site.
10. The applicant must submit an application for amendment in terms of Chapter 5 of the NEMA EIA Regulations, 2014 of the environmental authorisation to the competent authority where any detail or scope with respect to the environmental authorisation must be amended, added, substituted, corrected, removed or updated.
11. Non-compliance with a condition of this environmental authorisation or EMP may result in suspension of this environmental authorisation and may render the holder liable for criminal prosecution.
12. The holder must appoint a suitably experienced environmental control officer ("ECO"), for the construction phase of implementation before commencement of any land clearing or construction activities to ensure compliance with the EMP and the conditions contained herein.
13. An integrated waste management approach, which is based on waste minimisation and incorporates reduction, recycling, re-use and disposal, where appropriate, must be employed. Any solid waste must be disposed of at a landfill licensed in terms of the applicable legislation.
14. Should any heritage remains be exposed during excavations or any actions on the site, these must immediately be reported to the Provincial Heritage Resources Authority of the Western Cape, Heritage Western Cape (in accordance with the applicable legislation). Heritage remains uncovered or disturbed during earthworks must not be further disturbed until the necessary approval has been obtained from Heritage Western Cape. Heritage remains include: archaeological remains (including fossil bones and fossil shells); coins; indigenous and/or colonial ceramics; any articles of value or antiquity; marine shell heaps; stone artifacts and bone remains; structures and other built features; rock art and rock engravings and graves or unmarked human burials.

A qualified archaeologist must be contracted where necessary (at the expense of the applicant and in consultation with the relevant authority) to remove any human remains in accordance with the requirements of the relevant authority.
15. Dust suppression methods must be used to mitigate dust during the construction phase. No potable water is to be used to mitigate dust in this regard (as far as practically possible). Alternative dust suppression methods (such as shade netting screens and/or straw stabilisation) may be implemented instead.
16. Drip trays must be provided for all vehicles, construction equipment and generators that may require re-fuelling on site to avoid the possible spillage of fuel/oil.

F. APPEALS

1. An appellant must –
 - 1.1. submit a notice of intention to appeal to the Minister, within 20 (twenty) calendar days of the date of the decision;
 - 1.2. submit the appeal within 30 (thirty) calendar days after the lapsing of the 20 (twenty) calendar days contemplated in regulation 60(1), for the submission of the notice of intention to appeal; and
 - 1.3. within 10 (ten) calendar days of having lodged the notice of intention to appeal, provide each person and organ of state registered as an interested and affected party in respect of the application, or the applicant, with –
 - 1.3.1. a copy of the notice of intention to appeal form; and
 - 1.3.2. a notice indicating where and for what period the appeal submission will be made available for inspection by such person, organ of state, or applicant, on the day of lodging it with the Minister, and that a responding statement may be made on the appeal within 30 (thirty) calendar days from the date the appeal submission was lodged with the Minister.
2. A person, organ of state or applicant who submits a responding or answering statement in terms of regulation 63 must within 10 (ten) calendar days of having submitted the responding or answering statement, serve a copy of the statement on the other party.
3. If the person, organ of state or applicant fails to meet a timeframe with respect to the requirements as detailed above, the person, organ of state or applicant must immediately submit a written explanation to the Ministry providing a concise explanation for the non-compliance.
4. All notice of intention to appeal and appeal forms must be submitted by means of one of the following methods:

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

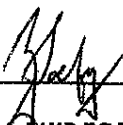
By hand: Attention: Mr J. de Villiers
Room 809
8th Floor Utilitas Building
1 Dorp Street, Cape Town, 8001
5. A prescribed notice of intention to appeal form and appeal form as well as assistance regarding the appeal processes is obtainable from the office of the Minister at: Tel. (021) 483 3721, E-mail Jaap.DeVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

G. 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 future of our environment is appreciated.

Yours faithfully



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

DATE OF DECISION: 15/06/2015

Copies to: (1) Mr. N. Steytler (Khula Environmental Consultants)
(2) Mr. D. Daniels (Department of Water and Sanitation)
(3) Mr. R. Samaai (City of Cape Town)

Fax: (086) 694 6901
Fax: (021) 941 6077
Fax: (021) 684 4420

FOR OFFICIAL USE ONLY:

EIA REFERENCE NUMBER: 16/3/1/2/A2/30/3050/12
NEAS EIA REFERENCE NUMBER: WCP/EIA/0000981/2012

ANNEXURE 1: REASONS FOR THE DECISION

In reaching its decision, the competent authority, *inter alia*, considered the following:

- a) This application was submitted in terms of the NEMA EIA Regulations, 2010, and was pending at the time of the promulgation of the Environmental Impact Assessment Amendment Regulations, 2014. Some of the listed activities herein authorised may not have been listed under the previous NEMA EIA Regulations, but are now listed in terms of the Environmental Impact Assessment Regulations, 2014. In accordance with Regulation 53(3) of GN No. R. 982, these activities may be authorised as if applied for;
- b) The information contained in the application form dated 19 June 2012 and received by the competent authority on 21 June 2012, the Final Scoping Report dated July 2013 and received by the Department 07 August 2013, the EIAR received by the Department on 02 September 2014, the EMP submitted together with the FEIAR and the addendum to the EIAR received by the on 21 January 2015;
- c) The listed activities applicable in terms of the EIA Regulations (08 December 2014), and the assessment of the activity in the addendum to the EIAR dated 21 January 2015;
- d) Relevant information contained in the Departmental information base, including, the Guidelines on Public Participation, Alternatives and Exemptions (dated March 2013);
- e) The objectives and requirements of relevant legislation, policies and guidelines, including section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- f) The comments received from interested and affected parties and the responses provided thereon, as included in the EIAR dated 21 January 2015; and
- g) No site visits were conducted. The competent authority had sufficient information before it to make an informed decision without conducting a site visit.

All information presented to the competent authority was taken into account in the consideration of the application for environmental authorisation. A summary of the issues which, according to the competent authority, were the most significant reasons for the decision is set out below.

1. Public Participation

The public participation process ("PPP") included, *inter alia*, the following:

- identification of and engagement with interested and affected parties;
- fixing a notice board at the site where the listed activities are to be undertaken on 24 April 2013;
- giving written notice to the owners and occupiers of land adjacent to the site where the listed activities are to be undertaken, the municipality and ward councillor, and the various organs of state having jurisdiction in respect of any aspect of the listed activities on 25 April 2013;
- the placing of a newspaper advertisement in the 'The Plainsman' on 24 April 2013 and the 'Cape Argus' on 25 April 2013; and
- giving written notice to the registered I&AP's of the opportunity to comment on the addendum to the Final EIAR on 06 January 2015.

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 environmental authorisation and in the EMP to adequately address significant concerns raised.

2. Alternatives

Two design/ layout alternatives with respect to the proposed development were investigated and assessed as well as the "no-go" alternative.

Layout Alternative 1 (Preferred alternative herewith authorised)

The proposed development entails the establishment of an industrial/ retail park on Portion 1, 33 and 45 of Cape Farm No. 609, Portion 1 of Cape Farm No. 699 and Portion 2 of Cape Farm No. 701, Philippi, which will require the infilling of wetlands located on the proposed site.

The proposed development will include the following:

- 5 business erven approximately 77 910 m² in extent;
- 24 industrial erven approximately 209 047m² in extent;
- Provision for 3 Electrical substation sites;
- An area of approximately 43 495 m², will be made available for attenuation ponds and a landscaped edge along Weltevreden Road; and
- Approximately 83 903m² of land will be set aside for internal roads, road reserve and the future extension of Sheffield Road and Oliver Tambo Drive.

This alternative was preferred as informed by various specialist assessments.

Alternative 2

This alternative is similar to alternative 1, however it excludes the attenuation ponds along Weltevreden Road. This alternative would result in a larger single attenuation pond in the northern most corner of the site.

This alternative was not preferred as the stormwater system will not be sufficient to accommodate runoff on the site and landscaping would not be accommodated along the Weltevreden Road. Furthermore, this alternative was not supported by the freshwater specialist.

"No-Go" Alternative

In terms of the "no-go" alternative, this is the option of not establishing the industrial/retail park. Since the preferred alternative will not result in unacceptable impacts, the "no-go" alternative was not warranted.

3. Impact Assessment and Mitigation measures

3.1. Need and Desirability

Various areas surrounding the Philippi Horticultural Area have recently been made available for urban development. The proposed development is in line with the objectives and principles contained within the Western Cape Provincial Spatial Development Framework, 2012, as an industrial/ retail Park will contribute to a more optimal utilisation and integration of the existing urban infrastructure and promote ease of access to socio-economic opportunities for local communities in the area.

The site is situated inside the urban edge in the City of Cape Town's Spatial Development Framework, 2012 and is identified for urban development in the Philippi Horticultural Area: Rapid Planning Review (2009). Further, the proposed development is in line with the City of Cape Town's Densification Policy, February 2012.

The proposed development is therefore in line with the planning principles applicable to the area.

3.2 Ecological Impacts

According to the Freshwater Assessment Report dated August 2013 and compiled by Ms. T. Belcher, the wetlands on the site are largely of a seasonal nature as they are saturated for 3 months a year or more and they are fed by precipitation and the surface drainage of water from the south and east of the site, as well as a perched groundwater table. A large proportion of the wetland areas are in a degraded state and are dominated by invasive alien grasses such as kikuyu. Further, it is not known to support any wetland plant and faunal species of high conservation value.

The Freshwater Assessment Report further stated that the proposed development will result in the modification of wetland habitat and a loss of functionality is expected to occur as a result of the infilling of the proposed site. Of the total mapped wetland area (approximately 65 224 m²) there are only two wetlands with a combined area of approximately 14 850 m² that are of any significance. It is noted that both wetlands are considered to be in a moderate to largely modified state. The specialist supported the preferred alternative as it will result in the improved functionality of the wetlands.

However, the site has a shallow water table and stormwater management may become an issue especially during rainy periods. A stormwater management plan will therefore be included in the EMP. Mitigation measures have been included in this environmental authorisation and the EMP to minimise potential ecological impacts.

It should be noted that the Department of Water and Sanitation in their comment dated 20 February 2014 and CapeNature in their comment dated 13 March 2014, respectively did not object to the proposed development on condition that the recommendations provided by the freshwater specialist are implemented.

3.3 Botanical Impacts

A Botanical Impact Assessment was conducted by Dr. D.J. McDonald of Bergwind Botanical Surveys and Tours cc as part of the assessment process. The Botanical Impact Assessment Report dated 07 August 2013 concluded that with the exception of a few remnant plants in scattered and isolated places, no Cape Flats Dune Strandveld vegetation is located on the site as a result of the historical sand mining and agricultural activities. The vegetation present on the property now is regarded as 'replacement' type vegetation that holds down the soil and helps retain the soil moisture, but it has extremely low species diversity and little ecological viability in comparison to the original natural ecosystem.

The botanical impacts associated with the proposed development have been identified as being of low significance.

3.4 Socio-economic Impacts

The estimated potential direct employment opportunities created during all phases of the proposed development include approximately 100 managerial jobs, approximately 300 skilled labour jobs, approximately 800 semi-skilled labour jobs and approximately 1200 unskilled jobs.

3.5 Traffic Impacts

According to the Transport Impact Assessment Report dated 27 August 2014 and compiled by Ms. L. du Plooy of DECA Consulting Engineers, certain roads in the vicinity of the proposed development require upgrades to alleviate the current traffic problems experienced in the area. A previous study conducted by traffic specialists formally known as Stewart Scott, Jakoet & Associates and Orrie, Welby Solomon, dated 1999, proposed two

options to alleviate the traffic in the area. The one option entailed upgrading the existing half diamond interchange between Vanguard Drive and Weltevreden Road to a full diamond interchange by providing on and off ramps to and from the north-west. The second option was to provide a half diamond interchange between Vanguard Drive and Sheffield Road, with an off-ramp from Vanguard Drive northbound onto Sheffield Drive, and with an on-ramp from Sheffield Road onto Vanguard Drive southbound.

The proposed development made provision for both these options, as well as for half the road reserve width required for the extension of Oliver Tambo Drive, as this road will be situated along the southern boundary of the site.

It can therefore be concluded that the proposed development of the site as a retail/ industrial park is acceptable from a traffic impact perspective.

3.6 Visual Impacts

Visual impacts are anticipated as a result of the proposed development as the proposed site is currently largely undeveloped. However, the proposed site is located in an existing industrial.

The visual impacts associated with the proposed development are therefore regarded as being of low negative significance.

3.7 Dust and Noise Impacts

As a result of the site clearance and earthworks required as part of the proposed development and the sandy nature of the soil, it is highly likely that during the windy, dry summer months, the site has the potential to generate dust. The implementation of appropriate dust suppression measures, (particularly when the south-easterly wind prevails) will effectively mitigate potential dust impacts. Mitigation measures have been included as conditions of this environmental authorisation and in the EMP.

Noise impacts are anticipated (during the construction phase) as a result of the use of large machinery for the undertaking of the required excavations and the construction of retail and industrial warehouses. Since there are no sensitive receptors in close proximity to the site, the noise impacts associated with the proposed development are not regarded as significant as all noise and sounds generated at the proposed development will be required to conform with SANS codes and standards as specified in the EMP.

3.8 Bulk Services

The proposed development will connect to existing municipal infrastructure for the required bulk services (sewage disposal, water supply, solid waste disposal and electricity provision). The City of Cape Town has confirmed that there is sufficient spare and unallocated capacity available to service the proposed development.

3.9 Impact Assessment and significance

- 3.9.1 Impacts, associated with the loss of wetlands as a result of the proposed development were identified in the EIAR as being of medium to low negative significance prior to mitigation and low negative significance post mitigation; and
- 3.9.2 Botanical impacts as a result of the proposed development, have been identified in the EIAR as being of low negative significance prior and post mitigation.
- 3.9.3 Traffic related impacts as a result of the proposed development, have been identified in the EIAR as being of low negative significance prior and post mitigation.

- 3.9.4 Visual impacts as a result of the proposed development, have been identified in the EIAR as being of low negative significance prior and post mitigation.
- 3.9.5 Dust and noise related impacts as a result of the proposed development, have been identified in the EIAR as being of low negative significance prior mitigation and very low negative post mitigation.

National Environmental Management Act Principles

The National Environmental Management Principles (set out in section 2 of the NEMA, which apply to the actions of all organs of state, serve as guidelines by reference to which any organ of state must exercise any function when taking any decision, and which must guide the interpretation, administration and implementation of any other law concerned with the protection or management of the environment), *inter alia*, provides for:

- the effects of decisions on all aspects of the environment to be taken into account;
- the consideration, assessment and evaluation of the social, economic and environmental impacts of activities (disadvantages and benefits), and for decisions to be appropriate in the light of such consideration and assessment;
- the co-ordination and harmonisation of policies, legislation and actions relating to the environment;
- the resolving of actual or potential conflicts of interest between organs of state through conflict resolution procedures; and
- the selection of the best practicable environmental option.

The development will result in both negative and positive impacts.

Negative impacts include:

- Loss of wetlands;
- Potential traffic related impacts; and
- Dust and noise impacts during the construction phase.

Positive impacts include:

- Many potential employment opportunities during the construction and operational phase;
- Additional business and industrial opportunities in the area;
- Optimal use of available land earmarked for industrial purposes in the area; and
- A contribution to the local economy in the area.

In view of the above, the NEMA principles, compliance with the conditions stipulated in this environmental authorisation, and compliance with the EMP, the competent authority is satisfied that the proposed listed activities will not conflict with the general objectives of integrated environmental management stipulated in Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and that any potentially detrimental environmental impacts resulting from the listed activities can be mitigated to acceptable levels.

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