



EIA REFERENCE NUMBER: 16/3/3/5/A4/73/3008/20 (B)
ENQUIRIES: Ms. N. Wookey
DATE OF ISSUE: **13 NOVEMBER 2020**

The Director
MPW Cape Properties (Pty) Ltd.
P. O. Box 392048
BRAMLEY
Johannesburg
2018

Attention: Mr. L. Giuricich

Tel: (011) 887 8430
E-mail: Luigi@sgjuricich.co.za

Dear Sir

APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) AND PART 1 OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION ISSUED ON 23 APRIL 2010 (REF. NO. E12/2/3/2-A1/283-0437/08) AND AMENDED ENVIRONMENTAL AUTHORISATION ISSUED ON 14 JULY 2015 (REF NO. 16/3/1/5/A4/73/1020/14) FOR THE WATERGATE COMMERCIAL DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE ON ERVEN 62063, 62064, 62068, 62069 AND 62070, MITCHELLS PLAIN.

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 attached Environmental Authorisation.

Yours faithfully

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

Copies to: (1) Mr. D. Jeffery (Doug Jeffery Environmental Consultants)
(2) Ms. A. van Wyk (City of Cape Town: ERM)

Email: Doug@dougjeff.co.za
Email: Azanne.vanwyk@capetown.gov.za



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P. O. Box 392048
BRAMLEY
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2018

For attention: Mr. L. Giuricich

Tel: (011) 887 8430
Email: luigi@sgiuricich.co.za

Dear Sir

AMENDMENT OF THE ENVIRONMENTAL AUTHORISATION (“EA”) ISSUED ON 23 APRIL 2010 (REF. NO. E12/2/3/2-A1/283-0437/08) FOR THE WATERGATE COMMERCIAL DEVELOPMENT AND ASSOCIATED INFRASTRUCTURE ON ERVEN 62063, 62064, 62068, 62069 AND 62070, MITCHELLS PLAIN.

With reference to your application, find below the amended environmental authorisation in respect to this application.

AMENDED ENVIRONMENTAL AUTHORISATION

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 on 07 April 2017 (“EIA Regulations, 2014”), the competent authority herewith amends the EA issued on 23 April 2010 (Ref. No. E12/2/3/2-A1/283-0437/08) (attached as Appendix A). The amended EA issued on 14 July 2015 (Ref. No. 16/3/1/5/A4/73/1020/14) is herewith replaced with this amended EA. The competent authority **herewith grants the amendment to the EA** in terms of Part 1 of the NEMA EIA Regulations, 2014 (as amended).

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

A. DETAILS OF THE HOLDER FOR THIS ENVIRONMENTAL AUTHORISATION

MPW Cape Properties (Pty) Ltd.
% Mr. L. Giuricich
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Private Bag X9086, Cape Town, 8000
www.westerncape.gov.za/eadp

The abovementioned company is the holder of this amended EA and is hereinafter referred to as “the applicant”.

B. LISTED ACTIVITIES AUTHORISED

The amendment does not constitute a listed activity on its own. However, the listed activities authorised in the original EA (Ref No. E12/2/3/2-A1/283-0437/08) and relevant to this amended EA are similarly listed in terms of the NEMA EIA Regulations, 2014 (as amended) as follows:

Listed Activity	Activity/Project Description
<p>Listing Notice 1 of the NEMA EIA Regulations, 2014 (as amended):</p> <p>Activity Number: 19 Activity Description:</p> <p><i>The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;</i></p> <p><i>but excluding where such infilling, depositing, dredging, excavation, removal or moving—</i></p> <p><i>(a) will occur behind a development setback;</i></p> <p><i>(b) is for maintenance purposes undertaken in accordance with a maintenance management plan;</i></p> <p><i>(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;</i></p> <p><i>(d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or</i></p> <p><i>(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.</i></p>	<p>The proposed development involves the infilling or depositing and excavation of more than 10m³ of soil or sand from a watercourse on the proposed development site.</p>
<p>Activity Number: 27 Activity Description:</p> <p><i>The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—</i></p> <p><i>(i) the undertaking of a linear activity; or</i></p> <p><i>(ii) maintenance purposes undertaken in accordance with a maintenance management plan.</i></p>	<p>The original vegetation of the site is classified as Cape Flats Dune Strandveld which is classified as endangered vegetation. The proposed development entails the clearance of more than 1 hectare of indigenous vegetation but less than 20ha. The proposed development footprint is approximately 9.6 hectares in extent.</p>
<p>Activity Number: 28 Activity Description:</p> <p><i>Residential, mixed, retail, commercial, industrial or institutional developments where such land</i></p>	<p>The proposed development site was previously used for agriculture and will occur inside an</p>

<p>was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:</p> <p>(i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or</p> <p>(ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;</p> <p>excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes.</p>	<p>urban area where the proposed development footprint is 9.6 hectares in extent.</p>
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The abovementioned is hereinafter referred to as "listed activities".

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

The proposed Watergate retail development will be located on Erven 62063, 62064, 62068, 62069 and 62070, Mitchells Plain and will consist of:

- A commercial/ business district; and
- Associated infrastructure.

The total development footprint will be approximately 9.6ha in extent.

C. PROPERTY DESCRIPTION AND LOCATION

The listed activities will take place on Erven 62063, 62064, 62068, 62069 and 62070, Mitchells Plain.

The Surveyor General 21-digit codes are:

Erf 62063	C01600350006206300000
Erf 62064	C01600350006206400000
Erf 62068	C01600350006206800000
Erf 62069	C01600350006206900000
Erf 62070	C01600350006207000000

The central co-ordinate for the proposed development is as follows:

Point	Latitude	Longitude
Middle	34° 1' 08.36" South	18° 36' 35.70" East

hereinafter referred to as "the site".

D. DETAILS OF THE ENVIRONMENTAL ASSESSMENT PRACTITIONER

Doug Jeffery Environmental Consultants (Pty) Ltd.
 % Mr. D. Jeffery
 P. O. Box 44
KLAPMUTS
 7625
 Tel: (021) 875 5272

E. CONDITIONS OF AUTHORISATION

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 Annexure 1;
 - 1.1.3. The date of the decision; and
 - 1.1.4. The date of issue of the decision.
 - 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 F 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 amended environmental authorisation;
 - 1.4.2. The name of the responsible person for this amended environmental authorisation;
 - 1.4.3. The postal address of the holder;
 - 1.4.4. The telephonic and fax details of the holder;
 - 1.4.5. The e-mail address if any; 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. The following conditions (included as part of the original EA (Ref No. E12/2/3/2-A1/283-0437/08) must be implemented:
 - 2.1. Condition 3

An integrated waste management approach must be used that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of the applicable legislation.
 - 2.2. Condition 4

No surface or ground water may be polluted due to any activity on the property/site. The relevant requirements of the National Water Act, 1998 (Act No. 36 of 1998) must be complied with at all times.
 - 2.3. Condition 5

The holder of the authorisation must appoint a suitably experienced Environmental Control Officer (“ECO”) before commencement of any land clearing or construction activities to ensure that the mitigation/ rehabilitation measures and recommendations referred to in this authorisation are implemented and to ensure compliance with the provisions of the Environmental Management Plan (“EMP”).

2.4. Condition 6

Should any heritage remains be exposed during excavations, these must immediately be reported to the Provincial Heritage Resource Authority of the Western Cape. Heritage Western Cape (in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)). Heritage remains uncovered or disturbed during earthworks must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape.

6.1. If any archaeological remains (including but not limited to fossil bones and fossil shells, coins, indigenous and/ or colonial ceramics, any articles of value or antiquity, marine shell heaps, stone artefacts and bone remains, structures and other built features, rock art and rock engravings) are discovered during construction they must immediately be reported to Heritage Western Cape and must not be disturbed further until the necessary approval has been obtained from Heritage Western Cape.

6.2. If any graves or unmarked human burials are discovered, they must be treated with respect and SAHRA must be notified immediately and the graves or human burials must not be disturbed further until the necessary approval has been obtained from SAHRA. An archaeologist must be contracted to remove the remains at the expense of the developer.

2.5. Condition 7

Water saving mechanisms (e.g. the use of low-flow taps, low volume toilet cisterns, etc.) and energy saving mechanisms (e.g. the use of energy saving light bulbs, the use of geyser blankets on geysers, etc.) must be used in all components of the development, where possible.

2.6. Condition 12

The holder of the authorisation shall be responsible for ensuring compliance with the conditions by any person acting on his behalf, including but not limited to, an agent, sub-contractor, employee or any person rendering a service to the holder of the authorisation.

2.7. Condition 13

Any changes to, or deviations from, the project description set out in this authorisation must be approved, in writing, by the Department before such changes or deviations may be effected. In assessing whether to grant such approval or not, the Department 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 of the authorisation to apply for further authorisation in terms of the regulations.

2.8. Condition 14

The holder of the authorisation must notify this Directorate and any other relevant authority, in writing within 24 hours thereof if any condition of this authorisation is not adhered to.

2.9. Condition 15

A copy of this authorisation must be kept at the office of the applicant. The authorisation must be produced to any official of the Department who requests to see it and must be made available for inspection by any employee or agent of the holder of the authorisation who works or undertakes work at the property.

2.10. Condition 16

Where any of the holder of the authorisation's contact details change, including the name of the responsible person, the physical or postal address and/ or telephonic details, the applicant must notify the Department as soon as the necessary details become known to the holder of the authorisation.

2.11. Condition 17

Non-compliance with a condition of this authorisation may result in the withdrawal of the authorisation and may render the holder liable for criminal prosecution.

2.12. Condition 18

The department must be notified, within 30 days thereof, of any change of ownership and/ or project developer. A request for transfer of rights and obligations contained in this environmental authorisation must be submitted in the following way:

- (i) The current holder of the environmental authorisation must submit an original signed letter to the Department stating that he/ she wish the rights and obligations contained in this environmental authorisation to be transferred, provided the Department with (a) confirmation that the environmental authorisation is still in force (i.e. validity period have not yet expired or the activity(ies) as lawfully commenced with), (b) the contact details of the person to whom the rights and obligations are to be transferred, and (c) the reasons for the requested transfer.
- (ii) The person to whom the rights and obligations are to be transferred must also submit an original signed letter to the Department (a) accepting the rights and obligations contained in this environmental authorisation and (b) must indicate that he/ she has the ability to implement the mitigation measures and to comply with the condition of authorisation.

2.13. Condition 19

Department officials shall be given access to the property referred to in C above for the purpose of assessing and/ or monitoring compliance with the conditions contained in this environmental authorisation, at all reasonable times.

2.14. Condition 20

The activity which is authorised may only be carried out at the property indicated above.

2.15. Condition 21

Notwithstanding this authorisation, the holder of the authorisation must still comply with any statutory requirements that may be applicable to the undertaking of the activity.

3. The applicant must submit an application for an amendment in terms of Chapter 5 of the NEMA EIA Regulations, 2014 (as amended) of the amended environmental authorisation to the competent authority where any detail or scope with respect to the amended environmental authorisation must be amended, added, substituted, corrected, removed or updated.
4. The Environmental Management Programme ("EMP") (compiled by Doug Jeffery Environmental Consultants (Pty) Ltd. and dated September 2020) submitted together with the amendment application is herewith approved and must be implemented.

5. In terms of Regulation 34 of the NEMA EIA Regulations, 2014 (as amended), the holder must conduct environmental audits to determine compliance with the conditions of the environmental authorisation and the EMPr and submit Environmental Audit Reports to the Competent Authority. The Environmental Audit Reports must be prepared by an independent person and must contain all the information required in Appendix 7 of the NEMA EIA Regulations, 2014 (as amended).
 - 5.1. The holder must undertake an environmental audit within 6 months of the date of issue of this amended environmental authorisation. The Environmental Audit Report must be submitted within one (1) month after the completion of the environmental audit.
 - 5.2. A final Environmental Audit Report must be submitted to the Competent Authority within one (1) year of the development phase; and
 - 5.3. The holder must, within seven (7) days of the submission of an Environmental Audit Report to the Competent Authority, notify all potential and registered I&APs of the submission and make the Environmental Audit Report available to any person on request.

F. 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 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>.

G. DISCLAIMER

The Western Cape Government, Local Authority or committees appointed in terms of the conditions of the application or any other public authority or organisation shall not be held responsible for any damages or losses suffered by the developer or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the developer with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

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

Yours faithfully



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

DATE OF DECISION: 13 NOVEMBER 2020

Copies to: (1) Mr. D. Jeffery (Doug Jeffery Environmental Consultants)
(2) Ms. A. van Wyk (City of Cape Town: ERM)

Email: Doug@dougjeff.co.za
Email: Azanna.vanwyk@capetown.gov.za

H. REASONS FOR THE DECISION

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

1. The information contained in the application for the amendment dated 02 March 2020 and received by this Department on 04 March 2020, the additional information received by the competent authority on 23 July 2020, 12 August 2020 and 14 October 2020.
2. The background information to the proposed development is as follows:
 - 2.1. An Environmental Authorisation ("EA") was issued by this Department on 23 April 2010 (Ref. No. E12/2/3/2-A1/283-0437/08) for the proposed Watergate residential development on the Remainder of Cape Farms No. 691 and 692, Mitchells Plain.
 - 2.2. An application for the substantive amendment of the EA (Ref. No. E12/2/3/2-A1/283-0437/08) for the change in the layout to reduce the number of residential dwellings and to increase the commercial component of the approved development was received by this Department on 18 January 2012. An amended EA was therefore issued by this Department on 04 May 2012 (Ref No. E12/2/4/6-A1/283-3001/12).
 - 2.3. An application for the substantive amendment of the EA (Ref. No. E12/2/3/2-A1/283-0437/08) for the change in the layout to further reduce the number of residential dwellings and to further increase the commercial component of the approved development was received by this Department on 18 September 2014. An amended EA was issued by this Department on 14 July 2015 (Ref. No. 16/3/1/5/A4/73/1020/14), which repealed and replaced the amended EA issued by this Department on 04 May 2012 (Ref No. E12/2/4/6-A1/283-3001/12).
 - 2.4. An application for an amendment of the EA (Ref. No. E12/2/3/2-A1/283-0437/08) in terms of Part 1 of the NEMA EIA Regulations, 2014 (as amended) was received by this Department on 04 March 2020. The amendment to the EA (Ref. No. E12/2/3/2-A1/283-0437/08) is for:
 - 2.4.1. The split (i.e. transfer of rights and obligations) of the EA (Ref. No. E12/2/3/2-A1/283-0437/08) into the residential component and commercial component of the authorised development.
 - 2.4.1.1. The residential component will be located on Erven 62095, 62317 and 62373, Mitchells Plain and the rights and obligations of the EA (Ref. No. E12/2/3/2-A1/283-0437/08) will remain the responsibility of the existing EA Holder (i.e. Commercial Dynamics (Pty) Ltd.).
 - 2.4.1.2. The retail component will be located on Erven 62063, 62064, 62068, 62089 and 62070, Mitchells Plain and the rights and obligations of the EA (Ref. No. E12/2/3/2-A1/283-0437/08) has been transferred to a new holder (i.e. MPW Cape Properties (Pty) Ltd.) (Ref. No. 16/3/3/5/A4/73/3008/20 (B)) since the retail component has been sold.
 - 2.4.2. The removal of Condition 10 of the original EA (Ref No. E12/2/3/2-A1/283-0437/08) since a Homeowners Association will no longer be formed. The management and maintenance of the public open spaces within the development will be undertaken by the Local Authority since the public open spaces are owned by the Local Authority.
3. The following listed activities authorised in the original EA (Ref No. E12/2/3/2-A1/283-0437/08) have commenced and are similarly listed in terms of the NEMA EIA Regulations, 2014 (as amended):
 - 3.1. Activities 1, 4, 12, 15, 16, 18 of Government Notice No. R386 of the EIA Regulations, 2006; and
 - 3.2. Activity 2 of Government Notice No. R387 of the EIA Regulations, 2006.

4. A Part 1 amendment process was followed since the proposed amendment to the EA (Ref. No. E12/2/3/2-A1/283-0437/08) has not resulted in a change to the scope of the valid EA (Ref. No. E12/2/3/2-A1/283-0437/08), where the change resulted in an increased level or change in the nature of the impact.
5. The environment and the rights and interests of other parties are not likely to be adversely affected by the decision to amend the EA (Ref. No. E12/2/3/2-A1/283-0437/08).

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.

Conclusion

In view of the above, the NEMA principles, compliance with the conditions stipulated in this Environmental Authorisation, and compliance with the EMPr, 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.

You are reminded of your general duty of care towards the environment in terms of Section 28(1) of the NEMA which states: "*Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment.*"

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Appendix A

Copy of the original Environmental Authorisation (Ref. No. E12/2/3/2-A1/283-0437/08) issued by this Department on 23 April 2010.