



**Western Cape
Government**

Environmental Affairs and
Development Planning

Directorate: Development Management (Region 1)

REFERENCE: 16/3/3/6/7/1/A5/11/2082/17

ENQUIRIES: Rondine Isaacs

DATE:

05 JUN 2017

The Managing Directors
Amphoria (Pty) Ltd
P O Box 11338
BLOUBERGSTRAND
7443

Attention: Mr Anton Mulder

Cel.: 087 942 2771

Fax: (021) 554 1411

Dear Sir

COMMENT ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR BASIC ASSESSMENT FOR THE FOR THE PROPOSED RESIDENTIAL DEVELOPMENT AND KUILS RIVER RE-DEVELOPMENT ON PORTIONS 1, 11, 26, 30, 34, 58, 60, 64, 67 AND 109 OF FARM NO. 222, BRACKENFELL

1. The 'Notice of Intent' dated 24 May 2017, as received by this Department on 26 May 2017, refers.
2. On 4 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") Amendment Regulations, 2014 (Government Notice ("GN") No. R. 982, R. 983, R. 984 and R. 985 in Government Gazette No. 38282 of 4 December 2014). These regulations came into effect on 8 December 2014 (as amended). The EIA Regulations, 2014 (as amended) replace the EIA Amendment Regulations that were promulgated in 2010 and also introduce new provisions regarding Environmental Impact Assessments. All activities defined as listed activities in the EIA Regulations, 2014 (as amended) must not be undertaken without an environmental authorisation from the competent authority.
3. This Department has reviewed the Notice of Intent and based on the information submitted, has identified the following additional listed activities in terms of the EIA Regulations, 2014 (as amended), not included in your notice and which **may** be triggered by the proposed development:

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Activity 15 of GN No. R. 984, i.e.,

"The clearance of an area of 20 hectares or more of indigenous vegetation, excluding where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or*
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan".*

The abovementioned determination is based on the fact that the proposed development footprint will amount to approximately 170.30ha. which will require the clearance of indigenous vegetation.

Activity 4 of GN No. R. 985, i.e.,

"The development of a road wider than 4 metres with a reserve less than 13,5 metres.

- i. Western Cape*
- i. Areas zoned for use as public open space or equivalent zoning;*
- ii. Areas outside urban areas;*
 - (aa) Areas containing indigenous vegetation;*
 - (bb) Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or*
- iii. Inside urban areas:*
 - (aa) Areas zoned for conservation use; or*
 - (bb) Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority".*

The abovementioned activity is applicable should a road wider than 4 metres with a reserve less than 13,5 metres be developed.

Should you confirm that the above activities are indeed applicable, then you are required to apply to obtain environmental authorisation for such activities. Furthermore, please be informed that the applicability of Activity 15 of GN No. R. 984 will require a Scoping and EIA process to be followed.

You are hereby advised that only those activities applied for will be considered for authorisation. The onus is on the applicant to ensure that all the applicable listed activities are applied for and assessed as part of the EIA process. Failure to include any applicable listed activity may result in the refusal of your application.

4. This Directorate notes that you do not intend to apply in terms of the National Exemption Regulations, 2014 for exemption from any provisions contained in the NEMA and the EIA Regulations, 2014 (as amended). Please note that should you fail to meet a requirement of the Regulations or the NEMA and if no exemption from that provision was applied for, your application may be refused.
5. Be advised that in terms of the EIA Regulations, 2014 (as amended) and the NEMA, the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In this regard it must be noted that the Department may grant authorisation for an alternative as if it has been applied for or may grant authorisation in respect of all or part of the activity applied for as specified in Regulation 20 of GN No. R. 982 of 4 December 2014 (as amended). Alternatives are not limited to activity alternatives, but include layout, design, activity, site, operational and technology alternatives.



6. You are hereby reminded that it is mandatory to investigate and assess the option of not proceeding with the proposed activity (i.e. the "no-go" option) in addition to other alternatives identified. Every EIA process must therefore identify and investigate alternatives, with feasible and reasonable alternatives to be comparatively assessed. If, however, after having identified and investigated alternatives, no feasible and reasonable alternatives were found, no comparative assessment of alternatives, beyond the comparative assessment of the preferred alternative and the option of not proceeding, is required during the assessment. What would, however, be required in this instance is proof that the investigation was undertaken and motivation indicating that no reasonable or feasible alternatives other than the preferred option and the 'no-go' option exist.
7. In terms of good environmental practice you are encouraged to engage with State Departments and other Organs of State in the pre-application phase or early in the EIA process to solicit their inputs on any of their requirements to be addressed in the EIA process. Please note that this does not replace the requirement of making the reports available to State Departments as stipulated above.
8. Since water supply, solid waste removal, effluent discharge, sewage disposal, storm water management and electricity services be provided by the Municipality, you will be required provide this office with written proof that the Municipality has sufficient capacity to provide the necessary services to the proposed development. Confirmation of the availability of services from the service provider must be provided.
9. The person conducting the Public Participation Process must fulfil the requirements outlined in Chapter 6 of the EIA Regulations, 2014 (as amended) and must take into account any applicable guidelines published in terms of Section 24J of NEMA, the Department's Circular EADP 0028/2014 on the "One Environmental Management System" and the EIA Regulations, 2014 (as amended), as well as any other guidance provided by the Department.
10. In accordance with Section 24N of the NEMA and Regulation 19 this Department hereby requires the submission of an Environmental Management Programme ("EMPr"). The contents of such an EMPr must meet the requirements outlined in Section 24N of the NEMA (as amended) and Regulation 19 of the EIA Regulations, 2014 (as amended). The EMPr must address the potential environmental impacts of the activity throughout the project life cycle including an assessment of the effectiveness of monitoring and management arrangements after implementation (auditing). The EMPr must be submitted together with the report. The Department would like to advise that in compiling the EMPr the Department's Guideline for Environmental Management Plans (June 2005), available on the Department's website must be taken into account.
11. You are referred to Appendix 1 of GN No. R. 982 of 4 December 2014 (as amended), for the requirements with respect to the 'Content of basic assessment reports'. However, should you confirm that a Scoping and EIA process is applicable, the requirements with respect to the 'Content of the Scoping Report' as detailed in Appendix 2 of GN No. R. 982 of 4 December 2014 (as amended), must be complied with.
12. Please ensure that all specialist reports (if applicable) contain all information set out in Appendix 6 of GN No. R. 982 of 4 December 2014 (as amended).
13. In terms of the EIA Regulations, 2014 (as amended), when considering an application, this Department must take into account a number of specific considerations including *inter alia*, the need for and desirability of any proposed development. As such, the need for and desirability of the proposed activity must be considered and reported on in the Assessment Report. The report must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability.

14. In addition to the above, you must clearly show how the proposed development complies with the principles contained in Section 2 of the NEMA and must also show how the proposed development meets the requirements of sustainable development.
15. It is prohibited in terms of Section 24F of the NEMA for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.
16. This Department reserves the right to revise initial comments and request further information based on the information received.

Yours faithfully




**HEAD OF DEPARTMENT
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copied to: (1) R Kapp / G Nel (Guillaume Nel Environmental Consultants)

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