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ENQUIRIES: Shireen Pullen
DATE OF ISSUE: **26 January 2024**

The Municipal Manager
George Municipality
PO box 19
GEORGE
6530

Attention: Mr. J.F. Koegelenberg

Tel: 044 801 9111

Email: rldaniels@george.gov.za

Dear Sir

COMMENT ON THE NOTICE OF INTENT (NOI) TO APPLY FOR THE AMENDMENT OF ENVIRONMENTAL AUTHORISATION REF: 16/3/1/1/D2/50/0060/12 ISSUED ON 4 MARCH 2014 FOR THE BULK SERVICES UPGRADE PIPELINE, THEMBALETHU, GEORGE MUNICIPALITY ON ERF 5006 AND PORTION 40,41 AND 50 OF FARM 197, THEMBALETHU

1. The abovementioned document received by the Directorate: Development Management (Region 3), hereinafter referred to as "this Directorate" via electronic mail on 1 December 2023 refers.
2. It is understood that the proposal entails the amendment of the approved pipeline route due to the land where the pipeline is approved is no longer available due to land invasion/occupation over the COVID period when there was an unfortunate lapse in monitoring protocol i.t.o. anti-land invasion.
3. This Directorate has reviewed the document and comments as follows:
 - 3.1 It is understood from the NOI that you would like to apply for a part 1 amendment. Please note that according to Regulation 29, a part 1 amendment can be applied for if the proposed amendment will not change the scope of a valid environmental authorisation, nor increase the level or nature of the impact, which impact was initially assessed and considered when application was made for an environmental authorisation; or relates to the change of ownership or transfer of rights and obligations. Since the proposed amendment will change the scope of the authorisation (new pipeline route not currently in the authorisation), regardless of what the reason is, a part 1 amendment process cannot be followed for this change. This Directorate is therefore of the opinion that a part 2 amendment should be applied for instead.

3.2 Protocols

Please be informed that the applicable protocols or minimum information requirements, which were published in Government Notice No. 320 of 20 March 2020 (Government Gazette No. 43110 of 20 March 2020 refers), which came into effect on 9 May 2020, must be applied to the impact assessment process that must be followed, provided that if the specialist assessment affected by any of the protocols, was commissioned before 9 May 2020, then the applicant is allowed to continue and submit documents for decision-making, which do not need to comply with the requirements of the protocols. Proof that the specialist work was outsourced before 9 May 2020, is deemed to be sufficient to allow this on a case by case basis. In such instances, the specialist report need not comply with the applicable protocol, but must comply with Appendix 6 of the Environmental Impact Assessment Regulations, 2014 (as amended).

Therefore—

- in accordance to the above, where the applicable protocol applies to any specialist performing work related to any of the fields of practice listed in Schedule I of the Natural Scientific Professions Act, 2003 (Act 27 of 2003) must be registered with the South African Council for Natural Scientific Professions (“SACNASP”)^[1] in any of the prescribed categories [Section 18] and further to this, only a person registered with the SACNASP may practise in a consulting capacity [Section 20]; or
- where a specialist assessment was commissioned prior to 9 May 2020, you are required to submit proof to the competent authority that the work was commissioned prior to the said date (e.g. approved quotation for specialist assessment and/or proof of work being carried out).

3.3 Specialist input

Agricultural Sensitivity- the agricultural sensitivity is rated as “medium”. According to protocol, the minimum requirement is an Agriculture Compliance Statement that must be submitted. The EAP is of the opinion that the Agricultural Sensitivity Theme is Not Applicable to the proposed development. The EAP submits that an Agricultural Compliance Statement will not be undertaken for this theme. This Directorate however advises that the EAP consult with the WCG Department of Agriculture (DoA) - Land Use Management and obtain their written input regarding the agricultural sensitivity of the site, before this Directorate make a decision to deviate from the requirement of this protocol.

Animal Species Sensitivity- This sensitivity theme is rated as “medium” and identifies one species of conservation concern that may be present in the area. According to the EAP, the current state of the proposed site makes it highly unlikely that any species of conservation concern will find a suitable habitat in the surrounding area. According to this protocol where no SCC are found on site during the site inspection or the presence is confirmed to be unlikely, a Terrestrial Animal Species Compliance Statement must be submitted. This Directorate is in agreement that no specialist input is required for this sensitivity, however, a Compliance Statement must be submitted with the BAR to confirm the presence/absence of SCC. Comment must also be obtained from CapeNature.

Aquatic Sensitivity- The site sensitivity for aquatic biodiversity to be “very high” due to the presence of Critical Biodiversity Areas, non-perennial streams as well as the Skaapkop River to the south of the proposed pipeline route. The sensitivity is disputed due to the degraded nature of these freshwater bodies and the EAP is of the opinion that no aquatic specialist input is required. According to the protocol, if the sensitivity rating is “very high” an assessment must be prepared by a specialist registered with the South African Council for Natural Scientific Professionals (SACNASP), with expertise in the field of aquatic sciences. A freshwater specialist must be appointed to undertake a freshwater impact assessment or compliance statement, depending on the findings on site. Please ensure that this protocol is complied with and that comment is obtained from the Breede Olifants Catchment Management Agency at least at the final Impact Report stage.

Archaeological and Cultural Heritage- The sensitivity is rated as “very high” due to the presence of a Grade II Heritage site that may be in proximity to the proposed pipeline route. The EAP however disputes this as the site is entirely transformed by informal houses. It is noted that a notice of intent to develop (NID) will not be submitted to Heritage Western Cape, but you are required to obtain comment from Heritage Western Cape in order to confirm this sensitivity theme.

Plant Species- This sensitivity is rated as “medium” due to the likely occurrence of four species of conservation concern. The EAP states that no specialist input is required as the site is entirely transformed by and therefore it is unlikely that the species of conservation concern identified

[1] SACNASP – the legislated regulatory body for natural science practitioners in South Africa.

occurs on site. According to the protocol the presence or likely presence of the species of conservation concern (SCC) identified by the screening tool must be investigated through a site inspection by a specialist registered with the SACNASP with a field of practice relevant to the taxonomic groups ("taxa") for which the assessment is being undertaken. Similarly, where no SCC are found on site during the investigation or if the presence is confirmed to be unlikely, a Terrestrial Plant Species Compliance Statement must be submitted. Please ensure that this protocol is complied with to confirm the presence/absence of SCC and that comment is obtained from CapeNature.

Terrestrial Biodiversity Sensitivity- This sensitivity is rated as "very high", however, this is disputed by the EAP as the EAP is of the opinion that the proposed development will not lead to any significant impacts on the terrestrial biodiversity. According to the protocol, if the sensitivity rating is "very high" an assessment must be prepared by a specialist registered with the South African Council for Natural Scientific Professionals (SACNASP) with expertise in the field of terrestrial biodiversity. This Directorate does take note that no Terrestrial Biodiversity Impact Assessment or Compliance statement will be undertaken based on the site verification. However, the applicant must comply with the protocol for this theme. Comment must also be obtained from CapeNature regarding this sensitivity theme.

3.4 Process

The proposed amendment constitutes a substantive amendment and must follow the process described in Regulation 32. Failure to apply for the correct process may prejudice the success of your application.

3.5 Public Participation

Please note that the draft BAR must also be made available to registered Interested and Affected Parties (I&APs) that were involved in the previous application process, as well as all relevant state Departments and organs of state who has a jurisdiction over the proposed change. A minimum public participation of 30-days must be undertaken.

3.6 This Directorate notes that an amendment of the water use license is also required for the proposed amendment. Your attention is drawn to the provisions of the one environmental system, which states that it is now a requirement to synchronise the EIA and WULA processes in order to ensure that both processes are duly informed by one another. You are also reminded that the duty of the Environmental Assessment Practitioner ("EAP") is to take note of the timeframes and synchronise the two processes. Failure to give effect to the one environmental system may prejudice the success of the application. This Directorate will require a final recommendation from the Breede-Olifants Catchment Management Agency (BOCMA) which indicates whether there are any reasons why an amendment to the WULA cannot be issued for the proposed amendment. This information will put this Directorate in a position to make an informed decision on the development proposal.

4. Also note that the amendment may not be implemented prior to the amendment of the environmental authorisation being granted by this Directorate.
5. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any new or revised information received.

Yours faithfully

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**HEAD OF DEPARTMENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copy:
Mr. F. Byleveld

Candidate EAP (Cape EAPrac (Pty) Ltd)

Email: francois@cape-eaprac.co.za