



Province of the
EASTERN CAPE

DEPARTMENT OF ECONOMIC DEVELOPMENT
AND ENVIRONMENTAL AFFAIRS

P/Bag X0054, BHISHO
South Africa, 5605
Phone: 0824584593
Fax: +27 (40) 6094700
Web: gerry.pienaar@deaet.ecape.gov.za

Reference: 1772/38/06
Enquiries: C.G.Pienaar

Biotechnology and Environmental Specialist Consultancy

Attention: Dr Malcolm Logie

Dear Sir/Madam

AUTHORIZATION IN TERMS OF SECTION 22 OF THE ENVIRONMENT CONSERVATION ACT, ACT 73 OF 1989 TO UNDERTAKE A LISTED ACTIVITY AS SCHEDULED UNDER SECTION 21 OF THE ACT: Development of roads and sanitation infrastructure in a sensitive environment: portion of portion 1 of Farm 1080 [Palm Springs] East London.

With reference to your application and Environmental Scoping Report dated April 2007, for authorization in terms of the Environment Conservation Act, Act 73 of 1989, for the development of roads and sanitation infrastructure in a sensitive environment on portion of portion 1 of Farm 1080 [Palm Springs] East London

Authorization is hereby granted in terms of section 22 of the Environment Conservation Act, Act 73 of 1989, subject to the conditions contained in the record of decision as attached in Annexure One.

Yours faithfully

C.G.PIENAAR

SENIOR MANAGER ENVIRONMENTAL IMPACT MANAGEMENT

Date: 22 February 2008



ANNEXURE 1: PALM SPRINGS: RECORD OF DECISION: 1/7/2/38/06 22 February 2008**1. Description of the activity**

The construction of roads, sanitation and other infrastructure in a sensitive environment in order to support the sub-division of the current Resort 2 into 48 individual title erven.

2. Location of activity

Portion of portion 1 of Farm 1080 [Palm Springs], Kidds Beach urban node in the West Bank SDF area of Buffalo City Municipality

3. Contact details of applicant

Name of applicant: Shell Case 263 [Pty] Ltd
Address: P.O.Box 454 JOHANNESBURG, 2000
Tel: 011 7723426, Cell 0832814996
Fax: 011 7724426

4. Contact details of consultant

Name of consultant: BESC
Contact Person: Dr Malcolm Logie
Address: P.O.Box 8241 NAHOON, 5210
Tel: 043 7264242 [Cell 0836556123]
Fax: 043 7263199
e-mail: Malcolm@besc.co.za

5. Details of site visits

Conducted by C.G.Pienaar.

6. Decision

Authorization is granted for the construction of infrastructure, subject to the conditions listed in this Record of Decision.

7. Duration of authorization

7.1 Construction work must commence within 24 months of the date of this Authorization and Record of Decision. DEDEA Amathole Regional Office must be informed in writing of the date on which construction has commenced.

7.2 Conditions relating to this Authorization and Record of Decision are valid for the lifetime of the project, including development in all its phases.

ANNEXURE 1: PALM SPRINGS: RECORD OF DECISION: 1/7/2/38/06 22 February 2008**8. Conditions of authorization**

Please note that the Department of Economic Affairs, Environment and Tourism may review, delete or amend any of the following conditions in the event of new information coming to light.

8.1. Standard conditions:

- 8.1.1. This authorization applies only to the development activities defined in BESC Report Number 2006-R094, the Environmental Assessment Report submitted in support of the application.
- 8.1.2. This authorization is subject to the applicant's compliance with other relevant legislation.
- 8.1.3. The conditions of this authorization shall form part of any contracts entered into between the applicant, purchasers of property, contractors and any sub-contractors.
- 8.1.4. Should any environmental damage be detected, that in the opinion of DEDEA is the result of the development, then the applicant shall be required to make good that damage to the satisfaction of the said authority at his/her own expense.
- 8.1.5. In the event of any dispute as to what constitutes environmental damage, this Department's opinion will prevail.
- 8.1.6. This department must be notified, within 30 days, of any change of overall ownership/project developer. It is however not necessary to inform the Department of the sale of individual erven. Conditions established in the record of decision must be made known to the new owner/developer and are binding on the new owner/developer.
- 8.1.7. The department must be notified of any change of address of the owner/developer.
- 8.1.8. This Record of Decision must be made available to any interested and affected party who has registered their interest in the proposed development. The applicant is responsible for ensuring that a copy of this Record of Decision is given to any such interested and affected party within a week of receiving this Record of Decision.

8.2. Scope of this Authorisation and Record of Decision

The EIA listed development activities authorized under this Record of Decision are as per SETPLAN Sub-divisional Lay-out Plan No 1041 A/1.1 are:

- 8.2.1 Construction of roads in an environment deemed sensitive by the Competent Authority.
 - 8.2.2 Construction of sanitation infrastructure in a sensitive environment, and specifically the construction of conservancy tanks to service Phase 1 of the development, which comprises 25 residential units.
 - 8.2.3 This Authorization and Record of Decision specifically does not cover the installation or installation of associated infrastructure such as the possible installation of a Low Volume Waste Water Treatment Works on site or the installation of pipe-lines, pump-stations and other infrastructure designed to in future link up with the municipal waste water treatment works in Kidds Beach. Should the developer therefore wish to develop further phases, i.e. in addition to 25 and to a maximum of 48, the required infrastructure must be installed before even in addition to the 25 of Phase 1 are sold. Should such construction or installation trigger listed activities in the NEMA EIA Regulations as they may be at the time, applications must be submitted to DEDEA.
 - 8.2.4 This Authorization and Record of Decision specifically does not authorize any construction on or below the river bank. Structures such as revetments, stabilising walls and similar are therefore not authorized.
 - 8.2.5 It also does not grant any rights to beach access over State land.
-

ANNEXURE 1: PALM SPRINGS: RECORD OF DECISION: 1/7/2/38/06 22 February 2008***Project-specific conditions:*****General**

- 8.3.1. All the conditions, recommendations and mitigation measures contained and prescribed in BESC Report 2006-R094, as well as the SETPLAN Motivation Reports listed in this document, are binding and must be implemented.
- 8.3.2. **Complete adherence to the requirements of the Department of Water Affairs and Forestry and Buffalo City Municipality as Water Services Authority regarding water services is a basic condition of this Authorisation and Record of Decision.**
- 8.3.3. Deviations from the provisions of this Record of Decision must be reported to DEAET and the Environmental Control Officer within 48 hours of deviations occurring.

Development Plan

- 8.3.4. SETPLAN Sub-divisional Layout Plan 1041 A/1.1 is regarded as the Development Plan for this development throughout its lifespan. Once this plan has been approved by Buffalo City copies of the approved plan and documentary proof of BCM approval must be submitted to DEDEA, prior to any construction commencing on site.
- 8.3.5. Any portions of land that must be zoned as Private Open Space Zone 2, as depicted on SETPLAN Plan 1041 A/1.1 may never be transformed for development purposes.
- 8.3.6. Any deviations from this Development Plan must be motivated in a separate application to this Department. The Department reserves the right to require new environmental assessments for such deviations, which could include public participation if deemed appropriate.

Conditions related to water supply

- 8.3.7. The applicant must ensure that water use licenses are obtained from the Department of Water Affairs and Forestry for all forms of water use that require such licenses. If this is not possible to accomplish prior to construction commencing, a formal letter of comment and endorsement from DWAF regarding the proposed use of water must be submitted to DEDEA before construction commences.
- 8.3.8. **Whilst the development may proceed, no transfer of the sub-division erven may take place until the required water supply infrastructure is installed, commissioned and fully operational.**

Sewerage treatment

The Department has noted that there are currently no adequate sewerage treatment facilities in Kidds Beach to treat the effluent from additional erven and that Buffalo City Municipality is not in a position to provide the required infrastructure within the foreseeable future. The following will therefore apply.

- 8.3.9. This Authorization and Record of Decision only authorizes the installation of a conservancy tank type of system to service a maximum of 25 residential units.
 - 8.3.10. The developer and/or the Home-owners Association is responsible to ensure that conservancy tanks are timeously pumped out and the effluent disposed of at a permitted waste water treatment works.
 - 8.3.11. Any spillages which lead to pollution of any ground or surface water resources, or which carries a significant risk of such pollution occurring, will be viewed by the Department as a serious breach of this Authorization and as a criminal offence in its own right.
-

ANNEXURE 1: PALM SPRINGS: RECORD OF DECISION: 1/7/2/38/06 22 February 2008**Vegetation**

- 8.3.12. The property must be cleared of all alien invasive plant species and thereafter kept clean of such species.
- 8.3.13. Future home-owners must, in agreements of sale, be prevented from introducing plant species which may become invasive in the area into their gardens:
- 8.3.14. No blanket clearing of any indigenous vegetation may take place. Once the final Subdivision Layout Plan has been approved by Buffalo City Municipality and before any construction commences on site the Amathole Regional Office of DEDEA, together with DWAF, must undertake an inspection to ensure that sections of indigenous vegetation or individual trees that may not be removed have been clearly identified, marked and recorded.
- 8.3.15. Any removal of or damage to protected trees without permits from DWAF will be viewed in a serious light.

Miscellaneous Conditions

- 8.3.16. **Height Restrictions:** The height of any building may not exceed 2 [two] storeys where a story is defined as a maximum height of 3 meters measured from finished floor level to finished floor level inclusive of structures. A basement and roof loft are regarded as storeys for the purposes of this clause, while a double volume will be regarded as two storeys. The implementation of this clause must be measured from the lowest point of the specific building on each site.
- 8.2.25 A Stormwater Management Plan, approved by Buffalo City Municipality, must be submitted to DEDEA prior to any development commencing on site. This requirement has already been met.
- 8.2.26 The developer and subsequently the Home-owners Association must make adequate provision for effective fire-fighting in accordance with legal requirements.
- 8.2.27 No development may take place or extend into an untransformed area where the slope is greater than 1:5

9. Key factors for the decision

- 9.1. The proposed development is consistent with the Buffalo City Spatial Development Framework, is located within the Kidds Beach Urban Edge and the land is suitable for the development as envisaged. The fact that the land has already been transformed by the existing resort is a further key factor.
- 9.2. If the conditions set in this Record of Decision are implemented, the development can be implemented without unacceptable negative environmental impacts.
- 9.3. Public participation did not indicate significant public concerns or objections that were of an environmental nature. Any rights that existing site owners may have must be dealt with in a separate legal process.
- 9.4. The project is likely to indirectly contribute significantly towards the development of essential infrastructure in the Kidds Beach area, notably those related to water supply and sewerage treatment facilities.
- 9.5. Given the run-down state of the existing resort infrastructure, and the resultant risks to the environment, it is very probable that the development will have an overall positive environmental impact.
- 9.6. Given the factors outlined above, there are no apparent and valid reasons for not authorizing this application.
-

ANNEXURE 1: PALM SPRINGS: RECORD OF DECISION: 1/7/2/38/06 22 February 2008

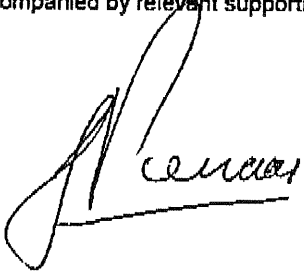
Appeal

An appeal, in writing, against the decision may be lodged with the MEC for Economic Affairs, Environment & Tourism, in terms of Section 35 (3) of the Environment Conservation Act, Act 73 of 1989 within 30 days from the date of issue of this record of decision.

The address to which such appeals must be submitted is:

Attention: The Chief Director: Environment Affairs
Department of Economic Development and Environmental Affairs
Private Bag X0054
Bisho
5605
Attention: Mr S.A.H. Mfenyana

Please note that only appeals on environmental grounds can be considered. All appeals should be accompanied by relevant supporting documentation.



22 February 2008

C.G.Plenaar

Date

Senior Manager Environmental Impact Management

22 February 2008

Date of issue

