

Dear Mr Van Boom, below for your attention.

---

**From:** Andre van der Spuy [mailto:avdspuy@iafrica.com]

**Sent:** 14 November 2018 06:09 AM

**To:** 'Eldon van Boom'

**Cc:** 'Ayesha Hamdulay'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'; 'Zaahir Toefy'; 'Ayub Mohamed'; 'jameslarge686'; 'Rob Sampson';

'Anthony.Barnes@westerncape.gov.za'; 'Pieter.vanZyl@westerncape.gov.za'

**Subject:** RE: Hoemoed Ave Phase 1 , Environmental Application - requested assistance from the Competent Authority in order to restore rights

To: Mr. E. van Boom

**The Department of Environmental Affairs and Development Planning**

DEA&DP Reference No.: 16/3/3/6/7/1/F1/45/2016/17

Dear Mr. Van Boom

Your response below refers.

This correspondence is submitted by AVDS Environmental consultants on behalf of those parties (being registered I&APs) we represent, as have been previously advised. While you did indeed speak to me and provide an emailed response in August 2018 most of the issues tabled before you were left unattended to, either partially or entirely, and this position remains unchanged despite your latest recorded response of 31/10/2018 below.

Relevant issues were tabled before you in our email of 4/9/2018. Your response (below) was received on 31/10/2018. Thus a delayed period of almost 2 months had expired before you chose to issue your response. During this time you were reminded of our queries to you and were encouraged to provide us with your response. Accordingly you have caused a substantial and prejudicial delay despite having been respectfully requested to ensure that your response to us was *“delivered to us in good and sufficient time”* (and for which the reasons were provided). The substantial delay in responding to our enquiries does not accord with *“Efficient, effective and responsive Provincial governance”* by which DEA&DP professes to operate. The delay is a result of inaction on your part and is prejudicial towards the interests of the many members of the local community (registered I&APs) that we represent, including Mr. James Large (of Erf 5/944), whose interests, property and assets stand to be materially damaged by this application. Furthermore, your action and inaction, as is relevant, continues to impinge upon, and inhibit, our clients in their wishes to exercise fully their legally-afforded rights under NEMA, and which rights have not fully and properly honoured by the various parties and persons who are involved in the management and administration of this application.

During the period of your delayed response (and which delays still continues) the application should have expired, notwithstanding recently acquired knowledge that EIA Regulation 19(1)(b) has been invoked to prolong its validity. The extension of the timeframe pertaining to the application has not been communicated to registered I&APs by either the “EAP”s , or the Department, despite being a material matter that affects all registered I&APs, including our clients. Neither did you at any stage during most recent engagement indicate to us that such important circumstances existed. The Department’s (your) part in the effort to withhold from public knowledge this significant procedural advancement is therefore not to be underestimated or ignored.

In your below response of 31/10/2018 you, as before, state that this application is being administered according to the 2014 EIA Regulations and put on record that you regard it as being procedurally fair especially in so far as opportunities (for comment?) by I&APs are concerned. You also state that most of our requests are outside of the bounds of, and exceed, the EIA Regulation requirements and then you follow this up by declaring that the Applicant and the EAP (it is unclear to us which one you are referring to) have accommodated most of our requests. Finally, as before, we are advised again of the right to appeal the ultimate decision and the "administration" of the application by the Department or the EAP (as far as we are aware the EAP should be playing no part in its "administration" which is solely the domain of the Competent Authority). Under the circumstances we find your remarks and advice to be substantially incorrect so far as it relates to the protection, delivery and exercising of our clients rights under conditions which are supposed to be procedurally fair and impartial (but which are not). It also appears that you do not have a proper and impartial understanding and interpretation of the Regulations under your administration, such as, for instance, that which relates to the rights of I&APs to be availed of "*access to all information that reasonably has or may have the potential to influence any decision with regard to an Application*" and the right to be "*entitled to comment, in writing, on all reports or plans submitted to such party during the public participation process contemplated in these Regulations and to bring to the attention of the proponent or applicant any issues which that party believes may be of significance to the consideration of the application*" (EIA Regulation 40(2)\* read with 43(1)\*\* refer), and also, EIA Regulation 41(6)(b)\*\*\* which provides for the right of registered I&APs to comment on the "application".

Per our email correspondence to you of 4/9/2018, we (on behalf of our clients) turned to the Competent Authority to seek its assistance in various serious matters pertaining the apparent misconduct of Chand and various of its employees, and a specialist Mr. Marius Burger, in their management of, and input to, the application. Such relief (from the prejudicial effects to our clients of the apparent misconduct of the EAP(s)) was sought from you, as the assigned representative of the Competent Authority, in order to restore the rights of our clients to a procedurally correct and fair process, in good time, yet you have failed to act appropriately and have instead opted to support and facilitate the non-compliant actions of the so-called EAP(s) and have thus made yourself and the Department equally complicit in fostering the limiting and non-compliant conditions of this application under which our clients are suffering. Such conditions and circumstances are prejudicial to our clients; are unacceptable; and, are objected to strongly by our clients.

Reading from your advice please explain to us why "the EAP" is involved in the "administration" of the application as it is our considered view that such is illegal. Please also specify which particular entity or person you have referred to as "the EAP" since the associated application reports have referred to various persons and a company simultaneously as being EAPs (and have done so repeatedly but without intervention by the Department). We will await your response on these important matters so that we are further able to advise our clients accordingly.

It is necessary for us to comment on your unacceptable responses (as contained in your email correspondence of 31/10/2018) to our 7 enquires (our email of 4/9/2018 refers) and to properly expose the complete inadequacy of same. Below, your response is first quoted and thereafter our comment on your specific numbered response is provided.

1. the signed declaration of interest is included in the BAR;

Our comment: In response to our request for assistance for "*(a)ccess to view the declaration of interest and "undertaking under oath or affirmation" which Sadia Chand is required by law to have signed as one of the proclaimed EAPs who is managing this application*" you have answered that "*the signed declaration of interest is included in the BAR*". Our query was made with specific reference to the person, Sadia Chand. We have noted your response and have reviewed the most recent BAR (being the 2<sup>nd</sup> Revised Draft BAR) but are unable to find any declaration of interest by Sadia Chand therein. Accordingly, please direct us to the

specific page or section of the document to which you have referred in your response of 31/10/2018, as it purports to pertain to Sadia Chand, and we will accordingly renew our efforts in this regard.

2. I am not able to respond to this query; however I do want to mention that in terms of regulation 43(1) of the EIA Regulations, 2014, an I&AP must disclose any direct business, financial, personal or other interest which that I&AP may have in the application;

Our comment: As the Competent Authority you have advised that you are not able to respond to our query but you have made no effort in assisting us (as was our request) in obtaining the answer from Sadia Chand who is proclaimed to be the “lead EAP” but for which we are unable to find any signed proof. The condition imposed upon our clients by Sadia Chand is a substantial, prejudicial and limiting one and purports to suggest that unless her demand, as the proclaimed EAP is met, then the comments made on behalf of and by our clients will be invalid, limited or compromised. It is noted that you have elsewhere supported the (so-called) EAP’s actions in your statement that the application is “*regarded as procedurally fair according to the circumstances of this case, especially the opportunities created to I&APs during the EIA process to make representation. Most of the requests you have made thus far deviate from the EIA requirements and is more than what is required in terms of the EIA Regulations. The Applicant and the EAP have thus far accommodated many of your requests*”. As the Competent Authority you are expected to ensure that the process is managed in a legally and fair manner by a legitimate EAP, for which proof of their status is provided and freely reviewable, and that the rights of I&APs are fully protected, and not retarded, by any unauthorised person. You have claimed that the application is being administered fairly under the 2014 EIA Regulations yet we find no provision therein for any party to limit the rights of I&APs in such a manner as is being done by Sadia Chand under the watch and support of yourself and the DEA&DP and neither do we see any provision for an unmandated person, purporting without apparent evidence to be an EAP, to do so. You are indeed obliged to respond to this issue, but have failed to do so and are therefore complicit in the effort to impose an illegal condition upon our clients and which we regard as an effort to limit their rights to participate in this application. No effort to date has been made by the “EAP” (whoever that may be) or the DEA&DP to remove the prejudicial condition imposed upon our clients and it therefore still remains in place at this date. It is also noted that we find no other I&AP involved in this application to have been similarly subjected and it is therefore apparent that it is a calculated measure aimed specifically at AVDS Environmental Consultants and its clients.

3. the regulations do not make provision for I&AP to review or comment on the application form;

Our comment:

Your advice is incorrect. EIA Regulation 41(6)(b) specifically states that “... *the person conducting the public participation process must ensure that...registered interested and affected parties are provided with a reasonable opportunity to comment on the application...*”. It therefore appears that you are unfamiliar with the quoted regulation and are therefore respectfully advised to reconsider your response and our original request in this regard. The prejudicial delay in attending to the matter is on your account and our clients reserve all their rights in this regard.

4. I believe this matter has been resolved already;

Our comment:

Your belief is ill-founded and you would accordingly be better advised to investigate it properly before arriving at a conclusion. The matter has not been resolved and we and our clients have still not been provided with opportunity to review and comment on the Burger input. Advice was given to us that the subject input informed the material of the application and it is therefore required to be made available for comment. This has not been done by the “EAP” and you have also failed to ensure such despite claims that the application is being

fairly administered (?) by the EAP. As such the Competent Authority makes itself complicit in denying our clients the right to comment of significant and material information to the application. In this regard we refer you to *inter alia* EIA Regulations 40(2)\* read with 43(1)\*\*.

5. the comments and response report contain a full list of all the I&AP's and the issues they have identified;

Our comment:

You have chosen not to answer, and attend to, the issue tabled before you and appear to have deliberately misconstrued the matter. Furthermore, you have not ensured that relevant laws are complied with by the EAP as regards the right of our clients to have their original comments included in the 2<sup>nd</sup> Revised Draft BAR and thus open to review by other I&APs. The same applies to the original comments submitted by other I&APs. Of serious concern is that you (apparently) have not instituted measures against Ingrid Eggert who has signed a Declaration in the 2<sup>nd</sup> Revised Draft BAR (page 103) and in which she declares *inter alia* that :

*"that all the comments and inputs from stakeholders and I&APs have been included in this Report; "*

and

*"am aware that a false declaration is an offence in terms of Regulation 48 of the EIA Regulations, 2014 (as amended). "*

The first declaration quoted above is "*a false declaration*" and Ingrid Eggert has therefore acted fraudulently. The second above quoted statement stands as evidence of the seriousness thereof and her acknowledgement of same. In your recorded view of support, and defence, of the actions of the "EAP" as being "*procedurally fair*" and exceeding the requirements of the 2014 EIA Regulations you have made yourself, and the Competent Authority, complicit in this serious illegal action and have significantly compromised the required impartial position of the Competent Authority (at a minimum).

6. the regulations does not make provision for this, however, the comments and response report compiled by the EAP must be an accurate record of the issues raised by the I&APs;

Our comment:

Your advice is incorrect. The 2014 EIA Regulations Appendix 1, (3)(r)(ii) states explicitly that "*A basic assessment report must contain the information that is necessary for the competent authority to consider and come to a decision on the application, and must include ... an undertaking under oath or affirmation by the EAP in relation to...the inclusion of comments and inputs from stakeholders and I&APs...*". As has already been pointed out in this correspondence the oath made by Ingrid Eggert, as the "*appointed EAP*", in this regard is false and fraudulent since our original comments, and those of our clients who chose to submit their own additional comments, plus those of other registered I&APs, were not included in the 2<sup>nd</sup> Draft Revised BAR.

Furthermore, EIA Regulation 44(1) states that, "*(t)he applicant must ensure that the comments of interested and affected parties are recorded in reports and plans...*" that are submitted to the competent authority. However, should it be the opportunistic intentions of the Applicant, EAP and/ or the competent authority to intend to violate this regulation on the grounds that the original comments (including those submitted on behalf of our clients) will indeed be included in (only) the Final BAR which is intended to be submitted to the Competent Authority at a later date then this will also be illegal since the Final BAR will then be substantially different to any report that was exposed to I&AP review during the public

participation process and it will contain material not exposed, at any point of the process, to review and comment by all registered I&APs. Such would be legally non-complaint.

7. you may request copies of the minutes of meetings from the information officer (that is, Annelize de Villiers, (021) 483 8315 or Annelize.DeVilliers@westerncape.gov.za) of the department in terms of PAIA. This component of the department may not distribute such information.

Our comment:

You have repeatedly advised that this application is being administered in terms of the 2014 EIA Regulations. Under these, Regulation 8(d)\*\*\*\* specifically provides for I&APs to request minutes of meetings from the competent authority, and to be provided with same. The regulation is sufficiently empowering to act alone and its legitimacy is confirmed by your very own advice that the 2014 EIA regulations are guiding your administration of the subject application. Therefore there is no need to resort to any further legal empowerment (such as is provided under the Public Access to Information Act, PAIA).

Secondly, you are the representative of the competent authority (so advised to us by Ayesha Hamdulay, the Case Officer) and the EIA Regulation 8(d) states that the “competent authority” must provide access to such records. We have therefore abided by the law in our request to you, as the representative of the Competent Authority, and you are thus obliged to honour the request without our further deference to any other entity, inclusive of one or other official or branch of the DEA&DP. You have failed to honour the legitimate request served to you and are accordingly advised to do so without any further delay failing which you may be held personally responsible for any consequences that may result.

Having consideration of the above administrative matters, what is interesting, and indeed concerning, is that amongst its Departmental objectives the DEA&DP makes the following lofty claim on its website:

### **Strategic Outcome Goal 3: Good Governance and Integrated Management**

The Department will enable and promote growth and sustainable development in the Western Cape through:

- Efficient, effective and responsive Provincial governance
- Facilitating accessibility for the public, with effective community engagement processes

As the records now bear testament to, administration of this application fails to achieve these noble goals by a significant margin, if not entirely.

It is necessary to briefly summarise the course of the extensive efforts on our part to obtain outstanding material and advice and the consequent place of this correspondence:

Those of Chand Consultants were requested to provide to us various material information pertaining to the application as well as specific advice on matters. During the course of our efforts, it was, in some instances, necessary for us to point out the legal context within which such requests were made on account of a fundamentally incorrect understanding and/ or interpretation of the relevant matters. The prejudicial circumstances, to the rights of our clients, were tabled. In most instances of relevance you were copied in to email correspondences to the “EAP”(s) and will thus be very familiar with the course and details (as attested to by your claim that below that

you consider the EAP to have accommodated many of our requests). Our many well-intended corrective advices and requests on key issues were in fact ignored and/ or rebuffed by those of Chand with result that the Competent Authority, represented by yourself, was turned to by us for assistance in restoring and securing our clients' associated rights. Regrettably however, the Department has failed to respond properly to our requests for assistance and has instead opted to support the prejudicial actions of the Chand employees to date (some of whom even appear to lack the necessary legal mandate to fulfill the proclaimed role of an "EAP"). This correspondence now serves as record of our further comprehensive effort to cooperatively engage with the Department so as to restore the currently prejudicial matters (to our clients) in the application and BA process.

On behalf of our affected clients, we look forward to receiving your proper responses to the outstanding matters. We would also appreciate receiving your response in good time given the negative consequences of the delays already incurred while the EIA process has continued to be advanced by the Chand consultants, via facilitation of the DEA&DP itself. All rights are reserved unconditionally.

Sincerely

Andre van der Spuy

**AVDS Environmental Consultants**

42 Afrikander Road  
Simon's Town  
7975  
South Africa

Tel.: 021 786 2919  
Fax.: 021 786 2919  
Mobile: 084 480 2464  
Email: [avdspuy@iafrica.com](mailto:avdspuy@iafrica.com)  
Web: [www.avdsec.com](http://www.avdsec.com)

\*

40(2) The public participation process contemplated in this regulation must provide access to all information that reasonably has or may have the potential to influence any decision with regard to an application unless access to that information is protected by law and must include consultation with-

(a) the competent authority;  
(b) every State department that administers a law relating to a matter affecting the environment relevant to an application for an environmental authorisation;

(c) all organs of state which have jurisdiction in respect of the activity to which the application relates; and

(d) all potential, or, where relevant, registered interested and affected parties.

\*\*

43 (1) A registered interested and affected party is entitled to comment, in writing, on all reports or plans submitted to such party during the public participation process contemplated in these Regulations

and to bring to the attention of the proponent or applicant any issues which that party believes may be of significance to the consideration of the application, provided that the interested and affected party discloses any direct business, financial, personal or other interest which that party may have in the approval or refusal of the application.

\*\*\*

41(6) When complying with this regulation, the person conducting the public participation process must ensure that—

- (a) information containing all relevant facts in respect of the application or proposed application is made available to potential interested and affected parties; and
- (b) participation by potential or registered interested and affected parties is facilitated in such a manner that all potential or registered interested and affected parties are provided with a reasonable opportunity to comment on the application or proposed application.

\*\*\*\*

8. A competent authority, subject to the payment of any reasonable charges, if applicable-
- (a) may advise or instruct the proponent or applicant of the nature and extent of any of the processes that may or must be followed or decision support tools that must be used in order to comply with the Act and these Regulations;
  - (b) must advise the proponent or applicant of any matter that may prejudice the success of an application;
  - (c) must, on written request, furnish the proponent or applicant with officially adopted minutes of any official meeting held between the competent authority and the proponent, applicant or EAP; and
  - (d) must, on written request, provide access to the officially adopted minutes of meetings

---

**From:** Eldon van Boom [mailto:Eldon.vanBoom@westerncape.gov.za]

**Sent:** 31 October 2018 02:42 PM

**To:** Andre van der Spuy

**Cc:** Ayesha Hamdulay; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'; Zaahir Toefy; Ayub Mohamed

**Subject:** RE: Hoemoed Ave Application - requested action from teh Competent Authority in order to restore rights

Dear Mr van der Spuy

I have already spoken to you and emailed you in August 2018 regarding this application; however, please find below my response to your issues:

- 8. the signed declaration of interest is included in the BAR;
- 9. I am not able to respond to this query; however I do want to mention that in terms of regulation 43(1) of the EIA Regulations, 2014, an I&AP must disclose any direct business, financial, personal or other interest which that I&AP may have in the application;
- 10. the regulations do not make provision for I&AP to review or comment on the application form;
- 11. I believe this matter has been resolved already;
- 12. the comments and response report contain a full list of all the I&AP's and the issues they have identified;

13. the regulations does not make provision for this, however, the comments and response report compiled by the EAP must be an accurate record of the issues raised by the I&APs;
14. you may request copies of the minutes of meetings from the information officer (that is, Annelize de Villiers, (021) 483 8315 or Annelize.DeVilliers@westerncape.gov.za) of the department in terms of PAIA. This component of the department may not distribute such information.

Once again I want to reiterate that the EIA application for this project is being administered according to the requirements of the EIA Regulations, 2014 and is regarded as procedurally fair according to the circumstances of this case, especially the opportunities created to I&APs during the EIA process to make representation. Most of the requests you have made thus far deviate from the EIA requirements and is more than what is required in terms of the EIA Regulations. The Applicant and the EAP have thus far accommodated many of your requests. If you are still feel aggrieved with the manner in which the Department or the EAP administered the EIA process and the decision the competent authority will eventually issues, you are welcome to lodge an appeal will the appeal authority.

Regards

Eldon

Mr Eldon van Boom

Control Environmental Officer (Grade B) | Directorate: Development Management, Region 1 | Department of Environmental Affairs and Development Planning | Western Cape Government

7<sup>th</sup> floor, Utilitas Building, 1 Dorp Street, CAPE TOWN | Private Bag X9086, CAPE TOWN, 8000

Office telephone: +27 21 483 2877/3185 | Facsimile: +27 21 483 4372

Electronic mail: [eldon.vanboom@westerncape.gov.za](mailto:eldon.vanboom@westerncape.gov.za) | Departmental Website:

[www.westerncape.gov.za/eadp](http://www.westerncape.gov.za/eadp)

**From:** Andre van der Spuy [mailto:avdspuy@iafrica.com]

**Sent:** 31 October 2018 11:04

**To:** Eldon van Boom <Eldon.vanBoom@westerncape.gov.za>

**Cc:** Ayesha Hamdulay <Ayesha.Hamdulay@westerncape.gov.za>; 'Lynn Hanger' <lynnh@attorneyswr.co.za>; 'Alison Faraday' <alison@leopardstone.co.za>; 'Suzie J' <suzie43@gmail.com>; 'Lieve Swart' <liezeswart@gmail.com>; 'Andrea Marais' <andrea@plunge.co.za>; Zaahir Toefy <Zaahir.Toefy@westerncape.gov.za>; Ayub Mohamed <Ayub.Mohamed@westerncape.gov.za>

**Subject:** RE: Hoemoed Ave Application - requested action from teh Competent Authority in order to restore rights

Dear Mr. Van Boom

Below email correspondence and contents thereof refer. We have received no response to the issues raised and which are therefore matters outstanding. Nonetheless, the Competent Authority is requested to kindly confirm that the subject environmental application for authorization of the Proposed Houmoed Avenue Extension, Phase 1, has now expired.

We and our clients look forward to receiving the Competent Authority's response.

Thank you

Andre van der Spuy

---

**From:** Andre van der Spuy [<mailto:avdspuy@iafrica.com>]

**Sent:** 21 September 2018 09:11 AM

**To:** 'Eldon Mornay van Boom'

**Cc:** 'Ayesha.Hamdulay@westerncape.gov.za'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'

**Subject:** RE: Hoemoed Ave Application - requested action from teh Competent Authority in order to restore rights

Dear Mr. Van Boom

Further to the below, please would the Department kindly notify us immediately once the Final BAR in the Proposed Houmoed Avenue Extension Phase 1 development is submitted in order that we may prepare our final comments on it and which comments will be intended to assist DE&ADP in its decision-making process.

Thank you

Andre van der Spuy

---

**From:** Andre van der Spuy [<mailto:avdspuy@iafrica.com>]

**Sent:** 20 September 2018 03:37 PM

**To:** 'Consultant'; 'Sadia Chand'; 'Eldon Mornay van Boom'

**Cc:** 'Ayesha.Hamdulay@westerncape.gov.za'; 'Claudette@chand.co.za'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'

**Subject:** RE: Hoemoed Ave Application - requested action from teh Competent Authority in order to restore rights

Dear Mr. Van Boom

Below refers.

Please advise us regarding The Department's progress in attending to the issues tabled before it, per the below correspondence.

Thank you

Andre van der Spuy

---

**From:** Andre van der Spuy [<mailto:avdspuy@iafrica.com>]

**Sent:** 04 September 2018 02:50 PM

**To:** 'Consultant'; 'Sadia Chand'; 'Eldon Mornay van Boom'

**Cc:** 'Ayesha.Hamdulay@westerncape.gov.za'; 'Claudette@chand.co.za'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'

**Subject:** Hoemoed Ave Application - requested action from the Competent Authority in order to restore rights

**Importance:** High

Dear Mr. Eldon van Boom

**ENVIRONMENTAL APPLICATION FOR PROPOSED CONSTRUCTION OF HOUMOED AVENUE EXTENSION, NOORDHOEK, PHASE 1 (DEA&DP Reference No.: 16/3/3/1/A6/45/2024/18) – VARIOUS MATTERS.**

Below refers, as does its preceding correspondences (to which you were copied in), and a few additional, but relevant, issues are also tabled for your attention.

The Competent Authority is requested now to assist us, on behalf of those registered IA&Ps that we represent, to obtain access to information which we are rightfully permitted but which Ms. Eggert, one of the two so-called “lead EAPs”, is obstructing.

Accordingly, please assist us in securing the following:

1. Access to view the declaration of interest and “undertaking under oath or affirmation” which Sadia Chand is required by law to have signed as one of the proclaimed EAPs who is managing this application.
2. From Sadia Chand, advice specifying the legally empowering provision under which she, as a proclaimed “lead EAP”, has instituted a limiting requirement against us and our clients regarding the provision of proof of representation and which information she has thus far refused to provide.
3. The right to a 30 day review and comment opportunity as such pertains to the “application” itself. We here refer to the current application as well as any previous ones and “amended applications” pertaining to the subject proposed development. Relevant regulations find reference.
4. The right to a 30 day review and comment opportunity as such pertains to the all the information from the specialist, Marius Burger, and which has been used to inform and/ or confirm (per advice of I. Eggert) this application
5. The right to a 30 day review and comment opportunity on the original comments, reports and submission of other registered I&APs (as such “supporting documents and inputs” pertain to the Revised Draft BAR) but which were excluded from the Second Revised Draft BAR.

It would be appreciated if the DEA&DP would secure these rights for our clients within a good and reasonable time so as not to compromise in any way my clients’ other and related rights in this application.

Furthermore, we table objection against the EAPs' omission of our clients' comments and inputs from the Second Revised Draft BAR and which were accordingly presented from view of other registered I&APs. Therefore:

6. Please also secure the right of our clients' to have their own original comments on the Revised Draft BAR subjected to a 30 day review and comment opportunity by other registered I&APs, as opposed to only the EAPs' Applicant and its appointed specialists.

Finally,

7. Kindly provide us with the minutes/ records of all meeting held between any officials of the Competent Authority and any members/ employees of the Applicant, and/ or any of the three proclaimed EAPs, and/ or any of the specialists (including Marius Burger).

As the Competent Authority is well aware of, numerous of the above enquiries have been the subject of concerted efforts with Ms. Eggert and Sadia Chand (the so-called "lead EAPs) , but which have not been answered properly and fully, and we are therefore now forced to raise such matters with the Competent Authority.

We look forward to the results of the Competent Authority's necessary administrative action being delivered to us in good and sufficient time.

Sincerely

Andre van der Spuy  
AVDSEC

---

**From:** Andre van der Spuy [<mailto:avdspuy@iafrica.com>]

**Sent:** 04 September 2018 11:45 AM

**To:** 'Consultant'; 'Sadia Chand'

**Cc:** 'Ayesha.Hamdulay@westerncape.gov.za'; 'Claudette@chand.co.za'; 'Eldon Mornay van Boom'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'

**Subject:** RE: Hoemoed Ave Application - Awaited response from Sadia Chand & other issues

Dear Ms Eggert

Below refers. No, you have still not answered any of our questions nor supplied the requested information and record for Sadia Chand.

I seem to have muddled up my subsequent number references to my original questions 1 and 2 (of my email of 31/8/2018) but you anyway know what I meant.

Again:

1. Please could you forward to us without delay the required declaration of interest and "undertaking under oath or affirmation", signed by Sadia Chand. You have still not provided the requested information/ evidence.
2. Please confirm then that the Competent Authority is able to make a decision on the "application" without having received the "actual application" itself.

and

3. Also, in terms of your obligation to make the “application” available for “reasonable opportunity to comment” upon by “registered interested and affected parties” please explain your interpretation of EIA Regulation 41(6)(b), per:

“When complying with this regulation, the person conducting the public participation process must ensure that-

(b) participation by potential or registered interested and affected parties is facilitated in such a manner that all potential or registered interested and affected parties are provided with a reasonable opportunity to comment on the [application](#) or proposed application.”.

[\(Underlining and Red supplied for your benefit\)](#)

We request that you extend yourself morally in a concerted effort to provide an honest, ethical, and competent set of direct answers to each question. My clients, being Registered I&APs whose rights you should be protecting, would appreciate your answers by noon today, but, failing which, such obligation will devolve to the Competent Authority and Mr. Van Boom accordingly will be requested to ensure that my clients are afforded all of their rights under NEMA, including the right to comment upon the “application” and not solely the report and its associated information.

Regards

Andre van der Spuy

---

**From:** Consultant [<mailto:consultant@chand.co.za>]

**Sent:** 04 September 2018 10:57 AM

**To:** Andre van der Spuy; Sadia Chand

**Cc:** [Ayesha.Hamdulay@westerncape.gov.za](mailto:Ayesha.Hamdulay@westerncape.gov.za); [Claudette@chand.co.za](mailto:Claudette@chand.co.za); 'Eldon Mornay van Boom'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'

**Subject:** RE: Hoemoed Ave Application - Awaited response from Sadia Chand & other issues

Dear Andre

My response sent 3 September 2018 06:45pm relates to points 1 and 2 of your email query.

Note that the application form was submitted to the competent authority, but that it is not a requirement of the 2014 EIA Regulations as amended to distribute the application form to I&APs for review and comment.

Regards

Ingrid

**From:** Andre van der Spuy [<mailto:avdspuy@iafrica.com>]

**Sent:** 04 September 2018 10:19 AM

**To:** Consultant; Sadia Chand

**Cc:** [Ayesha.Hamdulay@westerncape.gov.za](mailto:Ayesha.Hamdulay@westerncape.gov.za); [Claudette@chand.co.za](mailto:Claudette@chand.co.za); 'Eldon Mornay van Boom'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'

**Subject:** RE: Hoemoed Ave Application - Awaited response from Sadia Chand & other issues

Dear Ms. Eggert

Below refers.

We have received no answer from you yet. Please advise.

Rgds

Andre v d Spuy

---

**From:** Andre van der Spuy [<mailto:avdspuy@iafrica.com>]  
**Sent:** 03 September 2018 07:31 PM  
**To:** 'Consultant'; 'Sadia Chand'  
**Cc:** 'Ayesha.Hamdulay@westerncape.gov.za'; 'Claudette@chand.co.za'; 'Eldon Mornay van Boom'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'  
**Subject:** RE: Hoemoed Ave Application - Awaited response from Sadia Chand & other issues  
**Importance:** High

Dear Ms Eggert

Below refers.

You have answered our question 1 (but not complied with it) but question 2 you have not yet answered (and which we await still).

According to your advice (per Question 1), please confirm then that the Competent Authority is able to make a decision on the "application" without having received the "actual application" itself.

Rgds

Andre v d spuy

---

**From:** Consultant [<mailto:consultant@chand.co.za>]  
**Sent:** 03 September 2018 06:45 PM  
**To:** Andre van der Spuy; Sadia Chand  
**Cc:** [Ayesha.Hamdulay@westerncape.gov.za](mailto:Ayesha.Hamdulay@westerncape.gov.za); [Claudette@chand.co.za](mailto:Claudette@chand.co.za); 'Eldon Mornay van Boom'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'  
**Subject:** RE: Hoemoed Ave Application - Awaited response from Sadia Chand & other issues

Dear Andre

Please note that distribution of the actual application form for review and comment is not a minimum requirement of the 2014 EIA Regulations, as amended.

Kind regards  
Ingrid

**From:** Andre van der Spuy [<mailto:avdspuy@iafrica.com>]  
**Sent:** 31 August 2018 07:37 AM  
**To:** Sadia Chand  
**Cc:** [Ayesha.Hamdulay@westerncape.gov.za](mailto:Ayesha.Hamdulay@westerncape.gov.za); Consultant; [Claudette@chand.co.za](mailto:Claudette@chand.co.za); 'Eldon Mornay

van Boom'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'  
**Subject:** RE: Hoemoed Ave Application - Awaited response from Sadia Chand & other issues

Dear Ms. Eggert

**ENVIRONMENTAL APPLICATION FOR PROPOSED CONSTRUCTION OF  
HOUMOED AVENUE EXTENSION, NOORDHOEK, PHASE 1 (DEA&DP  
Reference No.: 16/3/3/1/A6/45/2024/18) – VARIOUS MATTERS.**

The below issues and associated requests are brought to your attention.

1. The below email from Sadia Chand constitutes her belated and unsatisfactory response to our letter to her of 26/6/2018 (as attached). You will note that Ms. Chand answers none of our enquiries which are intended to (1) establish the legitimacy of her demand upon us and our clients, and (2) to establish her own legitimacy to participate in any manner in this application. Therefore, as matters stand her demand remains unchecked and unattended to by her, or yourself, and we will not consider acceding to it without the requested proof of validity. In this regard, since you are the “EAP” who has signed the declaration of interests contained in the latest BAR version, please could you forward to us without delay the required declaration of interest and “undertaking under oath or affirmation”, signed by Sadia Chand, and which is a requirement under the EIA Regulations for the “EAP” (in this regard it is noted that Sadia Chand is most recently regarded as being a so-called “lead EAP”, along with yourself). The DEA&DP will naturally be expected to have ensured that in terms of EIA Regulations 16, 17 and 18 the application is compliant and, in the protection of I&APs rights, has correctly empowered Ms. Chand to participate in the management of it.
2. In regard to the above matter under point 1, as well as other matters, we have been unable to review (and comment on) the actual signed “application” since you have never provided it to I&APs at any stage for review and comment. This is not congruent with *inter alia* the requirement under EIA Regulation 41(6)(b). Therefore, please make the “application” available for review and comment by us, and all other registered I&APs, for the minimum 30 day period, as are our rights. We await this opportunity to review the application and comment upon it.

The Competent Authority is notified of this correspondence by way of copy.

Sincerely

Andre van der Spuy  
AVDSEC

---

**From:** Sadia Chand [<mailto:sadia@chand.co.za>]  
**Sent:** 24 August 2018 08:55 AM  
**To:** Andre van der Spuy  
**Cc:** [Ayesha.Hamdulay@westerncape.gov.za](mailto:Ayesha.Hamdulay@westerncape.gov.za); Consultant; [Claudette@chand.co.za](mailto:Claudette@chand.co.za); 'Eldon Mornay van Boom'; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'  
**Subject:** RE: Hoemoed Ave Application - Awaited response from Sadia Chand

Dear Andre

There are two main queries in your letter that I am responding to:

### Legitimacy of the EAP:

This was responded to in the Draft Second Revised Draft BAR as follows:

A team of qualified individuals have been involved on this Basic Assessment with the lead EAPs being Ingrid Eggert and Sadia Chand. Ingrid Eggert is responsible for co-ordination of technical / specialist information and Sadia Chand leading the public participation process. Claudette Muller, also a qualified EAP was responsible for responding to queries received to [support@chand.co.za](mailto:support@chand.co.za) . Administrative support on the process was provided by Mellissa Mc James.

The above is in line with the requirements of the 2014 EIA Regulations, as amended, and meets the criteria for EAPs as per Section 1 of NEMA.

It is acknowledged that Chand is a registered company and in itself, cannot perform the duties of a natural person.

The application form to DEA&DP specifically denotes Chand as the company undertaking the Basic Assessment with Ingrid Eggert and Sadia Chand being the EAPs. This Application was signed both by the lead EAP, Ingrid Eggert and Nomzamo Mngqeta on behalf of the applicant, namely TDA: City of Cape Town. This document verifies that the City of Cape Town has appointed Chand to undertake the process.

### Confirmation of correspondence sent to the ToadNuts inviting them to a specialist meeting:

It was claimed at the meeting held at Lake Michelle by a member of the Toad Nuts that Chand had not extended an invitation to engage with the organisation. See the attached correspondence sent to Alison Faraday. Note also that the representative of the ToadNuts was not invited to the Lake Michelle meeting and was specifically asked to leave the meeting by the attending residents.

Regards  
Sadia

Sadia Chand

### **Chand Environmental Consultants**

Suite 1.2 A

Richmond Centre

174 - 206 Main Road

Plumstead

7800

P O Box 238

Plumstead

7801

Tel: (021) 762-3050

Fax: (021) 762-3240

E-mail: [sadia@chand.co.za](mailto:sadia@chand.co.za)

Website: [www.chand.co.za](http://www.chand.co.za)

Specialist Environmental and Sustainability Consultants

 Help save paper - do you really need to print this email ?

**From:** Andre van der Spuy <[avdspuy@iafrica.com](mailto:avdspuy@iafrica.com)>

**Sent:** Tuesday, 14 August 2018 9:56 AM

**To:** Sadia Chand <[sadia@chand.co.za](mailto:sadia@chand.co.za)>

**Cc:** [Ayesha.Hamdulay@westerncape.gov.za](mailto:Ayesha.Hamdulay@westerncape.gov.za); Consultant <[consultant@chand.co.za](mailto:consultant@chand.co.za)>; [Claudette@chand.co.za](mailto:Claudette@chand.co.za); 'Eldon Mornay van Boom' <[Eldon.vanBoom@westerncape.gov.za](mailto:Eldon.vanBoom@westerncape.gov.za)>; 'Lynn Hanger' <[lynnh@attorneyswr.co.za](mailto:lynnh@attorneyswr.co.za)>; 'Alison Faraday' <[alison@leopardstone.co.za](mailto:alison@leopardstone.co.za)>; 'Suzie J' <[suzie43@gmail.com](mailto:suzie43@gmail.com)>; 'Lieve Swart' <[liezeswart@gmail.com](mailto:liezeswart@gmail.com)>; 'Andrea Marais' <[andrea@plunge.co.za](mailto:andrea@plunge.co.za)>

**Subject:** RE: Hoemoed Ave Application - Awaiting response from Sadia Chand

**Importance:** High

Dear Ms. Chand

Below matter refers.

Given the time that has expired since our correspondence of 26 June 2018 we would have expected to receive your promised reply to the raised matters by now. To date we have received no reply and therefore request your urgent response given the importance of the subject and your management of the application.

The unresolved matter is placed on record with the Department, the Competent Authority, by way of copy.

Sincerely

Andre van der Spuy

---

**From:** Sadia Chand [<mailto:sadia@chand.co.za>]

**Sent:** 26 June 2018 01:55 PM

**To:** Andre van der Spuy

**Cc:** [Ayesha.Hamdulay@westerncape.gov.za](mailto:Ayesha.Hamdulay@westerncape.gov.za); Consultant; [Claudette@chand.co.za](mailto:Claudette@chand.co.za); Eldon Mornay van Boom; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lize Swart'; 'Andrea Marais'

**Subject:** RE: Hoemoed Ave Application RE: confirmation of I&APs you are representing

Dear Andre

I acknowledge receipt of your mail and will respond in due course after a thorough review of the contents.

Regards

Sadia

Sadia Chand

**Chand Environmental Consultants**

Suite 1.2 A

Richmond Centre

174 - 206 Main Road

Plumstead

7800

P O Box 238

Plumstead

7801

Tel: (021) 762-3050

Fax: (021) 762-3240

E-mail: [sadia@chand.co.za](mailto:sadia@chand.co.za)

Website: [www.chand.co.za](http://www.chand.co.za)

Specialist Environmental and Sustainability Consultants

 Help save paper - do you really need to print this email ?

**From:** Andre van der Spuy [<mailto:avdspuy@iafrica.com>]

**Sent:** 26 June 2018 11:39 AM

**To:** Sadia Chand

**Cc:** [Ayesha.Hamdulay@westerncape.gov.za](mailto:Ayesha.Hamdulay@westerncape.gov.za); Consultant; [Claudette@chand.co.za](mailto:Claudette@chand.co.za); Eldon Mornay van Boom; 'Lynn Hanger'; 'Alison Faraday'; 'Suzie J'; 'Lieve Swart'; 'Andrea Marais'

**Subject:** Hoemoed Ave Application RE: confirmation of I&APs you are representing

Dear Ms. Chand

Please find attached letter for your attention.

Sincerely

Andre van der Spuy

---

**From:** Sadia Chand [<mailto:sadia@chand.co.za>]

**Sent:** 28 May 2018 10:36 AM

**To:** Andre van der Spuy ([avdspuy@iafrica.com](mailto:avdspuy@iafrica.com))

**Cc:** Ayesha Hamdulay <[Ayesha.Hamdulay@westerncape.gov.za](mailto:Ayesha.Hamdulay@westerncape.gov.za)>

([Ayesha.Hamdulay@westerncape.gov.za](mailto:Ayesha.Hamdulay@westerncape.gov.za)); Consultant; [Claudette@chand.co.za](mailto:Claudette@chand.co.za)

**Subject:** confirmation of I&APs you are representing

Dear Andre

In your correspondence to Chand, you have said that you are representing a number of Interested and Affected Parties for the environmental process on Houmoed Phase 1 and Houmoed Phase 2. Please can you send us a mandate from each person you are representing so as to verify that your comments and views are representative of these parties. Please note that many of these parties have engaged with us on separate occasions with no mention that you are representing them.

Regards

Sadia

Sadia Chand  
**Chand Environmental Consultants**  
Suite 1.2 A  
Richmond Centre  
174 - 206 Main Road  
Plumstead  
7800

P O Box 238  
Plumstead  
7801

Tel: (021) 762-3050

Fax: (021) 762-3240

E-mail: [sadia@chand.co.za](mailto:sadia@chand.co.za)

Website: [www.chand.co.za](http://www.chand.co.za)