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**CAPE TOWN**  
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Dear Mr van der Spuy

**REQUEST FOR THE PROVINCIAL MINISTER TO EXTEND A PERIOD IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) – APPEAL SUBMISSION AGAINST THE GRANTING OF THE PROPOSED PHASE 1 EXTENSION OF HOUMOED AVENUE, SUNNYDALE**

Your email dated 13 December 2019, and the response from the City of Cape Town to your request dated 8 January 2020 (attached), refer.

I have considered your request in the above regard in terms of section 47C of the *National Environmental Management Act, 1998 (Act No. 107 of 1998)* to extend the period in terms of the Act to submit and appeal. In making this decision I considered the *Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)* to make sure that my decision is rational, reasonable, just, procedurally fair and that relevant information was considered.

I have applied my mind to your request and herewith my comments:

- It is not considered that the appellants are 'heavily prejudiced' by the timing of the appeal period. The appeal period as set out in the *National Appeal Regulations 2014*, specifically excludes the period of 15 December to 5 January. This is to ensure that the process is reasonable, by considering the festive season. There is no substance to the allegation that the applicant and or Environmental Assessment Practitioner ("EAP") purposefully designed the appeal period to fall within and over the end of year holiday period. It should further be noted that all appellants are given 20 days in which to appeal, taking the period to 15 January 2020.
- As mentioned in your request, the appellants have extensively commented and raised their objections on the development during the public participation process. It is stated in the City of Cape Town's response to your request that "given the

*extensive public participation process, it would be surprising if any new information will be presented that has not already been raised and documented in the BAR and Comments and Response Report.*" I therefore consider that the appellants had various opportunities to raise their objections and comments and that the current extension requested is unnecessary. This is also applicable to the engagement of specialists on the matter, which should have happened during the public participation process.

- Your comment that *"The unsustainable manner in which this development has been pursued, and the unsustainable development that the HAE [Houmoed Avenue Extension] itself constitutes, in terms of Section 2(4)(a) of the NEMA, and the unacceptable consequences that will arise (including the possible extinction of an Endangered species) has clearly communicated to the EAP and the Department during the BA process but has ultimately been ignored by the decision-making process"* is noted, however this must be included in prospective grounds of appeal.
- An extension cannot reasonably be granted based on the fact that the 'author' of the appeal will be on leave and already has an existing work commitment and is also scheduled to embark on a work trip away from the office, this is also the case for any specialists. It is also not considered reasonable to extend the appeal period due to *"current and foreseeable future scenario of loss of electrical power due to "load-shedding"*.
- The allegations of misconduct of the EAP and the Department of Environmental Affairs and Development Planning should be incorporated into a prospective appeal and will then receive the appropriate consideration. In itself, these allegations do not merit an extension of the appeal submission time, *per se*.
- Various other possible appeal grounds have been raised in your extension request and should be included in the intended appeal. It is not relevant for your request at hand.

Taking into account the above mentioned and the request it is also considered that:

- The time in which the intended appeal should be submitted is reasonable and you were informed to continue to prepare the appeal while awaiting my decision.
- The prejudice of granting the extension of time to submit an appeal was considered and it is believed that an extension till end of February 2020 would unreasonably prejudice the applicant. This is due to the fact as stated in their response that *"any further delays would impede the possibility of the City moving forward on the process of implementing what we believe to be a critical road infrastructure for the area."*

- The importance of the matter was also considered. It is believed that ample opportunity was given to the Interested and Affected Parties to raise their objections and to give comment, thus an extension till end of February 2020 was considered unreasonable.

Notwithstanding the above, I have decided to grant you an extension till 31 January 2020. Please note that no further request for extension in this matter will be considered.

The appeal must thus be submitted to the Ministry (Attention: Mr Marius Venter; e-mail: DEADP.Appeals@westerncape.gov.za, Tel: 021 483 3721/2659) before end of day on **31 January 2020**.

Yours faithfully,



ANTON BREDELE

**WESTERN CAPE MINISTER OF LOCAL GOVERNMENT,  
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

DATE: 14/1/2020

Copied to:  
Mark Pinder

(City of Cape Town)

Email: mark.pinder@capetown.gov.za



CITY OF CAPE TOWN  
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**NEAS Reference:** WCP/EIA/0000605/2019

8 January 2020

The Minister of Local Government Affairs & Development Planning  
c/o Deputy Director  
Environmental and Planning Appeals Coordinator  
Department of Environmental Affairs and Development Planning  
8th Floor, Utilitas Building,  
1 Dorp Street  
Cape Town

**For Attention: Minister Anton Bredell (c/o Mr Marius Venter)**

**RE: RESPONDING STATEMENT – HOUMOED EXTENSION PHASE 1 – REQUEST FOR EXTENSION TO APPEALS PROCESS**

The letter from Andre van der Spuy Environmental Consultants (AVDS) dated 12 December 2019, refers.

Thank you for the opportunity to provide comment on the request to extend the appeal period on the Houmoed Avenue Phase 1 Extension until the 29<sup>th</sup> February 2020.

In the interest of time, the City would prefer not to delay the appeals process as we do not believe the motivations presented in the AVDS correspondence are valid grounds for an extension. Any further delays would impede the possibility of the City moving forward on the process of implementing what we believe to be critical road infrastructure for the area. Furthermore, given the extensive public participation process, it would be surprising if any new information will be presented that has not already been raised and documented in the BAR and Comments and Responses Report. The City, therefore, is not in support of the request for an extension to the appeal period.

Yours sincerely

**Mark Pinder (Pr Eng)**

Head: Conceptual Design and Project Planning  
TRANSPORT PLANNING

Cc

Chand Environmental Consultants, **Attention: Sadia Chand**  
Manager: Road Infrastructure Planning & Development, **Attention: Tony Vieira**

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