



**APPEAL FORM**  
**In terms of the National Appeal Regulations**

**April 2019**

**Form Number: AF12/2014**

**Note that:**

1. This appeal must be submitted within **20 days** of being notified of the decision.
  2. This form is current as of **December 2014**. It is the responsibility of the Appellant to ascertain whether subsequent versions of the form have been released by the Appeal Administrator.
  3. This form must be used for appeals submitted in terms of National Appeal Regulations, 2014 in so far as it relates to decisions in terms of the:
    - a. Environment Conservation Act, 1989 (Act No. 73 of 1989);
    - b. National Environmental Management Act, 1998 (Act No. 107 of 1998);
    - c. National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
    - d. National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);
    - e. National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008); and subordinate legislation made in terms of these laws.
  4. The required information must be inserted within the spaces provided in the form. The sizes of the spaces provided are not necessarily indicative of the amount of information to be provided. The spaces may be expanded where necessary.
  5. Unless protected by law, all information contained in, and attached to this application, will become public information on receipt by the Department.
  6. A digital copy of this form may be obtained from the Department's website at <http://www.capegateway.gov.za/dept/eadp>.
  7. Please consult the National Appeal Regulations (dated 8 December 2014) and the Department's Circular EADP 0028/2014 on the "One Environmental Management System" and the EIA Regulations (dated 9 December 2014), and any other relevant regulations.
-

**A. DECISION BEING APPEALED**

1. Reference Number of the Decision being appealed:

\_\_\_\_\_16/3/3/1/A6/45/2027/19\_\_\_\_\_

2. Type of Decision being appealed (please circle the appropriate option):

Environmental Authorisation	24G Administrative Fine	Amendment of Environmental Authorisation	Amendment of Environmental Management Programme	Waste Management Licence	Atmospheric Emission Licence	Exemption Notice
Permit in terms of NEM: BA	Administrative Notice/ Directive	ECA: OSCA Permit	Other			

3. Brief Description of the Decision:

Environmental authorization of approval of the proposed Phase 1 Extension of Houmoed Avenue, Sunnydale.

4. Date of the decision being appealed (i.e. date on which the decision was made):

\_\_\_\_\_22/11/2019\_\_\_\_\_

**B. APPELLANT'S INFORMATION**

5. Please circle the appropriate option

Applicant	State Department / Organ of State	Interested and Affected Party
-----------	-----------------------------------	-------------------------------

6. Appellant's information:

Name:

The appellants are those listed under Annexure O of this appeal and which appeal has been prepared and now submitted by Andre van der Spuy of AVDS Environmental Consultants.

Address:

AVDS Environmental Consultants  
42 Afrikander Road  
Simon's Town  
7975

Tel: 021 7862919\_\_\_\_\_ Cell: -\_\_\_\_\_

Fax: 0866849869\_\_\_\_\_

Email: [avdspuy@iafrica.com](mailto:avdspuy@iafrica.com)

**C. APPEAL INFORMATION**

7. Did you lodge an Appeal submission within 20 days of the notification of the decision being sent to you?

**Yes** /  **No** (Circle the appropriate response). If "Yes", attach a copy herewith.

Note: The appeal is however submitted within the extended period granted by the Minister according to his letter of 14/1/2020. A copy of the notification is attached.

8. The following documents must accompany the appeal submission, kindly indicate if they have been attached to the submission:

8.1 a statement setting out the grounds of appeal?;  
 **Yes** / **No** (Circle the appropriate response)

8.2 supporting documentation which is referred to in the appeal submission?;  
 **Yes** / **No** (Circle the appropriate response)

8.3 a statement, including supporting documentation, by the appellant that a copy of the appeal was submitted to the applicant, any registered interested and affected party and any organ of state with interest in the matter within 20 days from:

8.3.1 the date that the notification of the decision was sent to the registered interested and affected parties by the applicant.

**Yes** /  **No** (Circle the appropriate response).

**Please indicate the date on which a copy of the Notice of the decision was sent.** \_\_\_\_\_ 3/12/2019. It must be noted that extension of time **beyond** the 20 days was granted to the appellants by way of letter dated 14/1/2020 from the Minister. The required statement is provided under point 5 of the appeal. Appropriate proof of implementation of the task will be provide with the submission.

**OR**

8.3.2 the date that the notification of the decision was sent to the applicant by the competent authority, issuing authority or licensing authority.

**Yes** / **No** (Circle the appropriate response).

**Please indicate the date on which a copy of the Notice of the decision was sent.** \_\_\_\_\_

**D. GROUNDS OF APPEAL**

9. Set out the ground/s of your appeal: Clearly list your appeal issues and provide an explanation of why you list each issue.

Please refer to the accompanying appeal document and its Annexures.

---

9.1 Is your appeal based on factors associated with the process that was followed by the applicant/Environmental Assessment Practitioner/Competent Authority in reaching the decision?

**Yes** /  **No** (Circle the appropriate response). Please provide details.

\_\_\_\_\_Please refer to the accompanying appeal and supporting documents.\_\_\_\_\_

---

9.2 Is your appeal based on factors associated with matters of unacceptable environmental impacts/extenuating circumstances not taken into account by the Competent Authority?

**Yes** /  **No** (Circle the appropriate response). Please provide details.

Please refer to the accompanying appeal and supporting documents

9.3 Have your appeal issues been raised previously in the public participation process?

**Yes** /  **No** (Circle the appropriate response). Please provide details.

Most of the appeal issues were raised previously during the public participation process. However, the details of some issues are necessarily elaborated upon in the appeal in the absence of the EAP(s) not having done so in the application(s).

9.4 Are you fundamentally opposed to the decision (e.g. to any development activity on the site)?

**Yes** /  **No** /  **Not applicable** (Circle the appropriate response). Please provide details.

The site is inappropriate and unsuited for the type of road development that has been approved and for the reasons set out in the appeal.

9.5 Are you in favour of the decision if your concerns can be remedied by rectifying the process or by mitigating or eliminating an impact/s of the activity/ies?

**Yes** /  **No** /  **Not applicable** (Circle the appropriate response). Please provide details.

The site is inappropriate and unsuited for the type of road development that has been approved and for the reasons set out in the appeal. The "No go" option clearly offers the only and "best practical environmental option" as reasoned in the accompanying appeal.

9.6 Please indicate what measures you propose to have your concerns remedied.

As the accompanying appeal states, the approval of the authorised activity must be entirely rescinded and replaced with an environmental authorisation of the "No go" option in line with the reasoned precedent set under the decision on appeal taken on 7/92004 by the then Minister Tasneem Essop of the Department of Environmental Affairs and Development Planning (and record of which accompanies this appeal).

9.7 Does your appeal contain any new information that was not submitted to the Environmental Assessment Practitioner (EAP) / or registered I&APs/ or the competent authority prior to the decision?

**Yes** /  **No** (Circle the appropriate response). If the answer above is "Yes" please explain what this information is and why it should be considered by the Appeal Authority and why it was not made available to the EAP/ or I&AP/ or the competent authority prior to the decision. (Please ensure that the new information is attached hereto.)

New information that accompanies this appeal includes:

1. Ecological review by Dr. W. Harding (2019), included as Annexure A.
2. A legal opinion concerning the apprehension of bias in regard to one of the EAPs, included as Annexure G.
3. A review of amphibian and faunal matters by Dr. J. Tarrant of the Endangered Wildlife Trust, included as Annexure L.
4. An engineer's review by Mr. Sean Bassett, included as Annexure N.

The new information was commissioned as supporting evidence in response to substantive issues raised previously in the applications but which did not receive the correct and due consideration in the application and environmental authorisation.

**E. SUBMISSION ADDRESS**

This appeal must be submitted to the Appeal Administrator at the address listed below within 20 days of being notified of the decision:

By post: Attention: Marius Venter  
Western Cape Ministry of Local Government, Environmental Affairs &  
Development Planning  
Private Bag X9186, Cape Town, 8000; or

By facsimile: (021) 483 4174; or

By hand: Attention: Mr Marius Venter (Tel: 021-483 3721)  
Room 809, 8<sup>th</sup> floor Utilitas Building  
1 Dorp Street, Cape Town, 8000; or

By e-mail: [DEADP.Appeals@westerncape.gov.za](mailto:DEADP.Appeals@westerncape.gov.za)

**Note:** You are also requested to submit an electronic copy (Microsoft Word format) of the appeal and any supporting documents to the Appeal Administrator.



(On behalf of the appellants)

\_\_\_\_\_  
Appellant's signature

29/1/2020

\_\_\_\_\_  
Date