



REFERENCE: 16/3/3/1/D1/13/0024/24
DATE OF ISSUE: 16 September 2024

The Managing Director
PLETT LAGOON ESTATE (PTY) LTD
PO Box 1055
CAPE TOWN
8000

Attention: Mr. Paul Burton

E-mail: pbu@maynards.co.za

Dear Sir

COMMENT ON THE DRAFT BASIC ASSESSMENT REPORT FOR THE PROPOSED PLETT LAGOON ESTATE RESIDENTIAL DEVELOPMENT ON THE REMAINDER OF ERF 6503, PLETTENBERG BAY

1. The Draft Basic Assessment Report (Ref: BIT794/10) ("DBAR") dated 15 August 2024 compiled on your behalf by appointed independent Environmental Assessment Practitioner ("EAP"), Ms. Louise-Mari van Zyl (EAPASA No: 2019/1444) and assisted by Candidate EAP, Mr. Francois Byleveld (EAPASA No: 2023/6770) of Cape EAPrac, and received by this Department on 16 August 2024, refers.
2. The Directorate: Development Management (Region 3) ("this Directorate") has reviewed the DBAR and provides the following comment:

2.1. Coastal aspects

This Directorate takes note of the EAP's opinion that the subject property is separated from the Keurbooms River Estuary by private property (Erf 449 - not owned by the applicant). However, a review of the relevant aerial imagery suggests that the *coastal waters*¹ has moved landward over time and has almost completely submerged the private property bordering the Remainder of Erf 6503. Furthermore, the aerial imagery suggests that a portion of Erf 449 may also be below the High-Water Mark² ("HWM") of the estuary.

In light of the above, it is strongly advised that the HWM be surveyed, in consultation with the relevant Surveyor-General, to determine the current position of the HWM.

NOTE:

Your attention is drawn to Section 7 of the National Environmental Management: Integrated Coastal Management Act, Act 24 of 2008, as amended ("NEM:ICMA") which defines the composition of coastal public property as *inter alia*—

¹ "**coastal waters**" means (a) the internal waters, territorial waters, exclusive economic zone and continental shelf of the Republic referred to in sections 3, 4, 7 and 8 of the Maritime Zones Act, 1994 (Act No.15 of 1994), respectively; and (b) an estuary in accordance with the National Environmental Management: Integrated Coastal Management Act, Act 24 of 2008, as amended;

² "**high-water mark**" means the highest line reached by coastal waters, but excluding any line reached as a result of (a) exceptional or abnormal weather or sea conditions; or (b) an estuary being closed to the sea;

- (a) coastal waters;
- (b) land submerged by coastal waters, including—
 - (i) land flooded by coastal waters which subsequently becomes part of the bed of coastal waters; and
 - (ii) the substrata beneath such land;
- (d) the seashore, including—
 - (i) land flooded by coastal waters which subsequently becomes part of the bed of coastal waters; and
 - (ii) the substrata beneath such land;

Furthermore, in accordance with Section 11 of the NEM:ICMA ownership of coastal public property vests in the citizens of the Republic and must be held in trust by the State on behalf of the citizens of the Republic; and coastal public property is inalienable and cannot be sold, attached or acquired by prescription and rights over it cannot be acquired by prescription.

2.2. *Conservation of the natural wetland*

This Directorate understands that the natural wetland between the proposed development and the Keurbooms River estuary will be conserved and will act as a buffer between the development and the estuary. It is proposed that the wetland will be used as a functional open space with pedestrian and cycling access. This Directorate also understands that clarification be obtained from the Southern Cape Fire Protection Association regarding to provision of paths up to 3m wide in order for small vehicle access (e.g. kabota) which may be used for maintenance, including alien clearing. However, this Directorate does not support vehicular access to this proposed open space or the establishment of 3m-wide paths within the natural wetland area. It is strongly advised that footprint be a maximum width of 1.2m which is considered adequate for two pedestrian traffic as well as wheelchairs.

Furthermore, it is understood that the natural wetland area will be rezoned to Open Space Zone III and will be managed for a conservation use as a private nature reserve. However, a review of the data on the National Department of Forestry, Fisheries and the Environment's Protected Areas Register ("PAR") indicates that the natural wetland area is mapped as part as a Priority Focus Area in terms of the National Protected Areas Expansion Strategy ("NPAES"). The wetland is therefore considered of high importance for land-based protected area expansion.

In light of the above, you are required to obtain comment from the South African National Parks ("SANParks") in respect of the proposed development and whether the proposed zoning is considered appropriate for the long-term management of the site. You are advised to also obtain comment from SANParks in respect of the Conservation Management Plan (Section 10 of the Environmental Management Programme).

2.3. *Fencing along the eastern boundary of the natural wetland*

The alternatives in respect of the fencing of the proposed development are noted. This Directorate understands that two additional alternatives (fence route alignment) are being considered to reduce security risks and fire risk management. According to the information in the DBAR as well as the information in the Aquatic Biodiversity Impact Assessment, it is proposed to develop a security fence along the eastern edge of the natural wetland. In this regard two alternatives have been identified, as depicted in Figure 22 (pg. 30) of the Aquatic Biodiversity Impact Assessment.

According to the information and the respective biodiversity related specialist reports, the natural wetland area has a “High” site ecological importance (“SEI”) and the Present Ecological State (“PES”) has been determined to be a *Category A: Natural*. Furthermore, the area is considered as an important refuge and corridor for faunal species. Notwithstanding the mitigation measures proposed in the respective reports, *inter alia*, the provision of adequate space between vertical struts of the security fence, this Directorate is of the considered opinion that a proposed fence along the eastern edge of the natural wetland will result in fragmentation of the faunal habitat as well as impact on faunal movement.

With due consideration of the above as well as the fact that the natural wetland has been identified as a Priority Focus Area in terms of the NPAES, this Directorate does not support the establishment of a fence along the eastern edge of the natural wetland. It is advised that alternative security measures (e.g. closed-circuit television monitoring system, security patrolling, etc.) be considered.

In light of the above, this Directorate requires that the alternative to establish the security fence be on the western side of the natural wetland area, above the 5 m topographical contour (referenced from the indicative mean sea level), outside of the 30m wetland buffer, be carefully assessed. The alternative/proposals must clearly show how the mitigation hierarchy regarding environmental impacts has been considered, of which “avoiding the impact” altogether is the primary objective.

2.4. Proposed sewage package plant and operational requirements

This Directorate understands that a sewage package plant is being proposed as the Ganse Vallei Wastewater Treatment Works (“WWTW”) does not have adequate capacity for any new developments within its catchment without upgrades to the WWTW. In this regard, it is understood that the proposed package plant will be situated at the entrance to the proposed development and will have a treatment capacity of 40m³ per day. Furthermore, the sewage will be treated to the General Limits specified by the Department of Water and Sanitation (“DWS”).

According to the information in the DBAR and supporting information, the treated effluent will be collected in 4 x 10 000ℓ storage tanks and will be used for the irrigation of the road verges, erven, open spaces, etc. (specified in Table 7 (pg. 24) of the Water Use License Application (“WULA”) Summary Report). It is understood that during abnormally wet conditions, where irrigation is not possible, that the treated effluent can be stored for 24-hours. However, this does not appear to be the best practicable environmental option as the likely impact of a perched water table has not been discussed in the relevant reports. During abnormally wet conditions, the water table may be saturated for a considerable period of time after rainfall events, which may result in more than one day (i.e., 24-hour period) that the areas may not be irrigated. In this regard, it is understood that should it be required, the effluent will be collected by means of a honeysucker and disposed of at a licenced wastewater treatment facility. With reference to the information that there currently is no capacity at the Ganse Vallei WWTW, it is unclear where and how the effluent will be disposed of.

It is understood that the effluent from the treatment process will comply with the General Limits; however, it has not been adequately explained what will happen in the event where the effluent does not comply with the quality standards and whether the facility will have adequate storage capacity to temporarily store the non-compliant effluent. The procedure for such an eventuality must be adequately addressed in the respective reports.

Please be advised that in accordance with Section 152 the Constitution and Section 73 of the Local Government: Municipal Systems Act, 2000 (Act no. 32 of 2000), the general duties and functions of local government are described, which require *inter alia* that the local government must provide basic services. The Local Government: Municipal Systems Act, 2000 does however allow for the provision of such a municipal service in its area or part of its area, through an external mechanism by entering into a service delivery agreement with an entity or person legally competent to operate a business activity. As such the applicant must enter into a Service Level Agreement with the Bitou Municipality.

In light hereof, the Bitou Municipality's Department: Engineering Services must provide guidance on the requirements and implementation of such a service level agreement. In addition, the level of the service must be specified (i.e. service standard) and under which circumstances the municipality shall need to undertake the management and the maintenance of the facility to provide the service (i.e. failure to provide an adequate service).

Notwithstanding the above proposal and guidance, the BAR must clearly demonstrate why the Bitou Municipal WWTW is not an option. If the disposal of sewage at the Municipal WWTW only relates to the current capacity constraints, then the requirements and timing for the upgrade of the relevant WWTW facility must be detailed. Furthermore, it must be explained whether the required upgrade/expansion to the Ganse Vallei WWTW will require Environmental Authorisation or not.

2.5. *Proposed upgrades to the existing bulk water supply network*

It is understood that a temporary solution to the bulk network is proposed to accommodate the proposed development in the municipal water supply network. The proposed solution is the installation of an additional 460m long, 160mm diameter pipeline within the N2 National Road road reserve. It is understood that the proposed temporary pipeline will be laid above ground and will not require any clearance of vegetation (only brush-cutting) or earthworks. According to the information the proposed temporary solution will be undertaken by the developer of Portions 19 and 27 of the Farm Ganse Vallei No. 444. In this regard, you are required to provide this Directorate with the requisite approvals, including but not limited to an environmental authorisation and approval from the South African National Roads Agency Limited ("SANRAL").

2.6. *National Water Act, Act No. 36 of 1998*

This Directorate notes the WULA Summary Report included as Appendix O of the DBAR. Furthermore, it is understood that the DBAR along with the WULA Summary Report is being circulated for a period of 60 days in order to comply with the requirements of the National Water Act, Act 36 of 1996.

In this regard, it must be ensured that any information required by the DWS is included in the BAR. Please be advised that the EIA process and the Water Use Application process / information must be synchronised. You are reminded that if these processes are not properly aligned, the lack of synchronisation; omission of any reports/information; or delay as a result thereof, may prejudice the success of the application for environmental authorisation.

3. *Submission of Basic Assessment Report*

The BAR must contain all the information outlined in Appendix 1 of the EIA Regulations, 2014, and must also include and address any information requested in any previous correspondence in respect of this matter. Case 16/3/3/6/7/1/D1/13/0177/23 refers in this regard.

Please be reminded that in accordance with Regulation 19 of the EIA Regulations, 2014, the Department hereby stipulates that the BAR (which has been subjected to public participation) must be submitted to this Department for decision within **90 days** from the date of receipt of the application by the Department. However, if significant changes have been made or significant new information has been added to the BAR, the applicant/EAP must notify the Department that an additional 50 days (i.e. 140 days from receipt of the application) would be required for the submission of the BAR. The additional 50 days must include a minimum 30-day commenting period to allow registered I&APs to comment on the revised report/additional information.

If the BAR is not submitted within 90 days or 140 days, where an extension is applicable, the application will lapse in terms of Regulation 45 of Government Notice Regulation No. 982 of 4 December 2014 and your file will be closed. Should you wish to pursue the application again, a new application process would have to be initiated. A new Application Form would have to be submitted.

NOTE: Furthermore, in accordance with Environmental Impact Assessment best-practice, you are kindly requested to notify all registered Interested and Affected Parties including the authorities identified in the Public Participation Plan of the submission of the FBAR and to make the document available to them. This will provide such parties an opportunity to review the document and how their issues were addressed.

4. Please note that a listed activity may not commence prior to an environmental authorisation being granted by the Department.
5. Kindly quote the above-mentioned reference number in any future correspondence in respect of this matter.
6. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully

Francois Naudé

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HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Ref.: 16/3/3/1/D1/13/0024/24

Copied to:

Cape EAPrac:

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REFERENCE: 16/3/3/6/7/1/D1/13/0177/23
DATE OF ISSUE: 1 February 2023

THE DIRECTOR
PLETT LAGOON ESTATE (PTY) LTD
P.O. Box 1055
CAPE TOWN
8000

Attention: Mr. Paul Burton

Cel: 083 700 8216

E-mail: pbu@maynards.co.za

Dear Sir

COMMENT ON THE PRE-APPLICATION BASIC ASSESSMENT REPORT FOR THE PROPOSED PLETT LAGOON ESTATE ON REMAINDER OF ERF 6503, PLETTENBERG BAY

1. The Pre-Application Basic Assessment Report ("Pre-App BAR") in respect of the abovementioned matter, received by this Department via e-mail on 10 November 2023, refers.
2. This Department has reviewed the Pre-Application BAR and has the following comment:
 - 2.1. *Declarations*

The Pre-App BAR does not have a signed declaration and neither has the specialists who compiled the *Terrestrial Plant, Animals and Terrestrial Biodiversity Reports* attached such declaration. This indicates that the applicant does not declare that the information submitted is true and correct, similarly the specialists' reports are not verified as true and correct.
 - 2.2. *Municipal Engineering Services*
 - The content of the Civil Engineering Services Report is acknowledged. It is however noted that the Bitou Municipality has provided you with a letter confirming the availability of engineering services; however, the Municipality has provisionally confirmed the availability of certain engineering services and requires that you develop certain infrastructure identified on the GLS Network Analysis Report, dated 27 February 2023.

Please note that this Department does not support incremental decision-making, and it is vital for the competent authority to understand what the upgrade or development of infrastructure entails and if such activities require environmental

authorisation. Furthermore, it is important to understand when any of the upgrades will take place.

This must be clarified and if necessary, the Bitou Municipality may need to update the letter. Please refer to the points below for additional issues.

- *Potable water*

It is noted that the bulk water system to Goose Valley, Wittedrift and Matjiesfontein reservoirs is at capacity and should be upgraded before additional developments within the reservoir supply areas can be accommodated. This upgrade would consist of an additional 160mm bulk main off the existing 160mm distribution main in the N2 road reserve which will free up an additional 860kl/day and only once this is done, will the development be accommodated in terms of water supply.

It is unclear whether this upgrade will require an environmental authorisation (or other approvals) and when this upgrade is proposed as no implementation plan has been included. It is further noted that this will be done by the developer of Portion 19 and 27 of Farm 444. More information is required.

- *Sewer and sewage treatment:*

In terms of sewerage, it is noted that there is sufficient capacity in the existing Plettenberg Bay sewer reticulation system to accommodate the proposed development.

It is understood that sewage will be pumped to the Gansvlei wastewater treatment works (WWTW). The reports are unclear whether this facility indeed has adequate capacity to treat the sewage that will be generated by the proposed development. In light hereof it will be prudent that the following is confirmed:

- the total existing capacity of the wastewater treatment works ("WWTW");
- any additional expansion of the WWTW capacity already approved of by the environmental authority, but not yet effected;
- unallocated sewage treatment capacity available to service both the phased and completed (total) expected sewage output load by the abovementioned applications, or sufficient approved unallocated capacity able to accommodate the abovementioned applications in future;

- *Stormwater management and infrastructure:*

The report states that there is no formal bulk municipal stormwater infrastructure in the vicinity of the site. The high permeability of the *in-situ* sands ensures that all stormwater run-off permeates into the subsoil layers and a formalised bulk stormwater connection for the development is not required.

Specific detail (designs) must be given for the proposed stormwater structures that will be constructed to cater for the stormwater to access the wetland area. This includes positions. Also, indicate whether these structures will extend beyond the "no-go" boundary indicated.

The Bitou Municipality must provide written comment on the adequacy of the stormwater infrastructure design.

- *Solid waste disposal:*

It is unclear from the Bitou Municipality's letter whether there is indeed sufficient unallocated waste disposal capacity available to service both the phased and completed (total) expected solid waste output load by the proposed development, or sufficient approved unallocated capacity able to accommodate the abovementioned applications. It is understood that solid waste is not necessarily managed by the Directorate Engineering Services.

Clarity is required in this regard.

- *Electricity transmission and demand:*

It is unclear from the report and Bitou Municipality's letter whether there is sufficient unallocated electrical distribution capacity available to service the abovementioned applications, or sufficient approved unallocated electrical distribution capacity (i.e. still to be constructed) able to accommodate the abovementioned applications in future.

With reference to electrical capacity, the notified demand of the municipality must be provided, and whether an increase thereof is required to service a development. If the notified demand will be exceeded, the capacity must be confirmed by ESKOM. Alternatively, it must be demonstrated how the electrical demand will be dealt with to the standard set by the Bitou Municipality.

Clarity is sought on the above.

2.3. *No-Go Alternative*

In the report the reasons why the No-Go alternative is not preferred has been described but not what the No-Go Alternative is. Kindly complete this section. Also, note that this Department can consider and authorise any alternative presented.

2.4. *Aquatic Impact Assessment*

It is noted in this report that a mitigation is to cease the mowing of the wetland on the northern extent of the wetland and to maintain a pathway for access to the estuary and a strip large enough for a single vehicle along the boundary. This requirement for a strip for a vehicle has not been justified. Also, it would seem prudent to rehabilitate this section of the wetland. It is suggested that a rehabilitation plan be developed for this purpose.

The delineated wetland area extends to the neighbouring property (Erf 6504) and it must be noted that development is proposed on this property. It is suggested that the landowner be requested to comment on this as it may have bearing on his proposal to develop on his land.

2.5. Terrestrial Animal Species Assessment

It is noted that the potential impacts on animal species by having pedestrian and cycling routes through the wetland area has not been appropriately assessed. This is important to assess since the specialist has indicated that numerous Species of Conservation Concern (SCCs) are likely to occur in the area. This is especially important to note what the impact of constant human disturbance would be on the animals in their habitat once the area is open for walkways and cycling routes. Furthermore, it is written that the Goukamma Dune thicket area and wetland area must be declared a No-Go area, yet pedestrian and cycling access should be allowed.

2.6. Terrestrial Plant Species Assessment

It has not been noted that the specialist has considered that the section of the wetland that has been continuously mowed, be restored / rehabilitated. This appears to be a flaw in this assessment.

2.7. Open Space Trail Map

As mentioned above, the provision for pedestrian access in the wetland as well as cycle routes does not make sense considering the high sensitivity as indicated by the Aquatic Specialist and botanist. Also, the length of the cycle routes are short which adds to the need thereof being questioned. It is suggested that this need be re-evaluated.

2.8. General

Kindly refrain from summarising comments in the comments and responses report. It has been found that not all comments are addressed when this occurs.

3. Synchronising applications in terms of other applicable legislation with the EIA process:

- *National Water Act, Act No. 36 of 1998 ("NWA")*
(Synchronisation of the WULA – EIA processes / applications)

Please be advised of the required synchronisation between the EIA process and the Water Use License Application ("WULA") process. You are reminded that if these processes are not properly aligned, the lack of synchronisation; omission of any reports/information; or delay as a result thereof, may prejudice the success of this application for environmental authorisation.

All specialist reports submitted as part of the BAR (including those submitted for consideration and which also may form part of the WULA) must comply with the requirements of Appendix 6 of the Environmental Impact Assessment Regulations 2014.

4. Please note that the pre-application consultation is an advisory process and does not pre-empt the outcome of any future application which may be submitted to the Department.
5. No information provided, views expressed and /or comments made by officials during the pre-application consultation should in any way be seen as an indication or confirmation:
 - that additional information or documents will not be requested

- of the outcome of the application
6. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for undertaking it. Failure to comply with the requirements of Section 24F of the NEMA shall result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department.
 7. Kindly quote the above-mentioned reference number in any future correspondence in respect of this matter.
 8. Please note that the pre-application consultation is an advisory process and does not pre-empt the outcome of any future application which may be submitted to the Department.

No information provided, views expressed and/or comments made by officials during the pre-application consultation should in any way be seen as an indication or confirmation:

- that additional information or documents will not be requested; or
 - of the outcome of the application
9. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully

Francois Naudé Digitally signed by Francois Naudé
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HEAD OF COMPONENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: EAP: Cape EAPrac (EAP) E-mail: louise@cape-eaprac.co.za / francois@cape-eaprac.co.za

REFERENCE: 16/3/3/6/7/1/D1/13/0177/23
DATE OF ISSUE: 10 August 2023

THE DIRECTOR
PLETT LAGOON ESTATE (PTY) LTD
P.O. Box 1055
CAPE TOWN
8000

Attention: Mr. Paul Burton

Cel: 083 700 8216
E-mail: pbu@maynards.co.za

Dear Sir

COMMENT ON THE NOTICE ON INTENT AND SITE SENSITIVITY VERIFICATION REPORT FOR THE PROPOSED “PLETT LAGOON ESTATE” ON REMAINDER OF ERF 6503, PLETTENBERG BAY

1. The abovementioned Notice of Intent (Ref: BIT794/01) (“NOI”) dated 15 June 2023 compiled on your behalf by your appointed Environmental Assessment Practitioner (“EAP”), Ms Louise-Mari van Zyl (EAPASA No: 2019/1444) and Mr. Francois Byleveld of Cape EAPrac (Pty) Ltd., (“Cape EAPrac”), and received by this Department on 15 June 2023, refers.
2. This Directorate hereby acknowledges receipt of the abovementioned documents.
3. A request for a Pre-Application meeting has been indicated. Kindly request the EAP to liaise with the case officer to a suitable date and time to have the meeting.
4. *Minimum requirements for Environmental Assessment Practitioners*

In accordance with Regulation 12(a) of the Environmental Impact Assessment Regulations, 2014, (Government Notice R.982 of 4 December 2014, as amended) an applicant must appoint an EAP to manage the application for Environmental Authorisation.

Please be reminded that as of 8 August 2022, the person appointed to hold the primary responsibility for the planning, management, co-ordination, and execution of the tasks contemplated in Regulation 14 of the Section 24H Registration Authority Regulations, 2016 (Government Notice 849 dated 22 July 2016, as amended) must be registered with Environmental Assessment Practitioners Association of South Africa (EAPASA). Such a person appointed to hold the primary responsibility for the planning, management, co-ordination, and execution of the tasks, may be assisted to perform such tasks by a person registered with EAPASA as a Candidate EAP.

The documents received to date, do not clearly demonstrate that the specific tasks have been undertaken and completed by a registered EAP (albeit with the assistance of a registered Candidate EAP).

You are advised to address this matter and ensure that the documents received or those documents still to be submitted, comply with the regulatory prescripts.

5. Notwithstanding the above, this Directorate has reviewed the information and provides the following guidance and advice.
6. From the information contained within the NOI this Directorate understands the following: The proponent wishes to develop a residential estate with retirement component, on a Portion of Remainder of Erf 6503, Plettenberg Bay. Remainder of Erf 6503 is located in Plettenberg Bay, east of the N2 and Plett Primary School, bordering the Keurbooms River Estuary. Access is gained from an existing public road (Beacon Way) in the south-west corner of the proposed development site, between Checkers and Plettenberg Bay Primary School.

The proposal includes the development of the following:

- Ten (10) apartment blocks, consisting of four (4) apartments in each = 40 apartments in total.
 - 28x Residential Zone II erven.
 - Nine (9) Residential Zone I erven.
 - Clubhouse.
 - Entrance gate.
 - Access roads between plots and apartments.
 - Parking/Garage units.
 - Open Spaces.
7. A Basic Assessment process must be followed in order to apply for Environmental Authorisation. Only those activities applied for shall be considered for authorisation. The onus is on the applicant to ensure that all the applicable listed activities are applied for and assessed as part of the Basic Assessment process.
 8. The Department notes your "Request for a specific fee reference number". The following specific fee reference number **G-BA-EIA-J12** must be inserted into the Application Form and proof of payment of the applicable fee attached when the Application Form is submitted to the Department.
 9. *Applicable Listed Activities:*

Although the property falls within the "urban edge" identified in the Spatial Development Framework ("SDF") of the Bitou Municipality, it must be made clear that in terms of the Environmental Impact Assessment Regulations 2014, the definition of urban areas is "areas situated within the urban edge (as defined or adopted by the competent authority) and the competent authority being this Department.

Based on this Department's NEMA EIA Circular 1 of 2012, and the information contained within the documentation received from you, the property does not conform to the "interim urban edge" as adopted on 5 March 2012. For the purpose of the Environmental Impact Assessment Regulations, 2014, the property is regarded to fall outside the urban area.

The following additional listed activities are not included in your Application Form and may be triggered by the proposed development, namely:

- Activity Number: 17(v)(e) of the Environmental Impact Assessment Regulations Listing Notice 1 of 2014; and
- Activity Number: 4(ii)(aa) of the Environmental Impact Assessment Regulations Listing Notice 3 of 2014

These must also be included and assessed in the Basic Assessment Report ("BAR"). You are reminded that only those activities applied for will be considered for authorisation. The onus is on the applicant to ensure that the applicable listed activities are assessed as part of the Environmental Impact Assessment ("EIA") process.

Should you concur that the above activities are indeed also applicable, you must ensure that they are included in the Application Form and ensure that all the applicable activities are assessed in the BAR.

The onus is on the proponent/applicant to ensure that the applicable listed activities are applied for and assessed as part of the Environmental Impact Assessment ("EIA") process.

10. *Specialist Studies identified in the Screening Tool Report for which the themes are subject to Site Sensitivity Verification Requirements:*

The Minister of Environment, Forestry, Fisheries has published general requirements for undertaking site sensitivity verification for environmental themes for activities requiring environmental authorisation. In terms of these requirements, prior to commencing with a specialist assessment, the current land use and environmental sensitivity of the site under consideration by the screening tool must be confirmed by undertaking a site sensitivity verification.

In light of the above this Directorate has reviewed the Site Sensitivity Verification Report ("SSVR") compiled by the EAP and has found that the SSVR does not comply with the protocols. Nonetheless, the following is provided:

(a) Agriculture Theme (High Sensitivity)

The SSVR and the National Screening Tool Report (STR) indicates that the Sensitivity of the site for this theme is High. However, it is noted that the EAP disputes this rating and recommend a new rating of low. It is written in the SSVR that the property has been utilised for grazing in the past, but no cultivation has taken place due to the lack of registered water rights. It has been stated that no study will be undertaken for this theme. Please be advised that the latter proposal is contrary to the minimum information requirements for this

theme and as a minimum an Agricultural Compliance Statement prepared by a soil scientist or agricultural specialist registered with the SACNASP should be submitted. Furthermore, the SSVR does not address the land capability for this property or site and no proof of the site sensitivity for this theme has been provided to substantiate the EAP's view.

Nonetheless, the EAP must consult the WCG Department of Agriculture (DoA) in the public participation process and specifically obtain written confirmation from said organ of state regarding the delineation of the theme, and necessity for any further studies regarding the Agriculture Theme.

(b) Animal Species Theme (High Sensitivity)

The STR identified a *High Sensitivity* for the Animal Species Theme and lists birds, invertebrates, an amphibian and mammal which are known to occur in the area, based on the habitat type identified by the applicable datasets. The STR also lists a "Sensitive Species 8" (i.e. a species which name has been withheld as the species may be prone to illegal harvesting and must be protected). The protocol states that "An applicant intending to undertake an activity identified in the scope of this protocol, on a site identified by the screening tool as being of "very high" or "high" sensitivity for terrestrial animal species must submit a Terrestrial Animal Species Specialist Assessment Report." However, it is acknowledged that a part of the proposed area for the development will occur on a medium sensitivity area.

Therefore, since the EAP has refuted the sensitivity and suggests a sensitivity of medium, the presence or likely presence of the SCCs 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. Only once this has been done, will the level of assessment be determined, as indicated in paragraph 4 of the applicable protocol. As such, this Directorate can only strongly suggest that a Terrestrial Animal Species Specialist Assessment be undertaken.

(c) Aquatic Biodiversity Sensitivity (Very High Sensitivity)

The STR states that the sensitivity in terms of aquatic biodiversity is very high and the EAP has not disputed this. It is noted that an Aquatic Biodiversity Impact Assessment will be undertaken by a suitably qualified specialist registered with the SACNASP, with expertise in the field of aquatic sciences.

(d) Archaeological and Cultural Heritage Sensitivity (Very High Sensitivity)

It is noted that a notice of intent to develop ("NID") will be submitted to Heritage Western Cape (HWC). The NID and all supporting documents (submitted to HWC) must be appended to the Draft Basic Assessment report.

In light of the above requirements from HWC please be advised that the Standard Operating Procedure between Heritage Western Cape and this Department must be followed. Please refer to the advise on synchronising the two processes.

(e) Civil Aviation Sensitivity (High sensitivity)

It is noted that the STR has indicated that the sensitivity for the Civil Aviation Theme is *High*. The EAP has refuted this and suggested a new rating of low. The EAP has stated that the South African Civil Aviation Authority will be added to the I&AP register to obtain comment.

Nonetheless, the EAP must consult the South African Civil Aviation Authority ("SACAA") (% Ms. Lizell Strohl at E-mail: Strohl@caa.co.za and / or Tel: (011) 545 1232) in the public participation process and specifically obtain written confirmation from said organ of state regarding the delineation of the theme, and necessity for any further studies regarding the Civil Aviation Theme.

(f) Defence Sensitivity (Low sensitivity)

It is noted that the Screening Tool report has noted a low sensitivity for the Defence theme therefore no further assessment and mitigation measures are required in terms of the applicable Protocol published in Government Notice No. 320 of 20 March 2020.

(g) Palaeontology Sensitivity (Medium Sensitivity)

It is noted that a NID will be submitted to Heritage Western Cape (HWC). The NID and all supporting documents (submitted to HWC) must be appended to the Draft Basic Assessment report. In light of the above requirements from HWC please be advised that the Standard Operating Procedure between Heritage Western Cape and this Department must be followed.

(h) Terrestrial Plant Species Theme (Medium Sensitivity)

The STR identified a Medium Sensitivity for the Plant Species Theme and numerous species which are known to occur in the area, based on the habitat type identified by the applicable datasets. The STR also lists a number of "Sensitive Species"). It is noted in the SSVR that a specialist will determine what type of assessment will be required after a site sensitivity verification process. This should have been done already. As such, this Directorate strongly recommends that the findings of the specialist's site sensitivity verification be submitted to this Directorate prior to the application for Environmental Authorisation being submitted to the competent authority.

(i) Terrestrial Biodiversity Sensitivity (Very High Sensitivity)

The STR provides a Very High Sensitivity for Terrestrial Biodiversity. The EAP has refuted this and suggests a new rating of *Medium*. Please note that there is no rating for Medium in the protocols. It is strongly suggested that a Terrestrial Biodiversity Specialist Assessment Report will be undertaken. Please note that the report must be undertaken by a specialist registered with the South African Council for Natural Scientific Professions (SACNASP) with expertise in the field of ecological sciences.

10.1. Other Specialist Studies identified in the Screening Tool Report

(a) Landscape / Visual Impact Assessment

The EAP suggests that there are no triggers justifying a visual impact assessment. This Directorate would like clarity on what the triggers would be. Nonetheless, all visual aspects must be appropriately addressed in the Basic Assessment Report.

(b) *Socio-economic Impact Assessment*

The EAP has stated that there are no known triggers that are linked to social impacts and that information on the social and economic benefits will be reflected in the Basic Assessment Report. The “known” triggers must be expanded upon in the forthcoming reports. Nonetheless, the EAP is advised to consider this Department's *Guideline for involving social assessment specialists in the EIA process, February 2007* and based thereon demonstrate why no further socio-economic study is required.

11. *Coastal Aspects*

Consideration of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (“ICMA”).

When any listed activities are to be carried out within the coastal zone which require an environmental authorisation in terms of the National Environmental Management Act, Act 107 of 1998, as amended (NEMA), the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (NEM:ICMA) provides for additional criteria which must be considered when evaluating an application for an activity which will take place within the coastal zone.

There are many aspects that must be taken into account when the competent authority considers an application for authorisation, *inter alia*:

- Representations made by the applicant and by interested and affected parties (“I&APs”);
- The applicant's past record in complying with similar authorisations (where applicable);
- If coastal public property, coastal access land or the coastal protection zone will be affected by the proposed action;
- Coastal management objectives;
- The socio-economic impact if that activity or action is authorised or not authorised;
- The likely impact on the coastal environment including the cumulative effect;
- The likely effect of coastal processes (such as wave, current and wind action, erosion, accretion, sea-level rise, storm surges and flooding) on the activity; and
- The objectives of the NEM:ICMA which apply to the activity.
- Consideration of public access.

It is advised that the EAP / specialists specifically address the requirements of the NEM:ICMA during the application process.

12. *Synchronising applications in terms of other applicable legislation with the EIA process:*

12.1. *National Heritage Resources Act, 1999 (Act No. 25 of 1999) (“NHRA”)* *(Synchronisation of the HIA – EIA processes / applications)*

Section 38 of the NHRA sets out the requirements regarding the integration of the decision-making processes with that of the EIA Regulations 2014, however, under the proviso that the necessary information is submitted and any comments and recommendations of the relevant heritage resources authority (HWC) with regard to such development have been provided and taken into account prior to the granting of the authorisation. Further to the above:

- An application for Environmental Authorisation, must include, where applicable, the investigation, assessment and evaluation of the impact of any proposed listed or specified activity on any national estate referred to in section 3(2) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), excluding the national estate contemplated in section 3(2)(i)(vi) and (vii) of that Act.
- Where Section 38 of the NHRA is triggered, the Standard Operating Procedure between Heritage Western Cape and this Department must be followed. If Section 38 is applicable to the proposed development, then the proponent/applicant is required to submit a Notice of Intent to Develop ("NID") to Heritage Western Cape and attach a copy thereof to the EIA application form. If Heritage Western Cape requires a Heritage Impact Assessment, the Heritage Impact Assessment must be undertaken as one of the specialist studies of the EIA process to be undertaken in terms of the NEMA EIA Regulations, 2014.

12.2. *National Water Act, Act No. 36 of 1998 ("NWA") (Synchronisation of the WULA – EIA processes / applications)*

Please be advised that the National Environmental Management Laws Amendment Act, Act 2 of 2022 (NEMLAA), came into effect on 30 June 2023. This Act added subsection 24C(11) to the NEMA which requires that *"a person who requires an environmental authorisation which also involves an activity that requires a licence or permit in terms of any of the specific environmental management Acts (i.e., NWA), must simultaneously submit those applications to the relevant competent authority or licensing authority, as the case may be, indicating in each application all other licences, authorisations and permits applied for"*.

In light of the above, please advise your appointed EAP and the consultant responsible for the Water Use License ("WUL") process to liaise; and consult with the relevant authority, the Breede-Olifants Catchment Management Agency ("BOCMA") urgently. It is strongly advised that the EAP also include the BOCMA in the pre-application meeting with this Department.

Please be advised of the required synchronisation between the EIA process and the Water Use License Application ("WULA") process (if the latter is required). You are reminded that if these processes are not properly aligned, the lack of synchronisation; omission of any reports/information; or delay as a result thereof, may prejudice the success of this application for environmental authorisation.

All specialist reports submitted as part of the BAR (including those submitted for consideration and which also may form part of the WULA) must comply with the requirements of Appendix 6 of the Environmental Impact Assessment Regulations 2014.

13. *Municipal Bulk Services*

Confirmation from the Bitou Municipality must be obtained for all basic services to this proposal. This must include potable water supply, sewerage disposal, electrical supply and solid waste. This information must be included with forthcoming reports.

14. You are advised that when undertaking the Basic Assessment process, you must take into account applicable guidelines, including the circulars and guidelines developed by the Department. These can be provided upon request.

In particular, the guidelines that may be applicable to the proposed development include, *inter alia*, the following:

- Guideline for the Review of Specialist Input in the EIA process (June 2005).
- Guideline for Environmental Management Plans (June 2005).
- Guideline on Alternatives (March 2013).
- Guideline for determining the scope of specialist involvement in EIA processes, June 2005.
- Guideline for the review of specialist input in the EIA process, June 2005.
- Guideline for involving biodiversity specialists in the EIA process, June 2005.
- Guideline for involving social assessment specialists in the EIA process, February 2007.
- *DEA (2017), Guideline on Need and Desirability*, Department of Environmental Affairs (DEA) Pretoria, South Africa (ISBN: 978-0-9802694-4-4).

15. *Public Participation Plan:*


Notwithstanding the fact that an agreement regarding the proposed actions to conduct the public participation process as a result of COVID-19 restrictions is no longer a requirement, it must be ensured that Regulation 41 of the Environmental Impact Assessment, 2014 (Government Notice No. R. 982 of 4 December 2014, as amended) is complied with simultaneously during the pre-application phase (where relevant) or application phase or both *inter alia*, the placement of an advertisement in the local newspaper, the placement of a site notice at the site or alternative site and informing owners, persons in control of, and occupiers of land adjacent to the site; and informing relevant State Departments and Organs of State which administers a law in respect of the proposed development. Please be informed that failure to comply with Regulation 41 may prejudice the outcome of this application for environmental authorisation.

16. Kindly ensure the Basic Assessment Report ("BAR") and Environmental Management Programme ("EMPr") contain all information requirements outlined in Appendices 1 and 4 respectively of the Environmental Impact Assessment Regulations, 2014 (GN R. 982 of 4 December 2014, as amended).

17. Please note that the pre-application consultation is an advisory process and does not pre-empt the outcome of any future application which may be submitted to the Department.
18. No information provided, views expressed and /or comments made by officials during the pre-application consultation should in any way be seen as an indication or confirmation:
 - that additional information or documents will not be requested; and
 - of the outcome of the application
19. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for undertaking it. Failure to comply with the requirements of Section 24F of the NEMA shall result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department.
20. Kindly quote the above-mentioned reference number in any future correspondence in respect of this matter.
21. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully

pp Francois Naudé

 Digitally signed by Francois Naudé
Date: 2023.08.10 14:09:09 +02'00'

HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

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