



REFERENCE: 16/3/3/6/7/1/D5/19/0117/21
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 25 January 2022

Daily Double Trading 447 cc
Unit 19
Eden Mall
STILBAAI
6674

Attention: Mr. Ben Bekker

Cell: 082 331 0281

Email: Benbekker25@gmail.com

Dear Sir

COMMENT ON THE SITE VERIFICATION REPORT AND PUBLIC PARTICIPATION PLAN FOR THE PROPOSED REZONING AND SUBDIVISION OF ERF 3927 FOR PATRYS DEVELOPMENT, STILL BAY WEST, HESSEQUA MUNICIPALITY

1. The abovementioned document received by the Directorate: Development Management (Region 3), hereinafter referred to as "this Directorate" via electronic mail on 24 November 2021 refers.
2. Public Participation Plan:
 - a) In terms of the Directions^[1] issued on 5 June 2020, the Competent Authority may be approached for an agreement as provided for in Regulation 41(2)(e) of the Environmental Impact Assessment Regulations, 2014 (as amended) to conduct a public participation process which is reasonable and fair.
 - b) Considering the above, this Directorate has reviewed the proposed Public Participation Plan and **agrees** to the proposed actions to conduct a public participation process subject to the following:
 - i) That the plan be amended to include the measures that will be implemented to combat the spread of Covid-19.
3. Site Verification Report:

The content of the site verification report and reasons for dispute is noted. However, Please note the following:

 - a) Agricultural Sensitivity Theme
The Agricultural Sensitivity Theme is rated as "Medium", which was disputed by the Environmental Assessment Practitioner (EAP) based on the fact that the erf is located within the urban area of Still Bay and therefore is not valuable in terms of agricultural potential. This Directorate accepts this, however, comment from the Department of Agriculture must be obtained to confirm this.

[1] On 27 March 2020 the National Government of South Africa implemented a Nation-Wide Lockdown to prevent and combat the spread of COVID-19. On 5 June 2020 the Minister of Environment, Forestry and Fisheries issued Directions in terms of Section 27(2) of the Disaster Management Act, Act No. 57 regarding measures to address, prevent and combat the spread of COVID-19 relating to National Environmental Management Permits and Licenses (Government Notice No. 650 of 5 June 2020 refers).

- b) Terrestrial Biodiversity Sensitivity Theme is rated as "Very High", which was disputed by the EAP by stating that the South African National Biodiversity Institute (SANBI) changed the ecosystem from Albertinia Sandstone Fynbos with a conservation status of "vulnerable" to Hartenbos Dune thicket with a conservation status of "least concern", which only warrants a compliance statement by a specialist. This Directorate does not agree, as the national protocols are clear that a Terrestrial Biodiversity Impact Assessment is required with such a sensitivity rating. In addition hereto, comment must also be obtained from CapeNature as Custodian of Biodiversity in the Western Cape.
- c) Animal Sensitivity Theme
The Animal Sensitivity Theme is rated as "High" and the site verification report states that a compliance statement by a specialist will be included in the draft BAR to confirm or dispute the presence of identified species of conservation concern. This Directorate accepts this as the way forward.
- d) Plant Sensitivity Theme
The Plant Sensitivity Theme is rated as "Medium" and according to the site verification report indicates that a compliance statement by a botanical specialist will be submitted along with the draft Basic Assessment Report. According to the national protocols, for medium sensitivity rating, the data represents suspected habitat for species of conservation concern (SCC) based on occurrence records for these species collected prior to 2002 and/or is based on habitat suitability modelling. The presence or likely presence of the SCC identified by the screening tool, must be confirmed through a site inspection by a specialist registered with the SACNASP in a field of practice relevant to the taxonomic group ("taxa") for which the assessment is being undertaken. The assessment must be undertaken within the study area. The site inspection to determine the presence or likely presence of SCC must be undertaken in accordance with the Species Environmental Assessment Guideline. Please ensure that this protocol is complied with.
- e) Aquatic Biodiversity Sensitivity Theme
The screening tool identified the Aquatic Biodiversity Sensitivity Theme as "low". This has been confirmed by means of the desktop NFEPA investigation and the EAP confirming that there is no evidence of any wetlands or watercourses visible on the site. This Directorate agrees that no aquatic specialist report will be required going forward into the process.
- f) Archaeological & Cultural Heritage
The Archaeological & Cultural Heritage Sensitivity Theme is rated as "Very High" based on the fact that the development is proposed within 5 km of a grade 1 heritage site and within 2 km of a grade 2 heritage site. A Heritage Notice of Intent to develop has been submitted to Heritage Western Cape (HWC). According to the response from HWC, a Heritage Impact Assessment (HIA) must be undertaken and must include a desktop Palaeontological study and an Archaeological Impact Assessment (AIA). These studies have been commissioned and will be included in the BAR. This Directorate is in agreement with these identified specialist studies.
- g) Paleontological Sensitivity
The Paleontological Sensitivity Theme is rated as "Medium". A Heritage Notice of Intent has been submitted to Heritage Western Cape (HWC). According to the SAHRIS Paleosensitivity mapping, the largest (northern) portion of the study area property is marked as Clear or of "Unknown" paleosensitivity thus requiring "a minimum of a desktop study". The southernmost section of the study area is marked Blue and noted as of "Low" paleosensitivity where "no palaeontological studies are required though a protocol for potential finds must be put in

place. According to the response from HWC a Heritage Impact Assessment (HIA) must be undertaken and must include a desktop Palaeontological study and an Archaeological Impact Assessment (AIA). These studies have been commissioned and will be included in the BAR. This Directorate is satisfied with this response.

h) Civil Aviation Theme

According to the screening tool the Civil Aviation Sensitivity Theme was rated as "high" as the development is located within 8 km of other civil aviation aerodrome and within dangerous and restricted airspace. The Airfield which is a small municipal airfield is located approximately 4kms to the east on a heading of 31.83 degrees and is unregistered with Civil Aviation Authority (CAA).

The airspace is mapped as Restricted, not dangerous. The Restricted rating is associated with the Overberg military range and a Flight Level of 195m. The development is proposing 12 residential erven within the urban edge of Still Bay West. It does not trigger the obstacle collision / potential hazard requirements as set out by the CAA, i.e.

- Buildings or other objects which will constitute an obstruction or potential hazard to aircraft moving in the navigable air space in the vicinity of an aerodrome, or navigation aid, or which will adversely affect the performance of the radio navigation or instrument landing systems,
- There are no buildings or objects higher than 45 metres above the mean level of the landing area;
- No building, structure or object which projects above a slope of 1 in 20 and which is within 3000 metres measured from the nearest point on the boundary of an aerodrome;
- No building, structure or other object which will project above the approach, transitional or horizontal surfaces of an aerodrome.

Notwithstanding the above, comment will be sought from the Civil Aviation Authority. This Directorate agrees with this response.

4. Please note that the activity may not commence prior to an environmental authorisation being granted by this Directorate.
5. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any new or revised information received.

Yours faithfully

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**HEAD OF DEPARTMENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copies to: Ms. M. McKay
Mr. H. Visser

Cape EAPrac
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Cape EAPrac

Cape Environmental Assessment Practitioners (Pty) Ltd

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17 Progress Street, George
PO Box 2070, George 6530

24 November 2021

Our Ref: HES651/06

Your Ref: 16/3/3/6/7/1/D5/19/0117/21

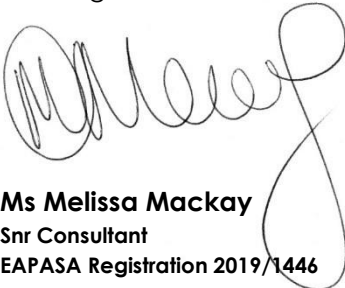
Attention: Ms Shireen Pullen
Department of Environmental Affairs & Development Planning

VIA Email (Shireen.Pullen@westerncape.gov.za)

RE: SUBMISSION OF PUBLIC PARTICIPATION PLAN AND SITE SENSITIVITY VERIFICATION REPORT FOR THE PATRYS DEVELOPMENT ON ERF 3927, STILL BAY WEST

1. Your correspondence dated 18 August 2021 in response to the submission of the Notice of Intent (NOI) has reference.
2. In response to your point 3 of the above mentioned correspondence, Erf 3927 is currently zoned as Open Space II (Private Open Space) and was set aside as such as part of the existing Patrys Residential Development. According to the planner, Mr Deon Nel, when the original Patrys development was laid out, the developers made an agreement with the owner of the neighbour Erf 2763 to the east to zone Erf 3927 Open Space II to provide a buffer between the properties. Erf 2763 has subsequently been sold and the new owner is proposing their own development and apparently does not require Erf 3927 to retain its buffer status. The zoning was thus never for any conservation or protection needs. The new owner of Erf 2763 will be requested to provide comment on this application.
3. Please find attached with this correspondence the following:
 - i. Public Participation Plan
4. Site Sensitivity Verification Report

Kind regards,



Ms Melissa Mackay
Snr Consultant
EAPASA Registration 2019/1446



REFERENCE: 16/3/3/6/7/1/D5/19/0117/21
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 18 August 2021

Daily Double Trading 447 cc
Unit 19
Eden Mall
STILBAAI
6674

Attention: Mr. Ben Bekker

Cell: 082 331 0281
Email: Benbekker25@gmail.com

Dear Sir

COMMENT ON THE NOTICE OF INTENT (NOI) TO SUBMIT AN APPLICATION FOR ENVIRONMENTAL AUTHORISATION PROPOSED REZONING AND SUBDIVISION OF ERF 3927 FOR PATRYS DEVELOPMENT, STILL BAY WEST, HESSEQUA MUNICIPALITY

1. The abovementioned document received by the Directorate: Development Management (Region 3), hereinafter referred to as "this Directorate" via electronic mail on 19 July 2021 refers.
2. It is understood that the proposed development entails the rezoning and subdivision of Erf 3927 from Open Space II to develop 12 individual erven, one open space erf and a private road erf.
3. It is also understood that the site previously formed part of the Patrys Development to the west of it and was set aside as Private Open Space, although it was never formally transferred to the Home Owners Association (HOA). The previous HOA has been disbanded and the management of the site as Private Open Space cannot continue. Please clarify why the proposed site was excluded from the previous environmental authorisation.
4. Kindly take note of your specific fee reference number **G-BA-EIA-H14**. This number must be inserted into the Application Form and proof of payment of the applicable fee attached when the Application Form is submitted to this Directorate.
5. The following advice or instructions 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 the Environmental Impact Assessment Regulations, 2014, is provided below.

5.1 Environmental Impact Assessment Process



Based on the listed activities which will be triggered, for which written Environmental Authorisation is required, 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.

5.2 National Web Based Environmental Screening Tool Report

It is noted that the National Web Based Environmental Screening Tool Report has been attached to the Notice of Intent. In accordance with Regulation 16(1)(b)(v) the report must also be attached to the application for environmental authorisation.

❖ Site Sensitivity Verification Report

On 20 March 2020 the Minister of Forestry, Fisheries and the Environment published the general requirements for undertaking site sensitivity verification for environmental themes for activities requiring environmental authorisation (Government Gazette No. 43110). 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 it is advised that a Site Sensitivity Verification Report, which confirms or disputes the current land use and environmental sensitivity as identified by the screening tool is submitted to this Directorate, prior to the submission of the application for environmental authorisation or commission of any specialist assessments.

❖ Specialist studies identified by the screening tool report

Upon review of the screening tool report it is noted that numerous specialist assessments have been identified for inclusion in the Basic Assessment Report. It is however noticed from the Notice of Intent that no aquatic, agricultural, civil aviation or defence specialist inputs will be obtained for the reasons provided. Although this is noted, please obtain comment from the Civil Aviation Authority, Breede-Gouritz Catchment Management Agency (BGCMA) and the Department of Agriculture to confirm that no studies will be required. Furthermore, a Terrestrial Biodiversity Impact Assessment, Heritage Impact Assessment as well as a Traffic Impact Assessment will be undertaken as part of the Basic Assessment Process.

5.3 Protocols or Minimum Information Requirements

Please be informed that the applicable protocols or minimum information requirements, which were published in Government Notice No. 320 of 20 March 2020 (Government Gazette No. 43110 of 20 March 2020 refers), which came into effect on 9 May 2020, must be applied to the impact assessment process that must be followed: Provided that if the specialist assessment affected by any of the protocols, was commissioned before 9 May 2020, then the applicant is allowed to continue and submit documents for decision-making, which do not need to comply with the requirements of the protocols. Proof that the specialist work was outsourced before 9 May 2020, is deemed to be sufficient to allow this on a case by case basis. In such instances, the specialist report need not comply with the applicable protocol, but must comply with Appendix 6 of the Environmental Impact Assessment Regulations, 2014 (as amended).

Therefore—

- ❖ in accordance to the above, where the applicable protocol applies to any specialist performing work related to any of the fields of practice listed in Schedule I of the Natural Scientific Professions Act, 2003 (Act 27 of 2003) must be registered with the South African

Council for Natural Scientific Professions ("SACNASP")^[1] in any of the prescribed categories [Section 18] and further to this, only a person registered with the SACNASP may practise in a consulting capacity [Section 20]; or

- ❖ where a specialist assessment was commissioned prior to 9 May 2020, you are required to submit proof to the competent authority that the work was commissioned prior to the said date (e.g. approved quotation for specialist assessment and/or proof of work being carried out).
- ❖ It is the responsibility of the Environmental Assessment practitioner (EAP) to confirm the list of specialist studies and to motivate in the assessment report, the reason for not including any of the identified specialist studies, including the provision of photographic evidence of the footprint situation. Such motivation must be submitted to this Department as soon as possible, preferably before the submission of the application form.

5.4 Public Participation Process

- ❖ A public participation process ("PPP") that meets the requirements of Regulation 41 of the EIA Regulations, 2014 (as amended) must be undertaken. You are advised that public participation may be undertaken prior to the submission of the application, although this is not mandatory. It is the Environmental Assessment Practitioner's discretion at what stage the requirements of Regulation 41 are met, whether during the proposed application (pre-application) process or formal application process. You are reminded that a period of at least 30 days must be provided to all potential or registered interested and affected parties to submit comment on the BAR and EMPr.
- ❖ Should a public participation process, which includes the circulation of the pre-application BAR for comment, be undertaken prior to submission of an Application Form to the Department, in terms of Regulation 40, the pre-application BAR may also be submitted to the Department for commenting purposes. Please ensure a minimum of one electronic copy of the pre-application BAR is submitted to the Department for commenting purposes.
- ❖ In terms of Section 24O (2) and (3) of NEMA and Regulations 7(2) and 43(2) of the EIA Regulations, 2014, any State Department that administers a law relating to a matter affecting the environment relevant to the application must be requested to comment within 30 days. Please note that the EAP is responsible for such consultation. Therefore, it is required that the EAP include proof of such notification to the relevant State Departments in terms of Section 24O (2) and (3) of NEMA in the BAR, where appropriate.
- ❖ Your list of State Departments to include in the PPP is noted and supported.
- ❖ Delivery of reports/documents must be done in a manner provided for in section 47D of the NEMA and the Directions: Provided that all registered I&APs have access to such facilities. Electronic versions of reports may be made accessible through any of the following non-exhaustive list of methods: websites, Zero Data Portals, community or traditional authorities, Cloud Based Services.
- ❖ The timeframes regarding comment period must be specified. All potential interested and affected parties including I&APs and organs of state identified in Section 3 of the Public Participation plan, must be afforded a minimum of three (3) calendar days from

[1] SACNASP – the legislated regulatory body for natural science practitioners in South Africa.

date of notification before the 30-day commenting period on the Basic Assessment Report (Pre-Application or formal process report). However, where the third day falls on a Saturday, Sunday or public holiday, it must be extended to the end of the next day which is not a Saturday, Sunday or public holiday.

- ❖ Please consider the following guidance regarding the application process. Once the Application Form is submitted to this Directorate, the process should allow for the 10-day acknowledgement period, prior to any Public Participation commencing, so that this Directorate can confirm that the application is in order.
- ❖ The proposed delivery of documents must be cross referenced to the preferences indicated in the I&AP Register.
- ❖ Reports may not be made available at any public places or premises that are closed to the public, as contemplated in the Regulations.

6. Pre- Application Consultation

- 6.1 Although you indicated that no pre-application meeting will be required, this Department avails itself for a pre-application meeting engagement to provide further guidance and advice in terms of Regulation 8 on the process requirements and the administration of your application.
- 6.2 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.
- 6.3 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.

7. Need and Desirability

In terms of the NEMA EIA Regulations, when considering an application, the Department must take into account a number of specific considerations including *inter alia*, the need for and desirability of any proposed development. As such, the need for and desirability of the proposed activity must be considered and reported on in the BAR. The BAR must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability. Refer to the Department's Guideline on Need and Desirability (March 2013).

8. Alternatives

Be advised that in terms of the EIA Regulations and NEMA the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In light of the submission that there are a high concentration of Milkwood's and associated thicket located in the northern corner of the property, it is recommended that the proposed development layout is designed in such a manner that these are avoided.

9. National Heritage Resources Act, 1999 (Act No. 25 of 1999) ("NHRA")

Section 38 of the NHRA sets out the requirements regarding the integration of the decision-making process 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. It is reasonable to suspect that the proposed activity triggers an activity identified in section 38 of the NHRA and it is likely that the national estate may be impacted. Comment from Heritage Western Cape must be obtained to substantiate this.

10. 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 on Generic Terms of Reference for EAPs and Project Schedules (March 2013)
 - Guideline for determining the scope of specialist involvement in EIA processes, June 2005.
 - Guideline for involving visual and aesthetic specialists in the EIA process, June 2005.
 - DEA (2017), Guideline on Need and Desirability, Department of Environmental Affairs.
11. Please 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).

General

12. In accordance with the Directions regarding measures to address, prevent and combat the spread of COVID-19 (Government Notice No. 650 of 5 June 2020) during Alert Level 3, all applications, reports and documents, which include all signatures and Annexures which are included as part of the application and subsequent reports, must be submitted via e-mail to the relevant official, with attached PDF versions of letters and reports. If the documents are too large to attach to an e-mail, the competent authority must be notified per e-mail and provided with an electronic link to such documents that is accessible by the relevant authority.

Note: The Directorate: Development Management (Region 3), has created a generic e-mail address to centralise its administration within the component (i.e. notifying clients of

decisions and receiving EIA applications, Notice of Intent form; request for fee reference numbers, etc.) Please make use of the new e-mail address too when submitting such documents:

DEADPEIAAdmin.George@westerncape.gov.za

13. Kindly note that this Department requires that when the pre-application BAR is submitted, one (1) electronic copy of the document must be submitted to the Department for consideration. Hard copies of the document are no longer required, but must be made available upon request.
14. Please note that the activity may not commence prior to an environmental authorisation being granted by this Directorate.
15. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any new or revised information received.

Yours faithfully

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**HEAD OF DEPARTMENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copies to: Ms. M. McKay
Mr. H. Visser

Cape EAPrac
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Email: Benbekker25@gmail.com

Dear Sir

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1. The abovementioned document received by the Directorate: Development Management (Region 3), hereinafter referred to as "this Directorate" via electronic mail on 19 July 2021 refers.
2. This letter serves as an acknowledgment of receipt of the abovementioned document by this Directorate.
3. Please note that the information is currently under consideration and this Directorate will provide you with comment on the document in due course.
4. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.
5. Please note that the activity may not commence prior to an environmental authorisation being granted.
6. The Department reserves the right to revise initial comments and request further information from you based on any new or revised information received.

Yours faithfully

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