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Development Management (Region 3)
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PER E-MAIL

REFERENCE: 16/3/3/6/7/1/D1/6/0110/21
ENQUIRIES: Jessica Christie
DATE: **29-JULY-2021**

THE DIRECTOR
CAVA MOLA MINING (PTY) LTD
P.O. Box 20366
PROTEA PARK
0305

Attention: Mr. G. Maritz

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Dear Sir

COMMENT ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR ENVIRONMENTAL AUTHORISATION FOR HOUSE MARITZ ON ERF 390 & REMAINDER ERF 141, KEURBOOMSTRAND

1. The abovementioned Notice of Intent to Submit an Application for Environmental Authorisation document ("NOI") received by this Department on 30 June 2021 and correspondence sent by this Directorate on 9 July 2021 refers.

2. 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.

   2.1. *Protocols or Minimum Information Requirements*

   Please be informed that the applicable protocols or minimum information requirements, which have been published in the Government Gazette[1], must be applied to the impact assessment process that must be followed**:** Provided that the requirements of these protocols do not apply where the applicant provides proof to the competent authority that the specialist assessment affected by these protocols had been commissioned by the date of publication of these protocols in the Government Gazette, in which case Appendix 6 of the Environmental impact Assessment Regulations, 2014, as amended, will apply to such applications.

   Therefore—

   - in accordance to the above, where the applicable protocol applies 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

[1] 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; and
Government Notice No. 1150 of 30 October 2020 (Government Gazette No. 43855 of 30 October 2020 refers), which came into effect on 30 October 2020.

Natural Scientific Professions ("SACNASP")[2] 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 the relevant date the specific protocol came into effect (i.e. 9 May 2020 or 30 October 2020), you are required to submit proof to the competent authority that the work was commissioned prior to said date (e.g. approved quotation for specialist assessment and/or proof of work being carried out).

2.2. *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. This report has identified and classified the development footprint environmental sensitivities and based on the selected classification, and the environmental sensitivities of the proposed development footprint, a list of specialist assessments have been identified for inclusion in the assessment report. It is noted from Section G of the NOI, that the majority of the identified specialist assessment will not be undertaken; however, this conclusion is not substantiated according to the requirements set out in the aforementioned Protocols or Minimum Information Requirements.

- *Site Sensitivity Verification Report and Motivation regarding Specialist Syudies:*

  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.

  However, no Site Sensitivity Verification Report which complies with the respective protocols has been included in the NOI. As such you are required to submit a Site Sensitivity Verification Report in accordance with the applicable protocols. Such a report(s) should be submitted to this Directorate prior to the submission of the application for environmental authorisation. Failure to finalise and submit the Site Sensitivity Verification Report prior to submitting the application, may prejudice the success of the application.

- *Specialist studies identified by the screening tool report*

  Please note that where an assessment is linked to one of the themes for which a protocol has been developed, that subject to the outcome of the site sensitivity verification the protocol must be implemented.

Note: In accordance with Regulation 16(1)(b)(v) the Screening Tool Report must also be attached to the application for environmental authorisation.

2.3. *Public Participation Plan*

On 6 January 2021 this Department issued Circular No. 0001/2021 titled: *EIA and related licensing services and supporting professional services during Covid-19 Lockdown*. In terms of the circular the Department should be approached with a proposed Public Participation Plan ("PP-plan") setting out all the public participation steps, including any additional measures.

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

Considering the above, this Directorate has reviewed the PP-plan and the following aspects or measures must be addressed/incorporated in the PP-plan:

2.3.1. *Notification of potential and registered I&APs:*

The public participation process ("PPP") which will be undertaken, must meet the requirements of Regulation 41 of the EIA Regulations, 2014.
It is noted that all the relevant options in terms of Regulation 41(2)(a-d) will be implemented. This Department supports this proposal. However, the PP-plan must indicate that all notices, including site notices include the option for the I&AP to choose/indicate the following:

- the period within which comment must be submitted;
- the preferred method of receiving notifications;
- the preference for receiving reports and other correspondence (i.e. digitally, downloading, hardcopy per mail etc.); and
- whether the I&AP has any specific needs/restrictions which must be considered when receiving notices/documents.

2.3.2. *Registering as Interested and Affected Parties ("I&APs"):*

An applicant must ensure the opening and maintenance of a register of I&APs. In this regard it is noted that the parties identified in Regulation 41(2)(b) will be notified.

A Register of I&APs must be included in the PP-plan and must incorporate the following:

- Choice for the preferred method of receiving notifications; and
- Choice for the preference for receiving reports and other correspondence (i.e. digitally, downloading, hardcopy per mail etc.); and
- any disadvantage an I&AP may have to participate in the process (including receiving notices and accessing documentation digitally).

2.3.3. *Making reports available for comment:*

Registered I&APs are entitled to comment on reports and plans in writing, on all reports or plans submitted to such party during the public participation process.

The PP-Plan must describe how the EAP will submit the reports to potential and Registered I&APs. Furthermore, it is noted that allowance has been made in the event where I&APs do not have sufficient data to download electronic documents. Please be advised that potential and registered I&APs must have a minimum of 30 days to comment on report. This must be addressed in the PP-plan.

Furthermore, it is advised that all potential interested and affected parties including I&APs and organs of state, must be afforded a minimum of seven (7) calendar days from date of notification before the 30-day commenting period on the Draft Basic Assessment Report. However, where the seventh 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.

2.3.4. *Notifying registered I&APs of a decision made on the application and providing access to the decision:*

The PP-Plan must clearly describe how registered I&APs will be notified of the decision on an application and how access will be provided to a copy of the decision.

Hard copies or electronic versions of decisions may be made accessible through any of the following non-exhaustive list of methods: *E-mail; websites, Zero Data Portals, community or traditional authorities, Cloud Based Services, provided that all registered I&APs have access to the decision*. It must be possible to cross-reference this method with the preferences indicated in the I&AP Register.

The applicant or EAP must be able to provide proof that all registered I&APs have been notified and provided access to the decision.

3. 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.

4. 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

5. Due to the current measures being implemented by the Department to address, prevent and combat the spread of COVID-19 and until such time that the Department requires otherwise, 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

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. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.

7. 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: 2021.07.29 14:52:31 +02'00'

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

Ref no. 16/3/3/6/7/1/D1/6/0110/21

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