



REFERENCE: 16/3/3/6/7/1/D5/18/0040/22
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: **5 May 2022**

The Board of Directors
Quickstep 596 (Pty) Ltd
23 Olienhout Avenue
STILL BAY
6674

Attention: Ms. A. Pieterse

Cell: 0823208673

Email: annelize@stilbaaivismark.co.za

Dear Madam

COMMENT ON THE NOTICE OF INTENT (NOI) TO APPLY FOR THE PROPOSED DUINEKROON LIFESTYLE VILLAGE, PORTION 1 OF DUINEKROON 591, STILL BAY, HESSEQUA MUNICIPALITY

1. The abovementioned document and respective attachments received by the Directorate: Development Management (Region 3), hereinafter referred to as "this Directorate" via electronic mail on 23 March 2022 refers.
2. It is understood that the proposal entails the establishment of a lifestyle village with approximately 160 residential opportunities and a retail component on a 10,0ha site that is zoned Agriculture I. It is also understood that there was an environmental authorisation issued for development on the property, however it has lapsed and therefore not valid any longer.
3. Kindly take note of your specific fee reference number: **G/BA/EIA/i5**. This number must also be inserted into the Application Form and proof of payment of the applicable fee attached when the Application Form is submitted to the Department.
4. 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, as amended is provided below.

4.1 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.

4.2 National Web Based Environmental Screening Tool Report

- This Directorate notes the National Web Based Environmental Screening Tool Report that 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.

- The findings of the screening tool report and your site verification report is noted.
- The screening tool identifies the involvement of numerous specialist in the process. However, after a site verification inspection, all of these studies has been excluded.

4.3 *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).

4.5 In light of the protocols, the screening tool and the site verification report, please note the following:

Agricultural Theme

The agricultural theme is rated as "high sensitivity". According to the protocol, an agricultural theme that results in a medium sensitivity requires a minimum of a compliance statement to be done by an agricultural soil scientist that is registered with the South African Council for Natural Scientific Professions ("SACNASP")^[2]. Your motivation that the proposed site is earmarked for township development and that the sensitivity rating should be low is noted and can be agreed with. However, the requirement according to the protocols remains the same. Please ensure that comment from the Department of Agriculture be submitted to this Directorate preferably prior to the submission of the application form, but at least together with the submission of the final BAR.

Archaeological and Cultural sensitivity Theme

The Archaeological and Cultural Heritage Theme sensitivity is rated as "very high". This Directorate is in agreement with your EAP that a Notice of Intent to develop should be submitted to Heritage Western Cape to inform whether any detailed studies are required. Final comment from Heritage Western Cape must be submitted with the final BAR.

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

Paleontological Sensitivity Theme

The Paleontological Sensitivity theme is rated as "high". This Directorate is in agreement with your EAP that a Notice of Intent to develop should be submitted to Heritage Western Cape to inform whether any detailed studies are required. Final comment from Heritage Western Cape must be submitted with the final BAR.

Animal species sensitivity theme

The animal species theme was rated as "high". According to the protocol the presence or likely presence of the species of conservation concern (SCC) 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. The site verification report states that a faunal specialist must conduct a thorough site inspection to determine the presence of the listed species in order to determine whether further detailed studies are required. Depending on the outcome of the faunal site inspection either a Compliance Statement or Impact Assessment will be submitted with the Basic Assessment Report. This Directorate is in agreement herewith.

Aquatic sensitivity theme

The aquatic sensitivity theme is rated as "low" and it has been established by means of the desktop NFEPA investigation and the EAP confirming that there is no visible evidence or indicators of any wetlands or watercourses on the site. The EAP also confirmed the sensitivity of the site with regard to aquatic features which is low to insignificant and that no detailed specialist studies are deemed applicable. This Directorate is in support of this provided that comment from the Breede-Gouritz Catchment Management Agency (BGCMA) is obtained to confirm this. It is advised that such input must be obtained, prior to the submission of the application form, but at least with the submission of the final BAR.

Civil Aviation sensitivity theme

The sensitivity of the civil aviation theme is rated as "high". According to the protocol, a minimum of a compliance statement by the EAP must be submitted. The EAPs reasoning is accepted. Input from the Civil Aviation Authority must also be obtained as soon as possible. It is advised that such input must be obtained prior to the submission of the application form but at least prior to the submission of the final BAR.

Plant species theme

The Plant Species Theme sensitivities is rated as "medium", however, the EAP argues that due to the transformed nature of the site, that the impact on the plant species theme will be low. Furthermore, the EAP indicates that a botanist will be appointed to inspect the site in order to determine its site-specific sensitivity. A Compliance Statement is likely to be required, however should there be any indication from the specialist that more detailed assessment may be required such will be reflected and assessed in the Basic Assessment Report by a registered specialist. This Directorate is in agreement with the way forward.

Animal species Theme

The Terrestrial Biodiversity sensitivity theme sensitivity is rated "high". According to the protocols, an assessment by specialist registered with the SACNASP with practice relevant to the taxonomic group ("taxa"). The EAP submits that a Faunal Specialist will have to conduct a site sensitivity verification to confirm or reject the Screening Tool designation. Following the outcome of the specialist investigation, it will be possible to determine if a Compliance Statement or Impact Assessment will be justified. This Directorate is in agreement herewith. Please ensure that this protocol is complied with going forward.

Terrestrial Biodiversity sensitivity theme

The Terrestrial Biodiversity sensitivity theme sensitivity is rated "low". According to the protocols, an assessment by specialist registered with the SACNASP with practice relevant experience in terrestrial biodiversity. It is noted that the EAP does not dispute the designation of the Screening Tool, but that the Botanical and Faunal site sensitivity verifications by suitably qualified specialists will be considered, once available, to determine the need for a Compliance Statement or Biodiversity Assessment. The protocol is clear that the specialist impact assessment must be done by a specialist with practice relevant experience in terrestrial biodiversity. Please ensure that this requirement is complied with.

In light of the findings above, this Directorate awaits the submission of the amended site verification report which gives clarity on which specialist reports will form part of the Basic Assessment Process.

4.6 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 this Directorate, in terms of Regulation 40, the pre-application BAR may also be submitted to this Directorate for commenting purposes. Please ensure a minimum of one electronic copy of the pre-application BAR is submitted to this Directorate 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 requested 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 that will be included in the PPP is noted and supported. Please include CapeNature, the Breede Gouritz Catchment Management Agency and the Civil Aviation Authority in your list of I&APs.
- ❖ 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 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 Programme: Once the Application Form is submitted to this Directorate, the programme 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.
- ❖ It must be possible to cross-reference the proposed delivery of documents to the preferences indicated in the I&AP Register.

5. Public Participation Plan

- ❖ In terms of the Directions^[3] 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.
- ❖ Considering the above, this Directorate has reviewed the proposed Public Participation Plan. And **agrees** to the proposed actions to conduct a public participation process.
- ❖ Notwithstanding the above, please note the Basic Assessment Report (BAR) must comply with the requirements of the public participation process in terms of Regulation 32(1)(a)(aa) read together with Regulation 41. Proof of compliance with the requirements in accordance with Regulation 41 of the Environmental Impact Assessment Regulations, 2014 (as amended) ("EIA Regulations, 2014) must be submitted. In the event where Regulation 41 has not been complied with during the pre-application phase it must be complied with during the application phase of the process.

6. Pre- Application Consultation

6.1 It is noted from the NOI that you would like to have a pre-application meeting. You are requested to present this Directorate with possible suitable dates and this Directorate will indicate its availability for such an engagement to provide further guidance and advice in terms of Regulation 8 on the process requirements and the administration of your application.

- a. 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 Directorate.

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. Services

[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).

Please ensure that confirmation of sufficient unallocated services (water, sewage and solid waste) exists within the Mossel Bay Municipal grid to support the proposed development. Confirmation thereof is crucial to the success of this application.

You are also advised to investigate the implementation of resource conservation measures as part of your proposal, in order to conserve much needed services.

8. 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).

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 provision 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 1, 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.
13. With reference to this Department's Circular No. 0027/2021 of 15 December 2021, please note that from 1 February 2022 all general EIA queries, correspondence, applications, non-applications and reports must be e-mailed to this Directorate's dedicated e-mail address.

In this regard the following procedure for the submission of documents must be followed when submitting documents to the Directorate: Development Management (Region 3) -

- (a) submitted electronically per electronic mail to this Directorate's generic e-mail address and copied to the assigned case officer.

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.): DEADPEIAAdmin.George@westerncape.gov.za

OR

- (b) uploaded electronically to the designated folder on the Directorate's OneDrive system which has been assigned to the EAP.

Note: The document must be placed in an appropriately named folder and the reference number included (where applicable). This Directorate must be notified via e-mail once the document has been uploaded. Such notification must include a screenshot of the documents that have been uploaded within the folder.

14. Kindly note that this Directorate requires that when the pre-application BAR is submitted, an electronic copy of the document must be submitted to this Directorate for consideration. Hard copies of the document are no longer required but must be made available upon request.
15. Please note that the activity may not commence prior to an environmental authorisation being granted by this Directorate.
16. Also 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.

17. 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**

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