



**Western Cape
Government**
Environmental Affairs and
Development Planning

**DIRECTORATE: LAND MANAGEMENT
REGION 2**

REFERENCE NUMBER: 16/3/1/1/A2/30/3070/13
ENQUIRIES: Ms. Helen Jordaan
DATE OF ISSUE: 19 DEC 2013

The Proponent
City of Cape Town Roads and Stormwater
Private Bag X5
PLUMSTEAD
7801

For attention: Mr. M. Tshiki

Tel: (021) 710 8163
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Dear Sir

ACKNOWLEDGEMENT OF RECEIPT AND ACCEPTANCE OF THE APPLICATION FORM FOR A BASIC ASSESSMENT PROCESS FOR THE PROPOSED CONSTRUCTION OF STORMWATER PONDS AND THE INTRODUCTION OF WETLAND HABITATS ON PORTIONS 74 AND 86 OF FARM 609, PHILIPPI.

The application form dated 15 November 2013 and received by this Department on 18 November 2013, this Department's acknowledgement and rejection thereof dated 29 November 2013 and the amended application form dated 11 November 2013 and received by this Department on 11 December 2013, refer.

This letter serves as an acknowledgement of receipt and acceptance of the aforementioned document by this Directorate.

1. Applicable activities

You are hereby advised that only those activities applied for will 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 EIA process.

2. Exemptions

It is evident that you do not intend to apply for exemption from any provisions contained in the EIA Regulations 2010 or NEMA. Please note that should you fail to meet a requirement of the Regulations or NEMA and if no exemption from that provision was applied for, your Basic Assessment Report may be rejected. You are further advised that Regulation 10(2)(d) requires the applicant to publish a notice of the decision taken by the Department in newspapers. If you did not apply to be exempted from this provision and fail to publish a notice of the decision in the applicable newspapers as required then that decision may be suspended.

3. Alternatives

Be advised that in terms of the NEMA EIA Regulations 2010 and NEMA the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In this regard it must be noted that the Department may grant authorisation for an alternative as if it has been applied for or may grant authorisation in respect of all or part of the activity applied for as specified in Regulation 25 of GN No. R. 543 of 18 June 2010. Alternatives are not limited to activity alternatives, but include layout alternatives, design, activity, operational and technology alternatives. Every EIA process must therefore identify and investigate alternatives, with feasible and reasonable alternatives to be comparatively assessed. If, however, after having identified and investigated alternatives, no feasible and reasonable alternatives were found, no comparative assessment of alternatives, beyond the comparative assessment of the preferred alternative and the no-go alternative, is required during the assessment. What would, however, be required in this instance is that proof of the investigation undertaken and motivation indicating that no reasonable or feasible alternatives other than the preferred and the no-go alternatives exist must be provided to the Directorate. Refer to the Department's Guideline on Alternatives available on the Department's website (www.westerncape.gov.za/eadp).

4. Public Participation

- 4.1. The Directorate notes that you did not request for permission in terms of Regulation 54(5) to deviate from certain requirements of the public participation process (PPP) as required in terms of Regulation 54(2). You may proceed with the PPP as indicated in the application form.
- 4.2. Please be advised that according to Regulation 54(2) the person conducting a public participation process (PPP) must *"take into account any guidelines applicable to public participation"*. The Department's Guideline on Public Participation (March 2013) must therefore be studied and must be taken into account. This guideline was compiled to provide guidance on the procedure to be followed when conducting the PPP and includes, *inter alia*, notification of interested and affected parties ("I&AP's"). When notifying I&AP's of the application the minimum information to be provided in a notice, which include placing an advertisement or fixing a notice board, must contain, *inter alia*, this Directorate's reference number, whether a Basic Assessment or Scoping & EIR process is to be followed and information on how to register as an I&AP. A register of I&AP's must be opened, maintained and made available to any person requesting access to the register in writing. The register must also be submitted together with the BAR.
- 4.3. Please be advised that the draft BAR must **first** be submitted to this Directorate where after it must be made available to the I&AP's, including all the relevant State Departments that administer laws relating to a matter affecting the environment, for comment for a period of **40** days. The applicant/EAP is required to inform this Directorate in writing upon submission of the draft report to the relevant State Departments. Upon receipt of this confirmation, this Directorate will in accordance with Section 24O (2) & (3) of NEMA inform the relevant State Departments of the commencement date of the 40 day commenting period, or 60 days in the case of the Department of Water Affairs for waste management activities which also require a licence in terms of the National Water Act, 1998 (Act No. 36 of 1998). Please be further advised that, unless otherwise indicated by the Directorate, a commenting period of at least 21 days must be provided to I&AP's, including the relevant State Departments, to comment on any additional information, documentation or reports (including the final BAR) other than the draft BAR.
- 4.4. In terms of good environmental practice you are encouraged to engage with State Departments and other Organs of State in the pre-application phase or early in the EIA process to solicit their inputs on any of their requirements to be addressed in the EIA process. Please note that this does not replace the requirement of making the draft BAR available to State Departments as stipulated above.
- 4.5. The practitioner must record and respond to all comments received. The comments and responses must be captured in a Comments and Responses Report and must also include a description of the PPP followed and this report must also be included in the public participation information to be

attached to the final BAR. The final BAR must be made available to all registered I&AP's for comment before it is submitted to this Directorate for consideration.

4.6. Further details on the procedures to be followed when conducting the PPP can be obtained in the guideline. The Department's Guideline on Public Participation (March 2013) is available on the Department's website (www.westerncape.gov.za/eadp).

5. Environmental Management Programme(EMP)

In accordance with Section 24N of NEMA and regulation 22(2)(l) the Directorate hereby requires the submission of an EMP. The contents of such an EMP must meet the requirements outlined in Section 24N (2) & (3) of the NEMA (as amended) and Regulation 33 of the EIA Regulations. The EMP must address the potential environmental impacts of the activity throughout the project life cycle including an assessment of the effectiveness of monitoring and management arrangements after implementation (auditing). The EMP must be submitted together with the BAR. This Directorate would like to advise that in compiling the EMP the Department's Guideline for Environmental Management Plans (June 2005), available on the Department's website (www.westerncape.gov.za/eadp) must be taken into account.

6. Guidelines

You are further referred to Regulation 22 of GN No. R. 543 of 18 June 2010 for the requirements with respect to the 'Content of basic assessment reports'. You are advised that when undertaking the Basic Assessment process you must take into account the applicable guidelines including the guidelines developed by the Department. The Department's guidelines can be downloaded from the Department's website (www.westerncape.gov.za/eadp).

7. Specialist input

Please ensure that all specialist reports contain all the information specified in Regulation 32 (3) of the EIA Regulations.

8. Waste Minimisation

This Directorate further wishes to inform you that consideration must be given to ways to minimise waste and wastage in the design, construction and operational phase of the proposed development. Your attention is therefore drawn to the Department's Waste Minimisation Guideline for Environmental Impact Assessment Reviews (May 2003), available from the Department on request. The Guideline raises awareness to waste minimisation issues and highlights waste and wastage minimisation practices. In particular, it is recommended that Part B be considered as it covers general waste and wastage minimisation and general construction activities. It is important to remember that a recycling programme must adopt the cradle-to-grave approach. Any recycled material must be disposed of at a recycling facility and not be disposed of as general household waste at a landfill site.

9. Need & desirability

In terms of the NEMA EIA Regulations 2010, when considering an application, the Directorate 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 (October 2011) available on the Department's website (www.westerncape.gov.za/eadp).

In terms of having to consider need and desirability, it must be noted that the final environmental decision will, *inter alia*, be informed by town planning considerations, informed by, *inter alia*, the Provincial Urban Edge Guideline (December 2005) and the Western Cape Provincial Spatial Development Framework (2009) ("WCPSDF"). The Department requires that you demonstrate in the BAR the strategic context of the site specific proposed development in relation to the broader surrounding

area. You will need to demonstrate amongst other whether the proposed development is in line with Departmental policies/guidelines such the Western Cape Provincial Spatial Development Framework, Urban edge for the area or whether if in the absence of an urban edge it is located within the built-up edge of the town. Comment in this regard will be required from the Municipality's planning component. You are requested to confirm from the municipality that the proposed development is in line with the forward planning for the area.

10. General

In addition to the above, you must clearly show how the proposed development complies with the principles contained in Section 2 of the NEMA and must also show how the proposed development meets the requirements of sustainable development.

Be advised that should the information requested above not be included in your BAR, your report may be rejected. Additionally, the competent authority may, in terms of Regulation 24(2)(d) of GN No. R. 543 of 18 June 2010, request that your application be subjected to Scoping and EIR in accordance with Regulations 26 – 35 of GN No. R. 543 of 18 June 2010, even after the Basic Assessment process has been concluded.

This Directorate awaits the submission of the BAR as prescribed by the EIA Regulations, GN No. R. 543 of 18 June 2010. In accordance with Regulation 67 and as allowed for by Regulation 23 of GN No. R. 543 of 18 June 2010 the Department hereby stipulates that the BAR must be submitted to this Department within a period of six months from the date of this letter.

Should no BAR be provided, your file will be closed. As such, a new application process will have to be initiated with a new Application Form for Basic Assessment to be submitted if you wish to again pursue your proposed development.

Please note that three printed copies as well as two electronic copies (saved on CD/DVD) of the BAR must be submitted to the Directorate.

Please note that the activity may not commence prior to an environmental authorisation being granted by the Department. It is unlawful in terms of Section 24F of the NEMA for a person to commence with a listed activity unless the competent authority has granted an environmental authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F of the NEMA will result in the matter being referred to the Law Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R5 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.

Kindly quote the abovementioned reference number in any future correspondence in respect of the application.

This Directorate reserves the right to revise or withdraw comments or request further information based on any information received.

Yours faithfully


HEAD OF DEPARTMENT

Copies to: Mr. J. Gichobi (Frontline Safety Health and Environmental Consultants)
Mr. G. Honeyman (Bergstan Consulting Engineers South Africa (Pty) Ltd.)
Ms. K. Rughoobeer (DEA&DP: Development Facilitation)

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