

**PER E-MAIL**

**REFERENCE:** 16/3/3/6/7/1/D1/14/0027/21

**ENQUIRIES:** Jessica Christie

**DATE:** **06 August-2021**

THE DIRECTOR  
THE KEEP PROPERTY (PTY) LTD  
1ST Floor, Dean Street Arcade, Main Road  
**NEULANDS**  
7700

Attention: Mr. K. Powter

F-mail: kyle@thekeep.co.za

Cell: 082 505 1770

Dear Sir

**COMMENT ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR ENVIRONMENTAL AUTHORISATION FOR THE ESTABLISHMENT OF APPROXIMATELY 15 RESIDENTIAL I UNITS, WITH SOME DESIGNATED OPEN SPACE ON THE PROPERTY KNOWN AS PORTION 66 & 67 OF FARM 443.**

1. The abovementioned document received by this Department in March 2021 and a site meeting held on the property on 6 April 2021 refers.
2. This Directorate hereby acknowledges receipt of the document.
3. 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.

*3.1. Protocols or Minimum Information Requirements*

Please be informed that the applicable protocols or minimum information requirements, which have been published in the Government Gazette<sup>[1]</sup>, 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—

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[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.

- 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 Natural Scientific Professions ("SACNASP")<sup>[2]</sup> 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 said date (e.g. approved quotation for specialist assessment and/or proof of work being carried out)

### 3.2. 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 and Motivation to Exclude Assessments:**  
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 have been included in the NOI as stated on the site meeting as well. As such you are required to submit a Site Sensitivity Verification Report in accordance with the applicable protocols. Such a report(s) must be submitted to this Directorate prior to the submission of the application for environmental authorisation.
- **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 the protocol must be implemented, subject to the outcome of the site sensitivity verification.

### 3.3. Public Participation Plan

On 30 September 2020 this Department issued Circular No. 0024/2020: EIA and related licensing services and supporting professional services during Covid-19 Lockdown. In terms of paragraph 6.3 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. Considering the above, this Directorate has not received a PP-plan as stated at the site meeting. The following aspects or measures must be addressed/incorporated in the PP-plan:

#### 3.3.1. 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;

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



- 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.

### 3.3.2. 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).

### 3.3.3. 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.

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

- a) The PP-Plan must clearly describe the 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.
- b) 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.*
- c) It must be possible to cross-reference this method with the preferences indicated in the I&AP Register.
- d) The applicant or EAP must be able to provide proof that all registered I&APs have been notified and provided access to the decision.

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. 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,

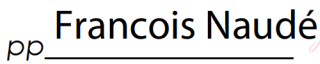
reports and documents, which include all signatures and Annexures which are included as part of the application and subsequent reports, must be submitted via e-mail to the relevant official, with attached PDF versions of letters and reports. If the documents are too large to attach to an e-mail, the 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](mailto:DEADPEIAAdmin.George@westerncape.gov.za)

7. 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 or to imprisonment, or to both such fine and imprisonment.
8. 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  
Date: 2021.08.06 14:26:35 +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/D1/14/0027/21*

Copied to: EAP: Mr. Andrew West.

E-mail: [andrewwest@isat.com](mailto:andrewwest@isat.com)

**PER E-MAIL**

**REFERENCE:** 16/3/3/6/7/1/D1/14/0027/21  
**ENQUIRIES:** Jessica Christie  
**DATE:** **09-SEP-2021**

THE DIRECTOR  
THE KEEP PROPERTY (PTY) LTD  
1ST Floor, Dean Street Arcade, Main Road  
**NEWLANDS**  
7700

Attention: Mr. K. Powter

E-mail: [kyle@thekeep.co.za](mailto:kyle@thekeep.co.za)  
Cell: 082 505 1770

Dear Sir

**COMMENT ON THE PUBLIC PARTICIPATION PLAN AND SITE SENSITIVITY VERIFICATION REPORT FOR THE PROPOSED 15 RESIDENTIAL I UNITS, WITH SOME DESIGNATED OPEN SPACE ON THE PROPERTY KNOWN AS PORTION 66 & 67 OF FARM 443**

1. The Public Participation Plan and the Site Sensitivity Verification Report in respect of the abovementioned matter, received by this Department via e-mail on 20 August 2021, refer.
2. The Directorate has reviewed the documents and provides the following comments.

*2.1. Site Sensitivity Verification Report & Identified Specialist Studies*

Please be advised that the sensitivity verification report must comply with the requirements of the applicable protocols as published in Government Notice No. 320 of 20 March 2020 and Government Notice No. 1150 of 30 October 2020 and that the outcome of the site sensitivity verification must be recorded in the form of a report that:

- a) confirms or disputes the current use of the land and the environmental sensitivity as identified by the screening tool;
- b) contains a motivation and evidence (e.g. photographs) of either the verified or different use of the land and environmental sensitivity.

This Directorate has reviewed the Site Sensitivity Verification Report ("SSVR") compiled by the EAP and provides comment in respect of the following:



*(i) Agriculture Theme (High Sensitivity)*

The SSVR refutes the High Sensitivity of the site for this theme. In accordance with the findings of the SSVR and the Agricultural Protocol published in Government Notice No. 320 of 20 March 2020, an *Agricultural Compliance Statement* must be undertaken in terms of Table one: Assessment and reporting of impacts on agricultural resources and specifically point 1.2. The findings of the *Agricultural Compliance Statement* must be incorporated into the Basic Assessment Report, including any mitigation and monitoring measures as identified, which are to be contained in the EMPr. The compliance statement must be prepared by a soil scientist or agricultural specialist registered with the SACNASP.

*(ii) Animal Species Theme (High Sensitivity)*

The EAP's has refuted the sensitivity rating in the SSVR and suggests a low sensitivity; however, the theme still requires assessment as contained within the protocol. The assessment must be prepared by a specialist registered with the SACNASP with a field of practice relevant to the taxonomic group ("taxa") for which the assessment is being undertaken.

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*." If, however, where the information gathered from the site sensitivity verification differs from the screening tool designation of "very high" or "high", for terrestrial animal species sensitivity and it is found to be of a "low" sensitivity, then a *Terrestrial Animal Species Compliance Statement* must be submitted.

Based on the current SSVR, a *Terrestrial Animal Species Specialist Assessment* must be undertaken by a specialist registered with the South African Council for Natural Scientific Professions (SACNASP) with a field of practice relevant to the taxonomic group ("taxa") for which the assessment is being undertaken. Furthermore, the STR lists a number of species which names have been withheld as the species may be prone to harvesting and must be protected. As such you are required to e-mail SANBI to obtain the information. It is advised that the species' identity and location must remain unidentified in public documents in order to minimise the risk of illegal harvesting / poaching.

It is unclear if the EAP's view on the applicability of the Protocol may have misinformed the outcome of the SSVR. This may be communicated to the Department.

*(iii) Aquatic Biodiversity Sensitivity (Low Sensitivity)*

The STR states that the sensitivity in terms of aquatic biodiversity is low and the EAP does not refute this. The Protocol however states that if the site identified on the Screening tool as being low sensitivity, an *Aquatic Biodiversity Compliance Statement* must be done.

*(iv) Terrestrial Biodiversity Sensitivity (Very High Sensitivity)*

The STR states that the sensitivity in terms of terrestrial biodiversity is very high and the EAP refutes this and suggests a sensitivity rating of medium. The Protocol however states that if the site identified on the Screening tool as being very high sensitivity, a Terrestrial Biodiversity Specialist Assessment must be conducted.

The assessment must be prepared by a specialist registered with the SACNASP with a field of practice relevant to the taxonomic group ("taxa") for which the assessment is being undertaken.

*(v) Archaeological and Cultural Heritage Sensitivity (High Sensitivity)*

It is noted that a Notice of Intent to Develop has been submitted to Heritage Western Cape (HWC). However, it is unclear what information has been submitted to HWC. All supporting documents must be appended to the Draft Basic Assessment report. Please be advised that the Standard Operating Procedure between Heritage Western Cape and this Department must be followed.

*(vi) Civil Aviation (High Sensitivity)*

Considering that the sensitivity is given as high, this Department takes note the motivation and facts that the EAP has included in the SSVR. The motivation that has been provided is found to be acceptable, and sensitivity of the site for this theme is regarded to have a low rating.

*(vii) Defence (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.

*(viii) Palaeontology Sensitivity (Medium Sensitivity)*

The Screening Tool Report (STR) states that the sensitivity for this theme is medium and the EAP has not recommended the sensitivity be lowered. However, it is unclear what information has been submitted to HWC. The NID and all supporting documents must be appended to the Draft Basic Assessment report. Please be advised that the Standard Operating Procedure between Heritage Western Cape and this Department must be followed.

*(ix) Plant Species Theme (Medium Sensitivity)*

The EAP's has refuted the sensitivity rating of medium in the SSVR; however, the theme still requires an assessment as contained within the protocol. The assessment must be prepared by a specialist registered with the SACNASP with a field of practice relevant to the taxonomic group ("taxa") for which the assessment is being undertaken.

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 "medium

*sensitivity" for terrestrial plant species must submit either a Terrestrial Plant Species Specialist Assessment Report or a Terrestrial Plant Species Compliance Statement, depending on the outcome of a site inspection undertaken in accordance with paragraph 4."*

Based on the current SSVR, a Terrestrial Plant Species Specialist Assessment must be undertaken by a specialist registered with the South African Council for Natural Scientific Professions (SACNASP) with a field of practice relevant to the taxonomic group ("taxa") for which the assessment is being undertaken. Furthermore, the STR lists a number of species which names have been withheld as the species may be prone to harvesting and must be protected. As such you are required to e-mail SANBI to obtain the information. It is advised that the species' identity and location must remain unidentified in public documents in order to minimise the risk of illegal harvesting / poaching.

## 2.2. Other Specialist Studies identified in the Screening Tool Report

### (i) Landscape / Visual Impact Assessment

Notwithstanding the conclusion made in the SSVR, that a Visual Impact assessment may potentially be required, the EAP has not refuted the need for this assessment in the SSVR. In this regard, the visual impacts of the proposed development must be dealt with in terms of Appendix 1 and 6 of the Environmental Impact Assessment Regulations, 2014 together with the Department's *Guideline for involving visual and aesthetic specialists in the EIA process, June 2005*.

### (ii) Avian Impact Assessment

It is not apparent from the SSVR that the potential impacts on avifauna will be addressed. This specialist impact assessment was not mentioned nor refuted in the SSVR. Clarity is required as to why this has not been addressed.

### (iii) Socio-economic

It is not apparent from the SSVR that the socio-economic aspects related to the proposal and the influence it may have on area in which it is will be addressed.

In this regard, the social impacts of the proposed development must be dealt with in terms of Appendix 1 and 6 of the Environmental Impact Assessment Regulations, 2014 together with the Department's *Guideline for involving social assessment specialists in the EIA process, February 2007*

## 2.3. Public Participation Plan

In accordance with this Department's Circular<sup>[1]</sup>, 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.

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<sup>[1]</sup> DEADP Circular No. 0001/2021: *EIA and related licensing services and supporting professional services during COVID-19 Lockdown Alert Level 3 and for the remainder of the COVID-19 national state of disaster*, dated 6 January 2021.



2.3.1. Considering the above, this Directorate has reviewed the proposed Public Participation Plan ("PP-Plan") and it does not meet the standard that is required as insufficient detail has been provided. The following detail is lacking:

- ❖ The PP-plan must contain a preliminary register with a list of I&APs which have been identified.
- ❖ The list of I&APs must include:
  - the occupiers of the site and the owner or person in control of the site (if the proponent or applicant is not the owner or person in control of the site)
  - owners, persons in control of, and occupiers of land adjacent to the site where the activity is or is to be undertaken and to any alternative site where the activity is to be undertaken;
  - all organs of state which have jurisdiction in respect of the activity to which the application relates; including the municipality which has jurisdiction in the area;
  - the municipal councillor of the ward;
- ❖ This register must contain the names, contact details (i.e. e-mail addresses) and physical addresses.
- ❖ The PP-Plan register must be updated if the CA identifies any other party which must be added to the register.
- ❖ PP-Plan must describe how the final I&AP Register will be compiled.
- ❖ The EAP must maintain the Register of I&APs (i.e. preliminary register must be updated with any new I&APs).
- ❖ The final register must be submitted to the Competent Authority with the BAR.
- ❖ This register must comply with Regulation 42 and must contain the names, contact details (i.e. e-mail addresses) and physical addresses.
- ❖ The register must provide details of the preferred form of communication (i.e. per e-mail; download from website) preferred address and highlight if the I&AP requires hardcopies of reports.

2.3.2. Complying with Regulation 41 during the Pre-Application or Application phase

- ❖ The public participation process ("PPP") which will be undertaken, must meet the requirements of Regulation 41 of the EIA Regulations, 2014. The public participation (i.e. notification process in terms of Regulation 41) may be undertaken prior to the submission of the application (Pre-Application), although this is not mandatory.

- ❖ The PP-Plan must describe whether I&APs will be provided with an opportunity to comment on the BAR, as contemplated in Sub-Regulation 40(1)(a) prior to the submission of the application for Environmental Authorisation (i.e. Pre-Application BAR).
- ❖ The PP-Plan must indicate when the person conducting the public participation process intends to comply with Regulation 41 in its entirety, e.g. within the Pre-Application Phase or the Application phase.
- ❖ The person conducting the public participation process may comply with Regulation 41 during both the Pre-Application and Application phase.

**Note:**

In terms of Sub-Regulation 40(3) of the Environmental Impact Assessment Regulations, 2014 (as amended) this Department may be provided with an opportunity to comment on the BAR, as contemplated in Sub-Regulation 40(1)(a) prior to the submission of the application for environmental Authorisation. Such a BAR must comply with the information requirements as stipulated in Sub-Regulations 19(3); 19(4) and 19(8) as well as Annexures 1, 4 and 6 of the regulations.

Such a BAR must be subject to public participation process as prescribed in Sub-Regulation 19(1)(a) read together with Regulation 41. With due consideration of these requirements, a public participation process conducted in terms of a BID (only) does not comply with said requirements. In such an instance, the person conducting the public participation process will need to comply with Regulation 41 for an application once it is submitted.

### 2.3.3. Notification of I&APs in terms of Regulation 41 of the EIA Regulations, 2014 (as amended)

The person conducting a public participation process must give notice to all potential interested and affected parties of an application or proposed application which is subjected to public participation by—

- ❖ Notice boards
  - The PP-plan must indicate if notice boards will be utilised, if no notice board(s) will be utilised, a motivation must be provided and an application for exemption may be required.
  - The PP-plan must describe where the notice boards will be placed (Note: this must be at a place conspicuous to and accessible by the public at the boundary, on the fence or along the corridor of the site where the activity to which the application or proposed application relates is or is to be undertaken; and any alternative site).
- ❖ Written notices
  - The manner of delivering the written, as provided for in section 47D of the NEMA, must be described.
  - It must be possible to cross-reference this with the preferences indicated in the I&AP Register.

- ❖ Placing an advertisement in a local newspaper
  - The PP-Plan must indicate in which local newspaper an advertisement will be placed.
  - If no advertisement will be placed in a local newspaper, a motivation must be provided and an application for exemption may be required.
  
- ❖ Placing an advertisement in at least one provincial newspaper or national newspaper
  - The PP-Plan must indicate in which provincial newspaper an advertisement will be placed, if the activity has or may have an impact that extends beyond the boundaries of the metropolitan or district municipality in which it is or will be undertaken: Provided that this requirement need not be complied with if an advertisement has been placed in an official Gazette.
  
- ❖ Using reasonable alternative methods:
  - illiteracy;
  - disability; or
  - any other disadvantage.
    - Proponents/Applicants and EAPs, in addition to the methods contained in Chapter 6 of the EIA Regulations, or as part of reasonable alternative methods proposed in terms of regulation 41(2)(e)(iii) of the EIA Regulations, may make use of the following non-exhaustive list of methods:
      - e-mails, websites, Zero Data Portals, Cloud Based Services, or similar platforms, direct telephone calls, virtual meetings, newspaper notices, radio advertisements, community representatives, distribution of notices at places that are accessible to potential I&APs.
      - The PP-plan must clearly identify the disadvantage and describe which method will be utilised to notify the I&APs.

#### 2.3.4. 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 clearly describe how the EAP will submit the reports to potential and Registered I&APs.
  
- ❖ Delivery of reports/documents must be done in a manner provided for in section 47D of the NEMA.
  
- ❖ Hard copies or 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, provided that all registered I&APs have access to the reports.

- ❖ Where I&APs cannot gain reasonable access to electrotonic copies, alternative means must be described, and provision must be made in the timeframes for the delivery of such documents.
- ❖ It must be possible to cross-reference the proposed delivery of documents to the preferences indicated in the I&AP Register.
- ❖ Reports may not be made available at any public places or premises closed to the public, as contemplated in the Regulations.

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

- ❖ The PP-Plan must clearly describe the 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 provide proof that all registered I&APs have been notified and provided access to the decision.

#### 2.3.6. Timeframes

- ❖ The PP-Plan must clearly describe the timeframes of the PPP in relation to the Project Programme. A clear distinction must be made between the Pre-Application phase and Application phase PPP.
- ❖ Regulation 3(8) requires that any public participation process must be conducted for a period of at least 30 days.

### 3. It is further advised that the following measures be incorporated into the PP-Plan:

- 12.1 All interested and affected parties ("I&APs") including organs of state must be afforded a minimum of **three (3) calendar days** from date of notification before the 30-day commenting period on the Pre-application Basic Assessment Report ("BAR") and the link to access the supporting documents, commences. 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.

4. Kindly quote the above-mentioned reference number in any future correspondence in respect of this matter.
5. 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: 2021.09.09 08:08:43 +02'00'

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

Ref.: 16/3/3/6/7/11/D1/14/0027/21

Copied to:

EAP: Mr. Andrew West

(EAP)

E-mail: andrewwest@isat.co.za

VPM: Ms Lizemarie Botha

E-mail: lizemarie@vpmsa.co.za



**REFERENCE:** 16/3/3/6/7/1/D1/14/0027/21

**DATE:** 24 August 2022

THE DIRECTOR  
THE KEEP PROPERTY (PTY) LTD  
1ST Floor, Dean Street Arcade, Main Road

**NEWLANDS**

7700

Attention: Mr. K. Powder

E-mail: [kyle@thekeep.co.za](mailto:kyle@thekeep.co.za)

Cell: 082 505 1770

Dear Sir,

**COMMENT ON THE PRE-APPLICATION BASIC ASSESSMENT REPORT FOR THE PROPOSED 15 RESIDENTIAL I UNITS, WITH SOME DESIGNATED OPEN SPACE ON THE PROPERTY KNOWN AS PORTION 66 & 67 OF FARM 443, PLETTENBERG BAY**

1. The abovementioned report received by this Directorate on 26 July 2022, refers.
2. This Directorate has reviewed the Pre-Application Basic Assessment Report (Pre-App BAR) and have the following comment:

*2.1. Compliance with minimum information requirements and Protocols:*

Please be advised that the report as submitted to this Directorate does not comply with the requirements of Appendix 1 of the Environmental Impact Assessment Regulations 2014 (hereinafter interchangeably referenced as "EIA Regulations" or "Regulation"). Furthermore, no declaration has been signed by the applicant nor the EAP, it is therefore interpreted that the applicant nor the EAP take responsibility for the content of the report.

The report does not comply with all the minimum information requirements set out in Protocols as identified and gazetted by the Minister in a government notice. Further detail is set out below.

Kindly take cognisance of the requirements of Regulation 16. Furthermore, please be reminded that information requirements set out in this Directorate's letter under the same reference number (dated 9 September 2021) must be complied with.

With regard to compliance with Regulation 12, from the Pre-App BAR document it appears that the report has been compiled by Mr Andrew West of *Andrew West Environmental Consultancy (AWEC)* as the document contains the contact details and the unsigned declaration of independence refers to AWEC; however, the report and supporting documents were received from *Eco Route Environmental Consultancy*. The

relationship between the two consulting firms and which “person” was responsible for the investigation, assessment and preparation of the Pre-App BAR and will be responsible to manage the application once it has been submitted, including the investigation, assessment and preparation of the Basic Assessment Report and EMPr contemplated in regulation 19(1)(a) is unclear. It is also unclear whether *Eco Route Environmental Consultancy* has acted as the EAP or a Review EAP, as no declaration is attached to the Pre-App BAR.

Although this Directorate is aware of the reasons that Mr West has had to withdraw from this specific project, please be reminded that from 8 August 2022, only a person registered as an environmental assessment practitioner (EAP) may perform tasks in connection with an application for an environmental authorisation contemplated in Chapter 5 of the National Environmental Management Act, 1998 as amended (“NEMA”), read with the EIA Regulations, 2014; unless the transitional arrangements set out in Regulation 21 of the Section 24H Registration Authority Regulations, 2016 (Government Notice 849 in Government Gazette 40154 dated 22 July 2016, as amended refers) are applicable. This aspect must be clarified prior to an application for Environmental Authorisation being submitted to this Department as it may prejudice the success of the application.

## 2.2. *Applicable Listed Activities*

The following listed activity is not included in the list of applicable activities that may be triggered by the proposed development:

- Activity Number 4 of Listing Notice 3 (GN No. R.985 of 4 December 2014, as amended)

It is unclear why Activity 4 has not been included or regarded as applicable. This activity must also be included in the Application 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.

## 2.3. *Need and Desirability*

The need and desirability of the proposed development has not been demonstrated and lacking detail even though it is written in the report that the guideline for need and desirability has been taken into consideration.

## 2.4. *Specialist Assessments:*

Notwithstanding this Directorate's letter of 9 September 2021, the following specialist studies do not appear to have not been undertaken and are not appended to the report, namely:

- *Agriculture;*
- *Aquatic Biodiversity Sensitivity;*
- *Landscape / Visual Impact Assessment; and*
- *Socio-economic*

Please take note of the following comment and guidance regarding specialist studies that were received:

- **Botanical Sensitivity Analysis:**

This report by *Regalis Environmental Services CC* is dated December 2020. It is unclear that the *Botanical Sensitivity Analysis* addresses both the—

- *Terrestrial Biodiversity Theme*; and
- *Terrestrial Plant Species Theme*.

Notwithstanding the above, the protocol for *Terrestrial Plant Species* was gazetted and came into effect on 30 October 2020 (GN. No. R43855 of 30 October 2020). In previous comment issued by this Directorate on the Site Sensitivity Verification Report on 9 September 2021, it was clearly indicated 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 “medium sensitivity” for terrestrial plant species must submit either a Terrestrial Plant Species Specialist Assessment Report or a Terrestrial Plant Species Compliance Statement, depending on the outcome of a site inspection undertaken in accordance with paragraph 4.*”

The requirements of the Protocol for Terrestrial Plant Species (i.e. paragraph 4) were not complied with, and no reasons/representations provided why they would not be applicable. Please be advised that the BAR must comply with the relevant minimum information requirements for each relevant Protocol. Failing which, the success of the application may be prejudiced. It is advised that this entire specialist report be revisited/redone to ensure that it complies with the relevant protocol. Therefore, the Competent Authority requires that the EAP or appointed specialist must consult the South African National Biodiversity Institute (SANBI) as indicated in the STR; and the procedure set out in the Protocol regarding the **Medium Sensitivity Species of Conservation Concern Confirmation** be followed. Please note that—

- where SCC are found on site or have been confirmed to be likely present, a **Terrestrial Plant Species Specialist Assessment** must be submitted in accordance with the requirements specified for “very high” and “high” sensitivity in this protocol.
- similarly, where no SCC are found on site during the investigation or if the presence is confirmed to be unlikely, a **Terrestrial Plant Species Compliance Statement** must be submitted.

Furthermore, the specialist has described the vegetation on the property as “*the proposed development area consists of Goukamma Dune Thicket (status = Least Concerned) and a narrow strip of Garden Route Shale Fynbos (status = Vulnerable)*” yet, according to the National Biodiversity Assessment 2011 the vegetation as being Garden Route Shale Fynbos. It is unclear what vegetation layer the specialist used to describe the vegetation to include *Goukamma Dune Thicket*. In addition, it is unclear what criteria was used to determine that the diversity is poor. Clarity is required.

Furthermore, the vegetation on the property has been mapped as Garden Route Shale Fynbos which is gazetted<sup>[1]</sup> as vulnerable (VU) ecosystem listed in terms of section 52 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) ("NEMBA").

**Note:** To establish whether a site falls within or contains part of a threatened ecosystem, go to SANBI's BGIS. If the site does fall within a listed ecosystem, it is important to ground-truth the presence of indigenous vegetation of the ecosystem in question, preferably with an ecologist who knows the area. Spatial data on the location of ecosystems and on land cover is always subject to errors of scale, and land cover data is never 100% up to date.

From the list of species recorded on the site by the specialist it appears that the vegetation type may relate to *Groot Brak Dune Strandveld*, this aspect must be clarified by the specialist. Comment must also be obtained from CapeNature on this aspect.

This specialist report has raised an important issue, namely ecological fire requirements and *fire risk management*; however, this issue has not been adequately addressed. It may be necessary that a separate report be prepared on this issue as it will have cross-cutting issues with other specialist studies.

#### ● *Terrestrial Fauna Sensitivity Report:*

This report does not comply with the minimum information requirement of the relevant Protocol (i.e. Terrestrial animal species). For example, no indication was given when the field assessment was undertaken, the duration of the field assessment, methodology amongst others. It is noted that this study was commissioned by the EAP; however, the report is not dated. It is noted that the declaration was signed by the specialist on 20 June 2022.

This specialist makes a statement that the vegetation mapping is incorrect due to the coarse scale of the national vegetation types. It is however, suggested that the specialist consult with CapeNature and SANBI to ascertain the methodology used in determining the classification of the vegetation instead of referring to it erroneously. In this regard, the specialist for the respective themes should consult one another's reports to avoid any disparity between specialist reports.

In this report, the specialist provides an opinion on the connectivity in the landscape from west to east (i.e. wetland inland from the property to the coast) and the specialist concludes that "The study site thus does not represent any kind of "last link" between the foredune area and the wetland". It is unclear how the conclusion is reached as this property has not cut off any movement of as yet. The proposal to have a gated security estate and that sufficient ecological corridors as described by the EAP in the report, contrary to the specialist's opinion. The specialist report must address the need for

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[1] NATIONAL LIST OF ECOSYSTEMS THAT ARE THREATENED AND IN NEED OF PROTECTION (Government Notice 1002 in Government Gazette 34809, dated 9 December 2011).

connectivity and alternative layout options be described to demonstrate how the connectivity can be maintained or improved.

### 2.5. Alternatives:

The No-Go alternative as presented in the report is unacceptable. The reasoning that if the property remains undeveloped and the site is not maintained; that this will place the landowner in contravention with other national legislation (i.e. removal of listed alien and invasive plant species), is irrational.

An alternative must be considered and reported on which describes how the current dwelling can be utilised on the property (albeit that the expansion of the existing dwelling is required). There are many alternatives that could be investigated, including the layout and density of the proposed development.

The alternative to perform the primary right of agriculture is noted however, the assessment done to determine that it is not a viable option to undertake agricultural activities (i.e. cultivation of the land or other agriculture activities) is insufficient.

Please be reminded that the competent authority can authorise or refuse any alternative (in full or in part).

### 2.6. Impact Assessment

The impact assessment methodology in the report does not adequately address the impacts and risks. Furthermore, the '*nature of the impacts*' identified does not make sense, (i.e. the nature of the impact in the report is given as "Impact on sensitive areas"). The loss of vegetation, loss of faunal habitat etc. is not clear.

The impact of increased traffic on the road, increased stormwater from hardened surfaces have not been assessed. Also, the traffic assessment mentions that the road will require an upgrade. This too, was not reported on. It is also unclear whether this upgrade may require environmental authorisation.

The indirect and cumulative impacts have not been described for any of the impacts. Furthermore, the impact assessment for the planning, design and development phase it is written that it is "*to be investigated / determined post PPP*". This is not acceptable.

Please be reminded that the EAP appointed by the applicant must, according to Regulation 13(1)(b) of the EIA Regulations, have expertise in conducting environmental impact assessments or undertaking specialist work as required, including knowledge of the Act, these regulations and any guidelines that have relevance to the proposed activity.

### 2.7. Assumptions, uncertainties, and gaps in knowledge:

The description of the assumptions, uncertainties and gaps in knowledge refer to the development being in close proximity to the R102. This appears to be incorrect and must be reviewed again and completed.



## 2.8. Implementation programme:

Please note that, in accordance with the provisions of the Environmental Impact Assessment Regulations, 2014, a period for which the environmental authorisation is required must be provided. This period must be informed by the operational aspects (if applicable) and the non-operational aspects of the proposed development. As such, the date on which the activity will be concluded and the post construction monitoring requirements finalised, must be determined.

This Department requests that an implementation programme be provided which sets out the construction phase (non-operational aspects) of the proposed development and specifies the period required to conclude the respective activities (a date on which the activity will be deemed to have been concluded should be derived from such a programme). Where the proposed development will include operational aspects, the period for which the environmental authorisation is required must be provided.

The periods included in the reports that speaks to the proposed validity period of the EA is to be valid for does not make sense.

## 2.9. Bulk Services:

More detailed plans must be included in the Basic Assessment report that shows the internal reticulation of the water, sewerage and stormwater management systems as well as the new pumpstations that are mentioned in the engineering report. These plans must indicate all external features such as stormwater outfall structures.

## 2.10. Public Participation Process:

Notwithstanding the public participation on this document, it is noted that a public participation process was conducted during late 2021 by AWEC; however, this Directorate was not notified of this process and not afforded an opportunity to comment on the pre-application report and associated appendices. Furthermore, the legal advertisement placed in the Knysna-Plett Herald does not comply with Regulation 41 of the EIA Regulations 2014.

Please be advised that the person conducting the public participation process shall be required to comply with Regulation 41(2)(a)(b)(c) and where applicable (e), once the formal application is submitted to ensure the public participation complies with Regulation 41.

## 2.11. Environmental Management Programme ("EMPr")

An EMPr has not been submitted with the Pre-Application Basic Assessment Report. Kindly ensure that an EMPr is submitted with the BAR which complies with Annexure 4 of the EIA Regulations 2014. It is suggested that a table be included in the EMPr that references the various sections of the EMPr to the content requirements of Annexure 4.

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

The EAP may contact the EIMS (Region 3) case officer to arrange for an additional pre-application consultation / meeting to discuss the content of this letter as well as 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 NEMA and the EIA Regulations, 2014.

5. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.
6. Please note that the activity may not commence prior to an Environmental Authorisation being granted by the Department. It is an offence in terms of Section 49A of the NEMA for a person to commence with a listed activity unless the Department has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F and 49A of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department for prosecution. 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.

Yours faithfully

 Digitally signed by Francois Naudé  
Date: 2022.08.24 13:15:45 +02'00'

**HEAD OF COMPONENT**

**ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

(Reference: 16/3/3/6/7/1/D1/14/0027/21)

Copied to: Ms Janet Ebersohn  
Mr. Andrew West

E-mail: [janet@ecoroute.co.za](mailto:janet@ecoroute.co.za)  
E-mail: [andrewwest@isat.com](mailto:andrewwest@isat.com)



**REFERENCE:** 16/3/3/6/7/1/D1/14/0027/21  
**SPECIFIC FEE REFERENCE NUMBER:** G-BA-EIA-i23  
**DATE:** 24 October 2022

THE DIRECTOR  
ATHINA DEVELOPMENT (PTY) LTD  
1ST Floor, Dean Street Arcade, Main Road  
**NEWLANDS**  
7700

Attention: Mr. K. Powter

E-mail: [kyle@thekeep.co.za](mailto:kyle@thekeep.co.za)

Cell: 082 505 1770

Dear Sir,

**COMMENT ON THE REVISED SITE SENSITIVITY VERIFICATION REPORT (SSVR) FOR THE PROPOSED 9 RESIDENTIAL I UNITS, WITH SOME DESIGNATED OPEN SPACE ON THE PROPERTY KNOWN AS PORTION 66 & 67 OF FARM 443, PLETTENBERG BAY**

1. The abovementioned report received by this Directorate on 18 October 2022, refers.
2. This Directorate has reviewed the Revised SSVR and have the following comment:
  - 2.1. Specialist Studies  
It is noted that the following studies have been commissioned and will comply with the relevant minimum information requirements (where applicable):
    - (a) Visual Impact Assessment
    - (b) Archaeological Impact Assessment
    - (c) Palaeontological Impact Assessment
    - (d) Animal Species and Terrestrial Biodiversity Assessment
    - (e) Terrestrial Plant Species Compliance Statement
  - 2.2. Comment on other theme sensitivities / identified specialist studies:
    - (a) *Agriculture* – even though the sensitivity of the Screening Tool reports it as having a high sensitivity, the WCG: Department of Agriculture has no objection to the proposed development and does not require any studies to be undertaken in terms of the agricultural sensitivity. This Directorate takes note.
    - (a) *Avian Impact Assessment* – it is understood that the need for this assessment is disputed and that avian species have been addressed within the Animal Species and Terrestrial Biodiversity Assessment report.
    - (b) *Civil Aviation* – the Screening Tool Report indicates a High sensitivity, however, the EAP refutes this, and it is noted that the recommendation is to lower the sensitivity to Low and this will not require a study to be commissioned. Notwithstanding the above, the EAP must consult the South African Civil Aviation Authority (% Ms. Lizell Stroh) at E-mail: [Strohl@caa.co.za](mailto:Strohl@caa.co.za) and / or Tel: (011) 545 1232 regarding the process to obtain comment from the aviation authority.

- (c) Defence – the Screening Tool Report indicates a low sensitivity for this theme and this Directorate notes that no further assessment will be undertaken.
- (d) Geotechnical – it is understood that the engineering report will address geotechnical aspects.
- (e) Socio-Economic – it is noted that the impacts associated with this theme will be described and reported on in the Draft Basic Assessment Report.

### 2.3. Combining specialist studies / reports:

Where an specialist assessment is combined in a single report, it must be ensured that the report addresses all the minimum information requirements of all the relevant themes as specified in the respective protocols. Furthermore, the specialist must provide the necessary proof that he/she is appropriately registered with SACNASP for the respective Protocols.

For example, it may be possible to combine an assessment report for the *Terrestrial Biodiversity and Plant Species* themes or *Terrestrial Biodiversity / Terrestrial Animal Species / Avian Species*, if the person undertaking the respective assessments can demonstrate that she/he complies with all the requirements for the respective Protocols.

3. The Department notes your “Request for a specific fee reference number”. The following specific fee reference number **G-BA-EIA-i23** 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.
4. This Department awaits the submission of the application form and the Draft Basic Assessment Report.
5. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.
6. Please note that the activity may not commence prior to an Environmental Authorisation being granted by the Department. It is an offence in terms of Section 49A of the NEMA for a person to commence with a listed activity unless the Department has granted an Environmental Authorisation for the undertaking of the activity. granted an environmental authorisation for the undertaking of the activity. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.

Yours faithfully

pp \_\_\_\_\_

**HEAD OF COMPONENT**

**ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: EAP: Ms Janet Ebersohn

E-mail: [janet@ecoroute.co.za](mailto:janet@ecoroute.co.za)



**REFERENCE:** 16/3/3/1/D1/14/0028/22  
**DATE OF ISSUE:** 27 October 2022

THE DIRECTOR  
ATHINA DEVELOPMENT (PTY) LTD  
1ST Floor, Dean Street Arcade, Main Road  
**NEWLANDS**  
7700

Attention: Mr. K. Powder

E-mail: [kyle@thekeep.co.za](mailto:kyle@thekeep.co.za)  
Cell: 082 505 1770

Dear Sir,

**ACKNOWLEDGEMENT OF RECEIPT OF THE APPLICATION FOR ENVIRONMENTAL  
AUTHORISATION FOR THE PROPOSED EXCLUSIVE BEACHFRONT SECURITY ESTATE ON  
PORTION 66 AND 67 OF FARM BRAKKLOOF 443, PLETTENBERG BAY**

1. The abovementioned undated document received by this Directorate on 24 October 2022, refers.
2. This letter serves as an acknowledgment of receipt of the aforementioned document by the Department. The application form appears to comply with the general application requirements set out in Regulation 16 and 17 of the Environmental Impact Assessment Regulations, 2014.
3. In accordance with sub-regulation 3(1) and 3(2) of the Environmental Impact Assessment Regulations, 2014, the date of receipt of the application form is determined to be **24 October 2022**.
4. Kindly quote the above-mentioned 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 by the Department. It is an offence in terms of Section 49A of the National Environmental Management Act, 1998 (Act no. 107 of 1998) ("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. Offences in terms of the NEMA and the Environmental Impact Assessment Regulations, 2014, will render the offender liable for criminal prosecution.
6. The Department reserves the right to revise initial comments and request further information based on the information received.

Yours faithfully

pp. Francois Naudé  
**HEAD OF COMPONENT**

Digitally signed by Francois Naudé  
Date: 2022.10.27 11:05:23 +02'00'

**ENVIRONMENTAL IMPACT MANAGEMENT SERVICES (REGION 3)  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Copied to: EAP: Ms. Janet Ebersohn

E-Mail: [janet@ecoroute.co.za](mailto:janet@ecoroute.co.za)



**REFERENCE:** 16/3/3/1/D1/14/0028/22  
**DATE OF ISSUE:** 07 November 2022

THE DIRECTOR  
ATHINA DEVELOPMENT (PTY) LTD  
1ST Floor, Dean Street Arcade, Main Road  
**NEWLANDS**  
7700

Attention: Mr. K. Powder

E-mail: [kyle@thekeep.co.za](mailto:kyle@thekeep.co.za)

Cell: 082 505 1770

**ACKNOWLEDGMENT OF RECEIPT OF THE DRAFT BASIC ASSESSMENT REPORT FOR THE PROPOSED EXCLUSIVE BEACHFRONT SECURITY ESTATE ON PORTION 66 AND 67 OF FARM BRAKKLOOF 443, PLETTENBERG BAY**

1. The abovementioned documents received by this Department electronically on 3 November 2022, refers.
2. This letter serves as an acknowledgment of receipt of the aforementioned document by the Competent Authority.
3. This Directorate will provide comment on the documents within 30 days from receipt of the documentation i.e., by the 5 December 2022.
4. Please note that the activity may not commence prior to an Environmental Authorisation being granted by the Department. It is an offence in terms of Section 49A of the NEMA for a person to commence with a listed activity unless the Department has granted an environmental authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F and 49A of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department for prosecution.
5. 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

pp. Francois Naudé  
**HEAD OF COMPONENT**

Digitally signed by Francois Naudé  
Date: 2022.11.07 14:39:07 +02'00'

**ENVIRONMENTAL IMPACT MANAGEMENT SERVICES (REGION 3)**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: Ms. Janet Ebersohn (EAP)

E-Mail: [janet@ecoroute.co.za](mailto:janet@ecoroute.co.za) / [joclyn@ecoroute.co.za](mailto:joclyn@ecoroute.co.za)

**REFERENCE:** 16/3/3/1/D1/14/0028/22  
**DATE OF ISSUE:** 05 December 2022

THE DIRECTOR  
ATHINA DEVELOPMENT (PTY) LTD  
1ST Floor, Dean Street Arcade, Main Road  
**NEWLANDS**  
7700

Attention: Mr. K. Powder

E-mail: [kyle@thekeep.co.za](mailto:kyle@thekeep.co.za)

Cell: 082 505 1770

Dear Sir,

## **COMMENT ON THE DRAFT BASIC ASSESSMENT REPORT FOR THE PROPOSED 9 RESIDENTIAL I UNITS, WITH SOME DESIGNATED OPEN SPACE ON THE PROPERTY KNOWN AS PORTION 66 & 67 OF FARM 443, PLETTENBERG BAY**

1. The abovementioned report received by this Directorate on 3 November 2022 and comment issued by this Directorate on the Pre-Application Basic Assessment Report ("Pre-App BAR") on 24 August 2022, refers.
2. This Directorate has reviewed the Draft Basic Assessment Report (DBAR) and have the following comment:

### *2.1. Pre-application consultation:*

The comment provided by the competent authority on any reports or plans during the pre-application consultation process must be considered and addressed in the BAR. Please be reminded that specific information that may be required by the competent authority must be included in the BAR.

This Directorate's comment on the Pre-Application BAR is not reflected in the '*comment and responses report*' appended to the DBAR. This must be corrected in the BAR and if any comments from any I&AP or organ of state have also been omitted, this must be corrected.

### *2.2. Specialist Assessments:*

#### ● *Aquatic Biodiversity*

Notwithstanding the requirements of the Screening Tool Report and comment provided during the pre-application consultation process, (*inter alia* this Directorate's letter of 9 September 2021), an *Aquatic Biodiversity* specialist assessment has not been undertaken or appended to the report.

It is noted that the Breede Gouritz Catchment Management Agency (BGCMA) has provided comment during the pre-application phase on the applicability of the National Water Act, 1998. Even though the proposed development lies within less than 500 metres from the wetland, the BGCMA has indicated that the proposed development does not trigger section 21 and 22 of said Act. It is advised that the BGCMA be consulted again to confirm their interpretation.

Even though said organ of state does not appear to require any further assessment in terms of the law they are administrating relating to a matter affecting the environment, the competent authority (this Department) maintains that an assessment of the impacts on the aquatic biodiversity/ecosystem is still required. This view is further substantiated by the information in the BAR as well as the findings of the Plant Species specialist report wherein it is stated that there are no known ecological processes acting between the wetland west of the properties and the beach east of the properties. The aquatic biodiversity and hydrological processes do not appear to fall within the ambit of this study.

It is important to understand the following uncertainties and aspects:

- (a) the hydrological functioning of the wetland at a landscape level and the impacts of the proposed development and the infrastructure and upgraded road situated on the edge of the wetland;
- (b) the ecological connectivity of the wetland to the surrounding land and other ecological processes (dune system); as well as the site;
- (c) how the proposed development will impact on the functioning of the aquatic feature;
- (d) insufficient detail has been provided on the development of road and stormwater infrastructure on the edge of the wetland. The impact of such infrastructure and functioning thereof (*inter alia* stormwater outlets) requires clarity;
- (e) whether the proposed development is consistent with maintaining the priority aquatic ecosystem in its current state and according to the stated goal.

Such study must be undertaken by a suitably qualified specialist registered with the SACNASP, with expertise in the field of aquatic sciences.

#### ● *Terrestrial Biodiversity and Animal Species Themes:*

It is noted that the *Animal Species Report* and *Terrestrial Biodiversity Report*, have been combined in a single report. Based on previous correspondence issued by this Directorate, these reports must comply with the minimum information requirements set out in the Protocol for a:

- Terrestrial Animal Species Specialist Assessment; and
- Terrestrial Biodiversity Specialist Assessment.

The *Animal Species & Terrestrial Biodiversity Assessment* report does not clearly demonstrate how the minimum information requirements of the respective protocols have been addressed. It is noted that a separate report has been compiled for *Terrestrial Plant Species* theme and that the combined reported cross references the Plant Species report. The combined *Animal Species & Terrestrial Biodiversity Assessment* report does not conform to all the requirements of the respective Protocols. The report must be revised to demonstrate how the legislative requirements have been complied with.

In comments on the Pre-App BAR, the fire risk was highlighted as issue that required further assessment. This is not clearly addressed in the Terrestrial Biodiversity Assessment' however, it is noted that in the Plant Species the botanical specialist has failed to consider this aspect and is of the view that it is not of importance. This Directorate disagrees with this view and is concerned that when considering the fire risk and uncontrolled fire that swept through the area in 2017, it appears that it is an issue which must be addressed.

The BAR must demonstrate how this aspect has been assessed and incorporated into the design, layout and EMPr for the activity.

*Animal Species Report:* In the consultation on the Pre-App BAR this Directorate commented on the connectivity in the landscape. The Ecologist however indicated that the 6-metre servitude

will serve as a minor corridor for connectivity. The response to this issue is inadequate. The specialist report must address the need for connectivity and alternative layout options must be described to demonstrate how the connectivity can be maintained or improved. The specialist or EAP is also required to demonstrate in the BAR how CapeNature has been consulted on this specific aspect.

### 2.3. Terrestrial Plant Species Theme

It is noted that the report that has been submitted for this theme is referred to as a Compliance Statement; however, the report states that it complies with Appendix 6 of the 2014 National Environmental Management Act, 1998 (No. 107 of 1998) (NEMA) Environmental Impact Assessment (EIA) Regulations (and as amended), detailing the requirements for specialist's reports. This should be clarified.

With regard to the conclusions made in this report regarding the ESA and infestation of *Acacia cyclops*, it is noted that the lack of alien clearing appears to serve as the motivation for the reduced biodiversity. The view is also held that, besides the physical infestation, the presence of *Acacia cyclops* increase the nutrients within the dune which is also not conducive for many indigenous plant species that should occur on the site. The effect of this process and the period to eradicate the infestation and measures to return the site to near natural has not been described to understand the reversibility of this impact on the habitat.

The reasons for the objectives described in the Western Cape Biodiversity Spatial Plan 2017 have not been clearly addressed. It is understood that the CapeNature has identified various issues with the VegMap, 2018 data. It is unclear whether this includes the information for this site. Furthermore, the statement regarding the mapped ecosystem *Garden Route Shale Fynbos* (Endangered) (referenced as and vegetation type identified by the specialist, namely *Goukamma Dune Thicket* (Least Concerned), is noted, the ground-truthing must be confirmed by CapeNature though.

The specialist or EAP is also required to demonstrate in the BAR how CapeNature has been consulted on these specific aspects.

### 2.4. Alternatives:

In comment on the Pre-App BAR it was stated that: "*the No-Go alternative as presented in the report was deemed unacceptable. The reasoning that if the property remains undeveloped and the site is not maintained; that this will place the landowner in contravention with other national legislation (i.e. removal of listed alien and invasive plant species), is irrational.*" This aspect has not been reassessed or addressed in the DBAR. This matter must be addressed and detailed in the BAR.

Also, in previous comment, an alternative must be considered and reported on which describes how the current dwelling can be utilised on the property (albeit that the expansion of the existing dwelling is required). There are many alternatives that could be investigated, including the layout and density of the proposed development.

Please be reminded that the competent authority can authorise or refuse any alternative (in full or in part).

## 2.5. Public participation

Notwithstanding the public participation process undertaken thus far, it is important that relevant organs of state administering a law relating to a matter affecting the environment, must be consulted to ensure that their written comment is obtained.

## 2.6. Assumptions, uncertainties, and gaps in knowledge:

The description of the assumptions, uncertainties and gaps in knowledge refer to the development being in close proximity to the R102. This appears to be incorrect and must be reviewed again and the assessment completed.

## 2.7. List of other legislation that is applicable to the proposed activity or development

It is noted that the Outeniqua Sensitive Coastal Area Extension Regulations promulgated under Environmental Conservation Act (Act No. 73 of 1989) has not been identified as a relevant consideration. It is strongly advised that the application in terms of those regulations be synchronised with its application. Further, it is a requirement of the OSCAE application to provide detailed information on the volume of sand to be moved or removed and the area where vegetation will be disturbed. The manner in how the OSCAE Regulations have been considered and the aforementioned detail of the activities must be provided in the BAR.

3. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.
4. Please note that the activity may not commence prior to an Environmental Authorisation being granted by the Department. It is an offence in terms of Section 49A of the NEMA for a person to commence with a listed activity unless the Department has granted an Environmental Authorisation for the undertaking of the activity.

Yours faithfully

pp Francois Naudé

Digitally signed by Francois Naudé  
Date: 2022.12.05 15:39:03 +02'00'

**HEAD OF COMPONENT**

**ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

(Reference: 16/3/3/1/D1/14/0028/22)

Copied to: Ms Janet Ebersohn

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**REFERENCE:** 16/3/3/1/D1/14/0028/22  
**DATE OF ISSUE:** 20 January 2023

THE DIRECTOR  
ATHINA DEVELOPMENT (PTY) LTD  
1ST Floor, Dean Street Arcade, Main Road  
**NEWLANDS**  
7700

Attention: Mr. K. Powder

E-mail: [kyle@thekeep.co.za](mailto:kyle@thekeep.co.za)

Cell: 082 505 1770

Dear Sir,

**ACKNOWLEDGEMENT OF RECEIPT OF THE NOTIFICATION OF EXTENSION TO SUBMIT THE FINAL BASIC ASSESSMENT REPORT FOR THE PROPOSED 9 RESIDENTIAL I UNITS, WITH SOME DESIGNATED OPEN SPACE ON THE PROPERTY KNOWN AS PORTION 66 & 67 OF FARM 443, PLETTENBERG BAY**

1. The abovementioned notification that was received by this Department on 17 January 2023 from your Environmental Assessment Practitioner, *EcoRoute*, refers.
2. This Directorate acknowledges receipt of the abovementioned notification received in terms of sub-regulation 19(1)(b) of the Environmental Impact Assessment Regulations 2014 (GN. No. R 982 of 4 December 2014, as amended).
3. The Department notes that in terms of sub-regulation 19(1)(b) of Government Notice No. R.982 of 4 December 2014, the final Basic Assessment Report, inclusive of specialist reports and the EMPr, for decision must be submitted within 140 days of receipt of the application by the Department. Thus, the Basic Assessment Report must be submitted to the Department by no later than **6 April 2023**.
4. In the Final BAR, your EAP is required to provide a separate summary and list of the sections where significant changes or significant new information which has been added to the revised report or EMPr, which changes, or information was not contained in the reports or plans consulted on during the initial public participation process contemplated in sub-regulation 19(1)(a). The EAP should provide an explanation why these changes or new information are regarded as significant.

5. Kindly take note that failure to submit the document by the aforementioned date will result in the application lapsing and case file closed and a new application will need to be submitted if the applicant wishes to pursue the proposed development.
6. Please note that the activity may not commence prior to an Environmental Authorisation being granted by the Department. It is an offence in terms of Section 49A of the NEMA for a person to commence with a listed activity unless the Department has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F and 49A of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department for prosecution.
7. The Department reserves the right to revise initial comments and request further information based on the information received.

Yours faithfully

pp. Francois Naudé

**HEAD OF COMPONENT**

**ENVIRONMENTAL IMPACT MANAGEMENT SERVICES (REGION 3)**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Digitally signed by Francois Naudé  
Date: 2023.01.20 12:10:24 +02'00'

CC: Ms. Janet Ebersohn (EAP)

E-Mail: [janet@ecoroute.co.za](mailto:janet@ecoroute.co.za)





**REFERENCE:** 16/3/3/1/D1/14/0028/22  
**DATE OF ISSUE:** 02 February 2023

THE DIRECTOR  
ATHINA DEVELOPMENT (PTY) LTD  
1ST Floor, Dean Street Arcade, Main Road  
**NEWLANDS**  
7700

Attention: Mr. K. Powter

E-mail: [kyle@thekeep.co.za](mailto:kyle@thekeep.co.za)

Cell: 082 505 1770

Dear Sir,

**ACKNOWLEDGMENT OF RECEIPT OF THE REVISED BASIC ASSESSMENT REPORT FOR THE PROPOSED 9 RESIDENTIAL I UNITS, WITH SOME DESIGNATED OPEN SPACE ON THE PROPERTY KNOWN AS PORTION 66 & 67 OF FARM 443, PLETTENBERG BAY**

1. The abovementioned documents received by this Department electronically on 23 January 2023, refers.
2. This letter serves as an acknowledgment of receipt of the aforementioned document by the Competent Authority.
3. This Directorate will provide comment on the documents within 30 days from receipt of the documentation i.e., by the 22 February 2023.
4. Please note that the activity may not commence prior to an Environmental Authorisation being granted by the Department. It is an offence in terms of Section 49A of the NEMA for a person to commence with a listed activity unless the Department has granted an environmental authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F and 49A of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department for prosecution.
5. 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

pp. Francois Naudé

**HEAD OF COMPONENT**

**ENVIRONMENTAL IMPACT MANAGEMENT SERVICES (REGION 3)**

**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Digitally signed by Francois Naudé  
Date: 2023.02.02 06:47:32 +02'00'

CC: Ms. Janet Ebersohn (EAP)

E-Mail: [janet@ecoroute.co.za](mailto:janet@ecoroute.co.za)

**REFERENCE:** 16/3/3/1/D1/14/0028/22  
**DATE OF ISSUE:** 17 February 2023

THE DIRECTOR  
ATHINA DEVELOPMENT (PTY) LTD  
1ST Floor, Dean Street Arcade, Main Road  
**NEWLANDS**  
7700

**Attention:** Mr. K. Powter

E-mail: [kyle@thekeep.co.za](mailto:kyle@thekeep.co.za)

Cell: 082 505 1770

Dear Sir,

**COMMENT ON THE REVISED BASIC ASSESSMENT REPORT FOR THE PROPOSED 9 RESIDENTIAL  
I UNITS, WITH SOME DESIGNATED OPEN SPACE ON THE PROPERTY KNOWN AS PORTION  
66 & 67 OF THE FARM 443, PLETTENBERG BAY**

1. The abovementioned report received by this Directorate on 23 January 2023, refers.
2. This Directorate has reviewed the Revised Basic Assessment Report (RBAR) and have the following comment:

*2.1. Fire Management:*

In comments on the DBAR, the fire risk was highlighted. It is noted in the specialist report as well as in the Environmental Management Programme (EMPr) that the recommendation is that the Southern Cape Fire Protection Association (SCFPA) should be consulted regarding firebreaks and fire management for the property in the case of a wildfire. This is not acceptable. This must have been done. Comment on the abovementioned must be obtained from the SCFPA must be obtained and the inputs must be incorporated in the EMPr.

*2.2. Access Road*

It is understood that the access to the property is proposed to be via MR7209 which is a provincial road and that the road maintenance is the responsibility of the provincial authority. It is not evident that the Department of Transport and Public Works (DTPW) has provided comment. This is important and must be obtained even though the Traffic Impact Assessment has suggested that the existing track be upgraded to a hardened surface.

*2.3. Site Development Plan (SDP)*

It is noted on the SDP that beyond the sea facing erven is demarcated as being a landscaped area. It is not clear what landscaping is proposed on this area as it is understood that this area would not be disturbed. Clarity is required.

Also, detailed site development plan(s) must be prepared for each alternative site or alternative activity. The site plans must contain or conform to the following:

- The detailed site plan must preferably be at a scale of 1:500 or at an appropriate scale. The scale must be clearly indicated on the plan, preferably together with a linear scale.
- The property boundaries and numbers of all the properties within 50m of the site must be indicated on the site plan.
- On land where the property has not been defined, the co-ordinates of the area in which the proposed activity or development is proposed must be provided.
- The current land use (not zoning) as well as the land use zoning of each of the adjoining properties must be clearly indicated on the site plan.
- The position of each component of the proposed activity or development as well as any other structures on the site must be indicated on the site plan.
- Services, including electricity supply cables (indicate aboveground or underground), water supply pipelines, boreholes, sewage pipelines, storm water infrastructure and access roads that will form part of the proposed development must be clearly indicated on the site plan.
- Servitudes and an indication of the purpose of each servitude must be indicated on the site plan.
- Sensitive environmental elements within 100m of the site must be included on the site plan, including (but not limited to):
  - Watercourses / Rivers / Wetlands
  - Flood lines (i.e., 1:100 year, 1:50 year and 1:10 year where applicable);
  - Coastal Risk Zones as delineated for the Western Cape by the Department of Environmental Affairs and Development Planning ("DEA&DP");
  - Ridges;
  - Cultural and historical features/landscapes;
  - Areas with indigenous vegetation (even if degraded or infested with alien species).
- Whenever the slope of the site exceeds 1:10, a contour map of the site must be submitted.
- North arrow

A map/site plan must also be provided at an appropriate scale, which superimposes the proposed development and its associated structures and infrastructure on the environmental sensitivities of the preferred and alternative sites indicating any areas that should be avoided, including buffer areas.

#### 2.4. Public Participation:

It is noted that many Organs of State have been notified and approached to provide comment on the DBAR and RBAR. Kindly ensure that comment is obtained from the WCG: DEA&DP: Coastal Management, specifically in relation to the aspects related to Section 63 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) is included in the BAR.

#### 2.5. Aquatic Biodiversity Assessment

It is noted in this report that according to the DWS Risk Assessment that the development would have a low risk to the wetland and that the development can take place under a General Authorisation. However, e-mail correspondence received from your EAP on 14 February 2023, it was confirmed that a Water Use Licence (WUL) is indeed applicable to the development. The assessment and reporting on these aquatic biodiversity aspects must be undertaken and the application processes synchronised to ensure that the competent authority receives all relevant information for decision making purposes.

#### 2.6. Synchronisation of the WULA – EIA processes / applications

The synchronisation between the EIA process and the Water Use License Application ("WULA") process must be evident in the report. It is further noted that an application has not yet been submitted to the Breede Gouritz Catchment Management Agency (BGCMA) for the WULA. Based on recent correspondence, it is understood that a WULA will as a minimum be require for the proposed sewer infrastructure.

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.

Please be reminded of the "One Environmental System" principle that must be applied to applications of this nature. Please refer to this Department's circular: EADP 0028/2014 in this regard.

Please be reminded that all specialist reports submitted as part of the BAR (including those submitted for consideration and which also may form part of the WULA) must be appended to the BAR and must comply with the minimum information requirements of the relevant Protocol or Appendix 6 of the Environmental Impact Assessment Regulations 2014.

#### 2.7. Alternatives

With the input of the South Cape Fire Protection Association (SCFPA) and possible firebreaks that will be required, an alternative layout must be considered that incorporates firebreaks. This directly implies that the size of the erven be reduced, and the developable footprint be reduced to make provision for such protection measures.

Again, please be reminded that the competent authority can authorise or refuse any alternative (in full or in part).

3. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.
4. Please note that the activity may not commence prior to an Environmental Authorisation being granted by the Department. It is an offence in terms of Section 49A of the NEMA for a person to commence with a listed activity unless the Department has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply with the requirements of Section 24F and 49A of the NEMA will result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department for prosecution.

Yours faithfully

 Digitally signed by Francois Naudé  
Date: 2023.02.17 15:24:28 +02'00'

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

Copied to: Ms Janet Ebersohn

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