



11 April 2022

Our Ref: BIT634/12

Your Ref: 16/3/3/1/D1/6/0000/22

Attention: Ms Jessica Christie

Department of Environmental Affairs & Development Planning (DEA&DP)

VIA Email (Jessica.Christie@westerncape.gov.za)

RE: DEA&DP COMMENTS ON THE DRAFT BASIC ASSESSMENT REPORT FOR PROPOSED ACTIVITIES AT ARCH ROCK ON PORTION 5 OF THE FARM 296, KEURBOOMSTRAND

1. Your correspondence dated 24th and 25th March 2022 has reference.
2. *Date of Receipt and Commenting Period*

The Draft Basic Assessment Report was submitted to the DEA&DP on 17 February 2022 with notification to I&APs distributed on 15 February 2022. We take note of the error correction related to the date that DEA&DP received the DBAR.

We do however submit that the date provided by DEA&DP for the closing of the commenting period, be revised by the Department.

- The 30 days were calculated as commencing on 21 February extending to 23 March, thus excluding the public holiday of 21 March 2022. T
- This office is satisfied that the statutory timeframe for comment (30-days) was correctly calculated, and in fact additional days were allowed given that I&APs were notified on 15 February 2022 with an additional email providing links to the documents uploaded, sent to stakeholders on 17 February 2022.

3. *Applicable Listed Activities*

You correspondence dated 24 March 2022 states:

3.1. *Applicable listed activities*

This Directorate concurs with the relevant listed activities that will be triggered by the proposed development.

It is noted however in your correspondence dated 25 March 2022, that the EAP questions the applicability of Activity 54 of the 2014 EIA Regulations and that this activity is applicable to the assessment.

To clarify, the listed activity has been included in the application and the DBAR throughout the process. This listed activity has not been omitted.

The EAP has pointed out, as per records from the Municipality captured in the process, that this property is deemed to be within their 'urban edge', as well as being a serviced urban property inside the 'urban area'. Notwithstanding the Department's opinion on this matter (that the property falls outside the urban area as per the NEMA definition thereof), the Bitou Municipality and its Council have approved their respective spatial documentation as being within the urban area/edge.

As independent EAP we are obliged to consider all applicable factors, including those of the local municipality and of course that of the decision-making authority. Rather than omitting the listed activity, we have kept it on record, as applicable to this application, throughout and it remains included with the Final Basic Assessment Report also. It still remains DEA&DP's responsibility to make the final decision with regards to which listed activities be authorised, but all relevant ones have been applied for.

4. Alternatives

The DEA&DP Guideline on Alternatives (2013) states the following (highlighted text our emphasis):

*The identification of alternatives should be broad, objectively done and well documented. **Key criteria** when identifying and investigating alternatives are that they should be “feasible” and “reasonable”. The alternatives identified must serve to achieve the triple bottom-line of sustainability i.e. they must meet the **social, economic and ecological needs** of the public. The alternatives must also aim to address the key impacts of the proposed project by **maximising benefits and avoiding or minimising the negative impacts**. The primary objective must be to avoid all negative impacts, rather than to minimise them.*

*Alternatives are defined in the NEMA EIA Regulations as “different means of meeting the general purpose and requirements of the activity”. The “feasibility” and “reasonability” of and the need for alternatives must be determined by considering, inter alia, (a) **the general purpose and requirements of the activity**, (b) **need and desirability**, (c) **opportunity costs**, (d) **the need to avoid negative impact altogether**, (e) the need to minimise unavoidable negative impacts, (f) **the need to maximise benefits**, and (g) the need for equitable distributional consequences.*

Arch Rock is an existing resort which is still functional although it is considered outdated. The new owner and applicant wishes to upgrade the resort and in doing so, requires an EIA for the proposed refurbishment (Preferred Alternative). Leaving the resort in its current format is an alternative (the No-Go Option). The existing access boardwalk will be retained as it is, in its current location and configuration as provided in the coastal mitigations. The Final BAR has been updated to include this specific statement so as to provide clarity.

The guidelines require alternatives under consideration to be “reasonable” and “feasible” i.e. the Applicant must be able to implement the approved alternative whilst ensuring that no significant detrimental impacts will result from the same. The

guidelines do not specify how many alternatives, other than the proposed alternative, the no-go alternative, as well as technological/operational alternatives, have to be presented.

- The preferred alternative is a reduction of the throughput capacity of the existing resort, in effect maximising the current benefits/resources of the existing facility, but reducing the overall footprint of the resort.
 - The negative impacts have been shown to be low and acceptable by all the independent specialists, whilst still supporting social and economic benefits. These this preferred alternative clearly fits with being reasonable and feasible.
- The No-Go alternative (status quo) is the resort as it is at present. In order for the operation to remain competitive, in an otherwise highly competitive resort market in the Garden Route (especially in coastal areas), the status quo is no longer feasible. Without the necessary upgrade and improvements, the No-Go alternative will result in deterioration of the operation and degradation of the facilities. Given the reduced footprint and low/acceptable impacts, it is unreasonable to maintain that it be deemed a feasible alternative.
- The option to redevelop the resort on the exact same footprint, implies a like-for-like scenario in which case no 'listed activities' will apply. Presenting such as an alternative for consideration falls outside the scope of assessing activities that require *prior* Environmental Authorisation and it is already covered under the No-Go alternative.

The statement in the Department's response letter "*...it is concerning that another alternative has not been investigated, such as the option to at least retreat the development behind the 20-year coastal erosion line*" disregards the professional specialist's findings (assessment by the coastal engineer), that the risk to the preferred alternative, when taking all available information into account (including the modelled coastal risk lines), is very Low. Repositioning units behind the 20-year coastal erosion line is therefore not deemed a *reasonable* alternative as there is no valid motivation.

This viewpoint is further supported by the DFFE: Oceans & Coasts as an Authority with intimate knowledge of coastal processes and risk management requirements, whereby they concur that the risk(s) are Low and as such can support the preferred alternative.

It is worth noting that the modelled line used by DEA&DP and the modelled line reflected in the DFFE Coastal Viewer do not align.

- The DEADP 1:20 yr line is partially modelled over two (2) of the three (3) front units, whereas the DFFE 1:20 yr line is modelled seaward side of all three (3) the front units. Discrepancies such as this, is what demands site specific investigations such as the one undertaken by the coastal specialists. Their

findings and the comment from DFFE alludes to the fact that the DFFE 1:20 yr coastal risk line, in which all three (3) units are already setback behind the risk line, is likely the more accurate of the two, affirming the low risk determination.



Figure 1: DEA&DP Coastal Management Lines



Figure 2: DFFE Coastal Viewer

5. *Municipal Service Infrastructure*

The existing municipal sewer connection runs through two neighbouring properties (9/296 & 10/296) without registered servitudes. The alignment and design of the new sewer infrastructure will connect to the existing, closest sewer manhole. As confirmed by the municipality, the sewer system will connect to these existing services. No additional listed activities are related to this connection.

Graphic representation of these connections are reflected in the FBAR to reflect this description of the sewage infrastructure.

6. *Terrestrial Biodiversity Compliance Statement*

The Terrestrial Biodiversity Compliance Statement has been reviewed and signed off by Mark Sasman of Ecosense / Blue Pebble cc to comply with the SACNASP requirement for the Protocols¹. The signed-off report is reflected in the Final BAR.

The report is undertaken as per the criteria for the assessment and reporting of impacts on terrestrial biodiversity for activities requiring environmental authorisation.

7. *Public Participation / Consultation with organs of state*

¹ It is our understanding from Mr Benjamin Walton that the DEADP is aware of the fact that he is awaiting his SACNASP registration and that he is permitted to continue with his report, on condition that his work is reviewed and ultimately signed for by a registered SACNSAP specialist in the interim.

WCG DEA&DP: Sub-directorate Coastal Management and CapeNature were both requested to comment on the Draft BAR as per the Regulations and requirements for Public Participation.

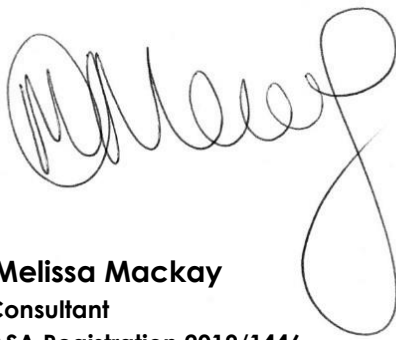
No comment was received from WCG DEA&DP: Coastal Management during the statutory timeframe.

We did however receive the belated comments from CapeNature on 7 April 2022 (outside of the statutory timeframe) and have reflected include such with the Issues & Response report in the FBAR.

The national DFFE: Oceans & Coasts undertook a site visit on 8 March 2022 and submitted comment dated 28 March 2022. These comments have been included in the Final BAR as having no objection to the proposed development.

8. We trust that this correspondence provides sufficient response to you queries. Please feel free to contact this office should you have any further questions.

Kind regards,



Ms Melissa Mackay
Snr Consultant
EAPASA Registration 2019/1446

REFERENCE: 16/3/3/1/D1/6/0000/22
DATE OF ISSUE: 25 March 2022

The Director
KEURBOOMS ROCK (PTY) LTD
Unit 207, 2nd Floor, The Village Square, Oxford Street
DURBANVILLE
7551

Attention: Mr. I.T. de Waal

Tel: 021 020 0444

E-mail: Terry@babylonstoren.com

Dear Sir

ADDITIONAL COMMENT ON THE DRAFT BASIC ASSESSMENT REPORT FOR THE PROPOSED ACTIVITIES AT ARCH ROCK ON PORTION 5 OF THE FARM 296, KEURBOOMSTRAND

1. The abovementioned document as well as the letter issued by this Directorate on 24 March 2022, refers.

2. *Date of receipt and commenting period:*

This letter also serves to correct the typographical error in paragraph (1) one of the letter issued on 24 March 2022. The Draft Basic Assessment Report dated 17 February 2022 was received by this Directorate on 17 February 2022; however, the notice of the public participation indicated that "The comment period on the DBAR extends from Monday 21 February to Wednesday 23 March 2022."

Regarding the 30-day commenting period, please note that sub-regulation 3(5) states:

"Where a prescribed timeframe is affected by one or more public holidays, the timeframe must be extended by the number of public holiday days falling within that timeframe."

In light hereof the 30-day commenting period starting on 21 February 2022 is reckoned to end on **24 March 2022** due to the public holiday during the allocated commenting period (i.e. Human Rights Day on 21 March 2022).

3. Notwithstanding the above commenting period, this Directorate provides the following guidance and additional comments that should be taken into consideration.

4. *Applicable listed activities and urban area:*

It is noted that your appointed EAP has questioned the applicability of Activity 54 of the Environmental Impact Assessment Regulations Listing Notice 1 of 2014 as it relates to "urban area". Kindly take note of the definition of "urban area" as defined in the Environmental Impact Assessment Regulations, 2014 (GN R. 982 of 4 December 2014, as amended) namely:

“urban areas” means areas situated within the urban edge (as defined or adopted by the competent authority), or in instances where no urban edge or boundary has been defined or adopted, it refers to areas situated within the edge of built-up areas”

Please note that in light of said definition the municipal urban edge, depicted in the Spatial Development Framework (“SDF”) of a local municipality may differ from the defined boundary of an urban area. Furthermore, the Bitou Municipality’s current SDF has not been defined or adopted by the competent authority (i.e. this Department) in terms of the Environmental Impact Assessment Regulations, 2014.

However, in accordance with this Department’s EADP Circular No. 1 of 2012, an “interim urban edge” was defined by the competent authority. The view is held that the portion of land does not conform to the requirements of the “interim urban edge” as adopted on 5 March 2012 and is therefore not deemed to be an urban area for the purpose of the Environmental Impact Assessment Regulations, 2014. It is confirmed that Activity 54 of the Environmental Impact Assessment Regulations Listing Notice 1 of 2014 should apply to the proposed development.

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.

5. *Alternatives*

It is noted that only one alternative has been identified and assessed; however, it is concerning that another alternative has not been investigated, such as the option to at least retreat the development behind the 20-year coastal erosion line. This Directorate recommends that this be investigated and assessed as an alternative. Clarity is required why this has not been done.

Furthermore, it is noted that the No-Go alternative is to maintain the status quo for the property. It is unclear as to why an alternative to the no-go alternative was not considered such as, refurbishing the existing chalets since it is written that the design and materials are “somewhat outdated” (sic) to bring the resort to an improved state as indirectly described in the DBAR.

Furthermore, it is noted that no mention is made of the existing boardwalk access to the beach, so it can be reasonably assumed that the existing structure will remain and not be replaced.

6. *Municipal Service Infrastructure*

It is noted that a letter has been appended whereby the Bitou Municipality has confirmed that there is bulk sanitation services in the Keurboomstrand area, yet in the DBAR it is written that the resort still makes use of a soak-away system and that it will be redesigned to comply with the latest regulations and that the sewer system would gravity flow and connect to a nearby sewer manhole if they are available. The alignment and design of this infrastructure is unclear as well as how it relates to applicable listed activities. Clarity is required on this statement.

7. *Terrestrial Biodiversity Compliance Statement*

It is noted that a Terrestrial Biodiversity Compliance Statement has been prepared by Cape Vegetation Surveys, however, the terms of reference for this statement are not clear in the report. Clearly indicate compliance with the specific protocol that is applicable to this compliance statement. Kindly be reminded that a specialist performing work in terms of a relevant Protocol, **must be registered with SACNASP** in the specific field of practice.

8. *Public Participation / Consultation with organs of state*

Considering the applicability of the Integrated Coastal Management Act, 2008, comment on the proposal should be obtained from the WCG DEA&DP: Sub-directorate Coastal Management. Also, CapeNature should be approached to provide comment on the Terrestrial Biodiversity Compliance Statement.

9. Please be reminded that the Basic Assessment Report must comply with Appendix 1 of the NEMA EIA Regulations 2014 (GN No. R982 of 4 December 2014, as amended 7 April 2017). The same applies with the specialists reports that must comply with Appendix 6 of the aforementioned regulations and / or the Protocols applicable to the specific themes.
10. 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(1)(a) 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 Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.
11. The Department reserves the right to revise initial comments and request further information from you based on any new or revised information received.

Yours faithfully

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

Copied to: EAP: CapeEAPrac (Pty)Ltd. E-mail: mel@cape-eaprac.co.za | louise@cape-eaprac.co.za

REFERENCE: 16/3/3/1/D1/6/0000/22
DATE OF ISSUE: 24 March 2022

The Director
KEURBOOMS ROCK (PTY) LTD
Unit 207, 2nd Floor, The Village Square, Oxford Street
DURBANVILLE
7551

Attention: Mr. I.T. de Waal

Tel: 021 020 0444

E-mail: Terry@babylonstoren.com

Dear Sir

COMMENT ON DRAFT BASIC ASSESSMENT REPORT PROPOSED DEVELOPMENT AT ARCH ROCK ON PORTION 5 OF THE FARM 296, KEURBOOMSTRAND

1. The abovementioned document dated 25 January 2022 received by this Directorate on 25 January 2022 refers.
2. This letter serves as an acknowledgment of receipt of the aforementioned document by the Department.
3. Please note the following advice pertaining to the application:

3.1. *Applicable listed activities*

This Directorate concurs with the relevant listed activities that will be triggered by the proposed development.

4. Please note the following requirements to be complied with in respect to all applications for Environmental Authorisation in terms of the National Environmental Management Act (Act No. 107 of 1998) ("NEMA") and the EIA Regulations, 2014:

4.1. *Alternatives*

Be advised that in terms of the EIA Regulations and NEMA, the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In 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. Alternatives are not limited to activity alternatives, but include layout alternatives, design, operational and technology alternatives. You are hereby reminded that it is mandatory to investigate and assess the option of not proceeding with the proposed activity (the "no-go" option) in addition to the other alternatives identified. 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 option of not proceeding, 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 option and the no-go option exist must be provided to the Department. Refer to the Department's Guideline on Alternatives, 2013.

4.2. *Public Participation*

The Basic Assessment Report must be subject to a Public Participation Process that must comply with Chapter 6 of the EIA Regulations, 2014 and the Public Participation Plan that was agreed to by this Directorate.

In addition to the above, the Environmental Assessment Practitioner ("EAP") must submit a draft Basic Assessment Report to the Department for a minimum 30-day comment period. The draft Basic Assessment Report must also be made available to all relevant State Departments/Organs of State that administer laws relating to a matter affecting the environment, for a 30-day comment period. Please note that the EAP is responsible for such consultation. Therefore, it is requested that the EAP include proof of such notification to the relevant State Departments/Organs of State in terms of Section 24O(2) and (3) of NEMA in the Scoping Report, where appropriate.

5. *Environmental Management Programme ("EMPr")*

In accordance with Section 24N of NEMA and Regulation 19 of the Environmental Impact Assessment Regulations, 2014, the Department hereby requires the submission of an Environmental Management Programme ("EMPr"). The contents of such an EMPr must meet the requirements outlined in Section 24N (2) and (3) of the NEMA (as amended) and Appendix 4 of GN No. R. 982 of 4 December 2014. The EMPr 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). It must be submitted together with the BAR. When compiling the EMPr, the Department's Guideline for Environmental Management Plans (June 2005) must be taken into account.

6. *Guidelines*

When undertaking the EIA process, you must take into account applicable guidelines, including the guidelines developed by this Department. In particular, the guidelines that may be applicable to the proposed development include, inter alia, the following:

- Guideline for determining the scope of specialist involvement in EIA processes, June 2005.
- Guideline for the Review of Specialist Input in the EIA process (June 2005);
- Guideline for involving biodiversity specialists in the EIA process, June 2005.
- Guideline for Environmental Management Plans (June 2005);
- Guideline on Alternatives (March 2013).
- Guideline on Need and Desirability (March 2013).

7. *Need & Desirability*

In terms of the NEMA EIA Regulations, when considering an application, the Department must take into account a number of specific considerations including inter alia, the need for and desirability of any proposed development. As such, the need for and desirability of the proposed activity must be considered and reported on in the BAR. The BAR must reflect how the strategic context of the

site in relation to the broader surrounding area, has been considered in addressing need and desirability. Refer to the Department's Guideline on Need and Desirability (March 2013).

8. NEMA Principles

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.

9. Basic Assessment Report Requirements

The EAP must submit the respective reports, electronically to the Department until further notice.

9.1. Basic Assessment Report Requirements

The Basic Assessment Report must contain all the information outlined in Appendix 1 of GN No. R. 982 of 4 December 2014.

If the Basic Assessment Report is not submitted within 90 days of receipt of the Application Form, the application will lapse in terms of Regulation 45 of Government Notice Regulation No. 982 of 4 December 2014 and your file will be closed. Should you wish to pursue the application again, a new application process would have to be initiated. A new Application Form would have to be submitted and the prescribed application fee would have to be paid.

10. Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
11. 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.
12. The Department reserves the right to revise initial comments and request further information based on the information received.

Yours faithfully

pp_____

HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES (REGION 3)

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

CC: EAP: Mrs Melissa Mackay

E-mail: mel@cape-eaprac.co.za

REFERENCE: 16/3/3/1/D1/6/0000/22
DATE OF ISSUE: 03 February 2022

The Director
KEURBOOMS ROCK (PTY) LTD
Unit 207, 2nd Floor, The Village Square, Oxford Street
DURBANVILLE
7551

Attention: Mr. I.T. de Waal

Tel: 021 020 0444

E-mail: Terry@babylonstoren.com

Dear Sir

**ACKNOWLEDGEMENT OF RECEIPT OF THE APPLICATION FORM FOR THE PROPOSED
ACTIVITIES AT ARCH ROCK ON PORTION 5 OF THE FARM 296, KEURBOOMSTRAND**

1. The abovementioned document dated 25 January 2022 received by this Directorate on 25 January 2022 refers.
2. This letter serves as an acknowledgment of receipt of the aforementioned document by the Department.
3. The application form has been checked and found to be in order. Please note the following advice pertaining to the application:

3.1. *Applicable listed activities*

This Directorate concurs with the relevant listed activities that will be triggered by the proposed development.

4. Please note the following requirements to be complied with in respect to all applications for Environmental Authorisation in terms of the National Environmental Management Act (Act No. 107 of 1998) ("NEMA") and the EIA Regulations, 2014:

4.1. *Alternatives*

Be advised that in terms of the EIA Regulations and NEMA, the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In 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.

Alternatives are not limited to activity alternatives, but include layout alternatives, design, operational and technology alternatives. You are hereby reminded that it is mandatory to investigate and assess the option of not proceeding with the proposed activity (the “no-go” option) in addition to the other alternatives identified. 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 option of not proceeding, 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 option and the no-go option exist must be provided to the Department. Refer to the Department's Guideline on Alternatives, 2013.

4.2. *Public Participation*

The Basic Assessment Report must be subject to a Public Participation Process that must comply with Chapter 6 of the EIA Regulations, 2014 and the Public Participation Plan that was agreed to by this Directorate.

In addition to the above, the Environmental Assessment Practitioner (“EAP”) must submit a draft Basic Assessment Report to the Department for a minimum 30-day comment period. The draft Basic Assessment Report must also be made available to all relevant State Departments/Organs of State that administer laws relating to a matter affecting the environment, for a 30-day comment period. Please note that the EAP is responsible for such consultation. Therefore, it is requested that the EAP include proof of such notification to the relevant State Departments/Organs of State in terms of Section 24O(2) and (3) of NEMA in the Scoping Report, where appropriate.

5. *Environmental Management Programme (“EMPr”)*

In accordance with Section 24N of NEMA and Regulation 19 of the Environmental Impact Assessment Regulations, 2014, the Department hereby requires the submission of an Environmental Management Programme (“EMPr”). The contents of such an EMPr must meet the requirements outlined in Section 24N (2) and (3) of the NEMA (as amended) and Appendix 4 of GN No. R. 982 of 4 December 2014. The EMPr 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). It must be submitted together with the BAR. When compiling the EMPr, the Department's Guideline for Environmental Management Plans (June 2005) must be taken into account.

6. *Guidelines*

When undertaking the EIA process, you must take into account applicable guidelines, including the guidelines developed by this Department. In particular, the guidelines that may be applicable to the proposed development include, inter alia, the following:

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- Guideline for the Review of Specialist Input in the EIA process (June 2005);
- Guideline for involving biodiversity specialists in the EIA process, June 2005.
- Guideline for Environmental Management Plans (June 2005);
- Guideline on Alternatives (March 2013).
- Guideline on Need and Desirability (March 2013).

7. *Need & Desirability*

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

8. *NEMA Principles*

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.

9. *Basic Assessment Report Requirements*

The EAP must submit the respective reports, electronically to the Department until further notice.

9.1. *Basic Assessment Report Requirements*

The Basic Assessment Report must contain all the information outlined in Appendix 1 of GN No. R. 982 of 4 December 2014.

If the Basic Assessment Report is not submitted within 90 days of receipt of the Application Form, the application will lapse in terms of Regulation 45 of Government Notice Regulation No. 982 of 4 December 2014 and your file will be closed. Should you wish to pursue the application again, a new application process would have to be initiated. A new Application Form would have to be submitted and the prescribed application fee would have to be paid.

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

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

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

Note: The Directorate: Development Management (Region 3), has created a generic e-mail address to centralise its administration within the component (i.e. notifying clients of decisions and receiving EIA applications, Notice of Intent form; request for fee reference numbers, etc.): DEADPEIAAdmin.George@westerncape.gov.za

OR

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

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

10. Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.

11. 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 Directorate Environmental Law Enforcement of this Department for further action. 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.

12. The Department reserves the right to revise initial comments and request further information based on the information received.

Yours faithfully

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HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES (REGION 3)

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Copied to: EAP: Mrs Melissa Mackay E-mail: mel@cape-eaprac.co.za

Melissa Mackay

From: Melissa Mackay
Sent: Tuesday, 25 January 2022 10:20
To: DEADP-EIAAdmin George; Jessica P Christie
Subject: 16/3/3/6/7/1/D1/6/0171/21 Application form for Arch Rock on Portion 5 of Farm 296 Keurboomstrand

Good morning















RE: 16/3/3/6/7/1/D1/6/0171/21 APPLICATION FORM FOR ARCH ROCK REDEVELOPMENT ON PORTION 5 OF FARM 296 KEURBOOMSTRAND

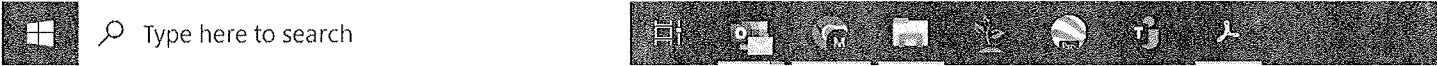
Please find attached screenshot confirming the upload of the Application Form for Environmental Authorisation for the proposed redevelopment of the Arch Rock resort on Portion 5 of Farm 296 Keurboomstrand.



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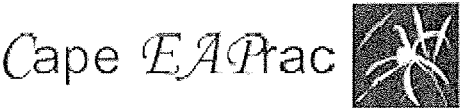
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	14.1.1.E3.5.2.3.L1092.20 Wanhoop	November 3, 2021	Guest Contributor	7 items	
	16.3.1.1.D2.50.0060.12	October 18, 2021	Guest Contributor	1 item	
	 16.3.3.6.7.1.D1.6.0171.21 Arch Rock A...	5 minutes ago	Guest Contributor	12 items	
	16.3.3.6.7.1.D5.9.0036.21	May 10, 2021	Meryll Fredericks	21 items	
	Hartenbos Garden Estate	Yesterday at 2:40 AM	Guest Contributor	21 items	
	GEO609.01 Rehabilitation Plan_Wanhoop F...	November 3, 2021	Guest Contributor	783 KB	



Regards

Melissa Mackay | 084 584 7419
SENIOR CONSULTANT | ECO | GIS
BTech Nat. Con. (NMMU)
Reg. EAP (EAPASA)

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17 Progress Street, George
PO Box 2070, George 6530





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COVID -19 Operational Notice



Our office is fully operational



We confirm that we comply with the government's guidance on managing the risk of Covid-19

Melissa Mackay

From: postmaster@westerncape.gov.za
To: DEADP-EIAAdmin George
Sent: Tuesday, 25 January 2022 10:20
Subject: Delivered: 16/3/3/6/7/1/D1/6/0171/21 Application form for Arch Rock on Portion 5 of Farm 296 Keurboomstrand

Your message has been delivered to the following recipients:

DEADP-EIAAdmin George (DEADPEIAAdmin.George@westerncape.gov.za)

Subject: 16/3/3/6/7/1/D1/6/0171/21 Application form for Arch Rock on Portion 5 of Farm 296 Keurboomstrand



'3/6/7/1/D1/6/017
Appl...

Melissa Mackay

From: postmaster@westerncape.gov.za
To: Jessica P Christie
Sent: Tuesday, 25 January 2022 10:20
Subject: Delivered: 16/3/3/6/7/1/D1/6/0171/21 Application form for Arch Rock on Portion 5 of Farm 296 Keurboomstrand

Your message has been delivered to the following recipients:

Jessica P Christie (Jessica.Christie@westerncape.gov.za)

Subject: 16/3/3/6/7/1/D1/6/0171/21 Application form for Arch Rock on Portion 5 of Farm 296 Keurboomstrand



'3/6/7/1/D1/6/017
Appl...



PER E-MAIL

REFERENCE: 16/3/3/6/7/1/D1/6/0171/21
DATE: 10-NOV-2021

THE DIRECTOR
KEURBOOMS ROCK (PTY) LTD
Unit 207, 2nd Floor, The Village Square, Oxford Street
DURBANVILLE
7551

Attention: Mr. I. T. de Waal

Cel: 082 578 8977

E-mail: Terry@babylonstoren.com

Dear Sir,

COMMENT ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR ENVIRONMENTAL AUTHORISATION FOR THE PROPOSED EXPANSION OF FACILITIES ON REMAINDER OF PORTION 5 OF FARM ARCH ROCK NO. 296, KEURBOOMSTRAND, BITOU MUNICIPAL AREA

1. The abovementioned document received by this Department on 11 October 2021 refers.
2. This Directorate has reviewed the documentation and provides 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. *Environmental Impact Assessment Process*

Based on the listed activities which will be triggered, for which written Environmental Authorisation is required, a Basic Assessment process must be followed in order to apply for Environmental Authorisation. Only those activities applied for shall be considered for authorisation. The onus is on the applicant to ensure that all the applicable listed activities are applied for and assessed as part of the Basic Assessment process.

4. *Applicable Listed Activities*

This Directorate has reviewed the table with listed activities as included in the Notice of Intent form and it is noted that the description of the portion of the proposed development to which the applicable listed activity relates to must be completed in more detail, this is essential in the Application Form. By completing this section with a description, this Directorate will be able to verify which listed activities are applicable.

5. *National Web Based Environmental Screening Tool Report*

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

❖ *Site Sensitivity Verification Report*

On 20 March 2020 the Minister of Forestry, Fisheries and the Environment published the general requirements for undertaking site sensitivity verification for environmental themes for activities requiring environmental authorisation (Government Gazette No. 43110). In terms of these requirements, prior to commencing with a specialist assessment, the current land use and environmental sensitivity of the site under consideration by the screening tool must be confirmed by undertaking a site sensitivity verification.

In light of the above it is advised that the Site Sensitivity Verification Report (SSVR), must specifically confirm or dispute the current land use and environmental sensitivity as identified by the screening tool. Where necessary a revised SSVR may be submitted to this Directorate prior to the submission of the application for environmental authorisation. This information is also relevant to the implementation of *Protocols or Minimum Information Requirements* set out below, and should therefore be finalised before commencing with the EIA process.

6. *Protocols or Minimum Information Requirements*

Please be informed that the applicable protocols or minimum information requirements, which have been published in the respective Government Gazettes¹, must be applied to the impact assessment process that must be followed: Provided that the requirements of these protocols do not apply where the applicant provides proof to the competent authority that the specialist assessment affected by these protocols had been commissioned by the date of publication of these protocols in the Government Gazette, in which case Appendix 6 of the Environmental Impact Assessment Regulations, 2014, as amended, will apply to such applications.

Therefore—

- ❖ in accordance to the above, where the applicable protocol applies any specialist performing work related to any of the fields of practice listed in Schedule I of the Natural Scientific Professions Act, 2003 (Act 27 of 2003) must be registered with the South African Council for Natural Scientific Professions ("SACNASP")^[2] in any of the prescribed categories [Section 18] and further to this, only a person registered with the SACNASP may practise in a consulting capacity [Section 20]; or
- ❖ where a specialist assessment was commissioned prior to the relevant date the specific protocol came into effect (i.e. 9 May 2020 or 30 October 2020), you are required to submit proof to the competent authority that the work was commissioned prior to said date (e.g. approved quotation for specialist assessment and/or proof of work being carried out).

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

7.1. *Agriculture Theme (Medium Sensitivity)*

The SSVR and the National Screening Tool Report (STR) indicates that the Sensitivity of the site for this theme is *Medium*. In accordance with the findings of the SSVR and the Agricultural Protocol

[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.

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

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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.

However, it is noted that the Remainder of Portion 5 of Farm 296, Keurboomstrand is zoned for Resort purposes which is situated within the urban edge of Keurboomstrand, therefore, the motivation submitted by your EAP that sufficient proof is available to show that the land has not been utilised for agricultural activities since April 1998, and that no agricultural activities are proposed which will influence the land capability is found acceptable and a compliance statement will not be required. **Nonetheless**, the EAP must still consult the WCG: Department of Agriculture in the public participation process and specifically obtain written confirmation from said Department regarding the delineation of the theme, land suitability, agricultural potential and necessity for further studies regarding the Agricultural Theme (if any).

7.2. Animal Species Theme (Medium Sensitivity)

The STR identified a Medium Sensitivity for the Animal Species Theme and lists invertebrate species which are known to occur in the area, based on the habitat type identified by the applicable datasets. The STR lists sensitive features and the EAP has disputed this and motivated that the property is an area where no natural habitat remains; and there is no suspected occurrence of SCC in the remaining natural areas. However, the SSVR does not provide a specific or revised site sensitivity. It must therefore be presumed that EAP is of the opinion that the site sensitivity for this theme is regarded to be "LOW".

This Directorate cannot agree with the conclusion by the EAP stating that no form of assessment will be undertaken. Please note that 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 animal species must submit either a *Terrestrial Animal Species Specialist Assessment Report* or a **Terrestrial Animal Species Compliance Statement**, depending on the outcome of a site inspection undertaken in accordance with paragraph 4." Furthermore, 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 "low" sensitivity for terrestrial animal species must submit a **Terrestrial Animal Species Compliance Statement**. In this case the EAP has motivated that the site sensitivity be downgraded.

Based on the current SSVR, a **Terrestrial Animal Species Compliance Statement** 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. Any further information or motivation may be considered by the competent authority.

It is noted that under the Plant Species Theme section that "A *Botanical and Terrestrial Biodiversity Compliance statement* is being drafted for this application", and it is presumed that the flora biodiversity (plant species) will be assessed as such. It remains unclear why the fauna biodiversity (animal species) is not dealt with similarly. The EAP is requested to clarify this.

7.3. 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 conducted.

It is confirmed that an Aquatic Biodiversity Compliance Statement must be undertaken by a specialist registered with the South African Council for Natural Scientific Professions (SACNASP) with expertise in the field of aquatic sciences.

7.4. Terrestrial Biodiversity Sensitivity (Very High Sensitivity)

The STR states that the sensitivity in terms of terrestrial biodiversity is 'Very High'. The EAP has disputed the terrestrial biodiversity site sensitivity but has failed to specify a new sensitivity rating. It is further written that SANBI has changed the ecosystem threat status From Vulnerable Garden Route Shale Fynbos to Least Concern status of Goukamma Dune Thicket. The gazetted NBA 2011 Ecosystem Threat Status information is still applicable and the EAP/Specialist must take cognisance that the threat status may have changed even though it has not been gazetted yet.

From the SSVR is understood that the EAP means that the site sensitivity for this theme is regarded to be "LOW", although not clearly stated. It is however stated that "A Botanical and Terrestrial Biodiversity Compliance statement is being drafted for this application". Even though a clear conclusion is not detailed in the SSVR for this theme, the information and motivation regarding the sensitivity of the site is found acceptable. In terms of the applicable Protocol published in Government Notice No. 320 of 20 March 2020, a Terrestrial Biodiversity Compliance Statement must be compiled and submitted with the BAR. The compliance statement must be prepared by a specialist registered with the South African Council for Natural Scientific Professions (SACNASP) with expertise in the field of terrestrial biodiversity.

7.5. Archaeological and Cultural Heritage Sensitivity (Low Sensitivity)

It is noted that a NID/Heritage Impact Statement has been drawn up and submitted to Heritage Western Cape for consideration and/or comment. All supporting documents must be appended to the Draft Basic Assessment report. In light of the above requirements from HWC please be advised that the Standard Operating Procedure between Heritage Western Cape and this Department must be followed.

7.6. Civil Aviation Sensitivity

Considering that the sensitivity is given as 'High' in the STR, this Department takes note the motivation and supporting facts which the EAP has included in the SSVR and accepts the conclusion that the sensitivity is 'Low' as well as the finding that no significant impacts on the civil aviation installation are expected in low sensitivity areas. No requirement for further assessment is identified.

7.7. Defence 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.

7.8. 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 will be/has been submitted to HWC in terms of palaeontological aspects. The NID and all supporting

documents must be appended to the Draft Basic Assessment report. In light of the above requirements from HWC please be advised that the Standard Operating Procedure between Heritage Western Cape and this Department must be followed.

7.9. Terrestrial Plant Species Theme

The STR identified a Medium Sensitivity for the Plant Species Theme. 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 a Terrestrial Plant Species Specialist Assessment Report." 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.

However, from the SSVR is understood that the EAP means that the site sensitivity for this theme is regarded to be "LOW", although not clearly stated. It is however stated that "A Botanical and Terrestrial Biodiversity Compliance statement is being drafted for this application". It must be presumed that the flora biodiversity (plant species sensitivity) will be assessed as such. Even though a clear conclusion is not detailed in the SSVR for this theme, the information and motivation regarding the sensitivity of the site for the plant species theme is found acceptable. In terms of the applicable Protocol published in Government Notice No. 1150 of 30 October 2020, a Terrestrial Plant Species Compliance Statement must be undertaken in the study area, compiled and submitted with the BAR. The compliance statement must be prepared by a specialist registered with the South African Council for Natural Scientific Professions (SACNASP) with expertise within field of practice under one of the two fields of practice (Botanical Science or Ecological Science).

8. Other Specialist Studies identified in the Screening Tool Report

Government Notice No. 320 of 20 March 2020 (Government Gazette No. 43110 of 20 March 2020), describes the site sensitivity requirements where a specialist assessment is required, but no specific assessment protocol has been prescribed. The SSVR has not adequately addressed the following specialist studies identified in the STR, namely:

- Landscape / Visual Impact Assessment
- Socio-economic
- Marine Impact Assessment and Hydrology Assessment
- Avian Impact Assessment; and
- Geotechnical Assessment.

8.1. Landscape / Visual Impact Assessment

The need for this specialist assessment was not described in the SSVR and even though the construction of a new resort units could be seen as in-keeping with the norm and what one would expect in Keurboomstrand from a visual point of view, 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.

8.2. Socio-economic

From the SSVR it is understood that the socio-economic aspects related to the proposal and the influence it may have on the Keurboomstrand and residential area in which it is will not be addressed. However, the Bitrou Municipality's Local Economic Development (LED) directorate will be included with the Basic Assessment Report confirming the viability and suitability of the

development. It is unclear why this study has been excluded, yet a certain level of assessment will be undertaken.

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

8.3. *Marine Impact Assessment*

It is noted that a coastal engineering assessment will be undertaken which will consider the impact on the beach (marine) and hydrology; however, the STR requires a marine impact assessment as well as a hydrology assessment. Kindly demonstrate that the coastal engineer has indeed expertise in conducting a marine impact assessment as well as the hydrology assessment.

8.4. *Avifauna Impact Assessment*

It is noted that no avifauna impact study will not be undertaken. It is acknowledged that the Protocol provides the criteria for the specialist assessment and minimum report content requirements for impacts on avifaunal species associated with the development of onshore wind energy generation facilities, where the electricity output is 20 megawatts or more, which require environmental authorisation. This protocol is therefore not applicable.

8.5. *Geotechnical Assessment.*

It is noted that a geotechnical investigation will be undertaken. In this regard, the geotechnical impacts of the proposed development must be dealt with in terms of Appendix 1 and 6 of the Environmental Impact Assessment Regulations, 2014

9. *General*

A signed copy of an assessment, or where applicable, a Compliance Statement, must be appended to the Pre-application Basic Assessment Report (if this will be undertaken), or the Draft BAR as well as the BAR.

10. *Public Participation Process*

This Directorate has reviewed the Public Participation Plan and **agrees** to the proposed actions to conduct a public participation process subject to the following:

- ❖ Proponents/ applicants or EAPs must, when submitting documents to the competent authority for decision-making purposes, submit a declaration indicating that:
 - ☐ all reasonable measures have been taken to identify potential I&APs for purposes of conducting public participation on the application;
 - ☐ as far as is reasonably possible and taking into account the specific aspects of the application-
 - information containing all relevant facts in respect of the application or proposed application has been made available to potential I&APs; and
 - participation by potential or registered I&APs has been facilitated in such a manner that all potential or registered I&APs have been provided with a reasonable opportunity to comment on the application or proposed application; and
 - ☐ if applicable, the Public Participation Plan, as agreed with the relevant authority, has been adhered to and indicate any deviations from such agreed plan where relevant; with a copy of the agreed Public Participation Plan to be submitted as an Annexure to the documentation submitted to the relevant authority.

❖ Timeframes

From the information contained in the PP-plan it is understood that the EAP does not intend to conduct a pre-application public participation process. It is recommended that 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 Draft 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.

11. Relevant Legislation and Synchronisation of Applications:

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

Section 38 of the NHRA sets out the requirements regarding the integration of the decision-making processes with that of the EIA Regulations 2014, however, under the proviso that the necessary information is submitted and any comments and recommendations of the relevant heritage resources authority (HWC) with regard to such development have been provided and taken into account prior to the granting of the authorisation. Further to the above:

- An application for Environmental Authorisation, must include, where applicable, the investigation, assessment and evaluation of the impact of any proposed listed or specified activity on any national estate referred to in section 3(2) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), excluding the national estate contemplated in section 3(2)(i)(vi) and (vii) of that Act.
- Where Section 38 of the NHRA is triggered, the Standard Operating Procedure between Heritage Western Cape and this Department must be followed. If Section 38 is applicable to the proposed development, then the proponent/applicant is required to submit a Notice of Intent to Develop ("NID") to Heritage Western Cape and attach a copy to thereof to the EIA application form. If Heritage Western Cape requires a Heritage Impact Assessment, the Heritage Impact Assessment must be undertaken as one of the specialist studies of the EIA process to be undertaken in terms of the Environmental Impact Assessment Regulations, 2014 (GN R. 982 of 4 December 2014, as amended).

It is reasonable to suspect that the proposed activity triggers an activity identified in section 38 of the NHRA and it is likely that the national estate may be impacted. Comment from Heritage Western Cape must be obtained to substantiate both these aspects (as a minimum).

12. You are advised that when undertaking the Basic Assessment process, you must take into account applicable guidelines, including the circulars and guidelines developed by the Department. These can be provided upon request. In particular, the guidelines that may be applicable to the proposed development include, *inter alia*, the following:

- Guideline for the Review of Specialist Input in the EIA process (June 2005).
- Guideline for Environmental Management Plans (June 2005).
- Guideline on Alternatives (March 2013).
- Guideline for determining the scope of specialist involvement in EIA processes, June 2005.
- Guideline for the review of specialist input in the EIA process, June 2005.
- Guideline for involving biodiversity specialists in the EIA process, June 2005.
- DEA (2017), Guideline on Need and Desirability, Department of Environmental Affairs.

13. Please ensure the Basic Assessment Report ("BAR") contains all information and complies with the requirements outlined in Protocols and/or Appendix 1 of the Environmental Impact

Assessment Regulations, 2014 (GN R. 982 of 4 December 2014, as amended) and the content of Environmental Management Programme ("EMPr") complies with Section 24N of NEMA and Appendix 4.

14. Unless additional representations need to be submitted for consideration, this Department awaits the submission of the Application Form and the Draft BAR. Please note that documents may be submitted digitally to the Department for consideration.

Please note all documents, which include all signatures and Annexures which are included as part of the reports, must be submitted via e-mail to the relevant case officer listed above, with attached PDF versions of letters and reports or, if too large to attach to an e-mail the person managing the application/pre-application process must contact the Regional Support staff, to arrange that the documents may be uploaded to a dedicated space on the DEA&DP cloud account.

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 forms; 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

15. Please note that the proposed activities may not commence prior to an Environmental Authorisation being granted by this Department.
16. 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 _____

HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Copied to: EAP: Cape EAPrac (Pty)Ltd.

E-mail: mel@cape-eaprac.co.za | louise@cape-eaprac.co.za

PER E-MAIL

REFERENCE: 16/3/3/6/7/1/D1/6/0171/21
SPECIFIC FEE REFERENCE: **G-BA-EIA-H20**
ENQUIRIES: Jessica Christie
DATE: **26-OCT-2021**

THE DIRECTOR
KEURBOOMS ROCK (PTY) LTD
Unit 207, 2nd Floor, The Village Square, Oxford Street
DURBANVILLE
7551

Attention: Mr. I. T. de Waal

Cel: 082 578 8977
E-mail: Terry@babylonstoren.com

Dear Sir

ACKNOWLEDGEMENT OF RECEIPT OF THE NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR ENVIRONMENTAL AUTHORISATION FOR THE PROPOSED EXPANSION OF FACILITIES ON REMAINDER OF PORTION 5 OF FARM ARCH ROCK NO. 296, KEURBOOMSTRAND, BITOU MUNICIPAL AREA

1. The abovementioned document received by this Department on 11 October 2021 refers.
2. This letter serves as an acknowledgment of receipt of the abovementioned document.
3. It is noted that the EAP does not intend to request a pre-application meeting. This Directorate will review the information submitted with the "Notice of Intent" form and provide comment and guidance as soon as possible.
4. The Department notes your "Request for a specific fee reference number". The following specific fee reference number **G-BA-EIA-H20** 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.
5. Please note that the proposed activities may not commence prior to an Environmental Authorisation being granted by the Department.
6. 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 _____
HEAD OF COMPONENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Copied to: EAP: CapeEAPrac (Pty)Ltd.

E-mail: mel@cape-eaprac.co.za

www.westerncape.gov.za

Department of Environmental Affairs and Development Planning



PER E-MAIL / MAIL

REFERENCE: 16/3/3/6/1/D1/6/0181/20
ENQUIRIES: Jessica Christie
DATE: 06 June 2021

THE DIRECTOR
KEURBOOMS ROCK (PTY) LTD
Unit 207, 2nd Floor, The Village Square, Oxford Street
DURBANVILLE
7551

Attention: Mr. I. T. de Waal

E-mail: Terry@babylonstoren.com
Cell: 082 578 8977

Dear Sir,

**APPLICABILITY OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS 2014:
PROPOSED CHANGES TO THE ARCH ROCK RESORT ON REMAINDER OF PORTION 5 OF
FARM NO. 296, KEURBOOMSTRAND**

1. The applicability checklist (dated 3 November 2020); this Directorate's correspondence of 9 March 2021, and the further representations received on 4 June 2021 and 13 July 2021 respectively, refer.
2. This letter serves as an acknowledgment of receipt of the aforementioned additional representations / documents by this Directorate.
3. We wish to thank you for your patience in this matter and for the diligence of your Environmental Assessment Practitioner (EAP). The representations which have been received have been reviewed and the additional information has highlighted important aspects which need to be considered. The environmental impact management services component of the Directorate Development Management (Region 3) ("this Directorate") provides the following comment, guidance and advice:
4. Relevant considerations:
 - 4.1. The background information that has been provided, as partly summarised in this Directorate's letter of 9 March 2021, read together with the additional representations, confirms that the implementation of the proposed refurbishment of the resort will result in a physical action on the site which will lead to the implementation of a listed activity (or activities). The actions taken to establish the

resort are not regarded to be in furtherance of the proposed modification, extension, alteration or upgrading of the facility, structures or infrastructure of the facility. The facility is subject to various approvals which have defined/limited the nature, extent and design thereof. Therefore, the physical actions taken thus far to establish the resort are not regarded to be in furtherance of the planned actions which trigger the related listed activities. The proposed physical activities include the following, namely that—

- ❑ the proposed new units will not be redeveloped on the same footprint with the same capacity of the existing units, although there may be some overlap due to layout configuration;
- ❑ the proposed works will include the construction of 8 basements to the respective tourist accommodation units, which were not part of any previous design or authorisation. This action will generate approximately 1050m³ of excavated material, in addition to the grub and clearing which might add approximately 600m³ of topsoil and gravel that will be stripped. It is understood that some of the excavated material might be used for backfilling under the new units;
- ❑ there is an expected increase of 130m² of the actual building footprints overall, however, it is motivated that this will take place on the platform areas associated with the existing structures, thus still within the existing footprint of the resort. The latter is however not substantiated in terms of an approved site development plan.

4.2. Applicable listed activities:

The proposed physical actions relate to the implementation of the following listed activities identified in the Environmental Impact Assessment Regulations Listing Notice 1 of 2014 (Government Notice R.983 of 4 December 2014, as amended), namely:

- **Activity number: 19A**

The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—

- (i) the seashore;*
- (ii) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater;*
or
- (iii) the sea;*

but excluding where such infilling, depositing, dredging, excavation, removal or moving—

- (a) will occur behind a development setback;*
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;*
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;*
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or*

(e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.

- **Activity number: 54**

The expansion of facilities—

- (i) in the sea;
- (ii) in an estuary;
- (iii) within the littoral active zone;
- (iv) in front of a development setback; or
- (v) if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater;

in respect of—

- (a) fixed or floating jetties and slipways;
- (b) tidal pools;
- (c) embankments;
- (d) rock revetments or stabilising structures including stabilising walls; or
- (e) infrastructure or structures where the development footprint is expanded by 50 square metres or more,

but excluding—

- (aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- (bb) where such expansion occurs within an urban area.

The onus is on the proponent/applicant to ensure that all the applicable listed activities are applied for and assessed as part of the environmental impact assessment (EIA) process.

4.3. Changes to a valid Environmental Authorisation

It has been brought to the attention of this Directorate that a portion of the property is the subject of an Environmental Authorisation issued on 31 March 2003; DEA&DP reference number: EG12/1/1-284 (4036).

The view is held that the Environmental Authorisation is still valid and in force, notwithstanding the change in ownership of the property.

The proposed modification, extension or alteration of the structures, are regarded to comprise changes to the scope of the valid Environmental Authorisation which were not previously authorised or considered.

In accordance with the provisions of the Environmental Impact Assessment Regulations, 2014, the Environmental Authorisation must be amended to provide for the proposed changes. However, the proposed changes to the 5 resort units which were approved in March 2003, will on its own constitute a listed activity, *inter alia* Activity 19A of the Environmental Impact Assessment Regulations Listing Notice 1 of 2014 (Government Notice R.983 of 4 December 2014, as amended). Therefore, a new application for environmental authorisation must be submitted to obtain approval for the proposed changes.

5. Based on the available information, this Directorate remains of the view that written authorisation is required from the relevant authority (as defined in GN No R. 982 of 4 December 2014), prior to the undertaking of the said activity.

Please be reminded of the guidance provided in the Directorate's letter of 9 March 2021 regarding the procedures to be followed and requirements regarding the application process.

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 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. A person convicted of an offence in terms of the above is liable to a fine or imprisonment, or to both such fine and imprisonment.
7. Furthermore, please be reminded of your general duty of care toward the environment, as required in terms of section 28 of NEMA, namely:

"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment".

8. This Department reserves the right to revise or withdraw comments or request further information from you based on any new or revised information received.

Yours faithfully

HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Ref no. 16/3/3/6/1/D1/6/0181/20

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