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Attention: Mr Francois Byleveld

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RE: REQUEST FOR COMMENT FROM THE SUB-DIRECTORATE: COASTAL MANAGEMENT ON THE DRAFT BASIC ASSESSMENT REPORT FOR THE PLETT LAGOON ESTATE ON REMAINDER OF ERF 6503, PLETTENBERG BAY, BITOU MUNICIPALITY

Good Day,

Your request for comment from the Sub-directorate: Coastal Management on the above-mentioned pre-application basic assessment report received on 15 August 2024, refers.

1. CONTEXT

- 1.1. The Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) ("NEM: ICMA") is a Specific Environmental Management Act under the umbrella of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"). The NEM: ICMA sets out to manage the nation's coastal resources, promote social equity and best economic use of coastal resources whilst protecting the natural environment. In terms of Section 38 of the NEM: ICMA, the Department of Environmental Affairs and Development Planning ('the Department') is the provincial lead agency for coastal management in the Western Cape as well as the competent authority for the administration of the "Management of public launch sites in the coastal zone (GN No. 497, 27 June 2014) "Public Launch Site Regulations".
- 1.2. The Department, in pursuant of fulfilling its mandate, is implementing the Provincial Coastal Management Programme ("PCMP"). The Western Cape Provincial Coastal Management Programme ("WC: PCMP 2022-2027) is a five (5) year strategic document, and its purpose is to provide all departments and organisations with an integrated, coordinated and uniform approach to coastal management in the Province. This WC:

PCMP 2022-2027 was adopted by the Provincial MEC for Local Government, Environmental Affairs and Development Planning on 19 May 2023 and may be viewed at [Western Cape PCMP 2022-2027](#).

- 1.3. A key priority of the PCMP is the Estuary Management Programme, which is implemented in accordance with the NEM: ICMA and the National Estuarine Management Protocol ("NEMP"). Relevant guidelines, Estuarine Management Plans, Mouth Management Plans need to be considered when any listed activities are triggered in the Estuarine Functional Zone. The Department is in the process of approving a series of Estuarine Management Plans. Both draft and approved plans may be viewed at [DEA&DP: Coastal Management](#).
- 1.4. The facilitation of public access to the coast is an objective of the NEM: ICMA as well as a Priority in the WC: PCMP 2022-2027. The Department developed the Provincial Coastal Access Strategy and Plan, 2017 ("PCASP") and commissioned coastal access audits per municipal district to assist municipalities with identifying existing, historic, and desired public coastal access. These coastal access audits also identify hotspots or areas of conflict to assist the municipalities with facilitating public access in terms of Section 18 of the NEM: ICMA. The PCASP as well as the coastal access audits are available on the Departmental website at [DEA&DP: Coastal Management](#).

2. COMMENT

- 2.1 The sub-directorate: Coastal Management ("SD: CM") has reviewed the information as specified above and have the following commentary:
 - 2.1.1. The proposed development will entail the development of a gated, security village on the Remainder of Erf 6503 consisting of 50 residential opportunities (8.54ha); 16 garage units; entrance gate; internal access roads; 9 internal Open Space Zone II; 1 Open Space Conservation Zone III; temporary on-site wastewater treatment plant (to be decommissioned once capacity at the Ganse Vallei WWTW is made available by the municipality). It is also proposed for approximately 55% of the subject property to be a conservation area and a right of way servitude will also be registered along the internal western access road in four of the single residential component of the proposed development in the northern portion of the subject property.
 - 2.1.2. On page 30 of the draft BAR the applicant indicated that the NEM: ICMA is not considered an applicable legislation for the proposed development. Be advised that Erf 6502 in its entirety is located within the coastal protection zone and as such the NEM: ICMA is indeed applicable and it should be indicated as such in the draft BAR.
 - 2.1.3. The applicant adequately considered all critical biodiversity and ecological support areas in relation to Erf 6503, and in accordance with the to the Western Cape Biodiversity Spatial Plan (2017) and proposed mitigation measures as stipulated in the draft EMPr to address environmental concerns are both appropriate and practical and should be strictly adhered to.

- 2.1.4. The applicant has depicted Erf 6503 relation the Coastal Protection Zone ("CPZ") as defined in Section 16 of the NEM: ICMA in Appendix A2 (Coastal Risk Lines) and it should be noted that the purpose of the CPZ is to avoid increasing the effect or severity of natural hazards in the coastal zone and to protect people and properties from risks arising from dynamic coastal processes, including the risk of sea level risks. Due to the subject property's location within the CPZ, Section 63 of the NEM: ICMA must be considered where an authorisation is required in terms of Chapter 5 of the NEMA. Furthermore, Section 62 of the NEM: ICMA obliges all organs of state that regulates the planning of land to apply that legislation in a manner that gives effect to the purpose of the CPZ. As such, Section 63 of the NEM: ICMA must be considered by local authorities for land use decision making.
- 2.1.5. The Garden Route District Coastal Management Line ("CML") in relation to Erf 6503 has been adequately considered. The technical delineation of the CML was to ensure that development is regulated in a manner appropriate to risks and sensitivities in the coastal zone. The CML was informed by various layers of information including biodiversity, estuarine functionality, risk flooding, wave run-up modelling, *inter alia* and was delineated in conjunction with and supported by organs of state. The principal purpose of the CML is to protect coastal public property, private property, and public safety; to protect the coastal protection zone; and to preserve the aesthetic value of the coastal zone. The use of CMLs is of particular importance in response to the effects of climate change, as it involves both the quantification of risks and pro-active planning for future development. The SD: CM can confirm the proposed development on Erf 6503 will occur landward of the CML.
- 2.1.6. The SD: CM notes that the management objectives of the Keurbooms-Bitou Estuarine Management Plan (2018) was taken into consideration as it is noted on page 9 of the draft BAR that the proposed development was purposefully limited to the existing, disturbed secondary grassland area to avoid the sensitive estuarine area and thus create a sizeable coastal buffer along the Keurbooms Estuary. However, it is advised that the applicant ensures that the proposed development aligns with the [Keurbooms Estuarine Management Plan 2023](#) as approved by Minister Bredell in June 2023.
- 2.1.7. The SD: CM is satisfied with abovementioned coastal buffer area away from the estuarine functional zone as well as other sensitive areas as it addresses issues with potential coastal flooding and damages associated with sea-level rise and increased storm events. The location of the proposed development on the subject property also aligns with the [Western Cape Estuarine Management Framework and Implementation Strategy: Best Practice Activity Guidelines \(2019\)](#).
- 2.1.8. The SD: CM also confirms that the proposed development and its location on the subject property also aligns with the [Departmental Circular \(DEAD&DP 0004/2021\)](#) on the Consideration of Coastal Risk in Land Use Decisions as well as the way forward with respect to the establishment of Coastal Management Lines in terms of the NEM: ICMA.

2.1.9. According to the Western Cape Provincial Coastal Access Audit for the Garden Route Municipal District (2019), the subject stretch of coast has restrictive access to the coast. Be advised that in accordance with Section 13 of the NEM: ICMA, the proposed development and associated activities may in no way impede the general public's ability to access coastal public property now or in the future. The SD: CM does however note on page 52 of the draft BAR, the applicant states that the proposed development will not deny the public access to the coastal environment as it is privately owned land and a private secure development.

2.1.10. Furthermore, the applicant should be informed that they may not create any formal or informal walkways/pathways to the coast through the littoral active zone, with any future developments on the subject property as this is an active area that performs an important ecological function.

2.1.11. The applicant must also be reminded that the erection of any protection measures against erosion or accretion is prohibited in terms of Section 15 of the NEM: ICMA, which states:

(1) No person, owner or occupier of land adjacent to the seashore or other coastal public property capable of erosion or accretion may require any organ of state or may require any organ of state or any other person to take measures to prevent the erosion or accretion of the seashore or such other coastal public property, or of land adjacent to coastal public property, unless the erosion is caused by an intentional act or omission of that organ of state or other person;

(2) No person may construct, maintain or extend any structure, or take measures on coastal public property to prevent or promote erosion or accretion of the seashore except as provided for in this Act, the NEMA or any other specific environmental management Act.

As such, any measures against the processes of erosion or accretion may only occur within the boundaries of the subject property.

2.1.12. Considering the location of the subject property, the applicant must be informed of risk pertaining to the loss of property should the highwater mark of the sea move inland of the property boundary. In this regard, Section 14 of the NEM: ICMA and the [Advisory Note from the Office of the Chief Surveyor-General](#) dated 15 October 2021, is applicable.

2.1.13. Based on the information provided, the SD: CM does not object to the proposed development, provided all the abovementioned items are taken into considerations the proposed mitigation measures as proposed in the draft EMPr are strictly adhered to if the proposed development is approved.

3. The applicant must be reminded of their general duty of care and the remediation of environmental damage, in terms of Section 28(1) of NEMA, which, specifically states that: *"...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..."* together with Section 58 of the NEM: ICMA which refers to one's duty to avoid causing adverse effects on the coastal environment.
4. The SD: CM reserves the right to revise or withdraw its comments and request further information from you based on any information that may be received.

Yours faithfully

leptieshaam Bekko
CONTROL ENVIRONMENTAL OFFICER
SUB-DIRECTORATE: COASTAL MANAGEMENT
DATE: 27 September 2024