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RE: REQUEST FOR COMMENT FROM THE SUB-DIRECTORATE: COASTAL MANAGEMENT ON THE PRE-APPLICATION PUBLIC PARTICIPATION PROCESS FOR HOUSE PHILIP ON A PORTION OF PORTION 257 OF FARM MELKHOUTE FONTEIN NO. 480, STILL BAY, HESSEQUA MUNICIPAL DISTRICT.

Good Day,

Your request for comment from the Sub-directorate: Coastal Management on the above-mentioned pre-application received on 20 June 2025, 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 PCMP 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. The Department has developed the next generation PCMP that includes priority

objectives for the next 5 years. This PCMP was adopted on 19 May 2023 and is available upon request.

- 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.
- 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. 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 upon request.

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 proposal entails the development of one primary dwelling and associated service infrastructure on a small portion of Farm 257/480.
 - 2.1.2. The applicant accurately noted the subject property in relation to critical biodiversity and ecological support areas in accordance with the Western Cape Biodiversity Spatial Plan 2017.
 - 2.1.3. The SD: CM notes that on page 46 of the Draft BAR, the applicant indicated that the location of the proposed cottages is all landward of the coastal protection zone ('CPZ'). The SD: CM requests that the applicant confirms this by submitting a map overlaying the proposed cottage in relation to the relevant coastal risk zones in order to confirm that the cottages are indeed landward of the CPZ.
 - 2.1.4. Be advised that the proposed dwelling is located within the estuarine functional zone ('EFZ') and although the applicant noted this and indicated that the preferred locality will not impact on the estuarine environment as the proposed dwelling's floor level will be at 5.5m above the highwater mark in accordance with the WML Coast Report – this area (5m contour) is used as a delineation boundary within estuaries as it encapsulates the most dynamic areas influenced by long-term estuarine sedimentary processes. It should provide a buffer zone that can allow an estuary to retreat in the event of sea-level rise due to climate change. It allows for the inclusion of some terrestrial fringe vegetation that contribute detritus to the system and refuge areas for many animal species during floods.

The SD: CM in accordance with the DEA&DP Circular 0004/2021 titled '*The consideration of coastal risk in land use decisions as well as the way forward with respect to the establishment and implementation of Coastal Management Lines in terms of the NEM: ICMA*', does not support any developments within the EFZ, especially where their location within the EFZ is not a necessity.

- 2.1.5. In terms of the Departmental Circular, DEA&DP 0004/2021, titled '*The consideration of coastal risk in land use decisions as well as the way forward with respect to the establishment and implementation of Coastal Management Lines in terms of the NEM: ICMA*', a precautionary approach must be adopted with respect to land use decisions within risk areas. The Circular also suggests development parameters to be considered for general estuarine risk areas. This includes maintaining coastal quality; reducing public liability; reducing risk to human life; preventing intensification of development in general risk area but allow exercising of existing rights; prevention of encroachment that will impact on the integrity of the shoreline ecology; and enables safe evacuation in an emergency. The Circular further advises that any new development be set as far back from the EFZ as possible and that existing coastal processes and indigenous vegetation within the EFZ must be maintained.
- 2.1.6. Furthermore, it should be noted that the Western Cape EMFIS Best Practise Activity Guidelines (2019) recommends that no development should be approved to take place in the EFZ or highly dynamic littoral active zone. These guidelines further recommends that developments must take into consideration any adopted coastal management lines and applicable controls, and/or risk lines where high risk areas are identified. Avoiding development in at-risk or sensitive areas will help to maintain the ecological integrity of the estuarine environment, prevent disruption of the natural coastal processes, maintain aesthetic quality, and ultimately protect coastal development and people.
- 2.1.7. The proposed location for the proposed dwelling is also located seaward of the coastal management line ('CML'). 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 other organs of state including Local and District municipalities as well as CapeNature and all other organs of state represented on the steering committee for the Garden Route District CML project. 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 does not support new developments seaward of the CML.

- 2.1.8. Based on the abovementioned items, the SD: CM **does not support the development of the proposed primary dwelling and associated service infrastructure** on a small portion of Farm 257/480, and recommends that the applicant locate the development landward of the CML and the EFZ in accordance with the DEA&DP Circular 0004/2021 and the intentions of the NEM: ICMA.
- 2.2. 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.
3. 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: 25 July 2025