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**ENQUIRIES:** Shireen Pullen  
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The Director  
IDEAL TRADING 301 CC  
P.O BOX 89  
**HARTENBOS**  
6520

**Attention:** Messrs. C Spies/D. F. Swanich

Cell: 076 635 1997  
Email: [christo@cobrafuel.co.za](mailto:christo@cobrafuel.co.za)  
[dicky@cobratransport.co.za](mailto:dicky@cobratransport.co.za)

Dear Sirs

**ACKNOWLEDGEMENT OF AND COMMENT ON THE NOTICE (NOI) OF INTENT TO SUBMIT AN APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) FOR THE PROPOSED ZANDHOOGTE ESTATE ON REMAINDER OF THE FARM ZANDHOOGTE NO. 139, MOSSEL BAY (TERGNIET)**

1. The abovementioned document received by the Directorate: Development Management (Region 3), hereinafter referred to as "this Directorate" via electronic mail on 02 November 2020, refers.
2. This letter serves as an acknowledgment of receipt of the abovementioned document.
3. Due to the Nation-Wide COVID-19 Lockdown, officials from this Directorate have been working remotely during the lockdown period. Notwithstanding the limitations of the current situation, in the interest of service delivery during this period and within the available means, this Directorate has strived to maintain a certain level of service delivery.
4. *Development Proposal*  
The proposal entails the servicing of and development into subdivisational area of 10.20ha, consisting of:
  - 160 x General Residential Zone I erven (group housing)
  - 3 x General Residential Zone III erven (flats)
  - 4 x Private Open Space erven
  - 4 x Transport Zone III erven (private roads)
  - 1 x Transport Zone II erf (public street)

The remainder of the property (north of MR344) will remain Agriculture.

5. 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.

#### *5.1 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.

#### *5.2 National Web Based Environmental Screening Tool Report*

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

#### *❖ Site Sensitivity Verification Report*

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 a Site Sensitivity Verification Report, which confirms or disputes the current land use and environmental sensitivity as identified by the screening tool is submitted to this Directorate, prior to the submission of the application for environmental authorisation.***

#### *❖ Specialist studies identified by the screening tool report*

Upon review of the screening tool report it is noted that seven specialist assessments have been identified for inclusion in the Basic Assessment Report. In this regard it is noted that a motivation for exclusion of certain specialist studies has been included in the Notice of Intent. This Department takes note of the motivation to exclude certain specialist studies as identified in the Screening Tool Report. Please note that where high or medium sensitivity are indicated, a compliance statement must be obtained, or alternatively input from the authority responsible for that theme, to ensure that all protocols must be complied with. It is therefore however confirmed that no further heritage specialist studies are required and there is no threat to civil aviation, pending input from the Civil Aviation Authority.

#### *5.3 Protocols or Minimum Information Requirements*

Please be informed that the applicable protocols or minimum information requirements, which were published in 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, must be applied to the impact assessment process that must be followed: Provided that if the specialist assessment affected by any of the protocols, was commissioned before 9 May 2020, then the applicant is allowed to continue and submit documents for decision-making, which do not need to comply with the requirements of the protocols. Proof that the specialist work was outsourced before 9 May 2020, is deemed to be sufficient to allow this on a case by case basis. In such instances, the specialist report need not comply with the applicable protocol, but must comply with Appendix 6 of the Environmental Impact Assessment Regulations, 2014 (as amended).

Therefore—

- ❖ in accordance to the above, where the applicable protocol applies to any specialist performing work related to any of the fields of practice listed in Schedule I of the Natural Scientific Professions Act, 2003 (Act 27 of 2003) must be registered with the South African Council for Natural Scientific Professions ("SACNASP")<sup>[1]</sup> in any of the prescribed categories [Section 18] and further to this, only a person registered with the SACNASP may practise in a consulting capacity [Section 20]; or
- ❖ where a specialist assessment was commissioned prior to 9 May 2020, you are required to submit proof to the competent authority that the work was commissioned prior to the said date (e.g. approved quotation for specialist assessment and/or proof of work being carried out).
- ❖ It is the responsibility of the Environmental Assessment practitioner (EAP) to confirm this list and to motivate in the assessment report, the reason for not including any of the identified specialist studies, including the provision of photographic evidence of the footprint situation. Such motivation must be submitted to this Department as soon as possible, preferably before the submission of the application form.

#### 6.4 Public Participation Process

- ❖ A public participation process ("PPP") that meets the requirements of Regulation 41 of the EIA Regulations, 2014 (as amended) must be undertaken. You are advised that public participation may be undertaken prior to the submission of the application, although this is not mandatory. It is the Environmental Assessment Practitioner's discretion at what stage the requirements of Regulation 41 are met, whether during the proposed application (pre-application) process or formal application process. You are reminded that a period of at least 30 days must be provided to all potential or registered interested and affected parties to submit comment on the BAR and EMPr.
- ❖ Should a public participation process, which includes the circulation of the pre-application BAR for comment, be undertaken prior to submission of an Application Form to the Department, in terms of Regulation 40, the pre-application BAR may also be submitted to the Department for commenting purposes. Please ensure a minimum of one electronic copy of the pre-application BAR is submitted to the Department for commenting purposes.
- ❖ In terms of Section 24O (2) and (3) of NEMA and Regulations 7(2) and 43(2) of the EIA Regulations, 2014, any State Department that administers a law relating to a matter affecting the environment relevant to the application must be requested to comment within 30 days. 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 in terms of Section 24O (2) and (3) of NEMA in the BAR, where appropriate.
- ❖ Your list of State Departments to include in the PPP is noted and supported.
- ❖ Delivery of reports/documents must be done in a manner provided for in section 47D of the NEMA and the Directions: Provided that all registered I&APs have access to such facilities. Electronic versions of reports may be made accessible through any of the following non-exhaustive list of methods: websites, Zero Data Portals, community or traditional authorities, Cloud Based Services.

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

[www.westerncape.gov.za](http://www.westerncape.gov.za)

- ❖ The timeframes regarding comment period must be specified. All potential interested and affected parties including I&APs and organs of state identified in Section 3 of the Public Participation plan, must be afforded a minimum of three (3) calendar days from date of notification before the 30-day commenting period on the Basic Assessment Report (Pre-Application or formal process report). 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.
- ❖ Please consider the following guidance regarding the Application Programme: Once the Application Form is submitted to this Directorate, the programme should allow for the 10-day acknowledgement period, prior to any Public Participation commencing, so that this Directorate can confirm that the application is in order.
- ❖ It must be possible to cross-reference the proposed delivery of documents to the preferences indicated in the I&AP Register.
- ❖ Reports may not be made available at any public places or premises that are closed to the public, as contemplated in the Regulations.

## 6. Pre- Application Consultation

- 6.1 Although you indicated that no pre-application meeting will be required, this Department avails itself for a pre-application meeting engagement to provide further guidance and advice in terms of Regulation 8 on the process requirements and the administration of your application.
- 6.2 Please note that the pre-application consultation is an advisory process and does not pre-empt the outcome of any future application, which may be submitted to the Department.
- 6.3 No information provided, views expressed and/or comments made by officials during the pre-application consultation should in any way be seen as an indication or confirmation:
  - that additional information or documents will not be requested
  - of the outcome of the application.

## 7. Need and 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. 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 proses 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 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 NEMA EIA Regulations, 2014. 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 this.
9. 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 on Generic Terms of Reference for EAPs and Project Schedules (March 2013)
  - Guideline for determining the scope of specialist involvement in EIA processes, June 2005.
  - Guideline for involving visual and aesthetic specialists in the EIA process, June 2005.
  - DEA (2017), Guideline on Need and Desirability, Department of Environmental Affairs.
10. Please ensure the Basic Assessment Report ("BAR") and Environmental Management Programme ("EMPr") contain all information requirements outlined in Appendices 1 and 4 respectively of the Environmental Impact Assessment Regulations, 2014 (GN R. 982 of 4 December 2014, as amended).

## General

11. In accordance with the Directions regarding measures to address, prevent and combat the spread of COVID-19 (Government Notice No. 650 of 5 June 2020) during Alert Level 3, all applications, reports and documents, which include all signatures and Annexures which are included as part of the application and subsequent reports, must be submitted via e-mail to the relevant official, with attached PDF versions of letters and reports. If the documents are too large to attach to an e-mail, the competent authority must be notified per e-mail and provided with an electronic link to such documents that is accessible by the relevant authority.

**Note:** The Directorate: Development Management (Region 3), has created a generic e-mail address to centralise its administration within the component (i.e. notifying clients of decisions and receiving EIA applications, Notice of Intent form; request for fee reference numbers, etc.) Please make use of the new e-mail address too when submitting such documents:

[DEADPEIAAdmin.George@westerncape.gov.za](mailto:DEADPEIAAdmin.George@westerncape.gov.za)

12. Kindly note that this Department requires that when the pre-application BAR is submitted, one (1) electronic copy of the document must be submitted to the Department for consideration. Hard copies of the document are no longer required, but must be made available upon request.
13. Please note that the activity may not commence prior to an environmental authorisation being granted by this Directorate.
14. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any new or revised information received.

Yours faithfully

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

Copies to: Ms. L. van Zyl  
Mr. J. Roux

Cape EAPrac (EAP)  
Mossel Bay Municipality

Email: [louise@cape-eaprac.co.za](mailto:louise@cape-eaprac.co.za)  
Email: [jroux@mosselbay.gov.za](mailto:jroux@mosselbay.gov.za)