
ATT: Melissa Mackay
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Dear Madam

RE: COMMENT ON THE DBAR FOR THE PROPOSED DEVELOPMENT OF A PRIMARY DWELLING AND ASSOCIATED INFRASTRUCTURE ON PORTION 19 OF THE FARM MISGUNST AAN DE GOURITZ RIVER NO. 257 NEAR VLEESBAAI

1. Your request for comment from the sub-directorate: Coastal Management on the above-mentioned Draft Basic Assessment Report for the development of a single residential dwelling on Portion 19 of Farm 257 Misgunst Aan De Gouritz Rivier, Vleesbaai, received via email on 07 April 2022, refers.
2. 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". The Department, in pursuant of fulfilling its mandate, is implementing the Provincial Coastal Management Programme ("PCMP"). The PCMP is currently under review and has been published for comment. 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. A key priority of the PCMP

is the Estuary Management Programme, which is predominantly implemented through the Estuary Management Framework and Implementation Strategy ("EMFIS") project. The Department is implementing estuary management 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.

3. In terms of the afore-mentioned application, the sub-directorate: Coastal Management ("SD: CM") has the following commentary:

- 3.1. The applicant wishes to erect a residential dwelling on his property in accordance with his current development rights. Three alternative locations were identified to site the proposed dwelling.
- 3.2. All three proposed site options are located within the coastal protection zone as delineated by the Department with the delineation of the Garden Route coastal management line project, 2018. As such Section 63 of the NEM: ICMA must be considered by the competent authority and must therefore be assessed in the DBAR.
- 3.3. The DBAR depicted the proposed site locations in relation to the coastal protection zone, the littoral active zone and the coastal management line as delineated by the Department. A specialist coastal engineer was also appointed to verify the extent of the littoral active zone, consider coastal processes and propose mitigation measures where applicable.
- 3.4. According to the onsite determination by the coastal engineer, option 1 (the preferred option) is located outside of the littoral active zone. This determination is acknowledged; however, it must be noted that it is well established that there has always been conflict between various disciplines regarding the criteria considered for the delineation of the littoral active zone. The Department is obliged to implement the littoral active zone as defined in the NEM:ICMA. In accordance with the definition in the NEM: ICMA and the onsite determination of the coastal officer at a site visit conducted on 19 April 2021, it is the determination of the SD: Coastal Management that option 1 as well as option 2 is located within the littoral active zone.
- 3.5. It is essential that the competent authority not only consider the impact that the proposed development may have on the receiving environment but also what impact the environment, including the dynamic coastal processes would have on the development. The NEM:ICMA regards the littoral active zone to be a dynamic system where free movement of sand must not be interfered with. Considering that a substantial portion of the property is located outside of the littoral active zone, it would be more prudent to allow for the development of a residential dwelling outside of the

littoral active zone where it would be subjected to fewer environmental risks or sensitivities.

- 3.6. Additionally, the area is also identified as a Critical Biodiversity Area ("CBA") and according to the Western Cape Biodiversity Spatial Plan ("WCBSP") 2017, the desired management objective for these areas is to maintain it in a natural or near-natural state, with no further loss of habitat. Degraded areas must be rehabilitated, and only low impact. Biodiversity-sensitive land uses are appropriate. The WCBSP was also considered in the delineation of the Garden Route CML.
- 3.7. The SD: Coastal Management is not opposed to the construction of a single dwelling on Portion 19 of the Farm Misgunst. However, considering the proposed development site, the alternative sites, the environmental sensitivities, including coastal processes and the WCBSP, it is recommended that the competent authority not consider option 1 as the preferred alternative, but rather consider option 3.
4. 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.
5. The SD: CM reserves the right to revise 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 April 2022

COPY: Steve Kleinhans (DEA&DP)

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