



PER E-MAIL / MAIL

REFERENCE: 16/3/3/1/D5/11/0006/20
ENQUIRIES: Steve Kleinhans
DATE OF ISSUE: 23-OCT-2020

The Municipal Manager
BEAUFORT WEST MUNICIPALITY
Private Bag 582
Beaufort West
6970

Attention: **Mr. C.B. Wright**
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Dear Sir

COMMENT ON THE DRAFT BASIC ASSESSMENT REPORT IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): THE PROPOSED EXPANSION OF THE EXISTING GOUE AKKER CEMETERY ON THE REMAINDER OF FARM NO. 185, BEAUFORT WEST

1. The abovementioned report received by this Directorate via e-mail on 21 August 2020, refers.
2. This Directorate has reviewed the information contained within the Draft Basic Assessment Report ("DBAR") and provides the following comment:

2.1. The Proposal

From the DBAR it is understood that the proposal entails the expansion of the existing Goue Akker cemetery on the Remainder of Farm No. 185 in Beaufort West (hereafter referred to as "the property"). The existing cemetery is approximately eight hectares in size and is expected to reach full capacity in early 2021. To address this the Beaufort West Municipality proposes to expand the cemetery by approximately 8.2ha which will provide between 7 410 and 10 454 additional new burial spaces, which will be divided into 26 blocks.

The proposal also includes the development of 4.5m wide internal roads, 100m long 90mm diameter water pipeline, 100m long 160mm diameter sewer, stormwater management infrastructure, and the construction of a caretaker and

ablution facility. The proposal will be implemented approximate to Layout Plan 505510 GE 201 (Rev D) attached as Appendix B.1 of the DBAR.

According to the information in the reports stormwater will be collected and dispersed by means of a proposed stormwater berm towards the East of the site channelling run-off to an existing low-lying disturbed area which will serve as a detention area. It is proposed to formalise the stormwater detention area / pond. However, it is unclear what the formalisation of the detention area and stormwater outlet structure entails e.g. formalisation by means of the shaping and compacting of earth material or construction of structures or hard surfaces (i.e. concrete or gabion/reno-mattress structures).

2.2. **Basic Assessment Report Requirements**

The BAR must contain all the information outlined in Appendix 1 of GN No. R. 982 of 4 December 2014 (as amended) and must also include the information requested in this letter. Omission of any of the said information may result in the application for Environmental Authorisation being refused. In this regard it must be ensured that the BAR contains the curriculum vitae of the appointed independent Environmental Assessment Practitioner ("EAP").

2.3. **Alternatives**

Please be advised that in terms of the Environmental Impact Assessment Regulations, 2014 (as amended on 7 April 2017) ("EIA Regulations") and the National Environmental Management Act, Act No. 107 of 1998, as amended ("NEMA"), the investigation of alternatives is mandatory.

In light of the above it is noted that two layout alternatives have been assessed in the DBAR namely:

- ❖ *Layout Alternative 1 (preferred Alternative)*

This alternative will allow for the provision of approximately 10 545 burial sites on approximately 8.2ha and will be implemented approximate to Layout Plan 505510 GE 201 (Rev D) attached as Appendix B1.1 of the DBAR.

- ❖ *Layout Alternative 2*

This alternative will allow for the provision of approximately 7 410 burial sites on approximately 6.1ha and will be implemented approximate to Layout Plan 505510 GE 201 (Rev B) attached as Appendix B1.2 of the DBAR.

Your EAP is requested to consider, assess and report on an alternative of "vertical burial" or "upright burial". This option may provide for greater densification, thereby increasing the lifespan of the facility or reducing the required area. A combination of horizontal burial and vertical burial should also be considered.

It must be noted that any of the alternatives assessed as part of the application can be authorised by this Department. As such the EAP must provide a reasoned opinion on which of the alternatives should be authorised.

2.4. **Specialist Reports**

It is understood that specialist reports in respect of the Aquatic Biodiversity and Terrestrial Biodiversity Themes were undertaken prior to 9 May 2020. In such an instance proof the work was commissioned prior to said date (e.g. approved quotation for specialist assessment and/or proof of work being carried out) must be included in the BAR. Furthermore, such assessment reports must comply with the content requirements of Appendix 6 of the Environmental Impact Assessment Regulations, 2014 (Government Notice No. R. 982 of 4 December 2014 as amended on 7 April 2017) ("EIA Regulations, 2014"). Further to the above, this Directorate provides the following comment in respect of specialist reports/input:

Biodiversity Survey / Botanical Impact Report

The findings of the Biodiversity Survey compiled by Mark Berry Environmental Consultants have been noted. In this regard it is noted that the proposal will result in the loss of approximately 10ha of fair to good quality Southern Karoo Riviere vegetation. However; the impacts identified in Tables 1 and 2 of the report has not been properly defined. In this regard the "impact on vegetation type, habitat and species" may be defined as loss of vegetation, increased erosion risk, etc.

Freshwater Habitat Impact Assessment

According to the findings of the Freshwater Habitat Impact Assessment compiled by *Sharples Environmental Services cc.*, the impacts associated with the aquatic resources are considered to be of Low Significance, subject to the implementation of the proposed mitigation measures. In this regard it is noted that a 28-metre buffer is proposed between the Kuils River edge and the proposed expansion site. The site development plan must clearly show how this has been included.

Geohydrological and Geotechnical Assessment

According to the Geohydrological and Geotechnical Assessment compiled by *GEOSS South Africa (Pty) Ltd.*, the risk to groundwater associated with the cemetery site is from *inter alia*, contamination by decomposing bodies, chemicals used in the embalming process, metals from the ornamental hinges on coffins, etc. However, the findings of the study indicate that the underlying aquifer at the site has been classified as a fractured aquifer by the Department of Water Affairs and Forestry (now Department of Water and Sanitation) with a low to medium vulnerability to surface-based contaminants.

Furthermore, it is noted that 10 trial pits were excavated by means of a Tractor-Loader-Backhoe ("TLB") with no groundwater intersected up to a depth of 3-metres. The findings of the geotechnical investigation indicate that a minimum depth of 1.4 metres (requirement of City of Cape Town By-law as published in Provincial Gazette No. 6898 on 12 August 2011) will be attainable using a TLB. However, on review of the Beaufort West Municipality By-law relating to

cemeteries, exhumations and cremations (*Notice No. 147/2005*) the standard depths of graves are 1.5 metre for children, 1.8 metre for one adult body and 2.4 metres for two adult bodies. This Bylaw (unless replaced or repealed) must form part scope of the specialist report. As such the specialist must confirm whether the depths specified in *Notice No. 147/2005* will be attainable across the entire proposed site. In this regard, the alternative to include vertical-burial plots, must also be addressed in the Geohydrological and Geotechnical Assessment.

Note:The City of Cape Town's By-law as published in Provincial Gazette No. 6898 on 12 August 2011 is not recognised as applicable to this application. Although certain elements or principles contained in the document may be utilised to explain the assessment of the proposed development or as reference.

It is expected of the specialist to have the necessary expertise to compile a specialist report addressing the requirements of Appendix 6 of the EIA Regulations, 2014, specifically a description of existing impacts on the site, cumulative impacts of the proposed development and levels of acceptable change. The author could reference such a by-law/policy document but would have to clearly explain how any components thereof may be applicable to this project.

Please be reminded that the applicant must provide the EAP and specialist with access to all information at the disposal of the applicant regarding the application (including By-laws and guidelines), whether or not such information is favourable to the application.

From the report it is noted that mitigation measures have been proposed in order to reduce groundwater contamination. It is this Directorate's considered view that the mitigation measures associated with coffin size and materials, ornamental metals, etc. are not feasible and not considered reasonable to implement. The socio-economic aspects of proposed mitigation measure must also be considered.

Agricultural Theme

According to the DBAR an Agricultural Compliance Statement has not been completed despite the fact that the property is zoned Agriculture Zone I and the Screening Tool assigning a Medium sensitivity for the Agricultural Theme. However, relevant aerial photography suggests that a portion of the proposed site may have been cultivated approximately 14 to 15 years ago. This has also been confirmed in the specialist botanical report. As such please advise your EAP that the Agricultural Protocol applies and must be implemented.

Palaeontological Theme

According to the DBAR a Palaeontological Impact Assessment has not been undertaken as yet and the need for such assessment will be guided by the response by Heritage Western Cape ("HWC"). According to the information

contained in the application form submitted to this Department on 30 July 2020 the Notice of Intent to Develop (NID) was submitted to the HWC on 22 July 2020. As such the comment from HWC must be included as Appendix E1 of the BAR or a Revised BAR and any studies required by the HWC must be undertaken and included in the BAR. In such an instance the Standard Operating Procedure between Heritage Western Cape and this Department must be followed. It is unclear how the processes will be synchronised in the event where a heritage study will be required. Please be advised that failure to synchronise the process may prejudice the outcome of the application for environmental authorisation.

2.5. **Other legislation**

National Heritage Resources Act, 1999

In addition to the Please note that section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) ("NHRA") sets out the requirements regarding the integration of the decision-making process 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. Please ensure that both these requirements are complied with prior to submitting the BAR.

National Water Act, 1998:

According to the Freshwater Habitat Impact Assessment the proposed expansion of the Goue Akker cemetery may be generally authorised in terms of Section 21 (c) and (i) of the National Water Act, 1998 (Act No. 36 of 1998) ("NWA") due to the low risk associated of the proposal on the watercourses in the vicinity of the site. In this regard it is noted that an application for the registration of the water uses has been submitted to the Department of Water and Sanitation ("DWS"). As such confirmation that the proposal has been generally authorised must be included in the BAR.

Notwithstanding the above, in the event where the DWS indicates that a Water Use License ("WUL") is required, please be advised that the applications for environmental authorisation and WUL must be synchronised. You are reminded that if these processes are not properly aligned, the lack of synchronisation; omission of any reports/information; or delay as a result thereof, may prejudice the success of the application for environmental authorisation.

National Health Act, 2003: Management of Human Remains

With reference to this Directorate's letter (Ref: 16/3/3/6/7/1/C3/1/0095/20) dated 8 July 2020, the applicability of the of the *Regulations Relating to the Management of Human Remains* (GN. R363 of 22 May 2013) promulgated under the National Health, 2003 (Act No. 61 of 2003), must be determined. The relevant authority (*inter alia* the Central Karoo District Municipality and National Department of Health)

must be consulted regarding the above and written comment must be obtained how all the provisions of the Regulations Relating to the Management of Human Remains (GN. R363 of 22 May 2013), apply to the proposed development and whether exemption from said regulations is applicable. Such comment must be included in the BAR.

Conservation of Agricultural Resources Act, 1983:

According to the information contained in the report the property is currently zoned Agriculture Zone I. Moreover, the land on which the expansion is proposed has not been cultivated within the preceding 10-year period. As such the land is considered virgin soil which, according to the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983) ("CARA"), means land which in the opinion of the executive officer has at no time during the preceding ten years been cultivated.

In light of the above you are required to obtain comment from the Western Cape Government: Department of Agriculture's Land Use Management office (% Mr. Cor van der Walt). Such comment must be included in the BAR.

2.6. Environmental Management Programme

The contents of the Environmental Management Programme ("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 EMP 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).

This Department has reviewed the EMPr as included and received as part of the DBAR. The following aspects must be addressed:

Environmental Auditing

There appears to be contradictory statements with regard to the auditing of the environmental authorisation and the EMPr. According to Section 15.3.2 ("Duties of the ECO") the Environmental Control Officer ("ECO") will be responsible to submit a final post-construction inspection report / audit report within six months of completion of the construction phase. However, Section 17.1 of the EMPr indicates that audits must be undertaken every six months by an auditor, which may not be the appointed ECO.

In light of the above a clear distinction must be made between the reports which must be submitted by the ECO and the Independent Environmental Auditor.

The ECO is required to compile and submit:

- the environmental monitoring reports / compliance monitoring reports, and
- post-construction rehabilitation

Whereas, the environmental audit report must be compiled and submitted by an independent person with the relevant environmental auditing expertise. In this regard please note that the environmental auditor may not be the EAP or the ECO.

Furthermore, the timeframes of the submission of monitoring reports, post-construction rehabilitation report and the audit report must be clearly described in the EMPr.

General

The EMPr contains measures related to the adherence health and safety legislation and general construction matters. Please note that this will have an influence on the auditing of compliance with the EMPr since all measures included in the EMPr needs to be audited. As such it is advised that any additional information or guidance to what is specified in Appendix 4 and Section 24N of NEMA, should be clearly separated from the body of the report (i.e. appendices).

Furthermore, it is also requested that the terminology in the EMPr related to the execution of tasks be checked for consistency. Terms such as "should" and "may", which do not provide clear instruction or cannot be enforced, must be avoided in the document.

2.7. Public Participation Process

It must be ensured that the Public Participation Process ("PPP") meets the requirements of Regulation 41 of the Environmental Impact Assessment Regulations, 2014 (as amended) and be in line with the agreed Public Participation Plan ("PP-plan") (compiled by *Sharples Environmental Services cc*, Reference: *22/PPPlan/BW Cemetery/06/2020*, Dated: July 2020) agreed to by this Department on 17 July 2020.

Furthermore, your EAP is requested to submit a declaration which outlines all reasonable measures that have been taken to identify potential Interested and Affected Parties ("I&APs") for purposes of conducting public participation on the application. Such a declaration may be included as part of the Public Participation Report.

Please note that the EAP must consult with every organ of state that administers a law relating to a matter affecting the environment relevant to that application for environmental authorization. The omission of written comment from such organs of state may prejudice the outcome of the application.

GENERAL

3. Submission of Basic Assessment Report

In accordance with Regulation 19 of GN No. R. 982 of 4 December 2014 and the PP-plan agreed to by this Department, the Department hereby stipulates that the BAR

must be submitted to this Department for decision within 120-days from the date of receipt of the application by the Department.

However, if significant changes have been made or significant new information has been added to the BAR, the applicant/EAP must notify the Department prior to the 120-days lapsing that an additional 80-days would be required for the submission of the BAR. The additional 80 days must include a minimum 60-day commenting period to allow registered I&APs to comment on the revised report/additional information.

If the BAR is not submitted within 120-days or 200-days (whichever applicable), 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.

Note: In accordance with Environmental Impact Assessment best-practice, you are required to notify all registered Interested and Affected Parties including the authorities identified in the Public Participation Plan of the submission of the BAR and to make the document available to them. This will provide such parties an opportunity to review the document and how their issues were addressed. The BAR must be made available to such parties within five (5) calendar days of the submission of the document to the Competent Authority.

4. Please note that one (1) printed copy as well as one (1) electronic copy of the document must be submitted to the Department for consideration. Your EAP is advised to make the necessary arrangements with the George Regional Office support staff with regard to the submission of the printed / hardcopies.

Due to the current measures being implemented by the Department^[1] to address, prevent and combat the spread of COVID-19 and until such time that the Department requires otherwise, 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

5. 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] DEADP Circular No. 0024/2020: EIA and related licensing services and supporting professional services during Covid-19 Lockdown Alert Level 1 dated 30 September 2020.

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.

6. Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
7. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully

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HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Ref.: 16/3/3/1/D5/11/0006/20

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