



REFERENCE: 16/3/3/6/7/1/D6/28/0194/20
ENQUIRIES: Shireen Pullen
DATE OF ISSUE: 2020/12/08

The Municipal Manager
Mossel Bay Municipality
101 Marsh Street
MOSSSEL BAY
6500

Attention: Mr. Pieter Myburgh

Tel: (044) 606-5275
Email: pmyburgh@mosselbay.gov.za

Dear Sir

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 WALVIS STREET EXTENSION, MOSSSEL BAY, WESTERN CAPE

1. The abovementioned document received by the Directorate: Development Management (Region 3), hereinafter referred to as "this Directorate" via electronic mail on 17 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 extension of the existing Walvis Street to link up with Louis Fourie Road (Trunk Road 33/1). The proposed length of the extension will be approximately 500 - 600m (inclusive of the existing street parcel), the total width will be approximately 6.4m (a cross section of 2 x 3.2m lanes) and the sidewalks will be gravel and 2 x 1.2m in extent. It is also understood that three route alternatives are considered as indicated in the notice of intent to apply.

The information indicates that the proposed extension will intersect with Louis Fourie Road between the Park Crescent intersection and Hall Street intersection, providing a spacing of approximately \pm 220 metres between Park Crescent and the proposed Walvis Street

intersection, as well as approximately \pm 890 metres between Hall Street and the proposed Walvis Street intersection.

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 Applicant's details

It is noted that the details of the proponent disclosed on page 8 of the Notice of Intent Form differs from the details disclosed in the declaration on page 25 of the Notice of Intent form (declaration by the applicant). The contact person for the proponent (Mossel Bay Municipality) is listed as Mr. Pieter Myburgh, however, the declaration for the applicant was signed by Mr. S. Naido. This should in essence be the same person as the responsibility for the implementation of the decision will ultimately rest upon this person. If the information differs, a certified power of attorney is required if not signed by the same applicant. Please ensure that there is clarity in this regard and that this aspect is resolved when the application is submitted.

5.3 The proposed road will be located within close proximity of a watercourse. Please note that the planning and design of the road extension must take into account the hydrology flow dynamics of this watercourse and the 1:100 year floodline. A detailed stormwater management must also form part of the proposal.

5.4 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 and/or commencing with a specialist assessment.

❖ 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. However, no site verification report was attached to the NOI. This Department takes note of

the motivation to exclude certain specialist studies as identified in the Screening Tool Report, however, please take note of the following:

Agricultural Theme

The sensitivity of the Agricultural theme is indicated as medium sensitivity. In accordance with the Protocol, a compliance statement must be obtained prepared from a soil scientist that is SACNASP registered. In addition hereto, input from the Department of Agriculture must also be obtained.

Civil Aviation Theme

The sensitivity of the civil aviation theme is rated as "high". Although your motivation in the NOI states that a minimum of a compliance statement must be submitted. Input from the Civil Aviation Authority must also be obtained.

Terrestrial Theme sensitivity

The Terrestrial Theme sensitivity is identified as "very high". According to the protocol a Terrestrial Biodiversity Specialist Assessment must be done by a SACNASP registered specialist. Please ensure that the protocol is complied with.

Plant and Animal Theme

Both Plant and Animal Theme sensitivities is rated as "medium". Animal and Plant species themes will be covered by the Terrestrial Biodiversity Assessment done by Mr. Mark Berry. Please ensure that all protocols are complied with and all specialist studies comply with Appendix 6 of the NEMA EIA Regulations, 2014 (as amended).

Heritage Theme

According to the screening tool, the Archaeological theme sensitivity is rated as High while the Paleontological Theme is rated as Medium. Notwithstanding the afore-mentioned, Heritage Western Cape confirmed in their letter dated 4 August 2020 that there is no reason to believe that the proposed extension of Walvis Street, Mossel Bay will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required.

Aquatic Theme

The aquatic sensitivity theme is rated as "very high" and according to the protocol, an Aquatic Biodiversity Specialist Assessment must be done by a SACNASP registered specialist with the expertise in aquatic science. The design of the proposed facility must take into account the hydrology of the water course, appropriate storm water management and 1 in 100-year flood lines /levels.

5.5 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")^[1] 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. You are therefore advised to submit the Site Sensitivity Verification Report at your earliest convenience, but prior to commencing with any specialist assessment.

5.6 One Environmental System

It is noted from your submission that the proposal requires a Water Use Licence (WULA) in terms of the National Water Act, 1996 (Act No 38 of 1998). In light of the one environmental system, it is now a requirement to synchronise the EIA and WULA processes in order to ensure that both processes are duly informed by one another. It is therefore the duty of the Environmental Assessment Practitioner ("EAP") to take note of the timeframes and synchronise the two processes. Failure to give effect to the one environmental system may prejudice the success of the application.

5.7 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 provided that a pre-application BAR is submitted, 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

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

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. Please include the Department of Agriculture and the Civil Aviation Authority in your list of I&APs.
- ❖ 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.
- ❖ The timeframes regarding comment period must be specified. All potential interested and affected parties including I&APs and organs of state 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. 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.
 - DEA (2017), Guideline on Need and Desirability, Department of Environmental Affairs.
9. 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

10. 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

11. 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.
12. Please note that the activity may not commence prior to an environmental authorisation being granted by this Directorate.

13. 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

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

Copies to: Ms. A. Sanker

SESc.net (EAP)

Email: ameesa@sesc.net



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- 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.
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General

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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

11. 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.
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