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Sharples Environmental Services
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Attention: Lu-anne Beets

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RE: REQUEST FOR COMMENT FROM THE SUB-DIRECTORATE: COASTAL MANAGEMENT ON THE PRE-APPLICATION BASIC ASSESSMENT REPORT FOR THE PROPOSED EXPANSION OF MILKWOOD MANOR HOUSE AND PARKING ON ERF 10190, REMAINDER OF ERF 2066 AND REMAINDER OF ERF 706, PLETTENBERG BAY

Good day Madam

Your request for comment from the Sub-directorate: Coastal Management on the above-mentioned pre-application basic assessment report received on 12 September 2024, 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 Western Cape Provincial Coastal Management Programme ("WC: PCMP 2022-2027") 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. This WC: PCMP 2022-2027 was adopted by the Provincial MEC for Local Government, Environmental Affairs and Development Planning on 19 May 2023 and may be viewed at [Western Cape PCMP 2022-2027](#).
- 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. The Department is in the process of approving a series of Estuarine Management Plans. Both draft and approved plans may be viewed at [DEA&DP: Coastal Management](#).
- 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 on the Departmental website at [DEA&DP: Coastal Management](#).

1. 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 applicant is proposing to expand the Milkwood Manor Guest House and both public and private parking areas on Erf 10190, Remainder of Erf 2066 and Remainder of Erf 706. The proposed expansion will entail the:
 - 2.1.1.1. Expansion of the Milkwood Manor Guest House by adding 10 new rooms
 - 2.1.1.2. Upgrading of the restaurant, bar, lounge area and spa of the guest house
 - 2.1.1.3. Expansion of the hotel parking by adding 5 new parking bays
 - 2.1.1.4. Expansion of the public parking by adding 27 new parking bays
 - 2.1.1.5. Construction of a new public beach shower east of the parking on Erf RE/2066
 - 2.1.1.6. Construction of a new public ablution block next to the existing pump station
 - 2.1.1.7. Removal of the existing deck on the rock revetment
 - 2.1.1.8. Adding of new landscape
 - 2.1.1.9. Construction of a new pergola and deck
 - 2.1.1.10. Construction of a new bus stop and drop-off area
 - 2.1.1.11. Implementation of new stormwater management measures

- 2.1.2. It is also noted that an application was made by Planning Space and Town Planners to relax the southern boundary building line of 4m to 0m in order to create an enclosed service area to contain service infrastructure such as water tanks, refuse storage, a generator room and a delivery area which is presently located in the municipal parking area.
- 2.1.3. The SD: CM notes that land consent was required for the construction of additional parking on Erf 706 and a letter from the Western Cape Department of Agriculture Land Reform and Rural Development: Office of Surveyor-General dated 30 May 2024 confirmed that the open space may be used for public parking. Land consent was also obtained from the Bitou Municipality to construct additional parking bays on Erf RE/2066.
- 2.1.4. The applicant accurately identified all critical biodiversity and ecological support areas on the subject erven in accordance with the Western Cape Biodiversity Spatial Plan (2017) and also indicated that the subject area falls partially within the Keurbooms River Nature Reserve Seagull Colony.
- 2.1.5. Be advised that Erf 10190, Remainder of Erf 2066 and Remainder of Erf 706 are all located within the Coastal Protection Zone ("CPZ") as defined in Section 16 of the NEM: ICMA and the purpose of the CPZ is to avoid increasing the effect or severity of natural hazards in the coastal zone and to protect people and properties from risks arising from dynamic coastal processes, including the risk of sea level risks. Due to the subject property's location within the CPZ, Section 63 of the NEM: ICMA must be considered where an authorisation is required in terms of Chapter 5 of the NEMA. Furthermore, Section 62 of the NEM: ICMA obliges all organs of state that regulates the planning of land to apply that legislation in a manner that gives effect to the purpose of the CPZ. As such, Section 63 should be considered by local authorities for land use decision making.
- 2.1.6. In Appendix A2 (Coastal Risk Lines) the applicant identified the subject properties in relation to erosion risk lines. In terms of coastal risk modelling commissioned by the SD: CM, Erf 10190 is located landward of the Garden Route District coastal management line ("CML") and is also a development island. Erven RE/2066 and RE/706 fall partially seaward of the CML (see Figure 1 below). 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, zoning, *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.

2.1.7. Be advised that a development island is considered outside or landward of the CML in order to recognise existing development rights. In this regard, all the proposed activities within the boundaries of Erf 10190 falls within the development island and thus landward of the CML. Furthermore, all proposed activities directly south of Erf 10190 are also considered landward of the CML (see Figure 1 below). However, it must be noted that the development islands is to limit the enhancement of existing development rights and/or the expansion of development within these development islands in order to reduce risk of human life and properties as a result of coastal processes and impacts of climate change.



(Figure 1 depicting the proposed property in relation to the CML as well as the development island around Erf 10190)

2.1.8. Although the proposed expansions to the Milkwood Manor Guest House fall within the development island, the SD: CM is concerned that with the relaxation of the building line from 4m to 0m, may result in an insufficient buffer to absorb the effects of coastal processes. Although the applicant made reference to a flood event in 2007 that lead to the need to construct a rock revetment during 2007/2008, and the applicant also alluded to the fact that the subject area may be subject to more flooding events in the distant future, this particular proposal was not considered in the context of all the recent storm events (September 2023 and June/July2024). The applicant also did not demonstrate how the subject area was affected by these events.

2.1.9. Notwithstanding the position of the CML, it must be noted that the position of the property at the mouth of an estuary renders it vulnerable to both coastal processes such as wave run-up and coastal erosion but also from impacts from inland flooding. This has been observed by the increase in frequency and magnitude of storm and flood events along

the coast and estuaries as a result of impacts of climate change. It is therefore advised that caution be applied in considering any additions to the existing building.

2.1.10. The proposal has also not been considered in the context of any Disaster Risk Management Plan on a municipal or district level. Due to the subject area's proximity to the coast and estuary it would be crucial to consider this information. Figure 3 below shows the extent of the impact of the 2007 Storm event on the subject area and it is clear that flooding and wave impact are issues of concern in this area along with a migrating estuary mouth and coastal processes. In this regard the applicant is advised to consider appropriate coastal buffers in their design proposal to address issues with potential coastal flooding and damages associated with sea-level rise.



(Figure 2 showing the impact of the 2007 Storm event on the Milkwood Manor)

2.1.11. In terms of the location of the proposed wooden deck and public showers, although this would be a public benefit, recent storm events have shown how destructive these storm events can be especially to wooden decks. The September 2023 coastal storm surge destroyed the wooden decking of the Ficks Pool restaurant in Hermanus despite the location of the restaurant within in a sheltered bay as well its very elevated position – see Figure 2 below. As such, in terms of public safety, the SD: CM does not support any such infrastructure. There is also no clarity as to who will be liable for such infrastructure since it is proposed to be located on CPP.



(Figure 2 depicting the damage of the September 2023 storm event with the wooden decks, furniture and balustrade completely destroyed)

- 2.1.12. The proposed wooden deck and public showers seems to be located within the littoral active zone ('LAZ'). Any activities within this area that does not support natural coastal processes may result in erosion. The NEM: ICMA regards the LAZ to be a dynamic system where the free movement of sand must not be interfered with. It is essential that the competent authority not only considers the impact(s) the proposal and its associated activities will have on the receiving environment, but also the impact(s) that environment, including dynamic coastal processes would have on the proposed wooden deck and public showers.
- 2.1.13. In terms of the Departmental Circular, [DEA&DP 0004/2021](#), regarding '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 coastal risk areas. The Circular also suggests that development parameters be considered for development within general risk areas. This includes maintaining coastal quality; reducing public liability; reducing risk to human life; preventing intensification of development in general risk areas but allow the exercising of existing rights; prevention of encroachment that will impact the integrity of the shoreline ecology; and enables safe evacuation in an emergency.
- 2.1.14. Although the rock revetment was constructed during 2007/2008, the applicant must be reminded that the erection of any protection measures against erosion or accretion is prohibited in terms of Section 15 of the NEM: ICMA, which states:
- (1) No person, owner or occupier of land adjacent to the seashore or other coastal public property capable of erosion or accretion may require any organ of state or may require any organ of state or any other person to take measures to prevent the erosion or accretion of the seashore or such other coastal public property, or of land adjacent

to coastal public property, unless the erosion is caused by an intentional act or omission of that organ of state or other person;

- (2) No person may construct, maintain or extent any structure, or take measures on coastal public property to prevent or promote erosion or accretion of the seashore except as provided for in this Act, the NEMA or nay other specific environmental management Act.*

As such, any measures proposed to counter the processes of erosion or accretion may only occur within the boundaries of the subject property. Erosion protection or bank stabilisation should only be considered in exceptional circumstances where such measures are in the interest of the whole community (which includes fauna and flora).

2.1.15. Furthermore, with respect to the location of the subject property, the applicant must be informed of risk pertaining to the loss of property should the high-water mark of the sea move inland of the property boundary. In this regard, Section 14 of the NEM: ICMA and the [Advisory Note from the Office of the Chief Surveyor-General](#), dated 15 October 2021, is applicable.

2.1.16. The SD: CM supports the proposed expansion of the public parking bays as well as the proposed bus stop/drop off area as they align to the Western Cape Provincial Coastal Access Strategy and Plan (2017) as well as Priority Area 3 of the [Western Cape PCMP 2022-2027](#), provided that the parking bays are in the interest of the whole community and not for the exclusive use of guests of the Milkwood Manor Guest House. Also, clarity is needed as to who will maintain the parking area in the long-term as this area will be subject to impacts from coastal processes.

2.1.17. Be advised that the entire subject area is located in the estuarine functional zone ('EFZ') which equates to the 5m contour along an estuary, and it encapsulates the most dynamic areas influenced by long-term estuarine sedimentary processes. It also provides a buffer zone that allows an estuary to swell within the floodplain of an estuary in the event of flood events, inundation as well as 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. It must be noted that in general the SD: CM does not support any development within EFZ however the development island is recognised for Erf 10190, but the applicant must note their property is still at risk to coastal processes and therefore it is advised that caution be applied in considering any expansions to the property.

2.1.18. Although the applicant noted the relevance of the Keurbooms Estuary Estuarine Management Plan (2023), the subject area is situated right at the Keurbooms estuary mouth and the applicant must be mindful that the estuary mouth migrates naturally. As such, it is advised that a precautionary approach be adopted by the competent authority with the consideration of this application.

- 2.1.19. Furthermore, the [Western Cape EMFIS: Best Practice Guidelines \(2019\)](#) recommends that unless essential, no development should be approved to take place in the EFZ or the highly dynamic littoral active zone. These Guidelines recommends that developments must take into consideration any adopted CML and applicable controls, and/or coastal risk lines where high risk areas are identified. Furthermore, 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 the aesthetic quality, and ultimately protect coastal development.
- 2.1.20. It is imperative that property owners consider the impact of climate change along the coast especially considering the increasing frequency and severity of storm events along the coast that have occurred in the last four years. The risk to both property and human life as of concern to the state and as such, considering the information at hand and evidence of recent storms events the state is obliged to adopt a precautionary approach to considering land use decisions along the coast and estuaries.
- 2.1.21. In terms of the ablution block, the SD: CM supports the preferred layout of the ablution block being located adjacent to the existing system.
- 2.1.22. The SD: CM notes that part of the proposal is to remove the existing unlawful deck that is encroaching onto public land. The SD: CM supports the removal of the unlawful deck and the rehabilitation of the encroached area.
- 2.1.23. Although the applicant emphasised how the proposed expansion and associated activities will contribute towards the local economy in terms of the PSDF and IDP, the applicant failed to highlight the proposed expansions in the context of coastal resilience especially the property's vulnerable position in the coastal zone.
- 2.1.24. The SD: CM is very concerned that the proposed expansion does not allow for sufficient buffers between the subject area and coastal processes and the presence of the existing rock revetment demonstrates that the subject area will always be affected by either coastal flooding, the migrating estuary mouth and coastal processes. Therefore, a precautionary approach is recommended for the consideration of this proposal. The SD: CM supports the expansion of the parking bays for public use as it facilitates public access to coastal public property. However, the SD: CM does not support the expansion of the manor and any activities (wooden deck and showers) that may interfere with coastal processes such as the free movement of sand in the highly dynamic LAZ or that increases risk to human life. The applicant is advised to take all the abovementioned items into consideration during the next phases of public participation.

3. 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.
4. 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: 16 October 2024