



REFERENCE: 16/3/3/6/7/1/E5/1088/20
DATE: 15 June 2020

The Municipal Manager
Theewaterskloof Municipality
PO Box 24
CALEDON
7230

Attention: Mr L Parnell

Tel: (028) 214 3300
Email: LesterPa@twk.org.za

Dear Sir

COMMENT ON NOTICE OF INTENT ("NOI") TO SUBMIT AN APPLICATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS 2014, (AS AMENDED) FOR THE PROPOSED 160MM UPVC BULK WATER CONVEYANCE PIPELINE FROM TESSELAARSDAL TO BETHOESKLOOF, WESTERN CAPE

1. The electronic version of the NOI, as received by the Department on 25 May 2020, the Departmental letter issued on 4 June 2020 and the Public Participation Plan received via electronic correspondence on 8 June 2020, refer.
2. Following a review of the information submitted to this Department, we note the following:
 - 2.1 The proposal entails the development of a 160mm UPVC bulk water conveyance pipeline of approximately 6km within a width of 10m (5m either side of the pipeline) from Tesselaarsdal to Bethoeskloof.
 - 2.2 The site is disturbed since the pipeline will be developed within an existing road reserve.
 - 2.3 However the pipeline will cross four watercourse crossings (watercourse crossing 1 - 50 square metres, watercourse crossing 2 - 50 square metres, watercourse crossing 3 - 1000 square metres and watercourse crossing 4 - 100 square metres).
 - 2.4 The site is comprised of Western Rûens Shale Renosterveld vegetation (80% of the site) and Overberg Sandstone Fynbos (20% of the site). Both these vegetation types are classified as critically endangered in terms of Section 52 of the National Environmental Management: Biodiversity Act (Act No. 10 of 2004).
 - 2.5 The site does not fall within a protected area.
 - 2.6 A Water Use Licence ("WUL) is applicable and a Water Use Licence Application ("WULA") will be submitted to the Department of Water and Sanitation in due course.
 - 2.7 A Notice of Intent to Develop was submitted to Heritage Western Cape on 24 April 2020.

Process

3. 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.
4. It is noted that Section H 2.3 state that A General Authorisation (GA) registration would be submitted to Breede-Gouritz Catchment Management Agency (BGCMA). Please note that a **comment from BGCMA must be provided to confirm that a GA is the relevant process.**

Note should a GA not be the relevant process and a Water Use Licence be required in terms of the National Water Act, 1998 (Act No. 36 of 1998) ("NWA"), according to the Agreement for the One Environmental System (Section 50A of the NEMA and Sections 41(5) and 163A of the NWA), the processes for a WULA and for an EIA must be aligned and integrated with respect to the fixed and synchronised timeframes, as prescribed in the EIA Regulations, 2014 (as amended), as well as the 2017 WULA Regulations.

5. You are advised that when undertaking the Basic Assessment process, you must take into account the applicable guidelines including the guidelines developed by the Department. The Department's guidelines can be downloaded from the Department's website (<http://eadp-westerncape.kznsshf.gov.za/your-resource-library>). 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 Need and Desirability (March 2013).
6. Please ensure the Basic Assessment Report and Environmental Management Programme contain all information requirements outlined in Appendices 1 and 4 respectively of EIA Regulations, 2014 (as amended). Omission of any required information may result in the application for Environmental Authorisation being refused.

Screening Tool

7. This Directorate notes that the Screening Report (dated 21 May 2020) has identified a number of specialist studies to be conducted and the Department notes the confirmation of the relevant specialist studies and a motivation (dated 25 May 2020) as to why the Animal Species Assessment specialist study will not be conducted have been provided.
8. The "Procedures for the Assessment and Minimum Criteria for Reporting on identified Environmental Themes in terms of Sections 24(5)(a) and (h) and 44 of the National Environmental Management Act, 1998, when applying for Environmental Authorisation" ("the Protocols") were published on 20 March 2020 (Government Notice No. 320 as published in Government Gazette No. 43110 on 20 March 2020) and it is noted that some of the Protocols are applicable to your proposed development. According to the Protocols, before commencing with a specialist assessment, the current use of the land and environmental sensitivity of the site under consideration identified by the screening tool must be confirmed by undertaking a site sensitivity verification. The outcome of the site sensitivity verification must be recorded in the format of a report and must be appended to the Basic Assessment Report.
9. Although a motivation was provided why an Animal Species Assessment will not be conducted, the criteria for reporting on an identified environmental theme must still be complied with. In other words, a site sensitivity verification must be undertaken and reported on, as outlined in the Protocols.

10. Be advised that the Protocols must be complied with for every new application that is submitted after 9 May 2020. Specialist studies conducted during the pre-application phase must meet the requirements of the Protocols by the time they are submitted as part of an in-process draft report.

Public Participation

11. This Department notes the submission of the electronic version of the Public Participation Plan, as received on 8 June 2020 and following the review of the information, we note the following:
 - The term Background Information Document creates confusion, and the regulations do not require the release of such a document. Instead of stating that a more comprehensive BID will be distributed so that I&APs are able to download and review that instead of the full report.
 - Rather ensure that the report's executive summary is comprehensive enough for this purpose, and make it possible to download that separately to the full report.
 - E-mail notification of I&APs is supported strongly, with other means of notification as described in the Plan for those I&APs where no e-mail addresses are available, or where the likelihood of success of this electronic correspondence is expected to be low.
 - The length of the commenting period for any PPP at this point in time has to be calculated taking the National Directions issued by DEFF on 5 June 2020, into account. This is a project where PPP will commence for the first time after the issuing of these Directions, therefore the 30-day timeframe extension referred to in paragraph 4.4 of the Directions will be applicable.
12. Please note that the above Public Participation Plan must be amended and submitted to this Department for agreement prior to the submission of the pre-application draft Basic Assessment Report. The amended Public Participation Plan must be submitted to the relevant case officer for comment in electronic format (e-mails with pdf versions of report attached to an e-mail or, via an electronic link accessible by the Department).
13. Please note that it is an offence in terms of Section 49A(1)(a) of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for undertaking it. Failure to comply with the requirements of Section 24F of the NEMA shall result in the matter being referred to the Environmental Compliance and Enforcement Directorate of this Department. A person convicted of an offence in terms of the above is liable to a fine not exceeding R10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.
14. Be advised 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.
15. 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.

16. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully



**HEAD OF COMPONENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Cc: (1) Mr D Opperman (Guillaume Nel Environmental Consultants (Pty) Ltd)
(2) Mr N Kayser (Theewaterskloof Municipality)
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