



EIA REFERENCE: 16/3/3/1/A5/20/2030/19
ENQUIRIES: AYESHA HAMDULAY
DATE: 2019 -06- 03

The Members
DEVCO Group of Companies
P O Box 1756
DURBANVILLE
7551

Attention: Mr Deon Winterbach

Tel.: (021) 979 1300

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Dear Sir

ACKNOWLEDGEMENT OF RECEIPT OF THE APPLICATION FORM FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA"), AS AMENDED AND THE ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED): THE PROPOSED ESTABLISHMENT OF THE DURBANVILLE GARDENS – ASSISTED LIVING RESIDENTIAL DEVELOPMENT ON THE REMAINDER OF ERF 56 AND ON ERVEN 4144, 4145, 15763 AND 10853, DURBANVILLE

1. The abovementioned document that was dated 24 May 2019, received by this Department on the same date, refers.
2. This letter serves as an acknowledgement of receipt of the aforementioned document by this Department.
3. From a review of the information submitted to this Department, the following was noted:
 - 3.1. The proposed establishment of the Durbanville Gardens – Assisted Living Residential Development on Remainder of Erf 56, Erven 4144, 4145, 15763 and 10853, Durbanville entails an approximately 2.54ha area being used for the establishment of the following:
 - Approximately 331 sectional title apartment units;
 - Approximately 385 parking bays, of which 14 parking bays are designated to people with disabilities, specifically persons with paraplegia;
 - Approximately 4 separate title residential units (cottages);
 - A proposed clubhouse of approximately 247m² with associated Bowling Green and swimming pool; and
 - An approximately 803m² Frail Care Facility.

The development proposal also includes stormwater detention ponds in the north eastern corner of the site which is mapped as an aquatic Critical Biodiversity Area 2 ("CBA") and internal private access roads with two entry/exit points.

Access to the proposed Durbanville Gardens – Assisted Living Residential Development will be gained from the Willow Wood Close Circle off Vissershok Road situated directly to the north of the proposed site. A basement-level parking exit will open onto Vissershok Road and will also serve as an emergency entrance point for the development proposal. Public Access to the proposed frail care facility will be provided with security controlled access to the rest of the site.

The approximately 331 sectional title apartment units will be arranged into six (6) apartment blocks situated in the centre of the proposed site. These six (6) apartment blocks will include the following:

- Block A – Approximately 30 sectional title apartment units
- Block B – Approximately 52 sectional title apartment units
- Block C – Approximately 62 sectional title apartment units
- Block D – Approximately 46 sectional title apartment units
- Block E – Approximately 81 sectional title apartment units
- Block F – Approximately 60 sectional title apartment units

The proposed 4 separate title residential units (cottages), the clubhouse of approximately 247m² and associated Bowling Green and pool, the gatehouse, the frail care facility and stormwater retention ponds will be situated in the northern edge of the proposed site.

A grey water treatment plant is proposed alongside the eastern edge of the development proposal for irrigation purposes.

It is noteworthy that the only sections of the Durbanville Gardens – Assisted Living Residential Development that will fall within the 1:100 year floodline of the Mosselbank Tributary / Uitkamp Wetland Area will be the proposed stormwater detention ponds, a section of the parking areas along the eastern edge of the development proposal and a small corner of the proposed bowling green. No residential or apartment units will be located within the said 1:100 year floodline.

4. Please note the following advice pertaining to the application:

4.1. The following listed activities are indicated in the submitted application form as applicable to the development proposal:

Item 12 of GN No. R.983 (as amended):

"The development of—

- (i) dams or weirs, where the dam or weir, including infrastructure and water surface area, exceeds 100 square metres; or*
- (ii) infrastructure or structures with a physical footprint of 100 square metres or more;*

where such development occurs—

- (a) within a watercourse;*
- (b) in front of a development setback; or*
- (c) if no development setback exists, within 32 metres of a watercourse, measured from the edge of a watercourse; —*

excluding—

- (aa) the development of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour;
- (bb) where such development activities are related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies;
- (cc) activities listed in activity 14 in Listing Notice 2 of 2014 or activity 14 in Listing Notice 3 of 2014, in which case that activity applies;
- (dd) where such development occurs within an urban area;
- (ee) where such development occurs within existing roads, road reserves or railway line reserves; or
- (ff) the development of temporary infrastructure or structures where such infrastructure or structures will be removed within 6 weeks of the commencement of development and where indigenous vegetation will not be cleared."

Item 19 of GN No. R.983 (as amended):

"The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;

but excluding where such infilling, depositing, dredging, excavation, removal or moving—

- (a) will occur behind a development setback;
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- (e) where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies."

Item 27 of GN No. R.983 (as amended):

"The clearance of an area of 1 hectares or more, but less than 20 hectares of indigenous vegetation, except where such clearance of indigenous vegetation is required for—

- (i) the undertaking of a linear activity; or
- (ii) maintenance purposes undertaken in accordance with a maintenance management plan."

Item 12 of GN No. R.985 (as amended):

"The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.

i. Western Cape

- i. *Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;*
- ii. *Within critical biodiversity areas identified in bioregional plans;*
- iii. *Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line on erven in urban areas;*
- iv. *On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or*
- v. *On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister."*

You are reminded that only those listed activities applied for will be considered for Environmental Authorisation. The onus is on the applicant to ensure that all the applicable listed activities are assessed as part of the Environmental Impact Assessment ("EIA") process.

4.2. Specialist Input/ Assessment Required

Please ensure that specialist reports contain all information specified in Appendix 6 of the EIA Regulations, 2014 (as amended). Note that the specialist report / inputs must be appended to the Basic Assessment Report ("BAR").

5. The following requirements must be met for all applications for Environmental Authorisation in terms of the NEMA and the EIA Regulations, 2014 (as amended):

5.1. Exemption

This Department notes that you do not intend to apply for exemption in terms of the National Exemption Regulations, 2014 (as amended) from any of the requirements of the Public Participation Process ("PPP") as stipulated by Regulation 41 of the EIA Regulations, 2014 (as amended) and that you also do not intend to apply for exemption from any other provisions contained in the EIA Regulations, 2014 (as amended), the NEMA or any notice issued under the NEMA. Please note that should you fail to meet a requirement of the EIA Regulations, 2014 (as amended) or the NEMA and if no exemption from that provision was applied for, your application for Environmental Authorisation may be refused by this Department.

5.2. Alternatives

Please be advised that in terms of the NEMA and EIA Regulations, 2014 (as amended) the investigation of alternatives is mandatory. All alternatives identified must be determined to be feasible and reasonable. In this regard it must be noted that this Department may grant Environmental Authorisation for an alternative as if the alternative had been applied for, or may grant Environmental Authorisation for the proposed project in respect of all or

part of the activity applied for in the application as specified in Regulation 20 of GN No. R.982 (as amended). Alternatives are not limited to activity alternatives, but include layout alternatives, design, operational and technology alternatives.

You are hereby reminded that it is mandatory to investigate and assess the option of not proceeding with the proposed activity (*i.e.*, the "No-Go" option) in addition to other alternatives identified. Every EIA process must therefore identify and investigate alternatives, with feasible and reasonable alternatives to be comparatively assessed. If, however, after identified alternatives have been investigated, no feasible and reasonable alternatives were found, no comparative assessment of alternatives, beyond the comparative assessment of the preferred alternative and the option of not proceeding, is required during the assessment. What would, however, be required in this instance is proof of the investigations undertaken, and motivation for there being no reasonable or feasible alternatives other than the preferred option and the "No-Go" option. Refer to this Department's Guideline on Alternatives available on this Department's website: <http://www.westerncape.gov.za/eadp>.

5.3. Public Participation

The Basic Assessment Report ("BAR") must be subjected to a PPP that complies with Chapter 6 of the EIA Regulations, 2014 (as amended) and must take into account any applicable Guidelines published in terms of Section 24J of the NEMA, this Department's Circular EADP 0028/2014 on the 'One Environmental Management System' and the EIA Regulations, 2014 (as amended), as well as any other guidelines developed by this Department. Note that the public participation requirements are applicable to all proposed sites.

In addition to the above, the Environmental Assessment Practitioner ("EAP") must submit a minimum of one printed copy and one electronic copy (save on a CV/DVD) of the BAR to this Department for a commenting period of at least 30 days. The BAR must be made available to all relevant State Departments and other Organs of State that administer Laws relating to a matter affecting the environment, for a commenting period of **at least 30 days**. The EAP must notify this Department in writing of the date the BAR was submitted to the relevant State Departments and other Organs of State and clearly indicate whether or not such State Departments and other Organs of State were notified of the commenting period of 30 days in terms of Section 24O of the NEMA. It is imperative that State Departments and other Organs of State be in possession of the Reports when the EAP issues them with the notice in terms of Section 24O of the NEMA. **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 and other Organs of State in terms of Section 24O(2) and (3) of the NEMA in the BAR, where appropriate.

In terms of good environmental practice you are encouraged to engage with State Departments and other Organs of State early in the EIA process to solicit their inputs on any of their requirements to be addressed in the EIA process. Please note that this does not replace the requirement of making the BAR available to State Departments and other Organs of State as stipulated above. It is noted that, amongst others, the following State Departments and other Organs of State will be consulted during the EIA process as part of the PPP:

- The DEA&DP: Pollution and Chemicals Management;
- The DEA&DP: Waste Management;
- The Department of Human Settlements, Water and Sanitation;

- The Department of Public Works and Infrastructure;
- The Department of Transport;
- The Department of Agriculture, Land Reform and Rural Development;
- The City of Cape Town;
- The Ward Councillor;
- The South African Heritage Resources Agency;
- Heritage Western Cape; and
- Cape Nature.

A register of Interested and Affected Parties ("I&APs") must be opened and maintained. The register must also be submitted to this Department.

The EAP must record and respond to all comments received. The comments and responses must be captured in a Comments and Responses Report and must include a description of the PPP followed. This report must be included in the public participation information attached to the BAR to be submitted for decision-making.

5.4. Environmental Management Programme ("EMPr")

In accordance with Section 24N of the NEMA and Regulation 19 of GN No. R.982 (as amended), this Department hereby requires the submission of an Environmental Management Programme ("EMPr"). The contents of such an 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 (as amended). The EMPr 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). The EMPr must be submitted together with the BAR. When compiling the EMPr, this Department's Guideline for Environmental Management Plans (June 2005), available on this Department's website must be taken into account as well as Appendix 4 of the EIA Regulations, 2014 (as amended).

5.5. Guidelines

You are referred to Appendix 1 of GN No. R.982 (as amended) for the requirements with respect to the 'Scope of assessment and content of basic assessment reports'. You are advised that when undertaking the Basic Assessment process you must take into account the Department's Circular EADP 0028/2014 on the 'One Environmental Management System' and the EIA Regulations, 2014 (as amended) as well as any other Guidelines developed by this Department. This Department's Guidelines can be downloaded from this Department's website. In particular, the Guidelines that may be applicable to the proposed project include, *inter alia*, the following:

- 5.5.1. Circular EADP 0028/2014: One Environmental Management System
- 5.5.2. Guideline for the Review of Specialists in the EIA Process (June 2005)
- 5.5.3. Guideline for Environmental Management Plans (June 2005)
- 5.5.4. Guideline on Exemption Applications (March 2013)
- 5.5.5. Guideline on Public Participation (March 2013)
- 5.5.6. Guideline on Alternatives (March 2013)
- 5.5.7. Guideline on Need and Desirability (March 2013)
- 5.5.8. Guideline for involving Biodiversity Specialist in the EIA process

5.6. Need & Desirability

In terms of the NEMA and the EIA Regulations, 2014 (as amended) when considering an application, this Department must take into account a number of specific considerations

including, *inter alia*, the need for and desirability of any proposed project. 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 this Department's Guideline on Need and Desirability (March 2013).

5.7. NEMA Principles

In addition to the above, you must clearly show how the proposed project complies with the Principles contained in Section 2 of the NEMA and must also show how the proposed project meets the requirements of sustainable development.

5.8. BAR Requirements

The BAR must contain all the information outlined in Appendix 1 of GN No. R.982 (as amended) and must also include the information requested in this letter. Failure to submit any information prescribed in Appendix 1 of GN No. R.982 (as amended) may result in Environmental Authorisation being refused.

This Department awaits the submission of the BAR as prescribed by Regulation 19 of the EIA Regulations, GN No. R.982 (as amended). In accordance with Regulation 19 of GN No. R.982 (as amended), this Department hereby stipulates that the BAR must be submitted to this Department for decision within **90 days** from the date of receipt of the application by this Department, calculated from **24 May 2019**. If however, significant changes have been made or significant new information has been added to the BAR, the applicant/EAP must notify this Department that an additional 50 days (*i.e.*, 140 days from receipt of the application) will be required for the submission of the BAR. The additional 50 days must include a minimum commenting period of 30 days to allow registered I&APs to comment on the revised report/additional information.

If the BAR is not submitted within the prescribed timeframe, the application will lapse in terms of Regulation 45 of Government Notice Regulation No. R.982 (as amended) and your file will be closed for administrative purposes. Should you wish to pursue the application again, a new application process would have to be initiated. A new Application Form for Environmental Authorisation would have to be submitted and the prescribed application fee would have to be paid again.

Please note that two printed copies as well as two electronic copies (saved on CD/DVD) of the BAR must be submitted to this Department.

6. General

- 6.1. Kindly quote the abovementioned reference number in any future correspondence in respect of the application.
- 6.2. Please note that the activity must not be commenced with prior to an Environmental Authorisation being granted by this Department. It is prohibited in terms of Section 24F of the NEMA for a person to commence with a listed activity unless the Competent Authority has granted an Environmental Authorisation for the undertaking of the activity. Failure to comply in terms of this prohibition will result in the matter being referred to the Environmental Law Enforcement Directorate of this Department for possible prosecution. A person convicted of an offence in terms of the above is liable for a fine not exceeding

R5 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment.

6.3. This Department awaits the submission of the BAR as prescribed by the EIA Regulations, 2014 (as amended).

6.4. This Department reserves the right to revise or withdraw its comments and request further information from you based on any new or revised information received.

Yours faithfully

pp/

HEAD OF COMPONENT

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Copied to: Ms Euonell Visagie

(GNEC)

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