



**Western Cape
Government**
Environmental Affairs and
Development Planning

**DIRECTORATE: DEVELOPMENT MANAGEMENT
REGION 1**

REFERENCE: 16/3/3/6/7/1/A3/53/2194/19

ENQUIRIES: AYESHA HAMDULAY

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The Manager
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Attention: Dax Hunt

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Dear Sir

COMMENT ON THE PRE-APPLICATION BASIC ASSESSMENT REPORT ("BAR") 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): THE PROPOSED MIXED-USE DEVELOPMENT ON THE REMAINDER OF THE FARM NO. 845, SIR LOWRY'S PASS VILLAGE

1. The pre-application BAR with cover letter dated 28 November 2019, received by this Department on the same date, and the letter acknowledging receipt thereof issued by this Department on 27 December 2019, refers.
2. The proposed mixed-use development on the Remainder of the Farm No. 845, Sir Lowry's Pass Village includes the following:
 - Approximately 846 high density residential units consisting of townhouses and apartment blocks with a development footprint of approximately 18.12ha;
 - Approximately 164 Medium density residential units;
 - Approximately 2.53ha public precinct with a General Business 1 zoning;
 - Approximately 1.02ha public precinct with a Community 1 zoning; and
 - Approximately 1.07ha associated infrastructure for the development of shared amenities for the residential component
3. You are reminded that the large size of the development proposal situated outside of the demarcated urban edge makes the development proposal makes the desirability of the development proposal contestable. This may prejudice the development proposal when the application is submitted to this Department for consideration during the formal EIA Process.

Considering this, your case file has been referred to the land use planning section of this Department for comment. The land use planning comment will be forwarded to you when received.

4. Although the proposed site is zoned for agricultural uses, following a desktop analysis, the site seems to not have been used for agricultural activities on Google Earth Historical Imagery TM dating as far back as 2003. If the proposed site has not been used for agricultural activities since 01 April 1998, Item 28 of GN No. R.983 (as amended) below will not be applicable to the development proposal:

Item 28 of GN No. R.983 (as amended):

"Residential, mixed, retail, commercial, industrial or institutional developments where such land was used for agriculture, game farming, equestrian purposes or afforestation on or after 01 April 1998 and where such development:

- (i) will occur inside an urban area, where the total land to be developed is bigger than 5 hectares; or*
- (ii) will occur outside an urban area, where the total land to be developed is bigger than 1 hectare;*

excluding where such land has already been developed for residential, mixed, retail, commercial, industrial or institutional purposes."

5. Heritage Impacts

It is noted that Heritage Western Cape in a letter dated 19 December 2017, concluded that no further processes in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), as there is no reason to believe that the development proposal will impact heritage resources on the site.

6. 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. Please ensure that alternatives have been investigated in accordance with this Department's Guideline on Alternatives (March 2013).

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. It is the discretion of the EAP, at what stage the requirements of Regulation 41 are met, i.e., whether during the pre-application process or formal EIA 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 ("I&APs") to submit comment on the BAR and EMPr.

In terms of Regulations 7(2) and 43(2) of the EIA Regulations, 2014 (as amended), any State Department that administers a law relating to a matter affecting the environment relevant to the application must be given a minimum of 30 days to provide comment. 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 regarding the Development proposal in the subsequent pre-application BAR or 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 subsequent pre-application BAR or BAR available to State Departments/Organs of State as stipulated above. This Department's Biodiversity and Coastal Management Directorate must be consulted during the EIA process as part of the PPP.

8. Specific Fee Reference Number

This Department reminds you that the "Request for a Specific Fee Reference Number" form must be completed and submitted to this Department approximately 30 days prior to submission of the formal application for the abovementioned development proposal. Upon receipt of the Specific Fee Reference Number, the number must be inserted into the Application Form for Environmental Authorisation and proof of payment of the applicable fee attached when the Application Form for Environmental Authorisation is submitted to this Department.

9. Water Crisis

Your attention is drawn to fact that the Western Cape has recently experienced a severe drought. In light of the said water crisis, water must be used wisely during all phases of any development. No potable water must be used as far as possible and alternative methods to save water must be implemented.

10. Social and Gender Considerations

You are reminded that the social context of the proposed development must always be considered. This includes the impact that the development proposal may have on the prevalence of HIV/AIDS, sexually transmitted infections ("STI") and Tuberculosis ("TB"), as well as equity and gender related concerns.

11. Declaration Pages

It is noted that the EAP did not sign the relevant declaration forms as part of the pre-application Basic Assessment Report and the signature of the applicant is not original. Please ensure that the declarations are completed by the proponent and EAP and are duly dated and that the signature thereon is original. All reports must contain the relevant declaration forms.

It is important to note that by signing the declaration, the proponent is confirming that they are aware and have taken cognisance of the contents of the report submitted to this Department. Furthermore, by signing the declaration, the proponent is making a commitment that they are both willing and able to implement the necessary mitigation, management and monitoring measures recommended within the report.

Please also ensure that specialist professionals sign the relevant declarations pages and that these declaration pages are duly dated and contain original signatures as well.

12. EIA Requirements

Please ensure that the minimum requirements of the EIA process stipulated in the Appendices to the EIA Regulations, 2014 (as amended), i.e., Appendices 1, 4 and 6, are met during the formal EIA process.

13. This Department awaits the submission of the Application Form for Environmental Authorisation prescribed by the EIA Regulations, 2014 (as amended). At least one (1) printed copy and one (1) electronic copy (saved on CD/DVD) of the Application Form for Environmental Authorisation must be submitted.

14. Please note that the pre-application consultation is an advisory process and does not pre-empt the outcome of your future application which may be submitted to this Department. 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 or of the outcome of the application.
15. Kindly quote the abovementioned reference number in any future correspondence in respect of the pre-application development proposal.
16. Please note that the activity must not be commenced with prior to an Environmental Authorisation being granted by the Competent Authority. 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.
17. This Department reserves the right to revise or withdraw comments and request further information from you based on any information received.

Yours faithfully

pp / M. Nel

HEAD OF COMPONENT

DEVELOPMENT MANAGEMENT – REGION 1

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Copied to: Mr Guillaume Nel

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