



**DIRECTORATE: DEVELOPMENT MANAGEMENT
REGION 1**

REFERENCE NUMBER: 16/3/3/6/7/1/A2/19/3028/18
ENQUIRIES: MS. K. ADRIAANSE
DATE OF ISSUE: 2018 -01- 30

The Municipal Manager
 City of Cape Town
 Transport and Urban Development Authority
 17th Floor Civic Centre
 Hertzog Boulevard
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 8001

For Attention: Mr. L. Hermant

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Email: Laurent.Hermant@capetown.gov.za

Dear Sir

ACKNOWLEDGEMENT OF THE NOTICE OF INTENT TO SUBMIT AN APPLICATION IN TERMS OF THE NEMA EIA REGULATIONS, 2014 (AS AMENDED), WITH RESPECT TO THE PROPOSED INTEGRATED RAPID TRANSPORT SYSTEM (PHASE 2A, TRUNK ROUTE E) ALONG GOVAN MBEKI ROAD (BETWEEN VIBRA STREET AND SHEFFIELD ROAD), MANENBERG, CAPE TOWN.

Your Notice of Intent ("NOI") dated 19 January 2018 and received by this Department on 22 January 2018, refers.

1. This letter serves as an acknowledgement of receipt of the aforementioned document by this Directorate.
2. Applicable listed activities
 - 2.1. Based on the information provided by you, your proposed development **will trigger** the following listed activity in terms of the NEMA EIA Regulations, 2014, namely:

Listing Notice 1 of the NEMA EIA Regulations, 2014 (as amended):

- 2.1.1. Activity Number: 19
 Activity Description:

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.

Listing Notice 3 of the NEMA EIA Regulations, 2014 (as amended):

2.1.2. Activity Number: 12
Activity Description:

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.*

2.1.3. Activity Number: 18
Activity Description:

The widening of a road by more than 4 metres, or the lengthening of a road by more than 1 kilometre.

(f) In Western Cape:

- i. *All areas outside urban areas:*
 - (aa) *Areas containing indigenous vegetation;*
 - (bb) *Areas on the estuary side of the development setback line or in an estuarine functional zone where no such setback line has been determined; or*
- ii. *In urban areas:*
 - (aa) *Areas zoned for conservation use; or*
 - (bb) *Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority.*

2.2. A Basic Assessment process must be followed in order to apply for environmental authorisation. You are hereby advised that only those activities applied for will 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 EIA process.

2.3. Please note that Activity 12 of Listing Notice 1 of the NEMA EIA Regulations, 2014 will not be triggered by the proposed development based on the fact that the proposed route is located within an urban area.

3. Exemptions

The Directorate notes that you do not intend to apply for exemption from any provisions contained in the NEMA EIA Regulations, 2014 (as amended) or the NEMA. Please note that should you fail to meet a requirement of the NEMA 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.

4. Alternatives

Be advised that in terms of the NEMA EIA Regulations, 2014 (as amended) and the NEMA the investigation of alternatives is mandatory. All alternatives identified must therefore be investigated to determine if they are feasible and reasonable. In this regard it must be noted that the Department may grant authorisation for an alternative as if it has been applied for or may grant authorisation in respect of all or part of the activity applied for as specified in Regulation 20 of the NEMA EIA Regulations, 2014 (as amended). Alternatives are not limited to activity alternatives, but include layout alternatives, design, activity, operational and technology alternatives. Every EIA process must therefore identify and investigate alternatives, with feasible and reasonable alternatives to be comparatively assessed. If, however, after having identified and investigated alternatives, no feasible and reasonable alternatives were found, no comparative assessment of alternatives, beyond the comparative assessment of the preferred alternative and the "no-go" alternative, is required during the assessment. What would, however, be required in this instance is that proof of the investigation undertaken and motivation indicating that no reasonable or feasible alternatives other than the preferred and the "no-go" alternatives exist must be provided to the Directorate.

5. Public Participation

- 5.1. You are advised that public participation may be undertaken prior to the submission of the application. However, public participation must comply with the requirements of Regulation 41(2) of the NEMA EIA Regulations, 2014 (as amended).
- 5.2. The requirements of the public participation process ("PPP") are specified in Regulation 41(2) of the NEMA EIA Regulations, 2014 (as amended).
- 5.3. The Basic Assessment Report must be made available to the Interested and Affected Parties ("I&APs"), including all the relevant State Departments that administer laws relating to a matter affecting the environment, for **comment for a period of 30 days**.
- 5.4. Please be advised that should the PPP, which includes the circulation of a Report for comment, be undertaken prior to the submission of an Application Form to the Department, in terms of Regulation 40, the Report may also be submitted to the Department for commenting purposes. Please ensure a minimum of one printed copy of the draft Report is submitted to the Department.
- 5.5. In terms of good environmental practice you are encouraged to engage with State Departments and other Organs of State in the pre-application phase 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 Basic Assessment Report available to State Departments as stipulated above.
- 5.6. You are reminded to obtain confirmation of sufficient, spare, unallocated capacity in terms of electricity, water and sewerage from the relevant authority in this regard.

6. Environmental Management Programme

In accordance with Section 24N of the NEMA and Regulation 19 of the NEMA EIA Regulations, 2014 (as amended), the 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) & (3) of the NEMA (as amended) and Appendix 4 of the NEMA EIA Regulations, 2014 (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 Basic Assessment Report.

7. Need and Desirability

In terms of the NEMA EIA Regulations, 2014 (as amended), when considering an application, this Directorate 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 Basic Assessment Report. The Basic Assessment Report must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability.

8. National Water Act, 1998 (Act No. 36 of 1998)

Page 36 of the NOI checklist indicates that the Water Use Licence Application may be required and will be determined through the NOI process. You are hereby informed that as of 01 August 2017, all Breede-Gouritz CMA and Berg-Olifants Proto CMA Water Use Licence Applications and Environmental Impact Assessments must be synchronised by the Catchment Management Agencies and this Department in accordance with the WULA-EIA Synchronisation process. You are therefore advised to liaise with the Department of Water and Sanitation **as a matter of urgency in order to align the WULA with the EIA Application to be submitted.**

9. General

- 9.1. In addition to the above requirements, you must clearly show how the proposed development complies with the principles contained in Section 2 of the NEMA and must also show how the proposed development meets the requirements of sustainable development.
- 9.2. You are reminded that the social context of the proposed development must always be considered. This includes the impact that the proposed development may have on the prevalence of HIV/AIDS, sexually transmitted infections (STI) and Tuberculosis (TB), as well as equity and gender related concerns.
- 9.3. You are hereby advised that the Basic Assessment Report must contain all the information outlined in Appendix 1 of the NEMA EIA Regulations, 2014 (as amended), and must also include the information requested in this letter. Omission of any of the said information may result in the refusal of Environmental Authorisation.
- 9.4. This Department awaits the submission of the draft Basic Assessment Report.

Kindly quote the above-mentioned reference number in any future correspondence in respect of the pre-application.

Please note that the activity may not commence prior to obtaining an environmental authorisation.

The Department reserves the right to revise its comments and request further information based on any information received.

Yours faithfully



HEAD OF DEPARTMENT

Copies to: (1) Ms. S. Chand / Ms. M. Penwarden (Chand Environmental Consultants)

(2) Mr. E. Mazzarella (Gibb (Pty) Ltd.)

(3) Mr. A. Forbes (City of Cape Town: Environmental Resource Management)

(4) Mr. R. Samaai (City of Cape Town: Environmental Resource Management)

(5) Mr. K. Velloo (City of Cape Town: Property Management)

(6) Mr. D Daniels (Department of Water and Sanitation: Berg Water Management Area)

(7) Ms. K. Rughoobee (DEA&DP – Directorate: Development Facilitation)

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