

APPENDIX F6: Notice of Intent and DEA&DP comments

REFERENCE: 16/3/3/6/7/1/D6/35/0133/25
SPECIFIC FEE REFERENCE: G-BA-EIA-L9
DATE OF ISSUE: 15 May 2025

Mr. Pieter de Clerk
CONSTANTIA MIST
Constantia Main Road
CAPE TOWN
7848

E-mail: pietdc@stagafrican.com

Dear Sir,

ACKNOWLEDGMENT AND COMMENT ON THE NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR ENVIRONMENTAL AUTHORISATION IN TERMS OF THE ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 FOR THE PROPOSED RESIDENTIAL DEVELOPMENT ON PORTION 38 OF FARM NO. 136, TERGNIET

1. The abovementioned Notice of Intent ("NOI") dated 10 April 2025 compiled on your behalf by your appointed registered Environmental Assessment Practitioner ("EAP"), Ms. Natalie Sharp (EAPASA No: 2020/230) of *Digital Soils Africa (Pty) Ltd*, and received by this Department on 10 April 2025, refers.
2. This letter serves as acknowledgement of receipt of the abovementioned report on 12 April 2025.
3. The Directorate: Development Management (Region 3) ("this Directorate") has reviewed the information in the NOI and provides the following comment:

3.1. *Format of submission*

The NOI and the supporting documentation were submitted as one consolidated document of 184 pages. This makes the review of the document and cross-referencing onerous. Therefore, it is requested that reports (i.e. NOI's, application forms, BAR's, etc.), and their supporting documents and plans are submitted as the original standalone *Portable Document Format* (.pdf) in any future submissions.

3.2. *The proposal*

According to the information in the NOI, the proposal entails the establishment of a residential development on Portion 38 of Farm No. 136 ("the property") in Tergniet. The proposed development will consist of 144 units with four different typologies on either side of Robertson Avenue. The proposed development will also include the development and installation of associated structures and infrastructure, including engineering services.

3.3. *Process to obtain environmental authorisation*

Based on the information submitted to this Directorate 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 proponent / appointed consultant to ensure that all the applicable listed activities are applied for and assessed as part of the Basic Assessment process.

3.4. Specific fee reference number

The Department notes your "Request for a specific fee reference number". The following specific fee reference number **G-BA-EIA-L9** must be inserted into the Application Form and proof of payment of the application fee attached when the Application Form is submitted to the Department.

3.5. Pre-Application Consultation

It is noted that the consultant requests a pre-application consultation meeting. Please be advised that it is the responsibility of you or your EAP to make the necessary arrangements for the meeting. Kindly note that virtual meetings via Microsoft Teams are preferred.

Please note 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.

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

3.6. Public Participation Process

According to the NOI the appointed EAP intends to follow a pre-application assessment process. Therefore, the consultant is reminded that it must be ensured that Regulation 41 of the Environmental Impact Assessment, 2014 (Government Notice No. R. 982 of 4 December 2014, as amended) is complied with simultaneously during the pre-application phase or application phase or both.

The Department notes the State Departments / Organs of State that will be informed of the decision. In addition to the identified authorities, you are also required to notify the following authorities which administer a law in respect of the proposal:

- *Western Cape Government: Department of Infrastructure*
Directorate: Road Use Management
% Ms. Vanessa Stoffels - Vanessa.Stoffels@westerncape.gov.za
- *Mossel Bay Municipality*
Directorate: Infrastructure Services
% Mr. Soundrajan Naidoo - dnaidoo@mosselbay.gov.za / btruter@mosselbay.gov.za
- *South African Civil Aviation Authority*
Data Coordinator – environment@caa.co.za

Furthermore, please be advised that Mr. Colin Fordham is no longer employed by CapeNature. You are kindly advised to include the following details for the contact person at CapeNature:

- *CapeNature: Conservation Operations – Landscape East*
Dr. Annelise Vlok - avlok@capenature.co.za
Ms. Megan Simons - msimons@capenature.co.za

3.7. Alternatives

In accordance with the EIA Regulations, 2014, the investigation of alternatives is mandatory. This includes the option of not proceeding with the proposed activity (the “no-go” option). All alternatives identified must be determined to be feasible and reasonable. In this regard it must be noted that the Department may grant authorisation for an alternative as if it had been applied for or may grant authorisation in respect of the whole or part of the proposed project in the application. Alternatives are not limited to activity alternatives, but include layout alternatives, design, operational and technology alternatives.

3.8. Need & Desirability

In terms of the EIA Regulations, when considering an application, the Department 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 activities must be considered and reported on. The assessment report(s) must reflect how the strategic context of the site in relation to the broader surrounding area, has been considered in addressing need and desirability.

3.9. NEMA Principles

In addition to the above, 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.

3.10. Government Policies and Plans, Guidelines, Environmental Management Instruments:

You are advised that when undertaking the EIA process, it is the responsibility of the EAP and Specialists to take into account all the government policies and plans, guidelines, environmental management instruments and other decision making instruments in respect of the application process or the kind of activity which will be the subject of the application, including the guidelines, information documents or circulars developed by this Department.

3.11. National Web Based Environmental Screening Tool and Site Sensitivity Verification

In accordance with the applicable protocols or minimum information requirements, which have been published in the Government Gazette (i.e. Government Gazette No. 43110 of 20 March 2020 and Government Gazette No. 43855 of 30 October 2020) you are required to submit a site sensitivity verification report(s) which confirms or disputes the site sensitivities for each of the themes identified in the Screening Tool Report. Furthermore, the report(s) must include a motivation for the exclusion of any of the specialist assessments identified in the Screening Tool Report, which in the opinion of the consultant are not considered relevant or required.

This Directorate has reviewed the Site Sensitivity Verification Report (“SSVR”) compiled by the EAP, attached as Appendix E1 of the NOI. Please be reminded that where a protocol has been published for an identified theme, that the respective specialist reports must adhere to the requirements of the protocol. Where a specific protocol has not been identified for a specialist study, such specialist study must comply with the requirements of Appendix 6 of the Environmental Impact Assessment Regulations, 2014 (as amended).

GENERAL:

Please be advised that a SSVR must adhere to the requirements of the various protocols. In this regard, please take note of the following requirements for site sensitivity verification stipulated in the various protocols:

- it must be undertaken by an EAP or the relevant specialist;
- it must be undertaken through the use of:

- (a) a desktop analysis, using satellite imagery;
 - (b) a preliminary on-site inspection; and
 - (c) any other available and relevant information.
- the outcome of the site sensitivity verification must be recorded in the form of a report that:
 - (a) confirms or disputes the current use of the land and the environmental sensitivity as identified by the screening tool, such as new developments or infrastructure, the change in vegetation cover or status etc.;
 - (b) contains a motivation and evidence (e.g. photographs) of either the verified or different use of the land and environmental sensitivity; and
 - (c) is submitted together with the relevant assessment report prepared in accordance with the requirements of the Environmental Impact Assessment Regulations.

■ *Agricultural Theme*

According to the Screening Tool Reports ("STR") submitted with the NOI the sensitivity rating for the Agricultural Theme is 'HIGH'. According to the SSVR the agricultural sensitivity identified by the STR does not take long term, sustainable rainfed agriculture, any urban land use and the size of the site into consideration and that the property / site has not been used for crop production in at least 35 years and used for limited grazing. Furthermore, the SSVR indicates that the sensitivity of the site is high, while climate is moderate, and the terrain is low-moderate. The SSVR concludes that rainfed farming is possible but best suited to winter crops and drought-tolerant species. Summer crops need irrigation to perform reliably, and perennial crops adapted to dry summers are a strong choice. Since climate is the biggest limiting factor in terms of agricultural potential, the site should be downgraded to Medium Sensitivity. In addition to the above, it is reported that the property is located within the urban edge of the Mossel Bay Municipality.

According to the SSVR an Agricultural Compliance Statement will be compiled and included in the BAR. As such, it must be ensured that the compliance statement complies with the requirements of the Agricultural Protocol.

This Directorate acknowledges the findings of the SSVR. **Furthermore**, the EAP/specialist must consult the Western Cape Government: Department of Agriculture ("DoA") - Land Use Management specifically obtain written confirmation from said organs of state regarding any requirements in respect of the agricultural aspects.

■ *Animal Species Theme*

The STR specifies a 'HIGH' sensitivity in terms of the Animal Species theme. According to the NOI no Species of Conservation Concern were recorded on the site. The SSVR disputes the finding and recommends a 'LOW' sensitivity rating as the site is not located within an Important Bird Area network and the EAP is of the opinion that birds and insects are more mobile and can migrate across fences without restriction and the development will not detrimentally affect the migration patterns of these animals. The EAP indicates that the occurrence of faunal species within the proposed area is likely but that the current status of animal diversity at the site is fairly limited due to the anthropogenic impact of the surrounding urban activities. Furthermore, the EAP indicates that the clearing of the vegetation on site would be restricted to slow clearance rate which would provide adequate time for migration of any animals remaining on site to be sustained in similar adjoining habitats.

This Directorate has considered the SSVR and motivation for this theme and deems it to be inadequate. The EAP has not addressed the aspects identified in the protocol for a SSVR. As such, a Terrestrial Animal Species Specialist Assessment must be undertaken and submitted in

accordance with the requirements specified for “very high” and “high” sensitivity in this protocol. Unless the site sensitivity verification is undertaken by a specialist who is appropriately registered with SACNASP and it can be demonstrated that the procedure set out in the Protocol regarding the **Medium Sensitivity Species of Conservation Concern Confirmation** was followed to confirm the sensitivity.

Please note that—

- (a) where SCC are found on site or have been confirmed to be likely present, a **Terrestrial Animal Species Specialist Assessment** must be submitted in accordance with the requirements specified for “very high” and “high” sensitivity in this protocol.
- (b) similarly, where no SCC are found on site during the site inspection or the presence is confirmed to be unlikely, a **Terrestrial Animal Species Compliance Statement** must be submitted.

Furthermore, the EAP/specialist must consult CapeNature in the public participation process and specifically obtain written confirmation from said organ of state regarding the delineation of the theme, and necessity for any further studies regarding the Animal Species Theme.

■ *Aquatic Biodiversity Theme*

The STR specifies a LOW sensitivity rating for the Aquatic Biodiversity Theme. According to the SSVR the site does not host any water feature, but that there is a wetland approximately 300 east of the site. It is confirmed that an Aquatic Biodiversity Compliance Statement must be compiled to inform the BAR. This Directorate acknowledges the findings of the SSVR; **however**, it must be ensured that the assessment complies with the requirements of the Aquatic Biodiversity Compliance Statement as stipulated in the protocol.

Notwithstanding the above, the topography suggests that the site may be located within a dune slack. Therefore, this must be reported on and addressed in the Aquatic Biodiversity Compliance Statement.

■ *Archaeological and Cultural Heritage; and Palaeontological Themes*

The procedure for site sensitivity verification where no specific assessment protocol has been prescribed, has been gazetted in Government Notice No. 320 of 20 March 2020. According to the SSVR a Notice of Intent to Develop will be submitted to Heritage Western Cape (“HWC”). Please be reminded that where studies are required by HWC that the relevant report must comply with the minimum report requirements specified in Appendices 1 and 6 of the Environmental Impact Assessment Regulations, 2014 (as amended).

Section 38 of the NHRA sets out the requirements regarding the integration of the decision-making proses with that of the EIA Regulations 2014, however, under the proviso that the necessary information is submitted and any comments and recommendations of the relevant heritage resources authority (HWC) with regard to such development have been provided and taken into account prior to the granting of the authorisation. Further to the above:

- ❖ An application for Environmental Authorisation, must include, where applicable, the investigation, assessment and evaluation of the impact of any proposed listed or specified activity on any national estate referred to in section 3(2) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), excluding the national estate contemplated in section 3(2)(i)(vi) and (vii) of that Act.

- ❖ Where Section 38 of the NHRA is triggered, the Standard Operating Procedure between Heritage Western Cape and this Department must be followed. If Section 38 is applicable to the proposed development, then the proponent/applicant is required to submit a Notice of Intent to Develop ("NID") to Heritage Western Cape and attach a copy to thereof to the EIA application form. If Heritage Western Cape requires a Heritage Impact Assessment, the Heritage Impact Assessment must be undertaken as one of the specialist studies of the EIA process to be undertaken in terms of the NEMA EIA Regulations, 2014.

● *Civil Aviation Theme*

The STR specifies a MEDIUM sensitivity rating in terms of the Civil Aviation Theme. This is due to the site being located within 15-35km from a civil aviation radar and aerodrome. The SSVR indicates that there is no specific assessment requirement in terms of the protocol. Please be advised that in terms of the protocol, a Civil Aviation Compliance Statement must be prepared.

Notwithstanding the above, the SSVR recommends a LOW sensitivity rating as the proposed development does not involve the construction of wind turbines and buildings higher than the municipal height restrictions (i.e. double and triple storey units). Furthermore, the SSVR motivates that none of the proposed activities will restrict the airspace demarcated for aviation.

Please be advised that the SACCA does not only consider structures which may cause obstacles; but it also considers land-use or development patterns as well. The Department acknowledges the findings of the SSVR; **however**, you are required to confirm with the SACAA (E-mail: environment@caa.co.za) regarding the delineation of the theme and any reporting requirements in respect of the theme.

● *Terrestrial Plant Species Theme*

The STR specifies a MEDIUM sensitivity in terms of the Terrestrial Plant Species Theme. However, it is understood that the site sensitivity verification was undertaken by an appropriately qualified specialist which found that the sensitivity rating must be increased to HIGH.

In light of the above, it must be ensured that a Terrestrial Plant Species Specialist Assessment Report, which fulfils the requirements of the protocol is included on the BAR.

Furthermore, the EAP/specialist must consult CapeNature in the public participation process and specifically obtain written confirmation from said organ of state regarding the delineation of the theme, and necessity for any further studies regarding the Animal Species Theme.

● *Terrestrial Biodiversity Theme*

The STR specifies a VERY HIGH sensitivity for the Terrestrial Biodiversity Theme which is confirmed by a specialist. As such a Terrestrial Biodiversity Specialist Assessment must be undertaken to inform the BAR. It must be ensured that the assessment complies with the requirements of the protocol.

Furthermore, the EAP/specialist must consult CapeNature in the public participation process and specifically obtain written confirmation from said organ of state regarding the delineation of the theme, and necessity for any further studies regarding the Terrestrial Biodiversity Theme.

● *Combination of assessments for various themes*

According to the information in the SSVR, the assessments in terms of the Terrestrial Plant Species Theme and the Terrestrial Biodiversity Theme will be included in a single report. Therefore, it must

be ensured that the report addresses all the minimum information requirements of all the relevant themes as specified in the respective protocols. Furthermore, where a single report will be submitted, such a document must clearly separate the information on the minimum information requirements of the respective protocols to avoid any ambiguity and to clearly demonstrate how each aspect has been addressed. If the latter is not evident, the report will be rejected. Where a single person will undertake and report on the respective themes, the specialist must provide the necessary proof that he/she is appropriately registered with SACNASP for the respective Protocols.

■ *Other identified / relevant specialist reports*

■ *Geotechnical Assessment*

It is noted that Geotechnical investigations are necessary and will be undertaken by a qualified geotechnical practitioner. The geotechnical assessment will be included in the pre-application Draft Basic Assessment Report. This Directorate acknowledges the necessity for such an assessment.

■ *Socio-Economic Assessment*

It is noted that given the small-scale nature of the project, only the socio-economic profile of the local area (municipality and relevant sub-places) will be considered in the Basic Assessment Report, along with the financial implications of the proposed development in terms of potential for job creation and the duration of available jobs.

Notwithstanding the proposed assessment, it must be demonstrated how the relevant guidelines have been considered, inter alia the Department's:

- Guideline for involving social assessment specialists in the EIA process, February 2007.
- Guideline for involving economists in the EIA process, June 2005.

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.

■ *Traffic Impact Assessment*

Due to the location and nature of the proposed development you are hereby strongly advised that the assessment must be informed by a Traffic Impact Assessment. The following information as a minimum must be included in the assessment:

- ❖ the number of trips that will be generated by the proposed development;
- ❖ the adequacy of the existing intersections in the surrounding area to deal with the expected trips;
- ❖ any upgrade requirements of the existing road infrastructure; and
- ❖ any conditions / requirements from the Mossel Bay Municipality and, where necessary, the Western Cape Government: Department of Infrastructure.

4. Other relevant considerations

4.1. *Confirmation of Municipal Services*

Please be advised that the confirmation of municipal services will be a crucial aspect of your application. For ease of reference, the information requirements detailed below should be addressed in a letter of confirmation of municipal services, namely:

(a) Potable water supply:

- (i) the total existing capacity of the Municipal potable water supply;

- (ii) any additional expansion of the potable water supply capacity (e.g. reservoirs) already approved of by the environmental authority, but not yet effected;
 - (iii) unallocated potable water supply capacity available to service both the phased and completed (total) potable water demand for the abovementioned application, or sufficient approved unallocated capacity able to accommodate the abovementioned application in future.
- (b) Sewer network and wastewater treatment:
 - (i) the total existing capacity of the municipal sewer network and wastewater treatment works("WWTW");
 - (ii) any additional expansion of the sewer network or WWTW capacity already approved of by the environmental authority, but not yet effected;
 - (iii) unallocated sewer network capacity and sewage treatment capacity available to service both the phased and completed (total) expected sewage output load by the abovementioned applications, or sufficient approved unallocated capacity able to accommodate the abovementioned applications in future.
- (c) Solid waste and disposal:
 - (i) the total existing capacity of the municipal waste site;
 - (ii) any additional capacity at the municipal waste site (i.e. expansions) already approved by the environmental authority, but not yet effected;
 - (iii) unallocated waste disposal capacity available to service both the phased and completed (total) expected solid waste output load by the abovementioned applications, or sufficient approved unallocated capacity able to accommodate the abovementioned applications in future.
- (d) Electricity and electricity distribution:
 - (i) total existing electrical distribution capacity of the municipality;
 - (ii) any additional expansion of the electrical distribution capacity already approved of by the environmental authority, but not yet effected;
 - (iii) unallocated electrical distribution capacity available to service the abovementioned applications, or sufficient approved unallocated able to accommodate the abovementioned applications in future. With reference to electrical capacity, the notified demand of the municipality must be provided, and whether an increase thereof is required to service a development. If the notified demand will be exceeded, the capacity must be confirmed by ESKOM.
- (e) Stormwater infrastructure / structures:
 - (i) the total existing stormwater management capacity of the municipality;
 - (ii) any additional stormwater management capacity / structures of the municipality (i.e. expansions) already approved by the environmental authority, but not yet effected; and
 - (iii) unallocated stormwater management capacity available to service the abovementioned development or sufficient approved unallocated capacity to be able to service the needs of development in future.

4.2. Climate Change

The BAR must report on the potential impacts on climate change. One of the objectives of the Western Cape Provincial Spatial Development Framework published by this Department is to minimise the consumption of scarce environmental resources such as water, fuel, building materials, mineral resources, electricity, and land. To this effect and as part of the efforts to reduce the effects of climate change, you must, as part of the EIA process, identify energy efficient technologies that could be implemented for the proposed development.

Considering that South Africa is a water scarce country and that many catchments in the Western Cape are already water stressed, you must also consider implementing the use of water saving devices and technologies for the proposed development.

5. Please note that it is an offence in terms of Section 24F and 49A 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. 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.
6. Kindly quote the above-mentioned reference number in any future correspondence in respect of this matter.
7. This Department reserves the right to revise or withdraw initial comments or request further information from you based on any information received.

Yours faithfully

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HEAD OF COMPONENT

ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 3

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

Ref.: 16/3/3/6/7/1/D6/35/0133/25

Copied to:

Digital Soils Africa (Pty) Ltd

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