

**RESPONSE TO COMMENTS ON THE DRAFT MAINTENANCE MANAGEMENT PLAN FOR THE PROPOSED RESTORATION AND MAINTENANCE OF THE BLUE STONE QUARRY (“BSQ”) WALL AND THE REINSTATEMENT OF THE LIMESTONE PATHWAY ALONG THE TOP OF THE BSQ WALL, ROBBER ISLAND**

DEA&DP comments (Received 1.03.2021)

*1.1. The Draft MMP does not include all the associated activities that will be undertaken as part of the proposed project and must be updated to include the following associated activities, i.e.:*

*1.1.1. Indicate the location of proposed batching plant; and*

*1.1.2. Address the clearance of vegetation for the establishment of a site/construction camp.*

**EAP’s response: No batching plant will be required for the proposed activities and no vegetation will be cleared for the lay down area. The lay down area is simply an area where staff can have lunch and store general waste bins if necessary. Any reference to the batching plant will be removed from the MMP. The lay down area will also be remapped to indicate that it will only consist of an eating area and ablution facility for the personnel.**

*1.2. According to the Department of Agriculture’s Cape Farm Mapper, the area identified for the proposed maintenance activities is mapped as an Ecological Support Area containing Cape Flats Dune Strandveld, which has an endangered ecosystem status. Should the proposed project result in the clearance of indigenous vegetation of more than 1ha or more than 300m<sup>2</sup> of indigenous vegetation within a critically endangered or endangered ecosystem, additional listed activities not identified in the MMP will be triggered and must be applied for. These activities are Activity 27 of Listing Notice 1 and Activity 12 of Listing Notice 3 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”) Environmental Impact Assessment (“EIA”) Regulations, 2014 (as amended), respectively.*

**EAP’s response: No clearance of vegetation more than 300m<sup>2</sup> will take place.**

*1.3. Please note that where the clearance of indigenous vegetation trigger any of the listed activities indicated in paragraph 1.2. above, a Basic Assessment process must be followed. The clearance of indigenous vegetation for the establishment of a site/construction camp would not meet the exclusionary clause of clearance of indigenous vegetation for maintenance purposes undertaken in accordance with a (vegetation) MMP.*

**EAP’s response: The comment is noted, and the condition will be included in the draft MMP.**

1.4. *The recommendations made in the Avifaunal Assessment (compiled by Arnwalt Enviro Watch dated August 2014) and reiterated in the Alternative Construction Options Assessment (compiled by WSP Environmental (Pty) Ltd dated September 2014) indicates that “The avifaunal specialist has recommended that the batching plant must be installed in close proximity to the harbour and not in proximity to the BSQ site under any circumstances. This is so as not to create unnecessary ‘pollution’ (visual noise, dust or any disturbance to birdlife) created by a plant such as this.” The recommendations made by the specialist must be considered as part of the alternatives for the MMP.*

EAP’s response: The comment has been noted. There are no considerations made to the batching plant in the draft MMP because the proposed works do not require a batching plant. All reference to a batching plant will be removed from the draft MMP. A new Avifaunal Assessment will be conducted and information related to the Avifaunal Assessment conducted in 2014 will be removed including Appendix A.

1.5. The EAP is reminded that the mitigation hierarchy must be implemented and that potential impacts must be avoided as far as possible.

EAP’s response: The comment has been noted. The mitigation hierarchy has been implemented. All effort will be made to avoid any impacts and these mitigations measures will be included in the draft MMP.

1.6. *One of the mitigation measures for rehabilitation maintenance provided on page 44 of the Draft MMP includes that “All areas under rehabilitation are to be treated as no-go areas using danger tape and steel droppers/fencing and cornered off, to prevent vehicular, pedestrian and livestock access.” The applicability and suitability of this proposed mitigation measures in context of the proposed site and ecological sensitive receptors (endangered and near threatened avifauna) must be considered in the MMP.*

EAP’s response: The comment has been noted. The draft MMP will be reviewed to ensure that the presence of threatened avifauna will be considered in the mitigation measures. No vegetation or topsoil is expected to be disturbed during the proposed restoration works, but measures to rehabilitate the stockpiled area will be included in the revised MMP. The presence of livestock will also be removed from the draft MMP since the impact of livestock during rehabilitation will be negligible.

2.1. *Please note that Category A15 of Schedule 3 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) (“NEM: WA”) classifies certain types of construction waste as hazardous waste. Such waste must therefore be stored in hazardous waste containers for its eventual disposal or*

*treatment at a hazardous waste management facility (i.e. it may not be disposed of with non-hazardous construction waste). Proof of waste disposal certificates must be made available to the competent authorities upon request.*

EAP's response: The comment has been noted and the draft MMP will be reviewed to include that waste disposal slips must be kept on record and made available to the competent authority upon request.

*2.2. Spills must be cleaned up immediately to the satisfaction of the environmental control officer ("ECO") and the spill, together with the polluted soil, must be disposed of at an appropriate hazardous waste disposal facility.*

EAP's response: The comment has been noted and the draft MMP will be reviewed to include that a spill, together with the polluted soil, must be disposed of at an appropriate hazardous waste disposal facility. "Rehabilitation measures" will also be included in the revised MMP as part of the emergency procedures in the event that spills do occur.

*2.3. Any vegetation removed for the establishment of the site/construction camp may be taken to a green/garden waste chipping facility for composting, or be disposed of at an appropriately licenced facility, but may not be disposed of into the ocean.*

EAP's response: The comment has been noted. Please note that no vegetation will be cleared during the restoration works. The proposed construction camp was identified for future rehabilitation works. However, these rehabilitation works will be addressed once they have been determined and the need for a formal lay down will also be addressed during those times. The current demarcation of a lay down area will be reviewed and amended accordingly in the draft MMP.

*2.4. The MMP must be easily accessible to the persons responsible for managing the proposed maintenance activities and adherence to the proposed migration measures and recommendations must be strictly monitored.*

EAP's response: Monitoring measures have been included in the draft MMP, but the draft MMP will be reviewed to ensure that the proper compliance monitoring is recommended. The MMP will also be available on site and an induction will be given by the appointed ECO to the team responsible for the initial maintenance work. Refresher courses will be given asor when necessary, on certain aspects. It will also be recommended that any subsequent teams conducting maintenance in terms of the MMP on the BSQ wall must receive induction before commencing such maintenance.

2.5. Please note that general requirements for the storage of waste as prescribed in section 21 of the NEM: WA, 2008 must be adhered to.

EAP's response: The comment has been noted and the draft MMP will be reviewed to ensure that recommendations for the storage of general waste are included.

3.1. It is recommended that during periods of restoration or maintenance work that the ECO inspections are undertaken more frequently, as opposed to monthly inspections (as indicated on page 19 of the MMP). Depending on the nature of the maintenance work required, it may potentially have a high impact on the receiving environment but be of a short duration and be completed within this (one month) period. It is recommended that the ECO inspection frequency be tailored to the type and duration of the restoration and maintenance work proposed. As a minimum, it is suggested that ECO inspections be undertaken fortnightly during periods of work, most notably the initial, more significant restoration work.

EAP's response: The comment has been noted and will be included in the draft MMP. For the restoration works in question, the draft MMP will be amended to indicate that fortnightly inspections by the ECO will be required.

3.2. Section 1.7, page 29 refers to the potential use of dampening for dust suppression purposes. The use of potable water for dust suppression purposes is not supported and should be avoided. Where water is to be used, this should be of a suitable quality so as not to cause any severe/repeated pollution to soil or water resources.

EAP's response: Please note that no to very little dust is expected to be generated during the current proposed restoration works since no vegetation will be cleared and no areas will be excavated. The only dust that will be created will be from the crushing of the rocks which is expected to occur off site. Mitigation measures related to dust suppression will be excluded from the revised MMP.

3.3. It is recommended that section 1.12 of the MMP be amended to include the following requirements:

3.3.1. All machinery and vehicles should be checked daily for oil and fuel leaks. If any machinery or vehicles are found to have an oil or fuel leak, they must not be used until the leaks have been rectified; and

EAP's response: The comment has been noted and will be included in the draft MMP.

3.3.2. Sanitation facilities must be regularly serviced to reduce the risk of leaks.

EAP's response: The comment has been noted and will be included in the draft MMP.

*3.4. It is recommended that both section 1.12 and the Emergency Response Plan (section 9, page 40) of the Draft MMP relating to spillage of diesel or hazardous substances, include the stipulation of adherence to section 30 of the NEMA, pertaining to the control of incidents. In the event of a significant spill or leak of hazardous substances used during the proposed activities (e.g. petrol, diesel, etc.), such an incident(s) must be reported to the relevant authorities, including this Directorate, in accordance with section 30 of the NEMA, 1998.*

EAP's response: The comment has been noted and the draft MMP will be reviewed to ensure the inclusion of hazard substance incident(s) must be reported to the relevant authorities, including this Directorate, in accordance with section 30 of the NEMA, 1998.

The Oceans & Coasts (O&C) Branch of the Department of Environment Forestry and Fisheries (DEFF) comments (Received on 26.02.2021)

*4.2 To ensure that pollution in the coastal environment and seawater contamination is minimized, we recommend that only work necessary must be undertaken within the CPP. Additionally, no camping site should be planned and established within the CPP;*

EAP's response: The comment has been noted. The proposed construction camp was identified for future rehabilitation works and are not applicable to the current proposed restoration works. However, these rehabilitation works will be addressed once they have been determined and the need for a formal lay down will also be addressed during those times. The demarcation of a lay down area will be removed from the draft MMP.

*4.3 No construction activities with the potential to affect the general public to enjoy the coast should be scheduled and take place during peak season;*

EAP's response: The Blue Stone Quarry and immediate surrounding area is a restricted area, and no general public are currently allowed to access the area. Therefore, the public access to the coast during peak season is not applicable in this case.

Please note that the current proposed restoration works are not considered construction since no excavation or infilling will be done. The proposed works will only use manual methods to reinstate the wall as described in the MMP.

*4.4 Where possible, construction activities should be flexible avoid heavy rain and stormy days. Historical data must be used for best time period allocation;*

EAP's response: The comment has been noted and the draft MMP will be reviewed to ensure the inclusion of mitigation measures pertaining restoration works during storm and heavy rain events are included. Historical weather data will also be used to determine the preferred time for restoration works. Please note that the current proposed restoration works are not considered construction since no excavation or infilling will be done. The proposed works will only use manual methods to reinstate the wall as described in the MMP.

*4.5 Due to natural processes such as sea-level rise, current change, wind speed, erosion, accretion, flooding etc that take place within the coastal environment, mostly influenced by climate change, structures constructed within Coastal Public Property and the sea are likely to require maintenance*

*from time to time in our experience. To ensure that no additional strain is placed and exposed to our already vulnerable and sensitive coastal environment and the species found within, we recommend when planning for activities associated with the maintenance of the Quarry wall, the designs should avoid areas that has been identified as sensitive and offer important functions, such as habitat and breeding areas where threatened and near-threatened species such as African Penguin, African Black Oystercatcher, Kelp Gulls and Caspian Terns which are considered of important status have been identified to exist. The plan should pay special attention to the lifespan of the Quarry wall and ensuring that the methodology used will be of long term;*

*EAP's response: As per the draft MMP, the maintenance works to reinstate the Blue Stone Quarry Wall are highly conservative and will only use manual methods to reinstate the wall as described in the draft MMP. This includes reinstating the wall by recycling wall stones in the immediate area. All breeding areas and habitats of sensitive species are expected to be avoided. Future maintenance works are expected to adopt the same methodology.*

*As per the Heritage consultant, Dr Edward Matenga, and the 2020 Implementation Plan for the Blue Stone Quarry Wall, the proposed maintenance works aim to reinstate the wall to ensure its longevity. The longevity will be ensured via the introduction of tie stones and wall strengthening material (from the rock stockpile). Nevertheless, maintenance works on the wall will be required and the duration and timing of these maintenance works will be outlined in the draft Maintenance Management Plan.*

*4.6 Robben Island is home to several endangered and protected species of seabird including penguins, gulls, terns, cormorants, and African Black Oystercatcher. The area where construction is planned is an important breeding site for a large colony of Kelp gulls and swift terns and most recently Cape cormorants. The area for construction is also a landing area or access point for African penguin from foraging;*

*4.7 The most important fact is that for the last few years, a large colony of Cape cormorants has bred in and around the Blue Stone Quarry. Cape cormorants, like African penguins, are listed as an endangered species and will be affected by the construction. The applicants never mentioned the timing at which the construction will begin. And to avoid disturbances to breeding seabirds which are in dire protection, it is recommended that no construction be allowed between September and March during which Kelp gulls, swift terns, Caspian terns and Cape cormorants are breeding;*

*4.8 Therefore, we recommend that construction should be scheduled to avoid any identified local species breeding and migration routes and seasons. Historical data must be used to identify local species and check previous breeding and migration seasons and movements that have the potential of*

*being affected. Furthermore, the constructor is obliged to remain within the designated construction areas and not squander around as most of the birds will be breeding and disturbances should be kept minimal. If done from April to September it must be noted that African penguins will be breeding and any interaction with them is prohibited;*

EAP's response: The comment/s has been noted and a start time for the proposed restoration works will be included in the draft MMP in consultation with an updated avifaunal impact assessment to mitigate potential impacts to the surrounding bird colonies including Penguins, Kelp Gull, Cape Cormorant and Swift Tern etc. As an updated Avifaunal Assessment will be conducted any additional impacts to the surrounding bird colonies will be identified.

*4.9 Furthermore, clearing of vegetation for construction purposes should be scheduled where it is only necessary to avoid loss of vegetation and retain as much vegetation as possible so that the area can continue to function and offer services in the best sustainable way as possible;*

EAP response: No clearance of vegetation will be carried out during the duration of the proposed restoration works.

*4.10 A large colony of Cape cormorants approximately 2 000 pairs in size has formed at the Blue Stone Quarry. Kelp gull's colonies have also significantly increased. It is our view that vehicle strikes have the potential of killing penguins and disturbing the movement of birds, and can maim one of a breeding pair to have a detrimental impact on caring for chicks or future breeding. A maimed bird has a very slight likelihood of survival. Taking into account the sensitivity of the proposed site and vulnerable species that occur, we recommend that only necessary activities that cannot be performed by persons without the use of vehicles and machinery need to be considered and approved. Therefore, Construction and transportation methodologies that can be performed without the use of vehicles and machinery should be prioritized;*

EAP response: There are no expected extensive uses of construction vehicles during the proposed restoration works. One vehicle (4x4) vehicle will only be used to transport materials to and from the quarry. The extensive use of construction vehicles was included in the draft MMP in the event that future rehabilitation works will require extensive use of construction vehicles.

Please note that only a maximum of 10 personnel will be working on the restoration site and only one vehicle is expected to be used to transport the personnel to the restoration site. Other than transporting of personnel, material will also be moved from the site to a workshop to be crushed. The vehicle used for transporting material is expected to only result in movement once or twice a day. The time of day of vehicular activity for the transport of material will be decided in consultation with the



avifaunal specialist to avoid times when the birds may be most active. No other vehicles are expected to be used during the restoration works because the moving the material around the site will be done using a wheelbarrow. Given that the vehicles will travel below 40 km/h, the potential for birds to be hit by vehicles is expected to be very low.

*4.11 Correspondingly we are extremely concerned that over the past years, Perimeter Road has been closed to traffic for months when Kelp gulls, swift terns, Hartlaub's were breeding, when there are chicks in the gull and tern colonies, to prevent roadkill. With a six-month construction period, likely, the situation where chicks have hatched and are starting to run freely around in the colonies along Western Perimeter Road will arise. The EAP needs to provide information on what additional mitigation measures will be put in place to prevent traffic running over these young birds and if a fence will be erected along both sides of the road;*

EAP response: Please note that only a maximum of 10 personnel will be working on the restoration site and only one vehicle is expected to be used to transport the personnel to the restoration site. Consequently, the potential for birds to be hit by vehicles is expected to be low. Nevertheless, the prospect of erecting a temporary fence on either side of the road near the quarry will be suggested to Applicant and will be included in the draft MMP if practically possible. Drivers will, however, receive inductions and be made aware of the potential impacts to birds. Any additional measures related to avoiding roadkill will also be indicated in the updated avifaunal assessment and will be included in the revised MMP.

*4.12 Furthermore, it is our view that vehicles and machinery have the potential of releasing fuel and oil emissions while in operation. It is our view that the concentrations will be low if vehicles and machinery that will be used are maintained well and inspected regularly by the building contractor. Therefore, we recommend that no vehicles and machinery should be scheduled to be refueled within the coastal zone;*

EAP response: The comment has been noted and the draft MMP will be reviewed to ensure that mitigation measures regarding vehicle maintenance (keep in good order by maintaining and inspecting regularly – although no such activities allowing on BSQ site), such as no vehicles and machinery should be scheduled to be refueled within the coastal zone, will be included.

*4.13 We concur for the appointment of the Control Environmental Officer (CEO) who will ensure that identified mitigation measures and recommendations are taken into account, adhered and implemented. The CEO will also be responsible for undertaking site inspections to ensure compliance with the EA conditions to ensure that the marine ecosystem will be protected and conserved during*

*construction and maintenance phases throughout all phases of this proposed project. Furthermore, the CEO must ensure that employees are aware of the procedure to be followed, and ensures that necessary materials and equipment are available for dealing with spills and leaks;*

*EAP response: The comment has been noted and the draft MMP will be reviewed to include recommendations that the CEO also be responsible for ensuring compliance with the MMP conditions. All staff will also be inducted at the start of the restoration works to ensure that they are aware of the contents of the MMP.*

*4.14 Correspondingly, it is our firm view that before any action is taken a new and up to date, Avifaunal assessment must be carried out. Only then can a proper assessment be made of the impact of the restoration project, and whether the detrimental impacts on both penguins, swift terns and Cape cormorants can be mitigated to a sufficient extent for the project to proceed in its present form, or whether a different approach to commemorating the history of the quarry may need to be envisaged;*

*EAP response: The comment has been noted. Consultation with an Avifaunal specialist report have taken place during the compilation of the draft MMP and any impacts on the surrounding bird species have been considered as far as practically possible. However, an updated avifaunal assessment will be conducted to assess the impact of the proposed works.*

*4.15 You are kindly reminded of your duty of care towards the coastal environment in accordance with section 58 of the ICM Act read together with section 28 of NEMA which states that “Every person who causes, has caused or may cause an adverse effect on the coastal environment must take reasonable measures to prevent such adverse effect from continuing, recurring or occurring or, in so far as such harm to the coastal environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such adverse effect on the coastal environment” by taking into consideration and implement recommendations provided in this comments document recommending measures to be undertaken to ensure the coastal zone is protected, preserved and managed;*

*4.16 Kindly note that the activity may not commence prior to an environmental authorisation being granted by the CA. It is an offence in terms of section 49A “NEMA” for a person to commence with a listed activity unless the CA 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 10 million or to imprisonment for a period not exceeding 10 years, or to both such fine and imprisonment; and*

*4.17 Please be advised that the Sub Directorate: Coastal Development and Protection within the Branch: O&C is responsible for coordinating and facilitating EIA comments and advice for*

*developments within the marine environment. Kindly forward request of EIA Comments to, Email: OCeia@environment.gov.za.*

*NB: With the above-mentioned recommendations and conditions, the Branch: O&C has no objections to the proposed Restoration and Maintenance of the Blue Stone Quarry Wall, Robben Island, and recommends for the implementation of the applicant preferred Option 1 conditional that the timing of construction do not coincide with the breeding of the mentioned birds, and mandatory stringent conditions imposed to the applicant to comply to in all phases of this proposed project.*

**EAP response: The above-mentioned comments have been noted.**

**RESPONSE TO COMMENTS ON THE DRAFT MAINTENANCE MANAGEMENT PLAN FOR THE PROPOSED RESTORATION AND MAINTENANCE OF THE BLUE STONE QUARRY (“BSQ”) WALL AND THE REINSTATEMENT OF THE LIMESTONE PATHWAY ALONG THE TOP OF THE BSQ WALL, ROBBER ISLAND**

The City of Cape Town (received 5 March 2021)

*1. Introduction & Background*

*1.1 Site inspection needed: The MMP document was circulated to various Branches for comment. However, without a site inspection officials were unable to provide informed and up to date comment. A site-inspection is required for us to fully comprehend the scope of activities that are proposed and to inform impact assessment of this development proposal on the current receiving environment and context, within an international Important Bird Area with declining breeding pair numbers across various species. Photos provided were not sufficient to provide a substitute for a site inspection. The City wishes to assess the potential impacts on the water quality, tidal bird breeding areas, and the bird breeding areas further inland, likely to be affected by construction activity, construction camp, and vehicular access routes to the site, and by the proposed temporary penguin barrier which appears to be well over 400m long around the construction site, relative to the area indicated in purple as the ‘wall construction area’ of 82m long. The City officials remain willing to attend a site inspection at your earliest convenience.*

**EAP response: A site inspection was conducted on 15 March 2021, as requested.**

*1.2 Previous Blue Stone Quarry Wall Reconstruction EIA process: The City of Cape Town previously provided comments on the (re)construction of the Blue Stone Quarry Wall in February 2015. While it was generally supportive of the reconstruction project, this was subject to numerous concerns relating to the need to protect international marine seabirds breeding in the area, from construction impacts and vehicle strikes. Many of these issues remain unaddressed / inadequately addressed in the MMP.*

**EAP response: the draft MMP will be reviewed to include the previous comments from the City of Cape Town., where applicable.**

*1.3 Drawings required: No drawings have yet been provided of the existing and proposed structure and receiving environment. Please provide dimensioned plans, elevations, sections, and 1:50 drawings of the proposed wall within the existing topography. Without detailed drawings / descriptions, it is not possible to assess the impacts of the proposed blue stone quarry wall reconstruction. It is necessary to see the state of the wall currently, the colonisation of the area by the seabirds, and to understand the quality of the water in the quarry and the relationship to the tides, and the need for reinstating the dyke. These comments are made in the absence of drawings. The remnants of the old blue stone quarry*

*wall are not dimensioned on the photos, to clearly show how much is left, and to what height the wall exists and the height of the proposed wall. Please include on the drawings the extent of the remnants of the old blue stone quarry wall. This will also be important for the heritage interpretive signage for the area distinguishing the original from the reconstructed portions.*

*EAP response: the draft MMP will be reviewed to include drawings and maps of the Blue Stone Quarry which will include the elevations and a 1:50 Scale map. However, cross sections and detailed photos of the map are available in Appendix C – The Implementation Plan and will also be included in the revised MMP.*

*1.4 The Appendices referred to in the Maintenance Management Plan were not available*

*for reference. These comments are made in the absence of the Appendices and will*

*be required in the next round of comments.*

*EAP Response: The appendixes were made available to all the I&APs on announcement of the start of the commenting period. The MMP and appendixes were also made available on the Enviroworks website (<https://enviroworks.co.za/public-participation/blue-stone-quarry-wall-maintenance-management-plan/>). Proof of access to the appendixes will be provided in the Comment and Response Report.*

## ***2. Lapsed Environmental Authorisation, purpose of an MMP, activities and impacts***

*2.1 The Environmental Authorisation of May 2015, Reg14/12/16/3/3/1/747, which granted authorisation for the ‘construction of the Blue Stone Quarry Wall over a single six-month period,’ has lapsed, as the construction activities did not commence within a period of three years from the date of issue of that authorisation. For this reason, a new application for environmental authorisation may need to be made to assess the impacts of the proposed construction activities and proposed structures in the current context.*

*EAP response: The proposed restoration works will potentially trigger Activity 19A of Listing Notice 1 (2014, as amended):*

*The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—*

*1. the seashore;*

II. *the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater; or*

III. *the sea; —*

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

*(a) is for maintenance purposes undertaken in accordance with a maintenance management plan;*

Because the proposed restoration activities constitute as maintenance, a maintenance management plan has been compiled and will be submitted to DEA for approval. Therefore, an Environmental Authorisation is not required.

## *2.2 Opportunity to reassess environmental and heritage impacts:*

*2.2.1 Revised construction method and materials: The lapsed environmental authorisation of 2015 has provided an opportunity to reassess the construction methods and materials and this has already proved fruitful with a reversion to the original construction method of dry-packed locally sourced rocks, pebbles, seashells and sand, rather than the concrete construction method previously authorised, which involved gabions and anchors into bedrock, which did not resemble the original method of low-impact construction of a 'temporary' structure.*

**EAP response: The comment has been noted.**

*2.2.2 Up to date impact assessment and mitigation for breeding areas in Important Bird Area (IBA): Given the knowledge of the impacts on international marine bird breeding pairs and the disappearance of certain species from the island in recent years, the impacts on their breeding areas, and impacts on the water quality of erecting a dyke to hold back the sea water, impacts of enabling vehicular traffic through a breeding area, and the impacts of potentially creating a new tourist destination accessible via a road that traverses thousands of ground roosting seabirds, need to be properly assessed in an up to date impact assessment process. Proposed mitigation measures should adequately address these impacts, such as providing ramps up the wall on both sides to enable penguin access to and from the quarry site, providing mitigation by providing bird monitors to these areas when vehicles are passing through, to chase birds off the roads to prevent road kills. The construction impacts should be reassessed in light of the site's role as an Important Bird Area, and the rapid decline in penguin breeding pairs from 8000 in 2004 to only 1600 in later years and the disappearance of other internationally significant seabird species from the island.*

EAP Response: Various avifaunal specialists have been consulted during the commenting phase. Although all efforts have been made to prevent significant impacts to the surrounding bird population. Nevertheless, an updated Avifaunal Assessment will be conducted (and be submitted for commenting) and the impacts and mitigation measures identified in the assessment will be included in the revised MMP. The avifaunal assessment will ensure that potential impacts on the surrounding sea bird colonies including those in relation to bird breeding areas, bird deaths as result of road kill, and impacts on the water quality of erecting a dyke to hold back the sea water are considered.

The option to use the quarry as a tourist site will not be explored in the current draft MMP because that is not the primary purpose for restoring the wall. Should the quarry be used in the future, an Operational Management Plan is recommended to be developed to ensure that the impacts on the surrounding bird colonies are mitigated.

*In 2013, Robben Island was deemed to be under 'high' threat (pressure), and in terms of condition (state) was regarded as 'very unfavourable'. (BirdLife International (2021) Important Bird Areas factsheet: Robben Island. Downloaded from <http://www.birdlife.org> on 04/03/2021). Hence, it may be possible that the condition of the island is no longer favourable in 2021 for further construction impacts on breeding seabirds.*

EAP Response: Although the Important Bird Areas factsheet will be taken into account when assessing the impacts of the proposed works on the birds, an avifaunal assessment will be conducted to ensure that any impacts on the surrounding bird colonies have been properly assessed and addressed.

*2.3 No drawings / description of stone wall: There is no clear description of the proposed blue stone quarry wall structure in the MMP report. In the previous scope of activities this wall was described as having 'piles of rocks on the seaward side at a 1:4 gradient slope' (which could provide a ramp for penguins to mount it, but does not address how they would mount the wall on their return to the sea).*

EAP response: The draft MMP will be reviewed to include photographs of the original wall (which will be the reference for the restoration) and any potential slope dimensions that restored wall may have.

*2.4 Activities authorised in 2015: When considering the scope of activities proposed and the scope of activities previously authorised, it is evident that the proposed construction activities differ from the construction activities previously authorised in the Environmental Authorisation Reg14/12/16/3/3/1/747. (See below figure 1). This is welcomed, as a more authentic and temporary structure is now proposed to be constructed in line with the original nature of the seawall.*

EAP response: The comment has been noted.

2.6 Listed NEMA EIA activities: The proposed repairing of the quarry revetment ring walls, reconstruction/restoration of the experimental 5m long wall on the northern end of the breached section of the wall and the construction of a temporary green or orange “penguin proof” fence around the perimeter of the quarry during restoration activities may also potentially trigger **Listing 1 Notice 1, Activity 17:**

*Development -(i) in the sea;(ii) in an estuary; (iii) within the littoral active zone; (iv) in*

*front of a development setback; or (v) if no development setback exists, within a distance of 100 metres in land of the high-water mark of the sea or an estuary, whichever is greater; in respect of –*

*a) fixed or floating jetties and slipways*

*b) tidal pools;*

*c) embankments;*

*d) rock revetments or stabilising structures including stabilising walls;*

*e) infrastructure with a development footprint of 50 square metres or more – but excluding –*

*aa. the development of infrastructure and structures within existing ports or harbours that will not increase the development footprint of the port or harbour;*

*bb. 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;*

*cc. the development of temporary infrastructure or structures where such structures will be removed within 6 weeks of the commencement of development and where coral or indigenous vegetation will not be cleared; or*

*dd. where such development occurs within an urban area.*

**EAP Response: Repairing/ restoring of the revetment ring walls and the experimental wall is not considered construction or development, but rather maintenance because the walls currently exist although little remnants remain.**

**“Development” as per NEMA (Act 107 of 1998) is defined as means the building, erection, construction or establishment of a facility, structure or infrastructure, including associated earthworks or borrow pits, that is necessary for the undertaking of a listed or specified activity, but excludes any modification, alteration or expansion of such a facility, structure or infrastructure, including associated earthworks**



*or borrow pits, and excluding the redevelopment of the same facility in the same location, with the same capacity and footprint*

Based on the above-mentioned definition, the proposed restoration works are not considered a development and thus, the above mentioned activity does not apply to the project.

Furthermore, the penguin proof fence will be a temporary structure and can be removed and replaced, if necessary, within the six weeks of the commencement of the restoration works. The penguin proof fence will also not result in any clearance of vegetation. Nevertheless, the penguin proof fence has been deemed unnecessary after the compilation of the draft MMP and is expected to be removed from the Scope of Works should the avifaunal specialist agree with this.

2.7 Purpose and scope of an MMP: The purpose of an MMP has been outlined in the NEMA (107 of 1998) Guidelines for an MMP as, 'To maintain both man-made and ecological infrastructure in a manner that either improves the current state of, and/or reduces the negative impacts on a watercourse to ensure that ecosystems services are preserved/improved and to prevent further deterioration of the watercourse.' Activities such as the reconstruction of the blue stone quarry wall, the construction of a temporary green or orange "penguin proof" fence around the perimeter of the quarry during restoration activities to prevent penguins from entering the restoration site, or the erection of temporary wooden boardwalks for the movement of the personnel and wheelbarrows, the removals of rocks, from the old stockpile, to be used for the dry packing (and reinstatement of the wall) as stipulated page 13, are not the type of activities that fall within the general ambit of activities that could be covered by an MMP, but are rather activities that trigger a basic assessment report which could assess the proposed impacts of these activities on the receiving coastal environment's flora and fauna.

**EAP response:**

1. The definition extracted is from a document that specifically outlines the purpose of an MMP when maintenance works is conducted within a water course and does not apply to maintenance works outside of watercourses (Request for the relevant Competent Authority to define or adopt a Maintenance Management Plan for a watercourse in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), Environmental Impact Assessment Regulations, 2014 (as amended), 2017). The comment is implying that MMP's should only be compiled for maintenance works within watercourse which is not correct as there is no reference to geographical restrictions of the application of an MMP in the NEMA (Act 107 of 1998) listing notices.

2. The Blue Stone Quarry Is technically a man-made structure that was constructed by ex-political prisoners. Since the quarry's construction, natural elements such as wave action have deteriorated the wall and resulting in the need for its repair and maintenance. Furthermore, there is already an existing footprint which will not be expanded upon, nor increase the capacity via the restoration works. Therefore, the restoration works comply with the definition of "maintenance" as stipulated in NEMA (Act 107 of 1998): *"means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint"*. In order to conduct the maintenance works, a Maintenance Management Plan must be first approved (as per Activity 19a of Listing Notice 1) Therefore, the maintenance works outlined in the draft MMP are directly in line with the guidelines for an MMP as described in NEMA (Act 107 of 1998).

### **3. Maintenance Vs Construction: Scope of Activities Proposed, Definitions**

3.1 *Wall reconstruction is not maintenance: The report outlines that the scope of activities proposed includes; "reinstating the breached section of the BSQ wall (approximately 77 m long); repairing damaged sections of the walls that are currently standing, repairing the Quarry revetment ring walls and repairing any future damages within the next five years to walls and associated infrastructure". When considering the above definitions of maintenance and construction and the scope of work to be done, it is evident that the proposed activities are not restoration/maintenance activities, but construction / reconstruction activities.*

3.2 *Distinction between the definitions of construction and maintenance: According to the National Environmental Management Act (107 of 1998), construction" means the building, erection or expansion of a facility, structure or infrastructure that is necessary for the undertaking of an activity, but excludes any modification, alteration or upgrading of such facility, structure or infrastructure that does not result in a change to the nature of the activity being undertaken or an increase in the production, storage or transportation capacity of that facility, structure or infrastructure.*

*"Maintenance" means actions performed to keep a structure or system functioning or in service on the same location, capacity and footprint.*

3.3 *Page 17/49 of the report states that, "Although the proposed works are not considered construction, but rather restoration or maintenance, ..." Please look up the definitions of these words and it will be evident that reconstructing a wall from a heap of stones does not constitute restoration or maintenance. The activity proposed, to re-establish the dyke removed by the sea, is 'construction'.*

EAP response: There are sections of the Blue Stone Quarry wall that are still standing and thus reinstating the wall will be a form of maintenance and not construction. By reinstating the wall, it will

not be an “erection” of the wall but rather restoration of the wall by repairing the breached section. The wall is part of an already existing footprint but requires maintenance due to the breaching which occurred as a result of mostly wave action. The maintenance works will not increase the current footprint in capacity or size and aim to keep the structure functioning and in service in the same location and thus, the proposed maintenance works will fall directly within the definition of maintenance.

*3.4 The work is not restoration, but construction: Restoration / maintenance cannot include reinstating the breached section of the BSQ wall (77m long) when it is merely a pile of rocks currently – this is construction. When considering the scope of work proposed, it is evident that the nature of work proposed is not in line with the scope of work intended as ‘restoration’ / ‘maintenance’ but is more accurately a construction activity to re-establish a dyke to hold back the waters of the sea. The blue stone quarry walls no longer exists in shape or form apart from a weathered heap of stones washed into a pile over many years of wave action. A 77m long pile of stones exists where once a wall existed. If the wall still existed, without a 77m long gap, then such a plan could be seen in a different context, and the work could be referred to as ‘restoration’. The photographs indicate no wall in existence at this stage, which could be the subject of the ‘maintenance management plan.’ Currently, the breached section of the wall is about 77m long (p13/49). This means that the wall is currently not existing for the most part. This crucial aspect of construction vs maintenance affects and informs the level of assessment required.*

EAP response: The description of the remaining wall structure is incorrect since there are areas of the original wall that are still standing as shown in the photographs of the site. Therefore, as per the previous response, the proposed restoration works can be, by definition, be seen as “maintenance”. By repairing the breached section of the wall, the proposed maintenance works will fall directly within the definition of maintenance because it is the action that is performed to keep a structure functioning in service in the same location. Footprint and capacity.

#### **4. Materials**

*4.1 Local materials only: It is noted that all the material for the wall was locally sourced, and no cement was used in its construction. Materials included sand, sea shells and beach pebbles. The previous construction was able to decompose over time, returning to nature, which is an environmentally sustainable approach to holding back the waters of the sea for the duration of the quarrying operation, and allowing them to return, thereafter, post quarrying activities. P14/49 indicates that ‘new material*

*will be added to strengthen the wall. No concrete or heavy machinery will be used as part of the reinstatement.'*

**EAP response: The comment has been noted.**

*4.2 Re-use of materials is preferable: Please explain what is meant by this statement: "Suitable debris from the collapsed wall will be recycled while new material such as tie stones or large barrier stones will be added to strengthen the wall." The EAP should further clarify whether suitable debris from the collapsed wall should not rather be 'reused' rather than recycled, i.e. re-used in rebuilding the wall rather than crushed into stone chips, or recycled into some other form / nature.*

**EAP response: The proposed method for reinstating the wall was developed in consultation with the contracted heritage specialist, Dr Edward Matenga. Some, not all, stones will be recycled by means of crushing or resizing to make the stones fit into on another to resemble the original dry packed wall. If the stones do not need to be resized, they will simply be reused i.e., not crushed.**

*4.3 Source of new materials: Please indicate where the large tie stones or barrier stones will come from and whether further quarrying will occur. If these rocks were not previously part of the wall, this is a 'new' construction with a new construction method of using large tie stones. It is also not restoration of an existing wall because the wall no longer exists. It is a reconstruction.*

**EAP response: The draft MMP will be reviewed to include where the large tie stones will be sourced if necessary. The introduction of new material does not mean that the works are construction and not maintenance. The definition of maintenance (as per NEMA (Act 107 of 1998)) does not include any reference to where the materials to maintenance structures are sourced from. The tie stones will be used to maintain the wall and strengthen it and thus, still constitutes as part of the maintenance of the Blue Stone Quarry Wall.**

*4.4 In terms of the materials to be use for the proposed activities, the new materials (tie stones and barrier stones) need to be specified (form, source). The old wall was able to degenerate over time, while it states the 'reinstatement of the wall ... will ensure the future protection of the quarry" and that this is a 'like for like' reinstatement of the breached section of the wall. 'Like for like' would be a form that would break down over time and allow the sea waters to enter the area they have historically flushed for millions of years, rather than being artificially held back by a dyke.*

**EAP response: The draft MMP will be reviewed to include the details of the tie stones. Strengthening of the wall and detailed maintenance methodologies have been included in the Implementation Plan, which will also be referred to in the revisedMMP. Please note that although the reinstatement of the**

wall will be strengthened by tie stones in particular to prevent degeneration over time, the objective for restoring the breached section of the wall is to preserve the quarry's historical significance and not just to simple restore an artificial dyke.

#### **5. City of Cape Town Coastal Management Programme, 2015**

*5.1 The City's coastline is a unique, dynamic and diverse space, forming a nexus of socioeconomic and environmental interactions. Complex interaction exists between the various elements defining the coastal environment. For this reason, the development and management of ecological buffering to improve and or restore functioning should take cognisance of the characteristics of the receiving environment to enhance the feasibility of the development proposal in relation to the characteristics of the receiving environment.*

EAP response: The proposed maintenance works and methodologies have taken into account the ecological sensitivity of the area. The proposed restoration methodologies are conservative and is expected to have a low impact of the surrounding ecology of the Blue Stone Quarry. The MMP also aims to address any significant impacts of the proposed restoration methodologies and the associated mitigation measures in consultation with the relevant specialists.

*5.2 The City of Cape Town's Coastal Management Programme, 2015, in line with the National Environmental Management: Integrated Coastal Management Act, Act 24 of 2008 (ICM Act), requires that the causes and effects of coastal features must always be considered when dealing with works which affect littoral movement. This report does not adequately address how the proposed wall structure and construction activities will impact on the coastal and marine environment, tidal action and water quality.*

EAP Response: Although the MMP has considered marine impacts including water quality, the draft MMP will be reviewed to include any additional impacts of the wall reinstatement on the coastal and marine environment, tidal action, and water quality.

#### **6. Map of the proposed Activity' (Section 2, p10/49),**

*6.1 With reference to the "map of the proposed Activity' (Section 2, p10/49), the Sensitive areas map must be in greater detail at 1:1000 scale minimum. The map provided is vague and unhelpful. It does not provide information as to where the sensitive areas are located and if they are avoided or not relative to the construction camp and access routes.*

*6.2 One cannot clearly see the edges of the sensitive bird breeding sites or any demarcation of these areas.*

EAP response: The sensitivity map shows the sensitive areas in terms of national conservation importance. However, the map will be reviewed to include any areas that may include important bird breeding areas including “no go” areas as will be expected to be detailed in the updated avifaunal assessment report.

6.3 *The acronym, ‘BSP’ protected area, on the legend, must be spelled out in full on the legend of the map for clarity. It is not clear what BSP means.*

EAP response: BSP means “biodiversity spatial plan”. The map will be reviewed to include the full name of the spatial plan in the legend.

#### **7. Site Layout Map: No go zones: pg17/49:**

7.1 *It appears from the maps that the no-go zones include the access roads, including the major circular route around the island. This is welcomed and should perhaps be more extensive in order to protect bird breeding areas.*

EAP response: The site layout map will be amended to include a more extensive no-go area to avoid any bird breeding sites in consultation with an avifaunal specialist.

7.2 *Vehicle access routes and impacts: The Construction Camp and Construction site are accessed from both sides by an access road. This must be changed to confine the access route to enter the construction site from the north only, and to exit the construction site to the north only. Allowing construction vehicles the liberty to drive through the entire length of the breeding site would be ill advised, and would spread the adverse impacts on the breeding colony too widely. The access road runs parallel to the coast, between the shore and the immediate coastal area and the breeding areas extending further inland of the coast, and the access road is continually crossed by birds walking in both directions either to or from the coast. The breeding site to the south of the construction site must be designated a no-go area so that there is a safe hazard-free area available for breeding pairs and chicks particularly when construction vehicles render the northern extent of the breeding area too disturbed.*

EAP response: The site layout map will be amended to include only one access road to the site. The breeding site south of the quarry will also be demarcated as a no go area in consultation with an avifaunal specialist.

7.3 *The impacts of construction vehicles need further attention in the MMP. Methods to ensure reduced speed (maximum 30km / hr) with right of way for birds, penguins, tortoises and other animals, measures such as speed humps, speedometer monitors being fitted on all construction vehicles, and*

*teams of bird monitors to ensure bird safety and to warn approaching vehicles of birds in the road need to be put in place during the construction process.*

**EAP response:** The draft MMP will be reviewed to include aspects of the vehicles speed and right of way to animals, recommendations for teams of bird monitors to ensure bird safety and to warn approaching vehicles of birds, and in the implementation of the speedometer monitors.

*7.4 Please include clear dimensions for the Construction Camp. It is not clear why the scale of the construction camp needs to be so large. Note for scale the purple is the Blue Stone Quarry Wall (82m long). Why would an area exceeding 100m in length and width be needed for a Construction Camp, i.e. over a rugby / football field size as a Construction Camp? (100 x 100 = 10 000m<sup>2</sup> = 1Ha). This is excessive to need and purpose, and must be reduced by at least 75% - 80% in size, being mindful that this area is used by birds, and any damage due to laydown areas for materials, and vehicular access, causing compaction of the ground (damaging the natural grasses growing in the area) will need to be rehabilitated afterwards to ensure the habitat remains functional, given that this is an international bird important area.*

**EAP response:** The inclusion of the construction camp will not be utilised for the proposed restoration works but was included in the event a construction camp will be required for future maintenance works. It will be removed from the draft MMP as it is not needed using the current Implementation Plan maintenance methodologies. The site layout map will be reviewed to include a small laydown area for personnel to have lunch and place their ablution facilities. This laydown area will be on already disturbed areas.

## **8. The Site Layout Map**

*8.1 The Site Layout Map is unclear. Please provide a legible map of better quality and resolution. Please ensure the Heritage elements, numbered 1-7 are identified clearly so that the ECO will know what to protect on site. This will enable the map to be more useful in protecting heritage elements.*

**EAP response:** Although all effort has been made to clearly state what the items in the legend mean, the map will be reviewed to ensure all the heritage elements have been labelled correctly.

*8.2 Please also provide a close-up / finer scale map of the blue stone quarry wall and quarry area.*

**EAP response:** The site map and locality map will be amended to be at a finer scale.

*8.3 The rock stockpile area is excessively large. Please indicate if this is the existing historic rock stockpile area as part of a heritage element, or if this is a new stockpile area for building the wall, or*

*both. If there is a new rock stockpile area, please ensure that this area is reduced in size as the compaction of the soil resulting from this stockpile could have negative consequences for the grasses and habitat for the marine birdlife. It appears it may be the historic rock pile in which snakes and lizards are living.*

**EAP response:** The stockpile has been brought in approximately ten years ago to restore the wall. The draft MMP will be reviewed to include rehabilitation measures of the stockpiled area. Any mitigation measures concerning the impacts on the lizards and snakes that may be occupying the stockpiled will also be included in the MMP.

*8.4 Mapping the breeding areas as no-go areas: The breeding season and the breeding areas are not articulated in the document, as to when the relevant breeding seasons of the various species occur, where these are located, and when construction activities may occur in which areas. Please provide a map indicating the location of the different species and when they breed, and when certain areas will be available for construction activities.*

**EAP response:** The draft MMP will be reviewed to include the location of the breeding area of various bird species in consultation with an avifaunal specialist, particularly after the avifaunal assessment has been conducted.

## **9. "Section 5: Summary of the main impacts identified during maintenance" – Ecology:**

### **Fauna: p18/49**

*9.1 These are not maintenance activity impacts, but are actually construction impacts of erecting a new wall in the place where there is no wall left today, and creating a new 82m long barrier within a tidal zone. The wall was long ago removed by the wave action of the sea, and the area returned to its former use for penguin breeding.*

**EAP response:** As already mentioned, by definition, the reinstatement of the breached section for the Blue Stone Quarry Wall is maintenance of the wall and the quarry itself. By reinstating the breached section of the wall in the same location and capacity, the quarry and the wall are being maintained. It is important to note that the entire Blue Stone Quarry Wall has not been washed away by the waves. There are sections of the wall that are still standing, and the restoration works are not an erection of a new wall, but the restoration of the breached section which forms part of the maintenance of the quarry. This restoration works forms part of the operational and maintenance objectives of the Robben Island Museum (Integrated Conservation Management Plan 2013-2018).



## **10. Unsustainable / undesirable erection of the Blue Stone Quarry Wall for international seabirds breeding site**

*10.1 The erection the blue stone quarry wall (82m in length) appears to be an unsustainable exercise in the long term. Given the location of the blue stone quarry wall in a tidal zone, below the high-water mark of the sea, further wave action will over the long term repeatedly batter the wall and there will be an ongoing need to repair the wall, if one is wishing to hold back the sea from its natural tidal extent. Consideration of the alternative of allowing the seawaters to flood the quarry area and allowing this tidal pool to be refreshed by the tidal waters of the sea, providing valuable fairly sheltered coastal habitat to marine birdlife should also be considered as a viable and meaningful option in the context of declining seabird numbers.*

EAP response: The Blue Stone Quarry is part of a World Heritage Site under the control of the Robben Island Museum. Robben Island Museum have a mandate to maintain the quarry to ensure its heritage elements are conserved. Therefore, Robben Island Museum should restore and maintain the wall in an effort to protect Robben Island's heritage. Nevertheless, maintaining the quarry will take into account any possible impacts on wildlife and the receiving environment. The proposed maintenance work methods are conservative and will ensure that the MMP is implemented during maintenance implementation.

Furthermore, the water filled quarry must not be mistaken with a natural tidal pool. Water has filled the quarry as a result of tidal and wave action after the wall was breached, as well as the recharge of ground water, which occurs regardless of whether the wall has been breached. This has resulted in some animals and plants making use of the filled quarry. Although restoring the breached section of the wall will be cognisant of the effects on any wildlife, the water filled quarry is manmade and supports a great deal of South African heritage.

## **11. Interpretive signage**

11.1 Interpretive signage could denote the location and remnants of the old blue stone quarry wall, without having to artificially maintain an unnatural tidal structure indefinitely, which also has adverse impacts on the natural ingress of seawater to this area.

EAP response: Restoring the quarry forms part of the "Duty of Care" principles in Chapter one of the NEMA:

*CHAPTER 1 NATIONAL ENVIRONMENTAL MANAGEMENT PRINCIPLES*

2. (1) *The principles set out in this section apply throughout the Republic to the actions of all organs of state that may significantly affect the environment and-*

(a) *shall apply alongside all other appropriate and relevant considerations, including the state's responsibility to respect, protect, promote and fulfil the social and economic rights in chapter 2 "best practicable environmental option" means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term; of the constitution and in particular the basic needs of categories of persons disadvantaged by unfair discrimination;*

(2) *environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably.*

(3) *development must be socially, environmentally, and economically sustainable.*

Therefore, preserving the heritage significance (i.e., restoring the wall to its previous nature) of the Blue Stone Quarry Wall is part of the NEMA Duty of Care since it considers the cultural and social interests of people i.e., the ex-political prisoners. Although all effort will be made to ensure that the "best practicable environmental option" will be implemented for the proposed works, the requirement to restore quarry must be taken into account to satisfy the above-mentioned principles.

Moreover, please see below the specific comment from the contracted heritage specialist, Dr Edward Matenga on the heritage importance of the wall and why restoring the breached section of the wall is an important part of preserving the Blue Stone Quarry's Heritage:

(a) *"This question strikes at the core of the Statement of Justification for the inscription Robben Island as a World Heritage Site (WHS), which is condensed into a **Statement of Outstanding Universal Value (OUV)**. OUV is the *raison d'être* for world heritage inscription. The buildings, associated narratives and symbolism (the intangible heritage) are the embodiment of the prison institution where the buildings [including the Bluestone Quarry Wall] symbolize the triumph of the human spirit, of freedom and of democracy over oppression. It is not possible to depart from this statement of Outstanding Universal Value without undermining the foundations of the world heritage inscription.*

*Fundamental changes to the "integrity" are rigorously scrutinized under Operational Guidelines for the Implementation of the World Heritage Convention. It is one of the items on*

*the checklist for the World Heritage Periodic Reporting on the State of Conservation undertaken every 4 years. While the need to safeguard the birds is compliant with environmental regulations, which is a matter of law, is beyond question, we should be mindful of the fact that although the World Heritage Convention is an international policy instrument, it has been adopted in domestic law by an enabling Act, the World Heritage Convention Act. It has already been noted in other documents concerned with this project that Outstanding Universal Value is “non-negotiable”.*

*(b) We should take a position that it is not impossible to work out a plan in which the wall can be restored without severe detrimental impact on the viability of the identified bird species. The Bluestone wall is an integral part of the building stock referred to in the statement of Outstanding Universal Value.*

**(c) Statement of significance of the wall**

*The Bluestone Quarry wall was constructed by political prisoners using locally available materials, in large part by-product waste from the stone quarry. More than a thousand prisoners worked in the quarry. It was not because the prison authorities did not have funds to build a solid and permanent sea barrier. As the ex-prisoners testified, they were aware of the futility of offloading sand and grit to buttress the wall only to find it washed away by the waves the following day, a situation which the warders were cynically aware of. The Wall and Quarry therefore preserve memories of man’s endurance against adversities imposed by his own kind. The wall is one of the surviving symbols of punishment with production. A number of political and social activities affecting the course of the political struggle and the lives of the inmates took place at the quarry. The first hunger strike took place at the quarry in 1966, which brought the attention of the warders to the welfare of the prisoners. Prisoners also shared information and ideas, passing notes which they hid in wall. Political education was also conducted at the quarry. Educated colleagues taught their less fortunate colleagues literary skills. The prisoners sang songs which subtly expressed their grievances against the status. The potency of song as a catalyst in cultivating solidarity and collective resolve among comrades in the South African liberation struggle is all too well known. The prisoners turned adversity to their advantage using the wall as a windshield and a cache for sensitive information. The wall and quarry is a monument to the resilience and fortitude of those who were subjected to extreme persecution and indignity for their political convictions.*

*(d) The structure may be considered to be ephemeral. However from the perspective of a heritage conservation practitioner, there are a number of facts which must be considered to provide*

*context. The structure was built and was being maintained from 1966 to 1977. Between 1977 and 2001 (24 years) the wall was standing, and was first breached by the sea in 2001 creating a gap of 5m, another 10 years was to pass before the destructive tidal event in which about 75m of the wall collapsed. It should be noted that the original wall was packed in its core with sand, seashells, grit and other low grade building material, which rendered the structure weak and potentially unstable. This notwithstanding, the wall lasted more than 2 decades. Now consider that in the Restoration Plan we are not reinstating the sand and other material which we know will easily cause structural failure. Solid stone blocks will be used in the packing and larges blocks placed on the seaside to receive the impact of the waves.*

- (e) *Lastly the idea has never been to reconstruct a wall which will be “invincible”, but to reconstruct a wall with reasonable strength which, supported by a Maintenance Plan, can continue to exist as a testimony to the experience of the political prisoners. “*

Based on the above motivation, interpretive signage is not an option at this stage to replace the physical restoration of the wall. This is because restoring the walls is the only manner in which the ex-political prisoners’ cultural and social needs are satisfied. Interpret signage will be considered only if there is no other means to mitigate potentially significant environmental impacts from the proposed restoration works.

## **12. The impacts of the wall in creating a barrier / obstruction to a penguin breeding site**

*12.1 The impacts of the wall in creating a barrier / obstruction to a penguin breeding site do not seem to have been fully assessed or catered for in terms of mitigation measures. The site has been a breeding area for penguins historically, and they should preferably not be obstructed in this manner by the creation of the wall without creating ramps up both sides of the wall at various points, to facilitate their access over the sea wall. This will be an important intervention to help reduce the impacts on the penguins and their chicks.*

*12.2 The attitude expressed in the document that the penguins will cope and find a way to deal with this extensive 82m long barrier wall / dyke to their tidal breeding site, and will cope with a 240m long penguin barrier, is not substantiated with avifaunal information and research, and does not constructively or creatively engage with the penguins’ immediate access requirements in terms of current desire lines to and from the coast.*

EAP response: The draft MMP will be reviewed to include the implementation of a “penguin ramp” and to include of any additional impacts and associated mitigation measures that the proposed works may have on the penguins. The impacts and mitigation measures outlined in the updated avifaunal impact assessment will be included in the MMP.

**13. The impacts on tidal action to the penguin breeding site, and other construction impacts:**

*13.1 The impacts on tidal action to the penguin breeding site is also not addressed because the impact is viewed as a maintenance impact of an 'existing structure' when actually, a new structure is to be erected that may block occasional tidal flows to the breeding site and adversely affect water quality and occasional tidal flushing of the pool.*

EAP response: Reinstatement of the wall is not a new structure in any sense. The reinstatement is maintenance of the Blue Stone Quarry Wall that was already existing and still has remaining sections at the quarry. The reinstatement of the wall cannot be viewed as a new structure that will block tidal flows since the water that is located within the quarry is a result of the breaching of the wall in combination with ground water recharge (which occurs regardless of whether the wall is breached or not). The breaching event has resulted in tidal flows into the quarry itself and a breeding site for penguins. Nevertheless, an updated avifaunal assessment will be conducted and will include the impacts that the potential changes in water quality in the quarry may have on the surrounding bird colonies. These impacts and associated mitigation measures will be included in the MMP.

*13.2 Of concern is that the reconstruction project will occur in the midst of a highly sensitive seabird breeding site where a water-body currently functioning as a nursery for young birds could become contaminated / overrun with construction activities and where construction vehicles will traverse a highly sensitive, spatially-extensive, international seabird breeding site (including African penguins, Caspian terns, Swift terns and Kelp gulls). If the Construction EMP is modified and implemented appropriately, it may be possible that these direct construction impacts could be sufficiently mitigated / controlled in the water-body area if a buffer zone around the water body is maintained during reconstruction works and vehicles are adequately managed. It is, however, unlikely that bird movement will be able to be confined to within the fenced areas alone as the birds continually move across the existing road in all directions, or that the road will be kept free of birds. Strikes by construction vehicles driving on the road through the bird breeding is likely, as the site extends over several square kilometres.*

EAP response: The draft MMP has included methods to reduce bird strikes by vehicles and mitigation measures to reduce the potential of poor water quality in the quarry. However, an updated avifaunal assessment will be conducted, and any additional impacts and mitigation measures identified in the assessment will be included in the MMP.

*13.3 The impacts on Caspian terns is stated as high negative, as is the disturbance to the Swift Terns' breeding site. Vehicle strikes on kelp gulls were evident at the last visit to the site in 2015. The impacts*

*are not fully described nor mitigation measures provided. There is no avifaunal study or detailed information about the impacts on water quality or obstructing access.*

EAP response: The draft MMP has included methods to reduce bird strikes by vehicles and mitigation measures to reduce the potential of poor water quality in the quarry. However, the draft MMP will be reviewed to include any additional mitigation measures. An avifaunal assessment will be conducted to include the impact of the proposed works on the Swift Terns and the impacts and associated mitigation measures will be included in the MMP.

*13.4 The position adopted that snakes and lizards will die with moving rocks in the stockpile area indicates no adaptation to trying move them or work with them without causing injury as far as possible. There is no mention of having a snake handler on site to remove snakes or lizards as they are encountered.*

EAP response: The draft MMP will be reviewed to include the relocation of snakes and lizards on the stockpile. The presence of a snake handler will also be included in the MMP.

#### **14. Mitigation Measures**

*14.1 Mitigation measures are an essential component of an environmental impact assessment, and of a so-called Maintenance Management Plan which should aim to minimise impacts on the receiving environment, its water, soils, air, and flora and fauna, particularly when located within an international Important Bird Area for marine avifauna.*

*14.2 This report indicates no inputs from an avifaunal specialist for mitigation measures, merely the description of impacts on birds, snakes and lizards, and the likely long-term impacts, such as the birds not returning to the island to breed, and finding other breeding sites. This shows no indication of attempts to mitigate impacts.*

*14.3 The omission of mitigation measures must be addressed, as it renders the impacts of the construction of the wall much greater than necessary.*

EAP response: This statement is misguided because the original avifaunal specialist report was used as a guideline to determine the impacts on the avifaunal component of the surrounding environment as a result of the restoration works. The current works are not at all expected to displace any bird populations permanently nor their breeding areas because the proposed methods are conservative and expected to be of low impact to the surrounding environment. Nevertheless, avifaunal specialists will be consulted to ensure the mitigation measures listed in the MMP are sufficient. Moreover, an avifaunal specialist assessment will be conducted to ensure that any additional impacts on the

surrounding bird colonies will be identified and minimised. Any impact and mitigation measures identified in the avifaunal assessment will be included in the MMP.

*14.4 It will be essential to have an avifaunal / bird specialist present on site for the erection of penguin barriers and establishing suitable alternative sites / routes to breeding areas.*

EAP response: The inclusion of an avifaunal specialist on site such as the SANCOBB representative has been included in the draft MMP. Nevertheless, any mitigation measures associated with avifaunal impacts of the proposed works will be listed in the avifaunal assessment report. Should one of the mitigation measures involve the erection of a barrier fence or establishing new breeding sites, these will be implemented in consultation with an avifaunal specialist.

*14.5 Time of construction activities – this should be specified outside the breeding season, once the chicks are able to fly (with the exception of the penguins). The previous authorisation confined construction activities to a 6 month period only, outside the breeding season. Something similar should be investigated (if rebuilding the wall is considered desirable).*

EAP response: The draft MMP will be reviewed to include the start and end time of the restoration works. This start and end time of the restoration works will be decided after the avifaunal assessment has been conducted and there are clear indications when each bird species will breed.

## **15. Section 7: Environmental Awareness Plan**

*15.1 This should include more sensitivity to this bird environment, eg. care for the birds, the soil, the plants, etc. Smoking cigarettes should not be allowed in this environment as cigarette butts pollute the environment (including the soil) and could be swallowed by the numerous birds in this area. Best to prevent smoking on site, other than in clearly designated areas (if necessary).*

EAP response: The draft MMP will be reviewed to include cigarette buds may not be disposed of incorrectly.

*15.2 Drive slowly through areas inhabited by birds.*

*15.3 Stop if you see a bird on the road – do not proceed until the bird has moved / been moved from the road.*

*15.4 Provide a snake handler and bird handler contact number, who is present on site at all times for assistance to construction workers.*

15.5 All equipment with fuel is to be parked on bunded areas, or to have drip trays provided beneath them, so that no fuel can spill onto the ground.

15.6 Do not allow waste, litter, oils or foreign materials into any storm water channels, or drains or watercourses or the sea, or on the ground, the rocks, any tidal area or waterbody.

EAP response: The draft MMP will be reviewed to ensure that the above-mentioned mitigation measures have been included.

#### **16. Section 8: Impacts and Mitigation Measures (p27/49)**

16.1 This report denies that there are preconstruction or construction activities that will take place. The misnomer of referring to the construction of an 82m / 77m long wall as restoration and maintenance activities and considering these as 'maintenance and operational activities' is inappropriate, and not supported by the common building industry use of the terms construction / restoration / maintenance.

16.2 Hence, 8.1 should read, "mitigation measures for environmental impacts associated with proposed construction maintenance activities."

EAP response: The proposed works will not involve the erection of a new wall as per the definition of the Construction in NEMA (Act 107 of 1998). Sections of the wall exist, and the quarry will be maintained by restoring the breach section of the wall and hence the proposed works are considered maintenance. The reinstatement will remain in the original footprint's place and capacity and the reinstatement will be a like-for-like replacement which constitutes as maintenance as per the NEMA (Act 107 Of 1998). Hence, the proposed works are seen as maintenance and not construction.

#### **17. Building plan submission prior to construction**

17.1 A **Site Layout Master Plan** will be useful but will not substitute for a building plan for this structure.

EAP response: No building plan exist for the proposed restoration works because it is not a new development or construction. The proposed works will be reinstating the breached section of the wall based on old photographs. These photographs will be included in the MMP.

17.2 Pg29/49 on Waste separation: onsite waste management and segregation. Amend to waste separation.

EAP response: The draft MMP will be reviewed to include waste separation.



**18. P31/49: 8.1:1.3: Mitigation / Management Measures:**

**18.1** *It is not clear why concrete is being referred to in the MMP, when it is expressly not going to be used in the construction of the dyke / seawall, because the original structure (now a pile of stones) did not have concrete in it, and used only the natural materials found on site. See excerpt below:*

**☒ Mitigation/Management Measures:**

☒ *Concrete, if required, must be mixed on mixing trays only and not on exposed soil.*

☒ *b. Concrete must be mixed only in areas which have been specially demarcated for this purpose (preferable where no natural vegetation occurs).*

☒ *c. Concrete mixing to be carried out away from sensitive areas and on impermeable surfaces.*

**EAP response:** As already mentioned, concrete will not be used in the current proposed restoration works. The use of concrete was included to ensure mitigation measures were in place in the event that future maintenance works take place and require concrete. The MMP will be reviewed to make this clear or exclude the impact of the use of concrete entirely because the proposed future maintenance works will not require concrete.

**18.2** *The time frame outside the breeding season for the birds should be clearly identified in the report, rather than referring the reader to an Appendix which is not included in the document. It is one of the most critical aspects. "Restoration activities should be completed over a six-month period as identified by the avifaunal impact assessment (please see Appendix A)." Rather state when this 6 month period commences and ends.*

**EAP response:** Please note that the Appendixes were made available to all the I&APs. Proof of this will be included in the Comment and response report. Nevertheless, the MMP will be reviewed to include when the maintenance works should commence and end.

**18.3** *No mitigation measures have been identified for addressing water quality issues due to the creation of the seawall / dyke. This omission must be rectified before proceeding as it could result in the tidal pool being over saline, and contaminated, in the absence of regular tidal flushing.*

**EAP response:** The draft MMP will be reviewed to include any additional mitigation measures related to water quality in the that may be necessary. The impact of potential changes to water quality changes on the surrounding bird colonies will be addressed in the avifaunal assessment.

As penguins are breeding in this area and their numbers are in decline, their breeding area could be adversely affected by this dyke construction. It is already documented that several bird species have ceased breeding on the island due to human-induced disturbance and activity. Vehicular traffic on Robben Island is known to disturb and kill penguins. Even if only a few are killed annually, the low adult penguin survival rate makes it essential to address every threat affecting the species. Potential mitigation measures such as speed bumps should be investigated and preventing access south could be instituted.

**EAP response: The prospect of temporary speed bumps will be investigated and any additional mitigation measures, not already identified, will be included in the MMP. An updated avifaunal assessment will also be conducted, and any additional mitigation measures and impacts will be included in the MMP.**

18.4 Please specify the location of the wastewater treatment facility on the island, into which the various material may be disposed as per the statement below:

*“Wastewater that is contaminated with soaps, detergents, grease, oils, and other undesirable materials shall be collected in conservancy tanks and disposed of safely into a wastewater treatment facility”. Include the facility on a Map so that contractors know where to find it. “*

**EAP response: The draft MMP will be reviewed to include the location of where waste should be disposed, if necessary.**

18.5 Pg32/49: *Given that no cement is to be used, please frame this condition to state that ‘no cement is to be used in the tidal pool or in the construction of the dyke / seawall’, given that it is not an original material and out of keeping with the temporary nature of the wall, which was originally designed to degenerate over time, being a drypacked wall.*

*“All cement wastewater, if generated, shall be collected in a container, and allowed to evaporate. Under no circumstances shall it be allowed to enter soil, surface, or groundwater resources, including storm water.”*

*There should be no generation of cement wastewater if it is not a permitted material on site.*

**EAP response: The draft MMP will be reviewed to include that no cement may enter the sea.**

18.6 P33/49: *Smoking may only occur within a 3m radius of designated areas.” Please add the word ‘smoking’ before areas to read ‘designated smoking areas.” Given that cigarette butts are toxic to birds and may be swallowed by them, smoking should be discouraged completely within the bird breeding areas.*

EAP response: The draft MMP will be amended to include designated smoking areas away from the breeding sites.

18.7 Pg36/49: Should read “waste disposal skips” should be kept on site – rather than waste disposal ‘slips’.

EAP response: the draft MMP will be amended accordingly.

18.8 As there will be no heavy machinery to be used on site according to the MMP, why is so much reference made to machinery that could drip oil?

EAP response: Although heavy machinery will not be used during the current proposed maintenance works but was included in the MMP in the event that heavy machinery may be used for future maintenance works. The draft MMP will be reviewed to ensure that this aspect is made clear.

## **19. Ecology**

19.1 Under section 1.10: Ecology, pg37/49: Please include the contact numbers of the SANCOBB representative and Seabird ranger, not only the Robben Island contact person Mr Andile Mdludli, unless these are one and the same person. Please confirm.

EAP response: Andile Mdludli is also the seabird ranger and SANCOBB representative.

19.2 These points below should rather include the appointment of a bird specialist / veterinarian on site during construction periods at all times to deal with any bird incidents – a phone number is not sufficient in an emergency.

☐ “Ensure appropriately trained individual deals with all bird incidents.

☐ A list of emergency numbers for bird related incidents should be kept on site at all times. “

EAP response: Bird specialists are already appointed by Robben Island museum to handle bird-related incidents. Nevertheless, the draft MMP will be amended to include the appointment of a veterinarian if the option is financially feasible. If the option is not feasible possible, emergency numbers for veterinarians will be included in the MMP.

19.3 Consider appointing people with flags, as we have on our roads during construction operations, to say when the road is clear for vehicles to drive through, and when its full of penguins, kelp gulls, or chicks. Have people to clear the road of birds and chicks ahead of the vehicles as necessary.

EAP response: The draft MMP will be amended accordingly to recommend that “spotters” be appointed on the road to indicate when it is safe for the vehicles to drive throughout the duration of the restoration works.

## **20. Section 11: Rehabilitation Measures- Pg48/49**

*20.1 Please indicate on the Site Management Layout plan the location of these activities:*

*Key aspects within this process include the:*

- Removal of structures and infrastructure;*
- Handling of inert waste and rubble;*
- Handling of hazardous waste and pollution control;*
- Final shaping of the terrain;*
- Topsoil replacement and soil amelioration;*
- Ripping and scarifying of surfaces;*
- Planting of indigenous occurring vegetation (if deemed necessary); and*
- Maintenance.*

EAP response: The rehabilitation measures are for the general area for any disturbed sites surrounding the quarry. Although no clearance of vegetation is expected to occur as a result of the proposed works, emergency rehabilitation measures will be included in the revised MMP for the any incidences where disturbance may occur. Rehabilitation measures as a result of the removal of the rock stockpile will also be included in the revised MMP and will be specified as such.

*20.2 Please confirm if there are areas from where topsoil would have been stripped for this construction process and where topsoil would be replaced.*

EAP response: No areas of topsoil will be removed and referral to topsoil removal will be removed from the MMP. The impact of removing soil was included in the draft MMP in the event that future maintenance works require the removal of topsoil. However, should this be required for future maintenance works, the need for a maintenance management plan or Environmental Authorisation will be investigated on a per project basis.

*21.2 The use of foreign material, such as concrete, rubble, woody debris and/or dry land based soil, is strictly prohibited from being used in maintenance actions, unless for the specific purposes of repairing existing infrastructure, coupled with appropriate mitigation measures.*

EAP response: The MMP has considered, as far as practically possible, all mitigation measures with regards to the impacts of the foreign material being used to maintain the wall. Nevertheless, should concrete, rubble, woody debris, or foreign material be used, the mitigation measures and need for a Maintenance Management Plan or Environmental Authorisation will be investigated on a per project basis.

## **21. Appendix A:**

*21.1 The report refers to 'Appendix A' e.g., Restoration activities should be completed over a 6month period. However, it doesn't say when, relative to the breeding seasons for the birds, or when the period has been identified by the avifaunal specialist. This is one of the most important aspects for the contractor and is not available in the document. Alternative Construction Options Assessment, 2015 – these alternative construction options are not included. Please indicate where Appendix A is on the report.*

EAP response: The draft MMP will be amended to include the time of the construction period based on the avifaunal assessment. This will be decided in consultation with the avifaunal specialist via an avifaunal assessment to ensure that the restoration occur outside of the breeding times of the birds.

*21.2 Adopting or defining the MMP does not absolve the proponent from complying with any applicable legislation or the general "duty of care" set out in Section 28(1) of the NEMA. The applicant is reminded to take into account Section 28 of the National Environmental Management Act (No.108 of 1998) to undertake reasonable measures to avoid causing significant pollution or degradation from occurring, continuing or recurring or in so far as harm the environment is authorised by law or cannot be reasonably avoided, stopped or minimised.*

EAP response: The MMP will be reviewed to include any other mitigation measures that may be necessary to ensure compliance with NEMA (Act 107 of 1998)

**22. I&APs:** *It is recommended that Birdlife SA who are linked to other international seabird conservation bodies and initiatives, be invited to comment on this Maintenance Management Plan, to determine if the proposed mitigation measures contained in the MMP are regarded as adequate to ensure the conservation of the birds and the bird breeding habitat. It is possible that other international bird associations may also have an interest in the mitigation measures proposed for the construction activities in the bird breeding site and be able to add additional mitigation measures gleaned from international precedent. CapeNature may also wish to comment if they have not already had opportunity.*

EAP response: The comment has been noted and BirdLife SA and Cape Nature have been consulted during the commenting period.

**RESPONSE TO COMMENTS ON THE DRAFT MAINTENANCE MANAGEMENT PLAN FOR THE PROPOSED RESTORATION AND MAINTENANCE OF THE BLUE STONE QUARRY (“BSQ”) WALL AND THE REINSTATEMENT OF THE LIMESTONE PATHWAY ALONG THE TOP OF THE BSQ WALL, ROBBER ISLAND**

City of Cape Town Biodiversity and Management Branch (received 23 March 2021)

*Please find below additional comments based on this site inspection (15 March 2021).*

*1.1. In addition to being a WHS, Robben Island is also an Important Bird Area recognised internationally. We are therefore concerned that the EAP has less than one year’s experience for running this complex process in a sensitive environment, and would recommend that a team be appointed to include a marine avifaunal specialist and a coastal specialist to assess the avifaunal and coastal impacts of the proposed seawall construction.*

EAP response: The project team consists of mainly two EAP’s namely Elana Mostert, who functions as the senior review EAP, and Megan Smith who functions as the primary EAP (both EAP CV’s have been included as Appendixes). Elana has over four years’ experience as an Environmental Assessment Practitioner and Ecological specialist and is the project lead for the project. Moreover, Elbi Bredenkamp (the CEO of Enviroworks) has over 20 years’ experience and acts as the overall project manager for the project. The project team have enough project experience to undertake the approval process of the MMP. Nevertheless, an Avifaunal Specialist will be appointed for the project to undertake an updated Avifaunal Assessment.

*1.2. Given that the construction of the wall triggered the need for a Basic Assessment Report in 2014, the same specialists would need to conduct fresh impact assessments for the reconstruction of the wall currently. The reconstruction / restoration cannot be managed as a maintenance project, without first reconstructing wall and assessing its associated impacts.*

EAP response: An avifaunal assessment will be conducted as part of the approval process for the MMP. The original specialist who compiled the avifaunal report no longer acts as an avifaunal consultant. However, Dr Les Underhill has agreed to conduct the assessment. Dr Underhill was a consulting specialist for the first avifaunal assessment and was directly involved in compiling the first assessment.

With regards to other specialist assessments that were conducted, there are no prescribed or legislated specialist assessments that must be conducted for MMP approval, unlike during the Basic Assessment process, where the DEA screening often dictates which specialist assessments must be conducted. Since the proposed works will not be clearing any vegetation, emitting any emissions, or

will be expanding the current footprint of the proposed development beyond the current footprint, it has been motivated that no other specialist assessments, besides the avifaunal assessment, will be required.

*1.3. The unavoidable resultant environmental impacts of this proposed Maintenance Management Plan (MMP), on seabirds in particular, will be in direct conflict with the National Environmental Management Biodiversity Act (Act 10 of 2004, as amended) and the Robben Island Environmental Management Plan (RIEMP), 2002. The RIEMP provides for zero disturbance in established nesting sites, especially for Endangered species.*

EAP response: All impacts to seabirds will be recommended to be mitigated in the MMP in a manner that aligns with NEMBA and the Robben Island Environmental Management Plan (2002). These impacts will be determined in consultation with an avifaunal specialist via an avifaunal assessment.

*1.4. MMP Chapter 2, page 11 – Figure 2 sensitivity map of the proposed activity is at too coarse a resolution to be informative. Please provide a zoomed-in map of the area. Please also indicate on a map the known breeding areas and access routes of the various seabird species that frequently use the Blue Stone Quarry and surrounds.*

EAP response: Once the avifaunal assessment has been conducted, the map will be amended to include any “no-go” areas and extent of the bird breeding areas.

*1.5. MMP Chapter 4.1 project description page 14 –*

*1.5.1. Adding new material to strengthen the wall does not necessarily constitute “like for like” reinstatement. Please confirm:*

- what this “new material” is,*
- what quantity of new material will be used,*
- where the new material will be sourced from,*
- how the new material will be transported,*
- where this new material will be temporarily stored, and*
- where this new material will be used.*

EAP response: The new material referred to in the draft MMP refers to the stockpile of rocks across from the quarry. The stockpiles have been there since the early 2000’s. Any rocks from the stockpile



will be moved manually, by hand, and be transported to the wall via wheelbarrow. This information will be clearly outlined in the MMP.

*1.5.2. The statement that “No concrete or heavy machinery will be used...” contradicts Appendix A on both accounts. Please explain in the final MMP how no concrete or heavy machinery will be used, given the aim to “ensure the future protection of the quarry and its associated heritage value”.*

EAP response: Although the current Draft MMP does include in the Scope of Works that no concrete or heavy machinery will be used, the second draft MMP will be reviewed to ensure that this point is clearly stated. Please note that Appendix A was included to indicate the results of the original specialist assessment, which was used as a guideline to compile the draft MMP. Since the proposed scope of works has changes since the original reports, some impacts may not be applicable and thus, Appendix A must be seen as guideline document and will be removed as an Appendix in the revised MMP.

*1.6. MMP Chapter 4.2, page 16 and 17, relating to Figure 3 – The site layout map provided comes from Appendix A, and therefore is not appropriate for the currently proposed MMP work. A revised site layout map should be replaced in the final MMP, in which the following concerns are addressed:*

*1.6.1. Why does there need to be such a large Construction Camp, if no heavy machinery will be used? During the site inspection on 15 March, Enviroworks stated that no more than 10 personnel would be on site at any time.*

*1.6.2. What material will be used to construct the temporary penguin fence? SANCCOB, SPCA and an independent Avifaunal Specialist should be consulted on material, colours and construction method for the penguin fence.*

*1.6.3. Why does the penguin fence need to extend north beyond the construction area through the middle of the no-go zones? Road access from the north may not be used due to risk of disturbance to nesting seabirds.*

*1.6.4. Why is the rock stock pile outside of the penguin fence? There is no gate access shown between the rock stock pile and the construction area. It was confirmed during the site inspection that this rock stock pile will be used. Therefore, is it necessary to show the how this rock will be transported to the wall without causing disturbance to seabirds.*

EAP response: The site layout map will be reviewed to exclude the large construction camp and penguin fence, unless the avifaunal specialist recommends one to be erected. In the case that a penguin proof fence will be required, the material, access gates and extent of the fence will be provided.

*1.6.5. How long are the quarry revetment ring walls? Please indicate these on a map.*

EAP response: The Draft MMP will be reviewed to include the length of the revetment ring walls and the location of the ring walls will be indicated on the site layout map.

*1.6.6. Where will new material (tie stones and large barrier stones) come from? Where will this material be temporarily stored during construction?*

EAP response: The comment has been addressed at comment 1.5.1.

*1.6.7. How will 'reinstating the original gravel limestone roadway that ran along the top of the wall' be done without using heavy machinery, if it is to be compacted?*

EAP response: this part of the Scope of Works will be removed from the draft MMP and will be addressed once it is confirmed that these works will take place. The current scope of works is as per the 2020 Implementation Plan. The reinstatement of the limestone gravel road way was included in the draft MMP to ensure that the impacts of the gravel road way were assessed in the event that it was reinstated. Nevertheless, the draft MMP will be reviewed to ensure that the Scope of Works is as per identified in the 2020 Implementation Plan.

*1.6.8. Where will the gravel be imported from for the roadway on top of the wall?*

*1.6.9. What will this roadway be used for once reinstated? It is neither necessary nor environmentally appropriate to have a second road for vehicular movement around the quarry.*

EAP response: this part of the Scope of Works will be removed from the draft MMP and will be addressed once it is confirmed that these works will take place. The current scope of works is as per the 2020 Implementation Plan.

*1.6.10. Clearing the coastal vegetation that is currently growing on top of the former roadway, may constitute a NEMA EIA listed activity, and is not desirable from a coastal ecology point of view.*

EAP response: the limestone gravel roadway will be removed from the proposed scope of works in the draft MMP and the scope of works will be as indicated in the 2020 Implementation Plan.

*1.7. MMP Chapter 4.2, page 16 – future general maintenance activities on the wall, quarry and surrounds may cause unacceptable disturbance to the environment, and the likely loss of breeding sites for several seabird species on this side of the island.*

EAP response: This comment can only be confirmed once the Avifaunal Assessment is conducted and the impacts and mitigation measures, outlined in the assessment, are included in the MMP. Until then,

it is highly unlikely to accurately determine what the impact will be on the surrounding bird colonies from the proposed maintenance works.

*1.7.1. The MMP should outline:*

*☒ what this “general maintenance” will entail,*

*☒ how often it will be done,*

*☒ what time of year it will be done, and*

*☒ how environmental impacts will be mitigated.*

EAP response: The draft MMP will be reviewed to include the above-mentioned points with regards to future maintenance works.

*1.7.2. Will the penguin fence be reinstated for future maintenance?*

EAP response: It is unlikely that a penguin fence will be required at all and is likely to be removed from the scope of works. However, the need and extent of the fence will be confirmed with the avifaunal specialist.

*1.7.3. With the increase of impacts of climate change, there is a strong likelihood of storm surges breaching the wall annually, and the resultant collapse of sections of the wall. Will boardwalks and a construction camp be used for each maintenance activity in future?*

EAP response: The likelihood of the wall breaching as a result of a storm event will be confirmed. The need for boardwalks and a laydown area for future maintenance works will be confirmed with Robben Island Museum. If there is a need for these structures, it will be included in the revised MMP.

*1.7.4. Is this proposed future maintenance financially viable for Robben Island Museum? Is this the best use of resources?*

EAP response: The distribution of financial resources is not in the Scope of Works of compiling the MMP. Financial resources are allocated via the Robben Island Museum Financial department, using their internal planning and allocation procedures, and the approval process of an MMP is not the recommended platform to analyse the financial workings of Robben Island Museum. It will be RIM’s responsibility to ensure that sufficient funds are available to implement the MMP, planned reinstatement and maintenance works.

1.7.5. *Is ongoing maintenance the most appropriate way to preserve and celebrate the heritage of this site? Would it not be more appropriate to preserve the remaining extent of the original wall, as well as the breached section in testimony to what the prisoners were up against, i.e. the ongoing futility of hard labour maintaining a wall that would be periodically washed away?*

EAP response: In short, no, the appropriate method to preserve the heritage value of the quarry and wall will be to properly restore the breached section.

Please see below the comment from the Dr Edward Matenga, the heritage specialist contracted by Robben Island Museum:

(a) *“This question strikes at the core of the Statement of Justification for the inscription Robben Island as a World Heritage Site (WHS), which is condensed into a **Statement of Outstanding Universal Value (OUV)**. OUV is the *raison d’être* for world heritage inscription. The buildings, associated narratives and symbolism (the intangible heritage) are the embodiment of the prison institution where the buildings [including the Bluestone Quarry Wall] symbolize the triumph of the human spirit, of freedom and of democracy over oppression. It is not possible to depart from this statement of Outstanding Universal Value without undermining the foundations of the world heritage inscription.*

*Fundamental changes to the “integrity” are rigorously scrutinized under Operational Guidelines for the Implementation of the World Heritage Convention. It is one of the items on the checklist for the World Heritage Periodic Reporting on the State of Conservation undertaken every 4 years. We should be mindful of the fact that although the World Heritage Convention is an international policy instrument, it has been adopted in domestic law by an enabling Act, the World Heritage Convention Act. It has already been noted in other documents concerned with this project that Outstanding Universal Value is “non-negotiable”.*

(b) *We should take a position that it is not impossible to work out a plan in which the wall can be restored without severe detrimental impact on the viability of the identified bird species [or the environment in general]. The Bluestone wall is an integral part of the building stock referred to in the statement of Outstanding Universal Value.*

(c) **Statement of significance of the wall**

*The Bluestone Quarry wall was constructed by political prisoners using locally available materials, in large part by-product waste from the stone quarry. More than a thousand prisoners worked in the quarry. It was not because the prison authorities did not have funds to build a solid and permanent sea barrier. As the ex-prisoners testified, they were aware of the futility of offloading*

*sand and grit to buttress the wall only to find it washed away by the waves the following day, a situation which the warders were cynically aware of. The Wall and Quarry therefore preserve memories of man's endurance against adversities imposed by his own kind. The wall is one of the surviving symbols of punishment with production. A number of political and social activities affecting the course of the political struggle and the lives of the inmates took place at the quarry. The first hunger strike took place at the quarry in 1966, which brought the attention of the warders to the welfare of the prisoners. Prisoners also shared information and ideas, passing notes which they hid in wall. Political education was also conducted at the quarry. Educated colleagues taught their less fortunate colleagues literary skills. The prisoners sang songs which subtly expressed their grievances against the status. The potency of song as a catalyst in cultivating solidarity and collective resolve among comrades in the South African liberation struggle is all too well known. The prisoners turned adversity to their advantage using the wall as a windshield and a cache for sensitive information. The wall and quarry is a monument to the resilience and fortitude of those who were subjected to extreme persecution and indignity for their political convictions.*

*(d) The structure may be considered to be ephemeral. However from the perspective of a heritage conservation practitioner, there are a number of facts which must be considered to provide context. The structure was built and was being maintained from 1966 to 1977. Between 1977 and 2001 (24 years) the wall was standing, and was first breached by the sea in 2001 creating a gap of 5m, another 10 years was to pass before the destructive tidal event in which about 75m of the wall collapsed. It should be noted that the original wall was packed in its core with sand, seashells, grit and other low grade building material, which rendered the structure weak and potentially unstable. This notwithstanding, the wall lasted more than 2 decades. Now consider that in the Restoration Plan we are not reinstating the sand and other material which we know will easily cause structural failure. Solid stone blocks will be used in the packing and large blocks placed on the seaside to receive the impact of the waves.*

*(e) Lastly the idea has never been to reconstruct a wall which will be "invincible", but to reconstruct a wall with reasonable strength which, supported by a Maintenance Plan, can continue to exist as a testimony to the experience of the political prisoners. "*

1.7.6. It was proposed during the site inspection that future maintenance would cause less disturbance if it were symbolic only. For example, surviving ex-political prisoners and their family members could attend an annual ceremony to symbolically replace one stone each into the wall.

EAP: The option to maintain the wall via a ceremonial act by the ex-political prisoners will be discussed with Dr Edward Matenga. If this method is feasible, it will be included in the second draft of the MMP and the various impacts and associated mitigations measures will be listed.

1.8. MMP Chapter 5, page 18-19, Table 4 –

1.8.1. Ecology – flora: Please define the area of vegetation expected to be lost. Loss of Cape Flats Dune Strandveld vegetation without mitigation is unacceptable under Section 2 of NEMA. This vegetation type is listed nationally as Endangered, the national conservation target of 24% conserved has not been met, and it is endemic to Cape Town.

EAP response: as stipulated in the Scope of Works of the draft MMP, no area on threatened vegetation will be lost during the restoration of the wall.

1.8.2. Ecology – Avifauna (Caspian Terns): Why is the Caspian Tern roost site not also a no-go area? This species is listed regionally as Vulnerable.

EAP response: The draft MMP will be reviewed to include the Caspian Tern breeding site as a no-go area. This will be done in consultation with an avifaunal specialist via the avifaunal assessment.

1.8.3. Why are the Bank Cormorant and Cape Cormorant breeding sites not included under avifaunal impacts? The breeding sites should be no-go areas. Both species are listed regionally and internationally as an Endangered species.

EAP response: The draft MMP will be reviewed to include the Cape and Bank Cormorant breeding sites as a no-go areas. This will be done in consultation with an avifaunal specialist via the updated avifaunal assessment.

1.9. MMP Chapter 6.3, page 24 – Monthly site visits by an ECO is inadequate to halt and rectify environmental damage, especially given the sensitive nature of this site as well as the presence and breeding sites of threatened bird species.

EAP response: the draft MMP will be reviewed and include that ECO inspections are recommended to be conducted on a fortnightly basis.

1.10. MMP Chapter 7.1.1., page 26 – The “Do not” list should include:

☒ Do not exceed the speed limit of 40km/h.

☒ Do not interfere with, disturb, chase, hunt, trap, poison, feed, injure or kill any fauna.

☒ Do not pick, damage, or remove any flora, except for what is permitted under the MMP.

☒ Do not bring any dog on site.

EAP response: The draft MMP will be reviewed to ensure the above mentioned mitigation measures are included.

1.11. MMP Chapter 8.1, page 31, 1.3 e –

1.11.1. The 2014 Avifaunal Specialist Report (Appendix A, Figure 1) stated that construction must not exceed a six-week period (mid-September until end October), not six-months as stated in the MMP. This six-week period is constrained by the end of the African Penguin breeding season and the start of the African Black Oystercatcher, Kelp Gull and Caspian Tern breeding seasons. Why is there no time-of-year constraint or timeline for construction in the MMP?

1.11.2. Expert advice from Prof. Les Underhill carried the caveats that construction should commence in the second half September and must be completed before the start of the African Penguin breeding season in March-April. This timeframe constraint is not clearly stated in the MMP. The extract below (Table 2 from page 13 of Appendix A) outlines the annual lifecycle of an adult African Penguin on Robben Island.

EAP response: As per Appendix A, there are two alternative timelines for the proposed based on the 2014 avifaunal assessment. One of these timelines include starting and concluding the proposed works within a six month period (Section 5.1.1 in Appendix A). The impact of the six week and six month restoration was investigated in Appendix A. The draft MMP will be, however, reviewed to include the exact starting time and end period for the proposed restoration works. This time period will be recommended based on the avifaunal assessment and any potential impacts to the surrounding bird colonies.

1.11.3. A six-month construction period, even with the proposed mitigation, is fatally flawed, because it will likely lead to the loss of a breeding season resulting in immeasurable knock on effects for the Endangered African Penguin colony. In addition, it is highly probable that the moulting season will be affected and as such the birds may not return to the area for breeding. On the basis that the six month programme will lead to permanent disturbance and habitat alteration, and the loss of one breeding season of the African Penguin – a species with fast decreasing numbers – will have not only an immediate impact, but the knock-on effect of the loss of a breeding season is immeasurable.

1.11.4. For Swift Tern, it may result in the loss of the breeding colony. This colony constitutes 1% of the global population of this species, and the subspecies is endemic to this area.

1.11.5. *For Kelp Gull, if 6 months are allowed for construction, this timeframe overlaps with the peak breeding season. According to the RIEMP, a gullery is out of bounds when birds are breeding. Thus construction should not be allowed to run into the peak gull breeding season.*

EAP response: Any impact to the surrounding bird colonies will be detailed within an updated avifaunal assessment. These impacts will also be accompanied by associated mitigation measures. Should the six month restoration period cause significant impact to the surrounding bird colonies, this will certainly be addressed in the updated avifaunal assessment report and included in the draft MMP. Should a new timeline for the restoration works be suggested via the avifaunal assessment, this will be included in the MMP

1.11.6. Mitigation/contingency measures relating to Covid-19 must be put in place to avoid construction taking longer than six-months from commencement, or construction commencing outside of the recommended period between the second half of September and March.

EAP response: The draft MMP will be reviewed to include the measures to prevent the spread of COVID-19 amongst personnel.

1.11.7. *A new Avifaunal Impact Assessment should be conducted to include the Endangered Cape Cormorant and Bank Cormorant that have used this area in recent years.*

EAP response: as mentioned, an updated avifaunal assessment will be conducted and will include an assessment of the impacts of the proposed works on the Cormorant Colonies.

1.12. MMP page 37-38, 1.10 ecology – Points that should be added:

☒ *No vehicle may drive off-road to pass another or for any other reason.*

☒ *Designated vehicle passing areas and turning circles must be clearly demarcated, in consultation with specialists and SANCCOB representatives, and adhered to at all times.*

*Under no circumstances should a single-lane road become a double lane width roadway.*

EAP response: The draft MMP will be reviewed to ensure the abovementioned measures are included.

1.13. MMP Chapter 11, page 49, maintenance – *Large mammals (antelope and deer) and ostriches should also be kept out of rehabilitation areas to minimise trampling, browsing and/or grazing, and erosion, until the vegetation has re-established. This should be in addition to vehicles, people and livestock being kept out of rehabilitation areas.*



EAP response: The draft MMP will be reviewed to ensure the measures to exclude large mammals and birds from the rehabilitation areas are included, in the event that rehabilitation is required.

#### **Appendix A comments**

1.14. Appendix A Option 1 (the preferred option) described a “penguin ramp” with 1:5 or 1:4 slope. Why does the 2021 MMP not include a penguin ramp or alternative access for African Penguin movement post-construction? A dry-stone ramp up the wall on the seaward side that has a gradient that would allow penguins to access and traverse the ramp would shorten the length of barrier and thereby shorten the time it might take penguins to habituate to the barrier. The longer the route to the breeding area is inaccessible, the longer penguins will take to habituate, and the greater the risk of the impacts being permanent. Irreversible impacts of construction cannot be supported from an avifaunal perspective.

EAP response: Please note that Appendix A was intentionally used as a guideline document because the document was based on the previous Scope of Works. Therefore, not all the mitigation measures included in Appendix A was included in the draft MMP. As mentioned, an updated avifaunal assessment is expected to be conducted by a suitable avifaunal specialist. Should the assessment recommend that that penguin ramp be included in the draft MMP, the draft MMP and scope of works will be amended accordingly.

1.15. Appendix A, page 14 – “It is further recommended, by Professor Les Underhill, that independent monitors (such as NCC Group) are appointed to check that the proposed mitigation measures are being complied with throughout the six-month construction period.” This recommendation should be carried through in the current MMP.

EAP response: Regular ECO site inspections have been recommended within the current draft MMP. However, the frequency of these inspections will increase based on the comments received from the I&APs.

1.16. Appendix A, page 18 – “BSQ site has seen the relatively recent ingress of African penguins that were not part of the historic cultural landscape. Penguins bred on the island in 1983 but are only thought to have colonised the BSQ site following 1997, when the Department of Correctional Services vacated the island, and more so following the degradation of the wall in 2003.”

1.16.1. The argument that the African Penguin colony is recent contradicts the Appendix A avifaunal addendum that confirms “recolonization”. Records of African Penguin date back to 1497 referencing huge populations on the west coast of South Africa and Namibia. That changed dramatically in the

*early 1840s with the guano rush where vast quantities of seabird droppings were removed from breeding islands for use as fertilizers. The island guano, that had accumulated over thousands of years, provided optimal nesting habitat for penguins. Without this insulation, nests were exposed to the elements and predators, and penguin numbers plummeted. During the prison years, patrols with dogs would have caused sufficient disturbance to dissuade penguins from breeding.*

*1.16.2. The Robben Island African Penguin colonies actually predate the Boulders Beach colony in Simonstown, where the first African Penguin egg was laid in March 1985. The shift in location of African Penguin colonies has been attributed to a shift in their prey (mostly sardines and anchovies). As such, survival of this species depends on protecting the current, not historic, breeding colonies in relation to proximity to their food sources. It is of the utmost importance to the survival of this species to protect island colonies, because mainland colonies are at a far higher risk from road mortality, feral and domestic cats and dogs, wild terrestrial predators (leopard, caracal and mongooses), pollution and physical disturbance.*

**EAP response: As mentioned, an updated avifaunal assessment is expected to be conducted by a suitable avifaunal specialist. This avifaunal assessment will include any impact of the proposed works on the surrounding penguin colony. This will also include any mitigation measures associated with the impacts to ensure that no detrimental impacts on the threatened bird species (and other non-threatened species) will occur. These impacts included in the avifaunal assessment are expected to cognisant of the history of the penguin and other bird colonies associated with Robben Island.**

**RESPONSE TO COMMENTS ON THE DRAFT MAINTENANCE MANAGEMENT PLAN FOR THE PROPOSED RESTORATION AND MAINTENANCE OF THE BLUE STONE QUARRY (“BSQ”) WALL AND THE REINSTATEMENT OF THE LIMESTONE PATHWAY ALONG THE TOP OF THE BSQ WALL, ROBBERN ISLAND**

Penguins of South Africa Earthwatch project SANCCOB, BirdLife South Africa, University of Cape Town and the Biodiversity and Development Institute (Received 1 March 2021)

*The proposed restoration of the Blue Stone Quarry wall on Robben Island poses many new environmental issues. The plan that is proposed in the documentation was formulated six years ago. At that time there were significant tensions between the Avifaunal assessment and the Heritage considerations. In fact, the avifaunal report from 2014 included the assessment that “Essentially, the project cannot be undertaken without contravening national legislation and therefore from an avifaunal perspective this project is **fatally flawed**.” It then moved on to noting that in the event that the Heritage considerations were agreed to take precedence over the environmental ones, there might be a barely acceptable solution. In that solution, a six month construction period with various mitigations applied, where the damage to the penguins, which were identified as the species that would suffer most, could be reduced from very high to medium high.*

**EAP Response: An updated avifaunal assessment will be conducted to determine and impacts to the surrounding bird colonies as a result of the proposed restoration works. This avifaunal assessment is expected to detail the breeding times and areas of the surrounding colonies and suggest a new period of restoration works, if necessary.**

*However, these considerations were made more than six years ago. In the meantime, environmental conditions have changed dramatically on Robben Island to the extent that the original Avifaunal report no longer reflects the situation on the Island, particularly at the site of the Blue Stone Quarry. The most important fact is that for the last few years, a large colony of Cape cormorants has bred in and around the Blue Stone Quarry. Cape cormorants, like African penguins, are listed as an endangered species and all the legislation that is in place to prevent disturbance to penguins applies equally to the Cape cormorants. Since there is no mention at all of Cape cormorants in the original assessment, there is nothing on which to base an assessment of the disturbance that will occur to these endangered birds if the proposed restoration of the quarry wall takes place. Further, over the intervening years, the penguins have increased their use of the quarry as an important route to and from the sea.*

*Robben Island is also the breeding site for the largest colony of Hartlaub’s gull in Southern Africa as well as for the Greater crested (Swift) tern. Their breeding sites must not be disturbed for the duration*

*of this project. The Caspian tern which is frequently referred to in the out of date avifaunal report, bred on the island for about a decade but has now abandoned the site for breeding.*

*It is our opinion that should the works be carried out as described in the proposal, this Cape cormorant colony on Robben could be permanently destroyed. This is something that should not be allowed to happen. All seabird species mentioned above are listed as Threatened and Protected Species under the National Environmental Management: Biodiversity Act (10/2004): Threatened or Protected Marine Species (ToPS) Regulations and are thus legally protected and may not be harassed (including approach by a person closer than 5m).*

*Accordingly, before any action is taken it is essential that a new and up to date Avifaunal assessment is carried out. Only then can a proper assessment be made of the impact of the restoration project, and whether the detrimental impacts on both penguins and Cape cormorants can be mitigated to a sufficient extent for the project to proceed in its present form, or whether a different approach to commemorating the history of the quarry may need to be envisaged.*

**EAP Response: An updated avifaunal assessment will be conducted to determine and impacts to the surrounding bird colonies as a result of the proposed restoration works. This avifaunal assessment is expected to detail the breeding times and areas of the surrounding colonies and suggest a new period of restoration works, if necessary. The impacts and mitigation measures identified in the avifaunal assessment will be included in the MMP and be incorporated into the implementation of the proposed to ensure that the impacts of the proposed works are mitigated properly.**

*A few examples of the changes in the past few years that will need to be addressed in the new Avifaunal assessment include:*

*1. A large colony of Cape cormorants approximately 2 000 pairs in size has formed at the Blue Stone Quarry. Of these ca. 200 pairs use the pile of rocks that are designated as the building material for the restored wall as nest sites. A further ca. 500 pairs nest all along the quarry walls on either side of the quarry and the remainder use whatever nests sites they can find either inside or just outside the quarry, mainly on the Southern edge. In January 2021, more than 1,800 cormorant chicks had to be rescued by SANCCOB after they were abandoned by their parents. Many more chicks were predated by Kelp gulls and Sacred Ibis. This gives some indication of the susceptibility of Cape cormorants to disturbance so any construction around their colony will result in abandonment on a similar or greater scale.*

*a. Would it be possible (practically and legally) to discourage the cormorants from nesting on the rock pile or the quarry walls without preventing them from breeding at all in the year the work is carried out?*

*b. How could the loss of this nesting habitat be mitigated?*

*c. What alternative habitat could be provided in the long term?*

*d. Will the restored walls provide a sufficient nesting habitat for these birds in the future or*

*e. Will RIM find it unacceptable to have breeding cormorants in the restored quarry which would make it a no-go area during future breeding seasons?*

*f. What mitigations can be applied to avoid disturbance leading to abandonment of the birds in future years after the work has been completed (including during any maintenance activities that are envisaged subsequent to the wall's restoration)?*

*a. What mitigations will be necessary to protect these birds?*

*a. How can opportunistic predation by Kelp gulls on the various birds nesting along the Western perimeter Road be mitigated against in light of traffic causing noise and other disturbance along the road during construction?*

*a. What additional mitigations will be put in place to prevent traffic running over these young birds. For example, will a fence be erected along both sides of the road?*

**EAP response: the above-mentioned comments and/questions will be addressed via an updated avifaunal assessment, to be conducted by suitable professional, and any additional impacts detailed in the avifaunal report that not already addressed in the MMP will be included to reduce the impact of the proposed restoration works on the Cape Cormorant population and other bird populations including Kelp Gulls.**

*Questions the Avifaunal assessment will need to address include:*

*2. The number of African penguins using the quarry as a site to enter and leave the sea has increased – we have observed over 200 penguins lining up to come home on the beach just outside the quarry before returning to their nests in the evening.*

*3. Hartlaub's gulls are not mentioned in the 2014 report, but now breed regularly in the area designated on the restoration plans as the "Construction Camp".*

*4. Kelp gull numbers have increased significantly since 2014 and they now breed over an extensive area to the South of the Quarry. Our personal observations suggest that they have extended their breeding season to later in the year to overlap more with their prey species. Kelp gulls predate on eggs and*

*chicks of Hartlaub's gulls, Swift terns, African penguins and Cape cormorants especially when they are disturbed by human activity.*

*5. Over the past ten years or so, Western Perimeter Road has been closed to traffic for one or two months, when there are chicks in the gull and tern colonies, to prevent road kill. With a six month construction period, it is very likely that the situation where chicks have hatched and are starting to run freely around in the colonies along Western Perimeter Road will arise.*

**EAP response: the above-mentioned comments and/questions will be addressed via an updated avifaunal assessment, to be conducted by suitable professional, and any additional impacts detailed in the avifaunal report that not already addressed in the MMP will be included to reduce the impact of the proposed restoration works on the Cape Cormorant population and other bird populations including Kelp Gulls, Swift Tern, African Penguin and Hartlaub Gull.**

*Even ignoring the overarching issue of the out of date Avifaunal report and the additional questions a new assessment will raise, there remain a number of issues with the current proposal and the mitigations to attempt to protect penguins and other avifauna which need urgent attention. Some are listed below.*

*1. It appears that no mitigations to avoid times when penguins are commuting to and from the sea are provided (c/f the construction at Alpha One where work is to be limited to specified hours) – In 2015, we observed around 250 penguins lining up on the shoreline at BSQ – we have not been able to get numbers since as the area has been taken over by nesting birds. In any event, this indicates that all work in the area should cease in good time for these birds to assemble – say 90 minutes before sunset.*

**EAP response: Times during the day where the restoration works must cease will be included in the MMP in consultation with the avifaunal assessment.**

*2. It appears that night working is proposed. There is mention of floodlights in the 'REINSTATEMENT OF THE BLUE STONE QUARRY WALL AND LIMESTONE ROADWAY ADDENDUM REPORT Alternative Construction Options Assessment'. Any such lighting will negatively impact any birds in the area. It will also act to attract pelagic species that do not normally come onto land. This should not be allowed at all. Any driving along the roads at night should be banned – the noise and lights will disturb all the fauna on the island and the risks of road kill will be greatly increased as a consequence. Further any night time activity would most likely impeded the cat and Fallow deer eradication work which is done at night.*

EAP response: The use of floodlights will be removed from the draft MMP as it is no longer required, nor is night working planned any more. The draft MMP will also be reviewed to prohibit the use of vehicles on the road during the evening.

3. *The plan is very vague about when the project will start and the times when people will be active on the site – it appears to simply hope that the disturbance caused at the site will begin before any breeding birds arrive and will be sufficient to prevent them breeding in the area. a. A detailed work scheme stating when work will be carried out is needed. This should include: the day of the year on which work will start. Once work has started a structured plan of what type of work will be being carried out in each week is also needed to assess probable impacts.*

EAP response: The updated avifaunal assessment will give insight as to when the restoration works should begin and end to ensure that impacts the works will have on the surrounding bird colonies will be mitigated. This start and end time of the proposed restoration works will be included in the MMP.

*b. Before any realistic assessment of the impact on the avifauna can be made it is also necessary to understand what types of work may be carried out at different times of day. For example, if there is a requirement to drive vehicles to the site, that should not be done at times when penguins are commuting across the roads; etc.*

EAP response: The draft MMP will be reviewed to include specific details surrounding the restoration works timeline including when vehicles will be driving on the road and when other works will take place during the day. This “vehicular active time” will also be informed by the avifaunal assessment since it will be determined by when the birds are most active during the day.

4. *There is no mention in the proposed plan of a risk assessment or any mitigations for the impact of the ‘batching plant’; in Appendix A all that is said is “The avifaunal specialist has recommended that the batching plant must be installed in close proximity to the harbour and not in proximity to the BSQ site under any circumstances. This is so as not to create unnecessary ‘pollution’ (visual, noise, dust or any disturbance to birdlife) created by a plant such as this”. This is all very sensible. However, what mitigations will be in place, for example, to reduce impacts of these same types of pollution on penguins nesting and crossing the roads near the harbour? The harbour on Robben Island is also an important breeding site for the endangered Bank cormorant which only breeds at a limited number of sites in South Africa in relatively small numbers, one of its strongholds being Robben Island. a. A full risk assessment for this batching plant is needed. Such an assessment needs to include mitigations to prevent harmful impacts on flora and fauna that are found in the area.*

EAP response: Please note that batching plant will not be necessary for the proposed restoration works as indicated in the scope of works in the draft MMP and will be removed accordingly. Appendix A was only attached to the MMP to showcase the summaries for the original specialist reports. Since the proposed restoration methodologies have changes since the original report, some of the impacts/mitigation measures mentioned in Appendix A are no longer applicable including the impact of a batching plant and will this be removed.

*5. Road traffic: Risks of road-kill are serious – the speed of heavy vehicles needs to be very much slower than normal to allow for time to stop when a bird, tortoise, antelope, etc. runs out in the path of a vehicle. It would be sensible to put fencing up on both sides of the entire length of the Western Perimeter Road from Lighthouse road to the BSQ, to keep fauna off the road. We'd also recommend a rigidly enforced speed limit of no more than 20kph, with no night driving permitted. The proposal does not provide any detail of the route people and vehicles will take from the harbour and the village to the quarry. It is important that this is laid out clearly and that the approved route is adhered to. In particular there should be no traffic associated with the project along Cornelia Road as that would cause great disturbance to the penguins breeding in that area.*

EAP response: The prospect of introducing a temporary fence along side the road will be investigated. If the fence is not a feasible mitigation measures, the draft MMP will include that wildlife will either be moved or ushered away from the road should a vehicle require access to the site. Please note that only one, at most two, vehicles will be used during the restoration works. The MMP will also be amended to include the reduced speed of the vehicles, that no driving at night will be permitted, and specify access route.

*6. There is an error in timing of the penguins' moult given in Appendix A. "Therefore, commencing construction in the second half of September following the predominant moulting period and before the highest egg laying season is optimal." The moult period actually starts around mid-November and continues to the start of February. This will affect any decisions on the best times to carry out the work.*

EAP response: An avifaunal specialist will be conducted to confirm the moulting times of the penguins any impacts that the proposed works will have on this moulting period. Any measures to mitigate this measure will be included in the MMP.

*7. In 2020/21, there were two oystercatcher nests in close proximity to the BSQ site which would be impacted adversely by the construction activity. The impact of the construction on these nests needs to be given proper consideration.*



EAP response: Please note that no construction will take place as per the Scope of Works in the draft MMP. Nevertheless, a detailed avifaunal assessment will be conducted to identify any possible impacts that the proposed maintenance works may have on the surrounding bird colonies including oystercatchers. Any measures to mitigate this impact will be included in the MMP.

*8. Worryingly, the impacts table, pages 13 -16, pays scant attention to and appears rather dismissive of the environmental and ecological problems that will be attendant on this work for example: a. Under noise it says "Maintenance and/or restoration activities will generate a certain amount of noise due to the operation of machinery and movement of vehicles. There are however no human receptors in the area, the noise may be a nuisance to the local bird population in the area." The noise will be more than just "a nuisance" to the local bird population. It will cause a deal of disturbance to patterns of behaviour and may lead to reductions in breeding success, deserting of nests and even emigration from the island in some species. Noise may well also impact other fauna e.g. by scaring the antelope and causing them to panic, etc. These issues all should be fully addressed in the Avifaunal and ecological assessments with appropriate mitigation measures put in place.*

EAP response: The chances of noise will be extremely low given that only a maximum of 10 personnel will be on site, only one transport vehicle will be present, and no construction vehicles will be used to transport material to and from the quarry. The draft MMP will be amended to make this clear. The MMP will also be reviewed to ensure that all impacts of noise will be reduce significantly through mitigation measures. These noise reduction measures will be decided in consultation with the avifaunal specialist.

*b. In the fauna section it is stated that "The removals of rocks, from the old stockpile, to be used for the dry packing (and reinstatement of the wall) will result in disturbance and loss of habitat for local alien invasive fauna as well as disturbance or fatalities for local indigenous fauna such as lizards and snakes". We do not know what invasive alien species are being referred to here. The removal of the rockpile will however, destroy nesting habitat of the endangered Cape Cormorant which is not an alien species as well as for a variety of lizards and mole snakes. What alternative breeding and sheltering habitat will be provided for the displaced animals?*

EAP response: The draft MMP will be reviewed to include any mitigation measures that may be required to reduce the impact of avifaunal species as a result of the removal of rocks from the stockpile. These mitigation measures will be compiled in consultation with an avifaunal specialist and the updated avifaunal assessment. For the lizards and snakes, an appointed snake handler will be required to relocate the species to a different area. The draft MMP will be amended to make this clear.

c. Under the penguin section it is stated “The restoration of the Quarry Wall and other maintenance activities may influence the access route for the penguins to their breeding area as the wall will form a barrier to movement for this species. They will have to adapt and habituate to the barrier and learn to use a new route to the breeding sites. Penguins have shown resilience in doing this and therefore are not expected to be significantly impacted.” We disagree that penguins are not expected to be “significantly impacted”. At the onset of the project penguins will be using established pathways that will suddenly be blocked off – the number of penguins immediately affected will of course depend on the timing of the works, but as time progresses additional birds will be impacted. While it is probably true that penguins can be quite adaptable, it does take some time. Thus any birds that are feeding young at the time their pathways are blocked may not adapt quickly enough to be able to continue to feed their chicks well enough for them to survive. At the very least the additional time it will take them to commute to and from the sea will reduce the time available for them to forage for food for their chicks so we can anticipate a reduced breeding success for those birds.

EAP response: An updated avifaunal assessment will be conducted to assess the impact of the proposed works on the surrounding bird colonies including penguins. Any measures to mitigate the impact on the penguins and their pathway to the breeding sites is expected to be address in the avifaunal report and will be included in the MMP.

9. We are concerned to see in section seven, the statement “Dispose of cigarettes and matches carefully, so to prevent veld fires (arson and littering is an offence)” – this is far from strong enough a warning – the risks of veld fires especially in the hot dry summer months are very high and could lead to catastrophic consequences for the island’s fauna – note that many animals are naïve of fire – penguins on the Falkland islands were burned to death as they remained at their nests when a fire spread through a colony back in the 1990s during an operation to clear land mines. Penguins had never previously seen fire and had no reason to be concerned about it until they were overwhelmed. It is our understanding that no smoking is permitted anywhere on the island with the exception of the harbour and the village. Hence the instruction for this project should be the same and no onsite smoking should be allowed. However, if this is not possible, then smoking should only be allowed in a designated smoking area. Such an area should be properly enclosed so there is no risk of a lighted butt accidentally starting a veld fire. Designated smoking areas should be fenced in and placed so that there is no combustible material (including vegetation) within at least 3 metres of the fences.

EAP response: The draft MMP will be amended to include that no smoking will be allowed on site.

10. On page 19 it states the ECO should visit the site monthly – this would mean only six visits during the project. Such infrequency is totally inadequate for a disruptive project such as this where the risks to the ecology are very high unless strict adherence to all the mitigation measures are observed at all times. Without much more regular inspections, a situation that showed disregard for the environment or the flora and fauna could continue for many weeks before any corrective action was taken. There should be a person on site everyday while work is being undertaken with the power to supervise and stop any activities that endanger the flora or fauna. We note that in this section it also states “The contractor’s meeting minutes must reflect environmental queries, agreed actions and dates of **eventual** [our emphasis] compliance. These minutes form part of the official environmental record.” This statement suggests that the contractors only need to comply with the environmental regulations, etc. ‘eventually’ what process will be in place to ensure timely – i.e. immediate – compliance?

EAP response: It is expected that there will be an environmental representative on site (as part of the implementation team) at all times during the restoration works (this measure will be made clear in the MMP).. An external appointed ECO will be conducting site visit every two weeks. The draft MMP will be amended to include this condition. The draft MMP will also be amended to indicate that all non-compliances must be handled by the contractor timeously if not, immediately.

In summary, it is essential that a new Avifaunal report is compiled and the whole project reconsidered in light of the conclusions of that report. If once that report is available, it is still considered that the heritage considerations outweigh the environmental considerations, then a new construction plan needs to be made so that the timing of the project is set to avoid as much disturbance to the penguins and the cormorants as is possible. This will almost certainly involve a number of further mitigations being put in place. Some such mitigations which we think will be essential are noted briefly below, although it is to be expected that more issues will arise once the new avifaunal assessment is completed.

EAP response: As previously mentioned, an updated avifaunal assessment will be conducted, and any impacts and mitigation measures identified will be included in the MMP. The avifaunal assessment is also expected to suggest a new timeline for the restoration works, if necessary, to avoid impact to the bird life.

1. The data in figure 1 of the Avifaunal assessment addendum will need to be updated before any decisions on the possible timing of the start of the construction work are reached. First there is no data in the figure for the breeding cycle of the endangered Cape Cormorants which now breed each year in the Blue Stone Quarry. As these are a protected endangered species it is not legal to disturb them at

*all – so work can only start before they start to breed and if they do start to breed within the area where disturbance could occur, work would have to stop. It is also apparent that the Kelp gulls have lengthened their breeding season to take advantage of the availability of gull, tern and cormorant eggs and chicks during their later breeding season and so the Avifaunal assessment would need to be updated to reflect this.*

EAP response: The comment has been noted and an Avifaunal Specialist will be consulted concerning the breeding times of the Cape Cormorants. As already mentioned, an updated avifaunal assessment will be conducted which is expected to include the breeding times of the Cape Cormorants and any potential impacts that the proposed restoration works may have. Any measures to reduce the impact on the Cape Cormorants will be included in the MMP.

*2. A legal opinion needs to be sought in terms of whether the action to deter seabirds from breeding close to or within the Blue Stone quarry is legally possible in light of stipulations stated in the TOPS Marine regulations under 'harassing'. Additionally, would contractors need to obtain a TOPS Marine permit in light of point (f) under the term 'harassing' in Chapter 1, since the proposed work will certainly require contractors to approach seabird breeding colonies closer than 5m.*

EAP response: Harassing is defined in the TOPS Marine regulations as :

“harassing” means behaviour or conduct that threatens, disturbs or torments a live specimen of a listed threatened or protected marine species, and includes—

(a) the insertion or attachment of a tag or other device to a listed threatened or protected marine species;

(b) in the case of a whale, approaching a whale with a vessel or aircraft closer than 300 meters;

(c) in the case of a white shark, approaching a white shark predated on natural prey with a vessel or aircraft closer than 80 meters;

(d) in the case of turtles, photographing or shining a light at a turtle at night, climbing on, touching or flipping over a turtle or digging up turtle nests or eggs;

(e) in the case of dolphins, driving through a school of dolphins;

(f) in the case of seals and sea birds, approaching a colony with a vessel closer than 15 meters or any person approaching a colony closer than 5 meters;

(g) in the case of seabirds, disturbing, digging up or destroying nests or eggs, and

(h) in the case of a whale shark and a basking shark, approaching a whale shark or basking shark closer than 20 meters;

If the proposed works will include moving the nests or approaching a colony closer than 5m of any threatened birds, especially when the rocks from the stockpiled are removed, a Marine TOPS permit will be applied for. This condition will be included in the MMP.

*3. Even if it is possible (from a practical and legal point of view) to deter Cape cormorants, Kelp gulls, Hartlaub's gulls and Swift terns from breeding close to or within the Blue Stone quarry, it is highly likely that they will choose to breed in the general area along the Western Perimeter Road to the South of the Blue Stone Quarry. It will then be important to ensure that appropriate mitigation measures are put in place to avoid disturbance to any of these birds. In particular, it will be necessary to prevent small chicks wandering into the road, and to avoid any noise or lights which may make parents leave their nests and expose their eggs and chicks to Kelp gull predation.*

EAP Response: Although significant measures have been included in the draft MMP to ensure the impact on bird species have been reduced, the draft MMP will be reviewed to include any additional mitigation measures to avoid disturbance of the colonies. In particular, additional measures including reduced vehicle speed, ushering chicks away from the road and potentially erecting a small temporary fence alongside the road will be included in the MMP. These mitigation measures will be detailed in the MMP in consultation with an avifaunal specialist via an updated avifaunal assessment. Furthermore, noise and lights will be avoided during all times of the restoration works and the draft MMP will be reviewed to ensure this measure is made clear.

*4. Overall the risks to two endangered species (African penguin and Cape cormorant) posed by this work are very high so that it will be imperative that all the mitigation measures put in place are strictly adhered to. In that context there must be a full time independent monitor with the power to stop work if there are any infringements. This monitor should be based permanently on the island during the construction phase and provided with all the tools (a vehicle, binoculars, telescope, radar gun to check vehicle speeds, etc.) necessary to carry out that monitoring. It will not be sufficient to rely on the SANCCOB penguin ranger to do this job, although his advice and experience will be invaluable for the project.*

EAP response: The SANCOBB ranger will be available for monitoring purposes for the duration of the proposed works ( as confirmed by Robben Island Museum).

**RESPONSE TO COMMENTS ON THE DRAFT MAINTENANCE MANAGEMENT PLAN FOR THE PROPOSED RESTORATION AND MAINTENANCE OF THE BLUE STONE QUARRY (“BSQ”) WALL AND THE REINSTATEMENT OF THE LIMESTONE PATHWAY ALONG THE TOP OF THE BSQ WALL, ROB BEN ISLAND**

The Department of Environmental Affairs Comments (received 19.02 2021)

The Department has the following comments on the draft MMP:

- i. Please ensure that the proposed maintenance works to be undertaken does not trigger any listed activities that may require environmental authorization.

EAP response: The current proposed maintenance works does trigger Activity 19A of Listing Notice 1 (2014, as amended):

*The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from—*

- i. the seashore;*
- ii. the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater; or*
- iii. the sea; —*

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

- (a) is for maintenance purposes undertaken in accordance with a maintenance management plan;*

Because the proposed works form part of the maintenance of the Blue Stone Quarry Wall, A Maintenance Management Plan is required to be approved for the restoration works can begin.

- ii. Please ensure that all other maintenance and remedial work activities must be within and must not result in any expansion of the existing footprints of the affected relevant structures.

EAP response: The comment has been noted and the maintenance activities will not expand past the current footprint.

- iii. Please be advised that should any revision of your development comprise any other activities that constitute a listed activity/ies as defined in GN R983, R984 and R985 of 04 December 2014 as amended, an Application for Environmental Authorisation must be lodged with the relevant Competent Authority prior to the commencement of construction activities.

EAP response: The comment has been noted. Should any restoration activities potentially trigger any other activities in the listing notices other than those already potentially triggered, the need for an Application for Environmental Authorisation will be explored.

iv. MMP must include the copy of the newspaper advert as well as proof of onsite notice as per requirement of public participation process.

EAP response: a copy of the newspaper advert and proof of the onsite notice will be included in the Public Participation Process (PPP) report that will accompany the Final MMP.

- v. MMP must include a proof of notification of the availability of draft MMP for comments to I&APs and also Copies of all comments received during the circulation of the draft MMP including this Department's comments.
- vi. A comments and Response report (C&R) of all comments received from Interested and affected parties (I&Aps) as well as this Department must be submitted with the final MMP. The C&R report must incorporate all comments for this development. Please note that a response such as "Noted" is not regarded as an adequate response to I&APs' comments.

EAP response: A comment and response report will form part of the PPP Report that will be included as an Appendix to the Final MMP. The report will include all the comments from the I&APs and the EAP's responses.

vii. Proof of public participation process conducted as per approved public participation plan must form part of final MMP

EAP response: A PPP report will be included as an Appendix to the Final MMP detailing how the PPP plan was followed.

viii. The final MMP must include contact details of the applicant.

EAP response: The details of the Applicant will be included in the Final and draft MMP.