



The EAP
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Attention: Ms Tarryn Solomon

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RE: REQUEST FOR COMMENT FROM THE SUB-DIRECTORATE: COASTAL MANAGEMENT ON THE DRAFT BASIC ASSESSMENT REPORT FOR THE PROPOSED MUIZENBERG REFURBISHMENT, CITY OF CAPE TOWN.

Dear Madam

Your request for comment from the Sub-directorate: Coastal Management on the above-mentioned pre-application basic assessment report received on 30 March 2023, refers.

1. LEGISLATIVE CONTEXT

- 1.1. The Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) ("NEM: ICMA") is a Specific Environmental Management Act under the umbrella of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"). The NEM: ICMA sets out to manage the nation's coastal resources, promote social equity and best economic use of coastal resources whilst protecting the natural environment. In terms of Section 38 of the NEM: ICMA, the Department of Environmental Affairs and Development Planning ('the Department') is the provincial lead agency for coastal management in the Western Cape as well as the competent authority for the administration of the "Management of public launch sites in the coastal zone (GN No. 497, 27 June 2014) "Public Launch Site Regulations".
- 1.2. The Department, in pursuant of fulfilling its mandate, is implementing the Provincial Coastal Management Programme ("PCMP"). The PCMP is a five (5) year strategic document, and its purpose is to provide all departments and organisations with an integrated, coordinated and uniform approach to coastal management in the

Province. The Department has developed the next generation PCMP that includes priority objectives for the next 5 years. This PCMP was endorsed by the MEC on 27 March 2023 and may be viewed at <https://www.westerncape.gov.za/eadp/about-us/meet-chief-directorates/environmental-sustainability/biodiversity-and-coastal-management>.

- 1.3. A key priority of the PCMP is the Estuary Management Programme, which is predominantly implemented through the Estuary Management Framework and Implementation Strategy ("EMFIS") project. The Department is implementing estuary management in accordance with the NEM: ICMA and the National Estuarine Management Protocol ("NEMP"). Relevant guidelines, Estuarine Management Plans, Mouth Management Plans need to be considered when any listed activities are triggered in the Estuarine Functional Zone. The Department is in the process of approving a series of Estuarine Management Plans. Both draft and approved plans may be viewed at [DEA&DP: Coastal Management](#).
- 1.4. The facilitation of public access to the coast is an objective of the NEM: ICMA as well as a Priority in the WC PCMP. The Department developed the Provincial Coastal Access Strategy and Plan, 2017 ("PCASP") and commissioned coastal access audits per municipal district to assist municipalities with identifying existing, historic, and desired public coastal access. These coastal access audits also identify hotspots or areas of conflict to assist the municipalities with facilitating public access in terms of Section 18 of the NEM: ICMA. The PCASP as well as the coastal access audits are available on the Departmental website at [DEA&DP: Coastal Management](#).

2. COMMENT

- 2.1 The sub-directorate: Coastal Management ("SD: CM") has reviewed the information as specified above and have the following commentary:
 - 2.1.1. According to the draft BAR, the proposed development intends to refurbish the Muizenberg Beachfront area, as the current coastal infrastructure and services present on the beachfront are in a state of decline and showing signs of failure. Infinity Environmental (Pty) Ltd. has been appointed by the City of Cape Town's Coastal Management Branch to carry out the BAR for the proposed refurbishment. It is proposed that the existing coastal defence structures be replaced with a stepped concrete revetment coastal protection structure in order to provide effective coastal protection from climate change-induced sea-level rise, whilst also improving public coastal access.
 - 2.1.2. Although Section 63 of the NEM: ICMA was considered by the applicant, be advised that on page 38 of the draft BAR, under Section C: 2 of the applicable legislation, it has been indicated that the NEM: ICMA was not considered as applicable legislation for the proposed refurbishment. As the proposed project site falls within coastal public property, the NEM: ICMA is indeed applicable for the proposed refurbishment.

- 2.1.3. As the proposed activities entail erosion protection measures, be advised that any erosion response methods may only occur within the ambit of legislation as Section 15 of the NEM: ICMA specifically prohibits the erection of erosion protection measures within CPP. However, where intervention is required for the protection of state infrastructure that is necessary and in the interest of the whole community, such intervention may be permitted. Such intervention must also be considered in the context of coastal processes and must not have contribute to further erosion along the shore.
- 2.1.4. The coastline of the City of Cape Town ("CCT") is a harsh and highly dynamic environment where the biophysical attributes of the coastline in a constant state of flux. Some of this change is cyclical and predictable, taking place over relatively short (seasonal) temporal scales, whilst other change is unseasonable and unpredictable. These unpredictable fluctuations often result in abrupt changes in coastal morphology. This paired with the increased effects of climate change, sea-level rise and increased storm surges in coastal environments obliges authorities to take a more cautious approach when considering land use decisions along the coast, including along estuaries.
- 2.1.5. The CCT undertook a proactive measures with the intent to address a multitude of growing pressures along its coastline by delineating a coastal urban edge along the City's coastline in terms of the requirement of the NEM: ICMA. The MEC for Local Government, Environmental Affairs & Development Planning formally established the CCT coastal urban edge as the CCT coastal management line ("CML") in terms of the NEM: ICMA on 19 March 2021. The principle purposed of the CML is to protect coastal public property ("CPP"); private property and public safety; to protect the coastal protection zone ("CPZ"); and to preserve the aesthetic value of the coastal zone. The use of CMLs is of particular importance in the response to the effects of climate change as it involves both a quantification of risks and pro-active planning for future development. Be advised that the subject property is located seaward of the CCT CML, however as the proposed refurbishment intends to improve coastal protection, it is in line with the intensions of the CML determination and as such warrants its placement within the coastal zone.
- 2.1.6. The SD: CM notes that specialist coastal modelling studies were undertaken to ensure that the new coastal defence structures are appropriately designed to effectively mitigate the effects of climate change, and to withstand the harsh expected future coastal processes.
- 2.1.7. The project site also falls within the littoral active zone ("LAZ") and the applicant indicated that as climate change is expected to worsen, strong coastal defence structure is required to withstand increased wave action as indicated in the associated specialists' studies of the proposed project. In this regard, the SD: CM supports the CCT's intention to demolish and rebuild the existing abluion building and relocate it out of the LAZ.

- 2.1.8. The SD: CM confirms that the proposed project site does not fall within any Critical Biodiversity Areas or Ecological Support Areas as per the Western Cape Biodiversity Spatial Plan 2017.
- 2.1.9. In terms of access to coastal public property, the SD: CM notes in the draft BAR that the City will apply an integrated approach, where sea defence mechanisms are required, to ensure that access and the amenity value of the coast is retained and promoted and ensure that formalised public access points are appropriately distributed along the length of the coastline to facilitate public access for all residents and users. Furthermore, universal accessibility will be improved following the refurbishment as a result of added wheelchair ramps that will link all sections of the Muizenberg beachfront precinct, which also aligns with the Western Cape Coastal Access Strategy and Plan.
- 2.1.10. In terms of the Western Cape Provincial Coastal Management Programme 2022-2027, the proposed refurbishment aligns with the following Priority Areas:
- 2.1.10.1. Priority Area 1: Social & Economic Development – as the project will support economic and social opportunities, reducing coastal risk to provide for safety, and enhancing the rights of access and enjoyment of the coast for all people and managing the coast in the best interest of all communities.
 - 2.1.10.2. Priority Area 3: Facilitation of Coastal Access – the proposed refurbishment will promote the facilitation of reasonable, equitable and sustainable coastal access.
 - 2.1.10.3. Priority Area 4: Climate Change; Dynamic Coastal Processes and Planning for Resilient Communities – the proposed refurbishment is set to address existing development at risk as well as avoiding risk for future development along the coast, through sustainable planning.
 - 2.1.10.4. Priority Area 6: Natural and Cultural Heritage Resource Management – ecosystem goods and services as well as cultural assets will be sustained as the basis for coastal economic development and livelihoods.
- 2.1.11. The SD: CM notes that in terms of maintenance of the proposed refurbishment, the CCT's existing Maintenance Management Plan: Dunes and Beaches will be implemented.
- 2.1.12. The SD: CM also notes that during the initial public participation process in 2022, the following aspects of the proposed refurbishment have changed extensively to include: coastal defence structures; parking areas; ablution facility out of the LAZ; pergola; playground; paved areas; station forecourt; services; soft landscaping; colourful beach huts; and buildings.
- 2.1.13. No other property or site alternatives were investigated as the proposed development is a refurbishment of existing infrastructure.
- 2.1.14. The SD: CM would like to advise the applicant to consider the Western Cape: User-friendly Guidelines Informing Coastal Erosion Decision-making, 2020, which is accessible on the Departmental website.

- 2.1.15. Based on the information provided, the SD: CM does not object to the proposed development provided that all the above-mentioned items are considered as well as all relevant mitigations measures as stipulated in the Environmental Management Programme are strictly adhered to.
3. The applicant must be reminded of their general duty of care and the remediation of environmental damage, in terms of Section 28(1) of NEMA, which, specifically states that: *"...Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment..."* together with Section 58 of the NEM: ICMA which refers to one's duty to avoid causing adverse effects on the coastal environment.
 4. The SD: CM reserves the right to revise its comments and request further information from you based on any information that may be received.

Yours faithfully

Ieptieshaam Bekko
CONTROL ENVIRONMENTAL OFFICER
SUB-DIRECTORATE: COASTAL MANAGEMENT
DATE: 05 May 2023