

## MASETJABA RESERVOIR AND ELEVATED TOWER, NIGEL, GAUTENG PROVINCE

GAUT 002/18-19/E0201

### COMMENTS AND RESPONSES REPORT

#### TABLE OF CONTENTS

1. WRITTEN COMMENTS RECEIVED DURING BASIC ASSESSMENT REPORT REVIEW PERIOD: Organs of state ..... 1
2. WRITTEN COMMENTS RECEIVED DURING THE BASIC ASSESSMENT ANNOUNCEMENT PHASE: Organs of State ..... 7

The Basic Assessment process for the Masetjaba Reservoir and Elevated Tower near Nigel, Gauteng Province was announced on Tuesday, 22 January 2019. Comments received since the announcement are captured in the Comments and Responses Report (C&RR). The Basic Assessment Report was made available for a 30-day review and comment period from **Wednesday, 10 April 2019** to **Wednesday, 15 May 2019** and comments received during this review and comment period are included in the C&RR and included as **Appendix E6** of the Final Basic Assessment Report.

#### ABBREVIATIONS / ACRONYMS

BAR	Basic Assessment Report	DRDLR	Department of Rural Development and Land Reform
GDARD	Gauteng Department of Agriculture and Rural Development	C&RR	Comments and Responses Report
Snr	Senior		

### 1. WRITTEN COMMENTS RECEIVED DURING BASIC ASSESSMENT REPORT REVIEW PERIOD: ORGANS OF STATE

NO.	COMMENT	RAISED BY	RESPONSE
1.	<p>We clear, thank you.</p> <p><b>Map included in e-mail is included in Appendix E7 of the BAR</b></p>	<p>Leonard Shwa Snr Manager: Access Master Planning OpenServe</p> <p>E-mail: 23 April 2019</p>	<p>Confirmation that Telkom infrastructure (managed by OpenServe) is not affected by the project is acknowledged.</p>
2.	<p>The Department of Water and Sanitation (Planning Division) are aware of the Project. The Department does not any comments regarding the BAR.</p>	<p>Lethogile Masilo Department Water and Sanitation (Planning Division) City of Ekurhuleni</p> <p>E-mail: 07 May 2019</p>	<p>Comment on the BAR acknowledged.</p>
3.	<p>The Environmental Resource Management Department in rendering its comments assessed the environmental parameters/constraints of the property against the following environmental management tools:</p> <p>1.1 Provincial Environmental Management Framework, 2015</p> <p>1.2. Ekurhuleni Biodiversity and Open Space Strategy (EBOSS), 2008</p> <p>1.3. The Ekurhuleni Bioregional Plan, 2012</p> <p>1.4. Applicable Environmental Legislation</p> <p>Based on the above tools and the information contained in the application, the department comment as follows:</p>	<p>F Mabindisa Head of the Department Environmental Resource and Waste Management: City of Ekurhuleni</p> <p>Letter: 10 May 2019</p>	<p>It is acknowledged that the City of Ekurhuleni has rendered comments based on several environmental management tools.</p> <p>It is acknowledged that the Department supports the project.</p>

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	2.1. The Department supports the proposed construction of the Masetjaba Reservoir, elevated tower and associated infrastructure on Portion 107 of the Farm Spaarwater 171-1R.		
	2.2. The site proposed for development consist of "Critical Biodiversity Areas", "Other Natural Areas" and "No Natural Remaining", in terms of the Bioregional Plan 2012.		The northern section of the project site (approximately 50% of the project site) falls within a Critical Biodiversity Area (CBA) and is considered to be an irreplaceable habitat. The majority of the access roads and the elevated tower are situated within this area. Despite the classification of CBA, the historical disturbance has severely degraded this area, making it highly degraded and no longer functionally contributing to the critical biodiversity. As such, this area is not deemed as a functioning CBA.
	2.3. A portion of the site is identified as a "Primary Open Space" node for ecological sensitive areas.		It is acknowledged that a portion of the site is identified as a primary open space. The northern section of the project site is located within a CAB which is considered to be irreplaceable habitat.
	2.4 The proposed development site has ecological development constraints and has a moderately-high ecological sensitivity rating.		Section E, sub-section 5 of the final BAR, as well as the ecological assessment contained in <b>Appendix G1</b> indicates that the entire project site is considered to be of low ecological sensitivity. This is primarily due to the very low ecological function of the project site, the highly degraded nature of the project site, low species richness, low conservation classification of plant and animal species, small extent of the project site and the absence of highly sensitive features such as drainage lines or other surface water features. Furthermore, the CBA classification for the project site does not correspond to the real-world condition of the plant and animal species observed on site, and therefore

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	<p>2.5. The Gauteng EMF indicates that the proposed development area falls within the following zone:</p> <p>2.5.1. Zone 3, High Control Zone (outside the urban development zone); and</p> <p>2.5.2. Zone 4, Normal Control Zone.</p> <p>2.6. Should any protected species need to be relocated, the necessary permits must be obtained from the competent authority prior to removal and/or relocation.</p> <p>2.7 Recommendation contained in the following reports must be implemented on site:</p> <p>2.7.1. Ecological Impact Assessment Report, Savannah Environmental, January 2019;</p> <p>2.7.2. Soil, Land Use, Land Capability and Agricultural Potential Assessment, TerraAfrica, January 2019; and</p> <p>2.7.3. Environmental Management Programme, Savannah Environmental, April 2019.</p> <p>All activities to be undertaken on the said property must be in accordance with all applicable By-Laws, policies and requirements of the Ekurhuleni Metropolitan Municipality.</p>		<p>contributes poorly to the ecological function of the broader area.</p> <p>It is acknowledged that the project is located within Zone 3 and Zone 4 of the Gauteng Environmental Management Framework (EMF).</p> <p>Should any protected species be identified during the construction phase, the relevant permits must be obtained from the relevant authorities in order to remove such species prior to commencement of further activities (refer to Objective 4 of the construction management programme included in the EMPr of the project).</p> <p>It is acknowledged that the recommendations made in the independent specialist studies and within the EMPr (refer to <b>Appendix H</b> of the final BAR) must be implemented.</p> <p>All activities to be undertaken within the project site will be in accordance with all applicable By-Laws, policies and requirements of the City of Ekurhuleni and has been included in</p>

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	<p>It should be noted that, in terms of Section 24F of the NEMA, Act No 107 of 1998, as amended, no listed activity may commence prior to an environmental authorization being granted by the competent authority.</p>		<p>Objective 1 of the planning and design management programme of the EMPr.</p> <p>The applicant takes note that no listed activities may commence prior to the environmental authorisation being obtained from the GDARD.</p>
4.	<p>The Department will like to comment as follows:</p> <p><b>A. Alignment of the activity with applicable legislations and policies</b></p> <p>The report has made provisions to accommodate all applicable legislation, policies and guidelines. The activity entails development of water reservoir to be known as Masetjaba Reservoir for which its related impact is subject to regulatory legislations, policies and guidelines such as the National Environmental Management Act, 1998 (Act No. 107 of 1998 as amended), Ekurhuleni Metropolitan Spatial Development Framework, 2005, Ekurhuleni Draft Bioregional Plan 2013 and Gauteng Provincial Environmental Management Framework. 2015. The GPEMF, 2015 shows that the proposed activity falls in two different zones these are Environmental Management Zone 3 which is a high control sensitive zone outside urban development zone and Environmental Management Zone 4 which is a normal control zone dominated by agricultural uses outside urban development zone.</p>	<p>S Makhola Director: Impact Management GDARD</p> <p>Letter: 15 May 2019</p>	<p>It is acknowledged that the report considered all applicable legislation, policies and guidelines. No response is required.</p>

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	<p><b>B. Guidelines: GDARD requirements</b> The Departmental Conservation Plan and GIS depicts that the site is in an environmental sensitive area which is an irreplaceable area, Critical Biodiversity Area and Red Listed Plants.</p>		<p>It is acknowledged that the project site is located within an environmental sensitive area. From the ecological assessment undertaken it was concluded that the site is highly disturbed due to current vegetation and faunal habitat quality, as well as the ongoing disturbance through fires, invasive species, adjacent grazing and illegal dumping near or on the project site. Although the Gauteng C-Plan indicates that the northern section of the project site (approximately 50% of the project site) falls within a Critical Biodiversity Area (CBA) and is considered to be an irreplaceable habitat, the CBA classification for the project site does not correspond to the real-world condition of the plant and animal species observed on site. The project site therefore contributes poorly to the ecological function of the broader area.</p> <p>No plant species of conservation concern or important plant populations have been observed within the affected area.</p>
	<p><b>C. Alternatives</b> There are no site alternatives considered other than the project site. However, a technology alternative is considered for the project which is storing of water within the reservoir and storing of water within an elevated tower before distribution.</p>		<p>It is acknowledged that no site alternatives have been considered due to technical constraints associated with the project. Details are provided in the BAR. No response required.</p>
	<p><b>D. Significant rating of impacts</b> The assessment of impacts included in the draft report indicates that the impacts rating before the mitigation measures would be from medium to low if mitigation measures are implemented correctly.</p>		<p>The impact assessment indicates that the impact rating before the implementation of mitigation measures would be medium to low. With the correct implementation of mitigation measures the impact rating will be low.</p>

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	<p><b>E. Locality map and layout plans or facility illustrations</b></p> <p>The locality map must be in colour however the other plans attached must be to scale, clear, legible and indicate legend which corresponds with activity components. The Department will like the following recommendations to be included in the Final Basic Assessment report:</p> <ul style="list-style-type: none"> <li>• The layout plan and the Locality map must be in A3 size and in colour.</li> <li>• The layout must be overlaid on a sensitivity map.</li> <li>• Comments from City of Ekurhuleni Environmental Resources must form part of the Final Basic Assessment Report.</li> <li>• Specialist studies for the sensitivities on site must be attached to the Final Basic Assessment Report.</li> </ul> <p><b>F. Environmental Management Programme (EMPr)</b></p> <p>The attached EMPr is noted and appears adequate to address impacts that may arise due to the proposed development.</p> <p><b>G. Public participation process</b></p> <p>The Public participation process is attached to the report, however all communications to and from I&amp;APs, Minutes of the meeting, comments and</p>		<p>The locality map attached as <b>Appendix A1</b> of the final BAR has been printed in colour. The map and legend is clear, legible and corresponds with the activity components.</p> <p>The layout map (refer to <b>Appendix A2</b> of the final BAR) and the locality map (refer to <b>Appendix A1</b> of the final BAR) have been printed as A3 and in colour.</p> <p>The layout map overlain with the environmental sensitivities identified have been included as Figure 5 in section A and attached as <b>Appendix A3</b> of the final BAR.</p> <p>Comments from the City of Ekurhuleni have been received on 10 May 2019 and included in <b>Appendix E7</b> and responded to in <b>Appendix E6</b> of the final BAR.</p> <p>The Ecological Impact Assessment has been attached as <b>Appendix G1</b> and Soil and Agricultural Potential Impact Assessment has been attached as <b>Appendix G2</b> of the final BAR.</p> <p>It is acknowledged that the EMPr attached as <b>Appendix H</b> is considered to be adequate.</p> <p>Proof of communication to and from registered I&amp;APs not included in the draft BAR has been included in the final BAR in <b>Appendix E4</b>.</p>

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	<p>responses must be attached in the report. The newspaper advert must be clear and legible. This information must be included in the final Basic Assessment Report.</p>		<p>It is confirmed that no meetings were required to be held during the review period of the BAR, as none were requested from I&amp;APs or stakeholders.</p> <p>The tearsheet (proof of advert) is included in <b>Appendix E3</b> and the electronic copy received from the newspaper are clear and legible.</p>

## 2. WRITTEN COMMENTS RECEIVED DURING THE BASIC ASSESSMENT ANNOUNCEMENT PHASE: ORGANS OF STATE

NO.	COMMENT	RAISED BY	RESPONSE
1.	<p>We confirm that there is an existing land claim against the Property. The claims were lodged as per attached list of claimants.</p> <p>The claim was lodged in terms of the Restitution of Land Rights Amendment Act, 2014 (Act No 15 of 2014) ("the Amendment Act") which, amongst others, reopened the lodgement of claims for a period of five years.</p>	<p>C Benyane Chief Director Office of the Regional Land Claims Commission Gauteng Province</p> <p>Letter: 08 Feb 2019 <b>Letter and list attached as Appendix E4 of the BAR</b></p>	<p>The information regarding the confirmation of a land claim against the project development site was forwarded to Naidu Consulting (Pty) Ltd to provide to the applicant for their information.</p>
1.1.	<p>The validity of the Amendment Act was challenged in the Constitutional Court. The Constitutional Court found the Amendment Act to be invalid because of the failure of Parliament to facilitate public involvement as required by the Constitution. The Amendment Act ceased to be law on 28 July 2016.</p>		<p>The information provided by the DRDLR: Regional Land Claims Commissioner-Gauteng, is acknowledged and has been communicated to the Applicant.</p>
1.2.	<p>The Constitutional Court ordered that the claims that were lodged between 1 July 2014 and 27 July 2016</p>		



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	<p>are validly lodged, but it interdicted the Commission from processing those claims until the Commission has finalised the claims lodged by 31 December 1998 or until Parliament passes a new law providing for the re-opening of lodgement of land claims. Parliament was given until 27 July 2018 to pass such a law.</p>		
1.3.	<p>Parliament has so far not been able to pass news legislation and has instead approached the Constitutional Court for an extension until 29 March 2019. As a result the Commission will, unless directed otherwise by Constitutional Court, not be processing claims lodged between 1 July 2014 until 27 July 2016 until a new Act is passed by Parliament and signed into law by the President.</p>		<p>The information provided by the DRDLR: Regional Land Claims Commissioner-Gauteng, is acknowledged and has been communicated to the Applicant.</p>
1.4.	<p>The Commission will contact you directly and communicate widely once we have been granted permission to begin dealing with these claims.</p>		<p>The information provided by the DRDLR: Regional Land Claims Commissioner-Gauteng, is acknowledged and has been communicated to the Applicant.</p>
1.5.	<p>For further enquiries please contact Solomon Maruma at <a href="mailto:solomon.maruma@drdir.gov.za">solomon.maruma@drdir.gov.za</a> , telephone 012 310 6588 Edith Mokgoko at Edith. <a href="mailto:mokgoko@drdir.gov.za">mokgoko@drdir.gov.za</a>. Telephone 012 310 6573.</p>		<p>The project database has been updated accordingly.</p>
2.	<p>This email serves to acknowledge receipt of the EIA notification on the proposed project.</p> <p>Kindly, register the Environmental Resource and Waste Management Department as interested and affected party on behalf of the City of Ekurhuleni.</p>	<p>Celia Rakgoale Impact Management Practitioner Legislative Compliance Division</p>	<p>The project database has been updated accordingly.</p>

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	<p>All corresponded pertaining to the proposed project can be forwarded to: Attention: Mr Thabang Mokoena Division Head: Legislative Governance and Compliance; Environmental Resource and Waste Management Department; Cnr Hendrick Potgieter and Van Riebeeck Avenue; Edenvale; Office no. 201/205/214 First Floor; Email: cecilia.rakgoale@ekurhuleni.gov.za or Sifiso.ndwandwe@ekurhuleni.gov.za; Tel: (011) 999 3316/3376/2006</p>	<p>Environmental Resource Management Department City of Ekurhuleni  E-mail: 01 Feb 2019</p>	
3.	<p>Document on the proposed development is received and will be forwarded further to Ekurhuleni Health District for attention.</p>	<p>Louisa Magabane Assistant Director: Environmental Health City of Ekurhuleni  E-mail: 22 Jan 20190</p>	<p>Information acknowledged.</p>
4.	<p>Thank you for the notification. Please register this Department as an I&amp;AP.</p> <p>The Environmental Resource and Waste Management Department requires one (1) hard copy and one (1) soft copy of the reports to be delivered to our offices for comment, once available.</p> <p>The reports may be submitted to the following address:</p>	<p>Anél Hietbrink Environmental Assessment Practitioner Legislative Compliance Department of Environmental Resource and Waste Management: Ekurhuleni Metropolitan City of Ekurhuleni  E-mail: 23 Jan 2019</p>	<p>The project database has been updated accordingly.</p> <p>The procedure and requirements outlined for the delivery of the BAR are acknowledged.</p>

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	Attention: Divisional Head – Legislative Compliance Environmental Resource & Waste Management Department City OF Ekurhuleni; Edenvale Civic Centre; cnr Hendrik Potgieter and Van Riebeeck Street; Edenvale; C/O Sifiso Ndwandwe (room 201).		