



Land Management  
(Region 3)

**REFERENCE:** 16/3/1/2/D1/13/0004/12  
**ENQUIRIES:** Shireen Pullen  
**DATE OF ISSUE:** 2014-04-07

The Director  
Western Cape Marina Investments (Pty) Ltd  
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**Attention: Mr. P. Ahern**

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Dear Sir

**REJECTION OF THE FINAL SCOPING REPORT FOR THE PROPOSED CONSTRUCTION AND OPERATION OF A SMALL-BOAT HARBOUR AND A LANDSIDE DEVELOPMENT IN PLETTENBERG BAY IN THE WESTERN CAPE**

1. The abovementioned document that was submitted to this Department on 19 February 2014 refers.
2. The Scoping Report has been rejected by this Department in terms of Regulation 30(1)(c) of the EIA Regulations, 2010, because, *inter alia*, -
  - 2.1. Regulation 28(i) requires a description of the need and desirability of the proposed development. The Scoping Report does not fully comply with this requirement of the Need and Desirability Guideline, as it fails to report on how the proposed development has been catered for in the strategic frameworks and plans (Integrated Development Plans or "IDPs" and Spatial Development Frameworks or "SDFs") of the local municipality. According to the aforementioned guideline; "*what is needed and desired for a specific area should firstly be strategically and democratically be determined beyond the spatial extent of individual EIAs*";
  - 2.2. The Scoping Report also fails to comply with Regulation 28(1)(c) in terms of providing a description of any identified potential alternatives to the proposed activity, which takes due consideration of the overwhelming responses and inputs received from interested and affected parties (I&AP's) regarding the excessive scale of the development proposal;

- 2.3. The Scoping Report makes no reference to the development option referred to by the site review specialist (Dr Brian Allanson) and other I&APs, which entails a small boat harbour in the Piesang Estuary, with the exclusion of any marina development and urban features (apartment blocks and shops etc.);
- 2.4. The Scoping Report fails to provide clear guidance as to what strategic policies and plans (IDP and SDF) will inform/guide the recommended market demand analysis. It is not clear how the aforementioned analysis aims to address the aspect of need and desirability in the absence of an IDP and SDF, as this ultimately supports the formulation of a sustainable development vision, goals, objectives, strategies and plans of the local municipality. The latter clearly confirms that there are critical gaps in information and knowledge in the entire planning process of the development proposal;
- 2.5. The terms of reference of the Services Report referred to in the Plan of Study for Environmental Impact Assessment ("EIA") fails to incorporate some of the concerns raised by the local municipality (Bitou Municipality) that relate specifically to infrastructure risks and associated financial costs and risks, which are rated medium to high in the Economic Impact Assessment study, it also excludes short, medium and long term maintenance guarantees of the harbour, as well as an engineering feasibility assessment;
- 2.6. The summary sheet of issues in the Scoping Report lacks specific detail, namely the date of comment and names of I&APs, which makes it extremely difficult to link a particular issue with the official correspondence submitted by a specific I&AP. The Scoping Report therefore does not fully comply with Regulation 28(1)(h)(iv);
- 2.7. It is not clear from the Plan of Study for EIA, which specialist study will address the issue of development setback lines and development below the 5m contour line, as reported on in the Scoping Report. The terms of reference for the specialist wetland/estuary study, as well as the Sediment Dynamic study do not specifically reflect this;
- 2.8. The Plan of Study for EIA does not include particulars of the public participation process that will be conducted during the environmental impact assessment process and as such does not comply with Regulation 28(1)(n)(iv);
- 2.9. Regulation 29 states that the Environmental Assessment Practitioner ("EAP") managing an application must submit 5 copies of the Scoping Report compiled in terms of Regulation 28. Only two hard copies and no electronic copies of the report was submitted;
- 2.10. In light of the issues raised above, it is evident that the EAP has not appropriately applied the following guidelines namely –
  - Guideline on Alternatives (March 2013);
  - Guideline on Public Participation (March 2013)
  - Guideline on Need and Desirability (March 2013) and
  - National Estuarine Management Protocol (May 2013)
3. You are therefore required to amend the Scoping Report and Plan of Study for EIA to address the abovementioned issues before the said reports can be accepted.

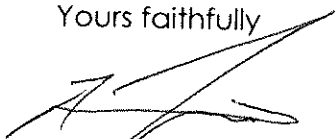
4. In terms of Regulation 30(3), you are entitled to resubmit the Scoping Report and Plan of Study for EIA after making the necessary amendments. Should you wish to resubmit an amended report to the Department, you must make the amended report available to all registered interested and affected parties for comment. Any comments received from an interested and affected party on the amended report must be submitted to the Department together with the amended report.
5. Notwithstanding the above, this Department also highlights the following critical issues:
  - 5.1 The fact that the Piesang River Estuary is an important estuary (Ranked 57<sup>th</sup> of 250 estuaries on the national list of estuaries).
  - 5.2 The proposed development is subject to a license in terms of the National Water Act, 1998. In this respect please also obtain comment from DWA and consider the estuary reserve.
  - 5.3 In terms of the National Environmental Management: Integrated Coastal Management Act, No 24 of 2008, (NEM: ICMA) the EIA must comply with the requirements of Section 63 of NEM: ICMA. The proposed development is also subject to a coastal lease agreement in terms of Section 65 of NEM: ICMA. Cognisance must also be given to the NEM: ICM Amendment Bill, which currently states that "an application for reclamation must be submitted to the Minister for pre-approval prior to any application for an environmental authorisation in terms of Chapter 5 of the National Environmental Management Act".
  - 5.4 The need and desirability of the proposed development. In this respect it is noted that the Economic Impact Assessment by Rand International Capital concludes that the scale and scope of the proposed development is too large for Plettenberg Bay in its current form and that a market demand analysis need to be undertaken to adequately prove the need and desirability from a commercial perspective for the development.
6. The Department awaits the resubmission of the amended Scoping Report and Plan of Study for EIA. Please note that if the amended report is not submitted to this Department within a period of six months from the date of this letter, your application will lapse (Regulation 67 of GN No. R. 543 of 18 August 2010 refers). As such, a new application and assessment process will have to be initiated if you wish to again pursue your proposed development.

If you, however, have been complying with the requirements of the Regulations and have progressed with the application process, but for some reason will not be able to submit the report within the six months period, you must inform the Department as such before the end of the six month period.

You will be required to submit a concise motivation why the amended Scoping Report will not be submitted within the six month period. The motivation must include the tasks that have been performed to date, the reasons for the delay in submission and an indication when the report will be submitted to the Department. Such motivation must reach the Department before the end of the six month period. The Department will consider your motivation and inform you of its decision whether or not to continue with the processing of the current application. Should no motivation be provided, your file will be closed for administrative purposes. As such, a new application process will have to be initiated with a new Application Form to be submitted if you wish to again pursue your proposed development.

7. Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
8. Please note that the proposed development may not commence prior to an environmental authorization being granted by the Department.
9. The Department reserves the right to revise its initial comments and request further information from you based on any new or revised information received.

Yours faithfully



**HEAD OF DEPARTMENT**

Copied to: CEN Integrated Environmental Management Unit  
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