



REFERENCE: 16/3/3/6/2/A6/79/2076/25
DATE OF ISSUE: 14 JULY 2025

The City of Cape Town
Environmental Planning, Spatial Planning and Environment:
Coastal Management Department
44 Wale Street
CAPE TOWN
8000

Attention: A. Steyn

Cell: 072 222 2841

E-mail: Ancunel.Steyn@capetown.gov.za

Dear Sir/Madam

THE DEFINITION/ADOPTION OF AN AD HOC DEVELOPMENT SETBACK IN TERMS OF THE NEMA EIA REGULATIONS, 2014 (AS AMENDED) WITH RESPECT TO THE PROPOSED UPGRADE OF THE LONG BARN COTTAGE AT MILLER'S POINT ON CAPE FARM NO. 1500, SIMON'S TOWN.

1. The checklist for the request of the adoption/definition of an *ad-hoc* development setback line and associated documents dated and received by this Department on 31 March 2025, the acknowledgment of receipt thereof dated 9 April 2025, the additional information related to the request for the adoption/definition of an *ad-hoc* development setback line dated and received by this Department on 9 June 2025 and this Department's acknowledgment thereof dated 18 June 2025, refer.
2. In terms of the Listing Notices in the Environmental Impact Assessment ("EIA") Regulations, 2014 (as amended), "development setback" means a setback line as defined or adopted by the competent authority.
3. Based on the information submitted to this Directorate, it is confirmed that the proposed development triggers the following listed activities:

Activity 17 of Listing Notice 1

Activity Description:

"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 inland of the high-water mark of the sea or an estuary, whichever is the 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; or
- (e) infrastructure or structures 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."

Activity 19A of Listing Notice 1

Activity Description:

"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 the sea; —

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

- f) will occur behind a development setback;
- g) is for maintenance purposes undertaken in accordance with a maintenance management plan;
- h) falls within the ambit of activity 21 in this Notice, in which case that activity applies;
- i) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or

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."

Activity 54 of Listing Notice 1

Activity Description:

"The expansion of facilities—

- (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 inland of the high-water mark of the sea or an estuary, whichever is the 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; or
- (e) infrastructure or structures where the development footprint is expanded by 50 square metres or more,

but excluding—

- (aa) the expansion of infrastructure or structures within existing ports or harbours that will not increase the development footprint of the port or harbour; or
- (bb) where such expansion occurs within an urban area."

4. A Public Participation Process was conducted which entailed the following:
 - 4.1. Written notification to the following Interested and Affected Parties ("I&APs") sent via e-mail and via mail drop-off:
 - 4.1.1. The Local Authority, in this instance, the City of Cape Town;
 - 4.1.2. Heritage Western Cape;
 - 4.1.3. SANParks; and
 - 4.1.4. The adjacent landowners.
 - 4.2. The setback line was made available to the public on the Environmental Assessment Practitioner's website.
 - 4.3. A commenting period of 30 days was afforded to I&APs to provide written comment regarding the proposed ad hoc development setback line.
5. The following comments were provided by I&APs, which were addressed in the Comments and Response Table submitted as an appendix to the additional information received:
 - 5.1. Given the age of the existing structures, the required permit from Heritage Western Cape must be obtained; and
 - 5.2. The detrimental impacts of construction activities on the sewer water reticulation infrastructure.
6. A Comments and Response Table has been compiled, which records and adequately responds to the comments obtained. The responses include the following:
 - 6.1. The proposal will undergo a land use planning process to accommodate the proposed redevelopment of the Long Barn Cottage. This process will afford I&APs an additional opportunity to raise any objections or concerns to the City of Cape Town, the competent authority in this regard.
 - 6.2. The detailed design of the proposed redevelopment and expansion of Long Barn Cottage will be determined through the land use planning process. However, according to the Environmental Assessment Practitioner, associated impacts on the sewer reticulation infrastructure and services are not anticipated.
 - 6.3. Permit applications are in progress with Heritage Western Cape in terms of Section 34 (Case no: HWC25032408EJV0327) and Section 35 (Case no: HWC25032001EJV0327) of the National Heritage Resources Act, (Act No. 25 of 1999).
 - 6.4. The public access to the beach will not be disrupted and beach access may be temporarily affected when construction machinery and vehicles are in use during the construction phase.
 - 6.5. The City of Cape Town has advised the proponent to prepare a Site Environmental Management Plan ("SEMP")/ or Construction Method Statements to manage the proposed construction activities on site. The SEMP will need to include the extent of the development footprint, stockpiling areas, temporary ablution facilities, dust and noise management, stormwater management, baboon management and protection measures for environmentally sensitive areas including demarcation of "no-go" areas.
 - 6.6. The City of Cape Town has advised that an Environmental Site Officer must be appointed to monitor construction activities on site which will be included as a provision in the SEMP.
 - 6.7. The SEMP will be submitted to the City of Cape Town, with the building plan and land use planning process and will need to be approved by the City of Cape Town prior to the commencement of construction activities.
7. By virtue of the powers conferred on it by the NEMA and the EIA Regulations, 2014 (as amended), the competent authority hereby adopts the development setback, as depicted in Appendix A (attached hereto) on Cape Farm No. 1500, Miller's Point.

8. As the relevant Competent Authority, I hereby define/adopt the edge of the already disturbed footprint until it reaches the boardwalk, located approximately 44 m north of the building, joining the internal road network again as the development setback (as depicted in Appendix A), for the proposed upgrade of the Long Barn cottage and associated infrastructure, on Cape Farm No. 1500, Miller's Point.
9. With regard to the development setback, please note that:
 - 9.1. The development setback is defined/ adopted in terms of the EIA Regulations, 2014 (as amended) and only relates to the listed activity mentioned above and to the determination of whether or not environmental authorisation in terms of the NEMA is required before undertaking the listed activity;
 - 9.2. The development setback is for the proposed upgrade of the Long Barn Cottage located on Cape Farm No.1500, Miller's Point;
 - 9.3. The development setback is not defined/adopted in terms of the National Environmental Management Act: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) ("ICMA") or any other legislation, and notwithstanding the location of the development setback line, any other statutory requirements that may be applicable to the undertaking of the development must be adhered to;
 - 9.4. The development setback does not imply that the area inland of the development setback will not be exposed to risks arising from dynamic processes, including the risk of sea level rise, climate change, flooding or erosion; and
 - 9.5. The fact that development will be undertaken behind (inland of) the development setback does not absolve you from your general "duty of care" set out in Section 28(1) of the NEMA, in which it is specifically stated 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"*.
10. Since the proposed development will be undertaken inland of the defined/adopted development setback, environmental authorisation will not be required for the abovementioned listed activities in terms of the NEMA.
11. It is, however, reiterated that the development setback only relates to the listed activities mentioned above. If any other listed activity(ies) are triggered, environmental authorisation will have to be obtained in terms of the NEMA. It remains the responsibility of the proponent to determine if any listed activities are triggered and to ensure that the necessary environmental authorisation is obtained.
12. Please note that I&APs that registered in the Public Participation Process must be informed of this decision and to the fact that an appeal may be lodged against the decision in terms of National Appeal Regulations, 2025 as detailed hereunder.

13. APPEALS

Appeals must comply the National Appeal Regulations, 2025 (Government Notice No. R. 5985 in Government Gazette No. 52269 of 13 March 2025. Please note the provisions of Regulation 1(2) & (3) of the National Appeal Regulations, 2025 when calculating the period of days.

- 13.1. The holder (applicant) of this decision must submit an appeal to the Appeal Administrator, any registered I&AP's and the decision maker (Competent Authority who issued the decision) within 20 calendar days from the date this decision was sent by the decision maker.
- 13.2. The I&AP's (not the holder of this decision) must submit an appeal to the Appeal Administrator, the holder (applicant) of the decision and the decision maker within **20 calendar days** from the date this decision was sent to the registered I&AP's by the holder (applicant) of the decision.
- 13.3. All appeals submitted must:
 - a. be in writing in the appeal form obtainable from the Departmental website;
 - b. include supporting documents referred to in the appeal; and
 - c. include proof of payment of the prescribed non-refundable appeal fee, if prescribed.
- 13.4. The holder (applicant) of the decision must:
 - a. notify registered I&AP's and affected organs of state of any appeal received, and make the appeal available to them, within 5 calendar days after the 20-day appeal period ends.
 - b. Submit proof of this notification to the Appeal Administrator within 5 calendar days after sending the last notification.
- 13.5. The applicant, where applicable, the decision-maker, or any person notified under regulation 4 of the National Appeal Regulations, 2025 may submit a Responding Statement within 20 calendar days from the date they received the appeal, in the form obtainable from the Department website to the Appeal Administrator and to the appellant, where the appellant is not the applicant.
- 13.6. Appeals, Responding Statements and supporting documents must be submitted to the Appeal Administrator by means of one of the following methods:

By e-mail: DEADP.Appeals@westerncape.gov.za ; or

By hand: Attention: Mr. Marius Venter
Room 809
8th Floor Utilitas Building,
1 Dorp Street, Cape Town, 8001

Note: You are also requested to submit an electronic copy (Microsoft Word format) of the appeal, responding statement and any supporting documents to the Appeal Administrator via email or to the address listed above.

A prescribed appeal form, responding statement form as well as assistance regarding the appeal processes is obtainable from the relevant website of the appeal authority: <http://www.westerncape.gov.za/eadp> or the office of the Minister at: Tel. (021) 483 3721 or email DEADP.Appeals@westerncape.gov.za

14. The Western Cape Government will not be held liable for any loss or damage to property or person as a consequence of any development within the development setback area as defined/adopted.

15. This Department reserves the right to revise or withdraw comments or request further information based on any information received.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully

MR. ZAAHIR TOEFY
DIRECTOR: DEVELOPMENT MANAGEMENT (REGION 1)

Copied to:

1. T. Solomon (Infinity Environmental (Pty) Ltd)
2. A. Greenwood (City of Cape Town)

E-mail: tarryn@infinityenv.co.za

E-mail: andrew.greenwood@capetown.gov.za

APPENDIX A: Proposed ad hoc development setback along the edge of the already disturbed footprint until it reaches the boardwalk, located approximately 44 m north of the building, joining the internal road network again. depicted in green.

