

Annexure A: CapeNature's Requirements Regarding Development Applications

To assist all relevant stakeholders, the following aspects regarding development applications within the Western Cape are requested to be adhered to. The aim of this annexure is to minimise delays and ensure adequate consideration is given to the biodiversity and ecological infrastructure of the Western Cape.

Guidelines and biodiversity plans

1. The Western Cape Department of Environmental Affairs and Development Planning (DEA&DP) has produced a series of guideline documents that provide clear guidance on the EIA process¹. Specifically, they aim to improve the capacity of environmental assessment practitioners (EAPs) to draft appropriate terms of reference that meet the information requirements for informed environmental decision-making. In addition, the Fynbos Forum Ecosystems Guidelines for Environmental Assessment in the Western Cape (see point 1b below) provides appropriate terms of reference for Botanical Assessments. All stakeholders should also make use of the CapeNature Western Cape Biodiversity Spatial Plan (WCBSP) Land Use Advice (LUA) Handbook (see point 1c below). With a view to adequately assessing impacts on biodiversity, we request that your environmental assessment is informed by the following documents. The implementation of relevant recommendations and/or actions as stipulated in these documents should be critically considered, regardless of whether a Basic Assessment, Scoping & EIA or any other authorisation process is to be undertaken. By consulting these documents and meeting the requirements for submission of accurate and relevant information, EAP's, specialists and stakeholders can support efficient and accountable decision-making.
 - a. Brownlie S (2005) *Guideline for involving biodiversity specialists in EIA processes: Edition 1*. CSIR Report No ENV-S-C 2005 053 C. Republic of South Africa, Provincial Government Western Cape, Department of Environmental Affairs and Development Planning, Cape Town⁴.
 - b. De Villiers C.C., Driver A., Clark B., Euston-Brown D.I.W., Day E.G., Job N., Helme N.A., Holmes P.M., Brownlie S. and A.B. Rebelo (2016). *Ecosystem Guidelines for Environmental Assessment in the Western Cape*, Edition 2. Fynbos Forum, Cape Town.²
 - c. Pool-Stanvliet, R., Duffell-Canham, A., Pence, G. & Smart, R. (2017). *The Western Cape Biodiversity Spatial Plan Handbook*. Stellenbosch: CapeNature.
 - d. The latest National Biodiversity Assessment (2011)³ provides information about ecosystem threat status. More up-to-date ecosystem threat status information, however is available from CapeNature in the form of the WCBSP Ecosystem Threat Status (2016) data, accessible on SANBI's Biodiversity GIS website⁴.
 - e. The latest provincial biodiversity framework (conservation plan), which reflects identified Critical Biodiversity Areas; currently is the WCBSP 2017, available on SANBI's Biodiversity GIS website⁹. The most recent conservation plans and their associated reports and guidelines are available at the SANBI Biodiversity GIS Unit website⁵. The mapping tools are useful, but please note that while these tools can help to identify potential issues, the use thereof does not constitute a biodiversity assessment.
 - f. The Western Cape Provincial Spatial Development Framework (2014) (Department of Environmental Affairs & Development Planning)⁶.
 - g. The Department of Water and Sanitation's Draft Guideline (2014): Assessment of activities/developments affecting wetlands⁷.

¹ <http://eadp.westerncape.gov.za/our-services-to-you/submitting-a-development-application-in-terms-of-relevant-legislation>

² http://biodiversityadvisor.sanbi.org/wp-content/uploads/2012/04/Ecosystem_Guidelines_Ed2.pdf

³ <http://bgis.sanbi.org/nba/project.asp>

⁴ <http://bgis.sanbi.org/Projects/Detail/194>

⁵ <http://bgis.sanbi.org> or email BGISHelp@sanbi.org

⁶ <http://www.westerncape.gov.za/eadp/your-resource-library/western-cape-provincial-spatial-development-framework>

⁷ DWS. (2014a). *Draft DWS Guideline: Assessment of Activities/ Developments Affecting Wetlands*. Department of Water and Sanitation, Pretoria.

Biodiversity 'red flags' in the Western Cape

2. The following factors must be taken into account during project planning and assessment:

- a. CapeNature *does not support* activities that may negatively impact on the following habitats and their ecological functioning:
 - i. Rivers, wetlands, flood plains, estuaries, tidal flats or salt marshes and groundwater-dependent communities or ecosystems.
 - ii. Representative habitat in Critically Endangered and Endangered ecosystems.
 - iii. Any area that has been identified as a Critical Biodiversity Area or Ecological Support Areas as identified by the most recent systematic conservation plan.
 - iv. Any other special habitats that may contain a unique assemblage of species. This could include *inter alia*, dolomite outcrops, quartz or ferricrete patches.
 - v. Any habitat that may contain rare, threatened or range-restricted floral or faunal species (Species of Conservation Concern).
 - vi. Natural or mostly natural habitat in an ecological corridor or along a vegetation boundary (including frontal dune systems).

Appropriate buffers must be determined by a suitably qualified specialist to avoid impacting on these habitats and particular attention should be paid to avoiding the loss of intact habitat, maximizing connectivity at a landscape scale, maximizing habitat heterogeneity and reducing fragmentation at a local and regional scale. Please also note that an infestation by alien plants does not necessarily mean that an area is not important for biodiversity conservation.

- b. The Cape Floristic Region is largely a fire-dependent system and natural fire regimes must be maintained and managed in the landscape. The exclusion of fire from certain habitats will be considered unacceptable as this may ultimately cause the loss of species. Where appropriate, the location of fire-breaks should be indicated and these fire-breaks may be considered part of the development footprint. Fire-breaks must be brush-cut and vegetation must not be completely removed. Brush-cutting under power lines must occur as infrequently as possible as brush-cutting will lead to loss of species diversity over time. A fire-risk assessment can help inform an appropriate layout for developments adjacent to fire-prone vegetation.
- c. CapeNature has concerns regarding land uses or activities within declared Mountain Catchment Areas (MCA), especially activities which may affect the quality or volume of water downstream of any of these regions. These activities could *inter alia* include buildings, hard infrastructure, canalization, cut-off drains and cultivation within these regions. WCBSP categories are not mapped within formally protected areas such as MCAs, as it is assumed that the objectives of the MCA Act apply. The MCA objectives are that these areas will be managed in a manner consistent with the prevention of soil erosion, the protection of natural vegetation, and the management of invasive alien plants (a.k.a., 'intruding vegetation'). In addition to which, the purposes of NEM: PAA (to be read, interpreted and applied in conjunction with the NEM: BA), need to be upheld. These NEM: PAA purposes are: "*To provide for the protection and conservation of ecologically viable areas representative of South Africa's biological diversity and its natural landscapes and seascapes; ...[and] for the management of those areas...*". In relation to a protected area, management includes control, protection, conservation, maintenance and rehabilitation of the protected area, with due regard to the use and extraction of biological resources, community-based practices and benefit-sharing activities in the area in a manner consistent with the NEM: BA.
- d. Water is a limited resource in the Western Cape. Water requirements for proposed activities and the potential impact on broader surface and ground water resources must be rigorously assessed and considered by an aquatic/freshwater specialist and/or ground water specialist, including the cumulative impact if other developments are also taking place in an area. Cumulative impacts on infrastructure such as Waste Water Treatment Works must also be considered. It is also recommended that where possible all developments should consider recycling grey water for suitable usage.

Groundwater use for bulk supply purposes and irrigation must be assessed rigorously with specific reference to the possible groundwater-surface water interfaces. Groundwater use assessments must include the identification of possible groundwater dependent ecosystems and/or possible interfaces with surface resources and not only potential anthropogenic uses. Aquifers need to be described in terms of: aquifer type, aquifer characteristics, aquifer condition, as well as aquifer recharge and yield⁸.

- e. Rehabilitation of any disturbed ecosystems is only considered successful when the ecosystem has returned to an ecologically functional state and has a similar species assemblage as its natural state. Such applications must have a complete rehabilitation plan appended to submitted documentation. It should also be noted that CapeNature will not support new mining applications on property where previously mined areas have not been suitably rehabilitated to a suitable ecologically functional state and have been officially closed by the DMR. Mining is not permitted within a NEM: PAA registered protected area and CapeNature will not support any development proposal or amendment which contravenes this.
- f. Activities which may cause fragmentation of CBAs leading to loss of ecological connectivity are not supported by CapeNature. Activities which may cause this include inter alia subdivision and linear activities such as roads, railways, pipelines and power lines.

Specialist assessment(s) should be undertaken if any of the above-mentioned circumstances prevail or if there is any doubt about the biodiversity value of the potentially impacted areas. The opportunities and constraints of the receiving environment should be used to inform the desirability and layout of any development proposal so as to ensure that developments do not compromise the biodiversity value of the area.

Commissioning of biodiversity specialists

- 3. A suitably qualified and experienced specialist is critical to ensuring that the necessary information is provided for informed decision-making. Please take note of the following recommendations⁹:

Biodiversity specialists should:

- a. Be competent at interpreting and evaluating information and able to explain the direct and indirect consequences of an activity to biodiversity;
- b. Have appropriate formal training in his/her field of expertise;
- c. Have sufficient practical experience working in the specific ecosystems of the affected region;
- d. Be able to trace impact pathways and identify indirect or cumulative impacts and consider ecosystem goods and services;
- e. Have good knowledge relating to assessment techniques and to relevant legislation, policies and guidelines;
- f. Be independent; and
- g. Be registered with the South African Council for Natural Scientific Professions (SACNASP).

CapeNature also requests that specialists be asked to review the information in the report to be submitted for decision-making to confirm that their opinion has been adequately reflected.

Permit requirements

- 4. Please note that according to Section 63(1) of the Western Cape Nature Conservation Laws Amendment Act No. 3 of 2000:

No person shall—

- (a) uproot the plant in the process of picking the flower of any flora;

⁸ For groundwater-related assessments, consult: Saayman, I (2005) *Guideline for involving hydrogeologists in EIA processes: Edition 1. CSIR Report No ENV-S-C 2005 053 D*. Republic of South Africa, Provincial Government of the Western Cape, Department of Environmental Affairs & Development Planning, Cape Town.

⁹ For more information/details please refer to the Guideline for involving biodiversity specialists in EIA processes (DEA&DP 2005).

- (b) without a permit—
 - i. pick any endangered or protected flora, or
 - ii. pick any flora on a public road or on the land on either side of such road within a distance of ninety metres from the centre of such road, or
- (c) pick any protected or indigenous unprotected flora on land of which he or she is not the owner, without the permission of the owner of such land or of any person authorised by such owner to grant such permission

If these activities will be involved in the application (for example search and rescue) make sure that you also apply for a CapeNature permit to carry out these activities. To obtain such permits please contact the relevant Conservation Services Officials at the nearest CapeNature Regional Office or use the following website address <http://www.capenature.co.za/permits-information/>.

Format of reports

- 5. Please help us provide you with a timely response by supplying all information in a readily accessible format:
 - a. We require all reports must be submitted (in colour), as digital copies on cd/dvd for review purposes. A printed cover letter, executive summary and pertinent A3 colour layouts (including relevant biodiversity overlay maps) must accompany the disc submission.
 - b. The reports submitted for review should include the main report, locality maps, all alternative layout plans and all biodiversity related specialist reports. Please save all files/reports on the cd/dvd as separate files and not one combined file.
 - c. We are not able to accept reports sent via email or ftp or website links due to auditing requirements and capacity constraints. An exception may be made only for spatial planning reports or Environmental Management Frameworks.
 - d. To facilitate assessment of potential impacts, we request that maps of proposed development layouts be overlaid with identified environmental features of a site. If provided separately, maps should be produced at the same scale.
 - e. Please provide GIS shape-files of the proposed development footprint, particularly for linear features or for combined applications with numerous sites,
 - f. Please allow sufficient time for post or courier services to deliver the documents and disc at the beginning of the commenting period. We receive a large number of reports and need to treat applicants and consultants fairly therefore applications will be processed from date of receipt within the required number of days as stipulated by the DEA&DP, the DMR or other competent authority.

Mining and Prospecting Applications

- 6. Please note that the DMR no longer sends copies of applications to commenting authorities. It is now the responsibility of the consultant working for the applicant to ensure that all commenting authorities receive the relevant documents. Therefore, point 5 above applies to mining and prospecting applications as well. EAPs must also provide copies of the EA once received.